

Critics Doubt Safety Chief's Priorities; Agency Chairman Called Soft on Manufacturers

by Caroline E. Mayer - Washington Post

October 30, 2004

Hal Stratton, the chairman of the Consumer Product Safety Commission, traveled to West Virginia, Alaska and New Mexico last year to conduct hearings on the dangers of all-terrain vehicles, which have been linked to nearly 1,000 deaths and 316,000 injuries between 2000 and 2002.

"It occurred to us that we don't see many ATVs driving around Washington," Stratton was quoted as saying in Albuquerque, his hometown. "So we decided to go to places where people are actually using them."

In the year since the last hearing, the three-member commission has not acted on a 2002 petition by a coalition of consumer, safety and environmental groups that wants to ban the use of ATVs by children under 16.

To consumer and safety advocates, the ATV hearings are a good example of Stratton's two-year tenure at the CPSC: a lot of motion, but little to show for it.

They note that Stratton has taken dozens of other trips, many paid for by industry groups. His travels included visits to China, Costa Rica, Belgium, Spain and Mexico. During the same period, critics add, the commission has held few public meetings -- three so far this year -- and issued only one new safety rule.

"There has been a paucity of regulatory activity, even meetings leading up to regulatory activity," said Sally Greenberg, senior product safety counsel for Consumers Union.

"Instead of a culture of consumer protection, it seems there is a culture of caution and delay," **R**

**ep. Janice D.  
Schakowsky**

(D-III.) said at a recent congressional hearing on the agency's safety standards. At the hearing, five consumer and safety activists complained that the agency, which has 471 employees and an annual budget of about \$60 million, has been hampered by both weak laws and a hesitant leader. The result, they said, is that the commission is not moving quickly enough to remove unsafe products from the marketplace and is failing to sufficiently publicize recalls when it does.

To Stratton and many industry groups, his tenure has been a success. Officials from regulated industries praise him for running the agency without the antagonism they say characterized the term of his predecessor, Democrat Ann Brown, who frequently appeared on morning news shows criticizing manufacturers while alerting the public about unsafe products.

"He's gone out there and tried to stress that the agency is not one to be feared but one to work with," said Frederick Locker, general counsel of the Toy Industry Association in New York.

Stratton cancelled an interview last week and responded to questions only by e-mail through spokesman Eric Criss. Criss cited the creation of a recall Web site ( [http://www.house.gov/htbin/leave\\_site?ln\\_url=http://www.recalls.gov](http://www.house.gov/htbin/leave_site?ln_url=http://www.recalls.gov) ) as one of the chairman's accomplishments, as well as "tough enforcement of safety regulations through civil penalties." Yesterday, the agency announced two \$500,000 fines, one on Sears, Roebuck and Co., the other split between treadmill manufacturer Johnson Health Tech Co. and importer Horizon Fitness Inc., for allegedly failing to report defects on products that were eventually recalled.

Criss noted that the commission staff is about to propose rules to reduce fires in mattresses and upholstered furniture -- contentious issues that have been before the agency for years. There is little need for public meetings, he added, since "the vast majority of the commission business is accomplished outside the public meetings process."

"We need to do more" on ATVs, Stratton said in a brief phone call last week before canceling the interview. "I take this very seriously," he added, saying he was waiting for someone to tell him what to do. Asked to elaborate, Criss responded that the commission is "looking for additional input from stakeholders, particularly consumer groups. In addition, we are exploring several creative new ideas internally." Criss added that a staff recommendation is expected shortly.

Tim Buche, president of the Specialty Vehicle Institute of America, which represents ATV manufacturers, said the agency "showed great leadership in conducting the regional field hearings." As a result, some states moved closer to the industry's goal of enacting state legislation to require hands-on training and adult supervision for young riders, Buche said.

Officials for the mattress and upholstered-furniture industry credit the progress in the agency's flammability standards to Stratton's willingness to cooperate. However both groups acknowledge that other forces also were at work: Manufacturers that had vigorously opposed

federal rules in the past now want them, because some states, including California, have started to enact their own flammability rules.

Stratton agrees with critics that it takes too long for his agency to issue rules, but he blames it on the commission's authorizing law. Unlike most other independent regulatory agencies, the CPSC must go through an extra procedural step before it can finalize a rule. It must also defer to voluntary industry standards unless those regulations do not eliminate a safety hazard or there is not substantial compliance. Both lead to delays, Stratton has complained.

However, when Rep. Cliff Stearns (R-Fla.), chairman of the agency's oversight subcommittee, asked him at the recent hearing if Congress should revise the law to give the agency more authority, Stratton said no. "I don't think we need more authority," he said. He also said the agency didn't need more than the \$62.5 million budgeted for this fiscal year.

"That was a disconnect," said Alan Korn, director of public policy for the nonprofit group National Safe Kids. "He said he was handcuffed by the standard process," but then had nothing to say when asked what additional tools he needed, Korn said.

Stratton critics say another disconnect is his position on yo-yo water balls. The toy has been banned in several countries, and some major U.S. retailers have quit selling it. The agency had received 186 reports of incidents where its elastic cord wrapped around the neck of children, and Stratton, who has two young daughters, has said he wouldn't allow the ball in his home. Yet in a statement in September 2003, the commission said it wouldn't ban the toy because the low likelihood of strangulation meant it didn't meet the agency's recall standards. Instead, it advised concerned parents to cut the cord or throw the ball away.

Consumer activists applaud the agency's new recall Web site but say it's not enough. Rachel Weintraub, assistant general counsel of the Consumer Federation of America, said, "A Web site requires consumers to take a proactive step. The chairman needs to be out there, be a household name in publicizing recalls."

Stratton aides say he appears frequently on a variety of network, cable and radio shows to tell consumers about recall actions.

Agency travel records show that Stratton has taken about four dozen trips in the past two years, speaking at many meeting and conventions of industries he regulates. And many of those groups helped pay for some or all of his way, including the International Association of Amusement Parks and Attractions, the Toy Industry Association, the American Textile Manufacturers Institute, the Gas Appliance Manufacturers Association and the Outdoor Power Equipment Institute.

"Rather than regulate or use the agency as a bully pulpit to promote product safety, Stratton spends his time on airplanes," said Pamela Gilbert, who served as the agency's executive director for Stratton predecessor Brown. "Does he care about its mission? He likes the trappings and lets the agency putter along with no new advances."

Criss said the chairman's travels are "to develop better working relationships with CPSC stakeholders." Stratton picked his hometown of Albuquerque for the ATV hearing, for instance, partly because the chairman was already in the state to attend a meeting paid for by the Juvenile Products Manufacturers Association, Criss said.

Nancy Harvey Steorts, a Republican who served as chairman of the agency during President Ronald Reagan's first term in office, praised Stratton's travels, foreign and domestic. "We're in an international marketplace and we need to have more international cooperation," she said. But she expressed concern that some of his travels were funded by the industries the agency regulates, even though government rules allow it. "You have to be very careful because perception is critical," she said.

"Everyone at CPSC is extremely sensitive to the public perception of our agency. Therefore, Chairman Stratton discourages non-federal travel," Criss said in response. But he said it was difficult to meet the agency's travel needs without some non-federal travel, adding that only the agency's career ethics officer approves such travel.

Stratton's visits to China, the nation's leading importer, have won praise from Congress, particularly since he signed a memorandum of understanding for better consumer protection between the two countries, Criss noted.

A similar agreement was signed with Costa Rica. Although it is a far smaller importer, Criss said the country "is one of the most stable democracies and advanced economies in the region. . . .

"The potential of a Central American Free Trade Agreement means that we could see the number of imports from Central America increase dramatically. Therefore, we believe it is better to address the regulatory situation there sooner rather than later."