

Opening Statement of the Honorable Michael C. Burgess, M.D.
Subcommittee on Commerce, Manufacturing, and Trade
Hearing on “Oversight of the Consumer Product Safety Commission”
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(As Prepared for Delivery)

The Consumer Product Safety Commission was established in 1972 by Congress to protect consumers against unreasonable risks of injuries associated with consumer products. This statutory mission is a serious responsibility for the Commission, and it is critically important for Congress to conduct oversight to ensure public confidence in the Commission’s adherence to its responsibilities and stewardship of taxpayer dollars.

I would like to thank Chairman Kaye and Commissioners Adler, Buerkle, and Mohorovic for testifying today. We will also hear from a second panel of witnesses about Representative Pompeo’s bipartisan legislation, H.R. 999, the ROV In-Depth Examination Act and the open ROV rulemaking that has garnered substantial bipartisan concern from Members on both sides of the Hill.

Consumer safety is a top priority for this Subcommittee and at a time where difficult budgeting decisions are being made across the government, it is critical that all agencies are held accountable for their prioritization decisions. I am particularly concerned about the role of sound scientific principles at the Commission, the interaction between the Commission and regulated industries, the rulemaking agenda, the execution of Congressional mandates for third-party test burden reduction, and the Commission’s continued request for new authority to impose user fees. There is a fundamental constitutional issue with moving the power of the purse from Congress to a regulatory agency with no experience with user fees.

A wide range of open agenda items at the Commission require scientific evaluation and testing, from phthalates and nanotechnology to window coverings and recreational off-highway vehicles. Consumer confidence is rooted in the belief that the Commission has the capacity to base its decisions on supportable scientific findings. It is dangerous and short sighted for a safety agency to move away from sound science and scientific principles as I believe has happened with the CHAP Report regarding phthalates where even OMB guidelines for peer review were ignored.

The Commission’s authorizing statute is based around the presumption that voluntary industry standards, and cooperative relationships with the regulated industry, are the preferred method of regulation for product safety. Safety is a strong incentive for both parties. There are a number of open rulemakings that fundamentally change the relationship between the Commission and the regulated industry. In an area where it’s said that 90 percent of the threats to consumer safety are created by 10 percent of the players—it seems counterintuitive to put additional barriers between the Commission and the regulated industry when the common goal is consumer safety. This is especially so where resources are always going to dictate that the Commission will need help from industry in identifying problems.

One open rulemaking fundamentally changes the Fast Track voluntary recall process, an award-winning program established 20 years ago to address long recall processes, which has produced tremendous results. Under this program last year, 100 percent of fast track recalls

were initiated within 20 days. The positive impact for consumers is real when potentially dangerous product can be taken off the shelf in days instead of months.

Finally, there has been bipartisan support to reduce third party testing burdens for small businesses around the U.S. In 2011, Congress passed H.R. 2715 with explicit instructions for the Commission to evaluate testing burden relief in good faith. But the Commission has struggled to carry out this statutory requirement even with additional funding. Three and a half years later, small businesses are reporting they still have not seen any real burden reductions and are facing seemingly endless comment rounds but no real solutions.

We are all here to make sure we are doing what we can to prevent tragic and unfortunate injuries from consumer products. However, additional funds for the Commission are difficult to justify when there are so many questions about the scientific methodology used by the Commission to support its regulatory agenda, how Administrative Procedure Act solicited comments are incorporated through the rulemaking process, and how the Commission operates without bipartisan support for many major initiatives.

The CPSC's mission must remain a touchstone for its important work and not a launching off point for an activist state driven by headlines rather than science and economics. Such an approach compromises the trust in an agency that has successfully removed thousands of unsafe consumer products from the economy as well as the voluntary safety standards process that builds safety into products on the front end.

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