

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

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September 1, 2022

Mr. Alexander Hoehn-Saric  
Chairman  
Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

Dear Chairman Hoehn-Saric:

I am writing to request information about the efforts of the U.S. Consumer Product Safety Commission (CPSC or Commission) to protect babies from harmful inclined products. On June 14, 2022, the CPSC and Mattel, Inc. released a joint statement warning about 13 deaths in Fisher-Price Infant-to-Toddler and Newborn-to-Toddler Rockers, advising consumers never to use rockers for sleep or leave infants unsupervised or unrestrained in those rockers.<sup>1</sup> This announcement followed this Committee's earlier investigation into 2019 reports that Fisher-Price products marketed as sleepers had caused infant deaths and that matter, which led the CPSC to take action. Given continued infant deaths from inclined products, we are concerned that companies may not be fully transparent about the risks they pose. We are seeking information from the CPSC about its knowledge of these risks and the Commission's ability to oversee effectively the manufacturers of these dangerous products.

On August 13, 2019, we launched an investigation into inclined sleep products reportedly tied to the deaths of dozens of infants.<sup>2</sup> In addition to obtaining information and documents from three manufacturers of recalled inclined sleepers—Fisher-Price, Dorel Juvenile Group, and Kids II, Inc.—we also obtained certain documents from the CPSC related to the Commission's knowledge and oversight of infant deaths associated with inclined sleep products.<sup>3</sup>

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<sup>1</sup> Consumer Product Safety Commission, *Press Release: CPSC and Fisher-Price Warn Consumers About 13 Deaths in Fisher-Price Infant-to-Toddler and Newborn-to-Toddler Rockers: Advise Rockers Should Never Be Used for Sleep* (June 14, 2022) (online at [www.cpsc.gov/Newsroom/News-Releases/2022/CPSC-and-Fisher-Price-Warn-Consumers-About-13-Deaths-in-Fisher-Price-Infant-to-Toddler-and-Newborn-to-Toddler-Rockers-Advise-Rockers-Should-Never-Be-Used-for-Sleep](http://www.cpsc.gov/Newsroom/News-Releases/2022/CPSC-and-Fisher-Price-Warn-Consumers-About-13-Deaths-in-Fisher-Price-Infant-to-Toddler-and-Newborn-to-Toddler-Rockers-Advise-Rockers-Should-Never-Be-Used-for-Sleep)).

<sup>2</sup> Committee on Oversight and Reform, *Press Release: Committee Seeks Documents on Inclined Sleepers Linked to Dozens of Infant Deaths and Injuries* (Aug. 13, 2019) (online at <https://oversight.house.gov/news/press-releases/committee-seeks-documents-on-inclined-sleepers-linked-to-dozens-of-infant-deaths>).

<sup>3</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform, to Acting Chairman and Commissioner Ann Marie Buerkle, Consumer Product Safety Commission (Aug. 13, 2019) (online at

On June 2, 2021, after the Committee announced a hearing on this issue, the CPSC issued a final rule banning infant inclined sleep products.<sup>4</sup> On June 7, 2021, the Committee released a staff report and held a hearing examining how Fisher-Price was able to keep its Rock ‘n Play Sleepers on the market for a decade despite the risks they posed, and how existing laws allowed manufacturers to regulate their own products while leaving consumers vulnerable to dangers. At the hearing, the top executive at Fisher-Price admitted that nearly 100 infants had died in the Rock ‘n Play—more than double the number previously reported.<sup>5</sup>

On June 23, 2022, the CPSC’s new Safety Standard for Infant Sleep Products took effect, making it unlawful to sell non-compliant infant sleep products manufactured on or after that date.<sup>6</sup> As the CPSC explained, “The new rule will effectively eliminate potentially hazardous sleep products in the marketplace, such as inclined sleepers, travel and compact bassinets, and in-bed sleepers that do not currently meet a CPSC mandatory safety standard for infant sleep.”<sup>7</sup>

On July 26, 2022, CPSC published a Notice of Proposed Rulemaking in connection with the Safe Sleep for Babies Act, which President Joseph R. Biden signed into law on March 16, 2022, following the Committee’s investigation. The law bans dangerous inclined sleepers and crib bumpers marketed for use by infants that have been linked to hundreds of infant deaths and gives manufacturers 180 days to comply (consistent with CPSC’s intent to make its rule effective on November 12, 2022).<sup>8</sup>

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<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-08-13.EEC%20RK%20to%20Buerkle-CPSC%20re%20Inclined%20Sleepers.pdf>).

<sup>4</sup> Committee on Oversight and Reform, *Press Release: Chairwoman Maloney Issues Statement on CPSC’s Decision to Ban Infant Inclined Sleeper Products Ahead of Hearing on Committee Investigation* (June 2, 2021) (online at <https://oversight.house.gov/news/press-releases/chairwoman-maloney-issues-statement-on-cpsc-s-decision-to-ban-infant-inclined>).

<sup>5</sup> Committee on Oversight and Reform, *Infant Deaths in Inclined Sleepers: Fisher-Price’s Rock ‘n Play Reveals Dangerous Flaws in U.S. Product Safety* (June 2021) (available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Inclined%20Sleeper%20Report%202021.pdf>); Committee on Oversight and Reform, *Press Release: Oversight Hearing Reveals Previously Unknown Infant Deaths in Fisher-Price’s Rock ‘n Play Sleeper* (June 7, 2021) (online at <https://oversight.house.gov/news/press-releases/oversight-hearing-reveals-previously-unknown-infant-deaths-in-fisher-price-s>).

<sup>6</sup> Consumer Product Safety Commission, *Press Release: CPSC’s New Federal Infant Sleep Products Safety Standard Takes Effect* (June 23, 2022) (online at [www.cpsc.gov/Newsroom/News-Releases/2022/CPSCs-New-Federal-Infant-Sleep-Products-Safety-Standard-Takes-Effect](http://www.cpsc.gov/Newsroom/News-Releases/2022/CPSCs-New-Federal-Infant-Sleep-Products-Safety-Standard-Takes-Effect)).

<sup>7</sup> *Id.*

<sup>8</sup> Committee on Oversight and Reform, *Press Release: Chairwoman Maloney Issues Statement on President Biden Signing the Safe Sleep for Babies Act into Law* (May 16, 2022) (online at <https://oversight.house.gov/news/press-releases/chairwoman-maloney-issues-statement-on-president-biden-signing-the-safe-sleep>); Federal Register, *Ban of Inclined Sleepers for Infants: A Proposed Rule by the Consumer Product Safety Commission* (July 26, 2022) (online at [www.federalregister.gov/documents/2022/07/26/2022-15904/ban-of-inclined-sleepers-for-infants](http://www.federalregister.gov/documents/2022/07/26/2022-15904/ban-of-inclined-sleepers-for-infants)); Congress.gov, *Summary: H.R. 3182 – Safe Sleep for Babies Act of 2021* (online at [www.congress.gov/bill/117th-congress/house-bill/3182](http://www.congress.gov/bill/117th-congress/house-bill/3182)).

In its July 26 notice, the Commission stated that it intends to define “inclined sleepers for infants” as “a product with an inclined sleep surface greater than ten degrees that is intended, marketed, or designed to provide sleeping accommodations for an infant up to 1 year old.”<sup>9</sup> Both the new law and the CPSC’s safety standard cover products marketed, designed, or intended to provide sleeping accommodations. CPSC recognizes in its notice that uncertainty remains around key terms such as “sleeping accommodations” and “designed for sleep,” leaving it unclear whether the proposed rule applies to *all* products with an incline of more than ten degrees in which babies might sleep, regardless of their intended or marketed use.<sup>10</sup>

Given these concerns, we are seeking additional clarity as to whether the CPSC’s anticipated rule will apply to *all* products that could pose risks to infants during sleep.<sup>11</sup> Simply because an inclined product is not marketed for sleeping does not mean that infants will not fall asleep in such a product, and it is important to understand how this rule would affect the full range of products that have an incline of more than ten degrees. The Committee is seeking to understand how CPSC’s regulation of inclined infant products is impacted by the so-called “Gag Rule”—which can delay or prevent the CPSC from informing consumers or initiating a recall of a dangerous product without collaborating with manufacturers.<sup>12</sup>

To assist the Committee in its review of this matter, by September 15, 2022, please provide written responses to the following questions and requests:

1. How many deaths have been linked to products with an incline of more than ten degrees intended for use by babies, infants, or toddlers, including not only products marketed as “sleepers” but also those marketed as “bouncers,” “rockers,” “bath tubs,” “bassinets,” or any other similar category?
2. For products with an incline of more than ten degrees intended for use by babies, infants, or toddlers, including not only products marketed as “sleepers” but also those marketed as “bouncers,” “rockers,” “bath tubs,” “bassinets,” or any other similar category, please identify the name of each product, its manufacturer, and the number of deaths linked to that product of which the CPSC is aware.
3. Are *all* products with an incline of more than ten degrees intended for use by babies, infants, and toddlers—including not only products marketed as “sleepers” but also those marketed as “bouncers,” “rockers,” “bath tubs,” “bassinets,” or any other similar category—be prohibited under the CPSC’s Safety Standard for

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<sup>9</sup> Federal Register, *Ban of Inclined Sleepers for Infants: A Proposed Rule by the Consumer Product Safety Commission* (July 26, 2022) (online at [www.federalregister.gov/documents/2022/07/26/2022-15904/ban-of-inclined-sleepers-for-infants](http://www.federalregister.gov/documents/2022/07/26/2022-15904/ban-of-inclined-sleepers-for-infants)).

<sup>10</sup> *Id.*

<sup>11</sup> Consumer Product Safety Commission, *Statement of Commissioner Richard Trumka Jr. on 13 Infant Deaths Tied to Fisher-Price Infant Rockers* (June 14, 2022) (online at [www.cpsc.gov/s3fs-public/Trumka-Statement-13-Infant-Deaths\\_FINAL.pdf?VersionId=BxSHgiRyLCxsZFs12\\_Hjh0hyY8Le\\_jEm](http://www.cpsc.gov/s3fs-public/Trumka-Statement-13-Infant-Deaths_FINAL.pdf?VersionId=BxSHgiRyLCxsZFs12_Hjh0hyY8Le_jEm)).

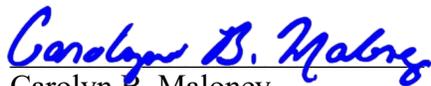
<sup>12</sup> See 15 U.S.C. § 2055(a)(3)-(6).

Infant Sleeper Products, effective June 23, 2022? If not, please describe which products are covered and which are not covered.

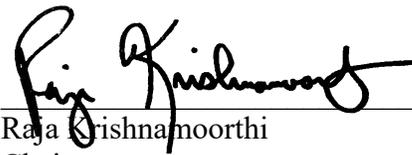
4. Will *all* products with an incline of more than ten degrees intended for use by babies, infants, and toddlers—including not only products marketed as “sleepers” but also those marketed as “bouncers,” “rockers,” “bath tubs,” “bassinets,” or any other similar category—be prohibited under the Safe Sleep for Babies Act of 2021 (PL No. 117-126)?
5. Are products such as strollers and infant car seats, which may have an incline of more than ten degrees and in which babies and infants often sleep, different in nature, construction, or effect from products that are “intended, marketed, or designed to provide sleeping accommodations?” Please explain.
6. Does the CPSC support the repeal of the provisions in 15 U.S.C. § 2055 that prevent the Commission from taking certain actions without first seeking permission from products’ makers (*i.e.*, the Gag Rule)? If yes, please explain. If not, why not?

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,



Carolyn B. Maloney  
Chairwoman  
Committee on Oversight and Reform



Raja Krishnamoorthi  
Chairman  
Subcommittee on Economic and  
Consumer Policy

cc: The Honorable James Comer, Ranking Member  
Committee on Oversight and Reform

The Honorable Michael Cloud, Ranking Member  
Subcommittee on Economic and Consumer Policy