



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Chairman Elliot F. Kaye
Commissioner Robert S. Adler
Commissioner Marietta S. Robinson
Commissioner Ann Marie Buerkle
Commissioner Joseph P. Mohorovic

ITEM:

Best Buy Co., Inc.'s Sale of Recalled Products - Recommendation to accept \$3.8 million settlement for alleged violations of the Consumer Product Safety Act (Briefing package dated September 22, 2016, OS No. 3655)

DECISION:

The Commission voted (4-1) to provisionally accept the Settlement Agreement and Order, which orders Best Buy Co., Inc. ("Best Buy") to pay a civil penalty of \$3.8 million and to take other remedial actions. The provisional Settlement Agreement and Final Order will be announced in a *Federal Register* Notice. The Compliance Division staff of the Office of the General Counsel negotiated the proposed agreement to settle staff allegations that the Firm knowingly violated section 19(a)(2)(B) of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2068(a)(2)(B), by distributing and selling approximately 600 units of 16 separate recalled consumer products. Section 20(a)(1) of the CPSA, 15 U.S.C. § 2069(a)(1), permits the imposition of civil penalties for any person who knowingly violates prohibited acts.

Chairman Kaye, Commissioner Adler, Commissioner Robinson and Commissioner Mohorovic voted to provisionally accept the Settlement Agreement and Order. Commissioner Buerkle voted to reject the Settlement Agreement and Order. Chairman Kaye submitted the attached statement regarding the matter.

For the Commission:

Todd A. Stevenson
Secretary

*Ballot vote due September 29, 2016
Attachment: Statement of Chairman Kaye



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BETHESDA, MD 20814**

**STATEMENT OF CHAIRMAN ELLIOT F. KAYE
ON THE SETTLEMENT AGREEMENT WITH BEST BUY**

October 4, 2016

Recently, the Commission voted 4-1 to accept provisionally a \$3.8 million settlement agreement with Best Buy Co., Inc. ("Best Buy").

This agreement settles charges that Best Buy knowingly sold approximately 600 units of 16 separate types of recalled consumer products between September 2010 and October 2015 at its retail stores, online and through Best Buy's secondary sales market. Many of the recalled products that staff charges Best Buy sold illegally posed serious health and safety hazards to consumers.

The law is clear: it is unlawful for any person to knowingly sell, offer for sale, distribute in commerce or import into the United States any consumer product that is subject to a voluntary corrective action taken by a manufacturer in consultation with CPSC if the Commission has notified the public of such voluntary corrective action or if the seller, distributor or manufacturer knew or should have known of such corrective action. 15 U.S.C. § 2068(a)(2)(B).

At a minimum, Best Buy failed to implement procedures to accurately identify, quarantine and prevent the sale of these recalled products. Best Buy knew or should have known about these sales. In some cases, product codes of recalled products were not permanently blocked in order to prevent a sale. In other cases, blocked codes were unblocked prematurely or overridden. These sales continued despite Best Buy's knowledge that it had recalled products in inventory and had sold other recalled products. Even after CPSC staff had notified the firm that CPSC was conducting an investigation into certain recalled products, Best Buy continued to sell recalled products from June 2013 through October 2015.

In addition to paying a \$3.8 million civil penalty, Best Buy has agreed to maintain a compliance program designed to ensure that it complies with the Consumer Product Safety Act (CPSA), including a program for the appropriate disposition of recalled

goods. The firm also has agreed to maintain and enforce a system of internal controls and procedures, to provide written documentation of these internal controls and procedures to CPSC staff, and to fully and truthfully cooperate with the agency to evaluate the firm's compliance with the terms of the agreement.

It is not solely the responsibility of manufacturers to ensure that recalled products stay out of the hands and homes of consumers. Retailers also have a legal obligation and play a key role when it comes to preventing the sale of recalled products. Consumers have a right to expect retailers to comply with the law and do their part to protect the public from being exposed to the hazards posed by recalled products.

This settlement of \$3.8 million reflects staff's charges that Best Buy fell short of meeting that obligation. I commend the staff from our General Counsel's Office for their work to secure this agreement on behalf of the American public. I am also pleased that Best Buy has committed to cooperating with CPSC staff to ensure future compliance with the CPSA and its own internal control and recordkeeping requirements. Consumers deserve no less.