



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

This is a DRAFT RCA.
It will be replaced by a Final RCA.

Commissioners Voting: Chairman Inez M. Tenenbaum
 Commissioner Nancy A. Nord
 Commissioner Robert S. Adler

ITEM:

Fiscal Year 2014 Performance Budget Request
(Briefing package dated March 26, 2013, OS No. 4670)

DECISION:

The Commission voted 2-1 to submit to Congress the Fiscal Year 2014 Performance Budget Request, with specified changes. Chairman Tenenbaum and Commissioner Adler voted to submit the 2014 Performance Budget Request with specified changes that were adopted. Commissioner Nord voted to submit the 2014 Performance Budget Request with different specified changes that were not adopted. Chairman Tenenbaum and Commissioners Nord and Adler submitted the attached statements regarding this matter.

For the Commission:

Todd A. Stevenson
Secretary

* Ballot vote due April 4, 2013

(By Commissioner agreement, the due date for the vote was changed from April 3, 2013.)

Attachments: Specified Changes That Were Adopted
 Statement of Chairman Tenenbaum
 Statement of Commissioner Nord
 Statement of Commissioner Adler
 Supplemental Statement of Commissioner Nord

- **Page 29, Mandatory Standards Chart, Other Ongoing or Potential Rulemaking Activities:** Add "Bed Rails (Adult)" for 2014 as a "DA/TR" and add a bullet for "Bed Rails (Adult)" on **Page 11, Risk Assessment box.**
- **Page 27, Voluntary Standards Chart: #8 Bed Rails:** Add "(children's and adult)" after "bed rails."
- **Page 29, Mandatory Standards Chart, CPSIA Chart:** Change "Bed Rails (Portable)" to "Bed Rails (Children's Portable)"
- On Page 12, replace "There is also a requirement to review third party testing burdens. [See also the mandatory standards table on pages 28–29.]" with the following language:

In FY 2013, subsequent to fulfilling Public Law 112-28's requirement that the Commission solicit and review comments regarding potential opportunities to reduce the cost of third party testing requirements consistent with assuring compliance, the Commission chose to direct staff to develop a Request for Information (RFI) on four such potential opportunities. As warranted, the Commission may undertake additional activities to reduce any burdens identified consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation.

- In the mandatory standards summary on Page 29, under the heading "Implementation of Public Law 112-28," change the table to reflect the following:

Implementation of Public Law 112-28			
	2012 Actual	2013 Op Plan	2014 Request
Burden Reduction/Assuring Compliance	BP		



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**STATEMENT OF CHAIRMAN INEZ M. TENENBAUM ON THE CPSC FISCAL YEAR 2014 BUDGET
REQUEST**

April 18, 2013

On April 10, 2013, the U.S. Consumer Product Safety Commission (CPSC) submitted its Fiscal Year (FY) 2014 Performance Budget Request to Congress. The Commission's FY 2014 Budget Request represents the best of CPSC. It demonstrates the agency's commitment to complete implementation of the Consumer Product Safety Improvement Act of 2008 (CPSIA), proactively address emerging hazards, and improve the safety of products with identified hazards. The Budget also includes funding for CPSC's import surveillance program, nanotechnology research, outreach and education for small businesses, operating an integrated information technology system, and enhancing the technology capabilities of our testing and evaluation center to benefit the health and safety of the consumers whom we faithfully serve. The Commission's FY 2014 Budget Request also reflects the current austerity that the federal government is facing and seeks to achieve meaningful results in a time of decreasing resources.

My colleague, Commissioner Nancy Nord, chose to vote against the CPSC's budget request. She did so because Commissioner Adler and I declined to include language she demanded mandating a premature diversion of scarce Commission resources from safety operations to independent testing burden reduction activities related to the third party testing of children's products (burden reduction). Rather than simply noting her objection and voting in favor of the Commission's overall budget, Commissioner Nord chose to once again ignore the core mission of this agency—product safety—and instead continue her mission of opposing meaningful reform and implementation of the CPSIA at every turn. The safety of consumers and the livelihoods of CPSC employees are directly tied to the funding level of our perpetually underfunded agency. Fully understanding this, Commissioner Nord chose to advance a personal political agenda over the interests of consumers and CPSC staff.

The Commission's Continued Pursuit of Opportunities to Reduce Third Party Testing Costs

The Commission's record on burden reduction demonstrates a thoughtful and consistent approach to voluntarily acting on certain items recommended by CPSC staff and unanimously agreed upon by the Commission. Despite Commissioner Nord's assertion that the "only action the Commission has taken in the past two years is to ask the public to comment on issues already commented upon,"¹ the history of agency action outlined below reflects the Commission's continued efforts to achieve meaningful results in this area.

¹ <http://www.cpsc.gov/Global/About-CPSC/Commissioners/Nord/NordFY14BudgetStatement.pdf> at 2.

Public Law 112-28 (P.L. 112-28), enacted in August 2011, left the core safety components of CPSIA firmly in place while also directing the Commission to solicit and review comments from the public on ways the agency could reduce third party testing costs while assuring compliance with any applicable consumer product safety rules, bans, standards, or regulations. P.L. 112-28 also stated that the Commission *may* prescribe new or revised third party testing regulations if it determines that such regulations will reduce third party testing costs consistent with assuring compliance.

On October 19, 2011, the Commission voted to solicit public comments on reducing third party testing costs while assuring compliance as required by P.L. 112-28. Our staff received these comments, discharged the agency's statutory duty by reviewing them, and submitted a briefing package to the Commission on August 29, 2012, that identified a set of specific areas for further exploration that could potentially yield third party testing relief. It is important to note that, based on a review of the comments submitted to the agency, CPSC staff believed each of the areas identified as potential opportunities to reduce third party testing costs would require additional—and, in some instances, very significant—exploration and devotion of Commission resources before more specific recommendations could be made. On October 10, 2012, going beyond the statutory requirements of P.L. 112-28 and subject to subsequent resource allocation decisions in the FY 2013 Operating Plan, the Commission unanimously voted to approve further exploration of eight areas where staff believed potential opportunities to reduce third party testing costs while assuring compliance may exist.²

The Commission began considering resource allocation decisions for these activities in December when the CPSC's FY 2013 Operating Plan was submitted for Commission consideration. On January 18, 2013, the Commission voted unanimously to approve the FY 2013 Operating Plan and direct staff to draft a Request for Information (RFI) for publication in the *Federal Register* regarding potential third party testing exemptions for adhesives in manufactured woods, synthetic food additives, and materials that can be determined not to include heavy metals or phthalates.³ The Commission also agreed to make decisions regarding the allocation of resources for additional burden reduction activities as a part of CPSC's FY 2014 Operating Plan.⁴

On April 9, 2013, the Commission voted unanimously to publish the RFI.⁵ The comment period for the RFI will close this summer and the Commission, informed by the comments, will subsequently make resource allocation decisions regarding further actions in this area.

Disregarding the Commission's Prior Agreement

This thoughtful approach, which is the proper planning process for balancing burden reduction work with the Commission's core mission of safety, was not enough for Commissioner Nord and she voted against the entire budget. Subsequently, she attempted to stoke the fears of CPSC's regulated

² <http://www.cpsc.gov/PageFiles/130209/3rdparty.pdf>

³ <http://www.cpsc.gov/Global/Newsroom/FOIA/Records-of-Commission-Action-and-Meeting-Minutes/rca%20fy%2013%20op.pdf>

⁴ *Id.*

⁵ <http://www.cpsc.gov/en/Regulations-Laws--Standards/Federal-Register-Notices/2013/Request-for-Information-Regarding-Third-Party-Testing-for-Lead-Content-Phthalate-Content-and-the-Solubility-of-the-Eight-Elements-Listed-in-ASTM-F96311/>

community by issuing a statement minimizing the agency's past burden reduction actions and making the claim that Commissioner Adler and I "do not plan to use any resources to reduce testing burdens" in FY 2014.⁶ This claim is patently false. Commissioner Adler and I simply chose not to make a decision regarding the commitment of resources to this activity prior to receiving public comments that will help inform the Commission on what additional actions may be warranted.

In fact, Commissioner Nord's proposed amendment explicitly sought to undermine a prior agreement reached by the Commission. The agreement, unanimously reached by the Commission in January as a part of the FY 2013 Operating Plan negotiations, states:

In FY 2013, staff will draft four requests for information (RFIs) for publication in the Federal Register for determinations regarding heavy metals, phthalates, adhesives in manufactured woods, and synthetic food additives. . . . For each RFI, the Commission intends to provide resources in the *fiscal year 2014 operating plan* to the extent the agency's safety work permits to ensure staff reviews the responses and summarizes any recommended course of action on each item for the Commission.⁷

The Commission chose to use the 2014 "operating plan" as the vehicle for future resource decisions and did not insert "budget request" into this amendment because it was well understood that it would be premature to commit resources to any further activity until the agency had received public comments from the RFI. Although Commissioner Nord states that her proposed amendment to the 2014 budget request "reflected the decision the Commission made in the January operating plan,"⁸ the plain words of the operating plan agreement itself do not support this reconstruction of the Commission's intention.

Ignoring a Compromise

Despite the fact we would be extending the terms of the Commission's original agreement in January, we attempted to work with and reach a compromise with Commissioner Nord by offering an amendment (attached) committing the agency to undertaking further data analysis and technical review related to burden reduction in FY 2014. Despite Commissioner Adler's and my offer to commit these agency resources in an area where no resources had already been committed, Commissioner Nord rejected the offer and voted against the entire FY 2014 Budget.

Correcting the Record

In her statement, Commissioner Nord makes the claim that the Commission can no longer blame any failure to act on burden reduction activities on insufficient funding because we have requested additional money that can and should be spent on burden reduction. Again, this is simply untrue. As noted by Commissioner Nord, we have requested \$2.2 million in funding over the FY 2013 budget. However, this amount reflects increases requested to fund required maintenance and operations for

⁶ <http://www.cpsc.gov//Global/About-CPSC/Commissioners/Nord/NordFY14BudgetStatement.pdf> at 2.

⁷ <http://www.cpsc.gov//Global/Budget/2013OperatingPlan.pdf> at 24 (emphasis added).

⁸ <http://www.cpsc.gov//Global/About-CPSC/Commissioners/Nord/NordFY14BudgetStatement.pdf> at 2.

import surveillance, purchase needed laboratory equipment, improve the agency's international operations, maintain salary and expense levels for CPSC staff, sustain our current financial accounting operation services, and enhance methods to meet the agency's information technology records management requirements.⁹ Each of these items added together constitute the full \$2.2 million in extra funding the agency requested for FY 2014.

To suggest any future claim of insufficient funding is nothing more than a "ruse to cover an utter lack of interest in performing [burden reduction]"¹⁰ is to completely ignore the fact that burden reduction activities accounted for zero dollars of the additional funding requested for FY 2014. If Commissioner Nord had proposed an amendment increasing the amount of funding for the agency to ensure certain burden reduction activities are achieved and Commission Adler and I had rejected it, then she could credibly make this argument. As it stands, however, Commissioner Nord proposed no such increase in agency appropriations to fund additional burden reduction activities.

Conclusion

I am committed to a reasonable burden reduction review process, and I look forward to working on that issue in the FY 2014 Operating Plan. In the end, however, it is critical to remember that product safety is the core mission of this agency. Voting against an *entire agency budget*, as Commissioner Nord did, because a majority will not accept a three-sentence amendment on premature activity is simply an irresponsible act driven by a personal political agenda with absolute disregard for the well being of this agency, its staff, and the hundreds of millions of consumers we are obligated to protect.

⁹ <http://www.cpsc.gov/Global/About-CPSC/Budget-and-Performance/2014BudgettoCongress.pdf> at 21, 22.

¹⁰ <http://www.cpsc.gov/Global/About-CPSC/Commissioners/Nord/NordFY14BudgetStatement.pdf> at 3.

Chairman Tenenbaum/Commissioner Adler Proposed Compromise Amendment

On Page 12, replace “There is also a requirement to review third party testing burdens.” with the following language:

In FY 2013, subsequent to fulfilling Public Law 112-28’s requirement that the Commission solicit and review comments regarding potential opportunities to reduce the cost of third party testing requirements consistent with assuring compliance, the Commission chose to direct staff to develop a Request for Information (RFI) on four such potential opportunities. In FY 2014, the comments received in response to the RFI will be reviewed and analyzed and, as warranted, the Commission may undertake additional activities to reduce any burdens identified consistent assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation. [See also the mandatory standards table on pages 28–29.]

In the mandatory standards summary on Page 29, under the heading “Implementation of Public Law 112-28,” change the table to reflect the following:

Implementation of Public Law 112-28			
	2012 Actual	2013 Op Plan	2014 Request
Burden Reduction/ <i>Assuring Compliance</i>	BP	DA/TR	<i>DA/TR</i>



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COMMISSIONER NANCY A. NORD

**Statement on the Commission's
Fiscal Year 2014 Budget Request**

April 10, 2013

The Commission recently submitted its Fiscal Year 2014 Budget Request to Congress. I declined to sign onto the budget request. It asks for \$117 million, an increase of \$2.2 million over the FY13 budget and \$8.4 million over the FY13 sequestration amount. Preparing and proposing a budget is one of the most important tasks of an agency's leadership, so my decision was not a light one. The budget adopted contains an obvious and critical omission: it fails to meaningfully address the burdens our testing regulations have imposed. As discussed below, that omission represents a failure to perform basic regulatory tasks competently and to follow through on congressional direction.

Budgets: accountability & competency

Preparing a budget—detailing where and when an agency plans to spend public resources—is key to a democratically accountable administrative state. Thus, though I have not agreed with every line of every budget, since becoming a commissioner I have signed on to every previous budget of the Commission, believing that it was important to signify my agreement with the central mission of the agency and to convey that message to our congressional overseers and the American people. So it was not a light matter for me not to sign this budget request.

My vote was prompted by my belief that regulating in the least burdensome way is central to our agency's—any agency's—mission. Unfortunately, pursuit of that is absent in this budget request. At a time when we are asking for an increased budget (as other agencies face cuts) it is unconscionable to submit a budget that does not address one of the most urgent responsibilities before us: reducing the unwarranted burdens of the testing rules we have imposed, burdens which are well-known to the agency. The responsibility to regulate in the least burdensome way is inherent upon us as competent regulators, and it was even more forcefully pressed upon us by Congress when it passed Public Law 112-28 in 2011.

The CPSC's special obligation to cut costs

That law, among other things, directed the Commission to seek public input into ways to reduce testing burdens. The law allowed for new regulatory action by the Commission if warranted to reduce costs while maintaining compliance and report to Congress if we lacked the appropriate authority to implement opportunities to reduce

costs. After seeking and analyzing public comments in response to this directive, the Commission's staff proposed 16 different methods of reducing the burden of third-party testing. The staff made clear that these 16 suggestions were not all-inclusive.

The Commission, after much debate, decided to move forward on nine of those areas. (I joined my colleagues in supporting that move, although, as I stated at the time, I would have preferred much broader moves, and moving forward more quickly.) It was a start. However, in our Fiscal Year 2013 operating plan (adopted in January 2013), we narrowed that list from nine areas to four, stating that the only action we planned to take in FY13 was to ask for additional public comment. In other words, the only action the Commission has taken in the past two years is to ask the public to comment on issues already commented upon—a stunning example of “kicking the can down the road” which hardly comports with the spirit (if not the letter) of the law.

Our failure to act

Thus, in this budget, I proposed an amendment calling for concrete action on each of the four areas that we agreed to examine further in the operating plan. Though I would have preferred much stronger language and more resources being dedicated to burden reduction, the language I proposed (attached) reflected the decision that the Commission made in the January operating plan. Unfortunately, my colleagues demurred, instead adopting language that was equivocal about when, if ever, we would move ahead on this task. Indicating that we had plans to take action to reduce the wasteful burdens we imposed was too much of a commitment.

The language that the Commission did adopt sends precisely the wrong message. My colleagues' decision to decline to even conditionally plan to move forward on burden reduction is insufficiently responsive to Congress's action and to the need for proper balance in our testing regulations. I find this position incomprehensible. Failing to act on and meaningfully fulfill the direction of Congress violates both our duty to execute the law and basic notions of administrative competence. To adopt the language that the Commission adopted, and reject the language I proposed, suggests that my colleagues do not plan to use any resources to reduce the testing burdens documented by our staff. To reject such plans—while asking for more money as the rest of the government generally expects budget cuts—is shocking to me.

As officeholders, we serve the public. We do not serve just one constituency or ideal. We are not merely advocates for safety—we have the responsibility to regulate with balance. Even in the absence of congressional intervention in the form of Public Law 112-28, it was clear that the burden imposed by our testing rule was high—unnecessarily so. That conclusion is inescapable after public pressure produced Public Law 112-28. Our obligation as regulators was to make some sincere effort to reduce that burden.

Any suggestion that our earlier failure to act was the product of insufficient funding loses credibility in the budget process, where we can request—and have requested—additional resources. If we left burden reduction incomplete because we had too little money, then, when we asked for more in this budget, we would spend the new money on the task left unfinished. That we express no such intent suggests the cries of insufficient funding were a ruse to cover an utter lack of interest in performing the task before us. Because the budget that my colleagues adopted fails to follow through on our commitment, I could not in good conscience support it.

Insert the following language on page 12 as indicated in italics.

There is also a *statutory* requirement to review third party testing burdens. *Depending on the outcome of reviews performed under that requirement, the Commission may undertake activity to reduce the burdens identified.* [See also the mandatory standards table on pages 28–29.]

In the mandatory standards summary, under the heading “Implementation of Public Law 112-28,” change the table to reflect the following:

Implementation of Public Law 112-28			
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Burden Reduction	BP	DA/TR	BP or NPR



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**Statement of Commissioner Robert Adler on the
CPSC Fiscal Year 2014 Budget**

April 17, 2013

The Consumer Product Safety Commission recently submitted its FY 2014 Budget Request to Congress. My colleague, Commissioner Nancy Nord, dissented from the agency's submission. Her stated reason was her insistence that the Commission, *ex ante*, commit itself to drafting a briefing package and issuing a Notice of Proposed Rulemaking (NPR) in FY 2014 to address the issue of burden reduction.

Speaking for myself, I found it difficult, in advance of assessing the merits of any burden reduction proposals, to commit to taking such action. To me, that was the equivalent of committing to surgery before seeing what the X-rays show.

To be clear, had Commissioner Nord proposed listing burden reduction as an ongoing project in the budget, I would have accepted it. My only objection was committing the Commission and its staff to drafting a briefing package and to issuing an NPR on a set of proposals that we have not yet agreed to nor decided to pursue. Unfortunately, Commissioner Nord insisted that we commit – before analyzing the comments and accompanying data – to developing a briefing package and proposing an NPR. This is reminiscent of the Red Queen's non sequitur, "Sentence first. Verdict afterwards."

As my colleague correctly points out, the Commission has worked on the issue of reducing the burdens of regulation for many years. I believe that we and agency staff have done so fully and in good faith. My colleague asserts that the "only action the Commission has taken in the past two years is to ask the public to comment on issues already commented upon...." This is not accurate. Here is what the Commission has done, and why. Public Law 112-28, enacted in 2011, required the Commission to solicit and review comments from the public on ways that the agency could reduce regulatory burdens while assuring compliance with any applicable

consumer product safety rules, bans, standards or regulations. Once we got the comments and sifted through them, we identified a set of proposals that if they were technically achievable seemed to provide a significant measure of regulatory relief. Then, going beyond the statutory requirements of P.L. 112-28, the Commission chose to follow our staff's recommendation to solicit comments from the public, i.e., those directly affected by agency rules, on these proposals to see whether the technical evidence was available to demonstrate that these ideas offered appropriate relief while assuring compliance.

We have not dawdled on burden reduction activities. Just last week, for example, the Commission voted unanimously to solicit comments from the public on whether certain materials used in children's products could be exempted entirely from third-party testing. But, of course, we need to evaluate these comments to see whether the proposal generally makes sense – and specifically whether we have been overly or under-inclusive. What we don't need is to assume the merits of the issue in advance.

Accordingly, I object to my colleague's accusation that the Commission declined "to even conditionally plan to move forward on burden reduction." To the contrary, "conditionally plan" is precisely what the Commission did decide to do. Unfortunately, what Commissioner Nord sought was to have the Commission unconditionally plan to move forward on burden reduction – even though the Commission does not yet know if these ideas will work and will actually reduce burdens.

An Agency of Scarce Resources: Balancing Risks and Costs

Our FY 2014 budget reflects our best efforts to address as many hazards as we can, while fulfilling our statutory duties. I am proud that we do so much with so little. Despite a mandate to protect every American – all 300 million of them – from the risk of unreasonable injury and death from hazardous consumer products, our budget request stands at a tiny \$117 million. By comparison, our colleagues at EPA have a budget of over \$8 billion. Our friends at FDA have a budget of \$4.7 billion. Even the CDC's Injury Prevention Division (a very small part of CDC) has submitted a 2014 budget request of \$182 million. I mention this because of my colleague's expressed skepticism about the Commission's seeking even a small increase in funding. Setting aside the fact that CPSC's budget is not large enough even to be a rounding error for most departments, I believe our budget request to be among the most justifiable and modest of any agency in government.

In addition to my colleague's skepticism about the Commission's request for increased funding, she broadly hints that any such funding should be dedicated to burden reduction. To the extent this is her view, I disagree. The idea that any extra dollars – which are unlikely, to say the least – that the Commission receives in the budget process should be devoted to burden reduction

ahead of other priorities does not strike me as particularly persuasive. Let me point out some examples randomly selected from our recent news clips that I think deserve our dollars more than burden reduction:

- On April 10, a two year old boy drowned in a backyard swimming pool in Memphis, Tennessee.
- On April 7, twelve year old Shelby Damron of Pike County, Kentucky died when the ATV on which she was a passenger crashed into a tree. Across the county, twelve year old Kaytee Eisenbarth of Brighton, Colorado died from injuries she suffered after crashing the ATV she was driving.
- On March 24, a 31 year old man was killed in an early morning house fire authorities believe was caused by a kitchen fire.
- On March 22, Samantha Cooksey of Union, Missouri died in a fire believed to be caused by a space heater. Her children, Allison Cooksey, age six, and Logan Berger, age one, also died in the same fire.

These deaths are tragic because of the loss of life and heartbreak suffered by the families of the deceased. But they are also tragic because they are so common and because we at the CPSC charged with protecting the public from these types of deaths are underfunded in our ability to address these hazards.

Here are some broader examples --

- ATVs are associated with over 800 deaths and 100,000 serious injuries every year, yet we are unable to fund for the necessary testing to move us closer to a final rule in our 2014 budget.
- Residential fires account for approximately 366,700 fires, 2,310 deaths, 12,550 injuries, and \$7.09 billion in property losses annually, yet our projects to address cooktop fires (the top cause of residential fires) and space heater fires are severely underfunded in our 2014 budget.
- Drowning remains the number one cause of unintentional death in the United States for children aged 1-4, with over 430 fatalities in 2010, yet our 2014 budget could barely fund the most minimal public education campaign on the importance of pool safety.

When it comes to public money, fiscal restraint is always an appropriate goal. When it comes to unnecessary burdens, they should be eliminated. Accordingly, I eagerly await the public

responses to our questions about how to further reduce third-party testing costs for children's products. Let us remember, however that these costs stem directly from the "year of the recall" in which Congress enacted third party testing requirements in the Consumer Product Safety Improvement Act (CPSIA) as an efficient and effective way to protect children.

I grant the notion that the Commission needs to worry about the impact of our rules on the regulated community. In that spirit, I believe that one of the most effective measures that the Commission has taken is the appointment of a Small Business Ombudsman, whose task is to alert the Commission to the impact of our rules on small companies and to explain our rules to this constituency. I further need to note the many months that the Commissioners and staff have dedicated to rule review and burden reduction – work that will continue in good faith irrespective of my colleague's dissenting statement.

In implementing the CPSIA, I have no question that the work we do at CPSC always strives to maintain a balance of cost and benefit – with the benefit of the doubt always going to the side of consumer safety.



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COMMISSIONER NANCY A. NORD

**Supplemental statement on the Commission's
Fiscal Year 2014 Budget Request**

April 22, 2013

My recent statement on the U.S. Consumer Product Safety Commission's Fiscal Year 2014 Budget Request prompted statements from my colleagues that omitted or mischaracterized important details. While I disagree with a number of the statements made by my colleagues, the record must be set straight on several key points.¹

First, it is inaccurate to say that I voted against a budget for the agency or that I opposed obtaining resources for the agency. I voted *for* the budget that staff drafted with what I believed was a small adjustment to reflect the agreement that the Commission made in developing the Fiscal Year 2013 Operating Plan. My colleagues voted for a different version of the budget, one that rejected making even a conditional forecast of performing results-oriented work on burden reduction in FY14. Because I believe that Congress directed otherwise—and that basic regulatory principles counsel otherwise—I could not sign onto the budget request that the majority submitted to Congress.

Second, my colleagues' statements do not accurately reflect what happened. A compromise amendment that I proposed made clear that, if in FY14, the agency lacks a reasonable basis to move forward on burden reduction, we need not. Thus I was surprised to read one colleague's suggestion that had I offered listing "burden reduction as an ongoing project," that colleague would have supported it. I made such an offer, yet it was rejected.

My colleagues' counterproposal, on the other hand, would have limited the level of work to be performed in 2014 to data analysis and technical review—in other words, just more study. The difference between our two approaches was that I was asking that the staff perform some action during FY14, in the form of

- a notice of proposed rulemaking; or
- a briefing package that would provide a status report, or, if appropriate, recommendations that did not involve rulemaking.

¹ As I have noted on other occasions, it was longstanding practice at the agency for Commissioners to use their statements to discuss their votes, not to rebut those of their colleagues. Unfortunately, neither of my colleagues apparently subscribes to this view, as shown by their recent statements. Because my statement has been challenged, I feel I must respond.

We have been studying this since 2011. It is time that we take some action or explain why we are not doing so.

Third, one of my colleagues suggests that my amendment was intended to undermine an earlier agreement embodied in the FY13 Operating Plan, where the Commission indicated that it would provide resources in the FY14 Operating Plan to move forward on burden reduction, as appropriate. She writes that indicating forward movement on burden reduction in this budget request violated that understanding among the Commissioners. That is wrong. Budget requests lay the foundation for operating plans. (They are also an important communication to Congress about the agency's plans for use of taxpayer funding.) Placing an indication in the budget request that we intend to move forward on burden reduction as warranted was intended to give fair notice to Congress and to reflect the FY13 Operating Plan agreement, not undermine it.

Finally, it is important to address the motivations of Commissioners and the purposes of a Commission. I am committed to the mission of protecting consumers from unsafe products and I believe that my colleagues are as well. I also believe that we all have honest opinions and philosophies that are worthy of respect. Genuine disagreements will arise because our perspectives are different. To summarily dismiss or distort differing perspectives is to rob the policymaking body of the fair and measured deliberations that are the very purpose of a multi-member commission. Further, the suggestion that honest disagreement amounts to placing personal interests above those of consumers or the agency is inappropriate and has no place in policy debates.