



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

January 19, 2012

**STATEMENT OF CHAIRMAN INEZ M. TENENBAUM
ON THE VOTE TO APPROVE PROVISIONALLY A CIVIL PENALTY SETTLEMENT
WITH HEWLETT-PACKARD COMPANY**

Today I voted to approve provisionally a civil penalty settlement with the Hewlett-Packard Company (HP) that would settle staff allegations that HP knowingly failed to report defective lithium-ion batteries that were the subject of a recall in October 2008.¹ I voted to accept this settlement in light of the facts and careful consideration of the civil penalty factors, but my vote is not without significant reservation.

I share many of the very valid concerns articulated by my colleague, Commissioner Robert S. Adler,² including concern as to whether this agreement sufficiently effectuates the main purposes of seeking a civil penalty. In the end, though, I decided to vote for the settlement agreement with HP because my concerns speak more to how the Commission will approach civil penalty cases going forward, especially those that fall under our enhanced statutory authorities.

More to the point, through passage of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Congress sent a clear signal by dramatically raising the statutory limits on civil penalties available in CPSC enforcement actions.³ As Congress intended, this enhanced authority empowers the Commission to seek, as appropriate, significantly higher civil penalties to ensure that civil penalties do not get written off as a cost of doing business, but rather truly serve their intended policy purpose.

While this settlement with HP was negotiated under the pre-CPSIA statutory scheme, it is my strong hope and expectation that future enforcement actions, particularly those that arise under our enhanced authorities, will (as Congress intended) include civil penalty amounts that maximize the likelihood of deterring violations, providing just punishment, promoting respect for and compliance with the law, reflecting the seriousness of the violation, and ultimately protecting the public from unreasonable risks of injury and death.

¹ "PC Notebook Computer Batteries Recalled Due to Fire and Burn Hazard," Oct. 30, 2008, available at: <http://www.cpsc.gov/cpscpub/prerele/prhtml09/09035.html>.

² Dissenting Opinion of Commissioner Robert S. Adler Regarding a Settlement Agreement with the Hewlett-Packard Company, dated January 19, 2012, available at <http://www.cpsc.gov/pr/adler01192012.pdf>.

³ Pursuant to CPSA Section 20(a)(1), 15 U.S.C. § 2069(a)(1), for violations occurring after August 13, 2009 any person who knowingly violates CPSA section 19 shall be subject to a civil penalty not to exceed \$100,000 for each violation, up to a maximum penalty of \$15 million for any related series of violations. For violations occurring from January 1, 2005 to August 13, 2009, maximum penalty amounts are \$8,000 for each violation, and \$1,825,000 for any related series of violations.