

# ConsumersUnion®

## POLICY & ACTION FROM CONSUMER REPORTS

November 30, 2017

The Honorable Trey Gowdy, Chairman  
The Honorable Elijah Cummings, Ranking Member  
U.S. House Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Gowdy and Ranking Member Cummings:

Consumers Union, the policy and mobilization division of Consumer Reports, writes regarding the substitute amendment for H.R. 2623, which the Committee plans to mark up today. We oppose the proposed bill, which would codify the requirements of Executive Order 13771, because it would block or sharply curtail the ability of federal agencies to issue common-sense consumer protections and would put corporate interests ahead of the health, safety, and pocketbook considerations of Americans across the country. The only way for federal agencies to move forward on new, meaningful consumer protections would be to repeal past protections, putting consumers' lives and bank accounts at risk.

Consumers Union regularly engages with a wide spectrum of agencies charged with establishing effective protections for consumers and finding the appropriate balance to achieve those protections. Keeping unnecessary compliance costs to a minimum is an important part of finding that balance, and listening to the viewpoints of the regulated entities provides an important source of information. The current system can be, and is, used to address these issues today.

However, H.R. 2623, like several recent executive orders on the subject of the regulatory process, shifts focus away from balanced, data-driven cost-benefit analysis—which can yield sensible consumer protection rules—to a focus solely on the cost of compliance. E.O. 13771, in particular, includes provisions requiring executive departments and administrative agencies to remove two existing rules in order to promulgate a new one, and to institute budget-like allowances for the cost of regulations on businesses.<sup>1</sup> It is irresponsible to put the health, safety, and economic security of families on the back burner in order to satisfy an arbitrary call to reduce the number of regulations, but the proposed bill would do just that.

Imagine that a consumer wants to purchase a car that comes equipped with a new technology that will warn of an imminent crash, giving them enough time to hit the brakes. An auto dealer tells them about a “two-for-one” deal, which would allow the consumer to buy a car that comes equipped with the crash warning system, so long as they give up two existing safety features: brakes and seat belts. Of course, consumers would never take that deal. However, this is just the kind of “deal” that could be imposed under H.R. 2623.

While safety rules are just one of several kinds of consumer protections, the immense—and difficult to precisely quantify—benefits of saving lives and avoiding injuries over time should never

be minimized. For instance, the cost of raising a child whose IQ has been diminished due to lead in toys, or of losing a child who is killed after ingesting hazardous magnets, should never be overlooked in the interest of reducing the number of rules in existence. Furthermore, the requirements of the bill would make it harder to issue new sensible safeguards that keep up with a changing marketplace and provide consumers with access to goods and services that are safe, affordable, easy to understand, and that protect their sensitive personal information.

In addition to the content of the bill, we also are concerned about the broader implications of codifying E.O. 13771. In particular, codification could effectively result in a conflicting or overriding mandate that would run contrary to decades of settled administrative law, and subvert the public interest goals of dozens of statutes addressing marketplace problems.<sup>2</sup> Codification also would extend the “two-for-one” and regulatory budgeting provisions to independent agencies, which are not obliged to follow E.O. 13771. In addition, H.R. 2623 likely would result in costly litigation for agencies charged with carrying out consumer protection laws and make it all too easy for corporations to block regulations simply because they might cut into their profits. This would further tilt the playing field away from American consumers in every state and city across the country, and could stifle agencies from acting in accordance with their mandates to serve and protect the public.

Regulations developed in the past should achieve their purposes in an appropriately effective, and cost-effective, manner, and should be strengthened or revised as warranted with that goal in mind. However, it is essential that any regulatory revision occur as part of a well-considered process that has the advancement of an agency’s mission to protect consumers—whether for safety, fairness, transparency, or another important part of upholding the public interest—at its core, along with sufficient valuation of benefits to the public.

By contrast, the requirements of H.R. 2623 would prevent reasoned consideration of federal protections, including both their costs to industry and their benefits to consumers, and would leave critical marketplace failures and safety risks unaddressed. We urge members of the Committee to be mindful of the interests of consumers and oppose the bill.

Thank you for your attention to this important subject.

Sincerely,



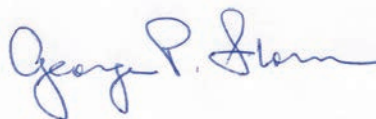
David Friedman  
Director, Cars and Product  
Policy and Analysis



Anna Laitin  
Director, Financial Policy



Justin Brookman  
Director, Consumer Privacy and  
Technology Policy



George Slover  
Senior Policy Counsel

cc: Members of the U.S. House Committee on Oversight and Government Reform

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[1] Executive Office of the President, "Reducing Regulation and Controlling Regulatory Costs" (Jan. 30, 2017) (online at [www.federalregister.gov/documents/2017/02/03/2017-02451/reducing-regulation-and-controlling-regulatory-costs](http://www.federalregister.gov/documents/2017/02/03/2017-02451/reducing-regulation-and-controlling-regulatory-costs)).

[2] Center for Progressive Reform, Testimony Before the House Committee on Oversight and Government Reform (Oct. 24, 2017) (online at: [progressivereform.org/articles/Goodwin\\_Testimony\\_House\\_Oversight\\_Reg\\_Reform\\_102417.pdf](http://progressivereform.org/articles/Goodwin_Testimony_House_Oversight_Reg_Reform_102417.pdf)).