



## Small Business Ombudsman Mission

October 2014

**In accordance with 16 CFR § 1020, the CPSC's policy on Small Business, our agency's longstanding practice of supporting the needs of small businesses as they interact with CPSC, and embracing further transparency in our dealings with all stakeholders, I am issuing the following description of the mission of the Small Business Ombudsman:**

1. In a manner consistent with CPSC policy set forth in 16 CFR § 1020, titled "Small Business," the Small Business Ombudsman (or "SBO" or "Ombudsman") will serve as the agency's primary point of contact for small businesses seeking advice and assistance in complying with agency rules. The SBO will provide information, guidance, and technical assistance to small businesses in a fashion that is clear, easy to understand, and consistent with agency policy.
2. The SBO will operate with the highest degree of professionalism and integrity while also exercising superior decision-making, judgment, diplomacy and discretion. He or she shall be a person of recognized knowledge about CPSC subject matter who constantly updates his or her knowledge of the agency's work.
3. The Ombudsman serves as a liaison between small businesses and agency staff with problems and questions regarding compliance with agency rules.
4. The Ombudsman provides plain language compliance guides for CPSC rules and regulations consistent with agency policy and procedures.
5. The Ombudsman listens to and meets with the small business community on an ongoing basis and will keep the Office of the Executive Director and the Commission informed of concerns regarding the impact of agency actions on the small business community.
6. The SBO provides assistance to the small business community in resolving complaints about CPSC staff action, or lack of action, by coordinating CPSC staff response and/or directing small businesses to appropriate CPSC staff.<sup>1</sup>
7. When appropriate, the SBO may, in accordance with all applicable CPSC statutes and regulations, provide non-binding recommendations to the Chairman, the Commission, and CPSC staff to resolve issues regarding CPSC's regulatory activities directly and substantially affecting small businesses.
8. The SBO will provide and facilitate training and outreach events for small businesses and will speak at public events and engage in outreach activities to diverse small business constituencies.
9. From time to time, the SBO may issue reports in accordance with all applicable CPSC statutes and regulations summarizing the Ombudsman's findings and activities with respect to small

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<sup>1</sup> Typical SBO assistance includes coordinating CPSC response and/or directing small business to appropriate staff in connection with inspection and compliance actions, and import detention of CPSC-regulated products.

business issues. This may include statistical information about the number of contacts with the Ombudsman or other relevant information.

10. The SBO monitors CPSC compliance with the agency's non-retaliation policy with respect to small businesses as set forth in the section of this document titled "Non-retaliation" and in accordance with the agency's non-retaliation policy. See <http://www.cpsc.gov/en/Business--Manufacturing/Small-Business-Resources/US-Consumer-Product-Safety-Commission-Non-Retaliation-Policy/><sup>2</sup>
11. The SBO works with the SBA Office of National Ombudsman (SBA/ONO) regarding CPSC-related matters before the SBA/ONO.
12. The Ombudsman may, when appropriate, issue non-binding recommendations, in accordance with all applicable CPSC statutes and regulations, to CPSC staff to resolve systemic problems or issues raised by external small business stakeholders.

**While the Small Business Ombudsman shall endeavor to assist small businesses to the best of his or her ability, there are certain limitations on the support the SBO may provide. In an attempt to inform the public of these boundaries, the following legal notices, disclaimers, and explanations of the role of the SBO as a neutral party are provided:**

1. The Ombudsman does not serve as an office of legal notice for the agency nor does the Ombudsman address matters that are the subject of civil penalty investigation by the Office of General Counsel or any other pre-litigation or litigation proceeding.
2. The Small Business Ombudsman shall explain the Commission's confidentiality policy as set forth below to small businesses that seek SBO assistance.
3. Confidentiality allows small businesses to seek the Small Business Ombudsman's assistance without concern for retaliation or retribution. The name of any small business that requests SBO assistance, the name of any individual contacting the SBO on behalf of a small business and information provided to the Ombudsman about the small business will not be reported to the Commission or to CPSC staff for use in any compliance activity if provided to the Ombudsman in the scope of his or her designated activities, except as set forth below:
  - a) The small business has disclosed an intention to commit or continue to commit any criminal act in violation of the Commission's laws, bans, rules, regulations, or standards,
  - b) The circumstances present or would reasonably present a risk of serious harm to the public,
  - c) The circumstances involve possible defrauding of the government,
  - d) The small business presents credible evidence of fraud, waste, or abuse on the part of the government,

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<sup>2</sup> Findings of non-compliance or potential non-compliance with the CPSC's non-retaliation policy will be reported to the Executive Director.

- e) Disclosure is required by law, or
  - f) The small business waives confidentiality.
4. In addressing complaints from small businesses, the Small Business Ombudsman does not advocate either for the agency or a small business. The Ombudsman is a neutral party. The Ombudsman examines all sides of an issue which includes making recommendations on how an individual matter or systemic issue should be addressed. However, impartiality does not preclude the Ombudsman from recommending changes to an agency process or procedure, or advocating internally for such recommendations with respect to small business issues where the process demonstrates a need for them.
  5. If a small business requests SBO assistance or otherwise questions or complains about CPSC regulatory or enforcement actions, requirements, or policies, CPSC will not retaliate.
  6. The Ombudsman shall adhere to the Commission's non-retaliation policy, at <http://www.cpsc.gov/Business--Manufacturing/Small-Business-Resources/US-Consumer-Product-Safety-Commission-Non-Retaliation-Policy/>, and shall explain the policy to small businesses that seek assistance from the Ombudsman.
  7. Although contacting the Ombudsman shall not trigger retaliatory actions, such contacts shall not bar the agency from conducting legitimate investigations, inspections, compliance or enforcement actions or any other lawful agency action begun independently of such contact with the Ombudsman.

#### Disclaimer

In exercising the duties of the office, the Ombudsman must not provide advice inconsistent with official Commission statutes, regulations, and policies. Accordingly, in any instance in which a small business is seeking advice where the Commission has no policy or where Commission policy is unclear, the Ombudsman must obtain clarification from the Office of General Counsel. In all instances, the Ombudsman shall use the following disclaimer for all written and oral advice:

*This communication has been prepared for general informational purposes only and is based upon the facts and information presented. This communication contains an interpretation by CPSC staff and is based solely on the information currently available to the staff and the enforcement posture the CPSC staff currently has in effect. The interpretation could be changed if the facts change, and could be changed or superseded by the Commission. This communication does not, and is not intended to, constitute legal advice and has not been reviewed or approved by the Commission, and does not necessarily represent their views. The Ombudsman does not serve as an office of legal notice for the agency nor does the Ombudsman address matters already in litigation. The Ombudsman has no authority to delay any statutory, regulatory, or other CPSC deadlines, or make decisions or legal determinations for the CPSC. Any views expressed in this communication may be changed or superseded by the Commission.*

Issued By:



Elliot F. Kaye  
Chairman  
October 1, 2014