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# NOMINATION—CONSUMER PRODUCT SAFETY COMMISSION

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## HEARING

BEFORE THE

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

### UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

NOMINATION OF

SAMUEL D. ZAGORIA, TO BE A MEMBER, CONSUMER PRODUCT  
SAFETY COMMISSION

OCTOBER 5, 1978

Serial No. 95-118

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# NOMINATION—CONSUMER PRODUCT SAFETY COMMISSION

THURSDAY, OCTOBER 5, 1978

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

The committee met at 9 a.m., in room 235, Russell Senate Office Building, Hon. Wendell H. Ford presiding.

## OPENING STATEMENT BY SENATOR FORD

Senator FORD. If Mr. Zagoria and Senator Case will take their places, I have an opening statement that I would like to make and then we will recognize our distinguished colleague.

This morning the Committee on Commerce, Science, and Transportation considers the nomination of Samuel D. Zagoria for Commissioner of the Consumer Product Safety Commission. The President nominated Mr. Zagoria to fill the remaining term of Chairman John Byington whose term will expire on October 26, 1978. The President also nominated Mr. Zagoria for a 7-year term.

I have in the past criticized the leadership of the Consumer Product Safety Commission and feel that its past failure to perform could be attributed in part to a lack of commitment and creativity. Now the agency, probably for the first time since it was established 5 years ago, seems capable of providing action in the area of consumer product safety. I am happy with the performance thus far of the new appointees and chairman. They already show evidence of a new spirit. For example, they were well ahead of schedule in issuing mandatory regulations on potential flammable and corrosive cellulose home insulation.

As I stated at the nomination hearing of Commissioners Sloan and King, I want to continue to insist that these Presidential appointees who serve as Commissioners demonstrate those qualities of leadership, dedication to duty and commitment to the cause of product safety that this agency needs.

We are fortunate to have with us this morning my distinguished colleague, Senator Case from New Jersey, to speak on behalf of Mr. Zagoria.

[The biographical sketch and questions and answers follow:]

### BIOGRAPHICAL SKETCH OF SAMUEL D. ZAGORIA

Name: Samuel D. Zagoria (Sam Zagoria).

Address: 3537 Marlborough Way, College Park, Md. 20740.

Date and place of birth: April 9, 1919, Somerville, N.J.

Marital status: Married, Sylvia Bomse Zagoria.

Names and ages of children: Paul K. Zagoria, age 30; Marjorie Zagoria Olds, age 28; Ronald J. Zagoria, age 21.

Education: Somerville High School, Somerville, N.J. September 1933 to June 1937. Rutgers University, New Brunswick, N.J. September 1937 to June 1941, B. Letters in Journalism, June 8, 1941. Harvard University, Cambridge, Mass. September 1954 to January 1955, Nieman Fellow.

Employment record:

Reporter-editor, New Brunswick Daily Home News, New Brunswick, N.J., September 1940 to August 1941. Public Relations Director, New Jersey State Defense Council, Trenton, N.J., August 1941 to March 1942. Assistant Director, Federal Office of Government Reports, Newark, N.J., March 1942 to May 1942. Staff sergeant, U.S. Army, May 1942 to November 1945. Night City Editor (part time), San Bernardino Sun, during part of Army service.

Public Relations Director, National Committee for a Fair Minimum Wage, Washington, D.C., December 1945 to August 1946. Reporter-editor, The Washington Post, Washington, D.C., August 1946 to January 1955. Administrative Assistant to Senator Clifford P. Case, U.S. Senate, Washington, D.C., January 1955 to April 1965. Member, National Labor Relations Board, Washington, D.C., April 1965 to December 1969. Director, Labor-Management Relations Service of the U.S. Conference of Mayors, Washington, D.C., January 1970 to present.

Government experience:

New Jersey State Defense Council; Federal Office of Government Reports Administrative Assistant to Senator Clifford P. Case; National Labor Relations Board; U.S. Conference of Mayors; Member of Task Force on Collective Bargaining for Public Employees, General Assembly of Maryland.

Memberships:

National Press Club, Washington, D.C., 1955-71. Gunpowder Golf Club, Laurel, Md., 1960-64. Washington Newspaper Guild, Washington, D.C., 1946-55, held office of President for one year. University Hills PTA, Hyattsville, Md., 1951-62, held office of President. University Hills Citizens Association, Hyattsville, Md., 1951-63. University Hills Swimming Pool, Hyattsville, Md., 1961-63, held office of President. Society of Nieman Fellows, Harvard University, Cambridge, Mass., 1955 to present. American Veterans Committee, Washington, D.C. 1946-52, held office of Vice Chairman, D.C. Chapter. Federal City Club, Washington, D.C. College Park Woods Civic Association, College Park, Md. Rutgers University Alumni Association, New Brunswick, N.J. Common Cause, Washington, D.C. College Park Woods Swimming Pool, College Park, Md.

Political affiliations and activities: No offices held.

Contributions to the campaigns of the following, in amounts of \$300 or less: Mayor William Gullett, College Park, Md. Mayor John V. Lindsay, New York City. Delegate Pauline Menes, Maryland State Legislature. Senator Clifford P. Case, U.S. Senate, New Jersey. Senator Charles Mc. Mathias, U.S. Senate, Maryland. Representative Millicent Fenwick, House of Representatives, New Jersey.

Honors and Awards:

Award of Merit, Columbus, Ohio, Chapter of Federal Bar Association. Plaque, Federal Mediation and Conciliation Service. Plaque, Washington Newspaper Guild. Certificate of Service, National Labor Relations Board. Plaque, Union City, N.J., AFL-CIO Council. Washington Newspaper Guild Award for Public Service reporting. Honorary Citizenship, City of Ft. Worth, Tex. "Duke of Paducah" Award, city of Paducah, Ky.

Published writings:

Contributed chapter to "The Worker and the Job: Coping with Change," published by Prentice-Hall, Inc., 1974.

Contributed chapter to "Collective Bargaining and Productivity," published by the Industrial Relations Research Assn., 1976.

Contributed chapter to "State Government," published by The Council of State Governments, 1976.

Author of "What You Need to Know About Labor Relations: Guidelines for Elected and Appointed Officials," published by the Labor-Management Relations Service of the U.S. Conference of Mayors, 1974.

Author of "Productivity—A Positive Route," published by the Labor-Management Relations Service of the U.S. Conference of Mayors, 1978.

Author, "The Assembly Line Has Problems," The Washington Post, September 12, 1972.

Author, "When Work Schedules are Flexible," The Washington Post, September 9, 1973.

Author, "Searching for Meaning in Work," The Washington Post, February 6, 1972.

Author, "Don't Look for Shortcuts to Collective Bargaining," Nation's Cities, July 1976.

"Q and A, Sam Zagoria on Unions and Cities," The Washington Star, May 8, 1975.

Author, "Putting an Old School to New Uses," The Washington Post, May 14, 1978.

Speeches:

"Let's Give Employees A Chance to Improve Productivity," International City Management Association Annual Conference, Dallas, Tex., October 14, 1974.

"Proposal to Create a Presidential Study Commission on the Future of Labor Relations in Public Employment," Pennsylvania League of Cities, Philadelphia, Pa., June 30, 1975.

"The Importance of Elections in Collective Bargaining," U.S. Conference of Mayors Annual Conference, Boston, Mass., July 8, 1975.

"Quality of Working Life," 1975 International Conference on Personnel Administration, Anaheim, Calif., October 21, 1975.

"Current Issues in Municipal Labor Relations," Southern Methodist University Public Employee Labor Relations Symposium, Dallas, Tex., November 11, 1976.

"Compulsory Binding Arbitration for Resolution of Bargaining Impasses," Labor-Management Relations Service/American Arbitration Association Annual Conference, Washington, D.C., February 15, 1977.

"Training of Public Management and the Neutrals," American Arbitration Association Seminar, New York, N.Y., April 18, 1977.

"New Approaches to Labor Relations," Annual Meeting of the U.S. Conference of Mayors, Tucson, Ariz., June 14, 1977.

"Dispute Resolution: Public Policy and the Practitioner," Annual Meeting, Society of Professionals in Dispute Resolution, New York, N.Y., October 24, 1977.

"Public Officials Seek to Regain Control Over Labor Contract Costs," Annual National Conference of the American Public Power Association, Atlanta, Ga., May 9, 1978

"California, Contract Cost Leakage and Mayors' Accountability," U.S. Conference of Mayors Annual Conference, Atlanta, Ga., June 20, 1978.

"Interest Arbitration; Obstacle to Representative Government," Annual Conference, College and University Personnel Association, Seattle, Wash., August 4, 1978.

Qualifications: My work experience has given me an opportunity to develop skills in establishing and/or managing operations in often controversial areas. Most recently I have had the experience of helping create and administer a successful organization functioning in the sensitive area of public sector labor relations. Before that I served as one of five Members of the National Labor Relations Board making decisions in hard-fought labor-management cases as well as helping direct the efforts of a substantial headquarters staff and 30 regional offices for almost five years. As administrative assistant to Senator Clifford P. Case, I helped organize and guide the activities of a staff of 22 assistants for 10 years. Earlier, as a working newspaperman, I learned how to dig into varied situations quickly and thoroughly and communicate facts concisely and clearly. Since I have served in various capacities in labor relations—as a representative of public management for almost nine years, as a union local president for a year while working as a reporter, as mediator in a school strike and as a Federal adjudicator in labor cases—I believe I have some ability to conciliate differences between a government agency and individual commercial firms. But when necessary I believe I have demonstrated I can direct necessary actions firmly and sensibly. I suspect that service with the CPSC would give me additional opportunity to expand my experience in all of these skills—and more.

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QUESTIONS OF THE COMMITTEE AND ANSWERS THERETO

*Question.* What steps have you taken to prepare yourself to serve on the Consumer Product Safety Commission? Please specify those past activities that you consider to be particularly relevant.

*Answer.* In the brief time available I have read the most recent annual report of the Consumer Product Safety Commission, the hearings held on three recent

nominees to CPSC, the current Senate authorization bill and the oversight report "Federal Regulation and Regulatory Reform" Chapter 6 dealing with the CPSC. In addition, I have spent time with some members of the Commission and talked with several leaders in the consumer movement whom I have known over the years.

*Question.* Were any conditions expressed or implied attached to your nomination?

*Answer.* None. I did sign a statement agreeing to refrain from any post-Commission employment which might constitute a possible conflict of interest.

*Question.* Provide the Committee with a list of each individual or company subject to the jurisdiction of the Consumer Product Safety Commission with whom you spoke regarding your candidacy for membership on the Commission.

*Answer.* None.

*Question.* Are there any outside organizations, groups, or associations from which you plan to resign if confirmed as a Commissioner?

*Answer.* None. My wife, who is a member of the Board of National Consumers League, plans to resign from that office if I am confirmed.

*Question.* Section 4(c) of the Consumer Product Safety Act provides, in part, that a Commissioner may not engage in any other business, vocation, or employment. If confirmed, what activities in which you are presently engaged will be affected by this prohibition?

*Answer.* None.

*Question.* What do you consider to be the future mission of the Consumer Product Safety Commission? Define the relationship between this mission and the role of industry in the area of consumer product safety.

*Answer.* I believe the present and future mission of the Commission is, broadly construed, to protect consumers against unsafe products. With an estimated 30,000 fatalities a year, 20 million injuries a year and \$5.5 billion spent on treating product-related injuries, attaining the objective is obviously important but far in the future. The problem is compounded by the fact that the Commission's jurisdiction embraces an estimated 2.5 million firms turning out at least 10,000 different products—and these products are constantly undergoing expansion and change.

Realistically, complete protection is probably unattainable. Even with the best of products, widespread training in safety for consumers and diligent monitoring by the Commission, there are bound to be some individual injuries, but the Commission goal, as I see it, is to use the tools in this unique statute to constantly lower the possibilities of the tremendous and unnecessary loss of life, sustaining of illness and injuries. These come about not from uncontrollable acts of nature, but from controllable acts of man.

In the technologically advanced society in which we live, Americans have come to rely on government to protect them from various hazards endangering their health and safety. In order to do this governmental agencies such as CPSC have been directed by the Congress to identify problems associated with products and take steps to reduce or eliminate the hazards. While some firms may look upon this as an unnecessary interference, many firms have recognized that neither the public interest nor their own self-interest is served by producing goods which can, inflict death or injury on its purchasers. For the regulators such matters, I suspect are rarely pure black and white. There is a necessity for weighing relative values—the decision as to which products are most widely used, most dangerous, in order to decide where limited Commission resources are to be directed; the cost of safety measures versus potential gains in safety; the question of whether the safety risks involved permit development of voluntary standards, require mandatory standards or absolute prohibition, to list a few problems.

As the oversight report noted, more can be done to implement the manufacturer notification procedure in Section 15(b). I look on this as the first stage in often helping develop a cooperative effort by government, industry and consumers to find ways to diminish the dangers in individual products.

I recognize the concerns of many manufacturers that to report substantial hazards may prejudice their defense in possible legal actions against them. It should be possible for the Commission to develop ways to receive such reports without the content becoming "statements against interest". The reports may represent only blips on the horizon, but unless the facts are brought to the attention of the Commission, the appropriate governmental remedial action may not get started and that is what the legislation contemplates.

*Question.* If confirmed, what would be your basic objectives as a member of the Consumer Product Safety Commission?

*Answer.* While I have a great deal to learn about the Commission, its enabling legislation and budget, its internal policies and regulations, I am impressed by what I know and have read about the other members of the Commission. They come from various backgrounds and thus bring a number of disciplines and perspectives to bear on the great range of problems confronting the Commission. The obvious deep interest of this Committee, and particularly this Subcommittee, in the work of the Commission provides a reinforcement of its constructive efforts and a guide to change in its less effective programs. With this as background, as I become more familiar with the agency I would hope to contribute to the development of product safety standards, setting of clear agency priorities, developing—or reorganizing the Advisory Committees, beefing up the manufacturer notification process, extending the information and education programs so that the likelihood of unintended violations is minimized and promoting a ripple effect from adopted voluntary and mandatory standards so that other industries take early preventive steps.

*Question.* Do you believe that the role of the Consumer Product Safety Commission is finite? If so, at what point do you believe the Commission's mission will be completed?

*Answer.* No. There will always be new products and modifications of old ones to cope with.

*Question.* With respect to the nation's major health hazards, where would you rank consumer product hazards?

*Answer.* Judging by statistics cited earlier, consumer product hazards are a major contributor to the death and illness statistics of our nation. The growing interest in health and safety hazards in the workplace reminds that if workers are adversely affected, the consumers of products manufactured in such hazardous environment are threatened, too.

*Question.* Section 4(g)(2) of the CPSA prohibits any full-time officer or employee of the Commission who is at any time during the 12 months preceding the termination of his or her employment compensated at a rate in excess of the annual rate of basic pay in effect for GS-14 from accepting employment or compensation from any manufacturer subject to the CPSA for a period of 12 months after termination of employment with the Commission.

Would you vote to seek an injunction against any former employee of the Commission whom you believe to be violating this section of the CPSA?

*Answer.* Rather than commit myself to a particular course, I would prefer to look at each alleged violation on its own and weigh remedial conduct accordingly, but if there were an outrageous violation, particularly among top staff, and if I were advised the petition for an injunction stood a good chance of being granted, I would not hesitate to join my colleagues in such action.

*Question.* While the Act prohibits subsequent employment with or compensation from any manufacturer, would you refuse for a period of 12 months after termination of your employment with the Commission employment with or compensation from any person who is regulated, directly or indirectly, by the Commission (e.g., trade associations, importers, distributors, retailers)?

*Answer.* Yes.

*Question.* What do you believe to be the successes of the Consumer Product Safety Commission during its existence?

*Answer.* Judging particularly by the oversight report, I would note the Commission's success in implementing a government in the sunshine policy, in bringing the public into its processes and in establishing a centralized injury data center.

*Question.* What do you see as the Commission's most significant short-comings during its existence?

*Answer.* I gather there is a strong feeling that the Commission should have been able to achieve more by way of establishing standards for products that are used universally, more speed in acting in its various processes and more imaginative and determined use of its regulatory powers.

*Question.* What changes would you favor to overcome these shortcomings?

*Answer.* I hesitate to respond substantively until I have had a chance to become better acquainted with the Agency. There is nothing like knowledge to sober a man's dreams.

*Question.* Do you believe that the Commission must be technically self-reliant so that it is never in the position of being dependent upon the industries it regulates for its technological know-how?

Answer. No. I do believe it should have sufficient in-house capability to appraise industry statements and initiatives. The Commission purview is very broad and industry research and testing can be of great assistance in the Commission's work.

*Question.* Sponsors of the Consumer Product Safety Act characterized it as an independent regulatory agency with the emphasis on "independence". Do you believe the Commission should be independent? Why or why not?

Answer. Yes. It enables the agency to carry out its responsibilities without being subject to inappropriate Executive, Legislative, or industry pressures. There are checks—Agency budgets are subject to Congressional approval; Commission nominations originate in the White House and are subject to Senatorial consent; agency programs are subject to Congressional authorization legislation and Congressional oversight. Further, actions of the agency are subject to review by the courts.

*Question.* What steps will you take to preserve your independence from both political and industry pressures? What provisions in the Consumer Product Safety Act do you see as designed to preserve your independence from such pressures?

Answer. I plan to carry out faithfully the requirements as to maintenance of logs of phone calls and visitors, open meetings with parties of interest and avoid any possible ex parte contacts.

*Question.* What do you think of the Commission's new list of priorities?

Answer. Without further study I do not yet feel in a position to respond. The subject is far-reaching in nature and I have not yet had the chance to review the considerations—and alternatives—which may have been presented.

*Question.* The Commission recently voted to approve a voluntary standards policy and the pending Consumer Product Safety Act legislation contains language in this regard.

(a) What are your views on this policy?

(b) Please list any portions of that policy with which you personally disagree.

(c) Assume the Commission agrees that a voluntary industry standard provides a reasonable level of safety to consumers. Under what circumstances should the Commission adopt the voluntary standard as a federal consumer safety standard? Under what circumstances should the Commission take no action?

Answer. Here, too, I need more background before responding. In general I have encouraged voluntarism in, for example, labor relations, but I would want to know more about the Commission's own plans and capability for evaluating and monitoring such agreements.

*Question.* What are your personal views on the Commission's recently finalized policy aimed at assuring that manufacturers report substantial product hazards to the Commission? (Section 15)

Answer. I have not yet had a chance to analyze the policy and since I believe it is a foundation to Commission identification and remedying of hazards, I would want to do so before commenting.

*Question.* How do you believe the Commission should utilize its field offices?

Answer. I believe the field offices can be the eyes, ears and often the mouth of the Commission. In my experience on the National Labor Relations Board I came to realize quickly how useful they could be in helping carry out the agency mission. The field offices can be an important communications link between the Commission and regions of the nation.

*Question.* What changes, if any, do you believe the Commission should consider in its current utilization of field offices?

Answer. I am not yet ready to respond to this question.

*Question.* How do you visualize the relationship between the Consumer Product Safety Commission and state and local authorities?

Answer. I would like to encourage the fullest possible cooperation. There should be a constant flow of information and personal contact between the Agency and the state and local authorities.

*Question.* Section 13 of the Act authorizes the Commission to prescribe rules for the purpose of ensuring that the manufacturer of any new consumer product furnishes notice and a description of such product to the Commission before its distribution in commerce. Do you believe such rules are necessary, and if so, do you plan to urge that the Commission promulgate such rules?

Answer. I am not sure and would prefer to delay in responding until there has been more of a chance to familiarize myself with the difficulties involved for manufacturers and the extent of Agency capability to deal with the reports as they come in. The objective of such reports seems logical.

*Question.* Do you believe that the Commission has the authority under the Federal Hazardous Substances Act to prohibit the export of a banned hazardous substance such as tris-treated childrens' garments?

*Answer.* This is essentially a legal question and I would want to seek legal counsel. Philosophically, I would be concerned about finding a product dangerous, but then ignoring its shipment to consumers in another nation.

*Question.* When and under what circumstances should the export of products be banned if banned domestically?

*Answer.* If the law permitted, I would apply the same standard to export as to domestic distribution.

*Question.* Do you believe that additional authority is needed for the Commission to assure an adequate level of funding for public participation in Commission activities? Please explain.

*Answer.* I don't know. I do favor encouraging public participation in Commission activities. At the NLRB I proposed on several occasions—unsuccessfully at that time—that final arguments on major cases be opened to the public. This policy would go further, but I am not acquainted with the extent of present funding or whether this is inadequate.

*Question.* What do you think about the Commission's interim policy in the area of chronic hazards?

*Answer.* This deserves further study before responding.

*Question.* Should there be a government policy on compensation for companies that suffer losses as a result of federal regulations. In proposing a "reasonable reliance test" the following standard was suggested: "Was the injured party reasonable in his reliance that government would not regulate in such a way as to cause his losses, or were the circumstances such that the party should have been aware of the possible pitfalls?" What is your opinion of this suggested test?

*Answer.* It is an interesting approach. In a free enterprise, risk economy there is a natural reluctance to guarantee entrepreneurs against losses, yet Congress has enacted over the years a wide range of subsidies, tariff adjustment assistance, etc. This seems to me more a broad policy question for legislators to decide than for administrators limited to carrying out a specific Congressional mandate.

*Question.* Should the various Acts under the jurisdiction of the Commission be consolidated into one Act?

*Answer.* On the surface this would seem desirable since it would provide simplification and probably uniformity. I am not familiar with the arguments against the idea.

*Question.* Please explain what you believe to be the benefits and shortcomings of such an approach.

*Answer.* See above.

*Question.* What is your opinion of the Commission's performance in responding to the new law on cellulose home insulation safety?

*Answer.* It is regrettable that in an area where government policy was urging cellulose home insulation and even contemplating tax benefits to encourage the program and where 600 new manufacturing firms suddenly sprouted into being that the Commission could not have acted more expeditiously. It is to the credit of Senator Ford, the Chairman of the Consumer Subcommittee, that he stepped into the void with his bill, S. 2401—The Emergency Interim Consumer Product Safety Rule of Act of 1978—and succeeded thereby in enacting into law urgently needed minimum standards to protect American consumers who were heeding the call to conserve precious energy by insulating. I hope it will not again be necessary to enact special legislation to set a standards and I am happy to learn that the Commission has given priority to developing a regulation addressing the flammability and corrosion hazards associated with cellulose insulation.

*Question.* Record keeping rules, under Section 16 of the CPSA, have been proposed by the Consumer Product Safety Commission. Do you feel that there should be a small business exemption?

*Answer.* In general, I am inclined toward a small business exemption on the theory that the impact of a small firm is likely to be small and that such a firm does not have the resources to cope easily with additional requirements. This policy has been recognized in various Congressional enactments, but when it comes to consumer safety I might want to recommend against. The stakes of possible hazards to life and health may outweigh the extra burdens involved. Indeed the argument could be made that if a product is subsequently found unsafe, a small firm has less financial resiliency than a larger one to absorb a loss of sales. It may be good insurance for even small firms to come under Section 16 record-keeping.

Senator FORD. Senator Case, we are delighted to have you this morning and you may proceed.

Senator SCHMITT. Mr. Chairman, could I interrupt just for a second?

Senator FORD. You sure may. I would never object to your interruption.

Senator SCHMITT. I just want to say, one reason we detect a new spirit within the Consumer Product Safety Commission is because of the chairman of this subcommittee, who is, without a doubt, the most diligent overseer in the Congress. I compliment him for that and I just alert Mr. Zagoria to that fact. You will see a lot of the distinguished Senator from Kentucky and, hopefully, also the Senator from New Mexico.

Thank you, Mr. Chairman.

Senator FORD. Ed, would you care to make a statement?

Senator ZORINSKY. Well, I didn't have the good fortune to meet with Mr. Zagoria yesterday. That was my misfortune, but from what I have found out from the U.S. Conference of Mayors, of which I was a member when I was in Omaha, he has a very good grasp of what communities are all about. Hopefully he will be an asset to the people in the communities.

Thank you, Mr. Chairman.

Senator FORD. Senator Case, do you wish to proceed?

#### STATEMENT OF HON. CLIFFORD P. CASE, U.S. SENATOR FROM NEW JERSEY

Senator CASE. Thank you, Mr. Chairman.

At the outset of my very brief statement, I must immediately confess to extreme prejudice. Sam Zagoria was my first administrative assistant and that goes back longer than perhaps he would like to be reminded of, and you people were all then in your baby clothes. My experience with him is long and my experience has been an utterly happy and satisfactory one.

I know of no one who could better handle the job of this sort and, knowing your objective requirements, Mr. Chairman and members of the committee, I am satisfied that you are going to have a most happy time in regard to Mr. Zagoria's service because I'm confident you will find him qualified and will want to confirm him.

He is a person of great experience and great innate capacity. He has a combination of enthusiasm and commonsense which I think is especially necessary for this sort of job. He will not permit a bureaucratic cast to overcome the kind of job that needs to be done here.

I cannot say more than I have, I think. If I had wanted to pick a person for this job or indeed almost any job I can conceive of, I would pick Sam Zagoria. I commend him to you with all my heart.

Senator FORD. I thank the Senator for his statement and I'm sure that it will go far in the approval of Mr. Zagoria for this position.

Do you have a statement that you would like to submit for the record?

Senator CASE. Do I have? I have made it, Mr. Chairman.

Senator FORD. I thought there might be other remarks that you might want to make.

Senator CASE. If there's any further information that the committee wants I know Mr. Zagoria will provide anything he can and I will provide anything I can for you.

Senator FORD. Senator Mathias also wanted to be present today but was unable to attend and has submitted his statement which will be made a part of the record.

[The statement follows:]

STATEMENT OF HON. CHARLES McC. MATHIAS, JR., U.S. SENATOR FROM MARYLAND

Mr. Chairman: I am delighted to support the nomination of Samuel D. Zagoria of Maryland to be a member of the Consumer Product Safety Commission.

I have known Mr. Zagoria for many years, and have the highest regard for his ability, capacity for hard work, and integrity, and know that he will make a substantial contribution to the work of the Commission. His experience in both the Executive and Legislative branches of government includes ten years of service as Administrative Assistant to Senator Case and a five-year term as a member of the National Labor Relations Board.

In recent years, he has worked on committees of the National Academy of Public Administration, National Academy of Education, U.S. Council on Wage and Price Stability, National Council on Productivity and Work Quality, the Public Service Laboratory of Georgetown University, and as an adviser to the Committee for Economic Development. I also know him to have contributed substantially in the civic affairs of his community.

In my opinion, Mr. Zagoria is eminently qualified for appointment to the Consumer Product Safety Commission, and I urge his confirmation.

Senator FORD. Mr. Zagoria, do you have an opening statement that you would like to make?

STATEMENT OF SAMUEL D. ZAGORIA

Mr. ZAGORIA. The only thing I really want to do is first of all thank Senator Case for his always generous support and to thank the chairman for his great assistance in accelerating and expediting consideration of the nomination due to the planned adjournment of the Senate.

I am delighted to be here and I am ready to answer any questions that may be raised.

Senator FORD. Thank you, Mr. Zagoria.

I only have a few questions. I had the good fortune of knowing something about you from the Rules Committee and I think the testimony by those who supported your nomination was extremely good and I have read those again and I don't think there's any question about your loyalty or your commitment to your job and your ability to perform and I am particularly sensitive to Senator Case's statement about commonsense. If we bring a little more commonsense into this arena, I think the general public would be much better off.

Mr. Zagoria, one of the standards that applies when this committee considers nominees for regulatory agencies is that individuals appointed must, by reason of background, training or experience qualify for the office to which he or she is nominated and so I ask you a couple questions in this regard.

Do you believe that your background and experience qualifies you for the position for which you have been nominated?

Mr. ZAGORIA. Yes, sir: I do. As I indicated in the memorandum to the committee, I have had a variety of work experiences. From these experiences I have had a chance to develop some skills that should be useful in this position.

Just to review them rather quickly, I did serve as a member of the National Labor Relations Board which gave me an opportunity to take part in quasi-judicial activities. In this position, I helped administer a fairly sizeable agency with some 32-33 regional offices around the country while working in a controversial area as labor-management matters tend to be.

Before that, of course, I had the chance—really a chance in a lifetime to work for and with Senator Case for 10 years. Due to these experiences, I think I have some understanding of the concerns of individual people about the problems that they face in our complex society and the need for Government to be responsive to a lot of these concerns and anxieties.

My newspaper background, I hope, has given me some ability to research, to pull ideas together fairly quickly and concisely, and to develop some skill in communicating. It strikes me that a relatively new agency such as this still has a problem of making sure not only that it does its work well but that the community understanding of its work and all the components of the community—the business part, the labor part, the consumer part—they all realize what the agency is up to and that we could do a particularly good job in avoiding unnecessary controversy and confrontations from people who commit unknowingly actions which bring unwarranted attention to the Commission.

That's probably a longer answer than you really wanted, but it sort of sums up my own appraisal of why I think I do have something to offer to this Commission.

Senator FORD. Your experience with the Labor Relations Board probably gave you some broad knowledge and background of health and safety hazards in the workplace. With respect to the Nation's major health hazards, where would you rank consumer product hazards?

Mr. ZAGORIA. Well, I think rather high, Senator. I have seen the statistics that came out of the predecessor commission that showed injuries in terms of hundreds of thousands of fatalities on the order of 30,000 a year, and the thing about these sort of damages is that there's no way to really remedy them. If someone loses an eye or a child loses an arm or if someone is scarred for life, these are things that you can't remedy by spending money or circulating a piece of paper. So I think the responsibility that Congress has given this Commission to prevent product related deaths and injuries is a very heavy one. Anyone privileged to take part in it should make his best efforts to try and develop preventive activities so there are less and less of these damages.

Senator FORD. Mr. ZAGORIA, you answered all the prehearing questions very frankly and openly. You have also given us the privilege of looking at all your financial holdings and background. We have been through that. I have checked the FBI report on you and find it clean.

But there's one little problem I want to bring out to put on top of the table this morning relating to your financial holdings. It is my understanding that in the unlikely event—and I'll underscore the unlikely event—some particular matter involving companies of which either you or your wife have minor holdings—and I say minor holdings—you will seek appropriate exemption from the Chairman of the Consumer Product Safety Commission. I believe that is under 18 United States Code 208. Is that correct?

Mr. ZAGORIA. Yes, sir. I have very modest holdings in terms of shares of stock and I raised the possibility that if there were some desirability that I divest myself of them I would be willing to do it. If, on the other hand, they were considered not to be of such substantial import as to require it, I would just as soon be happy to leave them stay. One of these I'm way behind on and to sell it now would be some loss, but as the Senator knows—Senator Case at least—I'm not a great fellow when it comes to picking stocks and staying with them.

Senator FORD. As I say, there are minor holdings and in the unlikely event—so I use those two terms to emphasize I think that they are minor.

You reported that you have an interest in an annuity plan maintained by Teachers Insurance Annuity Association. I understand that the fund invests in a wide variety of securities and in my opinion, if confirmed, it would be advisable for you to insure that the association not furnish you or your wife with any information regarding its financial holdings. Can we be assured of that?

Mr. ZAGORIA. Yes. I'm trying to recall. I think as they presently operate I don't get a listing of what the money is invested in, although I suppose I could if I asked for it. But I would certainly take that precaution.

Senator FORD. Would you list for us what you believe to be a few of the priority actions that you hope to accomplish in the next couple years at the Commission?

Mr. ZAGORIA. My knowledge of the Commission is a modest one. I'm in the position of still learning an awful lot about what it is expected to do and also how it goes about carrying out those responsibilities, but I sense that there has been criticism of long delays in getting cranked up to carry out their major functions. I would hope that I would contribute what I could by way of my administrative experience to expediting and accelerating the various procedures, whether it be for development of mandatory standards or the offerer of procedures or voluntary standards, so that the Commission can do more of what Congress expected it to do when it established the Commission.

Senator FORD. Your written responses to prehearing questions will be part of the record. I only have two final questions and then I'll turn it over to my colleagues.

Mr. Zagoria, critics of the Commission's past performance have cited the small number of mandatory standards that have been promulgated. Do you believe that mandatory standards alone should be the test of the Commission's effectiveness?

Mr. ZAGORIA. I would hope not, sir. I recognize the responsibility the Commission has. Now I guess they estimate some 10,000 consumer products come within the purview of the Commission. It makes it almost impossible to contemplate a Commission developing standards for each one of these going through the mandatory standard process. Obviously there has to be great reliance on voluntary standards being developed or other kinds of procedures which will lessen the load.

I would hope that we make these as sound as we can, that we not tip over into relying on others to do the job which the Commission itself is not able to adequately monitor. I think voluntary standards have a very important place in the whole scheme of the Commission. I would hope the Commission would develop adequate resources to make sure that the guidelines are developed adequately to protect

consumer interests, that they don't necessarily represent only what is the current standard within a particular industry, and that there would be adequate staffing to determine that these voluntary standards are being enforced so that the public interest is adequately protected in these circumstances.

Senator **FORD**. You've gotten into my second question on voluntary standards. That's fine because you tied the two together and they definitely belong together. One of the good points of the Commission is the situation between the manufacturer and the Commission where the manufacturer says, "We have a product that presents a hazard and we want your assistance in getting this off the market and helping us correct that deficiency." As I understood, up until the first of this year, there were some six or seven hundred items recalled and the industries had voluntarily alerted the Commission as to the product hazard.

I think this is one area in which you are going to have to be very concerned. You're going to have to find a way to get a hazardous product recalled so as not to damage the industry that came to you as a volunteer and said, "Look, I've got a problem and I need some help." You helped him get it off the market, but you helped him so much he can't get back in business. So we have to be very careful with that.

I have no further questions. Senator **SCHMITT**, do you have questions? Senator **SCHMITT**. Thank you, Senator. Just two or three.

As you're hopefully aware, Mr. **ZAGORIA**, the Commission's regulations provide that "consideration shall be given to the cost of Commission actions to producers and consumers." There's been a great deal of discussion about this area of cost of Federal regulation.

How much, and in what way, do you think weight should be given to economic considerations when determining which regulatory action should be taken by the Commission?

Mr. **ZAGORIA**. Senator, it seems to me that the Commission procedures all involve careful weighing of cost versus benefits, that there are limited numbers of resources the Commission has. It has to make determinations of which will be the priorities for consideration for investigation and for evaluation. After that, with respect to specific products, there has to be a determination of what it will take to produce greater safety in the product including economic impact.

Someone pointed out that if you have to add a \$100 guard to some manufactured product in order to make a \$5 item useful you may really be developing something which has very little practical usefulness to the community at large. I think it's important that we recognize that absolute safety is something that's very difficult to achieve. We have had efforts by the Commission in the area of bicycles, of skateboards, and while you can do a fair amount to make the equipment safe, it's very hard to do something with the teenager who hops on and tries to show off and winds up in a hospital emergency room.

Senator **SCHMITT**. Or the father that hops on and tries to show off.

Mr. **ZAGORIA**. I didn't realize I was getting into a delicate area. In any case, I do think that the Commission, and certainly I would plan to do it, has to be sensitive to what the impact of its actions will be.

I hope that in my past experience on another board that I demonstrated that I recognize that there are rights that have to be protected but not without giving some consideration as to what the impact is to the party on the other side.

We live in a society where accommodation is a very important thing to try and achieve and I think my approach to these things is trying to find what makes good sense, what's workable, what's realistic rather than to try to be doctrinaire and insist on the last comma and period.

Senator SCHMITT. I'm frankly not sure whether the Commission has voluntarily undertaken adherence to the President's Executive order concerning economic impact statements with respect to new regulations. Maybe the staff knows whether it has or not.

Senator FORD. It's part of their statute, Senator.

Senator SCHMITT. Yes; but there is a specific Executive order which lays out certain criteria for the development of economic impact statements.

For example, before a new regulation is promulgated there's supposed to be an estimate of the impact—is it above or below \$100 million totally in the economy.

Senator FORD. Senator, they are an independent agency and the Executive order did not cover them.

Senator SCHMITT. But many agencies have voluntarily undertaken to adhere to that Executive order. I think it's commendable for those that did and I was wondering, if the Commission is not, whether you think it should adhere to that order and make that kind of evaluation.

Mr. ZAGORIA. To be quite frank, I would really like to get better acquainted with it before I respond substantively. I'm not familiar with that Executive order.

Senator SCHMITT. Well, basically, in principle, it just says there shall be an evaluation. It can be almost a back of the envelope evaluation, but there shall be an evaluation of the impact of a regulatory action by an executive agency. The Commission, it seems to me, would be obligated to do the same to determine if that impact is so great that perhaps alternatives ought to be examined to accomplish roughly the same end.

Mr. ZAGORIA. Very honestly, I would think that would just be a normal part of the consideration process.

Senator SCHMITT. One would think that, but the order makes it a little more systematic. There's some attention given in the Congress to possibly requiring such things by statute. We need the experience in the executive branch and in the independent agencies to know whether it would be reasonable to require it.

Mr. ZAGORIA. I would be happy to look into it, Senator.

Senator SCHMITT. I hope you will.

Senator FORD. I think the Senator from New Mexico, in the re-authorizing bill put language in the bill when you introduced it.

Senator SCHMITT. Yes; it did not come out quite as specific as the Executive order.

Senator FORD. Well, the voluntary standards I think will let the industry come in and then we'll talk about the standards.

Senator SCHMITT. I'm sure they will. It's been interesting in some of the hearings on this in related subjects to see some of the people from some of the agencies, both executive and independent, say it's not possible to make quantitative economic judgments. Whereas people from business institutions and, in fact, consumers are coming and saying "you have to. We have to do it as soon as the regulation is promulgated. We have to make an estimate of the economic cost because we're going to eventually have to pass that on to the consumer."

So at any rate, I think it's a matter that I hope you will look into.

Are you familiar enough with the Tris story to say how you think you would have handled that?

Mr. ZAGORIA. I know I shouldn't answer it very substantively. I have kept up with the newspaper knowledge of the controversy. Are you talking now about the effort to reimburse the manufacturers of Tris products for their losses?

Senator SCHMITT. Well, that's part of it; of course after the fact.

Mr. ZAGORIA. Generally, this is something that is fraught with a great deal of legal controversy as to the responsibility. In general, I look at our society as a free enterprise risk system and there are certain risks that accrue to a company. Now if they rely on governmental counsel to do something, they obviously have—

Senator SCHMITT. They take a very great risk—is that what you're saying?

Mr. ZAGORIA. Well, I think there are risks in practically any enterprise that we undertake. We have had actions by the Congress which have attempted to assist firms that have had difficulties. We have had whole industries that have received subsidy support because the Congress thought it necessary to do so.

In this particular one, as to what the responsibility was of the Commission in requiring inflammable character be added to these products, as to whether the Commission had responsibility for the particular formula of the product that was added to the children's pajamas, I'm not sure where that responsibility lies. If there was a mandate that said, "Use a particular formula," I could see there was quite a bit of responsibility. On the other hand, I'm told this was in controversy. They were directed to make sure the pajamas didn't burn as quickly as before the Tris controversy they had done, but they hadn't prescribed a specific formula to be used to achieve that added quality. I'm not sure I have my facts 100 percent straight. I rely on newspapers and having been a newspaperman myself once I know occasionally the facts go a bit astray, but—

Senator FORD. That's probably the most important statement you've made this morning.

Senator SCHMITT. That's certainly one we will all agree with.

Well, I suspect that the Tris situation will not be an isolated example as we move into the future and it's certainly one I hope you will continue to think about, as you obviously have.

Mr. ZAGORIA. Yes, sir.

Senator SCHMITT. Would you see the Commission encouraging information and education programs to reduce risk of injury from consumer products as part of this voluntary program?

Mr. ZAGORIA. Yes, I think the legislation requires this and I would certainly be supportive of it. I think it takes a certain place in the range of program priorities of the Commission. I would not put it at the top of the list because I think people really look to the Commission to assure them that the products that they are buying are safe and to give them training in safety so far as using these products.

Senator SCHMITT. But you yourself have said there are more products than you hope to work on, and it seems to me that until there's been a sorting out of those greatest risks that generalized education and information might be the best protection the consumer has.

Mr. ZAGORIA. Well, I certainly think—first of all, it's required by the law and therefore I support it. I think it has a very important place.

I think I would be concerned that some people in looking at Commission activities have tended to give it the utmost priority even overtop of the responsibility for setting standards for a lot of the products.

An ordinary consumer in the position of dealing with a complex product has difficulty in determining whether it's safe or not. He buys the product with a sort of subconscious feeling that Government is going to protect me against buying something that's very hazardous. Hopefully the Commission as it carries out its activities will really support that assurance by its efforts, but there is probably no way for a lot of consumers to determine the hazard of a lot of the products which are technologically advanced for himself. He doesn't have the know-how. He doesn't have the equipment. He doesn't have even a vision of the possible coming together of circumstances which will create a hazard—in other words, perhaps an abnormal use of a particular product.

Senator SCHMITT. Do you really think that the average consumer goes through that kind of thought process when he buys something—expecting the Government to have already taken some step to protect him? I remember we used to look at the Underwriter's tag on electrical products in particular and say, "Hey, that's probably all right."

Senator FORD. I am inclined to agree with Mr. Zagoria that generally people feel that the product wouldn't be on the market if it wasn't safe, and I think subconsciously they figure "Big Brother" has looked at it and there are not many problems involved.

Senator SCHMITT. I think they do that, but I'm not sure they take the next step and say it's because the Government looked over it. Maybe that's where you would like to be and maybe that's where we ought to be, but I'm just saying right now I don't think the average consumer is really thinking the Government has looked at all these products.

Mr. ZAGORIA. I'm not sure he goes to that step and identifies who has given this implicit assurance that it's safe for a child to use a particular item or an elderly person, but I think it's a society in which we have had protections against poisons, of foods, drugs.

In my work in local governments I have found that people really anticipate that government is going to protect them against a lot of the hazards of ordinary life. Many times people mistakenly think

so because there are limited resources available to a city government, but the attitude, the expectation, I suspect, is fairly well developed.

Senator SCHMITT. Well, I would just have to say that that may be a feeling in Washington, D.C., but I'm not sure it's a feeling in Silver City, N. Mex. As a matter of fact, I think there probably, consciously or unconsciously, is more reliance on the feeling that the product would not be on the market if it's dangerous because otherwise when people find out it's dangerous it's not going to be bought.

I think the free market system, such as it still exists, is as much if not more of an inhibitor of dangerous products on the market than is anything the Government is doing right now. I hope that's true. I don't think most business people would put out dangerous products intentionally if they knew that because otherwise, as soon as somebody is hurt by it they are going to start losing customers. So let's don't forget that the market system acts as its own policeman as well as whatever the Government is doing. I think it has to, in fact, be doing something—there are certain areas of completely unanticipated danger that clearly we have to keep track of, try to anticipate much more than we have in the past.

Finally, do you think, Mr. Zagoria, that the Commission as it is now organized can effectively carry out its mission? Is there anything that needs to be done in order to improve its operating procedures?

Mr. ZAGORIA. With my limited knowledge of the Commission as of right now, I don't know anything to suggest. If you will give me this opportunity perhaps a year or two from now I'm sure I will have some suggestions.

Senator SCHMITT. Well, we will probably have the opportunity to ask you and your colleagues that question again about a year from now. Knowing the chairman, I think it will probably be sooner.

Senator FORD. Senator Zorinsky.

Senator ZORINSKY. Thank you, Mr. Chairman.

Sam, I just briefly wanted to recount to you not only your obligation to protect the public of this country from defective products, but also to do it in an equal-handed manner with regard to the people that produce products, and I speak personally from an experience a year ago of a mattress factory in Hastings, Nebr., a small community, which the Product Safety Commission cited for neglect to prepay their mattresses to Kansas City so that the Product Safety Commission could inspect the ticking as to its fire resistance quality when they had inspected the plant where the ticking is purchased by this mattress factory as to its fire resistance, and then the factory had to pay for the freight back from the inspection. The two-way freight added enough economic burden on the factory so that eventually it closed up.

They couldn't compete with other mattress factories that didn't have to prepay mattresses to the Product Safety Commission and evidently their regional terminal or office or where the inspections were made was in Kansas City, Mo., and I would think that in this day and age of mobility periodic inspections, when it's unknown when the inspection is going to be made, would be more prudent and save more companies as future taxpayers of this country.

For instance, in my mind, if I were a devious manufacturer, I could send a different mattress than what I'm manufacturing for the inspection. And I don't think the Product Safety Commission accomplished what their original intent was. All this resulted in ultimately was to close a factory. Seventy families lost their jobs and the United States lost a longstanding taxpayer and I think we need more of those taxpayers as long as they earn their dollars honestly, and that's why I just bring this up as an example of the other side of the coin, and certainly there's always two sides of an issue.

With regard to one of Senator Schmitt's previous comments, I don't think, especially in my area of the country, that people are expecting the "womb to tomb" Federal type of protection. They are not being able to utilize their own innate God-given reasoning ability to make judgments for themselves when they totally rely on the Federal Government to predetermine the safety of products which they consume.

But that being as it may, I do think that there is an obligation upon Government to eliminate those manufacturers, and I'm sure they are in a small minority, that intentionally set out to deprive the people of this country of their hard-earned money through fraudulent sales of defective items.

Mr. ZAGORIA. I would hope that it wouldn't be a question of eliminating a company but, rather, one of bringing to the attention of the company what it would take to remedy their manufacturing process so that the end result would be a product that was safe, and I suspect that would be able to continue to be manufactured by that firm. In other words, for a Commission to set out to try and put somebody out of business because they have had the misfortune of producing a hazardous product, which they didn't realize was hazardous, is not properly what it should be doing.

Senator ZORINSKY. Well, that's great, and I'm sure you're going to be a tremendous asset with your prior experience, having dealt with all levels of elected officials from municipalities on up, and certainly I look forward to working with you and aiding you in any way I can.

Mr. ZAGORIA. Thank you very much, Senator. I appreciate it.

Senator FORD. I think, Senator Zorinsky, by the statement by our colleague that Mr. Zagoria will bring commonsense to the Commission—and I'm not saying others on there now are not using commonsense, and this will help the Commission in many ways.

I have no further questions. I don't know of any other questions that will be brought to our attention.

We appreciate you coming today and, Senator Case, we are delighted you could come and stay through this hearing. I think it's a compliment to Mr. Zagoria that you would stay through this lengthy hearing this morning.

Senator CASE. The chairman is most kind.

Senator FORD. The Senator has always been most kind to the Senator from Kentucky.

So without further ado, this committee meeting is adjourned.

[Whereupon, at 9:50 a.m., the hearing was adjourned.]

The first part of the document discusses the general principles of the proposed system. It is intended to provide a comprehensive overview of the various components and their interactions. The system is designed to be flexible and adaptable to different environments and requirements.

The second part of the document details the specific implementation of the system. This includes a description of the hardware and software components, as well as the configuration and setup procedures. The goal is to ensure that the system can be deployed and operated with minimal effort and risk.

The third part of the document provides a detailed analysis of the system's performance and reliability. This includes a discussion of the various factors that can affect the system's operation, such as network latency, hardware failures, and software bugs. The analysis also includes a comparison of the system's performance against other similar systems.

The fourth part of the document discusses the security and privacy aspects of the system. This includes a description of the various security measures that have been implemented, such as encryption, authentication, and access control. The goal is to ensure that the system is secure and that the data it processes is protected from unauthorized access and disclosure.

The fifth part of the document provides a summary of the key findings and conclusions of the study. This includes a discussion of the overall performance of the system, the effectiveness of the security measures, and the potential for future improvements. The document also includes a list of references and a glossary of terms.



