



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Ann Marie Buerkle
 Commissioner Robert S. Adler
 Commissioner Elliot F. Kaye
 Commissioner Dana Baiocco

ITEM:

Draft Federal Register Notice: "Recall Effectiveness: Announcement of Request for Information Regarding the Use of Direct Notice and Target Notices During Recalls" (Briefing package dated June 6, 2018)

DECISION:

The Commission voted unanimously (4-0) to approve publication in the *Federal Register* a Request for Information (RFI), with changes as specified. (*Federal Register* notice attached with changes.) The RFI asks for stakeholders to provide information for CPSC's future work on recall effectiveness.

For the Commission:

A handwritten signature in black ink, appearing to read "Alberta E. Mills", with a long horizontal line extending to the right.

Alberta E. Mills
Secretary

*Ballot Vote Due June 15, 2018
(Commissioner Baiocco extended due date from June 12, 2018)

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

Recall Effectiveness: Announcement of Request for Information Regarding the Use of Direct Notice and Targeted Notices During Recalls

[Docket No. CPSC-2017-0027]

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of request for information.

SUMMARY: To advance the concepts discussed during the U.S. Consumer Product Safety Commission's (CPSC) Recall Effectiveness Workshop in 2017, the CPSC announces a Request for Information (RFI) from stakeholders to provide information critical to future work on Recall Effectiveness. CPSC asks for responses on a series of questions addressing direct notice and other forms of customer notice. The information provided will help inform CPSC's efforts to continue improving the effectiveness of recalls.

DATES: Submit comments by [Insert date 75 days after date of publication in the *Federal Register*].

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2017-0027, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: www.regulations.gov. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above; however, please

do not use this method if you are submitting confidential business information or other sensitive information that should not be made public.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: www.regulations.gov. If you submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, do not submit it electronically, but send it in hard copy to the Office of the Secretary at the address indicated above. See also section III, below,

Docket: For access to the docket to read background documents or comments received, go to: www.regulations.gov, and insert the docket number CPSC-2017-0027, into the "Search" box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Joseph F. Williams, Compliance Officer, the Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East West Hwy., Bethesda, MD 20814; telephone: 301-504-7585; email: jfwilliams@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Recall Effectiveness Workshop

On July 25, 2017, the CPSC hosted a Recall Effectiveness Workshop. The goal of the workshop was to explore and develop proactive measures that CPSC and stakeholders can undertake to improve recall effectiveness. Seventy-nine external stakeholders attended the workshop, including various retailers, manufacturers, law firms, consumer interest groups, third party recall contractors and consultants, testing laboratories, and other interested parties. CPSC staff facilitated an open discussion among these participants about ways to increase recall effectiveness and also gathered feedback on how CPSC can potentially improve its recall efforts. Additional details may be found here: <https://www.cpsc.gov/Recall-Effectiveness>.

B. Recall Effectiveness Report

Following the workshop, CPSC staff prepared a report, which was released on February 22, 2018. The report stated that the CPSC staff intends to prioritize stakeholders' suggestions to:

- collaborate on ways to improve direct notice to consumers; and
- collaborate with firms to explore how technology can be used to enhance recall response.

The report explained the reason for this focus:

“Direct notice recalls have proven to be the most effective recalls. We intend to work with consumer and industry stakeholders on registration methods or other improvements (e.g., retailer opt-in at checkout, home voice assistants, photo texting, QR codes, and incentives for product registration) to promote direct notice recalls.”

“We will continue to explore how technology can be used to enhance recall response in appropriate cases, including enhancing firms’ recall marketing strategies, use of social media, and improved methods for in-store communication. We intend to identify and share examples of future recall marketing strategies that are innovative and/or successful.”

The full Recall Effectiveness Report may be found here:

https://www.cpsc.gov/s3fs-public/Recall_Effectiveness_Workshop_Report-2018.pdf?R1VyLltrl8M_id.2vkAkIHoUZjaSCab

II. Information Requested

The CPSC seeks information on current methods and systems that recalling firms use to assist in providing direct notice to consumers. The CPSC also requests certain information regarding the use of targeted notices to reach consumers who may have purchased a recalled product.

A. Direct Notice

1. What methods are available for directly notifying consumers of recalls?

(e.g., mail, email, text)

2. If you use direct notice for recalls, what response rates do you achieve?

Do the response rates differ significantly for different recalls? If so, what factors appear to influence the response rates? Do you follow up with additional direct notice if a customer does not respond? How often? For how long?

3. Do other companies or your company use all available direct notice methods during every product recall? If not, why not?
4. Do e-commerce retailers/third party platforms use direct notice capabilities for every recall of products sold through their site/platform? If not, why not?
5. What costs are associated with direct notice? How do costs vary for different forms of notice? What other factors affect cost?
6. What challenges and barriers prevent companies from pursuing or improving direct notice? Please address:
 - a. Legal barriers
 - b. Technological challenges
 - c. Privacy challenges
 - d. Security challenges
 - e. Cost challenges
 - f. Other challenges
7. What technologies exist or are being developed that would assist a recalling company to acquire direct contact information or capabilities to contact purchasers and/or issue direct notice for recalls?
8. What methods do you use to collect direct contact information at the point of sale?
9. Does your attempt to collect direct contact information depend on the item(s) purchased? Is the cost of the item at all relevant?

10. Have you worked with a third-party entity (e.g., credit card or payment processing companies, product registries, data collection platforms, online retailers) to identify or contact consumers who previously purchased a product subject to a recall? If so, how, and with what types of companies did you work?

11. For retailers that have information on their customers (e.g., retail credit/debit cards, loyalty program, membership registration), can such information be accessed through purchase data to provide direct notice?

12. What would make direct notice more effective (e.g., notice type, number of touches)?

13. How can the CPSC help facilitate direct notice to consumers?

14. What can we learn from marketing efforts (e.g., needed resources, personnel qualifications, channels of communication, evaluating messaging effectiveness, etc.) to better reach consumers for recall purposes?

B. Product Registration

1. What product registration methods are used today to collect consumer information and track purchased/registered products?

2. Why do companies offer product registration? Are product registration programs due to mandatory requirements by CPSC or other agencies, or for other reasons?

3. What are participation rates in product registration? Do you see significant differences in the registration rates for different types of products?

4. What type of information is collected during product registration?

5. Is product registration more or less successful if marketing information is not collected at the same time? Why?
6. What methods are in use or are being developed to increase responses to product registration (*e.g.*, warranties, incentives, voice assistant technology)?
7. When does the personal information collected for product registration get used for marketing purposes?
 - a. Are opt-in/opt-out choices provided to consumers for marketing?
Describe.
8. What technologies exist or are being developed to advance product registration?
9. What would make product registration more effective?
10. How can the CPSC help facilitate or improve product registration rates?
11. Has the ability to register a product online or electronically had an effect on the volume of consumer response to product registration?

C. Targeted Notice

A targeted notice is a notice aimed at a particular group of likely affected consumers, but not at a known purchaser or consumer like direct notice (*e.g.*, targeted search engine ads, paid social media, micro marketing, such as Internet radio and targeted use of voice assistant technologies).

1. Have you used any of the targeted methods listed above or others to reach consumers? What success have you seen?
2. Do companies use the information previously collected to assist in issuing targeted recall notices when announcing recalls?

3. What costs are generally associated with targeted methods, including targeted search engine ads, paid social media, micro marketing, such as Internet radio, and voice assistant technologies?
4. What challenges and barriers prevent companies from pursuing targeted notices for recalls? Please address:
 - a. Legal barriers
 - b. Technological challenges
 - c. Privacy challenges
 - d. Security challenges
 - e. Cost challenges
 - f. Other challenges
5. What technologies exist or are being developed that can improve the effectiveness of targeted notice?
6. How can the CPSC help facilitate new or improved targeted recall notice campaigns?
7. Are there other forms of recall notice that are worth exploring for more discussion?

D. For Consumers and Other Stakeholders

1. Would you be interested in working directly with the CPSC to explore best practices for implementing product registration, improving current direct notice capabilities, or developing targeted notices?
2. Are there data showing what forms, types, and frequency of messaging consumers are most likely to respond to in direct and targeted notices?

3. How can companies incentivize consumers to register their products or to provide the information needed for direct notice in the event of a recall?
4. What concerns do consumers have regarding the use of their personal information for recall notification purposes? What can firms do to overcome these concerns?

III. Confidentiality

All data submitted is subject to Section 6 of the Consumer Product Safety Act (15 U.S.C. Section 2055) and may be considered confidential, except to the extent otherwise provided by law. Please identify any portion of your submission that you believe is confidential.

Dated: _____

Alberta E. Mills, Secretary
Consumer Product Safety Commission