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**Ranking Member Katie Porter**
**Subcommittee on Health Care and Financial Services**
**Hearing on "FDA Oversight Part I: The Infant Formula Shortage"**
**March 28, 2023**

Today, I want us to focus on answering the following question: if a big infant formula company like Abbott had a bacterial contamination today, would the whole formula market be at risk again?

To answer that question, I think we need to know exactly how equipped the FDA is to be in the prevention business now that we've weathered the 2022 crisis.

Today, if the FDA received a whistleblower complaint about contamination, would it take four months to get to the Deputy Commissioner's desk like it did with the Abbott contamination?

And over the last year, have we done enough to give the FDA the authorities and resources it truly needs to be proactive about preventing supply shocks in critical food markets?

I know some of my colleagues are chomping at the bit to bash a federal agency today. That's not where I am. Discrediting an agency without figuring out how to strengthen it is simply malpractice. But I'm not afraid to say that the FDA has a lot of work to do, no matter who it offends. At the same time, I'm also not afraid to say that Congress is part of the problem. We need to empower the FDA for it to succeed.

**That means that when there's a crisis, we need to give the FDA resources. Last year, twelve House Republicans joined House Democrats to pass the Infant Formula Supplemental Appropriations Act to give the FDA funding to address and prevent formula shortages. For the other 192 lawmakers who voted no and are wondering why the FDA couldn't do more, you should put your money where your mouth is.**

But empowerment goes beyond the money. A strong FDA must have the authority to know what's going on in production between inspections. And, a strong FDA must be able to review present and past testing data to help it make decisions. Even with the best structure, leadership, and resources, the FDA is only as well equipped as its legal authorities allow it to be.

**An improved FDA is going to take some work, and it's not on any one person we can fire or blame. Sorry, Republicans. This is yet again a complex issue that is going to take some real work to solve.**

Now as much as I'm dedicated to solving the FDA part of the puzzle, we wouldn't be doing our job if we said that's the only issue here today. Ultimately, formula manufacturers are responsible for producing safe products. They have few incentives to self-regulate when they're so powerful, but that doesn't mean we can let Abbott off the hook for their negligent behavior.

**Last year, Committee Democrats launched an investigation into Abbott's negligence that Republicans declined to join. This needs to change. This is partially a big business problem, and Republicans and Democrats can't pick and choose who we hold accountable.**

**What's more, we have to stop turning a blind eye to consolidation in our markets. Abbott is one of three companies that control 90 percent of the formula market. If something goes wrong in one factory, there aren't many other options to turn to.**

**That doesn't make for resilient markets. By diversifying supply, competitive markets would cure many of the formula shortage issues we saw last year, even with the other mistakes that were made. Today, let's not give anyone or anything a pass. But at the same time, let's not make this hearing an attack. There are many commonsense moves we can make to regulate, diversify, and strengthen the infant formula market.**

Let's learn those lessons today. We can be successful when we set aside politics. That's what I intend to do today.

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