



Auto Safety Group • Congress Watch • Energy Program • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

February 12, 2008

Nancy Nord
Chairman
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Chairman Nord,

We are writing to inquire about instances in which the Consumer Product Safety Commission (“CPSC” or “Commission”) sought criminal prosecution of companies that failed to provide the Commission with full and accurate reports about consumer product hazards, as required by law.

Settlement agreements between the Commission and manufacturers published in the Federal Register between 2002 and 2007 describe several instances in which manufacturers withheld material facts from the Commission in product hazard reports filed under Section 15(b) of the Consumer Product Safety Act. We documented many of these instances in our report entitled *Hazardous Waits*, which is available at <http://www.citizen.org/documents/HazardousWaits.pdf>. Specifically, the Commission reported:

- SMC Marketing withheld information from the Commission during an inspection relating to its fans causing fires “despite the fact that SMC was aware of numerous incidents of malfunction with the fans which allegedly caused fire or smoke damage to consumers’ homes.” When the Commission returned for a second inspection, “SMC did not provide the CPSC investigator with any additional incidents, despite the fact that it was aware of additional incidents involving the fans that allegedly caused fire or smoke damage to homes.” *In re SMC Marketing Corp.*, CPSC Docket No. 06-C0001, Dec. 6, 2005.
- Century Products Company in its representations regarding infant carriers with handles prone to breaking failed to furnish the Commission with “critically important information about incidents, injuries and engineering changes.” By withholding this information, Century “unduly delayed implementation of a safety recall.” *In re Graco Children’s Products Inc. and Century Products, F/K/A Century Products Company*, CPSC Docket No. 05-C0006, Mar. 14, 2005.
- Dynacraft BSC Inc. in its filing regarding defective forks on the Next Ultra Shock Mountain Bicycle “did not disclose that one of the incidents allegedly had resulted in

the death of the rider.” *In re Dynacraft BSC Inc.*, CPSC Docket No. 05-C0003, Nov. 18, 2004.

- Briggs & Stratton did not report lawsuits it had settled regarding “fun kart” engines prone to catching on fire, in violation of Commission reporting requirements. *See In re Briggs & Stratton Corp.*, CPSC Docket No. 02-C0006, Aug. 7, 2002.

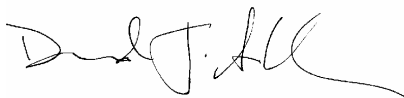
In addition to these instances, the CPSC likely has received numerous other Section 15(b) reports that omitted material facts.

As the Commission noted in the Century Products case listed above, incomplete or misleading reports hinder the Commission’s ability to make prompt determinations about whether a product poses a safety hazard, and they delay public notification of hazards. We hope you share our view that vigorous enforcement of the law is vital to eliminating underreporting of substantial product safety hazards—and thereby protecting public health and safety.

We are writing to inquire about instances since 2002 in which the Commission has referred cases to the Justice Department for investigation and possible prosecution under 18 U.S.C. § 1001 (“[W]hoever . . . knowingly and willfully— (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined . . . imprisoned not more than 5 years . . . or both.”). Please provide us the number of these cases and the details of each, including the product hazard at issue, the number of injuries or deaths, the alleged legal violations, and the ultimate disposition of the matter.

We would appreciate a prompt answer to this letter in light of pending legislation that might alter the Commission’s enforcement powers. While considering changes to current law, the public should have the information it needs to evaluate the law’s effectiveness.

Sincerely,



David Arkush
Director, Public Citizen’s Congress Watch division