Testimony of Dana Baiocco
Commissioner, U.S. Consumer Product Safety Commission

U.S. Senate
Subcommittee on Manufacturing, Trade, and Consumer Protection

"Oversight of the Consumer Protect Safety Commission"

June 20, 2019

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Good morning, Chairman Moran, Ranking Member Blumenthal, and Members of the Senate Subcommittee on Manufacturing, Trade, and Consumer Protection. Thank you for inviting me to this hearing and for providing all of the CPSC Commissioners with the opportunity to appear before you today. It is a great responsibility to discuss the status of the Agency. A frank evaluation of the Agency's performance is the first step to ensuring that the Agency is operating as effectively as possible given the complex and fast-paced issues in today's consumer product safety world.

The Agency can and must do more to facilitate its mission in this global economy. First, we must enhance the Agency as a whole to better serve the American consumer. To do this, the Commission must commit immediately to three investments that will make the Agency more efficient, nimble, and effective: (1) improved equipment; (2) additional and specialized personnel to revamp the Agency's technology, data capabilities, and hazard identification systems; and (3) a more robust plan for testing and evaluating emerging technologies and products in general.

Given the speed with which new products enter the market, the ease with which they get directly into consumers' homes, and the complexity of the global supply chain, which includes products that do not comply with our safety rules and standards, real action must be taken to keep the Agency relevant. We must transition the CPSC into a forward looking Agency rather than a reactive one.

To illustrate, there is a great demand for the production of more "sustainable" products. To the extent that "sustainable" includes recycled or reusable products, the Agency must ensure that this demand does not indirectly undo safety advancements that the Agency has worked long and hard to achieve. The Agency should be studying now, and not reacting later, to any such potential pitfalls.

Second, the Agency must be purposeful in its regulatory activities. Rulemaking, of course, is a key part of the CPSC's charge but, the Agency must do a better job with this authority. When the Agency promulgates a safety rule, it should do it swiftly and decisively, and have a legally sound and scientific reason to do so. It serves no purpose to force a rule that does not solve, or at least effectively address, the hazard. All Agency actions must be credible, rationally related to the hazard before it, and consistent with the rule of law. The Commission should not support any process that merely meets an "arbitrary and capricious" standard.

Third, the CPSC should be the gold standard in engineering, testing, and problem solving. Our engineers must be more solution-oriented, and empowered to solve product hazards affirmatively. Our compliance team should accept and capitalize on opportunities where industry is willing to share sound testing results and roadmaps for successful programs that the Agency does not yet have. An "us versus them" mentality will impede good engineering solutions and interfere with strong stakeholder relationships.

Since joining the CPSC, I have worked on some individual initiatives designed to contribute to the Agency's mission. For example, I have pushed for, and the Agency now has, a mobile-friendly recall app. This simple, inexpensive initiative is just one way the Agency is closing the gap between the way it works and the way today's consumer operates.

My office is also committed to working with the e-commerce community to develop better ways of patrolling the varying platforms for non-compliant goods. I have opened discussions with several e-commerce hosts about direct recall notice, data-sharing, and ways to better liaise with experts, who are studying consumer behavior so that the Agency may benefit from this information pool.

Another initiative focuses on counterfeit products. My research has revealed that "knock-off," and other brand copy-cat products make up a deep pool of non-compliant goods that pose real safety implications. The Agency's import surveillance team, small as they may be, are working extremely hard, and quite effectively, to stop the inflow of these non-compliant products. The individuals working daily at our nation's ports have developed excellent and critical relationships with their Custom and Border Protection colleagues to accomplish a lot on this front. The Agency should allocate more resources to these efforts so that they may expand that good work.

My goal as a Commissioner is to ensure that the CPSC is employing best practices in all that we do. I recommend that the Commission conduct an in-depth, internal review of the Agency's staff directives and procedures to identify and enhance areas that need improvement. That review, in my opinion, is essential to the integrity and core functioning of the Agency.

It has been a challenging and rewarding opportunity to serve the American public as a CPSC Commissioner. Thank you for this opportunity to testify before you and for your good work on this Subcommittee. I look forward to answering your questions today and, I am always available to discuss in more detail my comments regarding the Consumer Product Safety Commission in general and my perspectives, goals, and ideas for fulfilling the Agency's mission.