



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

**COMMISSIONER DANA BAIOTTO**

The Agency's website contains recently issued "guidance" on "masks and other pandemic products." I do not know who generated this publication or who is responsible for its contents. But, let me be clear. This is NOT an official CPSC policy position. An official CPSC policy position requires a majority vote of the Commission. No vote was taken on the information presented on the website and certainly no vote was taken on whether a "mask" crafted during the pandemic should be regulated as "apparel" or "textiles." In fact, no briefing, legal opinion, or analysis of the recent OMB direction was provided to *this* Commissioner regarding any of the opinions or "guidance" contained in the communication. Furthermore, there was no public comment or notice solicited on the matter.

Many Americans stepped up during this crisis. Some manufacturers retooled their facilities and produced materials to meet the demand for hundreds of thousands of essential workers, consumers, and the American public generally. Thousands of small businesses, individuals, and volunteers with a sewing machine also contributed to the enormous gap in supplies created by the circumstances. Rather than celebrating the American spirit, this unilateral publication suggests the potential for general legal liability and/or CPSC enforcement action – retroactively – without perspective, notice, or any deliberative process.

Enough with the unilateral communications and publications. They are not approved policy. They serve only to create unnecessary public tension, confusion, and damage to the Agency's credibility.