

Good Government Coalition and Consumer Groups Support Whistleblower Rights / Product Safety Reform

October 29, 2007

To: Members of the Senate Committee on Commerce, Science and
Transportation Committee

**Re: Forty-two groups support whistleblower protections on S. 2045 and
efforts to further strengthen this reform**

Dear Senator,

Our organizations write to applaud this Committee's leadership toward product safety reform by including whistleblower protection as a primary law enforcement safeguard in S. 2045, the (Consumer Product Safety Commission) CPSC Reform Act of 2007. This is vitally needed legislation to protect America's families, and whistleblower protection is a necessary cornerstone for the promise of reform to be realized most effectively. The Committee's provision, perfected by the McCaskill amendment, reflects the best practices for this right, adopted from recent legislation enacted by this Congress.

The whistleblower provisions in S. 2045, Section (Sec.) 22, reflect a broad public mandate. Immediately after the November 2006 election, a Democracy Corps poll survey asked likely voters what they expected most from the new Congress. Seventy nine percent said they would be more likely to support a Congress that enacted whistleblower protection legislation. This was the second highest total, and second only to a similar mandate that Congress ensure that our tax dollars are spent on the programs for which they are intended.¹

Those results are not surprising. Whistleblowers are the life blood for any genuine law enforcement commitment, which will be doomed to failure without protection for those who risk everything to disclose breakdowns in the public trust. It is clear that the voters understand the public value of whistleblowers.

Congress has been responding. In March the House approved a best practices overhaul of civil service whistleblower law. In August, Congress – with a key role played by this Committee – approved landmark, best practices whistleblower provisions for all ground transportation workers as part of the 9/11 law. Last month the Senate voted to include best practices whistleblower rights for defense contractors, as part of the Defense Authorization bill. These are extremely valuable reforms, but there is little doubt that threats from toys and household appliances pose a far more real threat to America's families every day.

¹ Democracy Corps survey conducted by Greenburg, Quinlan, Rosner Research of 1014 likely voters, February 14-19, 2007.

By using the freedom to warn, whistleblowers can and do serve the public by preventing avoidable tragedies. There simply is no excuse for silence enforced by fear. Such a climate sustains needless risks of injury to our families when we buy Christmas presents, baby blankets and linens, child seats, kitchen appliances, or any other products in retail commerce. The scope of potential hazards is limited only by the imagination. Whistleblowers are the best possible resource for early detection, if they can safely act.

What impresses us most is that this is a whistleblower rights system that will work. It represents the best practices in analogous legislation that Congress has enacted this session. The McCaskill amendment solidifies this conclusion by incorporating the final two cornerstones for a law that will make a difference. First, it locks in relevance by protecting whistleblowers for disclosures made in the course of carrying out their job duties. This is by far their most common safety role and overwhelmingly the context for most retaliation. Unfortunately, in some contexts, whistleblowers have more protection when they blindside employers by going directly to the media, than if they report their concern to their supervisor. Second, the McCaskill amendment provides whistleblowers normal due process through a district court jury trial, if the Department of Labor (DOL) has not issued a timely ruling. Jury trials are a whistleblowers best chance to defend their rights, with justice decided by the citizens and consumers the whistleblower is trying to protect.

This is an enforcement clause worth continued bi-partisan support. In fact, nearly every Committee member has supported analogous anti-retaliation provisions in every relevant, recorded vote since passage of the 2002 Sarbanes Oxley law. That list includes pipeline safety, nuclear power and weapons facilities and transport, defense contractors, ground transportation and the federal civil service. America needs genuine whistleblower protection *even more* for product safety, which is a real and present everyday concern for all Americans.

The Committee's leadership in general, and Senators Pryor and McCaskill in particular, deserve public recognition for providing a safe channel of legal rights for whistleblowers, the public's eyes and ears to prevent public safety hazards and testify when necessary to enforce the law. Those who defend the public must have a fighting chance to defend themselves. This Committee recognized that principle when it approved best practice whistleblower rights to protect America's roads and rails. It applies even more, when the purpose is to guarantee the safety of America's families when engaging in retail commerce.

Sincerely,

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