



**U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814**

COMMISSIONER NANCY A. NORD

**Statement on the Commission's provisional acceptance
of a settlement agreement with Kolcraft Enterprises, Inc.**

March 11, 2013

The Consumer Product Safety Commission recently provisionally approved a settlement with Kolcraft Enterprises, Inc., over the company's failure to report potential substantial product hazards associated with play yards. This is the first time that the agency has accused the company of violating the law.

The staff negotiated a settlement agreement under which the company agreed to pay a significant penalty and implement a corporate compliance program to prevent such lapses in the future. I agreed with, and voted for, the agreement negotiated with the company because it effectively addressed the issues before us. My colleagues insisted, however, on expanding the reach of the compliance program to include all violations of CPSC regulations. This is in spite of the fact that we have not found that the company violated the law beyond what was addressed in the staff-negotiated agreement.

My colleagues based their position on the fact that the company has participated in a number of voluntary recalls over the past 20 years. While recalls signal a need to reexamine manufacturing and design issues, none of the Kolcraft recalls were pursued for violation of substantial safety standards.

Atop the staff-negotiated compliance program my colleagues proposed adding elements that go to conformance with safety standards. Among these elements are an extensive record-retention requirement and the on-demand reporting of compliance data to the agency. Again, Kolcraft voluntarily recalled a number of its products in the past, but recalls, in and of themselves, do not reflect legal violations and the agency has never accused the company of violating safety standards. The only violation alleged here had to do with reporting, not violation of any underlying safety standard. Imposing requirements that address a problem we have not found to exist goes beyond what is necessary to carry out our responsibilities.

I have been a champion of robust corporate compliance programs ever since I joined the agency. I agree that the company should have a robust compliance program, but the federal government imposing requirements such as these is not appropriate in the absence of a history of legal violations. To be a fair, effective, and reasonable use of the power of government, any solution we impose should bear some relationship to the problem at issue. Adding other requirements unrelated to the underlying conduct just because we feel they are good ideas is injudicious.