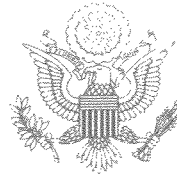


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2410 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-0519  
(202) 225-4540  
FAX: (202) 225-3402

<http://www.radanovich.house.gov>

**U.S. House of Representatives**  
Washington, DC 20515-0519

**GEORGE RADANOVICH**  
19TH DISTRICT, CALIFORNIA

September 4, 2009

DISTRICT OFFICES  
1040 EAST HERNDON, SUITE 201  
FRESNO, CA 93720  
(559) 449-2490  
FAX: (559) 449-2499

3509 COFFEE ROAD, SUITE D3  
MODESTO, CA 95355  
(209) 579-5458  
FAX: (209) 579-5028

COMMENT LINE  
(202) 478-5389

The Honorable Inez Tenenbaum  
Chairman, U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

RE: September 10, 2009 hearing on the Consumer Product Safety Commission

Dear Chairman Tenenbaum:

Next week you will be testifying before the subcommittee on Commerce, Trade and Consumer Protection regarding the status of the Consumer Product Safety Improvement Act (CPSIA). I served on the Subcommittee during the oversight and legislative hearings leading up to the law's final passage, which I supported wholeheartedly. As Ranking Member of this Subcommittee, I am interested in ensuring that the legislation can be and is implemented as effectively and efficiently as possible.

We worked hard on this legislation so that it would lead to improvements in the safety of the products children and their parents use every day. I—along with every other Member sitting on this panel—remain steadfastly committed to this goal. However, over the past several months I and my colleagues have received literally thousands of emails, letters, calls, and personal visits from constituents negatively affected by CPSIA. It seems several issues have arisen during the implementation of the CPSIA that we did not foresee. I believe it is important to understand what we need to do to solve the problems that our constituents have brought to our attention since passage of the legislation, whether it be a regulatory or legislative solution. Having twice requested a hearing on this matter, I am pleased next week we will be able to delve into the issues surrounding CPSIA implementation and any potential solutions to those problems.

The Fall schedule for Congress is very busy, and this may be our only opportunity to exercise our oversight authority into the reported problems related to CPSIA implementation. Toward that end, I write to you today to raise some of the issues I would like to discuss with you at our Thursday hearing. Given the importance of these issues to so many small businesses around the nation, I respectfully request that you be prepared to discuss the following issues:

1. Commission Authority and Discretion. Statements by you, Commissioner Moore, and Commissioner Nord have raised the issue of risk assessment and the lack of Commission authority to consider risk in granting exclusions. However, both you and Commissioner Moore have stated the Commission will use a risk assessment analysis in its discretion of how to best utilize limited resources in the enforcement of the broad world of CPSIA and related rules. Statements implying a de facto stay of enforcement are one thing, but I want know what to expect after the stays of enforcement are over and how it will impact the manufacture and distribution of otherwise safe children's products.
2. Stays of Enforcement. The Commission issued stays of enforcement for certain provisions of CPSIA, which will soon be expiring. I want to know about the implications of industry's ability to comply with these stayed provisions, and also about the Commission's ability and preparedness for enforcement of the stayed provisions.
3. Commission Supremacy and Regulatory Uniformity. While stays of enforcement grant relief from Federal enforcement of CPSIA regulation, they do not constrain the actions of States Attorneys General. Additionally, the purpose of passing CPSIA was to create a national standard. In the absence of a Federal action, multiple State actions can create conflicting precedents, potentially muddling a bright-line Federal standard. I am concerned about the potential muddling of the bright-line Federal standards and the potential that the Commission may lose its position of being the sole authority on interpretation of CPSIA.
4. Impact of CPSIA on Safety. I am interested in learning about the Commission's experience with CPSIA's impact on the safety of toys and other children's products.
5. Outreach to Impacted Industries. I am interested in the status of the Commission's outreach activities to the industries impacted by CPSIA, particularly small businesses.
6. Status of Commission Responses to CPSIA-Related Inquiries. Statements attributed to Commission staff report approximately 9,000 questions submitted to the Commission regarding how interested parties may comply with the new law. As of earlier this summer, fewer than 100 had been answered. I am interested in the status of the Commission's responses to these questions and am concerned about the time and resources required for this task in relation to the deadlines mandated by CPSIA.
7. Commission Resources. In a March 20, 2009 letter to Chairman Emeritus Dingell, then Acting Chairman Nord addressed a number of questions submitted by the Chairman Emeritus. In that letter, Chairman Nord reported that none of the resources authorized by CPSIA to facilitate implementation of the broad law had

been distributed to the Commission in the first six months after passage, making implementation on the mandated schedule difficult. The Commission eventually received an increase in funding to \$105 million for FY2009 and the budget request for FY2010 amounts to \$107 million, approximately 10 percent less than the CPSIA authorized amount. I am interested in your opinion on available resources as it relates to your ability to implement CPSIA.

8. Impact of CPSIA Implementation on Other Commission Activities and Other Concerns. In her March 20, 2009 letter to Chairman Emeritus Dingell, Chairman Nord detailed a number of difficulties facing the Commission related to CPSIA implementation. I would like your opinion on the matters laid out in the March 20 letter, including but not limited to the impact of CPSIA implementation on the Commission's other activities; flexibility to prioritize the Commission's tasks relevant to risk in the face of limited resources; Commission discretion in CPSIA regarding the definition of children's product versus sitting Commissioners' statements regarding prioritizing enforcement for children's products ; and the impact of the lead standard. In particular, I believe that in some cases the lead standard could lead to a more dangerous environment for children (e.g., children using products intended for adults).

Children's safety is not a partisan issue. As such, I stand ready to work with you and my colleagues across the aisle to ensure the goals of CPSIA are achieved, and I look forward to a productive conversation with you on these and other topics on Thursday.

Sincerely,



George Radanovich  
Ranking Member

Subcommittee on Commerce, Trade and Consumer Protection