

*** Consumer Federation of America * Consumer Reports *
Kids In Danger * Public Citizen ***

September 26, 2022

Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

**Joint Comments to the
Consumer Product Safety Commission on the
Notice of Availability and Request for Comment:
"CPSC's Draft Strategic Plan 2023-2026"
Docket No. CPSC-2022-0031**

Our coalition of consumer organizations welcomes the opportunity to comment on the U.S. Consumer Product Safety Commission's (CPSC) "Draft Strategic Plan 2023-2026." We submit the following comments regarding the agency's draft strategic plan for fiscal years 2023-2026.

As the agency celebrates its fiftieth year of operation, the CPSC should remain proactive in fulfilling its stated mission: "Protecting the public from hazardous consumer products." We strongly support the CPSC's Draft Strategic Plan that reaffirms and advances critical strategic goals and objectives necessary to guard against unreasonable risks of injury and death from consumer products.

To ensure maximum efficacy, we urge the Commission to consider the following comments for incorporation into the agency's Strategic Plan for 2023-2026.

I. Strategic Goal 1: Prevent hazardous products from reaching consumers

Our organizations appreciate the CPSC's decision to designate prevention as Strategic Goal 1. Prevention is critical to the agency's mission and we agree with its approach and strategic objectives as outlined in this goal, including the identification and timely assessment of product hazards, promulgation and enforcement of mandatory safety standards, and prevention of the entry of imported hazardous consumer products. We also support the agency's proposed strategy to improve its capacity to identify and assess chronic hazards. In its efforts to address chronic hazards, the CPSC should also conduct a comprehensive review of current internal guidance and policies that may contribute to undue delay in the promulgation of regulations that protect consumers.

Given that the CPSC generally is required to rely first on voluntary standards, its participation in these subcommittees is especially critical to ensure that these standards adequately protect consumers from unreasonable risk of injury or death. The CPSC should use its testing, research and analysis to provide timely data and direction, and encourage proactive staff participation that pushes for effective and evidence-based safety standards development. When product hazards are not adequately addressed in a voluntary standard, including those that have gone unaddressed for years, the CPSC should not hesitate to harness its testing and analysis, as well as its participation in the voluntary standards development process to pursue and advance mandatory safety standards necessary to protect consumers.

II. Strategic Goal 2: Address hazardous consumer products in the marketplace and with consumers in a fast and effective manner.

We strongly support the agency addressing hazardous consumer products in the marketplace more quickly and effectively. Consumers depend on the CPSC to protect them from the unreasonable risks associated with hazardous consumer products. Most consumers believe that the products they buy for their home are proven safe before they enter the marketplace.¹ All too often, consumers remain uninformed or underinformed that a product is unsafe even when the CPSC announces a recall or takes other action. The agency should ensure that recalls and other agency actions provide consumers with access to enough information that is necessary to convey the danger to the public and provide a clear remedy as quickly as possible.

We applaud the CPSC's more robust approach to holding companies accountable for hazardous products and for violations of laws and regulations under the agency's jurisdiction, and support the draft strategic plan prioritizing these efforts. Enforcement actions are one of the most meaningful and effective tools that the CPSC can employ to protect consumers and hold companies accountable, once an unsafe product is found in the marketplace. The agency should not hesitate to use, as warranted, civil and criminal penalty authorities to address any such violations and deter future unlawful actions. Holding firms accountable for noncompliance with CPSC's laws and regulations signals to other companies that the agency actively enforces its rules, and that there are meaningful consequences for wrongful behavior.

Strategic Objective 2.4 is critical to better hold companies accountable for their recall efficacy on hazardous and potentially hazardous products. While the "percentage of overdue notification notices sent to firms" is a helpful metric, the inclusion of additional measures to more accurately quantify the success of a firm's post-recall actions are needed, especially in the first 12 months after the recall announcement. Kids In Danger's review of the agency's Monthly

¹ Consumer Reports Survey Research Department. "July 2020: Television Privacy & Security and Product Safety – Part of the American Experiences Survey: A Nationally Representative Multi-Mode Survey." (Aug. 2020) (article.images.consumerreports.org/prod/content/dam/surveys/Consumer_Reports_AES_Product_Safety_July_2020) (Percentages include "agree" and "strongly agree" responses).

Corrective Action Reports shows that reporting is inconsistent and piecemeal and that filed reports contain incomplete or inaccurate information. To ensure greater transparency and company accountability, we recommend that the agency regularly publicize firms' recall participation rates. This metric should reflect the percentage of units sold to consumers that have been returned, repaired, or remedied as required by the recall. The agency should also include a measure that tracks its publication and non-publication of this information.

III. Strategic Goal 3: Communicate actionable information about consumer product safety quickly and effectively²

We strongly support the agency's goal to increase the timeliness and effectiveness of safety information provided to the public. Specifically, we support steps to incorporate the CPSC's ongoing DEI efforts that acknowledge the need to communicate more effectively with diverse audiences, including vulnerable and underserved communities. The agency should undertake research to identify the most effective methods and platforms to communicate with the aforementioned communities. Measurements of effectiveness should not only include the number of engagements with CPSC safety messaging, but also data that helps to capture a consumer's level of interaction with the message and any subsequent behavioral changes. This may necessitate gathering more complete information through the use of follow-up surveys or questionnaires. We further suggest the CPSC increase its efforts to bolster its ability to more accurately track injury rates by race and ethnicity, including using proxies, like zip code data, that may help create a more complete picture into how specific communities are impacted by incidents involving hazardous products. When collecting such sensitive data, the CPSC should continue to be vigilant in guarding against any bias, and protecting the consumer's information and their privacy.

For about 40 years, the CPSC has operated under the severe constraints of Section 6(b) of the Consumer Product Safety Act (CPSA), a provision of law that restricts the CPSC's ability to release product safety information to the public. While we continue to work with Congress to repeal Section 6(b) of the CPSA, the Commission should push for increased transparency and track how often companies invoke the provision to prevent the release of critical, time-sensitive health and safety information. We urge the Commission to better track the use of this provision through annual detailed reports that include information on the number of times Section 6(b) has been invoked by a company and if doing so prevented the agency from releasing information; and whether the same companies repeatedly invoke Section 6(b) to avoid information disclosures. While working within the constraints of the law, the CPSC should also evaluate internal practices and identify performance measures that would maximize the public's access to critical safety information.

² To ensure the clarity and consistency, the reference to "Consumers Union" on page 44 in Appendix E of the Draft Strategic Plan should be updated to read "Consumer Reports."

IV. Strategic Goal 4: Efficiently and effectively support the CPSC's mission

CPSC's staff is the agency's strongest asset in keeping consumers safe. We support CPSC's continued efforts to prioritize the empowerment of staff to demand strong safety practices and policies in the marketplace. It is critical for the Commission and CPSC staff to continue to be vocal advocates for consumers in all aspects of the agency's work. As such, it is imperative that the agency invest in staff's training and professional development, and provide staff with the tools necessary to ensure success in their research, communication, and work in settings such as standards development.

We concur with the CPSC's addition of Strategic Objective 4.3 to the Draft Strategic Plan for 2023-2026 and defining fostering public trust and increasing transparency as a top priority. While recognizing the constraints that the CPSA places on the agency's ability to communicate with the public, it is critical for the agency to review and update its internal policies and guidance to ensure timely and maximum impact. In its effort to resolve its backlog of FOIA requests, the CPSC should also work to ensure that the agency's FOIA responses provide the public with access to critical safety information.

Thank you for your consideration of our comments. We look forward to continuing to work with the CPSC to protect consumers from unreasonable risk of injury or death from consumer products.

Respectfully submitted,

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