

US consumer safety head opposes strengthening agency's powers

By Naomi Spencer
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The top official overseeing product safety in the US has publicly stated her opposition to legislation that would increase enforcement capabilities over industry. Bush appointee Nancy Nord, head of the Consumer Product Safety Commission (CPSC), sent several letters last week calling for Congress to reject legislation proposing stronger oversight of consumer goods.

Nord's opposition is ideological and entirely in line with the White House. Following the discovery that millions of toys that had passed through the commission's inspections into the US market contained excessive lead levels and small parts, Nord's actions underscore the Bush administration's hostility to industry regulation.

In an evident case of conflict of interest, newly published reports also show that Nord and her predecessor at the CPSC took numerous trips paid for by lobbyists and lawyers for manufacturers under investigation for consumer hazards.

In the past two months, more than 13 million toys have been recalled for lead levels nearly 200 times the federally accepted limit. Far from signaling that "the system is working," as White House spokeswoman Dana Perino suggested, the number of recalls throughout the toy, pharmaceutical, food and other industries suggests the potential for a public health catastrophe for which the government is unwilling to prepare or prevent.

The Senate bill introduced in September, called the CPSC Reform Act of 2007, would substantially increase the agency's budget, which has seen years of cuts and currently operates on \$63 million. The legislation would raise the budget to \$80 million by 2009, still a grossly inadequate amount for the task of supervising a \$614 billion import market.

At present, the agency operates with a staff half the size it had two decades ago. An estimated 15,000 different types of products are the responsibility of only 400 full-time employees. Only 15 inspectors are assigned to oversee imports and there is only one full-time toy tester. The legislation would raise CPSC staffing levels by only 20 percent over the next seven years.

The bill would also increase maximum fines for companies found in violation of regulations from \$1.85 million to \$100 million, and make executives criminally liable for willful violations. Although investigating consumer complaints is one of the central purposes of the commission, Nord objected to the provision, writing that it would "flood the agency with every consumer complaint."

The bill calls for a number of other enforcement changes. Under the legislation, the CPSC would enforce a complete ban on lead in all children's products. Nord objected to this provision on the basis that children were exposed to lead through other sources besides toys, and that "the practical issues of accessibility" to lead-tainted products posed "possible consequences ... which are not understood" by Congress. In other words, because removing lead-based products from the American market may not remove all exposure risks from a child's environment, it was not a reasonable undertaking for a consumer safety agency to take lead-tainted toys off store shelves.

The commission would also be required to make consumers' complaints public within 15 days of filing. Currently, complaints and even results of internal investigations are not disclosed to the public, allowing industry an open-ended timeframe for a completely voluntary response to complaints.

The commission has virtually no authority to test any

of the products it regulates before they enter the US market, and can only request that a company issue recalls voluntarily, regardless of the dangers a product may pose. The proposed legislation would also charge the CPSC with accrediting independent laboratories to conduct safety testing.

Another provision of the bill would grant protection to industry whistleblowers. Introducing breathtaking irony into her opposition to a budgetary increase, Nord contended that compensating whistleblowers would “dramatically drain the limited resources of the commission, to the direct detriment of public safety.” The Senate Commerce Committee is scheduled to vote Tuesday on the legislation.

Like other regulatory bodies in Washington, the CPSC has a close and friendly relationship with the industries it is charged with overseeing. Before coming to the commission, Nancy Nord was an official in the US Chamber of Commerce, Republican counsel on product liability and consumer protections for the House commerce committee, executive director of the American Corporate Counsel Association, and a lawyer for Eastman Kodak. Earlier this year, the Bush administration nominated Michael Baroody, then the National Association of Manufacturers vice president and professional industry lobbyist, to be the next CPSC head after Nord.

Conflict of interest is strongly suggested by Nord’s reaction to the legislation. The *Washington Post* revealed last Friday that Nord and her predecessor, Hal Stratton, indulged in trips worth tens of thousands of dollars between 2002 and 2007, footed by lobbying groups and lawyers for manufacturers under investigation.

The records, obtained through a Freedom of Information Act request, detail some 30 trips taken by the two that were paid for by trade groups or manufacturers. Airfare, hotel stays, and meals for trips to China, Spain, a South Carolina golf resort and elsewhere totaled nearly \$60,000. The *Post* reported that one 2004 visit by Stratton to Hong Kong, which cost \$11,000, was paid for by the American Fireworks Standards Laboratory, an Asian industry group.

According to the paper, Nord and Stratton “repeatedly accepted gift travel for events from industries subject to CPSC enforcement.” For example, the *Post* reported that in 2006, “the Toy Industry

Association provided Nord with rail fare, two nights in a hotel, meals—and even \$51 to pay her Union Station parking bill—to attend the American International Toy Fair in New York, one of the industry’s biggest product exhibitions.”

In February, Nord accepted \$2,000 in travel and accommodations from a corporate defense lawyers association called the Defense Research Institute. Steve Coronado, a former chairman of the group’s product liability committee, told the *Post*, “They are the biggest government agency that would have impact on the stuff that we do.... They’ve been very cordial and accommodating and gracious,” he said of the CPSC heads.

Several Democrats and consumer advocacy groups have called for Nord’s resignation, which she has publicly refused to tender.

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