Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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June 5, 2019

Ms. Mary Boyle
Executive Director
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Ms. Boyle:

On April 1, 2019, the Consumer Product Safety Commission (CPSC) became aware of an unauthorized disclosure of non-public manufacturer information.[1] On April 11, 2019, the CPSC notified manufacturers that information identifying them and their products had been released to the public without authorization.[2] While the full scope of the disclosure is not yet known, the CPSC has reported that up to 11,000 manufacturers have been affected and the disclosure appears to have occurred over a period of approximately two years.[3] Personally identifiable information was also disclosed in the breach.[4]

Non-public manufacturer information is barred from disclosure under the Consumer Product Safety Act. The stringent confidentiality requirements help to foster candid and complete communications between the CPSC and those they regulate.[5] If these communications are not kept confidential, manufacturers could become more reluctant to share information with the CPSC in the absence of a clear obligation to do so. This shift could make the CPSC's job more difficult, thereby placing consumers at risk.

The Committee regularly conducts oversight of federal agencies' unauthorized disclosure of confidential information. To help us more fully understand the nature and scope of the CPSC's recent unauthorized disclosure of non-public information, as well as the CPSC's response to the disclosure, we ask that you please arrange for a staff-level briefing on the following topics:

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[1] *Section 6(b) Information Disclosure*, CONSUMER PRODUCT SAFETY COMMISSION, https://www.cpsc.gov/Business--Manufacturing/section-6b-information-disclosure (last visited May 20, 2019).

[2] Letter from Harriet Kerwin, Attorney, Consumer Product Safety Commission Office of the General Counsel, to manufacturers (Apr. 11, 2019) (on file with the Committee).

[3] CONSUMER PRODUCT SAFETY COMMISSION, *supra* note 1.

[4] *Id.*

[5] *See* 15 U.S.C. § 2084(d) (reporting is not an admission of liability); *see also Duty to Report to CPSC: Rights and Responsibilities of Businesses*, CONSUMER PRODUCT SAFETY COMMISSION, https://www.cpsc.gov/Business--Manufacturing/Recall-Guidance/Duty-to-Report-to-the-CPSC-Your-Rights-and-Responsibilities (agency guidance to manufactures stating, "when in doubt, report.").

1. How the CPSC became aware that non-public manufacturer information had been released;

2. The scope of the release of non-public manufacturer information;

3. How the CPSC believes the release occurred; and,

4. The CPSC's efforts to remedy the release.

In addition, we request that the CPSC produce any documents in its possession about the unauthorized disclosure, including:
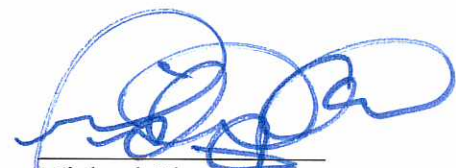
1. The CPSC's policies for protecting non-public manufacturer information that existed prior to the unauthorized disclosure, and the policies following the unauthorized disclosure;

2. The identities of the individuals who received the non-public information as part of the unauthorized disclosure, and any CPSC communications with those individuals since the unauthorized disclosure; and

3. Any written findings, memoranda, or reports that CPSC produced or directed to be produced about the unauthorized disclosure of non-public information.

Please provide the briefing and requested information as soon as possible, but not later than June 19, 2019. If you have any questions about this request, please ask your staff to contact Committee staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,

Jim Jordan
Ranking Member

Michael Cloud
Ranking Member
Subcommittee on Economic
and Consumer Policy

cc: The Honorable Elijah E. Cummings, Chairman
        The Honorable Raja Krishnamoorthi, Chairman, Subcommittee on Economic and
        Consumer Policy