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## United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

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June 25, 2014

The Honorable Robert Adler  
Acting Chairman  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

Dear Acting Chairman Adler:

Thank you for your responses to my questions for the record (QFR) following the hearing held to consider your reappointment to the Consumer Product Safety Commission (CPSC, or the Commission) on June 11, 2014. I also would like to take this opportunity to thank you for your willingness to serve as Acting Chairman of the CPSC since the expiration of the term of Chairman Inez Tenenbaum on November 30, 2013. You have served with dedication as Acting Chairman for the past six months, and circumstances may well necessitate that you continue to serve in that role for some time.

Given your years of experience on the Commission and the fact that you may need to remain as Acting Chairman for an indefinite time, as well as your ongoing working relationship with Elliot Kaye, the current Executive Director of the CPSC and the President's nominee to be the next Chairman, I believe it is important to solidify the groundwork for specific actions the CPSC can take in the near future to ensure the Commission aggressively implements burden reduction opportunities for American businesses.

As you know, Public Law 112-28 (enacted in August 2011) directed the CPSC to solicit public comments on opportunities to reduce the cost of third party testing within 60 days of enactment. The law further required the CPSC, within one year of enactment, to review such opportunities and report back to Congress on any gaps in its authority to implement them consistent with the CPSC's safety mission. After nearly three years, and notwithstanding the CPSC staff's identification of potential opportunities to reduce third party testing *in 2012*, the CPSC has neither reduced the burden of third party testing nor submitted a report to Congress on barriers to doing so.

That is why I was disappointed that you voted on May 6, 2014 against an amendment during consideration of the CPSC's 2014 Mid-Year Review and Proposed Operating Plan Adjustments that would have required senior CPSC staff to develop a plan regarding burden reduction opportunities for third party testing requirements, which failed 2-1. I

was also disappointed that you declined to provide such a plan to this Committee when I formally requested that you do so through the written QFR process.

Particularly, in your response to my request that you “provide a plan to this Committee within 60 days outlining specific actions you plan to take to ensure that the CPSC aggressively implements burden reduction opportunities and a timetable for when those actions will occur,” you unfortunately appear to have misunderstood my request. I did not ask that you provide a plan regarding what steps you would take *upon re-confirmation* as a Commissioner. Given your lengthy service on, and current leadership of, the CPSC, I simply asked that you provide a plan “within 60 days” of my formal QFR request, dated June 18, 2014. I believe that, as a re-nominated Commissioner, you have the institutional experience to inform such a plan, even if a new chairman is confirmed. This request is still pending.

You also indicated in your response that you will work with Chairman-nominee Elliot Kaye, who agreed to provide a burden reduction plan to me within 60 days of his confirmation during his nomination hearing on April 8, 2014. I welcome your pledge; however, my request for your plan is independent from my request to Mr. Kaye for his plan—notwithstanding the fact that there may be some need to reconcile your plans in the future, as the CPSC takes concrete action to reduce these burdens as intended by Congress. Therefore, in your capacity as Acting Chairman, I renew my request to you to provide a plan to the Committee within 60 days from June 18, 2014, outlining specific actions you plan to take to ensure that the CPSC aggressively implements burden reduction opportunities and a timetable for when those actions will occur.

Please be advised that I intend to cooperate with the Chairman to report your nomination out of Committee, but that I expect you to respond fully to my request before your reappointment is considered by the full Senate.

Respectfully,



JOHN THUNE  
Ranking Member

cc: Chairman John D. Rockefeller IV