



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Chairman Inez M. Tenenbaum
 Commissioner Thomas H. Moore
 Commissioner Nancy A. Nord
 Commissioner Anne M. Northup
 Commissioner Robert S. Adler

ITEM:

Creation of a new Office of Education, Global Outreach, and Small Business Ombudsman
(Briefing package dated September 9, 2010, OS number 3707)

DECISION:

The Commission voted (4-1) to approve creation of a new Office of Education, Global Outreach, and Small Business Ombudsman incorporating the Office of International Programs and Intergovernmental Affairs into the new Office of Education, Global Outreach, and Small Business Ombudsman. Chairman Tenenbaum and Commissioners Moore, Nord and Adler voted to approve the creation of the new Office. Commissioner Northup voted to not approve the creation of the new Office.

Chairman Tenenbaum and Commissioners Nord and Northup issued the attached statements regarding this matter.

For the Commission:

A handwritten signature in black ink that reads "Todd A. Stevenson".

Todd A. Stevenson
Secretary

* Ballot vote due September 23, 2010
(Ballot votes received on September 9, 21 and 22, 2010.)



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September 22, 2010

**STATEMENT OF CHAIRMAN INEZ M. TENENBAUM
ON THE CREATION OF A NEW OFFICE OF EDUCATION,
GLOBAL OUTREACH, AND SMALL BUSINESS OMBUDSMAN**

I am pleased to announce the creation of a new Office of Education, Global Outreach, and Small Business Ombudsman, an office I envisioned in my first year as Chairman. I believe this new office will make the agency more accessible to stakeholders and will play a vital role in helping the CPSC fulfill its mission of protecting the public from unreasonable risks of death and injury from consumer products.

The principal functions of this new office will be to coordinate and provide education and outreach activities to various domestic and international stakeholders, including foreign governments, manufacturers, retailers, resellers, small businesses, and consumers.

Domestically, CPSC is increasingly aware of the need for an institutionalized and coordinated approach to education and outreach activities. Manufacturers seek a better understanding of U.S. safety regulatory requirements for consumer products. Here in the United States, I have seen firsthand the impact and strain that our economy has had on companies large and small. I also understand that compliance with new manufacturing and testing requirements can present a tremendous challenge.

The Commission's recent comprehensive strategic planning initiative highlighted the critical challenges facing the CPSC over the next five years. One such challenge is the globalization of the supply chain, which has created a considerably more complex manufacturing and distribution process and resulted in a dramatic increase in the volume of imports under the CPSC's jurisdiction. These recent developments require the CPSC to renew its efforts to proactively address safety hazards and prevent dangerous products from entering the global marketplace.

This new office will be the vehicle by which the CPSC enhances its outreach to the international community and works with foreign governments to assist them in developing effective product surveillance strategies, product testing methods, and voluntary and mandatory product safety standards. The office will also work with foreign manufacturers to facilitate training and the transfer of information across industries. Safer products can be created by going to the source of manufacturing and educating manufacturers about quality assurance in the manufacturing process and relevant safety standards.

The office will work with manufacturers to help build safety into their products to prevent dangerous products from ever entering the market. For smaller entities, such as small businesses and small batch manufacturers who may have fewer resources at their disposal, the Small Business Ombudsman will serve as a dedicated resource to facilitate better understanding and compliance with applicable safety and testing standards and other regulatory requirements. The establishment of the Small Business Ombudsman within the new office demonstrates our continued commitment to small businesses and our responsiveness to the needs of the many small businesses who requested that we establish such a position within the agency.

To carry out its mission, the Office of Education, Global Outreach, and Small Business Ombudsman will invite partnerships with colleges and universities, state and local governments, nonprofit and business organizations, standards making organizations, and others to enhance the CPSC's ability to provide research and training for stakeholders on regulatory and safety standards and best practices.

As CPSC looks out on an ever expanding horizon of product safety challenges and opportunities, our message to all of our stakeholders is that we are prepared to be the global leader. I look forward to the launch of the new Office of Education, Global Outreach, and Small Business Ombudsman and believe the new office's mission and staff will serve a vital role in responding to the needs of our stakeholders at home and building new partnerships abroad.



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STATEMENT OF COMMISSIONER NANCY NORD
ON THE VOTE TO APPROVE THE CREATION OF THE OFFICE OF
EDUCATION, GLOBAL OUTREACH, AND SMALL BUSINESS
OMBUDSMAN
September 21, 2010

The CPSIA and the implementing regulations the CPSC is issuing have imposed unprecedented requirements on those manufacturing and selling consumer products. Some of those requirements help insure the safety of products used by American families. Others impose regulatory requirements with little or no gain in safety. And most of these new requirements are both complex and confusing.

I am supporting the creation of a new outreach office because the agency needs to do a better job working with the regulated community to assure that our regulations are understood. The agency needs to do a better job responding to inquiries and requests for information. These are two of the important missions of this new office.

While the new office will work to educate industry and small business on the requirements they face, I fully anticipate that these stakeholders will also inform the CPSC on issues of concern to them via their interactions with this office. Therefore, perhaps the most important role the new office can play is to act as an internal voice for those potentially impacted by our activities. My vote to establish this office is conditioned on an understanding that this office will act as an ombudsman inside the agency to help temper proposed actions that impose requirements without the requisite demonstration of a safety purpose.

All of us are aware that the requirements of the CPSIA have driven some companies out of business and have driven a number of perfectly safe products off store shelves. The American public is paying the price in terms of lost jobs, higher prices, and less choice in the marketplace. I view this office as a recognition that we need to do a better job balancing the good we are trying to do with the harm that is actually being done.



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STATEMENT OF COMMISSIONER ANNE M. NORTHUP ON THE
CREATION OF THE OFFICE OF EDUCATION, GLOBAL OUTREACH,
AND SMALL BUSINESS OMBUDSMAN

September 23, 2010

Creating a new Office of Education, Global Outreach, and Small Business Ombudsman at the Consumer Product Safety Commission (CPSC) is neither necessary nor fiscally prudent. Although I appreciate the underlying objective of increasing Commission outreach to stakeholders such as small businesses, I do not believe that creating a brand new office for this purpose will even begin to address such stakeholders' ongoing frustrations with Commission actions, add value to our core mission of product safety, or represent a wise use of taxpayer dollars.

In the midst of a recession, when increased federal spending and the national debt threaten to drag our economy down further, the creation of any new government office or program is simply irresponsible. It is precisely such mission creep in federal spending that continues to make headlines every day and with which the American people are fed up. Congressman Paul Ryan (R-WI) and American Enterprise Institute President Arthur Brooks describe well the downside of creating even small, new federal programs in their recent op-ed in *The Wall Street Journal*:

Individually, these things might sound fine. Multiply them and add them all up, though, and you have a system that most Americans manifestly oppose—one that creates a crushing burden of debt and teaches our children and grandchildren that government is the solution to all our problems. Seventy percent of us want stronger free enterprise, but the other 30% keep moving us closer toward an unacceptably statist America—*one acceptable government program at a time*.¹

As their article warns, the concept for this new office has grown steadily from where it started. It began as a proposal to expand a part-time Small Business Ombudsman position to a full-time position (in our fiscal year 2011 budget) and has now swelled to include “global” outreach, a new Director, and an unspecified budget and number of staff. I was cautiously optimistic about a similar idea put forth by Chairman Henry Waxman (D-CA) in his CPSEA legislation² earlier this year, but I expressed concern even then that making any sort of new office like this a permanent, statutory fixture (which we know will become impossible to scale back or eliminate) would be entirely unnecessary and unwise during tight budget times. Most importantly, now that both the President and Congress are calling for shrinking or freezing federal spending over the next several years, it seems particularly ill-advised to promote new spending on an office that we do not need.

¹ Arthur C. Brooks and Paul Ryan. “The Size of Government and the Choice This Fall,” *The Wall Street Journal*. September 13, 2010.

² The Consumer Product Safety Enhancement Act (CPSEA) is draft legislation proposed by House Energy and Commerce Chairman Henry Waxman to amend the Consumer Product Safety Improvement Act of 2008 (CPSIA).

In addition to my opposition to growing the size of government, I am concerned with the stated purpose of the new office to have a more “coordinated approach to education and outreach activities,” implying that it will provide additional, helpful communications to industry stakeholders. While I believe that this purpose can be fulfilled under existing Commission offices, I have particular concerns with the inference that the new outreach to *small businesses* will help those who are struggling with the CPSIA. Small businesses are not clamoring simply for more information from the Commission about how to comply with this law—they are asking for relief from this law because it is killing them. The solution is not *more* government; the solution is repealing the portions of the CPSIA that impose tremendous costs without increasing safety. Furthermore, no matter how successful this new office may be, small businesses will still have to hire their own lawyers to fully grasp their particular obligations under the complex, far-reaching new regulations being promulgated by the Commission. In that respect, creating this office is like offering a Band-Aid™ for a problem that actually requires major surgery.

If we really wanted to help small businesses, this Commission would do everything in its power to mitigate the unintended consequences of the CPSIA through its rulemakings—something I have continued to argue for with limited success. It would add clarity and factor risk into our policies as much as the statute allows. Even better, we would unanimously approach Congress and ask that the law be reformed or repealed in a meaningful way so that *only risky products* are impacted—since the CPSIA has clearly taken us away from our core mission of product safety. Anything short of these steps will not help the small business community or a floundering economy.

Finally, I have concerns that creating a new office to govern the “education and outreach” responsibilities to industry stakeholders may complicate or even overtake the outreach we already perform under other offices such as our Office of Compliance. Right now, if a small company needs to know if its product falls under the purview of a particular regulation, it can call the Office of Compliance for advice. It is a key function of that office to assess products every day in the course of its enforcement responsibilities. By creating a new office in charge of “outreach” duties, we create unnecessary complications and risks in our communications with the public, including: 1) having two offices that could answer the same question differently; and/or 2) moving the agency away from its pure enforcement responsibilities and instead providing something akin to product pre-approval services. The latter course could potentially turn a relatively small CPSC into a behemoth more like the Food and Drug Administration. It is depressing to think it is even remotely possible we could have a government office dedicated to “pre-approving” all consumer products before they go to market.

In sum, I have a number of concerns with the creation of this new office and decline to support it.