



**Written Comments of Consumer Reports to the  
U.S. Consumer Product Safety Commission on:  
“Agenda and Priorities FY 2024 and/or 2025”  
Presented by Oriene Shin, Policy Counsel  
Docket No. CPSC-2023-0019**

Submitted to the Office of the Secretary via [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov)  
April 28, 2023

Consumer Reports (CR), the independent, nonprofit, and nonpartisan member organization,<sup>1</sup> welcomes the chance to submit comments on the agenda and priorities of the Consumer Product Safety Commission (CPSC) for fiscal years 2024 and 2025.

For more than 85 years, improving product safety has been central to CR’s mission. We assess safety risks, investigate their impact on consumers, and inform the public and the CPSC when we identify product hazards—all on a data-driven basis. We push for strong action from the CPSC to keep the public safe. We support and defend the CPSC’s vital role in pursuing a marketplace with safer products and fewer product-related injuries and deaths, including through its critical work to develop mandatory safety standards, hold companies accountable, and warn the public about potential hazards.

We applaud the Commission’s ongoing work that puts consumers first. The agency has made considerable progress recently on a number of persistent hazards, and it should continue to lead and take bold action in line with its mission to protect the public. In particular, we urge the Commission to prioritize the following key principles and activities in its fiscal year 2024 and 2025 plans.

**Be ambitious, creative, and vocal champions for the safety of all consumers**

The CPSC is a critical agency tasked with an indispensable public health and safety mission, and it plays a significant role in protecting U.S. consumers. As CPSC staff face the demands of today’s complex, interconnected, and ever-changing marketplace, it is essential for the Commission to continue to seek a much greater level of investment in their work and ensure that they have the tools they need. For their part, it is critical for CPSC staff to remain ambitious, creative, and vocal proponents of consumer safety in every arena. With the support of the

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<sup>1</sup> Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today’s consumers, and provides ad-free content and tools to 6 million members across the U.S.

Commission, CPSC staff can—and do—play a central role in advancing product safety, whether it is in their technical research, standards development work, or compliance activity.

It is also fundamental for CPSC staff and the Commission to communicate with the public in an effective and timely manner. This includes clear communication of safety messages, whether as a part of ongoing campaigns, new initiatives, or efforts to inform people about specific potentially hazardous products. It also means CPSC staff remaining accessible to interested members of the public for discussions that could help yield protective, practicable safety requirements that deliver the greatest possible benefits to consumers.

One idea for the Commission to consider as a part of its public outreach is to identify and publicize a “Top 10” list of persistent hazards in the home, and what both consumers and companies can do to prevent injury. A robust public initiative like this could give the public a compelling vision for safety and help them understand the leadership role the CPSC plays in keeping people safe. It also could serve as an organizing mechanism for a range of CPSC efforts, including its work to implement strong new standards, vigilant compliance and enforcement, and other steps to create safer homes—especially for children. Where new authority and resources would assist in this effort, the CPSC should request it from Congress immediately.

In addition, the CPSC should continue to take steps to integrate into its everyday work ways to better identify, reach, and serve all communities. An increasingly diverse country requires its public health and safety agencies to serve an array of needs and reflect the reality that the physical and economic costs of product safety hazards are often borne disproportionately or differently by certain groups of consumers. The CPSC’s decisions and communications with the public must be informed by a drive for equity and an unwavering commitment to serve consumers who may have been overlooked or underrepresented in the past.

### **Actively support and promulgate strong safety standards**

Given that the Consumer Product Safety Act (CPSA) generally requires the CPSC to rely first on voluntary standards, it is important for the agency to help ensure that the voluntary standards-setting process yields timely and significant safety benefits to consumers. We applaud the agency’s expert participation and unwavering support for safety in numerous recent voluntary standard meetings. We urge CPSC staff to continue to remain vocal and use CPSC’s testing and other research to provide direction for voluntary standards development. Voluntary standards should set strong safety minimums that protect the public and provide clear expectations for companies, not just give products a rubber stamp of approval. Accordingly, we commend the Commission for rejecting revisions to voluntary standards when they did not improve the safety of the product, as was the case with recent revisions to the ASTM International standards for bassinets, children’s folding chairs and stools, and play yards.

CR also commends the CPSC for advancing and finalizing mandatory standards to address product hazards that have hurt people for years, including those associated with clothing storage units, custom window coverings, and high-powered magnets. The CPSC should continue to pursue mandatory standards to address hazards that have not been adequately addressed, including those associated with table saws and portable generators. We recognize that

promulgating strong mandatory standards under Section 7 and 9 of the CPSA can be onerous for the agency without industry cooperation; however, it is critical for the CPSC to explore all avenues to address product hazards that put consumers at risk of injury or death.

In addition, we support the agency's work to issue strong safety standards under Section 104 of the Consumer Product Safety Improvement Act (CPSIA). It is paramount that the agency ensures that only those durable infant and toddler products that meet strong safety standards and align with expert medical recommendations are for sale in the marketplace. We urge the agency to remain vigilant and to address any potential safety hazards found in infant or toddler products, new or old, including those with weak voluntary standards as well as those products with voluntary standards currently under development. As such, we look forward to reviewing and commenting on upcoming proposals for a safety standard for infant feeding support pillows and a ban on infant pillows.<sup>2</sup>

### **Hold companies accountable in a complete and timely way**

The CPSC should continue to carry out robust compliance and enforcement work to improve consumer safety and corporate accountability. We applaud the CPSC's ongoing proactive efforts to use tools such as unilateral warnings, administrative proceedings, and substantial civil penalties to ensure companies put consumer safety before profits. The CPSC should continue to press companies to take needed action in support of safety, and pursue strong mandatory actions as necessary.

The CPSC should also take steps to help increase consumer participation in recalls of hazardous products. In 2017, the agency reported that, on average, only about six percent of consumers participate in corrective actions across all product types,<sup>3</sup> though estimates range dramatically depending on the type of product. Increasing consumer participation is critical to ensure that hazardous products are removed not only from people's homes but also prevented from being sold unlawfully on secondary marketplaces. As necessary, the CPSC should reannounce recalls to help ensure that as many hazardous products as possible are returned to the company or thrown away.

One way for the CPSC to help increase recall participation is to keep pressing companies to conduct recalls that make it as easy and appealing as possible for consumers to participate. For example, unless there is an overriding reason not to do so, the default for any CPSC-overseen recall should be for consumers to have the option of receiving a full cash refund of the purchase price—not a partial refund, a gift card or store credit, or a discount on a future purchase. More broadly, it is vitally important for companies to follow through on their commitments to carry out recalls that incentivize consumer participation and to do so both quickly and completely. Too often, recalling companies leave consumers in the lurch, with uncertainty about the next steps in

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<sup>2</sup> CPSC, "Fiscal Year 2023 Operating Plan" (Oct. 26, 2022) (online at: [www.cpsc.gov/s3fs-public/FY2023CPSCOperatingPlan.pdf](http://www.cpsc.gov/s3fs-public/FY2023CPSCOperatingPlan.pdf)) at 22.

<sup>3</sup> CPSC, Transcript: "Recall Effectiveness Workshop (Early Session)," (July 25, 2017) (online at [www.cpsc.gov/s3fs-public/Recall\\_Effectiveness\\_Workshop-Transcripts-2018.pdf?DANfPWVdXLz6jk.lAn9rzT3dX6ZOXQa0](http://www.cpsc.gov/s3fs-public/Recall_Effectiveness_Workshop-Transcripts-2018.pdf?DANfPWVdXLz6jk.lAn9rzT3dX6ZOXQa0)) at 39-41.

a recall and without the use of a product that they may need in their daily lives, all because of a safety defect that is the manufacturer's responsibility.

CR strongly urges the CPSC to continue taking a more aggressive approach in response to violations of laws and regulations under the agency's jurisdiction and to coordinate with the Department of Justice, as necessary, to make full use of the agency's enforcement authority. The CPSC should continue to levy substantial civil penalties, which are essential for enforcing against unlawful conduct that could endanger consumers, including failing to report potential defects in a timely manner or making misrepresentations to the CPSC. As warranted, the Commission should not hesitate to deter future violations by levying fines at the highest levels permitted under the law—and by making it clear to the public and Congress when the statutory civil penalties cap results in a lower penalty than otherwise would have been justified by a company's conduct. Furthermore, when criminal conduct has occurred, the agency should not hesitate to make use of its criminal penalties authority, in collaboration with the Justice Department.

### **Improve information transparency and accountability to the public**

Since the 1980s, the law has required the CPSC to operate under severe constraints on its ability to communicate clearly and effectively with the public about critical safety issues. Fundamentally, the CPSC should be able to inform the public about legitimate safety hazards in a timely and complete manner, regardless of whether or not a company wants that to occur. We applaud the agency's recent Supplemental Notice of Proposed Rulemaking that would update the regulations interpreting Section 6(b) of the CPSA, and CR recently submitted comments in support of the proposal. Transparency is critical to ensure the public's safety. At the same time, we want to be clear that the impact of Section 6(b) is anti-consumer and anti-safety, and we support its full repeal by Congress.

While recognizing Section 6(b)'s significant effects on the agency's ability to communicate with the public, we urge the CPSC to take additional steps regarding the availability of information and agency accountability to the public. First, the agency should prioritize addressing Freedom of Information Act (FOIA) backlogs and the factors that cause responses to FOIA requests to be delayed. Second, the agency should make public the current status of all recalls and whether companies are meeting obligations under a recall agreement and are successfully getting unsafe products off the market and out of homes. This effort should include greater public availability of terms that have been agreed to under a corrective action plan, and the routine posting of corrective action plan reports on CPSC.gov. Finally, the agency should also bolster efforts to collect data that would help the agency determine disproportionate or different impacts that product hazards may have on particular communities.

### **Conclusion**

In conclusion, CR looks forward to the CPSC continuing to take strong pro-consumer action to address hazards associated with consumer products. We are eager to continue to work with the agency to fulfill its mission in fiscal years 2024 and 2025.