CONSUMER INVOLVEMENT AND THE
CONSUMER PRODUCT SAFETY ACT

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Congress and the public must be kept fully informed and made
come as participants in the regulatory process. We've
learned that the voice of the citizen consumer must be granted
at least equal access to the regulatory process as
industry. . . . [C]itizen advocates both within and without
government must have access to the regulators, so that con-
sumer safety does not grow into a partnership of convenience
between the regulator and the regulated, with the public inter-
est subverted, and all but forgotten.¹

The notion that consumers should actively participate in the
administration and enforcement of a federal statute designed to
protect them from unreasonable risks of harm is a distinguishing
feature of the Consumer Product Safety Act (CPSA).² History
suggests that when Congress entrusts to a federal agency authority
to intrude into the market place on behalf of the general
public (or a segment thereof), in a matter of time the agency
becomes overly responsive to, or even captive of, the corporate
interests subject to regulation.³ The absence of public-interest
pressures — a very raison d'etre for the setting up of the regula-

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by the American Society of Safety Engineers, and published in Proceedings of the Pro-

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¹. Opening remarks of Senator Frank E. Moss (D.-Utah) at Hearings on S.983,
S.1658, S.1791, Before the Senate Comm. on Commerce, 92d Cong., 1st Sess., ser. 27,
pt. 1, at 2-3 (1971)[hereinafter cited as Senate Hearings].

will hereinafter be cited to its public-law section number only.

³. As Justice Douglas noted in his dissenting opinion in Sierra Club v. Morton, 405
U.S. 727, 745-46 (1972), "[T]he pressures on agencies for favorable action one way or the
other are enormous... The federal agencies of which I speak are not venal or corrupt.
But they are notoriously under the control of powerful interests who manipulate them
through advisory committees, or friendly working relations, or who have that natural
affinity with the agency which in time develops between the regulator and the regulated."
tory scheme — tends to make the agency vulnerable to influences from the private sector.4

To avoid the development of a "partnership of convenience between the regulator and the regulated,"5 the CPSA provides legal points of access for consumers in the setting and enforcing of product safety standards. In addition, the Act facilitates a free flow of information to consumers, as part of a philosophy of helping consumers help themselves. Basic to this experiment in public participation is the assumption that those for whose benefit the Act was passed have at stake something too important to leave exclusively to the regulators. In this respect, the CPSA shares an approach taken by the Occupational Safety and Health Act,6 which seeks to encourage individual workers and their unions to join in the struggle against job-related illnesses and accidents.7

The purpose of this paper is to analyze those sections of the CPSA that invite consumer involvement; to present a brief survey of how the Consumer Product Safety Commission (CPSC), the independent agency administering the Act, has tried to interact with consumers in the first months of the Commission's existence; and to offer a few speculations on the longer-range prospects for meaningful consumer participation in the work of the Commission.

I. LEGISLATIVE HISTORY

The passage of the Consumer Product Safety Act culminated the work begun by the National Commission on Product Safety (NCPS), a bipartisan presidential commission formed by a joint resolution of Congress in late 19678 to examine "... the scope and adequacy of measures now employed to protect consumers against unreasonable risk of injuries which may be caused by hazardous household products."9 In June of 1970, after nearly two

5. See note 1 supra.
9. Id. § 2(a), 81 Stat. 467.
years of hearings\textsuperscript{10} and studies,\textsuperscript{11} the NCPS published a report which recommended new legislation.\textsuperscript{12} A little more than a year later, congressional hearings began, focusing on a version of the bill drafted by the NCPS and on an Administration proposal,\textsuperscript{13} lasting for almost a year,\textsuperscript{14} and eventually producing the \textit{Consumer Product Safety Act} of 1972. Two major controversies emerged from the congressional hearings and debates: whether the agency to administer the new law should be independent or part of the Department of Health, Education, and Welfare;\textsuperscript{15} and whether the functions of the Food and Drug Administration relating to food, drugs, cosmetics, and medical devices should be transferred to the new agency.\textsuperscript{16} The bill as enacted made the Consumer Product Safety Commission an independent regulatory body,\textsuperscript{17} and left the Food and Drug Administration to continue regulating food, drugs, cosmetics, and medical devices.\textsuperscript{18}

The various provisions dealing with consumer involvement evoked much less controversy, despite their novelty, perhaps because of the larger dimensions of the issues mentioned above.\textsuperscript{19} Section 10 of the CPSA gives consumers and other interested parties the right to petition the Commission to commence a proceeding for the issuance, amendment, or revocation of product

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\textsuperscript{10} \textit{See National Commission on Product Safety, Hearings} (1970)(9 vols.).


\textsuperscript{15} \textit{See 29 Congressional Q. 2628-29 (Dec. 18, 1971); 30 id. 1614-15 (July 1, 1972).}

\textsuperscript{16} \textit{See Gardner, Congressional Battle over FDA Control Focuses on Product-Safety Legislation, 4 National J. 987 (June 10, 1972).}

\textsuperscript{17} Section 4.

\textsuperscript{18} Section 3(a)(1)(H) and (I)(excluding these products from the coverage of the Act).

\textsuperscript{19} Indeed, when the occasion for a controversy arose over the alleged lobbying by representatives of Chief Justice Warren E. Burger against the citizen-enforcement section of the Act (see note 39 \textit{infra}), congressional staffers hoped to use the incident at the House-Senate Conference to salvage the transfer of FDA functions to the new agency, a step taken in the Senate, but not the House version of the bill. Interviews with congressional staff personnel, Sept. 1972. Their efforts failed.
safety rules (which by definition may be either product standards or product bannings). This provision originated in the draft proposal of the NCPS, and in effect reiterated a right already conferred by the Administrative Procedure Act. However, § 10 further requires that the Commission act upon a petition within one hundred twenty days of its receipt, and the petitioner may bring an action in a United States District Court to contest a denial. The court must then look at the evidence de novo and decide whether the petitioner, by a preponderance of the evidence, has established that the product in question presents an unreasonable risk of injury, and whether the Commission’s failure to commence a rulemaking proceeding unreasonably exposes consumers to such unreasonable risk of harm. A finding in the petitioner’s favor will result in a court order directing the Commission to commence the action requested by the petition. However, § 10(g) provides that recourse to the courts under § 10 will not be available until three years after the date of enactment of the CPSA (i.e., until October 27, 1975).

Initiation of rulemaking by court order developed out of the House-Senate Conference Report, and took its origin from a provision in the Senate version of the bill, which authorized any person who alleged that an act or omission of the agency exposed him to an unreasonable risk of harm from a food, drug, or consumer product to petition the agency to take specific action to eliminate the risk. Upon denial of the petition, the petitioner could bring an action in a United States Court of Appeals, which would then decide, upon a preponderance of the evidence, whether the act or omission in question did expose the petitioner to an unreasonable risk of harm. A finding in the affirmative would compel the court to direct the agency to take appropriate action (which might involve rulemaking or enforcement). The Conference modified this provision and added it to the section allowing petitions for the issuance, amendment, or revocation of product safety rules, thus creating a novel approach to judicial review.

20. Section 3(a)(2).
25. See Scalia & Goodman, Procedural Aspects of the Consumer Product Safety Act,
Section 7 of the Act spells out the various procedures to be followed in the fashioning of a proposed product safety standard. One option open to the Commission is to solicit offers from outside persons or groups28 to formulate proposed standards, and to accept one or more of the offers received, upon a determination that the offeror is technically competent and likely to develop the standard within the prescribed time limit and according to CPSC regulations. In order to encourage consumer groups to apply, § 7(d)(2) permits the Commission to contribute to an offeror’s costs in preparing a standard.27 This provision originated in the Administration bill.28 In addition, § 7(d)(3)(B) requires that an offeror accepted by the Commission enable other interested parties (including consumers and consumer groups) to share in the development of the proposed standard. In the Senate floor debate on the bill, an amendment was added that would require participation by interested parties “in accordance with accepted standards of due process, including adequate notice to all participants and access to all relevant records and documents.”29 The Conference Report, however, deleted this language without explanation.30

Section 11 provides for judicial review of consumer product safety rules. The Act confers standing to review upon not only persons adversely affected by the rule, but also consumers and consumer groups, thus facilitating consumer challenges to one aspect of the Commission’s rulemaking activity.31

Section 15 furnishes guidelines and procedures under which the Commission can compel manufacturers, distributors and retailers to notify consumers of “substantial product hazards,”32


26. Offerors may include any state or federal agency, other than the Commission itself. Section 7(b)(4).

27. The House Report states: “It is expected that the Commission will exercise its authority under this section to provide assistance to consumer organizations or groups which are less likely to be able to bear the costs of standards development than are industrial trade organizations.” H.R. Rep. No. 1153, 92d Cong., 2d Sess. 34 (1972).


32. Section 15 defines “substantial product hazard” as the violation of a consumer
and to repair or replace the product or refund the purchase price. Consumers may participate in the CPSC’s determination of whether “substantial product hazard” exists, and whether to require notification, repair, replacement, or refund, but the Commission may make these decisions only after giving the affected companies an opportunity for a trial-type hearing under the Administrative Procedure Act.33

One of the most innovative features of the CPSA is its provision for enforcement by private individuals, including consumers. Section 24 permits private enforcement of product safety rules and § 15 orders, so long as no CPSC enforcement proceeding based on the same alleged violation is pending. Thirty days notice to the Commission must be given, after which an “interested party” may bring suit in a United States District Court against the alleged violator.

This provision first appeared in the Administration bill.34 The Senate subsequently adopted a version which limited private enforcement to persons “who may be exposed to unreasonable risk of injury or death presented by a consumer product,” but also extended to such persons a right to enforce an order declaring a product to create an imminent hazard.35 At the same time, the Senate added a provision enabling private individuals to bring a civil action to compel the agency to take enforcement action with respect to a “food, drug, or consumer product presenting an unreasonable risk of injury or death.”36

On the House side, the private-enforcement provision of the Administration bill37 became part of the bill reported out by a majority of the Committee on Interstate and Foreign Commerce,38 and thereafter adopted by the House. At this point, a mild controversy flared over the alleged lobbying by representa-

34. S. 1797, 92d Cong., 1st Sess. § 16(d)(1971).
36. S. 3419, 92d Cong., 2d Sess. § 112(a)-(b) (1972). In an earlier draft of the Senate bill, Section 112 permitted any person to bring a civil action against an agency employee for a violation of a statutory duty under the Act. The court could enjoin the violation, and even impose a fine or prison sentence on the individual employee. S. 983, S. 1797, 92d Cong., 1st Sess. § 112 (Comm. Print No. 1, Sen. Comm. on Commerce, Oct. 1971). This provision was dropped in the bill as reported out by the Senate Commerce Committee. See S. Rep. No. 749, 92d Cong., 2d Sess. (1972).
tives of Chief Justice Warren E. Burger against private enforcement and also against § 23, creating a federal damages remedy for persons injured because of a knowing and wilful violation of a product safety rule. 39 The Conference Committee then adopted the House version. 40

Under § 24, a person seeking enforcement may ask for attorneys' fees, but upon such a demand the court must award costs, including attorneys' fees, to the prevailing party. For attorneys representing consumers or consumer groups, this may involve a substantial gamble. 41

Section 6 of the Act provides for public disclosure of information in the possession of the Commission, subject to various exceptions to the Freedom of Information Act. 42 In addition, § 25(c) calls for the public release of accident and investigation reports made pursuant to the CPSA by officers or employees of the Commission, subject to the deletion of the identity of individuals involved and to the protection of trade secrets, but not subject to the other exceptions set out in the Freedom of Information Act.

The Senate bill presented in greater detail the agency's public-disclosure responsibilities, such as the maintenance of a public-information room and the availability of copying facilities at minimum cost to the users. 43 The Conference Committee dropped these provisions from the final version of the Act. 44

Section 28 of the Act requires the Commission to create a Product Safety Advisory Council, which it may consult before

39. While the bill was before the House, Thomas G. Corcoran, a Washington attorney, accompanied by Rowland F. Kirks, an administrative aide to the Chief Justice, visited House Speaker Carl Albert and lobbied against Sections 23, 24 and 25 of the Act. Corcoran also distributed to key Congressmen memoranda dated Aug. 18, 1972 and Aug. 31, 1972 (copies on file with the author) opposing the creation of consumer remedies under the CPSA and referring heavily to statements by the Chief Justice against the overburdening of the federal courts. The story broke in Jack Anderson's column, which quoted Corcoran as admitting that "Kirks, acting for the Chief Justice, asked me to take him to see the Speaker." Washington Post, Oct. 5, 1972, at H7, col. 5. See also Graham, Burger Aide Linked to a Bid to Weaken Product Safety Bill, N.Y. Times, Oct. 6, 1972, at 1, col. 4 (N.J. ed.). The Chief Justice refused comment on the incident. Washington Post, Oct. 19, 1972, at A34, col. 1. For a different version of the story, to the effect that Corcoran requested Kirks to accompany him on the visit, see Goulden, The Washington Legal Establishment, WASHINGTONIAN, Oct. 1973, at 87.


taking regulatory action. Five of the Council’s fifteen members must be chosen from consumer and community organizations and recognized consumer leaders.

One final aspect of the legislative history merits mention. The NCPS bill would have created a Consumer Safety Advocate to be appointed by the President for a seven-year term, with broad responsibility to represent consumer interests before the agency. The functions of the Advocate resembled some of the functions to be exercised by the proposed Consumer Protection Agency, which pending legislation sought to establish in order to represent the interests of consumers generally throughout the federal administrative process. This provision disappeared from the bill after the Senate hearings.

II. METHODS OF CONSUMER INPUT

The formal launching of the CPSC took place on May 14, 1973, when four of its five commissioners took the oath of office. The inevitable problems of organizing a new agency followed, but by mid-summer, the Commission was operational. In subsequent months, the CPSC took a number of steps designed to involve consumers in its work and to communicate with the general public. Though an assessment of these measures at this point in time would be premature, they do provide some useful insights into the thinking of the Commission.

An early CPSC decision was to adopt a so-called “goldfish bowl” approach in dealing with outside parties. On September 21, 1973, the Commission promulgated final regulations providing that public notice, either in the Federal Register or on a calendar available to anyone, be given for most meetings between individual commissioners or CPSC staff members and outsiders.

45. NCPS Proposed Act § 4.
47. A scant three hours after being sworn in, the four commissioners testified before the House Committee on Appropriations. See Hearings Before the Subcomm. on Agriculture — Environmental and Consumer Protection of the House Comm. on Appropriations, 93d Cong., 1st Sess., pt. 8, at 1 (1973).
49. It is ironic that the Commission launched its “goldfish bowl” policy by promulgating final regulations, instead of publishing them first as proposed rules and inviting public comment.
Detailed summaries of what transpired would have to be kept for most of these sessions, and, as the preamble to the regulation states, "meetings and records will generally be open to the public unless reasons of propriety exist to the contrary." Senator Warren G. Magnuson, Chairman of the Senate Commerce Committee, was so impressed with this policy that he circulated the regulations to a number of other federal agencies and urged that they adopt similar procedures.

The importance of advance notice of meetings and of the accessibility of detailed summaries cannot be overstated. Consumer representatives and advocates need to know what arguments and information regulated corporations and their trade associations are placing before the Commission so that adequate and timely rebuttals can be prepared.

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51. Meeting summaries indicate the issues leading to or resolved by the meeting. A summary should contain "positions, responses, and initiatives displayed by the primary participants," but only "when appropriate to the public interest." \(\text{Id.} \text{ } \text{\textsection } 1001.60(b)(2)\). Summary minutes must be kept for meetings of individual commissioners and outside parties if the meeting is (a) specified by statute; (b) with representatives of organizations concerning a matter before the Commission; or (c) "concerned with any other matter of substantial interest." Meetings of Commission staff and outside parties must be announced in advance in the Federal Register if they concern matters for which summary minutes would be required for meetings between individual commissioners and outside parties. Summary minutes must be kept for meetings of CPSC staffers and outsiders when prior Federal Register notice has been given. All other meetings between staffers and outsiders must be announced on the public calendar. \(\text{Id.} \text{ at } 27215\).

52. \(\text{Id.} \text{ at } 27214\).

53. \(\text{Id.} \text{ at } 27214\).

54. A good illustration of the sort of practice the CPSC regulations should prevent is the development of crib regulations by FDA's Bureau of Product Safety. On Jan. 31, 1973, Malcolm Jensen, Bureau Director, sent to a number of corporations which would be affected a draft of the proposed regulations, along with a copy of a University of Michigan study that provided the technical basis for the draft. Letter from Malcolm Jensen to L. B. Moss, Pres., Mapes Industries, Inc. (copy on file with author). The companies were invited to a meeting with officials of the Bureau of Product Safety. No consumer representatives received an advanced copy of the proposed regulations, nor invitations to the meeting, which was held on Feb. 14, 1973. At the meeting, corporate officials complained...
Another policy the Commission has adopted is to hold, under authority of § 27(a) of the Act, frequent public hearings on specific issues, in order to enable any interested party, including consumers, to present views and data.

The Commission has sought to encourage consumer petitions under § 10 of the CPSA. As of this writing, two such petitions have met with denial, and several are pending. In addition, consumer groups have petitioned the CPSC to take action under the Hazardous Substances Act and the Flammable Fabrics Act, both of which the Commission now administers under the CPSA.

The CPSC has proposed regulations that will govern the development of product safety standards under § 7. A noteworthy aspect of the preparation of these rules was the circulation of a pre-publication draft to industry and consumer representatives, and a meeting between the Commission and interested parties to discuss them. The proposed regulations specifically address themselves to the stimulation of consumer participation in the process.

that the proposal, which called for a maximum 2¾-inch space between crib slats, would affect 90% of present production, did not take into account a current wood shortage, and would create a “sensitivity contact barrier between mother and child.” Memorandum of Meeting re Cribs, Bureau of Product Safety, FDA, Feb. 14, 1973 (copy on file with the author). The proposed standard as published required a maximum slat spacing of 2¾ inches. FDA, Baby Cribs: Proposed Classification as Banned Hazardous Substance, 38 Fed. Reg. 9312 (Apr. 13, 1973).

55. “We’re not going to establish complicated procedure under section 10. Simply write us a letter, if you like, outlining the problem as you see it, ask the Commission to take that action which you believe appropriate, and I can assure you that we will give it very serious consideration.” Remarks of Richard O. Simpson, Chairman, CPSC, Before the Consumers Union, Iowa Consumers League Annual Meeting, Iowa City, Iowa, Oct. 13, 1973, at 6 (copy on file with author).

56. The Commission denied a petition of the National Football League Players Association to initiate a proceeding to promulgate a standard for artificial turf on the ground that the evidence was insufficient to support the proposition that football players sustain more frequent or severe injuries playing on artificial rather than natural turf, and that any action taken by the CPSC to reduce football injuries should be directed at all the various causes of such injuries. 38 Fed. Reg. 34361 (Dec. 13, 1973). The Commission also turned down a request for the issuance of a rule relating to fondue cooking pots, on the ground that most of the reported injuries associated with the use of the product were relatively minor. 38 Fed. Reg. 34758 (Dec. 18, 1973).


59. Section 30(a).


62. For example, upon commencement of a proceeding for the development of a
Since no product safety rules have yet been issued under the CPSA, there have been no occasions for § 24 private-enforcement suits. However, consumers have joined in CPSC compliance efforts under the consumer deputy program, a campaign launched during the 1973 Christmas season to identify retail establishments selling toys that had been banned under the Toy Safety and Child Protection Act. Volunteers visited stores in search of forbidden toys, seeking removal by the retailer and reporting violations to CPSC Regional Offices, which had follow-up responsibility. The Commission is generally satisfied with the results of the program, and contemplates expanding it to other areas.

Communication back and forth between the public and the CPSC has taken place through the media of consumer-complaint letters, CPSC publicity releases and a telephone “hot line” service. Complaint letters have been averaging nearly five hundred a month in the first months of the Commission’s existence. One important function served by these letters relates to defect notification. Section 15 of the CPSA requires manufacturers, distributors, and retailers to report product defects which create a “substantial risk of injury to the public.” The Commission may then determine to take regulatory action and to issue a public warning. Consumers are in a position to provide the agency with the initial standard, the Commission would issue a press release inviting interested persons to submit offers. CPSC, Consumer Product Safety Standards: Requirements and Procedures § 1105.3(b), 39 Fed. Reg. 1152, 1153 (Jan. 4, 1974). At or near the time of publication of a Federal Register acceptance notice, the Commission would issue a press release identifying the person or persons whose offer has been accepted, inviting interested persons to participate in the development of the standard, and informing them of how they might participate. Id. § 1105.6(e).

The Commission is also planning to compile a roster of consumers interested and willing to evaluate safety standards being developed by outside offerors under § 7(d). Letter from Commissioner Constance B. Newman to author, March 19, 1974.


65. Volunteers found 1,228 toys that had been banned and another 925 toys that appeared to be dangerous. The Commission is now planning to have volunteers survey stores for compliance with poison prevention packaging regulations for aspirin and certain kinds of liquid furniture polish. CPSC Press Release, March-April 1974.

66. Interview with John Rogers, Bureau of Compliance, CPSC, Feb. 6, 1974.

67. “Substantial product hazard” is defined as a failure to comply with an applicable product safety rule, creating a substantial risk of injury to the public, or “a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.” Section 15(a).
notice of defects. This occurred for the first time in the case of the “Little Wonder TV Antenna.” A purchaser of one of these devices warned the Commission that they could cause electric shock and even electrocution. After an investigation confirmed that the product did present a hazard, the Commission sent out a press release urging consumers to unplug and disconnect the devices, and commenced steps to remove them from the market.

In addition to triggering publicity and regulatory action against a hazardous product, consumer complaints can give the Commission an indication of how well companies are complying with their legal obligation under § 15 to report serious product defects. Failure to comply is itself a prohibited act, punishable by both civil and criminal sanctions.

The Commission has generated a steady stream of press releases warning of product hazards. After imposing a ban on aerosol spray glues suspected of causing chromosome breakage and birth defects, the CPSC set up a toll-free “hot line” to handle phone calls from consumers requesting information about the product. The service is now a permanent feature, offering information on products and receiving consumer complaints. As of early February, 1974, it was handling about eight hundred calls a week.

Consumer representatives have not abandoned the idea of installing a Consumer Safety Advocate at the Commission. Two attorneys for the Washington office of Consumers Union have

70. Section 19(a)(4).
71. Section 20.
72. Section 21.
76. Interview with Gerri Smith, Consumer Education Division, Bureau of Information and Education, CPSC, Jan. 29, 1974.
77. See notes 45-46 supra, and accompanying text.
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requested the CPSC on its own initiative to create such a position, which would handle consumer complaints, represent consumer viewpoints at the Commission staff level, and act as liaison between the CPSC and consumer groups.\(^7^8\) The proposal was rejected, however, on the ground that the structures and procedures of the Commission were adequately serving the functions suggested for the Advocate.\(^7^8\)

CONCLUSION

The first months of CPSC operation have been a "honey-moon" period, marked by generally favorable press coverage,\(^6^8\) and good relations with Congress\(^8^1\) and consumer groups.\(^8^2\) But the Commission has not yet begun its major work: the setting of product safety rules and the use of the various enforcement tools available to it. The hard decisions that are sure to arise in these areas will provide a true test of the agency's worth.

The CPSC has engaged in sincere efforts to make consumers aware of its existence, to communicate product-hazard information to the public, and to attract consumer complaints. But these measures are basically peripheral to the more formidable challenge of achieving meaningful consumer involvement in the Commission's decision-making processes.

A basic prerequisite is the recognition of the enormous imbalance between the mass of consumers, consumer organizations, and consumer advocates on the one hand, and the regulated in-

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\(^7^8\). See letter from Peter H. Schuck and James A. Brodsky, Washington office, Consumers Union, to Richard O. Simpson, Chairman, CPSC, Dec. 17, 1973 (copy on file with author). The letter complains that no public notice was given of at least two meetings between CPSC staff members and representatives of the manufacturers of an adhesive glue that was the subject of a prior letter from the authors to the Commission requesting that regulatory action be taken against this product. The lack of notice on the CPSC public calendar was a violation of Commission regulations. See note 51, supra.

\(^7^9\). Letter from Richard O. Simpson, Chairman, CPSC, to Peter H. Schuck, Director, Washington office, Consumers Union, Jan. 25, 1974 (copy on file with author).


\(^8^1\). But see 119 Cong. Rec. E 5564 (Sept. 5, 1973); id. at S. 16385, S. 16402 (Sept. 12, 1973); id. at E. 5768 (Sept. 13, 1973)(Congressional criticism of proposed cigarette ban by CPSC).

\(^8^2\). The first heavy criticism from consumers came about in a letter to the Commission from the Health Research Group expressing impatience with CPSC delay in dealing with consumer petitions relating to toys and children's sleepwear. See 3 Product Safety Letter 1 (No. 5, Feb. 4, 1974).
industries on the other. The list of comments received by the Commission on proposed rules dealing with defect notification under § 15 reveals fifty-five submissions by corporate representatives and three offered on behalf of consumers. The financial resources at the disposal of consumer groups for involvement in CPSC activity is infinitesimal when compared to what industry can bring to bear. Indeed, the consumer perception of a shared interest in product-safety regulation is primitive in comparison with the immediacy of corporate reaction to agency threats to financial interests.

Therefore, the Commission cannot regard itself as mediating between interest groups competing on the same level. It must seek ways, consistent with its statutory mandate, to support those for whose benefit the Act was passed. The appointment of an in-house consumer advocate-liaison would have been a positive step in this direction. Another helpful measure would be the use of § 27(g) to allocate funds to help stimulate and structure consumer involvement.

On the consumer side, existing groups have a responsibility to make use of the CPSC public calendar and press releases to disseminate information about the Act and the work of the Commission. They must also explore ways to enlist the support of academicians and professionals in the development and enforcement of product safety rules.

The effort to engage consumers in CPSC activity must be regarded as a long-range process of consciousness-raising and education. The Commission has legal tools to help accomplish this task. Whether it has the patience and creative imagination remains to be seen.

84. CPSC, Comments by Date of Receipt (copy of list on file with author).
85. See notes 77-79 supra, and accompanying text.
86. Section 27(g) states that "[t]he Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act."