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Ranking Member Katie Porter
Subcommittee on Health Care and Financial Services
Hearing on "FDA Oversight Part II: Responsibility for the Infant Formula Shortage"
May 11, 2023

Thank you, Madam Chairwoman.

Today, we're having the second part of our subcommittee's hearing series on the 2022 infant formula shortage. So far, I think the Chairwoman and I agree on something important: an infant formula shortage could repeat itself.

That's a deadly serious problem. Let's all think back to a year ago today. Forty-three percent of formula products were out of stock across the country. A bacterial contamination at Abbott, which killed nine babies and made hundreds of others fall ill, prompted a recall that shocked our formula supply chain.

This disruption threatened our economy, but more critically, threatened the health, nutrition, and lives of our kids. And today, we're saying on a bipartisan basis that it could happen again. We have a duty to do something meaningful about that, starting with today's hearing. This hearing is called, "Responsibility for the Infant Formula Shortage," and as I said last time, there's lots of blame to go around.

It's clear with today's witness selection that Republicans want to blame the FDA. Some of that is well placed. We've had two subsequent infant formula recalls in 2023 already, and we're still seeing that FDA can improve its internal processes, intervene in issues sooner, and follow through with more inspections to prevent further contamination.

Other lawmakers today will blame formula manufacturers for their negligence and failure to produce safe products. That's true, too.

And still others will blame Washington for allowing just three manufacturers to have monopolistic control over 90 percent of the formula market, and also for failing to invest the resources and authorities in the FDA that it needs to produce the results we demand. These folks are also correct.

The thing about this issue is it doesn't come down to the fault of one person, one agency, one company, or one political party. We can't fire or attack someone and expect formula contaminations and shortages to go away.

That's why today, I propose we go beyond the title of this hearing. We need to move beyond just assigning responsibility and toward delivering solutions that can prevent a shortage from happening again. If we are not using these hearings to identify worthy proposals and transform them into legislation, then we are failing to solve the problem. We risk just blaming and shaming, rather than

preventing and problem solving. If we work together, though, we can address the deficiencies and inefficiencies that risk the supply of safe, healthy infant formula.

Luckily, we have an FDA expert before us who can help us with that. Look, Dr. Mayne can handle what we throw at her. We should ask hard questions and push her on areas where we think the FDA can and should do better. But we should also use Dr. Mayne's knowledge to figure out what Congress can be doing better.

Right now, the FDA is reorganizing its Human Foods Program to reduce fragmentation and improve coordination, but that's not going to solve all the fundamental issues at play. Even with the best structure, leadership, and resources, the FDA is only as well equipped as Congress makes it. So, while we hold the FDA and others responsible, what can Congress be doing to help it improve?

First, Congress must provide the FDA with resources to increase its inspection and food safety capacity. You can't expect an agency to do better when you take away the funding for the personnel and technology needed to make it happen. **That's why it's safe to say that the 22 percent cut to the FDA that Republicans have voted for would make this problem worse. Let's not go down that path. If we expect the FDA to do better, we need to set it up for success.**

But whether or not we can reach bipartisan agreement on proper FDA funding, there are some no-cost reforms that we should be able to agree on.

We need better processes for reporting and tracking contaminations, whether that's making Cronobacter a nationally notifiable disease or making sure all contaminations in critical food factories are properly reported.

If we use Dr. Mayne as a resource, we can find solutions we can all agree on to save kids and stop shortages. Let's come out of this hearing with next steps, not just complaints about missteps.

I yield back.

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