

October 13, 2017

Chairman Ann Marie Buerkle
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Chairman Buerkle:

We write to you to urge the Consumer Product Safety Commission to undertake a recall of Google Home Mini, a “smart speaker” that allowed Google to intercept and record private conversations in homes without the knowledge or consent of the consumer. The device was designed so that it was “always on.” As one tech reporter stated, “My Google Home Mini was inadvertently spying on me 24/7 due to a hardware flaw.”¹

It is important to underscore that the failure of the Google device stems from the design of the “touchpad.” There is no simple solution that will restore the correct functionality of the device. Google is making available a software patch that will permanently disable the touchpad.

This is a classic manufacturing defect that places consumers at risk. The defect in Google Home Mini is well within the purview of the Consumer Product Safety Commission.

The CPSC already understands the risks of wireless devices. In just this past week, the CPSC initiated a recall of the “Suunto Wireless Tank Transmitter and Tank POD.”² As the CPSC explained, the “exterior plastic case of the Wireless Tank Transmitter and Wireless Tank POD can burst during pre-dive pressure testing, posing an injury hazard.”³

We recognize that the privacy concerns associated with Internet-connected devices appear different from traditional public safety concerns. But the CPSC has a broad mandate and as new risks to consumers arise in consumer products, it is the responsibility of the Consumer Product Safety Commission to respond. Moreover, the Federal Trade Commission has simply failed to protect consumers against the

¹ CNN Tech, “Google admits its new smart speaker was eavesdropping on users,” Oct. 11, 2017, <http://money.cnn.com/2017/10/11/technology/google-home-mini-security-flaw/index.html>.

² US Consumer Product Safety Commission, “Suunto Recalls Wireless Tank Transmitter and Tank POD Due to Injury Hazard,” (Oct. 4, 2017), <https://www.cpsc.gov/Recalls/2018/Suunto-Recalls-Wireless-Tank-Transmitter-and-Tank-POD>.

³ *Id.*

risks of Internet-connected devices, routinely ignoring complaints brought by consumer organizations.

The urgency cannot be overstated. As the Internet connects physical devices – refrigerators, thermostats, home locks, and even cars – the risks to consumers are increasing dramatically. Experts in cybersecurity have warned that the United States now confronts the “Internet of Broken Things.”⁴ And with the Internet of Things, attacks will occur quickly against many objects simultaneously. Poor insulation on the power cord of a toaster may lead to a fire in a particular home. But the exploitation of a vulnerability in a network of thermostats or door locks could be staggering.

Consumer products will be the target of these attacks. And manufacturers -- not consumers -- must bear the responsibility to ensure the products that they offer for sale are safe for use by consumers.⁵ The Consumer Product Safety Commission plays a central role in this process. Without strong and effective action by the CPSC, the safety risks to consumers and the cost to the national economy will be great.

In addition to undertaking a recall effort for Google Home, we urge you also to enforce the “Duty to Report to CPSC” against manufacturers of “IoT” devices. As the CPSC has stated:

If you are a manufacturer, importer, distributor, and/or retailer of consumer products, you have a legal obligation to immediately report the following types of information to the CPSC: A defective product that could create a substantial risk of injury to consumers; . . .⁶

As you note, “Failure to fully and immediately report this information may lead to substantial civil or criminal penalties. CPSC staff’s advice is ‘when in doubt, report.’”⁷

⁴ See The Aspen Institute, “The Internet of Broken Things: the Future Challenges of Global Cybersecurity,” (Interview with former White House Cyber Security Advisor Lisa O. Monaco), <https://www.aspeninstitute.org/events/internet-broken-things-future-challenges-global-cybersecurity>.

⁵ See Alan Butler, “Products Liability and the Internet of (Insecure) Things: Should Manufacturers Be Liable for Damage Caused by Hacked Devices?,” 50 U. Mich. J. L. Reform 913 (2017), <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1193&context=mjlr>.

⁶ U.S. Consumer Product Safety Commission, “Duty to Report to CPSC: Rights and Responsibilities of Businesses,” <https://www.cpsc.gov/Business--Manufacturing/Recall-Guidance/Duty-to-Report-to-the-CPSC-Your-Rights-and-Responsibilities>.

⁷ *Id.*

Google Home Mini is just one of many Internet-connected consumer products that pose a risk to consumer safety.

We look forward to working with the CPSC on these important issues.

Sincerely,

Marc Rotenberg
Electronic Privacy Information Center (EPIC)

Josh Golin
Campaign for a Commercial Free Childhood

Jeff Chester
Center for Digital Democracy

Ariel Fox Johnson
Common Sense Kids Action

Linda Sherry
Consumer Action

Susan Grant
Consumer Federation of America

John M. Simpson
Consumer Watchdog

Edmund Mierzwinski
U.S. PIRG

Beth Givens
Privacy Rights Clearinghouse

Robert Weissman
Public Citizen