

**Nomination Hearing of Cass Sunstein  
to be Administrator of the Office of Information and Regulatory Affairs**  
Senator Joe Lieberman  
May 12, 2009  
AS PREPARED FOR DELIVERY

Good morning and welcome to our hearing today on the nomination of Cass Sunstein to lead the Office of Information and Regulatory Affairs, known in government circles as OIRA. OIRA is one of those government agencies that has a very low public profile but exerts enormous influence over the workings of government and, therefore, the daily lives of most Americans.

In Congress, we pass laws that express our values, draw lines between what is right and wrong, between what is desirable and undesirable, in our society. But because we cannot foresee every permutation of the law or conduct the necessary research and analysis ourselves, we must leave many of the details to the Executive Branch of government and its regulatory authority.

For over a quarter of a century, Presidents have asked OIRA to help oversee and coordinate this regulatory process. Thus, OIRA has a huge impact on a wide range of problems, including the health and safety of the American people, the economy, and our natural environment.

Over the years, we have seen how OIRA has helped the regulatory agencies protect the American people, and we have seen how OIRA has placed hurdles in

the way, making the job of the regulators harder, and sometimes blocking their efforts to fulfill their statutory responsibilities.

Based on the record of this Administration's first 100 days, I am optimistic that our new President and his team will develop a regulatory agenda forceful in its intent to protect the American people in a transparent way.

In Professor Cass Sunstein, the President has found someone with exceptional qualifications and extraordinary talent, capable of leading OIRA in a positive direction to strengthen the new Administration's efforts and fulfill Congress' intentions.

When you began teaching at Harvard Law School in 2008, your new employers announced they had hired – and I quote – “the preeminent legal scholar of our time – the most wide-ranging, the most prolific, the most cited, and the most influential.” End of quote. Those were the words of Elena Kagan, then Dean of Harvard Law, where they claim to know a thing or two about legal scholars.

Before Harvard, Professor Sunstein had taught at the University of Chicago Law School since 1981 and wrote extensively about regulation, the management of risk, and OIRA, itself.

Right now, the regulatory agencies face unprecedented new challenges with regard to finance and the global environment. We are also emerging from a period when protection of public health, safety, and the environment was relegated to a

back burner, and a backlog of unissued protections must be addressed. Finally, the agencies, like the rest of government, face stringent budget constraints that can interfere with their ability to perform their functions.

In your prolific writings, you have expressed strong and sometimes controversial views about the way regulations should be developed and reviewed. So I am particularly eager to hear your vision for OIRA and your thoughts on what role OIRA should play in this new Administration.

The new OIRA Administrator must work closely with Vivek Kundra, the recently-appointed Federal Chief Information Officer and Administrator of E-Government. Given the overlap between the two offices, additional clarity in the roles and responsibilities of OIRA and the E-Gov office may be needed – perhaps through statute. So I look forward to hearing how you and Mr. Kundra and others, would work together to meet these responsibilities.

As head of OIRA, you would also have responsibility for implementing the Privacy Act of 1974, which seeks to protect the privacy of individuals when the government collects and uses their personal information. The principles underlying this landmark legislation have weathered the test of time remarkably well. However, we have been told repeatedly that the Act needs updating to reflect new realities of the digital age. More broadly, we need more focused and visible leadership on privacy issues government-wide.

Again, I look forward to your testimony and to the question period. Senator  
Collins?