

March 18, 2016

Chairman Ander Crenshaw
Financial Services & General Government Subcommittee
U.S. House Committee on Appropriations
H-305
The Capitol
Washington, DC 20515

Ranking Member Jose Serrano
Financial Services & General Government Subcommittee
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Dear Chairman Crenshaw and Ranking Member Serrano:

The undersigned trade associations are writing regarding the Consumer Product Safety Commission's (CPSC) FY 2017 budget.

Collectively, the undersigned trade associations represent importers, manufacturers, retailers, brand owners and other companies that manufacture and sell products regulated by the CPSC. These trade associations have had a long history of positive engagement with the CPSC and share the mutual goal of ensuring that all products bought and used by consumers—from children to seniors—are safe.

We support efforts by Congress to provide the CPSC with resources needed to achieve its mission of keeping the American public safe from the unreasonable risks associated with the use of consumer products. We have identified several actions, programs and priorities that we believe will enhance the CPSC's ability to meet its critical safety mission.

Below is an outline of the priorities we request the Subcommittee consider when appropriating funds to CPSC for their FY 2017 budget:

Ongoing Engagement with All External Stakeholders

CPSC's engagement with all external stakeholders, including manufacturers, retailers, consumer advocates and safety experts, is key to the agency's ability to fulfill its safety mission. Regulated industries should be viewed as partners in safety as they have key information on product specifications, consumer behavior, global supply chains business practices and the real-life impact of regulations on businesses. Consistent stakeholder engagement will aid the CPSC in making better-informed decisions and rulemaking, help guide the retroactive review of inefficient and burdensome regulations and perhaps most importantly, address emerging safety risk and hazards. We believe this engagement should be ongoing and formalized. Therefore, we are supportive of the development of Federal Advisory Committees to address ongoing issues that have a significant contribution to CPSC's mission: import surveillance, recall effectiveness and information collection/management.

Import Surveillance

We are supportive of the agency's presence at U.S. ports of entry and the ongoing development of the agency's Risk Assessment Methodology (RAM) used to analyze import data to identify high-risk imports. While we support the RAM, industry still believes additional coordination and consultation with all affected trade stakeholders is needed for further development and implementation of the system to ensure legitimate commerce and entries of compliant products are not stopped or unnecessarily delayed during the CPSC's import screening process. As CPSC has piloted their import surveillance programs, we have seen that the agency's efforts have resulted in significant and unnecessary delays on compliant goods. Importers are not provided information on why their shipments are targeted and are frustrated by the CPSC's lack of communication on this issue. Engagement with stakeholders will help the CPSC to improve the targeting process and pave the way for a RAM system that both advances the shared CPSC/industry goals of ensuring product safety and the efficient flow of commerce.

We also remain concerned that CPSC continues to request authorization for user fee authority to pay for the import surveillance program. Import surveillance and the RAM program are core CPSC enforcement functions and as such should be funded through the normal congressional appropriations and oversight process and not through user fees. In addition to the significant legal and operational issues related to the user fee proposal, the CPSC has not yet engaged the trade community on exactly how the proposed fee would be collected or used. Engagement after issuing a proposed rule, as detailed in CPSC's proposed budget, is an inefficient rulemaking process and results in backtracking such as what happened with the proposed Section 1110 Rule.

We note that after industry and importers raised significant concerns and made repeated requests for engagement on the proposed Section 1110 (certificate e-filing) Rule, CPSC created a working group within Customs and Border Protection's "COAC" advisory committee on the proposed import electronic filing requirement. Through this engagement, various representatives (including importers, express carriers, brokers and testing labs) were able to share sensitive information about their supply chains and their various roles within the supply chains so that CPSC could create an e-filing pilot program (Alpha Pilot) that should help the agency determine the feasibility and workability of the proposed rule. As the agency moves forward with the Alpha Pilot, it is essential that the CPSC clearly demonstrate that the Alpha Pilot data elements are consistent with a risk-based targeting system and target noncompliant products while minimizing the potential burden on industry and compliant importers. We encourage this type of stakeholder engagement as *an ongoing initiative* for all import surveillance related issues.

Finally, we also strongly encourage the CPSC to develop, with stakeholders, a vibrant Trusted Trader Program that provides actual, significant trade benefits for those low-risk importers willing to subject their product safety and import process and supply chains to CPSC scrutiny. As trusted traders, these importers should be subject to fewer examinations and data requests. We believe such a program will be beneficial for the agency and industry. It will allow the agency to focus limited resources on identifying bad actors and violative products without hampering those products from known, verified and, indeed, trusted importers. We look forward to working with the agency on developing such a program.

Halt Funding for Voluntary Recall and Section 6(b) Rules

We believe that the agency should reconsider and stop moving forward on two current rulemakings, the proposed voluntary recall and Section 6(b) rules. CPSC Chairman Kaye has stated publicly that these rulemakings are not among his top priorities as they are “process-focused” rules rather than “safety-focused” rules that directly impact product safety. Despite the Chairman’s statement that he does not intend to move forward on these rulemakings, they continue to remain in the CPSC’s most current operating plan. The proposed voluntary recall rule if made final would upend the existing, highly effective current voluntary recall system and gut the highly successful Fast Track Recall program. Collectively, these rules are likely to greatly undermine the cooperative CPSC/industry relationship, one which is critical to consumer safety.

Reconsider Current Parameters Surrounding Reducing Testing Burdens

The regulated community agrees that testing is a critical component to product safety assurance. However, all companies, especially small ones, are still struggling with the costs associated with mandatory testing requirements that are unnecessary (in that they do not help determine compliance) and/or redundant. As mandated by Pub. Law 112-28, the amendment to the CPSIA, the agency has spent significant time identifying opportunities to reduce unnecessary testing burdens. However, to date, with limited exceptions, these funds have gone towards efforts that have resulted in *very* limited relief. The manner in which the Commission has defined the mandate from Congress will mean that little relief will be forthcoming. We appreciate Congress’s support to allocate funds and clear direction to the agency to address these burdens and we urge further funds be provided so the CPSC can continue to look for ways to reduce unnecessary testing.

Fund a Strengthened Small Business Ombudsman’s Office

The CPSC created an Office of the Small Business Ombudsman in 2010, which has proved to be an invaluable resource for small businesses navigating through the multitude of product safety requirements. The Ombudsman developed tools, answered company questions, and traveled around the world to educate the regulated community about product safety compliance. This function is critically important particularly with small, new businesses bringing regulated products to market. We urge the Subcommittee to appropriate necessary funding and directive language to expand both the budget and function of this important CPSC office.

Retailer Reporting Program (RRP)

The CPSC must be a data driven agency in order to meet its critical safety mission and to enable it to identify new and emerging risks and hazards. The RRP, a ten-year pilot program where retailer and manufacturer participants provide product specific safety incident information to the CPSC, has been a valuable tool in identifying emerging product hazards and has resulted in recalls of unsafe products. Retailers and manufacturers have been encouraging the CPSC to expand the number of participants and to formalize the program into a true government/industry partnership program with clearly defined responsibilities and benefits. Unfortunately, the CPSC is as yet unable to resolve its internal deliberations regarding the RRP. Resolving those issues and expanding the number and types of participants in the RRP will result in even more useful and real-time product safety information coming to the CPSC. In exchange, submission of this information, where appropriate, should be considered as fulfillment of a firm’s reporting obligations to the agency that are mandated by Section 15(b) of the Consumer Product Safety

Act. We note that the CPSC recently announced that it will host a public workshop on electronic filing of 15(b) report during FY 2016. It is our hope that the public workshop will also focus on expansion and formalization of the RRP.

Conclusion

Thank you for your consideration of these priority issues. We are supportive of the work of the Consumer Product Safety Commission, we appreciate the support of the agency by this Subcommittee over the years, and we collectively look forward to continuing to work with the agency and the Subcommittee to ensure the CPSC's critical mission continues to advance for the benefit of all American consumers.

Sincerely,

American Association of Exporters and Importers
American Apparel & Footwear Association
Baby Carrier Industry Alliance
Fashion Accessories Shippers Association
Fashion Jewelry & Accessories Trade Association
Gemini Shippers Association
Halloween Industry Association
INDA, Association of the Nonwoven Fabrics Industry
Juvenile Products Manufacturers Association
National Association of Manufacturers
National Retail Federation
Outdoor Industry Association
Outdoor Power Equipment Institute
Power Tool Institute
Retail Industry Leaders Association
Toy Industry Association
Travel Goods Association
Society of Glass and Ceramic Decorated Products
Upholstered Furniture Action Council
Window Coverings Association
United States Fashion Industry Association