

Congress of the United States  
Washington, DC 20510

February 3, 2009

President Barack H. Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear  Obama:

As Chairmen and Subcommittee Chairman of the United States Senate and House Committees responsible for overseeing the Consumer Product Safety Commission (CPSC), we have closely followed the agency's implementation of the Consumer Product Safety Improvement Act (CPSIA), which the Congress overwhelmingly passed and President Bush signed into law on August 14, 2008. We voted for this landmark piece of legislation because we believed then, as we believe now, that it will dramatically improve the lives of America's children by requiring that certain children's products are tested and proven safe before they are sold – a safety net that many Americans assumed was already in place. For the first time in decades this agency received the attention it deserved given its important safety mission. While the Congress provided the agency new authority and powers to better execute its mission, the Commission continues to exhibit severe elements of dysfunction and is in need of a change in its leadership.

Unfortunately, the implementation process of the CPSIA has been grossly mishandled by Acting Chairman Nancy Nord. Without your intervention, the successful implementation of the CPSIA is not assured, and the policies and rules to protect the public health and safety of millions of children may not be realized. Therefore, we are writing to request that you ask Nancy Nord to step down from her current position as Acting Chairman of the CPSC, and that you immediately appoint a new Chairman who will vigorously and properly implement the CPSIA while addressing the other safety issues before the Commission.

For months, misinformation has circulated about the CPSIA, causing undue fear among businesses and consumers alike. Certain businesses are not receiving the information they need to comply with the new law's safety requirements. In the face of the Commission's unresponsiveness and at times, inaction, many businesses are responding to the new law by threatening to close their doors. Consumers also are concerned due to rumors that local libraries will no longer lend children's books and local thrift stores will no longer sell children's clothes. This culture of fear and misinformation is the direct result of acts of omission and commission by the current leadership at the CPSC.

Although the Commission is understaffed and underfunded, its career staff members have been doing exemplary jobs and should be commended for their hard work under less than ideal circumstances. Acting Chairman Nancy Nord has full responsibility for all of the executive and administrative functions of the Commission. She manages and oversees the hiring, supervision and work of the staff, including the priority-setting and scope of the agency's work. The Chairman shapes the agenda and philosophy of the Commission and determines how the Commission implements the new requirements of the CPSIA. Acting Chairman Nord has failed to use the authority the Commission currently possesses to provide for a smoother and more timely implementation of the CPSIA.

For example, instead of providing resellers of children's products, such as thrift stores or consignment shops, with a detailed enforcement position regarding the new requirements taking effect in February 2009, the Commission issued a short press release for resellers. While the press release clarified that resellers are not required to test children's products for compliance and provided resellers with a list of high risk products, it did not provide resellers comprehensive guidance about what steps they can take to act in good faith and comply with the law.

The Commission is capable of providing industry with guidance that articulates the technical requirements of the law and answers certain enforcement and legal issues surrounding the law, as evidenced by its issuance of the Virginia Graeme Baker Pool & Spa Safety Act CPSC Enforcement Position late last year. Instead of providing assistance and issuing a similar enforcement position providing businesses with guidance as to how they can comply with the new safety regulations, Acting Chairman Nord directed them to call their congressional members and ask for relief from compliance with the CPSIA. The Commission, not the Congress, is responsible for interpreting and carrying out the provisions of the CPSIA. This includes providing constituencies with information about how they can comply with the new requirements of the law and impending deadlines.

Furthermore, the current leadership appears to be prolonging the development and issuance of guidance concerning the requirements of the CPSIA. For example, the Commission posted its final rule regarding certificates of compliance only one day before the effective date of the provision. We recognize when the Congress passed the CPSIA, it gave the Commission a substantial responsibility to enforce a number of new requirements and conduct several rulemaking procedures under a rigorous timeline. However, the tight deadlines highlight why the Commission needs to issue guidance quickly and provide industry with time to comply with the law before the new requirements go into effect.

There have been other critical mistakes under Acting Chairman Nord's leadership. One of the most widely reported incidents at the Commission in recent years was the travel abuse scandal uncovered by the *Washington Post* in 2007. On the heels of millions of recalled products, and a crisis of confidence in the consumer product marketplace, reporters discovered that Acting Chairman Nord and her predecessor, Hal Stratton, took nearly 30 trips since 2002 that were partially or fully paid by trade associations, manufacturers or corporate lawyers, at the

cost of nearly \$60,000. In addition, Acting Chairman Nord has authorized withholding information from the public. The Commission had a decades-long policy, with rare exceptions, to make staff drafts of Advance Notices of Proposed Rulemaking, Notices of Proposed Rulemaking, and Final Rules available to the public. Acting Chairman Nord reversed the policy so that the public would rarely be allowed to see the staff draft language of a proposed regulation until after a vote is taken.

The CPSC has been limited by leadership that has philosophically contradicted strengthening and improving this agency for far too long. Its mission is far too vital to rely on an Acting Chairman whose personal ideology, explicit acts, and deliberate inaction run counter to the very policy goals the CPSIA was intended to advance. For these reasons, we respectfully request that you ask Nancy Nord to step down from her position as Acting Chairman and that you immediately present a designee for the Chairmanship of the CPSC to the Senate for its approval.

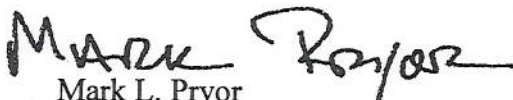
Sincerely,



John D. Rockefeller, IV  
Chairman  
Senate Committee on Commerce,  
Science and Transportation



Henry A. Waxman  
Chairman  
House Committee on Energy  
and Commerce



Mark L. Pryor  
United States Senator



Bobby L. Rush  
Chairman  
House Subcommittee on Commerce,  
Trade, and Consumer Protection