

Congress of the United States  
U.S. House of Representatives  
Committee on Small Business  
2561 Rayburn House Office Building  
Washington, DC 20515-6515

July 25, 2024

The Honorable Alexander Hoehn-Saric  
Chairman  
Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

Dear Chairman Hoehn-Saric:

The House Committee on Small Business (Committee) is investigating CPSC Commissioner Richard Trumka's unilateral actions that have damaged small businesses and could be in violation of the Consumer Product Safety Act (CPSA). The actions taken by Commissioner Trumka, have had and will continue to have a significant impact on small businesses.

Commissioner Trumka's actions have caused immense harm to small businesses by publicly encouraging retailers to stop selling the businesses' products. Since his appointment by President Biden in 2021, not only has he pushed forward unnecessary burdensome regulations, but he has also acted unilaterally noting that "we do not have to wait for a federal rule" to take certain actions against businesses and products he thinks are harmful.<sup>1</sup> This statement came after Commissioner Trumka's proposed rule to make weighted infant sleep products standards unnecessarily burdensome was rejected by the CPSC by a 3-1 vote. At the time, you, the Chairman of the CPSC, noted the CPSC had not conducted enough research to pursue rulemaking on the issue in 2024.<sup>2</sup> However, despite losing the vote and the lack of research, Commissioner Trumka continued his pursuit to ban certain sleep weight products. On April 15, 2024, he issued a solo public statement: "Beware: Weighted Infant Swaddles and Blankets are Unsafe for Sleep; Retailers Should Consider Stopping Sales," condemning the weighted sleep products.<sup>3</sup> This statement was published on CPSC's official website and Commissioner Trumka signed the statement as "Your consumer advocate at the Consumer Product Safety Commission."<sup>4</sup>

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<sup>1</sup> Public Statement from Commissioner Richard L. Trumka Jr., Consumer Product Safety Commission, Beware: Weighted Infant Swaddles and Blankets Are Unsafe for Sleep; Retailers Should Consider Stopping Sales (Apr. 15, 2024).

<sup>2</sup> *NCLA Plans to Sue CPSC over Comm'r Trumka's Illegal Efforts to Stop Sales of Weighted Sleep Sacks*, NCLA (May 9, 2024).

<sup>3</sup> Public Statement from Commissioner Richard L. Trumka Jr., Consumer Product Safety Commission, Beware: Weighted Infant Swaddles and Blankets Are Unsafe for Sleep; Retailers Should Consider Stopping Sales (Apr. 15, 2024).

<sup>4</sup> *Id.*

That same day, Commissioner Trumka sent letters to Target, Walmart, Nordstrom, and Babylist to urge them to stop selling weighted infant products.<sup>5</sup> Within days, these retailers stopped selling the products. Making matters even worse, after these letters, Commissioner Trumka issued another public statement describing how he made Target, Walmart, Nordstrom, and Babylist to stop selling weighted blankets and reminding the public not to use the “dangerous” weighted sleep products.<sup>6</sup> Commissioner Trumka used the CPSC’s official letterhead—giving an appearance of presenting the CPSC’s views—and signed the letters himself.

Further, Commissioner Trumka publicly disclosed information about the manufacturers’ identity. Both in his public statements and in his letters to retailers, Commissioner Trumka cites a Washington Post article to support his allegations about the so-called dangers of weighted sleep products.<sup>7</sup> This Washington Post article clearly names Dreamland and Nested Bean as manufacturers of the alleged dangerous weighted blankets.<sup>8</sup> These two businesses were singled out in the article and mentioned multiple times by name. Naming the manufactures in this manner seems to be a violation of the CPSA’s requirements which prohibit the CPSC from disclosing information about a consumer product that identifies a manufacturer or private labeler unless it has taken “reasonable steps” to assure that 1) the information is accurate; 2) disclosure of the information is fair in the circumstances; and 3) disclosure of the information is reasonably related to effectuating the purposes of the CPSA and of the other laws administered by the CPSC.<sup>9</sup> Before disclosing such information about a consumer product, the CPSA requires the CPSC to provide the manufacturer or private labeler with an opportunity to comment on the accuracy of the information. Further, the CPSC must wait at least fifteen days after sending it to the company for comment, before disclosing any information.<sup>10</sup>

Commissioner Trumka failed to take “reasonable steps” to meet the requirements of the statute before he disclosed the identities of the manufacturers of the weighted blankets. First, he failed to ensure that the information is accurate. Next, he made allegations without the information being backed up by scientific research. For example, in the letters to the retailers, Commissioner Trumka stated, “I am aware of multiple infant deaths involving weighted infant.”<sup>11</sup> However, there is no citation to prove this very serious claim. Third, his assertions go directly against the CPSC’s decision and thus “disclosure of the information is” *not* “reasonably related to effectuating the purposes of the CPSA.”<sup>12</sup> Furthermore, Commissioner Trumka admitted that he “tried to amend CPSC’s operating plan to start work on a rule to protect babies

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<sup>5</sup> Letter from Richard Trumka, Commissioner, Consumer Product Safety Commission, to Target, Walmart, Nordstrom, and Babylist (Apr. 26, 2024).

<sup>6</sup> Public Statement from Commissioner Richard L. Trumka Jr., Consumer Product Safety Commission, Target, Walmart, Nordstrom, and Babylist Commit to Stop Selling Weighted Infant Products (Apr. 26, 2024).

<sup>7</sup> Lauren Kirchner, *Weighted Blankets are Dangerous for Babies, Doctors Warn*, THE WASH. POST (Jan. 22, 2024).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Letter from Richard Trumka, Commissioner, Consumer Product Safety Commission, to Target, Walmart, Nordstrom, and Babylist (Apr. 26, 2024).

<sup>12</sup> *Id.*

from weighted products but was unable to garner the necessary support at that time.”<sup>13</sup> Without support from the CPSC, the information can hardly be reasonably related to effectuate the purposes of the CPSA. Overall, it seems Commissioner Trumka did not establish “procedures designed to ensure that such information is accurate and not misleading.”<sup>14</sup>

Commissioner Trumka uses four sources for his claims: CPSC, Centers for Disease Control and Prevention (CDC), National Institutes of Health (NIH), and American Academy of Pediatrics (AAP). However, there is no actual data or evidence that these sources are using when alleging that weighted sleep products are dangerous. Both the CDC’s and NIH’s citations refer to general sleep safety websites with multiple recommendations on how to help babies sleep safely.<sup>15</sup> None of the websites referenced provide any evidence or research to support his claims. For example, in AAP’s letter to the CPSC, they did not state facts but only beliefs: “AAP believes these weighted swaddles and related products are unsafe for infants and does not recommend these products.”<sup>16</sup> The only evidence the AAP uses is “preliminary, *non-peer-reviewed* data” and even they admit that there is a “*lack of substantial evidence* about the possible harms of weighted sleep products.”<sup>17</sup> Further, as far as the Committee is aware, Commissioner Trumka failed to provide manufacturers with an opportunity to comment on the accuracy of the information, as is required by statute.

Commissioner Trumka’s war against weighted sleep products is not the only time he has taken unilateral actions to advance his own agenda, misusing his position as a Commissioner. Trumka also attempted to ban gas stoves. In October 2022, Trumka pushed for greater regulation of gas stoves but did not receive support from any other commissioner. Even after the lack of support, in an interview with Bloomberg, Trumka referred to gas stoves as “hidden hazards” and said a ban on gas stoves is on the table.<sup>18</sup> However, Chairman Hoehn-Saric said, “to be clear, I am not looking to ban gas stoves and the CPSC has no proceeding to do so.”<sup>19</sup> Trumka’s comments received pushback not only from industry groups but also from both the Senate and the House. The pushback is not surprising since 40 percent of homes in the U.S. use gas stoves, which means that gas stoves are estimated to be installed in at least 40 million U.S. residences.<sup>20</sup> Senate Energy and Natural Resources Chairman Joe Manchin III, said that any regulation would be “a recipe for disaster.”<sup>21</sup> Senator Manchin continued: “The federal government has no

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<sup>13</sup> Public Statement from Commissioner Richard L. Trumka Jr., Consumer Product Safety Commission, Beware: Weighted Infant Swaddles and Blankets Are Unsafe for Sleep; Retailers Should Consider Stopping Sales (Apr. 15, 2024).

<sup>14</sup> Consumer Product Safety Act, 15 U.S.C. §§ 2051-2089, 6(b)(6).

<sup>15</sup> *Safe Sleep Environment for Baby*, Nat’l Inst. of Health (last visited Jun. 26, 2024), <https://safetosleep.nichd.nih.gov/reduce-risk/safe-sleep-environment>; Center for Disease Control and Prevention, *Helping Babies Sleep Safely* (last visited Jun. 25, 2024), [https://www.cdc.gov/reproductive-health/features/babies-sleep.html?CDC\\_AAref\\_Val=https://www.cdc.gov/reproductivehealth/features/baby-safe-sleep/](https://www.cdc.gov/reproductive-health/features/babies-sleep.html?CDC_AAref_Val=https://www.cdc.gov/reproductivehealth/features/baby-safe-sleep/).

<sup>16</sup> Letter from Sandy L. Chung, President, American Academy of Pediatrics, to Alexander Hoehn-Saric and Donald Mays, Chairman and Chair, U.S. Consumer Product Safety Commission and F15 Committee on Consumer Products (Jun. 15, 2023).

<sup>17</sup> *Id.*

<sup>18</sup> Ari Natter, *US Safety Agency to Consider Ban on Gas Stoves Amid Health Fears*, BLOOMBERG (Jan. 9, 2023).

<sup>19</sup> David Jordan, *After Backlash, Safety Commission Says Gas Stove Ban Unlikely*, ROLL CALL (Jan. 11, 2023).

<sup>20</sup> Ari Natter, *US Safety Agency to Consider Ban on Gas Stoves Amid Health Fears*, BLOOMBERG (Jan. 9, 2023).

<sup>21</sup> David Jordan, *After Backlash, Safety Commission Says Gas Stove Ban Unlikely*, ROLL CALL (Jan. 11, 2023).

business telling American families how to cook their dinner...If this is the greatest concern that the Consumer Product Safety Commission has for American consumers, I think we need to reevaluate the commission.”<sup>22</sup> House Energy and Commerce Chairwoman Cathy McMorris Rodgers called this attempt the latest “in a long line of power grabs.”<sup>23</sup> She continued, “It is not about public safety... It is about telling the American people the federal government knows best and will decide what kind of car they can drive, how they can heat their house, and now how they’re allowed to cook food for their families.”<sup>24</sup>

The Committee is concerned that a single CPSC Commissioner is exerting undue pressure on entities and forcing them to improperly remove small business’ products from their shelves to the detriment of those small businesses. Small businesses deserve a chance to fairly compete in the marketplace without undue influence from the federal government—whether that be through rulemaking or letters from a rogue CPSC Commissioner. America’s small businesses deserve to have their voices heard and considered. We therefore request the following information as soon as possible but no later than August 8, 2024:

1. A copy of all letters sent by Commissioner Trumka on CPSC letterhead from January 2021 until present.
2. A copy of all amendments and rules proposed by Commissioner Trumka from January 2021 until present.

To schedule the delivery of your response, or ask any related follow-up questions, please contact the Committee on Small Business Majority Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate “problems of all types of small business” under House Rule X. Thank you in advance for your cooperation with this inquiry.

In God We Trust,



Roger Williams  
Chairman  
Committee on Small Business

cc: The Honorable Nydia M. Velázquez, Ranking Member  
Committee on Small Business

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*