

United States Senate

WASHINGTON, DC 20510

June 20, 2019

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G St., NW
Washington, DC 20548

Dear Comptroller General Dodaro:

The Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of injury or death associated with consumer products. CPSC has jurisdiction over countless consumer products, covering nearly everything for sale in a store or online, including the phones and electronics we use, the clothes we wear, and the strollers and cribs in which we put our children. CPSC is the agency on which Americans rely to guarantee the safety of the products they use in their daily lives.

CPSC has broad authority to identify, assess, and address risks associated with consumer products. It can take compliance actions to address unsafe products, including administering voluntary recalls, conducting mandatory recalls or bans, and imposing penalties. In recent years, however, consumer advocates have questioned CPSC's voluntary settlements with companies, arguing that the agency has relied on them instead of taking strong enforcement measures to protect the public from unsafe products.

We assume that the hundreds of products we interact with every day are safe, but this assumption relies on a strong and proactive CPSC. We are concerned about CPSC's increased deference to industry, which has resulted in fewer recalls and more settlements that favor industry interests over consumer safety.

We therefore write to request that the Government Accountability Office conduct a study evaluating CPSC's enforcement decision-making, including its development, execution, and enforcement of settlement agreements that the agency enters into with manufacturers of products that CPSC has identified as posing a potential or actual risk to consumers, as well as the Corrective Action Plans included in voluntary recalls, and imposition of recalls. In particular, the report should address the following questions:

1. How does CPSC determine when it should take an enforcement action against a consumer product that may pose a substantial safety hazard? What data do CPSC staff, the Chair, and Commissioners utilize for these determinations? Are the Chairman and Commissioners briefed on staff determinations at the same time? If not, how long is the

delay before Commissioners are briefed and who determines when those briefings occur? How do industry groups and the companies that manufacture or distribute hazardous products weigh in on this decision-making with staff, and with the Chair and Commissioners?

2. How many times has the current Acting Chairman rejected a staff recommendation that CPSC pursue a recall or similar Corrective Action Plan (CAP) with a regulated entity? Please describe each of these instances, when they occurred, and any action CPSC pursued instead.
3. How has CPSC's approach to CAPs changed over the past ten years? Have CAPs put more of the burden on consumers to address defects? Do remedies for consumers vary depending on how recently they purchased a product? How effective are CAPs in encouraging consumer participation, as reported to the agency?
4. How does CPSC track and monitor compliance with a recall, CAP, or other remedial agreement it enters into with companies, and how does CPSC enforce the terms of these agreements? How many times in the past ten years has CPSC found a company noncompliant with a settlement? What, if any, enforcement actions did CPSC take? Please describe each of these instances and when they occurred. In these cases, if CPSC did not take an enforcement action, what action did CPSC take instead?
5. How often does CPSC determine that information campaigns, either alone or in conjunction with other measures, are sufficient to remedy the impact of hazardous products on consumers? How effective are information campaigns at reaching and informing consumers? What are best practices for such campaigns and how often does CPSC require those best practices? Is CPSC more likely to protect consumers by overseeing voluntary and mandatory recalls, or by overseeing information campaigns?
6. Over the last ten years has CPSC increased its reliance on industry-developed voluntary safety standards over mandatory standards? Please describe each of the voluntary and mandatory safety standards issued during this time. Should CPSC be more engaged in developing stronger voluntary standards? What percentage of voluntary standards does CPSC actually vote to adopt?

Thank you for your prompt attention to this matter. If you have any questions about this request, please contact Avenel Joseph of Senator Markey's staff at 202-224-2742.

Sincerely,



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator