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NCLA Asks D.C. Circuit to Stop Consumer Product Safety Comm.’s Illegal Infant Support Cushion Rule

Heroes Technology (US) LLC d/b/a Snuggle Me Organic v. Consumer Product Safety Commission (CPSC)

Washington, DC (March 14, 2025) – The New Civil Liberties Alliance has [asked](#) the U.S. Court of Appeals for the D.C. Circuit to stay the Consumer Product Safety Commission’s mandatory Safety Standard for Infant Support Cushions (“the Rule”), which regulates Heroes Technology’s one-of-a-kind Snuggle Me Infant Lounger and some two thousand other products. CPSC promulgated the Rule by unlawfully classifying these products as durable goods, instead of as the textile or textile-based items they are, causing them to be regulated through a far less rigorous process than Congress requires for other consumer product safety standards. CPSC unanimously denied Heroes Technology’s request to postpone the Rule’s May 5 effective date. NCLA urges the Court to freeze this existential threat to our client’s company and countless other small businesses.

This case is not about whether CPSC can regulate these products, but how Congress has told them they can do it. The Consumer Product Safety Act (CPSA) allows CPSC to use an expedited rulemaking process when it promulgates mandatory safety standards governing durable products for children under 5 years old, like cribs or strollers. If the product is not a durable infant or toddler product, it must follow the traditional, more exacting regulatory process. CPSC used the expedited durable goods process to create its new Rule for “infant support cushions,” a product category that did not previously exist. But Snuggle Me Infant Loungers, a product made of organic cotton and polyester fiber that parents use to gently hold their infants, are textiles, which are not generally considered durable goods. CPSC thus had no authority to promulgate the mandatory rule governing these products using the expedited process. Congress has stated it prefers voluntary product safety standards, yet the Rule allows CPSC to claim power over a major market segment instead of crafting product-specific voluntary standards with Heroes Technology and other eager industry partners. Since NCLA [persuaded](#) the Supreme Court to overturn the *Chevron* doctrine in June 2024, the agency is owed no deference to its untenable legal interpretation.

Despite Heroes Technology and others raising serious concerns about producers’ ability to redesign their products and apply new and ill-defined testing methods as the Rule requires, the agency declared the regulation would be effective on May 5, 2025, just 180 days after it was promulgated. This was certainly not “reasoned decisionmaking” by CPSC, making the Rule arbitrary and capricious under the Administrative Procedure Act, which requires agency actions to be “reasonable and reasonably explained.” The Snuggle Me Organic Infant Lounger is highly regarded and sought after by parents and caregivers. Heroes Technology has taken costly steps to comply with the Rule, but the product may still be eliminated.

The Rule also violates President Trump’s [Executive Order 14215](#), requiring independent agencies like CPSC to have the Office of Information and Regulatory Affairs review every significant regulation they promulgate, and [Executive Order 14219](#). The latter order forces agencies to identify regulations that are (1) “based on anything other than the best reading of the underlying statutory authority or prohibition”; (2) “impose significant costs upon private parties that are not outweighed by public benefits”; and (3) “impose undue burdens on small business

and impede private enterprise and entrepreneurship.” The infant support cushions rule must be stayed so it can go through the reviews and consultation processes that the CPSA and these recent executive orders require.

NCLA released the following statements:

“The rule covers thousands of vastly different products from tummy time pillows to playmats and loungers. As parents know, each of these products has a specific use and is designed for that use. Instead of following the process required for these types of goods, which would have led to product-specific voluntary standards accounting for each type of product’s use and design, the CPSC chose a regulatory shortcut to obtain a mandatory, one-size-fits-all standard. Now all fibrous-filled products are treated the same even though they are not.”

— **Kara Rollins, Litigation Counsel, NCLA**

“The unlawful actions of CPSC threaten to deny mothers access to valuable products. Some parents may then use substitutes that endanger their babies. The processes Congress provided the agency are there for a reason. To reduce the chance of mistakes like this, the stay should be granted.”

— **John Vecchione, Senior Litigation Counsel, NCLA**

“President Trump issued Executive Order 14219 instructing agencies not to engage in precisely this kind of dubious regulation, not squarely authorized by statute. As a former attorney at CPSC, I am genuinely shocked at the agency’s brazen effort here to exceed its statutory authority. If this is how Acting Chairman Peter Feldman plans to run the CPSC, President Trump had better find someone else to run the Commission—and quick.”

— **Mark Chenoweth, President, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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