



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

December 10, 2007

The Honorable John Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Dingell:

This letter presents the views of the Office of Government Ethics (OGE) on H.R. 4040, the "Consumer Product Safety Modernization Act of 2007," as amended. Please note that this letter is confined to Section 217 of the bill and does not address any potential administration concerns with respect to the remaining sections, which do not pertain to OGE's area of expertise.

It is OGE's assumption that Section 217 was added to H.R. 4040 to address concerns raised in the media regarding the Consumer Product Safety Commission's acceptance of industry-sponsored travel provided to Commissioners and employees in furtherance of their official duties. However, Section 217 as written does not prohibit such payments. Instead, it would preclude CPSC Commissioners and employees from accepting the limited range of gifts that may be offered to them within their personal capacities under OGE's ethics rules.

Two distinct statutes regulate the acceptance of gifts from non-Federal sources by Federal employees: 5 U.S.C. 7353, as part of uniform Federal ethics laws, governs gifts received by an employee in his personal capacity; and 31 U.S.C. 1353, as part of the laws governing augmentation of agency appropriations, governs gifts of travel and related expenses received by an employee in his official capacity on behalf of his agency. The language included in Section 217 as written is drawn from 5 U.S.C. 7353, which already prohibits Federal employees, including CPSC employees, from accepting anything of value in their personal capacities from those whose interest could be affected by the employee's agency, except as provided in limited circumstances described in OGE regulations.

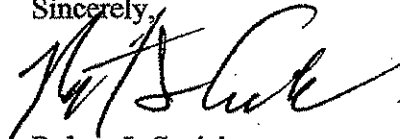
If the Committee's purpose was to address the industry-sponsored travel provided to the CPSC and its Commissioners and employees in their official capacities, OGE suggests amending paragraph (a) of Section 217 to follow the more pertinent language of 31 U.S.C. 1353:

“(a) PROHIBITION.—Notwithstanding 31 U.S.C. 1353, neither the Consumer Product Safety Commission, nor a Commissioner or employee acting on behalf of the Commission, shall accept travel, subsistence, and related expenses with respect to attendance of a Commissioner or an employee at any meeting or similar function relating to the official duties of a Commissioner or an employee, from a person—”.

This language would prohibit the CPSC, its Commissioners, and its employees from accepting travel and related expenses from non-Federal sources that are regulated or substantially affected by the CPSC, its Commissioners, and its employees in the performance or nonperformance of their official duties. This revision also would prevent disruption of the uniform and consistent set of ethics rules for the employees of the executive branch.

Thank you for the opportunity to present the views of OGE. Please do not hesitate to contact Shelley Finlayson at (202) 482-9314, if we may be of additional assistance. The Office of Management and Budget has advised OGE that, from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,



Robert I. Cusick
Director

cc: The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce