



United States

Consumer Product Safety Commission

Record of Commission Action Commissioners Voting by Ballot*

Commissioners Voting: Chair Alexander D. Hoehn-Saric
 Commissioner Peter A. Feldman
 Commissioner Richard Trumka Jr.
 Commissioner Mary T. Boyle

ITEM:

BJ's Wholesale Club, Inc.
Recommendation to accept \$9 million civil penalty settlement
under the Consumer Product Safety Act

(Ballot vote package dated September 20, 2023, OS No. 0251)

DECISION:

The Commission voted unanimously (4-0) to provisionally accept under 16 C.F.R. § 1118.20(d) the Settlement Agreement and Order against BJ's Wholesale, Inc. and provisionally announce its acceptance in the *Federal Register*.

The Commissioners issued respective statements regarding this matter (see attachments).

For the Commission:

Alberta Mills
Secretary

*Ballot vote due September 28, 2023.

Attachments: Statement by Chair Hoehn-Saric
 Statement by Commissioner Trumka
 Statement by Commissioner Boyle



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

CHAIR ALEXANDER D. HOEHN-SARIC

**Statement of Chair Alexander Hoehn-Saric on \$9M Settlement Agreement with BJ's
Wholesale Club**

September 29, 2023

I voted with my fellow Commissioners to approve a proposed civil penalty settlement with BJ's Wholesale Club (BJs) for allegedly violating the Consumer Product Safety Act (CPSA). If finally adopted, this settlement would require BJ's to pay a fine of \$9 million and take other remedial actions designed to protect consumers in the future.

Section 15(b) of the CPSA requires a retailer that obtains information which reasonably supports the conclusion that its product contains a defect that could create a substantial product hazard or unreasonable risk of serious injury or death to immediately inform the Commission about that risk. In this case, BJ's did not report to the Commission when they learned of a death from the product in 2017. BJ's did not report even when it notified its own customers to stop using the product due to safety concerns. Our action sends a loud and clear warning to companies who continue to sell dangerous products despite knowing that they can cause serious injury or death.

In Fiscal Year 2022, the Consumer Product Safety Commission (CPSC) assessed \$32 million in civil penalty payments to the U.S. Treasury. For Fiscal Year 2023, CPSC's final assessments surpassed that number, totaling more than \$52 million. This is no small feat. These penalties, like today's settlement announcement, demonstrate CPSC's commitment to hold companies accountable when they put the public at risk and consumers should look forward to a safer marketplace for all. I thank CPSC's staff for their hard work, diligence, and commitment to improving public safety.



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COMMISSIONER RICH TRUMKA JR.

\$9 MILLION FINE AGAINST BJ'S WHOLESALE CAPS YEAR OF ACTIVE ENFORCEMENT

SEPTEMBER 29, 2023

A fire caused by a defective air conditioner killed a young mother and put her two children in the hospital. The seller knew about the responsible product and its risks—it had reports of fire hazards with the unit—but it decided against reporting the dangers to CPSC, preventing the agency from acting in time. Those are the allegations giving rise to today's notice of a proposed \$9 million civil penalty against BJ's Wholesale.

To prevent incidents like that, this Commission made it a priority to energize enforcement. So far, we have succeeded. Today's penalty notice ends a fiscal year of active enforcement by CPSC staff. Excluding BJ's, civil penalties in FY 2023 reached over \$52 million, a 64% increase in penalties levied relative to FY 2022. CPSC's civil penalties deter bad actors by making it costly to hide information about hazards in the consumer products that companies make and sell.

I know that CPSC's strong focus on civil penalties will ensure a safer marketplace for American consumers; and our progress on penalties also benefits taxpayers by returning ill-gotten gains back to the Treasury and the American people. I am grateful to CPSC's staff for working tirelessly to protect American consumers from hazardous products.



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COMMISSIONER MARY T. BOYLE

COMMISSIONER MARY T. BOYLE STATEMENT ON BJ'S AGREEMENT TO PAY \$9.0 MILLION CIVIL PENALTY

Together with my fellow Commissioners, I voted to approve a proposed settlement agreement with BJ's Wholesale and to send an important message about retailer responsibility. The agreement, once finalized, will require BJ's to pay \$9.0 million in civil penalties, resolving staff allegations that BJ's knowingly failed to report to CPSC that portable air conditioners it distributed and sold contained a defect that created a fire and burn hazard. One of the air conditioners purchased from BJ's was involved in a house fire that resulted in the death of a mother of two young children, and as set forth in the allegations, BJ's never alerted CPSC to the risks associated with these products.

My vote for this agreement reaffirms my commitment to holding all companies accountable for safety—including retailers and distributors. Because CPSC does not provide pre-market approval of products, we must rely heavily on firms throughout the distribution chain to meet their legal obligation to report defects and hazards. Those firms are in the best position to know what is happening with their products. The law requires them to report, and it is critical that they do so. Lives depend on it.

I also believe that the cap on the maximum penalties allowed by statute should be raised. Companies with revenues in the hundreds of millions, and even billions, of dollars may consider the current penalty regime merely a cost of doing business. Protecting the public requires a meaningful deterrent. To penalize bad actors and to incentivize companies of all sizes to make consumer safety a top priority, I am urging Congress to significantly increase CPSC's penalty authority.