



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

COMMISSIONER PETER A. FELDMAN

**Statement of Commissioner Peter A. Feldman on CPSC's Fiscal Year 2021 Operating Plan
September 25, 2020**

CPSC is, first and foremost, an enforcement agency charged with protecting the public from unreasonable risks of injury or death associated with consumer products. Close observers of the Commission have questioned the agency's willingness to take strong enforcement measures to protect the public from unsafe products and raised concerns that CPSC's enforcement posture has resulted in fewer recalls, longer wait times, and more settlements that don't advance consumer safety. Because so much of this activity has been delegated to agency staff, responsibility rests squarely with the Acting Chairman, to whom staff directly reports.

Acting Chairman Robert Adler has continued the troubling decline in CPSC enforcement activity. While CPSC has broad authority to take compliance actions to address unsafe products, including administering voluntary recalls, conducting mandatory recalls or bans, and imposing penalties, the agency's investment in its enforcement team has been flatlined since 2016. This trend is even more disturbing in light of media reports alleging systemic failures to address potentially hazardous consumer products on the nation's largest e-commerce platforms.¹

This Operating Plan continues the freeze on enforcement funding. That is why I introduced a budget-neutral amendment that would have increased funding for the agency's headquarters compliance team by 10 percent and offset this plus up from non-mission-critical agency expenditures. Inexplicably, the Acting Chairman opposes even this modest increase. Absent additional investment and strong leadership in support of robust enforcement where it is warranted, this Operating Plan places CPSC's Office of Compliance and Field Operations at continued risk.

Accordingly, I vote not to approve the Fiscal Year 2021 Operating Plan.

¹ See, e.g., Blake Ellis and Melanie Hicken, *Dozens of Amazon's own products have been reported as dangerous -- melting, exploding or even bursting into flames. Many are still on the market*, CNN.COM (Sept. 10, 2020, 7:55 AM), <https://www.cnn.com/2020/09/10/business/amazonbasics-electronics-fire-safety-invs/index.html>; and see Alexandra Berzon et al., *Amazon has ceded control of its site. The Result: Thousands of Banned, Unsafe or Mislabeled Products*, WALL ST. J. (Aug. 23, 2019, 9:56 AM), <https://www.wsj.com/articles/amazon-has-ceded-control-of-its-site-the-result-thousands-of-banned-unsafe-or-mislabeled-products-11566564990>.

**COMMISSIONER FELDMAN AMENDMENTS TO THE DRAFT FY 2021 OPERATING PLAN
SEPTEMBER 25, 2020**

COPF 1

Purpose: to provide additional resources to the Office of Compliance and Field Operations.

- (a) Staff is directed –
On page 2, under the table entry for the FY 2021 operating budget level for Compliance—HQ within the Office of Compliance and Field Operations, to strike “\$363” and insert “\$399.”

- (b) Staff is further directed to offset this operating budget increase from within the FY 2021 operating budget, prioritizing, but not limited to, any savings associated with COVID-19-related status of agency operations and monies that would otherwise be expended to compensate social media influencers, and to make any necessary conforming changes.

COPF 2

Purpose: to allow for Commission consideration of voluntary standards activity criteria.

At the end of section 13327 on page 6 insert the following:

“For the voluntary standards activity contemplated under this program, staff, in consultation with the Directorate of Economic Analysis, shall provide to the Commission a report assessing how the criteria set forth in 16 C.F.R. § 1031.5 are met.”

COPF 3

Purpose: to improve the transparency and accountability of CPSC’s use of paid media influencers.

On page 31, under “FY 2021 Priority Activities,” insert the following bullet:

“ • Create a directive with Commission input that sets forth a Commission policy for the use of influencers. This directive shall include, but not be limited to, detailed processes that require the following:

1. The circulation of a memo from OCM to the Commission outlining reasons, objectives, benefits, costs, and performance metrics and targets associated the use of a proposed influencer or spokesperson in a particular campaign;
2. An exhaustion by staff of all non-compensated options;
3. Use of any compensated influencer be supported by a majority of the Commission; and
4. Vetting by an influencer or spokesperson pursuant to industry standards to avoid embarrassment or reputational harm to the agency.”