



U.S. CONSUMER PRODUCT SAFETY COMMISSION

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TESTIMONY

The Honorable Nancy A. Nord
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before the

Committee on Energy and Commerce
Subcommittee on Commerce, Trade and Consumer Protection
U.S. House of Representatives
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Good Morning Mr. Chairman, Congressman Stearns, and Members of the Committee.

Thank you for inviting me to testify this morning on H.R. 4040, the Consumer Product Safety Modernization Act of 2007, which was introduced last week to modernize the governing statutes of the U.S. Consumer Product Safety Commission (CPSC).

I want to begin by congratulating the Committee on the open and bipartisan deliberative process that has resulted in a bill that is focused on CPSC's core mission of improving the safety of consumer products for American families.

As Acting Chairman of the CPSC, I have appreciated your staff's engagement of the professional staff at my agency in developing this legislation, as well as previous consumer product legislation that was reported from this Committee and subsequently approved by the full House of Representatives last month. Though the CPSC is a small agency, we are fortunate to have a staff of dedicated career civil servants who are skilled in an impressive array of legal, technical and

scientific disciplines. They are doing an outstanding job for the American people, and I am pleased to see their expertise reflected in your legislation.

I also want to thank the Committee for including in this bill a number of the proposals that I submitted to Congress earlier this year to strengthen the CPSC's ability to reduce hazards associated with consumer products. I note, for example, that Section 204 of your bill includes my proposal to speed agency rulemaking by giving the CPSC the option to employ either two-part or three-part rulemaking under all of our statutes. This change will make our regulatory process more streamlined, efficient and effective, and I thank the Committee for accepting it.

Additionally, Section 208 includes my proposals to clarify that the Commission is the final arbiter in deciding whether a company's recall remedy should be a refund, a repair or a replacement and to empower the Commission to take further corrective actions if consumers are not protected by the original plan. I also appreciate that the Committee has included in the bill my proposals to prohibit the sale of recalled products and prohibit stockpiling under all of the statutes that the CPSC enforces.

The legislation also includes a more than five-fold increase in the cap on CPSC's civil penalties. That provision passed the House of Representatives by voice vote last month, and I am pleased to see it included in this comprehensive bill. This is a reasoned approach to increasing the agency's civil penalties and strengthening the agency's hand, without forcing the CPSC to respond to a flood of new litigation and drain our limited resources that could otherwise be used to hire more scientists and more safety inspectors.

With regard to the lead provision, I appreciate that the Committee is moving toward a stronger standard, and I look forward to continuing discussions on that provision between your staff and technical experts here at the CPSC to assist you in achieving that goal.

As you well know, CPSC's statutes have not been updated by Congress since 1990. Clearly, the dynamics of the marketplace have changed dramatically over these years. New technologies have emerged, and continue to emerge, in creating and manufacturing products. Electronic technologies have changed the way that consumers shop and purchase goods and the way that the public receives information. Perhaps the most significant change is that most of America's consumer products now come from overseas.

So it is important that the Committee is moving forward to modernize this agency, but it is also important to recognize that the legislative foundation on which the

CPSC was built is a fundamentally strong one. No small amount of work went into the crafting of the original legislation that created the CPSC in 1972. The National Commission on Product Safety worked for three years before presenting its findings to the Congress in 1970, and the Interstate and Foreign Commerce Committee, as this committee was then known, held thirteen days of hearings and ten executive sessions, including joint sessions by the conference committee.

I would note Chairman Dingell's key role in authoring and enacting this legislation that established an agency that has served the public well. We are proud of our thirty-four year record of achievement of reducing deaths and injuries and helping to protect the American public from consumer product hazards – a successful record that I have outlined on numerous previous occasions this year in testimony before your Committee.

The core mission of the CPSC is to protect the public from unreasonable risks of injury and death associated with more than 15,000 types of consumer products under the agency's jurisdiction. We fulfill this mission by enforcing our governing statutes, including the Consumer Product Safety Act (CPSA), the Federal Hazardous Substances Act (FHSA), the Flammable Fabrics Act (FFA), and the Poison Prevention Packaging Act (PPPA).

Since being appointed to the Commission two years ago, and subsequently becoming Acting Chairman last year, I have closely studied, enforced and directed the implementation of these statutes. Based on my study of our statutes and this working experience, earlier this year I submitted to Congress a comprehensive list of legislative proposals known as the Product Recall, Information and Safety Modernization Act, or PRISM.

As Acting Chairman, I believed that it was important for me to be proactive and come forward to Congress with my ideas to strengthen the Commission's hand in enforcing our laws and protecting the American public from unsafe products. As mentioned earlier, I am pleased to see that a number of the proposals I advocated at that time are included in your bill.

In that spirit of being pro-active and advocating change, I would like to take advantage of this opportunity to ask the Committee for additional powers that were included in PRISM but are not included in the legislation at this point.

First of all, I proposed in PRISM that the CPSC be granted authority to promulgate regulations for the efficient enforcement of any statute it administers, just as we can now do under the FHSA. This would clarify that the Commission can issue

enforcement regulations in addition to consumer product safety standards under any of our statutes where warranted to carry out our mission.

Another proposal that I would encourage the Committee to consider further is to extend the existing certification requirement under Section 14 of the CPSA to all statutes administered by the Commission. This would avoid confusion among the disparate certification and labeling provisions of the CPSA, FHSA, FFA and PPPA.

I believe that these changes would strengthen the Commission's hand, and I hope that the Committee will take a close look at them as we move forward.

Mr. Chairman and Mr. Stearns, I again want to commend your leadership in crafting legislation that recognizes the importance of CPSC's core safety mission and strengthens our ability to achieve that mission. It is clear that much hard work went into developing this important legislation. It respects the important foundations of the CPSC while at the same time addressing the challenges of the 21st Century marketplace that our aggressive enforcement activities have exposed, especially this year.

I look forward to continuing to work cooperatively with the Committee as your bill proceeds through the legislative process, and I am pleased to answer your questions.

