



FOR IMMEDIATE RELEASE

Media Inquiries: [Joe Martyak](#), 703-403-1111

NCLA Asks D.C. Circuit Court to Erase CPSC's Illegal Infant Support Cushion Rule

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

Washington, DC (June 4, 2025) – The New Civil Liberties Alliance has filed an [opening brief](#) urging the U.S. Court of Appeals for the D.C. Circuit to vacate the Consumer Product Safety Commission's mandatory Safety Standard for Infant Support Cushions, which regulates Heroes Technology's Snuggle Me Infant Lounger and some 2,000 other products. CPSC promulgated the Rule by unlawfully classifying these products as durable goods, instead of treating them as the textile or textile-based items they are. These products were thus regulated through a far less rigorous process than Congress ordinarily requires for consumer product safety standards. As a result of the Rule, the company had to stop producing its high-selling and highly sought-after Infant Lounger. NCLA urges the Court to remove this unlawful Rule that threatens our client's company and countless other small businesses.

The Consumer Product Safety Act (CPSA) allows CPSC to use an expedited rulemaking process only 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 children's durable goods process to create its new Rule for "infant support cushions"—a previously non-existent product category that the Rule created. But Snuggle Me Infant Loungers, a product made of organic cotton and polyester fiber that parents use to gently hold their infants when awake, are textile-based and generally not considered durable goods.

CPSC had no authority to promulgate the mandatory Rule governing these products using the expedited and less careful 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 regarding its untenable legal interpretation.

Despite Heroes Technology and other companies raising serious concerns about the Rule's dubious justifications, CPSC proceeded to regulate them. The Commission also ignored producers' concerns about their ability to redesign their products and apply new and ill-defined testing methods in the time allotted by the Rule. The agency declared the regulation would be effective on May 5, 2025, just 180 days after its promulgation. This hasty choice 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."

NCLA released the following statements:

"Government efficiency is something that is usually lauded. But here, CPSC chose a regulatory shortcut that not only ignores the limits of the agency's power but also was conducted using less rigorous methods and analyses than is required for most consumer products. When it comes to infant safety, the Commission should be focused on creating the best rules, not the fastest path to regulation."

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

“CPSC’s failure to maintain a consistent, textual definition of ‘durable’ in the statute threatens parents’ access to useful products and endangers infants because the alternatives parents will use in the absence of those products are unknown and unaddressed by CPSC.”

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

“The D.C. Circuit should clamp down hard on CPSC’s attempt to expand its power by taking a regulatory shortcut Congress only supplied for a very limited class of durable products. CPSC appears to be trying to end-run the D.C. Circuit’s recent *Window Covering Manufacturers* ruling that required rigorous processes before issuing product safety standards. The agency deserves a hearty benchslap from the Court for this evasive maneuver.”

— **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.

###