



**U.S. CONSUMER PRODUCT SAFETY COMMISSION
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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.