

**NOMINATIONS TO THE  
DEPARTMENT OF COMMERCE AND  
THE CONSUMER PRODUCT SAFETY COMMISSION**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

**ONE HUNDRED ELEVENTH CONGRESS**

FIRST SESSION

—————  
AUGUST 5, 2009  
—————

Printed for the use of the Committee on Commerce, Science, and Transportation



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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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**WEDNESDAY, AUGUST 5, 2009**

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10 a.m. in room SR-253, Russell Senate Office Building, Hon. Mark L. Pryor, presiding.

**OPENING STATEMENT OF HON. MARK L. PRYOR,  
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. I would like to like to call our hearing to order, and I want to welcome everyone to the Commerce Committee here today and thank everyone for attending. We are going to have a few Senators coming and going. This is a nominations hearing.

The President has nominated Mr. Dennis F. Hightower to be Deputy Secretary of the Department of Commerce. Mr. Hightower possesses extensive business management experience after working for more than 30 years in global marketing, international management, and strategic planning as the recent CEO of Europe Online Networks and a former senior executive of the Walt Disney Company. Mr. Hightower is well qualified to serve at the Department of Commerce.

In academia and the military, Mr. Hightower also has excelled. He is a former professor of management at Harvard Business School and has spoken as a guest lecturer around the world. He has served on innumerable industry boards of directors. His dedication to the defense of our country cannot be overstated. I look forward to hearing his testimony, and I welcome him to this hearing.

The President has also nominated Mr. Robert Adler and Ms. Anne Northup to be Commissioners on the Consumer Product Safety Commission. I want to welcome you both to the Commerce Committee. I look forward to hearing your testimony.

And I also want to thank Chairman Rockefeller for asking me to chair this hearing this morning.

The CPSC is a critically important agency over which this Committee has jurisdiction. I think we all take the agency's mission very seriously of preventing injuries, saving lives, and protecting children, in particular. I am confident that the two nominees before us recognize the vital role this agency plays in protecting the public from public safety risks. If confirmed, I expect that both these

nominees, these Commissioners, to execute the CPSC's responsibilities with the diligence that the American consumer deserves.

Mr. Adler comes to us with much experience and vast knowledge of the law, product safety, consumer protection, and the Commission itself. He is a former Attorney Advisor to two Commissioners at the CPSC, a former Counsel on the House Energy and Commerce Committee, and a Professor of Legal Studies at the University of North Carolina. At Chapel Hill, Mr. Adler is the Luther H. Hodges, Jr. Scholar in Law and Ethics. He also has served as an Associate Dean of the MBA program and has won many awards for excellence in teaching. We recognize his expertise and knowledge, and we welcome his commitment to protecting consumers.

Ms. Northup has much experience working with Congress and advocating for children. She represented Kentucky's 3rd Congressional District in the U.S. House of Representatives for 10 years. She was instrumental in promoting child literacy and education reform. As a Member of the House, Ms. Northup also actively promoted adoption legislation. She serves as a member of the Congressional Coalition on Adoption.

Before her tenure on Capitol Hill, Ms. Northup served in the Kentucky House of Representatives for 10 years.

We welcome her knowledge of child protection and advocacy. We know that she will take very seriously the Commission's responsibility to protect consumers, if confirmed.

For years, the CPSC was a neglected and broken agency, significantly understaffed, underfunded, and lacking the authorities to carry out its safety mission. Unsafe and defective products swarm the marketplace. In 2007 and 2008, millions of children's toys and other products were recalled because they were dangerous. The Commission could not effectively police the marketplace and protect consumers from harm.

In response to this unacceptable situation, the Congress acted last year and passed a landmark overhaul of consumer product safety law. This Committee took a lead role in that, and I appreciate all my colleagues for their contributions to making that a very good bill which passed by overwhelming majorities in both houses. I think the new law will protect thousands of lives and prevent millions of injuries.

Where there have been some issues with the implementation of the new law, I believe that the Commission has the enforcement discretion and the leadership to overcome these challenges and work through them. We do not want to punish businesses who comply with the law, but we want to protect consumers and children from dangerous and defective products.

I am confident that if we confirm Mr. Adler and Ms. Northup, they will work very hard to resolve any implementation issues through a common sense approach. I am also confident that they will do this while promoting the primary mission of the agency, and that is to protect consumers and keep them safe.

With that, I would like to turn to our Ranking Member, Senator Hutchison.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,  
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Well, thank you, Mr. Chairman. I will not give my opening statement in full, but I would like for it to be included in the record.

I think you have covered the nominees very well. I think it is very important that we move expeditiously on all the nominees, but especially for the Consumer Product Safety Commission where we have passed a law that should have the full Commission strength in order to implement the law. I, for one, believe that we need to look at the status of the law since we passed it because there have been concerns raised and a question of whether there is enough flexibility for the Commission to deal with the sometimes unintended consequences of the law.

I think it is important that we have the full Commission to look at it, and I would agree that a common sense approach is what is needed right now in order to have the best results. And I think the bipartisanship that we showed in passing that law was to try to ensure that our consumers are protected.

So with that, I will submit my comments for the record and just say that I have met with the nominees for the Consumer Product Safety Commission. I think both of them are very well qualified, and I look forward to having, I hope, a very expeditious markup this afternoon in Committee and then be able to get them confirmed so they can take their seats at the Commission next week.

Thank you, Mr. Chairman.

[The prepared statement of Senator Hutchison follows:]

PREPARED STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Thank you, Mr. Chairman, for holding this hearing. And thank you to the nominees for being here today. I hope that we will be able to get them through this Committee and on to the full Senate for confirmation before we recess for August.

I first want to welcome Mr. Hightower, who has been nominated to be Deputy Secretary of the Department of Commerce. The Commerce Department has a very broad and diverse jurisdiction; it encompasses NOAA, international trade, and our domestic telecommunications network, among other matters.

The functions of the Commerce Department are important to Texas. We rely on NOAA to provide coastal and underwater mapping and marine debris removal to keep our ports open and functioning. NOAA's weather prediction and coastal storm recovery programs are also vital to minimizing loss of life when hurricanes hit.

Broadband, which plays an essential role in job creation and our economic recovery, is also a key area of activity for the Commerce Department. The NTIA is currently working to administer more than \$4 billion in broadband grants. I hope that as NTIA proceeds with its broadband policy, it will maintain a commitment to unserved areas as its highest priority.

I look forward to hearing from Mr. Hightower and hearing his views on these and the many other important programs administered by the Department of Commerce.

I would also like to welcome our two nominees to the Consumer Product Safety Commission, Mr. Adler and Congresswoman Northup. I am very pleased that the CPSC will be restored to a full quorum later this month. It is a small agency with a daunting task and it needs all of its Commissioners to properly carry out its charge.

Although having a full quorum is important for the CPSC to continue its implementation of last year's CPSIA, I would like to reiterate what I said during the hearing for the agency's current Chair Inez Tenenbaum.

I believe this Committee should hold a hearing to examine implementation of that law. There has been a difference of opinion about the intent of some of the language; what authority and how much flexibility is granted to the Commission by the law,

and who has the responsibility to fix what is broken. An opportunity for all parties to openly discuss the issue would be tremendously helpful.

Especially now, as many businesses are suffering during these tough economic times, we should see what can be done to lessen that burden, especially on small businesses and home crafters.

Besides implementation of the CPSIA, there are a number of other challenges facing the Commission, and even with the extra resources provided by Congress, it is a balancing act to keep up with the requirements of last year's law while still remaining alert to possible hazards that may make their way into the stream of commerce.

Everyone can agree that we want to protect consumers, and especially children, from harmful products. I look forward to hearing from both nominees today and hearing their ideas on how best to advance the Commission.

Senator PRYOR. Thank you.

And it is our honor to have the Senate's Republican Leader this morning. Senator McConnell, we welcome you and we look forward to your statement.

**STATEMENT OF HON. MITCH McCONNELL,  
U.S. SENATOR FROM KENTUCKY**

Senator McCONNELL. Thank you, Chairman Pryor, Senator Hutchison, Members of the Committee.

It is my honor to be here today to present someone to you who you are already familiar with and probably does not need a lengthy introduction, and that is Anne Northup of Louisville, Kentucky. Anne is a longtime friend of mine. She also is accompanied by her husband Woody who is a successful businessman in Louisville. We have known each other for longer than either of us would particularly care to admit. Throughout that time, I have been a great admirer of all she has accomplished in both her professional and her personal life.

She sits before you today as the President's nominee to be a Commissioner of the Consumer Product Safety Commission, which has a lifesaving mission to protect Americans from hazardous products. I want to thank the President for his confidence in Anne in selecting her for this position. I fully appreciate his desire to see the mission of the CPSC fulfilled and his understanding that good people on both sides of the aisle want to make that happen and have a lot to contribute.

Anne is very much one of those people. Anne's gift is that she can easily see where and why a problem exists and what the best solution is. She has proven she has that ability over a very long public career. If her track record does not convince you that she is a great fit for this job, then take it from me. She is smart, thorough, persistent, insightful, and an extremely hard worker. Every American will have reason to be thankful that she is once again dedicating herself to public service. We in Kentucky are certainly glad of it.

As the Chairman indicated, Anne represented the 3rd District of Kentucky in Congress for 10 years from 1997 to 2006. The 3rd District includes virtually all of the City of Louisville, which happens to be my hometown, and so I was one of Anne's constituents. She was recognized as a leader by her peers in the House from her very first term. House leadership trusted her with important legislative appointments dealing with issues as varied as free trade, education, and drug abuse. And we in Louisville were grateful time



and time again for her efforts on our behalf and her grace and civility on the public stage.

Anne also, as the Chairman indicated, served in the Kentucky House of Representatives for 10 years and served her community for many years before that as an active citizen and community volunteer.

But I do not think she would disagree when I say what is the most important to her and what she has had the most success at in a very successful life is her wonderful family. Anne and Woody have been married for 40 years and have six children. Woody is a small business owner. As I indicated, he is with her today. I am sure he is proud of everything that he and Anne have built together over this time period. Anne puts her family at the center of her life. She comes from a very large family herself. She is the second of 11 children, and she is the mother of a large family. I would suspect dealing with so many kids prepared her to deal with a lot of Members of Congress.

[Laughter.]

Senator McCONNELL. But as a mom, Anne knows how important it is to have confidence in the safety of consumer products. She knows that we must look out for consumers, especially kids. She will bring that perspective to this job, and I know she will take the responsibilities of the CPSC very seriously. She understands that the health and safety of a lot of Americans, especially children, depends on it.

As a Commissioner of the CPSC, Anne also will not forget that she is there not to create more red tape but to serve ordinary Americans. She understands all too well the frustrations many of us have in dealing with government bureaucracies. And as a former Member of Congress, Anne understands that regulatory agencies must respect the legislation Congress passes. Agencies like the CPSC have an important role to play, but they must never confuse their role with Congress' role which is to make the law.

No matter which way you look at it, Mr. Chairman, the President has made a wonderful choice for this nomination, and the American people are going to gain the services of a fighter and a thinker on the CPSC as a result. Most of all, they will gain the common sense touch of a concerned mother and a proud American.

I could not recommend her more strongly to this Committee and look forward to her confirmation.

I thank each of you for the opportunity to be here today and to speak on Anne's behalf. Thank you so much, Mr. Chairman.

Senator PRYOR. Thank you, Senator McConnell. Thank you for being here. We are going to do this in two panels today, and I want to thank you for your time and your willingness to be here today.

Also, I want to point out that Senator McConnell set a good example by staying within his 5 minutes.

[Laughter.]

Senator PRYOR. So we are hoping that our other panelists will follow that lead.

What we would like to do now is call up the first panel, which is Dennis Hightower. Mr. Hightower, if you could come forward and take your seat, we will let you make your opening statement.

We are asking that you keep that to 5 minutes, and then we will ask some questions. Mr. Hightower?

**STATEMENT OF DENNIS F. HIGHTOWER, DEPUTY SECRETARY-  
DESIGNATE, U.S. DEPARTMENT OF COMMERCE**

Mr. HIGHTOWER. Thank you very much.

Chairman Pryor, Ranking Member Hutchison, and other honorable Members of the Committee, I come here today with an enormous sense of humility and a deep sense of honor as the President's nominee to be the Deputy Secretary of Commerce.

I want to thank President Obama for nominating me, Secretary Locke for his enthusiastic support of my nomination, and the Members of the Committee and your staffs who were gracious enough to meet with me during the past week.

At this time, I would like to introduce the Members of the Committee to my son, Dennis F. Hightower, Jr.; my fiancée, Dori Bye, and her parents, Mr. and Mrs. Melvin Bye; my cousins, other relatives, close friends and business colleagues, many of whom have traveled great distances to support me today. My brother, unfortunately, was not able to be here but he is certainly here in spirit.

My family has long taken pride in our service to America. My uncle, James Daniel Fowler, was the second African American in the 20th century to graduate from the United States Military Academy. His daughter is here today. He was one of three members of my family who had the honor to attend West Point. The other three are graduates of the United States Naval Academy, including the only African American four-star admiral, Paul Reason, who is also here with us today.

My own career began with 8 years as a regular Army officer in the United States Army, decorated for service in the Vietnam War.

I believe that serving as the Department of Commerce's Deputy Secretary would be a fitting bookend to my 40-year career in the private and public sectors. I am proud of the work I have done, but also conscious of the extraordinary role that my forbearers played in making this day possible.

My family's commitment to excellence and education can be traced back to my maternal grandfather and his oldest sister and my paternal grand aunt attending Atlanta University and Morris Brown College and Spelman College in Atlanta, Georgia prior to the start of World War I.

My mother received her elementary, secondary, and college education here in Washington, D.C. and went on to teach for 40 years, starting in a one-room schoolhouse in Huntley, Virginia, then as the founder and principal of the Army's GED program at Fort Belvoir for returning World War II veterans, followed by teaching adult and elementary education during her final 27 years in the then-segregated D.C. school system.

I, along with several of my friends seated here today, are products of that system. We became the first full 3-year class to graduate from high school following the historic *Brown v. Board of Education* decision, and we know that without the nurturing, caring, and demand for excellence by the many great African American teachers of our day, I would not be sitting here before you. Their indelible lessons to prepare, perform, and persevere guided me dur-

ing my matriculation at Howard University and Harvard Business School, throughout my military and business career, and finally, leading to this hearing today.

During my public and private sector careers, I have lived and worked in Asia, Latin America, and Europe. My work has taken me to 87 countries at last count, many with multiple visits. I have run multi-billion consumer products and technology-based companies with activities spanning more than 50 countries. I have negotiated business deals at the highest levels with representatives of governments and companies in Eastern and Western Europe, the former Soviet Union, the Middle East, post-apartheid South Africa, and throughout Asia and Latin America.

This experience deeply informed my teaching at Harvard Business School and my service on the boards of some of America's leading corporations and startup technology companies.

In short, I think I have developed the necessary skills to help make the Department of Commerce effective in its interactions with American companies, both large and small.

The Department of Commerce, with thousands of dedicated employees working on everything from climate change to patents to international trade, has one of the broadest mandates of any Federal agency. But I believe one issue in particular demands our foremost attention. We must reestablish the primacy of the United States as the leader in innovation, creativity, and excellence across the global economic spectrum.

There are projections that place the United States in fourth place over the next 20 years in terms of consumerism, manufacturing capacity, and the growth of an entrepreneurial base that keeps pace with new global delivery systems and developments. This forecasted outcome, to my way of thinking, is unacceptable.

Countries such as Brazil, Russia, India, and China, often referred to as the BRIC countries, are now employing aggressive industrial policies reminiscent of Japan's strategic commitment to the electronics industry in the 1960s. Today, we find ourselves competing not only with companies of great capacity, but countries intent on establishing dominance in the growth areas of the 21st century.

During recent business travels in India, I was floored by the country's commitment to reinvesting in technology and its implications for the United States. In Bangalore, you find that the technological inroads are often being created and sustained by young people under the age of 27.

If we expect to lead, we must put our best minds on the toughest problems, reforming the way America uses health care, consumes energy, and educates our children. These reforms, which are being pursued relentlessly by the Administration, are absolutely necessary to create long-term and sustainable economic growth and jobs. I believe that the Department of Commerce is uniquely positioned to lead and support the American companies that create those jobs.

I will make sure that I stay within the 5 minutes, Senator, so I am going to skip a few things which perhaps will come out in the questioning.

But I think despite the challenges facing America's economy, we can be confident, thanks to the Administration's aggressive response and the resiliency of our workers and business, that this too shall pass.

Earlier in my career as a McKinsey strategy consultant, the best companies I worked with always looked upon economic uncertainty as an opportunity to reset, to right-size, to retool, to innovate, and to reinvest. I think that this is the opportunity that we have right now. And I think we must act with a renewed sense of urgency because our global competitors are neither standing still nor shy about taking action to exert their global economic ambitions. America must demonstrate not only a willingness to take action, but we must put in place the appropriate metrics to help us know when we have achieved the intended results.

As I look at the challenges facing America and the Department of Commerce, I am reminded of a saying that defined the mission of one of the elite fighting forces I was a member of, and that is: "Rangers lead the way." Today, the Department of Commerce must lead the way to improved economic growth, enhanced job creation, and a future that is brighter than our past.

In conclusion, Mr. Chairman and Members of the Committee, if confirmed as Deputy Secretary of Commerce, it is my intent to work with you in a collaborative manner to develop practical and timely solutions to our Nation's economic challenges and, in the process, help rebuild and reinvigorate our position in the world.

I thank you for your consideration of my nomination and the opportunity to address this Committee, and I look forward to any questions you might have. Thank you.

[The prepared statement and biographical information of Mr. Hightower follows:]

PREPARED STATEMENT OF DENNIS F. HIGHTOWER,  
DEPUTY SECRETARY-DESIGNATE, U.S. DEPARTMENT OF COMMERCE

Chairman Rockefeller, Ranking Member Hutchison, and honorable Members of this Committee, I come here today with an enormous sense of humility and a deep sense of honor, as the President's nominee to be Deputy Secretary of Commerce.

I want to thank President Obama for nominating me; Secretary Locke for his enthusiastic support of my nomination; and the Members of this Committee and your staffs who were gracious enough to meet with me over the past week.

At this time, I would like to introduce the members of the Committee to my son, Dennis F. Hightower, Jr.; my fiancée, attorney Dori Bye and her parents, Mr. and Mrs. Melvin Bye; and other relatives, close friends and business colleagues—several of whom traveled great distances to support me here today. My brother, Marvin, was not able to be here today, but he is here in spirit.

My family has long taken pride in our service to America. My uncle, James Daniel Fowler, Jr., was the second African American in the 20th Century to graduate from the United States Military Academy. He was one of three members of my family who had the honor to attend West Point. Two other family members are graduates of the United States Naval Academy, including the only African American four-star admiral—my cousin, Paul Reason—who is here today.

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I am proud of the work I have done, but also conscious of the extraordinary role my forebears played in making this day possible.

My family's commitment to excellence and education can be traced back to my maternal grandfather and his older sister attending Atlanta University and Morris Brown College, in Atlanta, Georgia, before the start of World War I.

My mother received her elementary, secondary and college education here in Washington, D.C. and went on to teach for 40 years. Her career began in a one-room school house in Huntley, Virginia. She later served as a founder and principal of the U.S. Army's GED programs at Fort Belvoir, Virginia for returning World War II veterans; before concluding her career with 27 years teaching adult night school and elementary school in the then segregated Washington, D.C. school system.

I, along with several of my friends seated here today, are products of that school system.

We became the first full three-year class to graduate from high school following the historic *Brown v. Board of Education* decision. Without the nurturing, caring and demand for excellence from the many great African American teachers of our day, I would not be sitting here before you.

Their indelible lesson to “prepare, perform and persevere” guided me during my matriculation at Howard University and Harvard Business School, throughout my military and business career—and finally to this hearing today.

I believe the work I have done over the last 40 years has equipped me to meet the various demands the Commerce Department requires of all its leaders.

During my public and private sector careers, I have lived and worked in Asia, Latin America and Europe. My work has taken me to 87 countries at last count—many with multiple visits. I have run multi-billion dollar consumer products and technology-based companies with activities spanning more than 50 countries. I have negotiated business deals at the highest levels with government representatives and corporate leaders in Europe, the former Soviet Union, the Middle East, post-apartheid South Africa and throughout Asia and Latin America.

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The Department of Commerce—with thousands of dedicated employees working on everything from climate change, to patents, to international trade—has one of the broadest mandates of any Federal agency.

But I believe one issue in particular demands our foremost attention.

We must re-establish the primacy of the United States as the world leader in innovation, creativity and excellence across the global economic spectrum.

There are projections that place the United States in fourth place over the next 15–20 years in terms of consumerism, manufacturing capacity, and the growth of an entrepreneurial base that keeps pace with new global developments and delivery systems. This forecasted outcome, to my way of thinking, is unacceptable.

Countries such as Brazil, Russia, India and China—often referred to as the “BRIC” countries—are now employing aggressive industrial policies reminiscent of Japan's strategic commitment to the electronics industry in the 1960s.

Today, we find ourselves competing not only with companies of great capacity, but countries intent on establishing dominance in the growth areas of the 21st Century.

During recent business travels in India, I was floored by that country's commitment to reinvesting in technology and the implications for the United States. I spent time in Bangalore visiting a veritable who's who of global technology giants. I was struck not only by the technological inroads being made in newly designed, avant-garde factories and laboratories, but also by the fact that this technological revolution was often being led by young men and women under the age of 27. By and large, these young people were not educated in the United States like many of their fathers—at MIT, Cal Tech, or Rennselaer, for example—but at the Indian Institutes for Technology.

If America expects to lead, we must put our best minds on the toughest problems—reforming the way America uses healthcare, consumes energy and educates our children. These reforms, which are being pursued relentlessly by the Administration, are absolutely necessary to create long-term and sustainable economic growth and jobs.

I believe that the Department of Commerce is uniquely positioned to lead and support the American companies that create those jobs.

As its name implies, the Department of Commerce plays a crucial role in implementing the Administration's bold economic agenda. America depends on the Department for:

- The expeditious granting of patents and intellectual property protection for our established and fledgling companies;

- Bringing broadband and emerging telecommunications applications to underserved and unserved communities throughout America;
- Understanding the effects of climate change on our air, oceans and fisheries and promoting green technologies that could mitigate our climate challenges;
- Identifying where the country's human capital resides through the accurate conduct of census surveys, particularly the 2010 census;
- Ensuring American companies compete on a level playing field around the globe; and
- Ensuring emerging American companies have the resources they need to become the global leaders of tomorrow.

These are but a few of the ways the Department of Commerce is an indispensable ally for America's businesses.

Despite the challenges facing America's economy, we can be confident, thanks to the Administration's aggressive response and the resiliency of our workers and business, that "this too shall pass."

Earlier in my career as a McKinsey strategy consultant, the best companies I worked with looked at economic uncertainty as an opportunity to re-set, to right-size, to re-tool, to innovate, and to re-invest in our economy.

That is the opportunity we have right now.

America must now act with a renewed sense of urgency. Our global competitors are neither standing still nor shy about taking action to exert their global economic ambitions. America must demonstrate not only a willingness to take action, but we must put in place the appropriate metrics to help us know when we have achieved the intended results.

As I look at the challenges facing America and the Department of Commerce, I am reminded of a saying that defined the mission of one of the elite fighting forces I was a member of, and that is: "Rangers lead the way!"

Today, the Department of Commerce will lead the way to improved economic growth, enhanced job creation and a brighter future than our past.

Mr. Chairman and Members of the Committee, if confirmed as Deputy Secretary of Commerce, it is my intent to work with you in a collaborative manner to develop practical and timely solutions to our Nation's economic challenges; and in the process, help rebuild and reinvigorate our position in the world.

I thank you for your consideration of my nomination, and the opportunity to address this Committee. I look forward to any questions you might have.

#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

Dennis Fowler Hightower.

2. Position to which nominated: Deputy Secretary of Commerce.

3. Date of Nomination: July 24, 2009.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

5. Date and Place of Birth: 28 October 1941; Washington, D.C.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Children: Son—Dennis Fowler Hightower, Jr., age 43; Daughter—Dawn Denise Hightower, age 41.

7. List all college and graduate degrees. Provide year and school attended.

Harvard University Graduate School of Business, MBA—1974.

Howard University, BS—1962.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

I have had management responsibilities in all of my jobs.

1962–70—U.S. Army, Regular Army Officer.

Resigned in June 1970 with the rank of Major. Served in Airborne Infantry (Platoon Leader, Company Commander Air Operations Officer) and strategic and operational intelligence positions in the U.S. and abroad (counter-

intelligence, field operations intelligence, Defense Intelligence Agency, Army General staff—intelligence); Army Ranger and Senior Parachutist; Decorated Vietnam Veteran (Intelligence Command and staff in combat unit).

1970–1972—Xerox Corporation, Manager of Organizational Planning—Research and Engineering Group.

1974–1978—McKinsey and Company, Inc., Management Consultant—Senior Associate and Engagement Manager.

Strategy consultant to companies in the auto, consumer goods, industrial goods, and technology sectors.

1978–1981—General Electric Company, Manager of Operational Planning.

Lighting Components division, Asian and Latin American sourcing, Acquisitions and New Business development.

Vice President and General Manager.

GE Lighting Business in Monterrey, Mexico (vertically integrated supplier of complete range of lighting products to Mexico, Venezuela, Brazil, and the U.S. Auto Industry).

1981–1984—Mattel, Inc., Vice President, Corporate Planning.

Global Business Development, Acquisitions and Divestitures.

1984–1987—Russell Reynolds Associates, Inc., Managing Director and Los Angeles Office Manager.

Recruited senior executive talent for global companies.

1987–1996—The Walt Disney Company.

President of Walt Disney Television & Communications (1995–1996); senior executive responsible for profitable managing multi-billion dollar global enterprises in over 50 countries.

President of Consumer Products, Europe/Middle East and Africa (1992–1995).

Executive Vice President of Consumer Products, Europe/Middle East (1990–1992).

Senior Vice President of Consumer Products, Europe (1989–1990).

Vice President of Consumer Products, Europe (1987–1989).

1996–2000—Harvard Business School, Professor of Management.

First year MBA program with a focus on leadership, managing change, building emerging markets, and global general management from the perspective of the general manager; helped develop course curriculum and taught in senior executive programs in South Africa and the Middle East to train future leaders in those regions.

2000–2001—Europe Online Networks, S.A., Chief Executive Officer.

A privately-held broadband interactive entertainment company based in Luxembourg.

1996–Present—Board of Directors of leading publicly-held and privately-held companies and trustee of non-profit and educational institutions.

(Also paid in recent years for speeches through Big Speak Bureau and National Association of Corporate Directors).

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

2007–Present—Member of the Defense Business Board.

Consists of advisors to the Secretary of Defense and the Chairman of the Joint Chiefs on the application of best practices in business to the defense community.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Accenture, Ltd.—Independent Director.  
 Brown Capital Management Company—Independent Director, Investment Management Advisor.  
 Casey Family Programs—Trustee.  
 Domino's Pizza, Inc.—Independent Director.  
 Lightfleet Corp.—Independent Director.  
 Bert King Foundation—Board Member.  
 Camp Atwater Advisory Council—Co-Chair.  
 Gillette Company—Independent Director.  
 Northwest Airlines—Independent Director.  
 TJX Companies—Independent Director.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

1960–Present—Kappa Alpha Psi Fraternity (Life Membership)—African American fraternal organization.  
 1987–2005 The Jonathan Club, Los Angeles, CA.  
 1987–2007 Le Cercle Foch, Paris, France.  
 1993–2005—The French Heritage Society Board.  
 1995–2005—The California Club, Los Angeles, CA.  
 1996–1998—National Association of Guardsmen, Los Angeles Chapter—social organization for African American men.  
 1996–2003—Howard University Board of Trustees.  
 1997–2005—Andrew Young Center for International Affairs, Morehouse College, Chair.  
 1997–2009—Ron Brown Scholar Program Selection Committee, Founding Member.  
 1997–Present—Bert King Foundation Founding Board Member.  
 1999–2001—The Corcoran Gallery of Art Board.  
 2004–Present—Sigma Pi Phi Fraternity, Epsilon Boule, Member—African American fraternal organization.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

2008—Hillary Clinton—\$1,000.

2008—Barack Obama—\$1,000.

No political office held on any level and no services rendered to a state or national political party or election committee.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

1960–1966—Kappa Delta Pi—National Education Honor Society; Scabbard & Blade—National Military Honor Society; Pi Sigma Alpha—National Political Science Honor Society.

1962–70—U.S. Army Officer (2Lt To Major): Awarded 2 Bronze Stars, Purple Heart, 3 Air Medals, Joint Service Commendation Medal, 5 Army Commendation Medals (1 For Valor), Vietnamese Honor Medal First Class, Vietnamese Cross Of Gallantry, Meritorious Unit Citation, Vietnamese Civic Action Medal, Combat Infantryman Badge, Expert Infantryman Badge, Army Ranger Tab, Senior Parachutist Badge, Expert Weapons Designation (Rifle, Bayonet Grenade).

1972–74: COGME Fellowship to Study at Harvard Business School.



1974: Charter Member, National Military Intelligence Association.

1976: Outstanding Young Men of America.

1984: Howard University Los Angeles Alumni Chapter, Outstanding Alumni Award for Achievement In Business.

1985: Proclamation by Mayor of Washington, DC “Dennis F. Hightower Day—1 April 1985.”

Presidential Citation, National Association of Equal Opportunity in Higher Education.

1986: Howard University Alumni Award for Distinguished Postgraduate Achievement in Business and Administrative Service.

1988: Black Enterprise Magazine—“Top 25 Hottest Black Managers in Corporate America.”

1989 and 1995: Howard University School of Business Awards—Chair Of Visiting Committee and 25th Anniversary Award.

1992: Harvard Business School Alumni Achievement Award.

Edges Group “Breaking the Corporate Ceiling” Award.

1993: Black Enterprise Magazine: “40 Most Powerful Black Executives.”

1993, 2006, 2008: Who’s Who in the World; Leading Business Professionals; Executives and Professionals.

1995: Harvard Business School African American Alumni Association Alumni of the Year—International Achievement.

Cover of Black Enterprise Magazine: “A Whole New World at Disney.”

1996: Howard University—Honorary Doctor of Humane Letters.

Charles R. Drew Medical School, Los Angeles, CA Lifetime Achievement Award.

U.S. Department of Commerce Pioneer Award (Minority Business Development Agency).

1997: Morehouse College “Candle in Business” Award.

Howard University Athletic Association Buffalo Soldier Award: “Athlete to Business Leader.”

2002: U.S. Military Academy Bicentennial Recognition Tray; Friend of West Point.

2003: The Tuxedo Ball Award for Corporate Leadership.

2004: U.S. Military Academy Preparatory School Recognition Plaque.

Founding Sponsor—U.S. Army National Museum.

2005: Institute for the Advancement of Minority And Multi-Cultural Medicine—“Eagle Fly Free” Cancer Survivor Award.

2006: “Camp Atwater 85” Anniversary—“Dr. William N. Deberry Legacy Award.”

2008: “Harvard Business School African American Alumni Association—“Bert King Award for Service.”

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

From 1965 to 1970, I wrote articles for classified intelligence community publications (none of these were in the public domain).

I do not believe I have given speeches on topics directly related to the position for which I am nominated, *i.e.* On programs for which the Department is responsible. More generally, over the years, I have given numerous speeches at management conferences and academic lectures on global leadership, building emerging markets, and infusing innovation and creativity into global business operations. For example, recent speeches I have record of are: 11.28.2006—Leading the 21st Century: The DNA of a Leader—given to Northern Trust; 3.28.2007—Leading the 21st Century: The DNA of a Leader—given to Northern Trust; 10.24.2008—Meeting the Challenge: Leading in a Tough Economy—given to Tyco Safety Products.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

I have never testified before Congress.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your back-

ground or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I am a seasoned business executive with extensive global leadership experience. I have successfully negotiated business ventures, acquisitions and divestitures, and strategic alliances with leaders in industry and with senior members of foreign governments in some 87 countries for more than 30 years.

I have lived in Asia twice, Latin America, and Europe twice. I have developed successful new businesses in every country in western Europe and eastern Europe (before the demise of Communism); the Russian and Georgian republics of the former Soviet Union; the Middle East; post-Apartheid South Africa; and Brazil, Mexico, Hong Kong, Japan, Singapore, Taiwan, and Thailand.

I believe this global leadership experience allows me to bring a unique perspective to the role of Deputy Secretary. I have the personal attributes and qualities to lead in a fast-changing global economic setting; to develop and execute aggressive strategies; to lead successful implementation; and to develop the next generation of career leaders who provide the on-going continuity as Administrations come and go.

It would be a distinct privilege at this moment in history to add value to the economic agenda of the President. Everything I have done over the past 47 years has prepared me for this role. I consider it an honor to serve. I began my adult life in service to my country as a military officer, and I can think of no better way to culminate my life's work than to serve once more in a senior capacity that would assist our Nation in regaining and sustaining its global leadership.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

Proper management and accounting controls are critical. I believe my principal roles will be to elevate the operating capabilities of the various agencies of the department to deliver increased efficiency, motivate the talented human resources within the department to operate within a spirit of total transparency, and ensure that operating performance meets or exceeds agreed upon measurable outcomes.

I have led and profitably grown multi-billion dollar global consumer products and technology-based businesses with operations in over 50 countries. Activities have encompassed strategic planning and execution, creating innovative products and services, marketing and promotion, manufacturing, trademark licensing, vertical integration, high-technology, publishing—and perhaps, most importantly, motivating people to reach beyond their grasps.

20. What do you believe to be the top three challenges facing the department/agency, and why?

1. Motivating agency heads and staff to think boldly, and to plan and execute programs aggressively in the new global economic environment in which we find ourselves.
2. Building credibility with the global business community. We must reestablish the primacy of the United States as the global leader in terms of innovation, creativity and excellence across the broad economic spectrum.
3. Ensuring that the Department of commerce serves its purpose as a vital component toward the restoration of the economy. The Department should set the pace for global change in the commercial arena.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

Presently, I receive compensation as follows:

##### *Boards*

Accenture: an annual cash retainer and annual restricted stock units that vest 1 year following the annual grant.

Brown Capital Management Company: annual cash retainer paid semi-annually.

Casey Family Programs: annual trustee fee paid monthly in cash.

Domino's Pizza, Inc.: annual cash retainer, committee and meeting fees and annual nonqualified stock options that vest 1 year after the award.

*Speaking Engagements*

From time to time, I speak at business management conferences and lecture at business schools in the United States and Europe—for a fee or honorarium.

*Retirement plan*

I receive a key man pension and a defined benefit plan pension from the Walt Disney Company. The benefits under this pension are shared equally with my former spouse pursuant to a divorce decree dated 19 July 2007.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Department of Commerce's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. This agreement has been reviewed by the Office of Government Ethics. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the Administration and execution of law or public policy.

I have not personally engaged in any such activity. Casey Family Programs, of which I am a board member, provides expert testimony and white papers to Congress on children and foster care. Additionally, I serve on boards of corporations that engage in lobbying and legislative outreach, but board members do not directly engage in such activities.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Department of Commerce's designated agency ethics official to identify potential conflicts of interest. This agreement has been reviewed by the Office of Government Ethics. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee.

## C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

I was sued in 2002 because of a delinquent personal loan. The loan was paid in full soon thereafter and the case was dismissed with prejudice. *Cardinal Holdings Ltd. v. Hightower*, Case No. 1:02cv1866 (D.D.C.)

In September 2006, my wife at the time filed for divorce and a settlement decree was signed hi July 2007.

In addition, in my capacity as an independent director of Northwest Airlines, Panamsat Corporation, and the Gillette Company, I have been listed as a defendant in cases but have not participated in them in any way. Based on a public records search of cases, these include: *Cress v. Wilson*, 06 Civ. 2717 (S.D.N.Y.); *Hastings v. Wilson*, Civ. No. 05-2566 (D. Minn.); *Karpuik v. Wilson* (D. Minn.); *Peter Schoenfeld*

*Asset Mgmt. LLC v. Shaw*, No. 20087NC (Del. Ct. of Chancery ); *Berkovits v. Kilts, et al.*, No. 1087-N (Del. Ct. of Chancery); *Kohn v. Kilts, et al.*, No. 1092-N (Del. Ct. of Chancery ); and *Freedman v. Kilts, et al.*, No. 1130-N (Del. Ct. of Chancery ).

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

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#### RESUME OF DENNIS F. HIGHTOWER

Dennis F. Hightower is a seasoned business executive with extensive global general management experience. His distinguished career spans the private and public sectors, including more than 30 years of experience in global marketing, strategic planning, operations and international general management.

Most recently, Mr. Hightower was Chief Executive Officer of Europe Online Networks S.A., a privately held broadband interactive entertainment company based in Luxembourg. From 1987 to 1996, Mr. Hightower was a Senior Executive of The Walt Disney Company, where he led multi-billion dollar enterprises as President of Walt Disney Television & Telecommunications and President of Consumer Products, Europe/Middle East and Africa.

Hightower has made a continuing commitment to training future business leaders as a former Professor of Management at Harvard Business School, where he focused on leadership, building emerging markets and global general management. He has also been a guest lecturer at business schools throughout the world including IMD in Switzerland, INSEAD in France and the London Business School; and at the U.S. Military Academy (Bicentennial) and the USMA Preparatory School.

Hightower most recently served on the Boards of Directors of Accenture, Domino's Pizza, Lightfleet (a start-up high technology company), and privately-held Brown Capital Management. He has formerly served as a board member of The Gillette Company, Northwest Airlines, PanAmSat Corporation, Phillip-Van Heusen Corporation, The TJX Companies, Inc., and as a member of the Price Waterhouse Chairman's Advisory Council.

Previously, Mr. Hightower has demonstrated a willingness to serve his country as a decorated Vietnam veteran and as a member of the Defense Business Board. Hightower was a Regular Army officer for 8 years, rising to the rank of Major by age 27. While on active duty he was awarded numerous decorations for meritorious achievement and valor.

Mr. Hightower holds an M.B.A. degree from the Harvard Business School and a B.S. degree and honorary doctorate from Howard University. He received the Alumni Achievement Award in Business from Howard University in 1986, the Alumni Achievement Award from Harvard Business School in 1992, and the U.S. Department of Commerce Pioneer Award in 1996.

Senator PRYOR. Thank you, Mr. Hightower. Thank you for your statement.

I know that Secretary Locke shares your concern about our innovation, our creativity, our excellence. I would probably add to that our technology commitment. I know in the Senate we have tried to

focus on things like science parks, innovation prizes, nanotechnology research, the technology innovation program.

What are your plans to try to get more innovation, more creativity, more excellence out there around the country?

Mr. HIGHTOWER. I think part of the answer to that, Senator, is, one, having a deeper understanding than I do today of what actually goes on specifically within the Department. Again, assuming I am confirmed, then that would be one of the first tasks, to begin to thoroughly understand the mission and what commonality, what threads run through the operations of the Department of Commerce to ultimately get to the mission of serving the American business and the economic platform better.

As my experience would suggest, it does all start with leadership because, at the end of the day, what we are talking about is how do you get people motivated and inspired to do their best. So to the extent to which we have the best people in place to run those agencies, that we can come up with a unified mission, one that everyone can rally around, I think that is the starting point to begin to attempt to both understand, put together the correct agenda, and most importantly, execute that agenda with the metrics that tell us whether we have achieved those noble objectives.

Senator PRYOR. Earlier this year, the Congress set up the Broadband Technology Opportunities Program, also called BTOP. The idea there is to get broadband in places where it is not currently today. I think that a very important piece of this puzzle for innovation and investing in the future economy and the changing economy of this country is to try to make broadband more available to more people and more communities.

Do you have any comment on that?

Mr. HIGHTOWER. Yes, in fact, I do. My comments are twofold.

One, I have run such a company in Luxembourg, a satellite company that delivered 2–3 megabit streams into personal computers with television quality, all interactive. I served for 7 years on the board of Pan Am Sat Corporation, who at the time had the largest number of birds in the air, about 23 satellites. And I understand the issues around repointing and repositioning to be able to provide coverage.

And I will certainly get into this more deeply, if confirmed, and that is, it becomes more of an issue of how one allocates, because we look at the terrestrial platforms that many of these satellites bounce off of. It is to me a question of: how do we equitably allocate so that rural communities have the same access and opportunity as the more developed urban centers? So I certainly appreciate the importance and the urgency, and I have had some direct experience in trying to do that.

Senator PRYOR. Senator Hutchison?

Senator HUTCHISON. Thank you, Mr. Chairman.

I would like to ask you, just as I asked Secretary Locke, when he came before the Committee, about opening access for American businesses in foreign countries to help our jobs and markets. What would be your approach to that issue and how could we do even more than we are doing now to open markets for the United States' businesses?

Mr. HIGHTOWER. I think, Senator Hutchison, again I would refer to and rely on experience having done that over the last 25 years, particularly in Eastern Europe and the Soviet Union, the Middle East, and Europe and also Asia.

First and foremost is the notion of enforcing the agreements that are in effect. We have a number of trade agreements where one could question the diligence by which we ensure that our companies who make that investment, who are trying to create opportunities for the global market are not always supported because of the relative lack of enforcement. So I think enforcement becomes a very key issue in order to set the framework, the proper framework, in order to do that.

Second, I think that we have got to look at some sort of partnership with small companies and large companies. The large companies became large because of a certain set of economic conditions which may not exist today that existed perhaps 30 or 40 years ago. So my experience has been that the extent to which we can provide strategic alliances where we have the larger companies providing certain capacity capability to recognize the skills and talents of the smaller companies, the “lift as you climb” approach, then we have the ability to close what I call the aspiration gap. There are companies of small size who have capacity and capability but who often do not have the opportunity to leverage that. Larger companies who are globally-based have that capacity and ability.

So I think, to the extent that we can provide some sort of linkage on the ground to allow this issue of what is my aspiration as a small company versus what is my current capability and how do we close that gap—I think to the extent that we can provide those kinds of strategic alliances and linkages as the larger companies begin to continue their expansion around the world, that again provides the next generation of economic opportunity for those companies here in the U.S.

Senator HUTCHISON. I think that is a very good point, and I hope you do pursue that with the Secretary.

Let me ask you if there are particular parts of the world that you think are important for us to have better trade relationships and investment opportunities with that you would suggest to the Secretary that the Commerce Department focus on.

Mr. HIGHTOWER. My recent experience suggests that it all focuses on Asia. If I believe most of the projections that I have read and have been a part of providing data for, in the next 25 years, over 60 percent of all consumer spending is going to occur between China and India. So to the extent that we understand that China, with roughly 25 to 26 percent of our current debt, has to be more of a spender as opposed to an investor, I think this will go a long way. So I think the emphasis and the effort directed in that regard will have handsome payoff to the extent that we have a focused strategy.

India likewise, because of their commitment to technology and excellence. Because as I have been in India and you look at what is happening there in Bangalore, as I mentioned, these young people are not coming to the United States anymore to study as their fathers might have done at MIT, Cal Tech, Rennselaer, and some of the other premier science and engineering schools. They are

being educated by the Indian institutes of technology. So they are reinvesting in their own people in those countries.

When you look at the sale of Jaguar and Range Rover to Tata, Tata now will become one of the largest automotive manufacturers in the world. So we are obliged to deal not only with Tata, we are obliged to deal with India because of the resources that the Indian economy is putting behind because they want a certain level of economic excellence and economic primacy as well. So unless we begin to understand how those two countries function, how they think about global economic development, we are going to have an issue that is not going to have the outcome that we want.

So I would say one of my early priorities certainly upon confirmation would be to look at, one, the trade issues and, two, how do we then use the leverage of the classic innovation and some of the new technology that we have and can bring to bear to change the dynamic that currently exists with those countries in particular.

Senator HUTCHISON. Mr. Chairman, I know my time is up, and the nominee's answers are very good. I would just make one point and that is I hope you will also look at Central and South America as a way to use trade and investment opportunities to help shore up democracies and stability in our own hemisphere.

Mr. HIGHTOWER. If I could just add to that, I think Brazil represents certainly that challenge. I remember when I was running businesses in Brazil back in 1979, 1980, and 1981 based in Mexico, the old cruzeiro was adding three zeroes every month. We were in 3,000 percent inflation, and I was managing businesses for Jack Welch at GE and Jack did not care whether the three zeroes were being added. He wanted the results.

So those countries now have attained a level of stability and economic prowess that we cannot ignore, and I agree with you certainly that these are the kinds of issues that we are going to have to face in Latin America.

Senator HUTCHISON. Thank you very much.

Senator PRYOR. Thank you.

Senator Begich?

**STATEMENT OF HON. MARK BEGICH,  
U.S. SENATOR FROM ALASKA**

Senator BEGICH. Thank you very much, Mr. Hightower, for your willingness to serve and also congratulations for you and your fiancée.

Mr. HIGHTOWER. Thank you.

Senator BEGICH. Also, to the other nominees, I will not be able to stay, but I look forward to having you all three confirmed. I think you bring incredible experience and ideas to the Commerce Department and the CPSC.

But just to be parochial for a moment, as a Senator from Alaska, I like to remind, as I did Secretary Locke, how the Commerce Department—half your budget is NOAA. Half of NOAA is Alaska.

[Laughter.]

Senator BEGICH. Not that I want to be parochial.

Mr. HIGHTOWER. I understand, sir.

[Laughter.]

Senator BEGICH. I want to make sure, as I tell folks, that the Commerce Secretary and Deputy Secretary are really going to be fishermen.

So I appreciate all your international trade conversation because I think that is important, but for Alaska's perspective and actually for the country, when you look at the fishing industry, which has about 58,000 people employed, we provide 62 percent of all the natural-caught fish in the country, which is international in its business. If you go to McDonald's and get a fish sandwich, probably 95 percent of that product is coming from Alaska. But because of the international trade issues, we also have strong interests in the markets specific of the Pacific Rim because of fishing.

So can you give me just a little comment—and I am going to go back to some of your others with regard to technology, especially in rural communities—but first on the fishing industry or what knowledge—and you can acknowledge if you do not have as much. That is fine. I am going to then also invite you to Alaska, as I do to every Commerce person. Fishing is good now too.

[Laughter.]

Senator BEGICH. But let me ask you, can you give me some thoughts on how you see that industry and maybe your role as the Deputy Secretary in regard to the fishing industry not only from a national perspective, but international?

Mr. HIGHTOWER. I think, one, it is fair to say that I have not been briefed on that issue. I can say that as a scuba diver of 30 years, that I do appreciate fish because that is one of the reasons why you dive, to see the wonderful fish.

But I do understand the importance of the issue, and I think as the Secretary and I begin to define how we will work together and the priorities, it is very clear, having spoken with Secretary Locke, that fishing, fisheries and fishery management are very high on the agenda and the extent to which I will have a direct role with NOAA and some of the related agencies, you can be assured that we will be collaborative and work with you on those issues because we do understand the importance of them.

Senator BEGICH. Excellent. I would be interested in, depending on how that role defines, if you are engaged in the fishing industry, we would love to, I am sure—I know Washington State—if Maria was here—Senator Cantwell and Senator Snowe were here, we would probably want to get you around to the different industries because they are very unique and they are very American. They produce jobs here and there is huge opportunity for value added.

Let me expand a little bit on your telecommunications in rural Alaska. As I like to describe here, we consider it extreme rural, because some areas you literally cannot drive to. So telecommunications, rural communications is critical for not only life safety but also for commerce. Can you expand a little bit? I heard you say a little bit about how to get to or how to expand into rural communities. Can you give me a little more meat on that? I would love to hear some.

Mr. HIGHTOWER. Yes. I think part of the issue—I, again, experienced this firsthand as a board member of PanAmSat where if the issue had to do with defense and some of the other esoteric bands that were bounced off of those satellites, there was never an issue



of repointing. When it came to other issues, they sort of fell by the wayside. I think having experienced the frustration of other users or other potential users not being able to have the repointing to allow the kind of coverage that you just described, I think that gives me a sensitivity, a level of understanding which I think I should be able to bring to bear in terms of how we then set priorities of what birds are in the air, whether it is Intelsat or some of the other providers now. And I think that is a collaborative effort because we understand the importance of defense and how those programs oftentimes take priority because I also sit on the Defense Business Board, so I do have an understanding of how that works and why it is necessary. But there are also other factors, as you described, that are equally as important, and we have got to figure out what a practical solution to those expanded opportunities are.

Senator BEGICH. Excellent. Again, for the same reason, I think we have some unique opportunities up there because of military as well as Commerce—

Mr. HIGHTOWER. Exactly.

Senator BEGICH.—the combination of the two and the rural aspect and how we use it for telemedicine and a variety of other life safety kind of issues. So we will look forward to that.

I will end on this last question, because my time has expired. In trade agreements, if you could name just the top three things that you think are important in trade agreements from our perspective, what would those be? And I will end there and let you just—

Mr. HIGHTOWER. Top three in terms of content or top three in terms of how we approach dealing with—

Senator BEGICH. How we approach dealing.

Mr. HIGHTOWER. I think we have got to approach the core elements of trade agreements on what is best for America. We have got to start from a certain premise that says: these are the areas that are peculiarly and uniquely important to us and we have got to then be willing to stand up and have the courage of conviction to fight for what we want. In the absence of that, we will find what has already happened in some of the Asian countries where the government has taken a role, a more aggressive role and has redirected resources to create an unfair playing field, one where company margins, if you look at the balance sheet, are unrealistically low. Investment incentives are unrealistically high. And we are trying to do it “the right way,” and in so doing, we often become a second class citizen in that process because we are playing with one arm tied behind our backs.

So I think to me, fundamentally, we have got to understand why we are there, what leverage we bring to bear, use some of the leverage financially, and other relationships. It requires partnerships also. Sometimes we have to call on our other partners who have supported us in other areas, other countries around the world to say, look, this is really how we have to deal with an emerging issue that is an unfair setting and correct that.

Senator BEGICH. Very good. Thank you very much. Thank you for your time and I wish you the best.

Mr. HIGHTOWER. Thank you, sir. Thank you very much.

Senator PRYOR. Senator Thune?

**STATEMENT OF HON. JOHN THUNE,  
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Thank you, Mr. Chairman.

Mr. Hightower, congratulations. Welcome to the Committee.

Mr. HIGHTOWER. Thank you very much.

Senator THUNE. I also want to welcome the nominees this morning for the CPSC and particularly recognize a classmate of mine from the House of Representatives, Anne Northrup, and her husband, Woody. I can say, having served for a number of years with her in the House, there is not anybody who cares more about the people that she represents or works harder on behalf of the people that she represented when she was a Member of the House of Representatives. Not only does she bring great talent to this position, but also great passion and a powerful work ethic that I think are going to reflect extremely well on the CPSC and on the Administration. So, a great selection by the President. And I want to welcome Anne and wish you well.

Mr. Hightower, Senator Begich has talked about the extreme rural in Alaska. I guess South Dakota would be near extreme.

[Laughter.]

Senator THUNE. We are probably not real extreme. But I am interested in some of the same issues that he mentioned. One in particular is the Broadband Technology Opportunity Program. My understanding is the first round of awards is not going to come until October, perhaps even later. I would just pose the question that given the primary thrust of the stimulus was job creation, can anything be done to speed up the timing of some of those awards?

Mr. HIGHTOWER. Again, Senator, until confirmation does occur, it certainly is not appropriate for me to dig deeply in that, but I do have, obviously, a point of view about that, which would suggest that the sooner we can do it, the better. And the way in which we define sort of the allocation metric is going to be an important determinant to ensure that the funds do get out to rural communities as expeditiously as possible within the context of the policy that I understand is in the process of being developed.

So if I were confirmed to be in that role as the Deputy Secretary, it is clear that that will be one of the top priorities because that is a clear issue that I know the Secretary has already made a commitment to, and as sort of the chief operating officer, if you will, of the Department, clearly that is going to be on my list.

Senator THUNE. Well, I look forward to working with you on that. As I said, part of this is timing and getting as much accelerated as we can to get the optimum value of the job creation potential that exists with that program.

What do you see—sort of looking in the crystal ball—as perhaps the greatest long-term threat to our economy right now, as you project out into the future?

Mr. HIGHTOWER. I think the threat posed has two elements to it, at least. The external threat, I believe, is the one that I began to describe earlier and that is countries beginning to see themselves as on par with us in terms of innovation and creativity and creating that entrepreneurial base that drives future development and the willingness of countries to change and re-allocate their re-

sources such as Japan, Inc. did in the electronics industry in the 1960s.

The second threat I believe is an internal one of malaise. To the extent that jobs do not get created, to the extent that companies do not recover, then we find ourselves being sort of hit by a double whammy. And there is a morale issue that says how do you then reconstitute and recreate that manufacturing base. How do you deal with outsourcing versus development from within? So I think the extent to which we can get our arms and our minds around the severity of not doing the right thing to get these jobs created, that is perhaps a greater threat than even the external.

Senator THUNE. Let me just ask one question with regard to an issue that I think is on everybody's mind these days, and that is the fiscal situation that we find ourselves in as a nation, trillion dollar deficits projected out as far as the eye can see.

The Department of Commerce has 37,000 employees and a \$13 billion budget. I guess I am interested in what your thoughts are in terms of, as you take over the day-to-day management of that, improving the operations of the management of the Department in a way that would save tax dollars and hopefully get the Department operating in a way that is less costly and maybe help us tackle, at least to some extent, the deficit issue that is, I think, really going to plague us in the future if we do not get our arms around it.

Mr. HIGHTOWER. I think it would fall into what I would consider sort of a classic taking over a new business approach where my role, I think, would be to go in and understand sort of the race—you know, what is going on right now and understanding not only the mission, you know, the things that are the key objectives that are currently underway and what the outcomes are going to be and the cost of those outcomes, and then performing a fairly sophisticated, what we would call an overhead value analysis to say are the things that we have set about doing the right things and are we putting the right sorts of resources behind.

I would say it would be more of a surgical approach where there are elements of those 11 agencies who may need more resources, but the tradeoff will be who would then take less resources, understanding that the pie is fairly fixed, that there is a finite amount that we are going to be working with. This is an approach I have taken in every business that I have run over the last 25 years. I think I understand how to do that, and the key will be making sure I understand where we are now in order to know what is the correct, right-sizing because is what we are really talking about. And that always has an economic fallout, which is we are being more efficient, more productive using the taxpayers' dollars in a much more efficient manner.

Senator THUNE. Well, I can say I think we look forward to working with you on that subject as well.

Mr. HIGHTOWER. Likewise.

Senator THUNE. Mr. Chairman, we have, as you know, many important issues in this Committee, such as FAA reauthorization, a new multiyear highway bill, issues dealing with broadband stimulus funding, as I mentioned earlier, and CPSC. There are many important issues to work with you on. So we look forward to that.

Mr. HIGHTOWER. I am looking forward as well, upon confirmation.

Senator THUNE. Thank you for your willingness to serve.

I see my time has expired. Thank you, Mr. Chairman.

Senator PRYOR. Thank you, Senator Thune.

I want to thank you, Mr. Hightower, for being here today. Senator Hutchison and I do not have any other questions, but we want to thank you for being here today and thank you for your participation and all your preparation.

Mr. HIGHTOWER. Thank you very much.

Senator HUTCHISON. Thank you very much. You did a very nice job.

Mr. HIGHTOWER. Thank you. Mike Montelongo sends his regard as well.

Senator HUTCHISON. Oh, good. Thank you very much.

Mr. HIGHTOWER. An old friend.

Senator HUTCHISON. Yes. He is very good as well. Thank you.

Mr. HIGHTOWER. Thank you very much, Senator. Thank you, sir.

Senator PRYOR. Thank you.

We are going to bring up our second panel now, which is Robert Adler and Anne Northup. If you all could swap out the seats there. What I would like to do is recognize Mr. Adler first for his 5-minute opening and then recognize Ms. Northup for hers. So as soon as we get situated, we will be underway.

Again, welcome, both of you, to the Committee. Mr. Adler, if you could go ahead and start.

**STATEMENT OF ROBERT S. ADLER, COMMISSIONER-  
DESIGNATE, U.S. CONSUMER PRODUCT SAFETY COMMISSION**

Mr. ADLER. Thank you very much, Senator Pryor. Good morning, Senator Pryor, Ranking Member Hutchison, and members of the Senate Commerce, Science, and Transportation Committee.

I am extremely honored to have been nominated by President Obama to serve as a Commissioner at the U.S. Consumer Product Safety Commission, an agency that I have been involved with, one way or another, for the past 36 years. If confirmed, I look forward to working with newly appointed Chairman Inez Tenenbaum and the other CPSC Commissioners and I hope soon-to-be Commissioner, Anne Northup, to promote product safety for American consumers in a vigorous and responsible fashion.

At this point, I would like to introduce my wife, Terrie Gale, and my son, Paul Adler. Terrie has just stepped down after 17 years as the Attorney for the police department in Chapel Hill, North Carolina, and if you were wondering who dealt with the 50,000 screaming fans after we won the NCAA championship, you are looking at her. This January, Terrie and I will celebrate 35 years of marriage, and I want to thank her for her love, support, and friendship over these years.

My son, Paul, is a third-year graduate student on his way to a Ph.D. in modern American history at Georgetown University. What amazes me about my son is that as a result of his studies, he now knows more about the 1960s and the 1970s than I do, and I lived through them.

Mr. Chairman and Members of the Committee, as I reflect on my life and career, I like to think of it as one dedicated to public service, which I hope to continue at the CPSC. Going back some 40 years, I was one of those early eager volunteers in the War on Poverty. In that case, I went to work in a legal services program in Pittsburgh where I specialized in consumer law reform litigation, which sparked a lifelong commitment on my part to promoting and protecting consumer rights.

Following this job, I served as a Deputy Attorney General for the Pennsylvania Justice Department, heading a regional office of consumer protection. At the Bureau of Consumer Protection, among other things, I fought to stop pyramid sales schemes, bad collection practices, odometer rollbacks, and a whole variety of business fraud.

While I was in Pittsburgh, I helped organize a local consumer group headed by a professor of electrical engineering at Carnegie-Mellon University named David Pittle. And David is actually in the audience somewhere. One day out of the blue, David informed me that he was soon to be appointed as one of the five original Commissioners at the newly established Consumer Product Safety Commission. To my delight, he invited me to join him as his attorney-adviser, which began my 36-year association with the CPSC, which is an agency whose mission I strongly cherish and support.

I actually worked on Commissioner Pittle's staff for 9 years, and each year that passes confirms for me that he represents the very best of what a CPSC Commissioner should be. With a Ph.D. in electrical engineering and a solid foundation in science, he never fell for rhetorical or simplistic solutions. He always insisted on sound facts supported by technical excellence when he made decisions. Never once in the years I worked for him do I recall him casting a product safety vote in a political or partisan manner. Should I be confirmed, I hope to operate with the same dedicated, pragmatic, data-driven, fact-based approach that he did.

Shortly after this, I joined the Subcommittee on Health and the Environment of the House Energy and Commerce Committee which was then chaired by Congressman Henry Waxman, and one of my major assignments was oversight of the Consumer Product Safety Commission. I am sure everyone here knows Congressman Waxman's many outstanding accomplishments as a legislator, but on a personal note, I want to say he is one of the finest, most decent, and gracious bosses I have ever had.

After my years on the Health Subcommittee, I received and accepted an offer to join the faculty at the University of North Carolina at Chapel Hill as one of four law professors in the business school. After years of late nights spent researching, writing, and publishing, I did receive tenure and today I am a full professor with the title of Luther Hodges, Jr. Scholar in Law and Ethics.

Mr. Chairman, as I contemplate a return to the CPSC, I am well aware that the product safety challenges are not necessarily the same as when I left. To pick just one example, I note that imported products now present far more serious problems than in years past. In fact, as I understand it, roughly 85 percent of current CPSC recalls involve imported products.

Nor is the CPSC the same agency that I left. It has gone through some very turbulent times over the years and, to my way of thinking, regrettably has emerged as a far smaller agency, though with the same very large mandate. For example, I note that even with the infusion of the new funding in Consumer Product Safety Improvement Act, the agency's authorized staff level remains more than 40 percent below that of 30 years ago.

I would like to make one last brief comment about the recently enacted CPSIA. I believe that passage of this act stands as a monumental achievement in promoting product safety, and I want to commend the Congress for enacting it. But I can see the challenge of meeting the 40-plus deadlines in the act, and I know that has been, and continues to be, an immense and daunting challenge. I have little doubt that every staff member at the agency will work tirelessly to implement the many remaining requirements, and if I am confirmed, I hope to be part of that massive effort.

I certainly look forward to working with all of you and your staffs, if I am confirmed. From my perspective, the critical element is to maintain a clear, transparent line of communication between the agency and the Congress so that both sides are confident that American consumers' best interest is being served.

I thank you so much for considering my nomination to be a CPSC Commissioner, and if confirmed, I pledge my strongest commitment to carrying out my responsibilities in this job. I look forward to your questions.

[The prepared statement and biographical information of Mr. Adler follows:]

PREPARED STATEMENT OF ROBERT S. ADLER, COMMISSIONER-DESIGNATE,  
U.S. CONSUMER PRODUCT SAFETY COMMISSION

Good morning, Mr. Chairman, Ranking Member Hutchison, and members of the Senate Commerce, Science, and Transportation Committee.

I am extremely honored to have been nominated by President Obama to serve as a Commissioner at the U.S. Consumer Product Safety Commission (CPSC), an agency that I have been involved with in one way or another for the past 36 years. If confirmed, I look forward to working with newly-appointed Chairman Inez Tenenbaum and the other CPSC Commissioners to promote product safety for American consumers in a vigorous and responsible fashion.

I would like to introduce my wife, Terrie Gale, and my son, Paul Adler. Terrie has just stepped down after 17 years as the attorney for the police department in Chapel Hill, North Carolina. This January, Terrie and I will celebrate 35 years of marriage, and I thank her for her love, support and friendship over these years.

My son, Paul, is a third year graduate student on his way to a Ph.D. in Modern American History at Georgetown University. What amazes me about Paul is that, as a result of his studies, he knows more about the 1960s and 1970s than I do—and I lived through them.

Mr. Chairman and members of the Committee, as I reflect on my life and career, I like to think of it as one dedicated to public service—which I hope to continue at the CPSC. As a young lawyer some 40 years ago, I eagerly enlisted in the War on Poverty in a program run by the Federal Office of Economic Opportunity as a Reginald Heber Smith Community Lawyer, or "Reggie" as we were called. In this capacity, I worked at a legal services program in Pittsburgh for several years specializing in consumer law reform litigation—which sparked a lifelong commitment to promoting and protecting consumer rights.

Following this job, I served as a Deputy Attorney General for the Pennsylvania Justice Department heading a regional office of consumer protection. At the Bureau of Consumer Protection, among other things, I fought to stop pyramid sales schemes, bad collection practices, odometer rollbacks, and other varieties of business fraud. Dealing with the victims of these abuses only heightened my commitment to safeguarding consumers in the marketplace.

During my years in Pittsburgh, I helped organize a local consumer group headed by a Professor of Electrical Engineering at Carnegie-Mellon University, David Pittle. One day out of the blue, David informed me that he was soon to be appointed as one of the five original Commissioners at the newly-established Consumer Product Safety Commission. To my delight, he invited me to join him as his attorney-adviser. Thus, began my 36-year association with the Consumer Product Safety Commission, an agency whose mission I strongly cherish and support.

I worked on Commissioner Pittle's staff for 9 years, and each year that passes confirms for me that David represents the very best of what a CPSC Commissioner should be. Given his deep commitment to the consumer movement, David always fought to protect and promote consumer rights, but he relied on more than sympathy and good intentions. With a Ph.D. in electrical engineering and a solid foundation in science, David never fell for rhetorical or simplistic solutions. He always insisted on sound facts supported by technical excellence when he made decisions. Never once in the years I worked for him do I recall him casting a product safety vote in a partisan manner. Should I be confirmed, I hope to operate with the same dedicated, pragmatic, fact-based approach that he did.

After David's departure, I briefly worked for Sam Zagoria, a wonderful and witty CPSC Commissioner who left the agency when Ben Bradlee, the editor of the *Washington Post*, asked him to join the paper as its Ombudsman. This ended my years working at the CPSC, but did not end my involvement with the agency. Shortly after this, I joined the Subcommittee on Health and the Environment of the House Energy and Commerce Committee chaired by Congressman Henry Waxman, where one of my major assignments was oversight of the CPSC. I'm sure everyone here knows Congressman Waxman's many outstanding accomplishments as a legislator, but on a personal note I want to say that he is one of the finest, most decent and gracious bosses I've ever had.

After several years on the Health Subcommittee, I accepted an offer to join the faculty at the University of North Carolina at Chapel Hill as one of four law professors in the business school. After several years of late nights spent researching, writing and publishing, I received tenure, and I am today a full professor with the title of Luther Hodges, Jr., Scholar in Law and Ethics.

In my 20-plus years at Kenan-Flagler, as the business school is now known, I have served as Associate Dean heading its undergraduate program and later its MBA program. I have taught a variety of commercial law courses, the school's mandatory business ethics course, and, most recently, a course in negotiation. In addition, for several years, I taught a course in business-government relations.

One of the delights of being a professor for me has been the opportunity to reflect on my time at the CPSC and on the Hill working on product safety issues. I have written a number of articles on these topics, and I think my understanding of the issues has grown as a result of my academic research. My commitment to and support for the CPSC as a necessary part of protecting consumers in the market has certainly deepened over the years.

As I contemplate a return to the CPSC, I am well aware that the product safety challenges are not necessarily the same as when I left. To pick just one example, I note that imported products now present far more serious problems than in years past. In fact, as I understand it, roughly 85 percent of current CPSC recalls involve imported products.

Nor is the CPSC the same agency that I left. It's gone through some turbulent times and regrettably has emerged as a far smaller agency—though with the same large mandate. In 1981, for example, the CPSC had a staff of roughly 900 FTE's. And while I am extremely encouraged by the recent hiring of a number of talented new agency staff, I note that even with the infusion of new funding in the Consumer Product Safety Improvement Act (CPSIA), the agency's authorized staff level remains more than 40 percent below that of thirty years ago.

I would like to make one brief comment about the recently-enacted CPSIA. I believe that passage of this Act stands as a monumental achievement in promoting product safety, and I can see that the challenge of meeting the 40-plus deadlines in the Act has been and continues to be immense and daunting. That said, I know that the CPSC staff has already met numerous deadlines through their hard work, and I have little doubt that every staff member at the agency will work tirelessly to implement the many remaining requirements. If I am confirmed, I hope to be part of that massive effort.

I also look forward to working with all of you and your staffs if I am confirmed. From my perspective, the critical element is to maintain a clear, transparent line of communication between the agency and the Congress so that both sides are confident that American consumers' best interest is being served.

I thank you for considering my nomination to be a CPSC Commissioner, and, if confirmed, I pledge my strongest commitment to carrying out my responsibilities in this job. I am now delighted to answer your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):  
Robert Sanford Adler.  
Nickname: Bob.
  2. Position to which nominated: Commissioner, U.S. Consumer Product Safety Commission.
  3. Date of Nomination: June 9, 2009.
  4. Address (List current place of residence and office addresses):  
Residence: Information not released to the public.  
Office: Room 4412 McColl Building, CB# 3490, McColl Building, Kenan-Flagler Business School, University of North Carolina—Chapel Hill, Chapel Hill, NC 27599-3490.
  5. Date and Place of Birth: September 27, 1944; Reno, Nevada (Washoe County).
  6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
Spouse: Terrie Jean Gale, Police Attorney, Chapel Hill Police Department, Chapel Hill, North Carolina; children: Paul Kogan Adler (son), Age 27, Graduate student in History, Georgetown University.
  7. List all college and graduate degrees. Provide year and school attended.  
J.D., 1969, University of Michigan Law School.  
A.B., 1966, University of Pennsylvania.
  8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
2003–present—Luther Hodges, Jr. Scholar in Law & Ethics (effective 2006), Professor of Legal Studies, Kenan-Flagler Business School.  
2002–2003—*Associate Dean, MBA Program, Kenan-Flagler Business School.*  
1995–2002—Professor of Legal Studies, Kenan-Flagler Business School.  
1994–1998—*Associate Dean, Undergraduate (BSBA) Program, Kenan-Flagler Business School, University of North Carolina.*  
1987–1995—Associate Professor of Legal Studies, Kenan-Flagler Business School, University of North Carolina (received tenure, 1990).  
1985–1987—Counsel to the Subcommittee on Health and the Environment, Committee on Energy and Commerce, U.S. House of Representatives, Washington, D.C.  
1984–1985—Of Counsel, Schmeltzer, Aptaker and Sheppard, Washington, D.C.  
1983–1985—Adjunct Professor, Washington College of Law, American University, Washington, D.C.  
1982–1984—Attorney-advisor to Commissioner Sam Zagoria, U.S. Consumer Product Safety Commission, Washington, D.C.  
1973–1982—Attorney-advisor to Commissioner R. David Piffle, U.S. Consumer Product Safety Commission, Washington, D.C.  
1971–1973—*Deputy Attorney General, Director, Southwestern Regional Office, Pennsylvania Bureau of Consumer Protection, Pennsylvania Justice Department, Pittsburgh, PA.*  
1969–1971—*Director, Consumer Division, Neighborhood Legal Services Association, Pittsburgh, PA.*
- I have highlighted above the jobs in which I have had management/supervisory responsibility (as opposed to strictly academic or professional responsibility). Most of the jobs I have held since 1973 have related in some fashion, either by employment or my scholarship, to consumer issues, and specifically to consumer product safety issues.
9. Attach a copy of your resume. A copy is attached.



10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

Member, Obama Transition Team and co-author of Report on U.S. Consumer Product Safety Commission, 2008–2009.

Member, North Carolina Chief Justice's Commission on Professional Responsibility, 2007–2008.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Name/Location	Position/Nature of Affiliation	Dates
Bylinski Consulting Chapel Hill, NC	Provide negotiation and ethics training to Navy Advanced Mgt. Program at Navy Logistics Base in Athens, GA	From at least 2001 to present; 2–3 times a year on average
Institute for Defense and Business, Chapel Hill, NC	Provide negotiation training to military officials who run depots and manufacture arsenal (also, I taught one negotiation course in MBA Program run by IDB)	From 2004 to present; once a year
Eastman Chemical Company Kingsport, TN	Provide two-day negotiation training sessions	2003 to present; 2–3 times a year
C.B. Fleet, Inc. Lynchburg, VA	Provided a one-day negotiation program at company headquarters	January 2008 (one-time event)
Sherman Associates Minneapolis, MN	Provided a one-day negotiation program at company headquarters	January 2007 (one-time event)
N.C. State University and Food Systems Leadership Institute, Raleigh, NC	Provided half-day negotiation program to incoming deans of Schools of Agriculture	Once in 2008 and once in 2005
Hutchison Law Group Raleigh, NC	Provided one-day negotiation training course to law firm	July 2007 (One-time event)
Wells Fargo Bank Des Moines, IA	Provided two-day negotiation training programs for bank officials	From at least 2001 to 2007
Duke Corporate Education, Thomas Center, Durham, NC	Provided evening program on ethics to VNU Corporation for Duke Ed Center	September 2005 (One-time event)
McDonald's Corporation, Oak Brook, IL	Provided ethics training for senior company officials	From at least 2000 to 2005
Program on Public Life, Center for the Study of the American South, University of North Carolina, Chapel Hill, NC	Provided a lecture on ethics to Conference of Southern Legislators	Once in 2007 & once in 2008
Public Health Leadership Institute, Gillings School of Public Health, University of North Carolina, Chapel Hill, NC	Provided negotiation training program to public health officials	2003–2005 (no work done since 2005)
CMR Institute, Roanoke, VA	Reviewed a textbook on ethics in medical device field	Once in 2004 and once in 2007
American College of Obstetricians & Gynecologists Leadership Institute, NC Institute for Public Health, Carrboro, NC	Teach a half-day program on negotiation skills	2005 to present; once a year
Consumers Union Yonkers, NY	Member, Board of Directors. CU is the publisher of <i>Consumer Reports</i> .	1989 to 2009 (resigned, 5/2009)

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any or-

ganization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Member, Board of Directors of Consumers Union, publisher of *Consumer Reports* magazine, 1989–05/2009. No membership restrictions.

Member, North Carolina Bar, 1989–present. No membership restrictions.

Member, District of Columbia Bar (inactive), 1976–present. No membership restrictions.

Member, Pennsylvania Bar (inactive), 1969–present. No membership restrictions.

Member, Academy of Legal Studies in Business, 1987–present. No membership restrictions.

Member and occasional Chair of various university committees and academic organizations affiliated with University of North Carolina-Chapel Hill. No membership restrictions.

Member, Chapel Hill Kehillah Synagogue, 2003. Membership limited to Jewish faith or spouse (or partner) of Jewish member of congregation.

Member, Judea Reform Synagogue, 1989–2003. Membership limited to Jewish faith.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Barack Obama, 2008—\$825.00

John Edwards, 2007–2008—\$595.00

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Faculty Appreciation Award for Distinguished MBA Teaching (2005–2009).

Recipient of Dean's Teaching Bonus (2005–2006) (2006–2007).

Gerald Barrett Faculty Award (excellence in teaching and service in the UNC Kenan-Flagler MBA Program) 2004.

Best Article Award, CPR Institute for Dispute Resolution, for article in *Harvard Negotiation Law Review* ["When David Meets Goliath: Dealing With Power Differentials in Negotiations, 5 Harv. Neg. L. Rev. (Summer 2000) pp. 1–112 (co-authored with Elliot Silverstein)].

President, The University of North Carolina at Chapel Hill, Academy of Distinguished Teaching Scholars, 2003–2007 (association of faculty who have won university-wide teaching awards).

Order of the Grail-Valkyries, 1999 (UNC Student and Faculty Honorary Society).

Order of the Golden Fleece, 1997 (UNC Student and Faculty Honorary Society).

Tanner Award for Excellence in Undergraduate Teaching (university-wide teaching award), 1996.

O'Herron Scholar, (excellence in teaching and research) 1996.

Elected to Board of Directors, Consumers Union, publishers of *Consumer Reports* (1989–2009) (resigned 5/2009).

McCull Award for Teaching, Research and Service Excellence, 1994. (UNC Business school award).

UNC Business School Undergraduate Program Distinguished Teaching Award, 1990.

Federal Executive Board, Outstanding Achievement, 1973.

Reginald Heber Smith Fellow, 1969–1971.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

(a) *Refereed Articles:*

- “Mastering the Art of Negotiating With Liars,” *Sloan Management Review*, Vol. 48, No. 4 (Summer 2007) pp. 69–74.
- “Flawed Thinking: Addressing Decision Biases in Negotiation,” *Ohio State Journal on Dispute Resolution*, Vol. 20, No. 3 (2005) pp. 683–774.
- “When David Meets Goliath: Dealing With Power Differentials in Negotiations,” *Harvard Negotiation Law Review*, (co-authored with Elliot Silverstein) Vol. 5 (Summer 2000) pp. 1–112.
- “Here’s Smoking At You, Kid: Has Tobacco Product Placement in the Movies Really Stopped?” *University of Montana Law Review*, Vol. 60 (2) (Summer 1999) pp. 243–284.
- “Emotions in Negotiation: How to Handle Fear and Anger,” (co-authored with Ben Rosen and Elliot Silverstein) *The Negotiation Journal* Vol. 14 (2) (April 1998) pp. 161–179.
- “The Preemption Pentad: Federal Preemption of Products Liability Claims After *Medtronic v. Lohr*,” (co-authored with Rob Leflar) *University of Tennessee Law Review* Vol. 64 (Spring 1997) pp. 691–748.
- “Encouraging Employers To Abandon Their ‘No Comment’ Policies Regarding Job References: A Reform Proposal,” (co-authored with Ellen Peirce) *Washington & Lee Law Review*, Vol. 50, No. 4 (1996) pp. 1381–1469.
- “Addressing Product Misuse at the Consumer Product Safety Commission: Redesigning People Versus Redesigning Products,” *University of Virginia Journal of Law & Politics* Vol. XI, No. 1 (Winter 1995) pp. 79–127, reprinted in Charles H. Koch, Jr., *Fundamentals of Administrative Practice and Procedure* (3rd ed.)
- “Preemption and Medical Devices: The Courts Run Amok,” (co-authored with Richard Mann) *University of Missouri Law Review* Vol. 59 (Fall 1994) pp. 895–945.
- “Good Faith: A New Look At An Old Doctrine,” (co-authored with Richard A. Mann) *Akron Law Review* Vol. 28 (Summer 1994) pp. 31–52.
- “The Last Best Argument for Eliminating Reliance From Express Warranties: ‘Real World’ Consumers Don’t Read Warranties,” *U. of So. Carolina Law Review*, Vol. 45 (Spring 1994) pp. 429–475.
- “Avoiding Misuse of New Information Technologies,” (co-authored with Paul Bloom and George Milne) *Journal of Marketing*, Vol. 58 (January 1994) pp. 98–110.
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“Cajolery or Command: Are Education Campaigns an Adequate Substitute for Regulation?” *Yale Journal on Regulation*, Vol. 1, No. 2 (1984) (co-authored with R. David Pittle) pp. 159–193.

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(b) *Chapters in Books:*

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“Psycholegal Aspects of Organizational Behavior: Assessing and Controlling Risk” in *Handbook of Psychology and Law*, eds. Dorothy K. Kagehiro & William S. Laufer, pp. 523–541 (co-authored with Alan J. Tomkins & Bart Victor)(1992).

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“Thrust and Parry: The Art of Tough Negotiating,” (co-authored with Ben Rosen and Elliot Silverstein) *Training & Development*, Vol. 50, No. 3 (March 1996) 42–48.

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“Will CPSC Halt U.S. Export of Hazardous Items? *Legal Times* (April 16, 1984) pp. 113. “Does CPSC’s Past Bode Ill for Future of Regulatory Negotiations?” *Legal Times* (June 20, 1983)(co-authored with R. David Pittle) pp.10–11.

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“Innovation, Safety, and Costs: A Delicate Balance,” Review of *Managing the Medical Arms Race: Innovation and Public Policy in the Medical Device Industry*, (University of California Press) in *Health Affairs*, Vol. 12, No. 3 (Fall 1993) pp. 271–273.

Review of *The Product Liability Handbook: Prevention, Risk, Consequence and Forensics of Product Failure*, ed. Sam Brown (Van Nostrand Reinhold 1991), *Products Liability Law Journal*, Volume 3, No. 3 (May 1992) pp. 212–218.

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“Time to Strengthen Consumer Protection,” *Christian Science Monitor* (May 8, 1989)(coauthored with R. David Pittle) p. 18.

*Lawsuits Without Lawyers*, monograph on lawsuits in small claims courts (1973) (coauthored with Carol Knutson, Larry Slesinger, and David Worstell) pp. 1–49.

(f) *Speeches and Presentations:*

“Consumer Product Safety Commission: Reflections from the Obama Transition Team” to Conference of International Consumer Product Health and Safety Officials (ICPHSO), Orlando, Florida (February 25, 2009).

“One Million ATV Injuries Later. . . Will the End of the Consent Decree Bring More Consumer Litigation? The Government Perspective” Nationwide Teleconference by Telephone, December 2 and December 4, 1998.

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“Product Safety versus Product Liability,” at conference of International Consumer of Consumer Product Health and Safety Officials (February 29, 1996).

“Remarks on CPSC Long-Range Plan,” testimony before Chairman and Commissioners of the U.S. Consumer Product Safety Commission, Washington, D.C. (June 18, 1992).

“Regulation, Deregulation, and Reregulation,” presented at American Business Law Association Conference (August 17, 1990), Toronto, Canada (jointly presented with Richard A. Mann).

“The Role of Federal Safety Standards in Product Liability Litigation, presented at Conference on “Avoiding Product Liability Suits,” Union College (July 12, 1990).

“Needed: A College for Regulators,” presented at Southeastern Regional Business Law Association Conference (Fall, 1988).

“Federal Deregulation and State Reregulation,” presented to the American Bar Association Committees on Consumer Product Regulation and State Administrative Law of the Administrative Law Section and the Section of Urban, State and Local Government Law (August 11, 1987).

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I wish to serve as a Commissioner because of my long professional and personal commitment to consumer issues and to the CPSC specifically. I can think of few more critical causes than reducing consumer-related injuries, illness, and death. I believe that my background demonstrates an ongoing commitment to consumer product safety issues and to consumer protection generally. After law school, I worked as the Chief of the Consumer Division of a legal services program in Allegheny County, PA. Thereafter, I served as a Deputy Attorney General in charge of a regional office of the Bureau of Consumer Protection for the PA Justice Department.

Subsequent to this consumer protection experience, I have spent the better part of the past 36 years involved in the CPSC in one form or another. I served as an attorney-adviser to two CPSC Commissioners (R. David Pittle, from 1973–1982 and Sam Zagoria from 1982–1984). I subsequently served as Counsel to the Subcommittee on Health and the Environment of the House Energy and Commerce Committee doing oversight of the CPSC. After that, I became a professor at the University of North Carolina where I have written numerous articles on consumer product safety issues. And from October 2008–January 2009, I served as a member of the Obama Transition Team on which I coauthored the Transition Team Report on the Consumer Product Safety Commission.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

Under the governing act of the agency, the Consumer Product Safety Act, the Chair has the primary responsibility for managing the agency. Commissioners, how-

ever, share equally in setting agency policies and have a broad right to monitor the implementation of those policies. Given this shared responsibility, I commit myself to monitoring the management and accounting activities of the CPSC in a conscientious manner to the extent that the governing statute of the agency gives me the authority and responsibility to do so.

My management experience began when I ran a regional office of the Pennsylvania Justice Department in Pittsburgh where I had a staff of roughly 7 investigators and administrative personnel. At the Kenan-Flagler Business School, as an Associate Dean for the BSBA Program, I ran the undergraduate business program which included 4 professional staff and roughly 600 undergraduate students. Later, as Associate Dean of the MBA Program, I ran the school's MBA Program, which included roughly 10 professional staff and 600-plus MBA students.

20. What do you believe to be the top three challenges facing the department/agency, and why?

I believe that the first big challenge facing the CPSC is implementing the multitude of new requirements contained in the recently-enacted Consumer Product Safety Improvement Act. This will be particularly challenging in light of the limited staff resources available to the agency.

A second challenge is to make the CPSC, a very small agency, as effective as it can be in protecting consumers. Being small is not always a disadvantage if the agency can demonstrate a truly nimble and thoughtful approach to product safety. I would work to use the digital revolution to expand the agency's outreach and effectiveness both with consumers and industry.

A third challenge is restoring morale within the agency among the dedicated CPSC staff. Recent government-wide surveys reveal that CPSC staff love the mission of the agency, but do not feel that it is a good place to work. Strong steps should be taken to reinvigorate the staff.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

*Retirement Accounts:* Virtually all of my retirement accounts are in broad based mutual funds with no individual company holdings. The only other large holding I have is a money market account in U.S. Treasuries.

*Ongoing Business Dealings:* My ongoing relationships with clients and customers have mainly been through the Kenan-Flagler Business School's Executive Development Center which provides executive and leadership programs to businesses and trade associations. I plan to terminate all work with the Executive Development Center if I am confirmed.

My other relationships outside of the Executive Development Center lie in providing negotiation and ethics training sessions to several groups, mainly the U.S. Navy, various public health groups, and Eastman Chemical Company, a manufacturer of plastic products for industrial use. I plan to terminate all educational training sessions with these groups if I am confirmed.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the CPSC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the CPSC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the Administration and execution of law or public policy.

I have done no advocacy on issues of public policy beyond my regular research and teaching activities as a professor with the following two exceptions: (1) I served on the Obama Transition Team from October 2008–January 2009, co-authoring the report on the Consumer Product Safety Commission, and (2) in Fall 1999, I joined with several professors of law across the country in filing an *Amicus Curiae* brief in the case of *Geier v. American Honda Motor Co.*, 1999 WL 966514, in support of the Petitioners. Our brief argued that the state common law claim of the petitioners should not be preempted by a regulation issued by the National Highway Traffic Safety Administration.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the CPSC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain.

When I served as a Deputy Attorney General in the Bureau of Consumer Protection in the Pennsylvania Justice Department, I investigated an individual for fraud in 1972 or 1973. At one point, he wrote a letter to the Bar Association that accused me of trying to intimidate him during a negotiation for a consent decree (which he never signed). As I recall, I disputed this complaint, pointing out that the individual's attorney sat through the entire negotiation and disagreed with his client's characterization of events. The Bar Association dismissed the charge against me. Whether this was considered a formal complaint, I cannot recall. When I last checked with the Bar Association many years ago, I was told that they have no record of any complaint listed against me. I cannot recall the name of the complainant.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

Yes. I filed a lawsuit in 1973 or 1974 in Allegheny County, PA (or in the district court for the western district of Pa.) as the plaintiff in a case under the Fair Credit Reporting Act against a company that had illegally run a credit check on me while I was investigating them for possible consumer fraud violations. We settled the case before trial, with the company paying me roughly \$3,000. Despite my best efforts, I cannot find my records of the case. I recently spoke to the attorney who handled my case. He has changed law firms several times over the years, and he cannot recall any of the details of the case either.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

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RESUME OF ROBERT SANFORD ADLER

**Education**

J.D., University of Michigan Law School, 1969.

A.B., University of Pennsylvania, 1966, *cum laude*.

**Honors, Awards, Special Recognition**

Faculty Appreciation Award for Distinguished MBA Teaching, (2005–2006) (2006–2007) (2008–2009).

Recipient of Dean's Teaching Bonus, (2005–2006) (2006–2007).

Gerald Barrett Faculty Award (excellence in teaching and service in the Kenan-Flagler MBA Program), 2004.

Best Article Award, CPR Institute for Dispute Resolution, for article in *Harvard Negotiation Law Review*, 2001.

President, The University of North Carolina at Chapel Hill Academy of Distinguished Teaching Scholars, 2003–2007.

Order of the Grail-Valkyries, 1999.

Order of the Golden Fleece, 1997.

Tanner Award for Excellence in Undergraduate Teaching (university-wide teaching award), 1996.

O'Herron Scholar, (excellence in teaching and research) 1996.

Elected to Board of Directors, Consumers Union, publishers of *Consumer Reports* (6th term; first elected, 1989).

McCull Award for Teaching, Research and Service Excellence, 1994.

Undergraduate Program Distinguished Teaching Award, 1990.

Federal Executive Board, Outstanding Achievement, 1973.

Reginald Heber Smith Fellow.

**Employment**

2003–present, Professor of Legal Studies, Kenan-Flagler Business School.

2002–2003, Associate Dean, MBA Program, Kenan-Flagler Business School.

1995–2002, Professor of Legal Studies, Kenan-Flagler Business School.

1994–1998, Associate Dean, Undergraduate (BSBA) Program, Kenan-Flagler Business School, University of North Carolina, Chapel Hill, North Carolina.

1987–1995, Associate Professor of Legal Studies, Kenan-Flagler Business School, University of North Carolina, Chapel Hill, North Carolina (received tenure, 1990).

1985–1987, Counsel to the Subcommittee on Health and the Environment Committee on Energy and Commerce, U.S. House of Representatives, Washington, D.C.

1984–1985, Of Counsel, Schmeltzer, Aptaker and Sheppard, Washington, D.C.

1983–1985, Adjunct Professor, Washington College of Law, American University, Washington, D.C.

1982–1984, Attorney-advisor to Commissioner Sam Zagoria, U.S. Consumer Product Safety Commission, Washington, D.C.

1973–1982, Attorney-advisor to Commissioner R. David Pittle, U.S. Consumer Product Safety Commission, Washington, D.C.

1971–1973, Deputy Attorney General, Director, Southwestern Regional Office, Pennsylvania Bureau of Consumer Protection, Pennsylvania Justice Department, Pittsburgh, PA.

1969–1971, Director, Consumer Division, Neighborhood Legal Services Association, Pittsburgh, PA.

**Publications**

(a) *Refereed Articles:*



- "Mastering the Art of Negotiating With Liars," *Sloan Management Review*, Vol. 48, No. 4 (Summer 2007) pp. 69–74.
- "Flawed Thinking. Addressing Decision Biases in Negotiation," *Ohio State Journal on Dispute Resolution*, Vol. 20, No. 3 (2005) pp. 683–774.
- "When David Meets Goliath: Dealing With Power Differentials in Negotiations," *Harvard Negotiation Law Review*, (co-authored with Elliot Silverstein) Vol. 5 (Summer 2000) pp. 1–112.
- "Here's Smoking At You, Kid: Has Tobacco Product Placement in the Movies Really Stopped?" *University of Montana Law Review*, Vol. 60 (2) (Summer 1999) pp. 243–284.
- "Emotions in Negotiation: How to Handle Fear and Anger," (co-authored with Ben Rosen and Elliot Silverstein) *The Negotiation Journal* Vol. 14 (2) (April 1998) pp. 161–179.
- "The Preemption Pentad: Federal Preemption of Products Liability Claims After *Medtronic v. Lohr*," (co-authored with Rob Leflar) *University of Tennessee Law Review* Vol. 64 (Spring 1997) pp. 691–748.
- "Encouraging Employers To Abandon Their 'No Comment' Policies Regarding Job References: A Reform Proposal," (co-authored with Ellen Peirce) *Washington & Lee Law Review*, Vol. 50, No. 4 (1996) pp. 1381–1469.
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### **Presentations**

“Consumer Product Safety Commission: Reflections from the Obama Transition Team” to conference of International Consumer Product Health and Safety Officials, Orlando, Florida (February 25, 2009).

“The Ethics of Wal-Mart,” to UNC Humanities Program (June 15, 2006).

“A Critical Look at ‘The Corporation,’ by Joel Bakan,” to Parr Center for Ethics (April 26, 2006).

“Negotiation Issues and Gender,” to CWIB (February 22, 2006).

“Ethical Issues of States Offering Tax and Other Incentives to Attract Business,” to North Carolina Institute for Constitutional Law (December 8, 2005).

“Negotiation in the U.S. and Internationally,” to Humphrey Fellows (November 16, 2006).

“Enron and Ethics,” to Kenan-Flagler faculty, staff and students (February 20, 2002).

“Business Ethics for Lawyers, at Annual Legal Learning Festival sponsored by UNC Law School, Friday Center (February 9, 2002).

“Pedagogical Skills in Business Ethics,” to ITESM Faculty, Monterrey, Mexico (October 27, 2000).

“Negotiation Skills,” to North Carolina Association of Black Lawyers, Wilmington, NC (June 23, 2000).

“Ethics and Leadership,” to UNC-CH Graduate Student Leadership Course (March 28, 2000).

“Ethics and Leadership,” to North Carolina Leadership Forum (February 3, 2000).

“Business Ethics for Lawyers,” at Annual Learning Festival sponsored by UNC Law School, Friday Center (February 12, 1999).

“One Million ATV Injuries Later . . . Will the End of the Consent Decree Bring More Consumer Litigation? The Government Perspective” Nationwide Teleconference by Telephone, December 2 and December 4, 1998.

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“Product Safety Versus Product Liability,” at conference of International Consumer of Consumer Product Health and Safety Officials (February 29, 1996).

“Business Ethics,” at Festifall Conference by UNC Law School (February 2, 1996).

“Medical Devices and Preemption: The Courts Run Amok,” at Academy of Legal Studies in Business, Dallas Texas (August 12, 1994) (co-authored with Richard Mann).

“Good Faith: Let’s Be Objective About It,” presented at Academy of Legal Studies in Business, Boulder, CO. (August 23, 1993) (jointly presented with Richard Mann).

“Forum on the ‘Litigation Explosion,’” presented at joint session of Wake Forest Law School and Business School, Winston-Salem, NC (September 16, 1992).

“The Legal, Ethical and Social Implications of ‘The Reasonable Woman’ Standard in Sexual Harassment Cases,” presented at Academy of Legal Studies in Business, Charleston, S.C. (August 21, 1992) (jointly presented with Ellen Peirce).

“Remarks on CPSC Long-Range Plan,” testimony before Chairman and Commissioners of the U.S. Consumer Product Safety Commission, Washington, D.C. (June 18, 1992).

“Regulation, Deregulation, and Reregulation,” presented at American Business Law Association Conference (August 17, 1990), Toronto, Canada (jointly presented with Richard A. Mann).

“The Role of Federal Safety Standards in Product Liability Litigation, presented at Conference on “Avoiding Product Liability Suits,” Union College (July 12, 1990).

“Stalking the Rogue Physician: An Analysis of the Health Care Quality Improvement Act of 1986 and its Implementation,” presented at American Business Law Association Conference (Summer, 1989).

“Challenges in Teaching Business Ethics to First Year MBA candidates,” presented at American Business Law Association Conference (Summer, 1989).

“Needed: A College for Regulators,” presented at Southeastern Regional Business Law Association Conference (Fall, 1988).

“Federal Deregulation and State Reregulation,” presented to the American Bar Association Committees on Consumer Product Regulation and State Administrative Law of the Administrative Law Section and the Section of Urban, State and Local Government Law (August 11, 1987).

“Medical Malpractice: Current Developments,” presented to the Graduate School of Business Administration, Boston University (November, 1987).

“Congressional Perspectives on Pending Medical Device Legislation,” presented to the National Electrical Manufacturers Association (September 19, 1987).

#### **Editor or Reviewer**

Elected to Editorial Board, *Food and Drug Law Journal*, 1999.

Staff Editor, *American Business Law Journal*, 1990–1993.

Reviewer, *American Business Law Journal*, 1989–90.

#### **Teaching**

Undergraduate: Introduction to Business Law, BA 140; Commercial Paper and Sales, BA 141.

MBA: Negotiation, BA 253; Ethical Aspects of Management, BA 293; Business-Government Relations, BA 299; Strategy Course, BA 295.

Management Education: Taught numerous Executive Education courses with evaluations that generally range above 4.70 out of 5.0; Co-developed and ran Leadership Program for Water Industry.

#### **Course Development**

Developed Negotiation Course, 1995.

Coordinator, MBA Business Ethics Course, 1991–2000.

Helped design and develop Business Ethics course for MBA and Executive MBA Programs, 1988–90.

Designed and taught Business-Government Relations MBA course, 1990–2004.

Developed regulatory materials for Strategy Course, 1994.

#### **Professional Activities**

Member of North Carolina Bar, 1989–present.

Member of Washington, D.C. Bar, 1976–present (inactive).

Member of Pennsylvania Bar, 1969–present (inactive).

Academy of Legal Studies in Business, 1987–present.

Member, Business Ethics Section of ALSB, 1989–present.

#### **University and Business School Service**

President, Academy of Distinguished Teaching Scholars, 2003–present.

Chair, Committee on Student Conduct, 2006–present.

Chair, Faculty Advisory Committee, 2007–present.

Member, Board of Advisors, Parr Ethics Center, 2006–present.

Member, Chancellor’s Committee on Reaccreditation for SACS, 2004–2006.

Chair, KFBS Faculty Advisory Committee (FAC), 2006.

Member, Faculty Advisory Committee, 2004.

Member, Promotion and Tenure Committee, 2004–present.

Member, MAC Advisory Committee, 2002–2005.

Chair, Committee to Review Gene Nichols for Reappointment as Dean, UNC Law School, 2003.

Chair, Committee on Student Conduct, 2000–2001.

Member, Committee to Review Risa Palm for reappointment as Dean, College of Arts and Science, 2001.  
 Member, Facilities Use Review Group, 2000.  
 Member, Executive Committee of Faculty Council, 1999.  
 Member, UNC Task force on Student Evaluation of Teaching, 1999.  
 Associate Dean, Undergraduate Program, 1994–1998.  
 Chair, Kenan-Flagler Committee on Diversity, 1993, 1994, 1995 and 1997.  
 Chair, UNC Committee on Student Conduct, 1993–94.  
 Member, Dean Search Committee, 1997.  
 Member, Tanner Teaching Awards, Committee, 1997.  
 Member, Chancellor’s Task Force on Intellectual Climate at UNC, 1996–1997.  
 Member, Kenan-Flagler Distance Learning Committee, 1996.  
 Member, Kenan-Flagler Reorganization Task Force, 1994.  
 Member and Chair of numerous UNC University Hearings Boards, 1987–present.  
 Member, Board of Directors of Student Legal Services, 1990–2008.  
 Coordinator, Diversity Sessions, Orientation Week for Incoming MBA Students, 1989–1993.

#### **National and Community Service**

Member, Board of Directors, Consumers Union, 1989–present.  
 Member, Chief Justice’s Commission on Professionalism, 2007–2008.  
 Board of Directors, International Consumer Product Health and Safety Organization, 1997.  
 Evaluator, BBA Program, University of Iowa, 1995.  
 Member, Committee of the Institute of Medicine, National Academy of Science to Study FDA Advisory Committees, 1991–93.  
 Member, Committee of the Institute of Medicine, National Academy of Science to Study the Operations of the Nuclear Regulatory Commission, 1994–1995.  
 Chair, Committee to Review the Operations of the North Carolina Wildlife Federation, 1992–93.

#### **Personal**

Born September 27, 1944  
 Married, one child

#### **Address**

[Not available to the public].  
 Kenan-Flagler Business School  
 University of North Carolina  
 CB# 3490, Carroll Hall  
 Chapel Hill, NC 27599–3490

Senator PRYOR. Ms. Northup?

#### **STATEMENT OF HON. ANNE M. NORTHUP, COMMISSIONER-DESIGNATE, U.S. CONSUMER PRODUCT SAFETY COMMISSION**

Ms. NORTHUP. Good morning, Mr. Chairman, Ranking Member Hutchison, and members of the Senate Commerce, Science, and Transportation Committee. I deeply appreciate the opportunity to appear before you today, especially this week with all the important matters competing for your attention.

I am so honored to have been nominated by President Barack Obama to serve as a Commissioner of the United States Consumer Product Safety Commission. I thank the President for the opportunity to serve. If confirmed by the Senate, I will do my best to see that the Consumer Product Safety Commission effectively and efficiently protects the well-being of our children and families and enforces the laws for which it has responsibility.

I want to introduce to you my husband, Woody Northup, who is with me today. He and I have been married for 40 years. We met on our first day of college, he as a student at Notre Dame and I as a freshman at St. Mary's College, which is across the street.

Our lives have been a special adventure. We were blessed with six wonderful children, two of whom are adopted. Woody started his own business with only seven employees, moving into a building with a dirt floor. We had some very lean years. Two of our children are cancer survivors, and one very sadly died suddenly of a heart attack 3 years ago. I want to thank my loving husband for being my dearest friend and best adviser throughout my life and my career. I am not sure that this is what he pictured when we were married in 1969.

I grew up in Louisville, Kentucky, the second of 11 children, 10 girls and 1 boy. You can see why we all thought it was a woman's world. My parents were happy, hard-working, organized, and made raising 11 children look easy. We were all encouraged to study hard, participate in athletics, volunteer at an early age, and live a meaningful life. We took different paths. I was the only one even remotely involved in politics. One of my sisters, Mary T. Meagher Plant, is being inducted into the Olympic Hall of Fame next week in Chicago as a three-time Olympian and a 20-year World Record holder in swimming.

If I am confirmed as a Commissioner, I want to assure the Committee that I will independently and faithfully protect the American families from unsafe products, enforce the laws that the Commission must enforce, ensure transparency to all concerned and do my part to build a collaborative environment with those at the Commission.

First, I would like to address my record of independence. The Commission is comprised of two Commissioners from each party and a Chair from the party of the President. However, I am sure that you expect the Commissioners to rise above their party designations and act as a team to protect the American people. I believe that I have a record of independence and wanted to share a few examples.

In the Kentucky State Legislature, I introduced the first law that limited the age when children could buy tobacco products. When I was elected in 1987 to the legislature, in Kentucky, if you could walk, you could legally enter a store and buy a pack of cigarettes at any age. Republicans and Democrats alike in our legislature supported the tobacco industry because of our tobacco farmers. I quietly hammered away at the health issues and held my ground and influenced both the legislature and the Executive Branch to begin addressing these health issues. When I was first elected to Congress, Louisville was still the home of the world headquarters of Brown and Williamson and had a Philip Morris plant that employed 4,000 employees. But that did not stop me. Throughout my career in Congress, I chose not to accept contributions from the tobacco companies because I believed that their products were inherently unsafe.

In Congress, I felt that banks should not also be our real estate agents, believing that it could lead to unwise loans to families, jeopardizing their financial well-being in order to realize short-term

gains in commissions. Although the banking community had been one of my most supportive industries, from that time forward the industry supported my opponents. I, by the way, was the author of the amendment that stopped that from going forward.

The pharmaceutical companies had been one of my largest contributors until I became concerned about the discrepancy between the price American families paid for prescriptions and the price paid in other developed countries for exactly the same medicine. Thus, I supported allowing American families and industry the right to purchase drugs in the international marketplace. My independence cost me the support of that industry also.

My life's record of public service has been one of tackling tough and complicated issues, looking for solutions that are innovative and fair to all concerned. If I am confirmed, I will be joining the Commission at a very exciting and challenging time. I look forward to being a part of the solution and making a positive contribution to those challenges.

Let me, since I know my time is running out, in closing say that I would like to return to the beginning of my testimony. I served in the Kentucky Legislature for 9 years and then in Congress for 10 years, and in all those years, I felt that my degree in economics and my professional work was only half of what I brought to each challenge. The other part was being the mother of six children.

When our children were young, they only received toys twice a year, on their birthdays and on Christmas, and even that was a tremendous financial challenge. I worried about what my children needed and how I was going to pay for it. It never occurred to me that I should also worry about the safety of that toy. I had never heard of the Consumer Product Safety Commission, but I had faith in the American system of protection.

Families need to have faith in the system again. They have to be able to count on us. If I am confirmed, I will do everything possible to think of the families I am responsible for and to protect them as my own.

Thank you and I look forward to answering your questions.

[The prepared statement and biographical information of Ms. Northup follows:]

PREPARED STATEMENT OF HON. ANNE M. NORTHUP, COMMISSIONER-DESIGNATE,  
U.S. CONSUMER PRODUCT SAFETY COMMISSION

Good afternoon, Mr. Chairman, Ranking Member Hutchison, and members of the Senate Commerce, Science, and Transportation Committee. I deeply appreciate the opportunity to appear before you today, especially this week with all of the important matters competing for your attention.

I am honored to have been nominated by President Barack Obama to serve as a Commissioner of the United States Consumer Product Safety Commission. I thank the President for the opportunity to serve. If confirmed by the Senate, I will do my best to see that the Consumer Product Safety Commission effectively and efficiently protects the well being of our children and families and enforces the laws for which it has responsibility.

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Our lives have been a special adventure: we were blessed with six wonderful children, two of them adopted; Woody started his own business with only 7 employees, moving into a building with a dirt floor. We had some very lean years. Two of our children are cancer survivors, and one very sadly died suddenly of a heart attack

3 years ago. I want to thank my loving husband for being my dearest friend and best adviser throughout my life and my career. I am not sure this is what he pictured when we were married in 1969.

I grew up in Louisville, Kentucky, the second of eleven children, ten girls and one boy. You can see why we all thought it was a “women’s world”. My parents were happy, hard working, organized, and made raising eleven children look easy and fun. We were all encouraged to study hard, participate in athletics, volunteer at an early age and live a meaningful life. We took different paths; I was the only one even remotely involved in politics. One of my sisters, Mary T. Meagher, is being inducted into the Olympic Hall of Fame next week in Chicago as a three-time Olympian and a twenty-year World Record holder in swimming.

If I am confirmed as a Commissioner, I want to assure the Committee that I will serve independently and faithfully to protect American families from unsafe products, enforce the laws that the Commission must enforce, ensure transparency to all concerned and do my part to build a collaborative environment with those at the Commission.

First, I would like to address my record of independence. The Commission is comprised of two Commissioners from each party and the Chair from the party of the President. However, I am sure you expect Commissioners to rise above their party designation and act as a team to protect the American people. I believe that I have a record of independence and wanted to share a few examples:

- In the Kentucky State Legislature, I introduced the first law that limited the age when children could buy tobacco products. When I was elected in 1987, in Kentucky, if you could walk, you could legally enter a store and buy a pack of cigarettes at any age. Republicans and Democrats alike in our Legislature supported the tobacco industry because of our tobacco farmers. I quietly hammered away at the health issues and held my ground and influenced both the legislature and the Executive Branch to begin addressing these health issues. When I was first elected to Congress, Louisville was still home to the world headquarters of Brown and Williamson and had a Philip Morris plant that employed 4000 employees. Throughout my career in Congress, I chose not to accept contributions from the tobacco companies because I believe that their products are inherently unsafe.
- In Congress, I felt that banks should not also be our real estate agents, believing that it could lead to unwise loans to families, jeopardizing their financial well being in order to realize short-term gains in commissions. Although the banking community had been one of my most supportive industries, from that time forward, the industry supported my opponents.
- The pharmaceutical companies had been one of my largest contributors until I became concerned about the discrepancy between the price American families paid for prescriptions and the price paid in other developed countries for the same medicine. Thus, I supported allowing American families and industry the right to purchase drugs in the international marketplace. My independence cost me the support of that industry.

My life’s record of public service has been one of tackling tough and complicated issues, looking for solutions that are innovative and fair to all concerned. If I am confirmed, I will be joining the Commission at a very exciting and challenging time. I look forward to being a part of the solution and making a positive contribution toward meeting those challenges.

The position for which the President has nominated me was created in the 2008 Consumer Product Safety Improvement Act. This legislation created new, sweeping responsibilities for the Consumer Product Safety Commission. Its implementation will require new rules, new standards, new testing laboratories, new ways to certify imports and new enforcement actions.

If I am confirmed, I will be joining the Commission under the guidance of the new Chairwoman, Inez Tenenbaum. I want to thank Chairman Tenenbaum for graciously reaching out to me and congratulating me on my nomination, all the way from Singapore where she is attending product safety meetings. I would do all in my power to be a valuable team member. She is already setting in motion a collaborative effort to address the current challenges and I would hope to support her efforts and contribute to meeting these challenges.

Chairman Tenenbaum testified that one of her highest priorities would be to work closely with the Committee, keeping it informed of progress to meet statutory deadlines. I understand how important that is. As a former Member of Congress, I remember how completely frustrating it was to need an answer from an Agency and not be able to get it. I understand, Mr. Chairman and Ranking Member Hutchison,



that you begin to hear from your colleagues if agencies do not respond, fail to meet deadlines or have constituents that feel that their issues and views are not even heard. If I am confirmed, I will bring that firsthand knowledge and respect for this Committee's perspective to my service.

Previously, as a member of the Kentucky State Legislature, I had an opportunity to address the challenges of implementing major reforms. In 1990, the Kentucky Legislature passed a sweeping reform of their education system, the Kentucky Education Reform Act (KERA). It completely revamped funding, the curriculum, teacher training, governance, applied new innovative statewide student testing, and a rewards and sanctions system to hold schools and school districts accountable. For many years it was help up as a national standard.

But, as this Committee well knows, new sweeping laws are tough to implement. The Governor and the legislative leadership appointed three legislative members to a new public-private partnership, the Partnership for Education Reform, to facilitate the implementation of the new law. As an appointee of the Speaker of the House (who was not a Republican), I had an opportunity to work on the day-to-day issues to meet the deadlines, address the criticisms (people affected by change often resist change but sometimes unforeseen problems arise the key is to know the difference), stretch the funding to meet the mandates, develop training, measure progress with respect to time and effectiveness, communicate with the public and answer questions from my fellow members of the Legislature who wondered what was taking so long.

I believe the Consumer Product Safety Improvement Act is meeting the same challenges. It needs leaders who are determined to implement it fairly, as it was intended to be applied, address the problems, listen to those it affects, find creative, affordable and timely solutions and ensure that this law does exactly what the Congress intended: provide better protection for American families. If I am confirmed I will use my talents and experience to live up to your expectations for the Consumer Product Safety Commission.

Today, more than two-thirds of all consumer products are imported. That is an enormous difference from 1973 when the CPSC was created and began protecting American families and children. The Consumer Product Safety Improvement Act provides new resources and authority to ensure that imported products meet American safety standards. Currently two-thirds of all product recalls are imports, so there is good reason for the Commission to efficiently and effectively address the question of imports.

If I am confirmed, I will look for innovative ways to meet this enormous challenge of imports, making every dollar we spend a good investment for safety. Today, emerging technologies create new and different opportunities to test, check, track and protect the American public. If the Commission builds on cooperative efforts with other countries, expanding the use of independent third party laboratories for testing and better technology to track what comes in through our ports, we can do more with the resources you have given the Commission.

In closing, I would like to return to the beginning of my testimony. I have served in the Kentucky Legislature for 9 years and then in Congress for 10 years and in all those years I felt that my degree in Economics and my professional work was only half of what I brought to each challenge. The other part was being the mother of six children. When our children were young, they only received toys twice a year: on their birthdays and Christmas and even that was a financial challenge. I worried about what my children needed and how I was going to pay for it. It never occurred to me that I should also worry about the safety of the toy. I had never heard of the Consumer Product Safety Commission, but I had faith in the American system of protection.

Families need to have faith in the system again. They have to be able to count on us. If I am confirmed, I will do everything possible to think of the families I am responsible to protect as my own.

Thank you and I look forward to answering any questions that you may have.

#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):  
 Anne Clifford Meagher (maiden name).  
 Anne Meagher Northup (married name) 1969–present.
2. Position to which nominated: Commissioner, Consumer Product Safety Commission.
3. Date of Nomination: August 3, 2009.

4. Address (List current place of residence and office addresses):  
Residence: Information not released to the public.
5. Date and Place of Birth: January 22, 1948; Louisville, KY.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
Spouse: Robert Wood Northup, CEO, Radio Sound, Inc.; children: Robert David Northup, 37 years old; Katherine McCrystal Northup Smith, 35 years old; Joshua James Northup, deceased; Kevin Wood Northup, 32 years old; Erin Murnane Northup, 30 years old; Mark Meagher Northup, 27 years old.
7. List all college and graduate degrees. Provide year and school attended.  
St. Mary's College, BA Economics and Business, 1970.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
High School Mathematics Teacher, 1969–1971.  
Ford Motor Company DSO Dept., 1972–1974.  
State Representative; District 32, 1987–1996.  
Member of Congress; Kentucky–3, 1997–2006.
9. Attach a copy of your resume. A copy is attached.
10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.  
CARES Commission, Department of Veterans Hospital, Local Advisory Panel.  
Louisville Arena Task Force.  
Ohio River Bridges, Design Selection Committee.  
Member, U.S. Helsinki Commission.  
House Reading Caucus, Founder and Co-Chair.  
Congressional Coalition on Adoption, Board Member.
11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years: None.
12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.  
Member, Women's Club of Louisville (all women's organization) 1993–present.  
Forum Club, Naples, Florida; 2003–present. Served on the Program Committee 2008–2009.  
Member, Queen's Daughters (Catholic women's organization that benefits Catholic Charities and infant adoption programs—all women membership) 1990–present.  
Member, Metropolitan Republican Women's Club—(all women members) 1992–present.  
The United States Association of Former Members of Congress—2007–present.  
Member, Holy Spirit Catholic Church—1986–present.  
Member, Capitol Hill Preservation Society (2008–present).
13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.  
State Representative, 1987–1996 (no debts).  
Member of Congress 1997–2006 (no debts).  
Primary Campaign for Governor 2007 (Closed the campaign committee with an unpaid loan of \$681,000 to me personally which just became a personal loss.)

Candidate for Congress 2008—no debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Anne Northup:

Contributed to:

Northup for Congress: \$4,600—2008.  
 McConnell for Senate: \$4,600—2008.  
 Northup for Congress: \$2,000—1996.  
 Northup for Congress: \$2,000—1998.  
 Northup for Congress: \$2,000—2000.  
 Northup for Congress: \$2,000—2002.  
 Northup for Congress: \$4,000—2004.  
 Northup for Congress: \$4,200—2006.  
 Fletcher for Governor: \$1,000—2003.  
 Northup-Hoover 2007: \$1,000—2007.  
 Northup-Hoover 2007 (loan): \$500,000—2007.  
 Northup-Hoover 2007 (loan): \$100,000—2007.  
 Northup-Hoover 2007(loan): \$100,000—2007.  
 Candidate Debt Assumption: \$681,958.14, Repayment of loan: \$18,041—2008.

R. Wood Northup

Contributed to:

Northup for Congress: \$2,000—1996.  
 Northup for Congress: \$2,000—1998.  
 Northup for Congress: \$2,000—2000.  
 Northup for Congress: \$2,000—2002.  
 Northup for Congress: \$4,000—2004.  
 Northup for Congress: \$4,200—2006.  
 Northup for Congress: \$4,600—2008.  
 Bush for President: \$1,000—1999.  
 Republican Party of Kentucky: \$1,500—2000.  
 Alice Forgy Kerr for Congress: \$2,000—2003.  
 Geoff Davis for Congress: \$1,000—2003.  
 Lazio Inc. \$1,000—2000.  
 Bush-Cheney '04 (Primary) \$2,000.  
 Republican Party of Kentucky: \$500—2001.  
 Republican Party of Kentucky: \$500—2002.  
 Schmidt for Congress Committee: \$250.  
 Republican Party of KY: \$500—2004.  
 Bob Franks for U.S. Senate: \$1,000—2000.  
 McConnell Senate Committee \$2,000—2002.  
 McConnell Senate Committee \$4,600—2008.  
 Louisville and Jefferson County Republican Party: \$5,000—2002.  
 Rebecca Jackson for County Judge Executive: \$500—1998.  
 Northup-Hoover: \$1,000—2007.  
 Ernie Fletcher for Governor: \$1,000—2003.  
 Shellie Knopf for Circuit Court Clerk: \$1,000—2007.  
 David Osborne for State Representative: \$1,000—2008.  
 Downard for Mayor: \$1,000—2006.  
 John May for Property Valuation Administrator: \$1,000—2006.  
 Bob DeWeese for State Representative: \$500—2008.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Honorary Degree St. Mary's College, Notre Dame, Indiana; Degree of Doctor of Laws, *Honoris Causa*.

I am attaching a link to a column written about that address: <http://www.patrickillough.com/education/belles.html>

Community Service Recognition Award Louisville Defender Newspaper (African American Weekly newspaper in Louisville).

Adam Smith Award—BIPAC.

Legislator of the Year NOISE (National Organization to Insure a Sound-controlled Environment).

Silver Anchor Award—Friends of the Waterfront.

Congressional Partnership Award—National Association of Development Organizations.

John Thompson Foundation Outstanding Achievement Award.

Citizen of the Year Award—Optimist Club of Louisville.

Literacy Leadership Award—Kentucky Reading Association.

Legislative Achievement in Economic Development—Southern Economic Development Council.

Defender of Religious Freedom—Zeta Beta Tau Fraternity.

Rolapp Award—American Horse Council.

Community Healthcare Champion Award—National Association of Community Health Centers, Inc.

First Gethsemane Baptist Church Leading Ladies Award.

Public Policy Advocate of the Year—National Association of Women Business Owners.

Advocate for the Education of Blind and Visually Impaired Students—American Printing House for the Blind.

Legislator of the Year—The Environmental Industry Association.

Outstanding Freshman Member of Congress—National Industries for the Blind.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

During my 9 years in the State Legislature and 10 years in the U.S. Congress, I wrote many columns for newspapers and newsletters and spoke to many groups about relevant legislation and issues important at that moment. However, I have not written anything that would relate to the issues before the Consumer Product Safety Commission.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

March 6, 1997, House Transportation and Infrastructure Committee, The Kentucky and Indiana Bridge Project.

November 19, 1992, House Ways and Means Committee, Tobacco Control and in favor of tobacco excise taxes.

March 28, 2001, House Committee on Education and the Workforce, No Child Left Behind.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position.

My experience as a former Member of Congress gives me a unique perspective for the CPSC. I understand the expectations of Members of Congress that the letter and the spirit of legislation must be administered efficiently and effectively. The constituents of elected officials expect to get the answers they need and a fair and responsible application of the current law. While it is important that the private sector not wait interminable lengths of time for bureaucratic answers, it is also important that the laws on the books be interpreted fairly and completely.

When there are problems with either the meaning of the legislation or the application of the law, Members of Congress need to be apprised of what these problems may be and given a chance to respond and clarify. I believe I can help build a stronger relationship between the Congress and the Consumer Product Safety Commission as opposed to the "separate orbit" type of relationship that sometimes exists between agencies and the Congress.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

I believe proper management and financial controls are important. I will do my part and help the Chairwoman of the Consumer Product Safety Commission to ensure all proper controls are in place.

As Committee Members know so well, serving in Congress requires multitasking, compliance with strict financial, ethical and campaign laws and timelines.

I am proud of my record as an effective Member of Congress, recognized by my peers and my constituents as a leader who listened, understood, tackled and resolved challenges in Washington and for my district. This was done simultaneously with overseeing a challenging campaign every 2 years (three plus million dollars each) as one of the most targeted Members of Congress in each election cycle. By committing myself to personal hard work, organizing, delegating, prioritizing, team building and setting a high standard, I was able to manage these responsibilities efficiently and effectively.

I believe I can bring the same level of leadership, management, team building and hard work to the CPSC.

20. What do you believe to be the top three challenges facing the department/agency, and why?

The Consumer Product Safety Commission (CPSC) has enormous responsibilities to protect American families including oversight of 15,000 products. The priorities will be set by Chairwoman Tenenbaum but these are the top three challenges as I see them:

1. The Consumer Product Safety Improvement Act gives the CPSC new responsibilities. Implementing these improvements effectively and efficiently will be an enormous challenge that the CPSC must meet.
2. Imports make up two thirds of consumer products today. The CPSC must develop better and more efficient ways to ensure these products meet our safety standards. The challenges of the CPSIA, imports and the increasing speed with which new products emerge in the marketplace financially and technically strain the resources of the CPSC. That means it is especially important to look for technically feasible ways to meet the Commission's responsibilities more efficiently.
3. Several of the CPSC's current investigations are particularly important today and need prioritizing, none more prominent than the issue of Chinese Drywall. The widespread use of this product, the severity of the health consequences, and the fact that the remedy is cost prohibitive for most families make this burning issue a priority for the Commission.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

The only retirement account I have is my Federal TSP account.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

During the nomination process, I have consulted the Office of Government Ethics and the Consumer Product Safety Commission's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated ethics official and that agreement has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or

acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

During the nomination process, I have consulted the Office of Government Ethics and the Consumer Product Safety Commission's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated ethics official and that agreement has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the Administration and execution of law or public policy.

I served as a Member of Congress: 1996–2006.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

During the nomination process, I have consulted the Office of Government Ethics and the Consumer Product Safety Commission's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated ethics official and that agreement has been provided to this Committee. I am not aware of any other potential conflicts of interest.

Should I be confirmed, I would continue to consult the ethics official at the CPSC on any matters of concern and take their recommendations to avoid any conflict of interest.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

I served on a non-profit Board that was sued by the ACLU.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees?

Yes. As a former Member of Congress, I understand the importance of the Executive Branch complying with statutory deadlines.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?

Yes. I believe that honest and transparent public service, and leadership that reflects that priority, are important. Congress deserves to be well informed. I would do everything possible to insure that the business of the CPSC is open and available to Congress.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes. Again, as a former Member of Congress, I understand how important responding to requests from Congress is, and how difficult the business of committees becomes, when there are delays in making information or testimony, available.

## RESUME OF ANNE MEAGHER NORTHUP

Anne Meagher Northup served the Third Congressional District of Kentucky, representing the Louisville district in the U.S. House of Representatives as a Republican from 1997–2006. Before her tenure in Congress, Northup served in the Kentucky House of Representatives for 9 years, from 1987–1996.

Soon after taking office in 1997, Northup was appointed to the House Appropriations Committee, the Committee that considers all Federal spending bills. She sat on the Labor, Health and Human Services, and Education; Transportation, Treasury, HUD and Independent Agencies; and Military Quality of Life and Veterans Affairs Subcommittees.

Throughout her tenure in Congress, Northup was recognized for her straightforward, honest style in taking on tough issues. She is a pro-trade, pro-economic expansion Republican focused on issues that create a better environment for competition, growth, and worldwide commerce. She is a proponent of permanent tax relief for all American taxpayers, expanding affordable health insurance, cutting red-tape and making sure government programs are measured based on results.

Congresswoman Northup is the recipient of numerous legislative awards. In 2003, she received the prestigious “Adam Smith Award,” which is presented annually to one Federal elected official who exhibits an exemplary commitment to economic freedom.

Congresswoman Northup has been an aggressive advocate for education reform. In March 1998, she founded the House Reading Caucus, a bipartisan caucus that raises awareness about the growing number of children who are failing to learn to read. She introduced legislation commissioning the National Reading Panel, the findings of which were incorporated into the “Reading First Initiative” of the 2001 No Child Left Behind education law.

Additionally, Congresswoman Northup was a member of the Congressional Coalition on Adoption and was an instrumental proponent of legislation promoting adoption. As co-chair of the coalition in 2002, Northup traveled to China to work on eliminating the growing bureaucratic obstacles between the United States and China that were threatening to reduce the number of Chinese orphans available to American families for adoption. In 2003, Northup introduced legislation that resulted in extended paperwork deadlines for families adopting children from China who were impacted by delays due to the SARS epidemic. Northup and her husband are the parents of two adopted children.

In February 2005, Northup was elected by a committee of her Republican House colleagues to chair the GOP’s Retirement Security Public Affairs Team. As Chairman of the group, Northup was front and center in the effort to strengthen Social Security for younger generations of American workers.

Congresswoman Northup has been highlighted by the national press for her pragmatic approach to public policy and her ability to effectively communicate the priorities of Congress. She has appeared on such shows as Meet the Press, Fox News Sunday, CBS Evening News with Dan Rather, Larry King Live, CNN & Co., The News Hour with Jim Lehrer and Hardball with Chris Matthews and Lou Dobbs.

Congresswoman Northup graduated from Saint Mary’s College in 1970 with a Bachelor of Arts degree in Economics and Business. She has served for years on community boards, is a recipient of numerous civic awards, and is an active community volunteer. She is a member of Holy Spirit Catholic Church, and has been married to “Woody” Northup, a small business owner, for over 37 years. Together, the Northups have six children.

#### **Legislative Appointments**

- Member, U.S. Helsinki Commission
- Member, Speaker’s Prescription Drug Action Team
- Member, Free Trade Working Group
- Member, World Trade Organization Congressional Advisory Group
- Chairwoman, Speaker’s Task Force on Education
- Member, Speaker’s Drug Free Task Force

#### **Congressional Caucus/Task Force/advisory Board Memberships**

- House Reading Caucus, Founder and Co-Chair
- Congressional Coalition on Adoption
- Education Caucus
- Republican Israel Caucus
- Missing and Exploited Children Caucus

African Trade and Investment Caucus  
 Medical Malpractice Crisis Task Force

**Awards**

Community Service Recognition Award—Louisville Defender Newspaper  
 Adam Smith Award—BIPAC  
 Legislator of the Year—NOISE (National Organization to Insure a Sound-controlled Environment)  
 Silver Anchor Award—Friends of the Waterfront  
 Hero of the Taxpayer—Americans for Tax Reform  
 Super Friend of Seniors—60 Plus Association  
 Guardian of Seniors' Rights Award  
 Congressional Partnership Award—National Association of Development Organizations  
 John Thompson Foundation Outstanding Achievement Award  
 Citizen of the Year Award—Optimist Club of Louisville  
 Literacy Leadership Award—Kentucky Reading Association  
 Legislative Achievement in Economic Development—Southern Economic Development Council  
 Small Business Advocate—Small Business Survival Committee  
 Defender of Religious Freedom—Zeta Beta Tau Fraternity  
 Rolapp Award—American Horse Council  
 Housing Hero Award—National Association of Home Builders  
 Retail Champion—National Retail Federation  
 Bulldog Award—Watchdogs of the Treasury  
 Friend of the Farm Bureau—American Farm Bureau Federation  
 Jefferson Award—Citizens for a Sound Economy  
 Senior Legislative Achievement Award—The Seniors Coalition  
 Guardian of Small Business Award—National Federation of Independent Business  
 Spirit of Enterprise Award—U.S. Chamber of Commerce  
 Community Healthcare Champion Award—National Association of Community Health Centers, Inc.  
 First Gethsemane Baptist Church Leading Ladies Award  
 Legislator of the Year—Association of Equipment Distributors  
 Congressional Award—Susan B. Anthony  
 Public Policy Advocate of the Year—National Association of Women Business Owners  
 Legislator of the Year—National Beer Wholesalers Association  
 Advocate for the Education of Blind and Visually Impaired Students—American Printing House for the Blind  
 Legislator of the Year—The Environmental Industry Association  
 Outstanding Freshman Member of Congress—National Industries for the Blind

Senator PRYOR. Thank you.

Ms. Northup, let me start with you, if I can pick up on your last point about being a mother and having children and buying various products. In your view, how can the CPSC improve their outreach, their information dissemination to people like that who were in your shoes a few years ago? How could they improve the ability to get the word out when there is a dangerous product out there?

Ms. NORTHUP. Well, Senator, if I am approved and confirmed, I would really look forward to working with the Chairman, who has talked about the database and the importance of expanding both the information in the database and making it far more available and transparent to those purchasing any consumer product. I think that is enormously important, and I think that that needs to be a



priority. I know that the Committee has appropriated an additional sum, a considerable—it is about a 78 percent increase in appropriation last year. And much of this problem could be addressed with that money.

Senator PRYOR. Thank you.

Mr. Adler, do you have any thoughts on how the Commission can get the word out?

Mr. ADLER. Actually, I think Ms. Northup hit that right on the head. One of the terrific features of the Consumer Product Safety Improvement Act, from my perspective, is the establishment of this consumer product safety data base. I think that is using the resources of information technology to substitute for large numbers of staff at the agency. One of the thoughts I have always had is if we do not have a large staff, we have got to use large brains. And it does seem to me these new information technologies really give us a chance to contact the public in very targeted ways when the hazard is something that applies specifically to particular consumers.

I also know that Chairman Inez Tenenbaum has made this a priority of hers, and it is my understanding that she is doing her best to hire some really outstanding officials within the agency to promote education and information.

Senator PRYOR. I think that is right. One of the things that I would encourage you all to think through as you go on to the Commission is I think that information technology is great. I mean, it really is amazing, and I think like you said, it is really a multiplier of resources that can get more information out.

But we still have people in this country who are poor or elderly or rural that just do not have that technology access for one reason or another. So I would encourage you to think about using technology in new ways, and I think that is great, but also thinking about maybe more traditional and other ways to reach out to folks.

The other question I had is I know that in the CPSIA, we threw a lot of responsibility at the Commission all at once, and I recognize that, and the Committee does, and the House and Senate do as well. When you go on the Commission, hopefully in the next few days, how will you work on prioritizing all the various things that you have to do because if you look at it all at one time, it is almost overwhelming? But how should you go about prioritizing that? Mr. Adler?

Mr. ADLER. That is a wonderful question. I think the first priority has to be paying attention to Congress, which is the enactment of the Consumer Product Safety Improvement Act and making sure that the agency has organized itself to manage the implementation of the act. That would be priority number one for me.

Another major priority I would feel is that we have got to do something to restore the morale at the agency. It has dipped, as they would say in North Carolina, "lower than a snake's belly." I think if you do not have a motivated work force, you do not have an efficient agency.

In terms of other priorities, these are important things for the agency, and one of the things the agency has to do—and I think it has got to be done on a collegial basis—is for the Commissioners to sit down and look at the projects that the agency has pending

and go through and make sure that those that have the highest rate of injury, the most severe injury, are the ones that are addressed first. This is a general annual exercise that the agency does, and I look forward to doing that.

Senator PRYOR. Did you have any comment on that?

Ms. NORTHUP. No. I think, first of all, I will say that I was not able to include it in my remarks, but the Chairman did reach out to me as soon as I was proposed by the President. She has a remarkable record and tackled enormous challenges in South Carolina. I think that she will probably be setting some of the agenda, and should I join as one of the Commissioners, I would look forward to being a part of that team and help assume some of that responsibility.

The law is very holistic. It includes, first of all, making sure that products do not get on the market that are unsafe. Second, it requires reporting immediately if they are unsafe so that the public can be informed, and then it has this component of trying to have a much better outreach to be able to inform consumers when they need to be informed.

So I realize that you need all of those things to go forward, and I would do everything I could to assume as much responsibility as I could to see that happen.

Senator PRYOR. Thank you.

Senator HUTCHISON?

Senator HUTCHISON. Thank you, Mr. Chairman.

I have met with both of you and appreciate having the meetings because I would bow to Chairman Pryor as really the leader in the bill that was passed, and there are some very good parts to it. I know that Chairman Tenenbaum is working to start implementing those.

I would like to ask both of you, starting with Mr. Adler, if you will commit to us to follow up in areas where you think we need to look at corrections or add flexibility to the Commission to be able to fulfill the spirit and intent of the law, which I think all of us agree is correct. Mr. Adler?

Mr. ADLER. Absolutely, Senator. I know there are some provisions that concern you and that concern other Members of the Senate. They raised them when we went to do our courtesy visits. These are issues honestly that I have thought about a lot. I have studied them. I have tried to do as much reading as I can. I have certainly talked to the staff who were involved in drafting these provisions.

One of the things, if I am confirmed, that I hope the Commission does is to sit down, address some of these particularly important issues, talk to the staff, go over them at great length, first make sure that if there are any challenges that can be dealt with administratively, that we do that, and if there are changes that need to be made, then I think that we ought to approach the Senate and the House and in a very open, transparent fashion, work together to try to come up with measured and appropriate responses to these challenges.

Senator HUTCHISON. Thank you.

Ms. Northup?

Ms. NORTHUP. Well, I think much of the same, however, I would like to incorporate in mine.

But let me also say that in every meeting I have had, the sense that there needs to be flexibility and the sense that there needs to be sound science was echoed on both sides of the aisle by Senators that were all on this Committee.

So I would look forward, should I be confirmed, to the Commissioners looking at the law and using the law to the greatest extent as possible to see that the flexibility is applied, as we vote on the rules. And if there are obstacles, if we see that there is a common sense problem that the flexibility is not there, then I think that—I mean, Chairman Tenenbaum talked about these same issues when she came before the Committee, that there would be a common approach that she would present that back to this Committee.

But I think that what we do not know—what I do not know, until I get the technical expertise that is available at the Committee, is whether the flexibility that is written in there, the accessibility clause, the absorbability clause, the exception for electronics is far-reaching enough or not. It would be premature for me to say whether or not I think that is in the law as it is.

Senator HUTCHISON. The CPSC has used stays of enforcement to provide more time for businesses to comply with the law and also to provide exemptions that were maybe not originally envisioned. One example of the stay is for youth ATVs and other motorized vehicles with certain parts containing lead. These products need the lead to run safely—it is a part of their structure. So that has been used. However, the stays are for specific products not categories and are generally temporary and not binding on State Attorneys General who are now authorized to sue.

So my question is, how would you approach an issue like that, and do you think the stays are sufficient to address concerns like the competing issues of stability for safety versus this lead content that was really mostly geared toward what children might eat and ingest? So let me just ask how you would approach that, both of you.

Ms. NORTHUP. Well, the current stay is till 2011. So there is some time to look at whether there is the flexibility and where the Commission is going to go. Should I be confirmed, I am eager to see what exactly the status of that and what the staff and the professional staff can tell us.

I will say that the law does say that if any Attorney General—it does not preclude Attorneys General from taking action. I realize that, but it does require I think at least a 30-day notice that was included in the conference bill that passed, which would give the Commission some time then to really accelerate their actions on that and perhaps come back to the Committee. So there would have to be notifications from the Attorney General that would give a chance for the CPSC to decide whether or not they want to go even further or what they want to do.

Mr. ADLER. That is a very tough question, Senator. I will try not to speak too long about it. But I am not a big fan of stays. If I had been at the Commission, I suspect I would have voted for the stay, but it is a fairly imperfect instrument, it seems to me, for the reason you mentioned, also for the reason that nobody is going to say

to Wal-Mart that you are stayed from dealing with your suppliers and Wal-Mart could simply insist that its suppliers buy back a bunch of violative product.

My other problem with the stay is that it is almost too permissive and at times it is too stringent. I think it is too stringent on a company that in good faith is trying to live up to the law because, even if the stay says we are not going to require you to test and to certify, if I were a virtuous company, how would I know whether I was in compliance unless I tested it? And so the actual practical effect might not be as large as we might have hoped.

It might also be too permissive from my perspective because I could imagine a less than virtuous company saying we do not have to test. Great. Let us just ship all these goods and hope we do not get caught, in which case they might not just be shipping goods that have maybe 700 parts-per-million of lead, but they might have 10,000 parts-per-million of lead, and that gets into the marketplace.

So I find that to be an imperfect instrument. It may have been the best option that the Commission had at that point, but what I would hope, if I am confirmed, is to get to the agency, sit down with the lawyers in the agency, the compliance staff, and fellow Commissioners and see if there is not some alternative approach. And it might well be that instead of a stay, we might be coming to the Congress for some additional modest amount of discretion.

Senator HUTCHISON. Well, I think that this particular youth ATV issue is one where perhaps there is going to need to be some new flexibility because I think that there could be problems on both sides. Either you do not have the ability to stay, in which case it just cannot work, or on the other hand, an Attorney General might sue even though the Consumer Product Safety Commission has not come to a conclusion and has not been able to do all of its work. So that is the issue that will hit your desk, and I hope that you will be able to debate and come up with a conclusion that is common sense and also fair and protects a business that is trying to do the right thing, which is a safe vehicle, and give it the capability to do that.

So thank you very much.

Senator PRYOR. Senator Wicker?

**STATEMENT OF HON. ROGER F. WICKER,  
U.S. SENATOR FROM MISSISSIPPI**

Senator WICKER. Thank you, Mr. Chairman. Let me just associate myself with the sentiments of Senator Hutchison with regard to the last line of questioning.

Also, our guests today should know that on the Commerce Committee there is a great deal of interest in the Commerce Department and in the CPSC among Members of the Committee. We are going in a number of different directions as we try to wind up our work for the August recess, and so I hope our guests please understand that there is a great deal of interest in this subject matter today.

I wanted to stick around in particular to endorse the candidacy of Anne Northup, but I support both of these nominees. I am glad

we are moving closer to a five-member CPSC, and I feel good about the candidacy of both individuals.

Let me just say with regard to Anne Northup, I came to the House of Representatives in January 1995. She came in January 1997. We were both fortunate enough in our freshman terms to be put on the Appropriations Committee, and literally for all the time Anne was in the Congress, we sat shoulder to shoulder in a very crowded Subcommittee room on Labor, HHS, and Education. So I know her well.

I commend to this Committee, Anne Northup, based on her keen intellect, based on her work ethic, and as she listed the issues today, it was like going down memory lane, with so many of the instances when I learned that, indeed, Anne Northup is fearless. Indeed, she calls it as she sees it, whether you like it or not. Whether you agree with it, I think most people come away with the sense that it is based on sound reasoning, hard work, and intellect.

On the issue of tobacco, banks versus realtors, taking on the pharmaceutical industry based on the cost of prescription drugs to Americans, ergonomics, it was an impressive education for this boy from Mississippi to have the benefit of Anne Northup's expertise and intellect. So I say that in support of her candidacy.

And I think perhaps she and Mr. Adler will not always agree, but I think that they will always appreciate each other's genuineness.

I am so glad that both witnesses today stressed basing decisions on sound science. I think Mr. Adler said data-driven and not rhetorical or simplistic solutions. I just would hope that both of the nominees will remember that when they deal with tough issues. There are so many issues where it sounds good at first blush.

I have had to go round and round with regulators, for example, on the issue of furniture flammability. I for one think we can prevent fire deaths in the United States without subjecting our consumers to harsh and toxic chemicals, without subjecting our environment to substances that would harm the environment and in the name of preventing one danger, cause other greater dangers. So I am glad to hear both nominees agree to that and stress that.

One question. We have a real problem in Mississippi and in a number of other states among homeowners on the issue of Chinese drywall. So I hope you will base your decisions on sound science. At the same time, I hope there is a way you can hurry and we can get the sound science quickly—

[Laughter.]

Senator WICKER.—and go beyond putting something on the website. We need answers on this issue. It is out there. So I would just hope that any information available could be gotten to consumers, beyond website posting, quickly. So I guess I am just echoing what Senator Pryor has said about getting the message out.

If you would like to comment about Chinese drywall, I would be happy to hear that.

Ms. NORTHUP. Well, I just say that, first of all, it is an enormous problem. There is some of the problem in Kentucky, not at the level that it is in Mississippi or Florida and some of the other states. It is enormous for a number of reasons. It is not just widespread. You

can throw a pacifier out. You cannot throw your home out. The cost of fixing this problem would overwhelm the average family.

Let me just say I think that is I what I bring to this Committee today in asking for your approval, is that I know how completely frustrating it is to be a Member of Congress and have an agency that you are waiting on to deal with an issue that is so pressing to your constituents and to have this feeling that it is some black hole. You know, you call and it is like, well, we will back to you with the time schedule. And months can go by.

I do believe that in 20 years, we will have completely figured out what the problem is with Chinese drywall, but if you are a family with a second-grader going off sick to school every day, you cannot wait until science—you need science to give you a time table, a reasonable approach to how you are going to deal with this, maybe come back to the Congress and tell them sort of the extent of the dangers, what the chemicals are, the physical dangers so that you are in a better position to take reasonable action. But I completely agree. This is a terrible problem.

Mr. ADLER. Just a brief comment. I did speak to Chairman Tenenbaum the day after she was confirmed, and she one of her very highest priorities was Chinese drywall. I know she has been pushing the CPSC staff very, very hard. She has been working diligently with the EPA and with State health departments. We really very much appreciate—or the agency very much appreciates the additional resources that the Congress has supplied to do this work.

I share the same sense of urgency, and I hope, if I am confirmed, to join Ms. Tenenbaum in pushing and pushing as hard as we can to see if there is some regulatory options that might be addressed to help these homeowners.

Senator WICKER. Thank you very much.

Senator PRYOR. Thank you.

Senator Klobuchar?

**STATEMENT OF HON. AMY KLOBUCHAR,  
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

Thank you very much as well for being willing to serve, to both of you, and congratulations on your nominations. I care a lot about this agency, and I think some of it came from my work as a prosecutor for 8 years. As you know from the work you are about to do and work you have done in your life, sometimes these people like the ones Senator Wicker was referring to with the drywall problem and you, Ms. Northup, so articulately answered in terms of your own passion for this—they have no one else except an agency that sometimes can seem like a big bureaucracy, but it is what they have. And we had so many cases where it would be victims of crimes, someone that just happened to be at the wrong place at the wrong time, and the only person they had to help them was maybe one prosecutor who stood between them and their faith in the system that things could get done.

And that is why I have such a passion for this consumer work and have gotten involved in it from the beginning, including the Consumer Product Safety Act that we talked about, I know, today.

That came out of a case for me in Minnesota where a little 4-year-old boy swallowed a charm that his mom got with a pair of tennis shoes. She did not ask for that charm. It came free. He was playing with it. He swallowed it and he died. And he died not from choking on it. He did not die because it blocked his airways. He died over a period of time as the days went on, as the lead in that charm went into his bloodstream. And when that charm was tested, it was 99 percent lead. And that is why I got so interested in this consumer product issue.

And then we met the parents of kids that had eaten some of those spongy toys and ended up going into a coma because they actually accidentally had the date rape drug in them. And talking to that mom about how here she is and does not know what is wrong with her little baby and goes to the hospital. They do not know what is wrong. The kid comes out about it in a day, and she for weeks tried to figure it out on the Internet not knowing if he would suffer from permanent damage. These are real families. So I really appreciate your willingness to serve this agency.

I guess my first question—I see Commissioner Nord out there—is that we are going from two Commissioners now to a bit more. So there is a lot of change in the agency. And I just would ask both of you what your approach will be in terms of helping to run an agency that has had a lot of work and undergone a lot of change. Mr. Adler?

Mr. ADLER. Thank you very much, Senator. I just wanted to add one word to what you were saying about the risks to children. That has always been a major concern and priority at the Consumer Product Safety Commission and I think properly so. Kids are not decision-makers. Kids are involuntary risk-takers. Kids are the most valuable, precious asset that we have, and we simply cannot do enough to try to protect kids, especially when it comes to hazards of product safety.

I very much look forward, if I am confirmed, to going to work at the agency. It will be interesting to see how the agency with five Commissioners operates. It has always seem to be that the agency has functioned best when it has functioned in a nonpartisan, problem-solving way. In my experience at the agency, you get shifting coalitions among Commissioners. When a particular issue comes up, different Commissioners look at it differently, but I have never seen and I hope never to see any element of partisanship injected into the decisionmaking with respect to product safety, and I certainly hope to be part of that.

There are so many issues that face the agency right now. I could probably talk your ear off for the next hour about the things I would like to work on, but as I say, one of the most important things I think the agency must do, in part to get back the confidence and trust of the Congress toward the agency, is to demonstrate that we are capable of implementing and meeting the deadlines in the Consumer Product Safety Improvement Act.

Senator KLOBUCHAR. Thank you.

Ms. Northup?

Ms. NORTHUP. Well, I think again should I join the Commission, there would be five members, and I think that there is always a benefit to bringing new eyes to problems. I also think that you will

have really robust debates and conversations. I have always felt like public policy is best when you put every idea and every perspective on the table and have the balance that brings the insights. None of us alone can come up with the best answers and to see what approaches can be taken.

I said earlier it is a holistic bill, the Improvement Act. It starts with keeping unsafe products off the market. Then it requires new reporting responsibilities and decisions. There is not the lag that there used to be. And then the remedies are there, including much more outreach to families.

I agree. I do not think that we should see this as two against three. Usually my experience in Congress was that there were sort of forming and reforming of thinking and how people aligned themselves. But good balance and good thought to look for reasonable solutions and depend on sound science and to remind ourselves that you have the ATV people that have all these products that are built and they are off the market and all the people that are left in limbo because the Consumer Product Safety Commission cannot finalize or cannot make a rule. We have got to deal with that and put all of those thoughts and deal with them quickly.

Senator KLOBUCHAR. Thank you, Ms. Northup, and I am glad you brought that up. I know that some of my colleagues asked about ATVs, and when you said that there is inventory on the shelves, maybe you knew that the people that make those ATVs are in Minnesota.

[Laughter.]

Ms. NORTHUP. I did not.

Senator KLOBUCHAR [presiding]. That was a really smart move. Polaris and Arctic Cat are the two major domestic manufacturers, and they also make snowmobiles. This has been a major issue in our State. We have one staff member that I think he is going to start selling ATVs he learned so much about it. Clearly, many of us here did not envision that the law would be interpreted in that way.

And I would just share the thoughts of my colleagues that we hope that this will get resolved. The stay is somewhat helpful. At least they can put, arguably, some of the inventory that they have showed me—I was just up there 3 weeks ago. I was up in Thief River Falls—you are welcome to visit—at the factory and saw some of the changes they have made. But I really think that we need to look into this because just as electronics had gotten an exemption here, the same kind of arguments can be made. And maybe we can do it practically with implementation or maybe there will be need for some additional legislation.

Along those lines, I also hope you will work with the Handmade Toy Alliance, which is a group of smaller toy manufacturers who have concerns as well. And again, the original group is based in Minnesota. So I have been dealing a lot with these implementation issues and have an appreciation for what you will be working on.

And I really thank you for your commitment to balance because there was a huge need for this legislation. We all know that. There were all these products coming in and there was not really the updated tools. I think the *Wall Street Journal* called it the most



sweeping consumer legislation in 16 years. But at the same time, there needs to be balance.

And I am now chairing this hearing. So now you have really got to watch out, but I turn it over to my colleague, Senator Hutchison.

Senator HUTCHISON. I have already asked my questions. So Madam Chairman, I am finished.

Senator KLOBUCHAR. OK. Very good.

Well, I just wanted to thank both of you. I will give you some in writing so we do not have to go on here with some of the issues with the Virginia Graeme Pool Safety Act, something very important. Again, we had a tragedy in our State, and the family and I worked on this very hard. It was a bill that had been kicking around for years, and we were able to get it done. Commissioner Nord and I just did an event to educate people about the fact that this law is out there, and we have actually done some great things in our State because of this tragedy. I know there are some implementation issues, but it was incredibly important to get that bill passed to get that done.

So I am really excited that we are going to have this full rostrum of Commissioners and am looking forward to working with both of you.

With that, would you like to say anything else?

Ms. NORTHUP. No. Just thank you so much for your time, and we are looking forward to the action of the Committee. I hope I will have an opportunity to work with you if I am confirmed.

Senator KLOBUCHAR. Very good.

Mr. ADLER. I just wanted to thank you and your staff and the terrific staff on the Senate Commerce Committee on both sides for taking the time to meet with us and the courtesy that you have shown to us. And we look forward to working with you when we get the agency, if we get to the agency.

Senator KLOBUCHAR. Well, OK, very good. I like how you have that respect for Congress. That is very important.

[Laughter.]

Senator KLOBUCHAR. But I think things are looking good.

With that, the hearing is adjourned.

[Whereupon, at 11:36 a.m., the hearing was adjourned.]



## A P P E N D I X

### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO DENNIS F. HIGHTOWER

*Question 1.* The Consumer Price Index (CPI) measures changes in consumer expenditures over time to gauge inflation. However, it does not account for geographic differences in the costs of goods, services, and other basic needs. As you know, the cost of living in some areas of the country is significantly higher than in other areas. Do you agree that there are important differences in consumer expenditures across distinct geographic areas and that differences in the cost of living are not fully accounted for in the CPI?

Answer. I am certainly aware that different areas of the country are more expensive to live and to do business in than others, and there is little question that this is an important consideration. As to the specifics of the Consumer Price Index, that is a product of the Bureau of Labor Statistics at the Department of Labor, and thus I defer to the Department of Labor on the strengths and weaknesses of that measure.

*Question 2.* What benefits might the Federal Government obtain from having an official government statistic, published regularly, that measures geographic variation in consumer expenditures and cost of living?

Answer. Generally, I am in favor of official statistics that can both lead to better policy decisions, as well as help American businesses best understand their customers and the economic environment. That said, there is a great deal for me to learn still about what the Department currently produces and what specific value would come from new measures. This is an area I look forward to exploring, should I be confirmed.

*Question 3.* The Bureau of Economic Analysis has published research that analyzes variations in consumer expenditures and the cost of living across geographic areas and has created a statistic called the Regional Price Parity. Similar statistics have been created in other countries. Are you familiar with this research and the Regional Price Parity? How could such a statistic be utilized by your agency and Congress?

Answer. I am not yet familiar with the Regional Price Parity research at BEA, nor how the Department's statistics compare with those of other countries. As a manager, however, I believe in making decisions based on good data, and so to the extent the Department can better serve the government, the Congress and American business with more precise statistics, that is something I would support.

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### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO DENNIS F. HIGHTOWER

*Question 1.* Mr. Hightower, as an international business executive and head of an online media firm, you know the importance of broadband and have seen firsthand what other countries are doing to promote their Internet infrastructure.

Yet in the last 10 years, the U.S. has gone from being a world leader in Internet penetration to being 15th or worse, depending upon what statistics you read. This year, the American Recovery and Reinvestment Act provided over seven billion dollars to the Department of Commerce and Department of Agriculture to help bring broadband to rural America.

The stimulus funds available for broadband also come at a time when the Nation could potentially take significant "leap frog" steps to overcoming the digital divide. Federal funding alone, however, will not be enough. In addition to the Broadband Technology Opportunities Program (BTOP), what policies should the Department of Commerce promote to bridge the digital divide in America? How can the Department of Commerce leverage the stimulus package's investment in broadband to help

promote new business opportunities for entrepreneurs living in areas that will soon have affordable broadband?

Answer. To connect every American with broadband Internet service, we must increase broadband availability and broadband subscribership. The BTOP program is soliciting grant applications in support of both of these critical areas. In addition, if confirmed, I will work with the staff at the National Telecommunications and Information Administration to learn as much as we can from the BTOP Program. Those lessons learned would be shared with other agencies within the Department of Commerce. I believe we should also promote those lessons learned with the private sector, and entrepreneurs who are making innovative technologies more readily accessible to the marketplace. If confirmed, I would explore options to close the digital divide. In general, there should be a strong focus on developing appropriate policies that can best achieve the goal of extending affordable broadband to all Americans and creating an environment that rewards innovation, investment, and competition.

Stimulus monies can bring broadband infrastructure to rural and urban areas. With this capability, the economy can benefit from faster information flow, improved productivity, and sharpened competitiveness. The effects are multiplied: farmers can receive quicker online weather reports, manage their shipments and receive orders more quickly. Critical institutions such as schools, libraries, and recreation centers that receive broadband can serve as anchor institutions for their surrounding communities—including small entrepreneurs. Affordability coupled with availability can only make the effects even more robust.

*Question 2.* The Commerce Department houses a diverse collection of agencies and divisions. It does everything from supporting scientific research and the commercialization of new technologies to expanding American exports and promoting minority-owned businesses. How do you plan to help Secretary Locke harness these important Commerce Department initiatives into a coherent strategic vision to promote innovation and create jobs across the country?

Answer. Secretary Locke and I share a vision of the Department of Commerce not as a collection of 12 agencies and bureaus and more than 50,000 employees but as one Department, singularly equipped to help American businesses grow and to create jobs.

When this Committee and the Congress enacted the America COMPETES act, you began with the premise that innovation through basic scientific research—and the ideas it produces—is the bedrock of competitiveness. The Department also houses its own idea factories, whether it is exploring the frontiers of nanotechnology at the National Institute of Standards and Technology (NIST), exploring the ocean at the National Oceanographic and Atmospheric Administration or designing spectrum policy at the National Telecommunications and Information Administration (NTIA). The Department also helps Americans protect the ideas they generate at the Patent and Trademark Office (PTO).

But even the best ideas are only catalysts. Businesses need to commercialize those ideas into real products they can sell. If confirmed, I will make sure the Department stands ready to assist them through NIST's Manufacturing Extension Partnership helping small- and medium-sized manufacturers work smarter, through the Economic Development Administration helping communities attract businesses and through the Minority Business Development Administration helping minority-owned firms thrive.

Once a business sends a product to market, it needs a level playing field on which to compete. The Department helps promote competitiveness through its International Trade Administration, promoting exports and ensuring fair competition, and through the Bureau of Industry and Security, ensuring an effective export control and promoting continued U.S. strategic technology leadership.

Finally, after innovation, commercialization, and competition, comes measurement. A business needs to see how it stacks up, economically or environmentally. The Department, too, has measurement as a pillar of its operations whether it's the Economics and Statistics Administration providing economic analyses and the Census or the NOAA keeping an eye on our environmental sustainability.

Secretary Locke and I view the Department, not just as a collection of agencies, but as a Department organized around the pillars of developing and maintaining a successful business—innovation, commercialization, competition and measurement. If confirmed, my challenge will be to help the Secretary and the Department's employees deliver those key services as effectively as possible.

*Question 3.* The U.S. has had huge trade deficits for years. In today's economic climate, American companies face many hurdles to selling their products overseas. Unfair trade practices and complex technical regulations in foreign countries can

also make exporting a real challenge, especially for small businesses. How will the Commerce Department help companies in New Mexico reach their full potential for exporting their products?

Answer. The Department of Commerce's International Trade Administration (ITA) plays an important role in creating and sustaining high-paying jobs through export assistance, especially for small- and medium-sized businesses, and market access and advocacy support to ensure fair trade. ITA's efforts are focused on increasing the number of American exporters and increasing the number of export markets for American firms.

ITA's U.S. & Foreign Commercial Service (US&FCS) has a global network of trade professionals in 109 U.S. locations, including Santa Fe, New Mexico, and in U.S. Embassies and Consulates in 77 countries. US&FCS staff will continue to work with U.S. companies, providing counseling and advocacy, market research, trade events, and identification of potential international buyers or partners. Commerce staff guides companies through every step of the export process, from shipping and logistics, to understanding foreign regulations, to finding solutions when they encounter trade barriers overseas. If confirmed, I look forward to working with Congress and the Administration to ensure these critical programs are providing maximum benefit to U.S. companies including those in New Mexico.

*Question 4.* New Mexico is a beautiful place with terrific tourist destinations like historic Santa Fe, the Taos Pueblo world heritage site, and natural wonders like White Sands National Monument. Yet international tourism is suffering due to current world economic conditions. How will the Office of Travel and Tourism Industries (OTTI) at Commerce promote tourism in this current economic climate?

Answer. The Department's efforts are focused on opening up new key markets for international visitors to the United States, such as visitors from China and countries in South America, and working closely with industry representatives in support of bringing such visitors to the United States. For example, the Department has a cooperative agreement with the U.S. Travel Association for a "one-stop shop" travel and tourism industry website aimed at international visitors in the top 5 markets. Through the Tourism Policy Council, the Department communicates industry concerns to all Federal agencies whose policies affect the travel and tourism industry. The Secretary has stated that he will communicate the importance and value of travel, including corporate travel, to the U.S. economy.

*Question 4a.* How can the Commerce Department help businesses such as those in New Mexico that rely on tourism?

Answer. The Department is working to ensure that all of the United States remains attractive to international visitors. The Department is continuing its work with other agencies to facilitate travel to the United States, while taking into account the demands of national security.

In addition, Commerce is actively engaged with the Western States Tourism Policy Council to address rural community needs for travel and tourism. If confirmed, I look forward to working with you and other interested members to ensure Commerce's tourism programs bring maximum benefit to the U.S. tourism industry.

*Question 5.* The New Mexico Manufacturing Extension Partnership (MEP) in Albuquerque provides helpful assistance to small companies throughout my state. How can the Commerce Department, through NIST and other agencies, do more to support small businesses and the manufacturing sector?

Answer. In addition to the work that the New Mexico MEP is doing in your state to support the manufacturing sector, the Department of Commerce is looking at a single point of contact for businesses to access the Department's programs and services for businesses and entrepreneurs. In June, the Secretary announced his goal to unveil by the end of the summer a "One-Stop Shop" in the Detroit area, making more accessible the services offered by Commerce's Patent and Trademark Office, Minority Business Development Administration, Economic Development Administration, National Institute of Standards and Technology, and International Trade Administration, among others. The Department is going to pilot this idea in Detroit with a goal toward implementing this approach nationwide—bringing a new way of delivering services to the businesses and entrepreneurs in New Mexico. This program will play a critical role in bringing the Federal Government to "Main Street" in an effective, business-friendly way—making the Federal Government a true partner in helping to revitalize communities.

It is my understanding that Commerce has been very focused on the manufacturing sector and its challenges in this economy, from getting key input and advice from the Manufacturing Council to helping manufacturers diversify into new and growing technologies.

*Question 6.* How can the Department of Commerce better promote entrepreneurship in minority communities through the Minority Business Development Agency (MBDA) and other initiatives?

Answer. MBDA's mission is to foster the establishment and growth of minority-owned businesses of all sizes. Through its nationwide network of 48 minority business centers, MBDA is promoting entrepreneurship with minority communities and Native Americans through business advisory services and training programs. If confirmed, I will work with Secretary Locke and the new MBDA Director, David Hinson, to examine new and innovative ways to promote business growth and entrepreneurship in minority communities and tribal lands. I will welcome any input you and your colleagues may have and look forward to launching new initiatives toward this end if I am confirmed.

*Question 6a.* How can the Commerce Department promote entrepreneurship and business opportunities on tribal lands?

Answer. It is my understanding that one of MBDA's key cooperative grant programs is the Native American Business Enterprise Center (NABEC). These centers are operated by tribal entities, non-profit organizations and tribal colleges/universities. Through these centers, MBDA works with Native American entrepreneurs who wish to grow their businesses in size, scale and capacity. These firms are then better positioned to create jobs, impact local economies and expand into national and global markets. Last program year, MBDA assisted more than 470 Native American clients with more than \$93 million in contracts and \$54 million in financial transactions.

If confirmed, I look forward to exploring other ways to promote entrepreneurship and business opportunities on tribal lands.

*Question 7.* The Native American Business Enterprise Centers play an important role in promoting entrepreneurship in tribal areas. The local NABEC office in my home state, in partnership with the American Indian Chamber of Commerce of New Mexico, works to promote both a favorable business climate and business growth in Indian Country through services such as business planning, bookkeeping, and government procurement assistance.

My office has recently learned of challenges these centers face due to local grant matching requirements. I hope that you will promote a flexible approach to local grant requirements for Commerce Department programs that helps maximize their potential while still ensuring accountability and transparency. Would you support a flexible approach for grant requirements for programs such as NABEC by allowing, for example, "sweat equity" and volunteer efforts to be considered as in-kind contributions?

Answer. The NABEC grant opportunity requires a non-Federal match of at least 10 percent. The other two MBDA grant programs require a 20 percent match. MBDA is sensitive to the needs of the Native American community and for that reason requires a lower non-Federal cost share.

MBDA already supports a flexible approach for the non-Federal match allowing four means, or any combination thereof, to satisfy the cost sharing requirements. The four means include: (1) client fees; (2) grantee cash contributions; (3) grantee in-kind contributions; and (4) third-party contributions.

An example of a grantee in-kind contribution would be if the ABC Chamber applied for one of MBDA's grants and offered their accountant's services for the project for 10 hours per week. The value of the pro-rated salary per year attributable to project activities may be listed as an in-kind contribution. Other examples include the value of computers, office space and volunteer work attributable to the project.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. KAY BAILEY HUTCHISON TO  
DENNIS F. HIGHTOWER

*Question.* This Committee and its members have long enjoyed a close and productive working relationship with agencies under our jurisdiction. We often rely on the technical and legal expertise of agency staff when we are developing or reviewing proposed legislation. Can all members of the Committee, and their staff on their behalf, count on this cooperative relationship continuing with the Department of Commerce?

Answer. Yes. I fully recognize the importance of working closely with all Members of the Committee and I will ensure the Department continues that tradition if I am confirmed.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO ROBERT S. ADLER

*Question 1.* The Commerce Committee considers protecting consumers one of its highest priorities. As Commissioner, what will you do to make sure that the CPSC protects the public from unsafe consumer products?

Answer. The mission of the Consumer Product Safety Commission is to protect consumers from unreasonable risks associated with consumer products. I will consider this mandate to control my every action and every vote at the agency if I am confirmed.

*Question 2.* The CPSC is an independent Federal agency. Are you comfortable speaking out against the Administration's budget and policies if you think those decisions are not in the best interest of protecting consumers?

Answer. Yes. Independent agencies are independent for a purpose. They are supposed to address issues according to their mandates, not according to political concerns or considerations. That said, if confirmed, I would look forward to maintaining a dialogue with the Administration and with Congress on critical issues that they consider important.

*Question 3.* The CPSC is in the midst of implementing the Consumer Product Safety Improvement Act of 2008 (CPSIA). There are a number of rulemakings under consideration and new requirements that have significantly expanded the authority of the Commission. Will you commit to working through implementation of this law in a commonsense manner that recognizes the flexibility of the act?

Answer. Yes. I consider myself to be a non-ideological pragmatic problem solver. I believe that regulation works best when it comports with common sense, so I will wholeheartedly embrace such an approach if I am confirmed.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
ROBERT S. ADLER

*Question 1.* As you know, almost all of the children's toys sold in the United States are made in foreign countries such as China. The infamous "summer of recalls" reminded us of the importance of ensuring the safety of all these imported products.

I would appreciate hearing both nominees' views on ensuring product safety in an era of global supply chains. What proactive measure should the CPSC take to prevent unsafe, foreign-made products from being sold in the United States?

Answer. First, given the CPSC's limited resources, it can never adequately police imports solely by itself. It must use its partnership with the U.S. Customs and Border Patrol to maintain a meaningful presence in the import marketplace. The CPSC should nurture this relationship which has been strengthened recently and alert Customs when it obtains information about new, emerging hazards. Second, the CPSC should continue to work with foreign governments wherever possible to educate them about our product safety laws and requirements. I commend Chairman Tenenbaum on her current trip to Asia to meet with fellow regulators and key stakeholders. If we maintain good relations with these governments and the regulatory bodies they establish, we can use their enforcement resources to amplify our safety message.

*Question 1a.* How should CPSC work with manufacturers, U.S. Customs and Border Patrol, and foreign governments to protect American children and consumers from unsafe imported products?

Answer. I would hope that the CPSC would seek to use strong, open relationships with all of these parties to try to promote safety in the development, manufacturing and marketing of consumer products before they are made, rather than seek recalls after a problem manifests itself. Incorporating product safety into a product's design is always superior to addressing problems once an injury or death has occurred. One of the most effective things the CPSC can do is to educate all parties about the nature of consumer product risks and to alert them to spread this message throughout their organizations.

*Question 1b.* Since passage of the landmark CPSIA legislation, does the CPSC now have the resources and authority it needs to protect our children from harmful and tainted products imported from foreign countries?

Answer. In all honesty, I don't know. I am certain that the added resources and authority are extremely helpful, though the agency does remain a smaller entity than it was thirty years ago. Since I am not at the CPSC, it is difficult to say whether any more resources or authority is needed.

*Question 2.* Product recalls are one of the main tools CPSC uses to protect consumers. The CPSC website does provide helpful information about recent recalls. However, as a consumer, it is not always easy to know if you have a product at home that has been recalled for safety reasons. Moreover, not all Americans have access to the Internet. What are your thoughts for improving the effectiveness and response rate for product recalls?

*Answer.* The new consumer safety database established in the CPSIA should provide considerable help if it is implemented in a user-friendly manner with easy accessibility and clear paths to follow to obtain information. If I am confirmed, I will make implementing such a database a priority of mine. Clearly not everyone has a computer or Internet access, but if it is developed carefully, informal information networks often help carry the message even when it is not received directly. I believe this is the foundation of CPSC's Neighborhood Safety Network. Beyond the Internet, the agency should always use every available means at its disposal, including newspaper stories, TV, radio, and posters where appropriate, to carry its safety message.

*Question 2a.* In addition to using existing tools such as the new consumer safety data base, what more can CPSC do to ensure that harmful products are promptly removed from store shelves and American households?

*Answer.* In my opinion, the agency should rely on every communication and persuasion tool—emerging or traditional—it has available to transmit safety messages. Effective communication typically requires numerous messages sent through different channels to gain proper attention and to reinforce the importance of the safety messages.

*Question 3.* Given that CPSC has fewer than 500 employees and the agency is charged with ensuring the safety of over 15,000 types of consumer products, I would like to know your thoughts on how CPSC can leverage its resources. For example, how will you work with state attorneys general to help ensure compliance with consumer product safety rules?

*Answer.* In my past experience at the CPSC, there was always a strong inter-governmental relationship between the CPSC and the state attorneys general. I hope that such a relationship can be revived. As a former Deputy Attorney General in the Pennsylvania Attorney General's office, I participated in publicizing and enforcing CPSC recalls to great effect. One approach that I might recommend if I am confirmed is for the CPSC to host some regional conferences of state AG's to raise awareness about product safety issues and to obtain the expertise of the AG's on these issues.

*Question 4.* Congress gave CPSC the authority interpret the Consumer Product Safety Improvement Act (CPSIA) to interpret the law's requirements in a common sense way to allow the agency to exempt certain from lead content rules. I do not believe motorcycles, for example, should fall under the same lead ban that applies to children's toys. As CPSC commissioner, will you support a flexible, common sense approach to interpreting the law that ensures a high level of consumer safety?

*Answer.* Yes. You have my commitment that, if I am confirmed, I will approach all issues that come before me in a common sense fashion.

*Question 4a.* Will you address the issue raised by constituents in my state of motorcycles inappropriately falling under the same lead ban as children's toys?

*Answer.* Yes. If confirmed, I look forward to looking at this and other issues related to the lead content rules. I will approach these issues in a completely commonsensical way.

*Question 5.* CPSC and other regulatory agencies rely on consensus standards developed by accredited standards development organizations. The U.S. Code of Federal Regulations currently includes 6,000 references to such standards, including many in critical areas involving health and safety.

Although CPSC technical experts participate in standards development activities relevant to consumer safety, CPSC has often been more reluctant than other agencies to reference existing voluntary safety standards as mandatory requirements.

Last year, Congress directed CPSC to reference several such standards, which are updated more regularly than consumer rules, in order to ensure a higher level of children's safety. Congress also instructed CPSC to reference updated versions of these standards shortly after they are revised. How will you encourage CPSC staff to continue to participate in standards development organizations that are relevant to protecting consumer safety?

*Answer.* I fully support having CPSC staff participate in standards development by voluntary groups. I believe it promotes a full understanding among the parties of critical issues and often produces effective safety improvements at lower costs than mandatory regulations. I was disappointed recently to see that the agency ap-



parently felt compelled to withdraw from some ongoing voluntary standards development work because of higher priority demands of implementing the CPSIA. If confirmed, I hope to talk to the staff to see whether such a step was necessary and to push for continuing development in such work.

*Question 5a.* Would you consider referencing the resulting standards in consumer safety rules when they are consistent with the Commission's regulatory objectives?

Answer. Yes.

*Question 5b.* How will you ensure that CPSC rules stay current with emerging consumer safety threats?

Answer. Periodic review by CPSC of safety rules, whether they be mandatory or consensus standards, is necessary to stay current with emerging consumer threats. Also, when rules are thoughtfully developed in performance terms, they set useful safety parameters but leave compliance to manufacturers, thus permitting new technologies without the constant necessity of revising agency rules.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DAVID VITTER TO  
ROBERT S. ADLER

*Question.* I thank both nominees for meeting with me prior to their consideration by the Committee. Also, I want to thank them for the good discussions we had on three important topics: the need to find a quick and fair resolution to the growing problem of tainted drywall from China, to work at the CPSC and with other Federal agencies to address the overall problem of products imported from China that are unsafe, and to ensure that the process leading to final regulations regarding phthalates will be based on sound science.

On the last topic, I also want to ask that the nominees, if they are confirmed, carefully review the proposed Statement of Policy on the testing procedures for products subject to the interim ban on high-molecular-weight phthalates. This policy under consideration would require testing of components that are inaccessible by children. This testing standard is different than what the Consumer Products Safety Improvement Act included for components with certain levels of lead that are inaccessible. I hope that the commission will carefully weigh the benefits and costs of the extra testing requirements, while continuing to ensure both safety of children and fairness to manufacturers with sound science as the backing for testing during the interim period and after the final regulations.

Answer. If confirmed, I would be happy to review the Statement of Policy at issue and to consult with the other Commissioners and CPSC staff about it.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO HON. ANNE M. NORTHUP

*Question 1.* The Commerce Committee considers protecting consumers one of its highest priorities. As Commissioner, what will you do to make sure that the CPSC protects the public from unsafe consumer products?

Answer. If I am confirmed, I will work to assure that the mission of the agency to protect consumers from unreasonable risk of injury from consumer products is carried out aggressively and appropriately. I am especially committed to working on behalf of our most vulnerable consumers—children and the elderly.

*Question 2.* The CPSC is an independent Federal agency. Are you comfortable speaking out against the Administration's budget and policies if you think those decisions are not in the best interest of protecting consumers?

Answer. The CPSIA requires that the CPSC submit its proposed budget to Congress when it submits it to OMB. Therefore, the Congress will have the benefit of the agency's views independent from those of OMB. If I am confirmed, I will continue the same independence that was my hallmark as a Member of Congress for 10 years. I will continue to exercise independent judgment as a member of the CPSC.

*Question 3.* The CPSC is in the midst of implementing the Consumer Product Safety Improvement Act of 2008 (CPSIA). There are a number of rulemakings under consideration and new requirements that have significantly expanded the authority of the Commission. Will you commit to working through implementation of this law in a commonsense manner that recognizes the flexibility of the act?

Answer. Yes. As a Member of Congress, I have consistently sought common sense solutions to problems. I intend to continue that approach if confirmed as a Commissioner for the CPSC.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
HON. ANNE M. NORTHUP

*Question 1.* As you know, almost all of the children's toys sold in the United States are made in foreign countries such as China. The infamous "summer of recalls" reminded us of the importance of ensuring the safety of all these imported products.

I would appreciate hearing both panelists' views on ensuring product safety in an era of global supply chains. What proactive measure should the CPSC take to prevent unsafe, foreign-made products from being sold in the United States? How should CPSC work with manufacturers, U.S. Customs and Border Patrol, and foreign governments to protect American children and consumers from unsafe imported products? Since passage of the landmark CPSIA legislation, does the CPSC now have the resources and authority it needs to protect our children from harmful and tainted products imported from foreign countries?

Answer. Since all current expertise at the CPSC is not currently available to me, it is premature for me to make specific recommendations about what actions the CPSC should take concerning foreign-made products being sold in the United States. However, I believe that consumers would benefit greatly from increased coordination among manufacturers, U.S. Customs and Border Patrol (CBP), foreign governments and the CPSC. Should I be confirmed, I would work to expand the CPSC's port surveillance system, and ensure open communication with foreign governments and manufacturers about the U.S. consumer product safety laws, specifically CPSIA. I am aware of efforts to strengthen the working efficiencies between CPSC and the CBP and would support those efforts. I would work to ensure that the dollars appropriated to CPSC would be used to accomplish the maximum protection for our children. By taking advantage of the fast changing technologies that are currently more widely available for tracking inventories, I would hope that more could be accomplished at a lower cost.

*Question 2.* Product recalls are one of the main tools CPSC uses to protect consumers. The CPSC website does provide helpful information about recent recalls. However, as a consumer, it is not always easy to know if you have a product at home that has been recalled for safety reasons. Moreover, not all Americans have access to the Internet. What are your thoughts for improving the effectiveness and response rate for product recalls? In addition to using existing tools such as the new consumer safety data base, what more can CPSC do to ensure that harmful products are promptly removed from store shelves and American households?

Answer. Should I be confirmed, I look forward to working to improve the process for disseminating information about product recalls. As a mother of six children, I know how important it is for parents, and for all consumers, to have accurate information about the safety of the products they use. I intend to closely review information the agency already has that explains how the recalls are executed and how their effectiveness is determined. Using that as a benchmark, I will want to explore how the new consumer safety database can enhance access to recall information as well as engage the public more in its availability. We must also recognize that not all consumers have access to the Internet, so I will work to ensure that those consumers have better access to recall information as well. The goal of keeping recalled products from harming consumers is of critical importance to me.

*Question 3.* Given that CPSC has fewer than 500 employees and the agency is charged with ensuring the safety of over 15,000 types of consumer products, I would like to know your thoughts on how CPSC can leverage its resources. For example, how will you work with state attorneys general to help ensure compliance with consumer product safety rules?

Answer. I want the agency to foster beneficial partnerships with state attorneys general, as well as relevant state agencies, to achieve our common goal of consumer protection. That will expand the impact and effectiveness of the work at the CPSC. This is especially important in light of the authority for state attorneys general to bring civil action for appropriate injunctive relief under the provisions of the CPSIA. A cooperative approach between Federal and state authorities would result in the optimal use of resources to protect American consumers. Should I be confirmed, I look forward to discussions with Chairman Tenenbaum and the other Commissioners how best to work with state attorneys general on enforcement.

*Question 4.* Congress gave CPSC the authority interpret the Consumer Product Safety Improvement Act (CPSIA) to interpret the law's requirements in a common sense way to allow the agency to exempt certain from lead content rules. I do not believe motorcycles, for example, should fall under the same lead ban that applies to children's toys. As CPSC commissioner, will you support a flexible, common sense

approach to interpreting the law that ensures a high level of consumer safety? Will you address the issue raised by constituents in my state of motorcycles inappropriately falling under the same lead ban as children's toys?

Answer. If confirmed, I am committed to regulating in a common sense manner that maximizes protection to consumers and minimizes burdens on those regulated to the extent that the law allows such flexibility. In addition, I will request a briefing to determine the status of the motorcycle issue, to determine what avenues of relief are available, and work with you to determine how the issue can best be addressed.

*Question 5.* CPSC and other regulatory agencies rely on consensus standards developed by accredited standards development organizations. The U.S. Code of Federal Regulations currently includes 6,000 references to such standards, including many in critical areas involving health and safety.

Although CPSC technical experts participate in standards development activities relevant to consumer safety, CPSC has often been more reluctant than other agencies to reference existing voluntary safety standards as mandatory requirements.

Last year, Congress directed CPSC to reference several such standards, which are updated more regularly than consumer rules, in order to ensure a higher level of children's safety. Congress also instructed CPSC to reference updated versions of these standards shortly after they are revised. How will you encourage CPSC staff to continue to participate in standards development organizations that are relevant to protecting consumer safety? Would you consider referencing the resulting standards in consumer safety rules when they are consistent with the Commission's regulatory objectives? How will you ensure that CPSC rules stay current with emerging consumer safety threats?

Answer. I understand that an important part of the CPSC staff work is to participate in and support the development of voluntary consensus standards. I believe that such standards are an essential element in ensuring the safety of consumer products. While I understand that the ongoing staff work on consensus standards has been diminished to focus resources on the implementation of the CPSIA, with additional resources now coming to the agency, this important work can resume. I will work to support active participation by CPSC staff in consensus standards work as the agency develops its ongoing work plans and budget for the upcoming years.

I understand that the Consumer Product Safety Improvement Act recognizes the role that consensus standards play in ensuring the safety of consumer products by prohibiting mandatory rulemaking when a voluntary consensus standard adequately addresses the risk of injury. However, it is also my understanding that the CPSIA gives the agency some additional flexibility to determine that products which do not meet voluntary standards will be determined to be hazardous. This is an important clarification and could be especially important in an import context.

Identifying emerging product hazards is probably one of the most difficult problems facing the Commission. While I am not yet an expert on the resources the agency currently has to identify new product hazards, this is an area where I believe adequate resources must be devoted. In particular, the recently acquired new agency laboratory facility will be helpful in carrying out this role. In addition, I believe that the agency should leverage its resources by reaching out to other Federal agencies and resources at the state and local level to make sure that it is informed of research and data that touch on its safety mission.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DAVID VITTER TO  
HON. ANNE M. NORTHUP

*Question.* I thank both nominees for meeting with me prior to their consideration by the Committee. Also, I want to thank them for the good discussions we had on three important topics: the need to find a quick and fair resolution to the growing problem of tainted drywall from China, to work at the CPSC and with other Federal agencies to address the overall problem of products imported from China that are unsafe, and to ensure that the process leading to final regulations regarding phthalates will be based on sound science.

On the last topic, I also want to ask that the nominees, if they are confirmed, carefully review the proposed Statement of Policy on the testing procedures for products subject to the interim ban on high-molecular-weight phthalates. This policy under consideration would require testing of components that are inaccessible by children. This testing standard is different than what the Consumer Products Safety Improvement Act included for components with certain levels of lead that are inaccessible. I hope that the commission will carefully weigh the benefits and costs of the extra testing requirements, while continuing to ensure both safety of children

and fairness to manufacturers with sound science as the backing for testing during the interim period and after the final regulations.

Answer. I believe that the decisions of the Commission must always be based on sound science. If confirmed as a Commissioner, I would always take this approach, to the extent allowed by law.

With respect to phthalates specifically, I understand that there are a number of unanswered questions, not only with respect to phthalates, but also with respect to substitutes for which there is little information about health effects. I understand that the CPSC is assembling a Chronic Hazard Advisory Panel that is required to complete its investigation within 180 days and that the Commission will then make a final determination. If I am confirmed, I will work to ensure that the Panel is impartial in its makeup and completes its work on schedule.

