

**SLEEPING DANGER: THE ROCK 'N PLAY
AND FAILURES IN INFANT
PRODUCT SAFETY**

HEARING
BEFORE THE
**COMMITTEE ON
OVERSIGHT AND REFORM**
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTEENTH CONGRESS
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- * UC - Letter from Consumer Reports; submitted by Chairwoman Maloney.
- * UC - Letters From Erika Richter, mother, on failures in infant safety product; submitted by Chairwoman Maloney.
- * UC - Letter from CFA, KID, Public Citizen Combined; submitted by Chairwoman Maloney.
- * UC - Committee on Oversight and Reform Staff Report; submitted by Chairwoman Maloney.
- * QFRs to: Mr. Kreiz; submitted by Rep. Davis.
- * QFRs to: Mr. Scothon; submitted by Rep. Davis.

Documents are available at: docs.house.gov.

**SLEEPING DANGER: THE ROCK 'N PLAY
AND FAILURES IN INFANT
PRODUCT SAFETY**

Monday, June 7, 2021

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND REFORM,
Washington, D.C.

The committee met, pursuant to notice, at 11:07 a.m., in room 2154, Rayburn House Office Building, Hon. Carolyn B. Maloney v[chairwoman of the committee] presiding.

Present: Representatives Maloney, Norton, Lynch, Connolly, Krishnamoorthi, Raskin, Khanna, Mfume, Tlaib, Porter, Davis, Wasserman Schultz, Johnson, Sarbanes, Speier, Kelly, DeSaulnier, Pressley, Foxx, Grothman, Cloud, Norman, Sessions, Keller, Biggs, Franklin, Fallon, and Donalds.

Chairwoman MALONEY. The meeting will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time. I now recognize myself for an opening statement.

Today's hearing addresses the tragic consequences of companies selling dangerous consumer products and the Federal Government's failure to protect Americans from these products. Specifically we will examine the Rock 'n Play, an infant sleeping product sold by Mattel under the Fisher-Price brand. In the 10 years that this product was sold on the market, at least 50 infants died while using it. That is at least 50 young lives cut short, the families shattered by the tragic loss of a child. Yet Mattel and its subsidiary, Fisher-Price, walked away with more than \$200 million.

In 2019, this committee launched an exhaustive investigation into how the Rock 'n Play was developed, marketed, and later recalled. Our staff conducted interviews and reviewed thousands of pages of documents. This morning we are going to be releasing this report which you can get on the core website and my congressional website. What we found was absolutely shocking. It is a national scandal.

When Mattel released the Rock 'n Play in 2009, it was the only product of its kind on the market. Pediatricians had advised for years that infants should sleep on a firm, flat crib mattress to prevent death or injury. But Rock 'n Play was a padded seat, holding infants at a 30-degree angle. Even though this new design conflicted with safety guidelines, our investigation shows that Mattel did not consult with a single pediatrician or conduct a single scientific study to find out if it was safe for babies to sleep at an

angle. Internal documents also show that over the decade this product was sold, Mattel repeatedly ignored urgent warnings from international regulators, pediatricians, and even its own customers that the Rock 'n Play was unsafe.

For example, in 2010, a regulator in Australia warned Mattel that using this product as a sleeper, quote, "is at odds with widely accepted and promoted best practices," end quote.

In 2011, the company was banned from marketing the Rock 'n Play as a sleeper in Canada because of safety concerns.

And in 2013, the American pediatricians, one American pediatrician, wrote and said, and I quote, "I am concerned that parents are using this product as a routine sleeping area for their babies. This is unsafe," end quote.

Mattel also received a steady drumbeat of reports that infants as young as two months old had stopped breathing or even died in the Rock 'n Play. Mattel employees admitted to the committee that the company knew about these deaths and injuries, but Mattel claimed that its product was not the problem.

In 2018, the Consumer Product Safety Commission, or CPSC, finally became concerned about the number of infant deaths in Rock 'n Play and demanded information about the product from the company. But rather than take action to warn consumers, Mattel pushed back against CPSC's concerns in private for nearly a year to try to avoid a recall. Mattel kept denying that there was any problem with Rock 'n Play, even as more and more infants died.

The CPSC was legally prohibited from warning the public about the dangers with the Rock 'n Play during these negotiations. That is because the Consumer Product Safety Act makes it extremely difficult for the agency to disclose information about dangerous products without the consent of the manufacturer. In fact, Mattel only agreed to recall it after it became clear that the Consumer Reports was about to publish a very damning evidence that dozens of infants died using the Rock 'n Play. The committee's investigation makes clear that Mattel and its subsidiary, Fisher-Price, put profits over people with tragic results.

On Friday we learned that Mattel is recalling two more inclined infant products that the company marketed for sleep, the Rock 'n Glide Soother and Soothe 'n Play Glider, after four infants rolled over in the rock in glide and suffocated. In other words, they died because of the exact same dangerous product design as the infants who died in Rock 'n Play. It is shocking that Mattel did not remove those products from the market sooner, given the devastating consequences of keeping the Rock 'n Play on the market.

Stronger regulation can prevent these tragedies. Current law cedes far too much power to the corporations selling consumer products, while tying the hands of the government agency charged with keeping people safe. The law allows many companies to be subject to only voluntary standards that they helped create, rather than mandatory safety rules. And it does not give the CPSC the tools it needs to prevent dangerous products from being released to the public or to remove products from the market when they are proven to be dangerous.

We must strengthen our Nation's consumer protection laws and empower the CPSC to do its job so that companies making money

off a product don't have the final word on whether it is safe. I encourage my colleagues to carefully review the findings from the committee's investigation and to work together on a bipartisan basis to better protect Americans from dangerous products.

I want to close by playing video statements from two parents who want to share their experience about their terrible, immeasurable loss. The video.

Mr. JOHNSON. If the video is running, we're not able to see it.

Chairwoman MALONEY. We're not seeing it here either. There seems to be a technical problem. Are they correcting it? They are fixing the technical problem right now. I apologize for the delay.

We can come back to it after Mr. Cloud speaks. I now recognize Mr. Cloud for an opening statement.

Mr. Cloud.

Mr. CLOUD. Thank you, Madam Chair.

Hello. Can you hear me?

Thank you, Madam Chairwoman. Appreciate you having this hearing today.

Appearing before us today are two of the top executives from Fisher-Price and its parent company, Mattel, who will speak to a product that has been the focus of an ongoing investigation by this committee since 2019. The Rock 'n Play Sleeper is a product that seems to have prioritized profits over safety of the most vulnerable newborn infants and their families. I hope that they will continue to convince us that this is, in fact, not the case.

Overwhelmingly it appears that the use of inclined sleepers is not safe for unintended infant sleep. And the questions this committee faces are whether Fisher-Price knew the risks to infants when first marketing the product, whether it made attempts to change its strategy upon learning its product contributed to the deaths of over two dozen infants, and whether legislative changes need to be made to bolster consumer protection laws to such tragedies to ensure that they're not repeated.

Last week the Consumer Product Safety Commission deemed inclined sleepers to be unsafe for use for infants. From our own investigation it appears Fisher-Price either failed to conduct or simply ignored research that would indicate from the outset that marketing a product such as a Rock 'n Play Sleeper as an appropriate place for infants to sleep was ill-conceived and dangerous. Fisher-Price consulted with a single physician who has since been prohibited from practicing medicine. No pediatricians were consulted about the creation of this product, and it's difficult to come up with a legitimate reason for why that was. What is the reason Fisher-Price could have for not bringing in a wide-ranging medical expertise and experience?

Additionally, alarm bells were not set off inside Fisher-Price when its development team first learned children had died using their product and there was no mechanism in place to investigate. Dozens of children have died in connection with the Rock 'n Play Sleeper. And if Fisher-Price was negligent or reckless in its marketing, it should have to pay heavily for the loss of life it caused.

I do think it's important to bring up at this moment as well, however, that no amount of compensation can account for the loss of a child. But the use of this committee, as opposed to the courts,

which are better suited as delivering a specific remedy to the victims and assigning specific punishment to bad-acting companies, should be considered as well. If we're looking at product safety as a policy, we should expand the scope of this hearing and include other products so we can make a broad-based legislative policy.

There are hundreds of other things affecting the lives of thousands of Americans that they are waiting for this committee to address as well. For comparison, last Congress this committee held hearings on unaccompanied minors at our southern border, the stockpiling and distributing of PPE, the Trump administration's response to COVID, the Trump administration's Afghan strategy, the Syria policy. We discussed contracting for the response to rapidly building respirators and had a hearing criticizing the Warp Speed effort that brought us the vaccine.

It would be one thing if these issues had already been resolved but the border crisis is worse than ever and we have more children in custody than ever before. Progress on peace in the Middle East has been reversed. Revelations coming out about the origins of the COVID-19 are worth looking at by this committee.

But this committee has held no hearing on the awarding of a half-billion-dollar contract to Family Endeavors, a company run by a former Biden transition official. This committee has held no hearings on our southwestern border which saw over 1,000 apprehensions in February, 173 in March, 178 in April, with seemingly no end in sight.

This committee has not responded or requested Dr. Anthony Fauci or anyone at NIH to come and testify on the origins of COVID-19, in spite of new revelations. We've not held a hearing on the ongoing Antifa violence in Portland. We have not held a hearing on why there's such a rush to cover up those who discussed and talked about different contrasting ideas and theories regarded to the COVID-19, both within government and within the media.

This committee has not held a hearing on China, big tech, world broadband, or any other important bipartisan topics that daily affect the lives of thousands in our Nation. These issues address real threats to the security of our Nation and address—affect the lives of many thousands in our Nation.

But this is an important hearing, however. And I'm thankful that we are taking it up. I look forward to asking questions today, and I really do hope that our witnesses are able to provide some explanation for what appears to be a horrible tragedy that their companies had the power to prevent.

Thank you, and I yield back.

Chairwoman MALONEY. The gentleman yields back.

I want to see if we've corrected our technical challenges. Can we see the statement from the two parents now? If not, we will go to Mr. Krishnamoorthi for an opening statement.

[Video shown.]

Chairwoman MALONEY. Thank you for your very, very strong statements. And we will strengthen protections for American families.

Mr. Krishnamoorthi, you are now recognized for one minute.

Mr. KRISHNAMOORTHI. Thank you, Chairwoman Maloney. Thank you for holding this hearing.

This is an investigation that we started with Chairman Cummings, and I know that he'd be proud of the work we're doing today. We've investigated a number of companies that make products for babies, companies that are household names like Johnson & Johnson, Gerber, and now Fisher-Price. Each time we've expected these companies to take greater precautions, given their intended users. Each time we've expected companies to change or remove products when their dangers became apparent, and each time we've been gravely disappointed.

Fisher-Price put the Rock 'n Play Sleeper on the market, ignoring safety concerns prior to its launch. And when private reports came in that the product was linked to babies' deaths, Fisher-Price ignored those reports, too. Only when media outlets like Consumer Reports publicized the danger of their products did Fisher-Price take them off the market.

Companies like Fisher-Price and Mattel have demonstrated that they cannot, they cannot be left to police themselves. Unfortunately, regulators must continue to step up and carefully regulate products for babies and children. Today's hearing will illuminate why.

Thank you, Madam Chairwoman, and I yield back.

Chairwoman MALONEY. The gentleman yields back.

The witnesses will be unmuted so that we can swear them in.

I would like to first introduce. Our first witness today is Ynon Kreiz who is the CEO of Mattel. Our second witness is Chuck Scothorn who is the senior vice president and general manager of Fisher-Price.

Please raise your right hands.

Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Let the record show that the witnesses answered in the affirmative. Thank you. Without objection, your written statements will be made part of the record.

With that, Mr. Kreiz, are you now recognized for your testimony.

**STATEMENT OF YNON KREIZ, CHIEF EXECUTIVE OFFICER,
MATTEL INC.**

Mr. KREIZ. Chairwoman Maloney, Ranking Member Comer, and members of the committee, thank you for the opportunity to appear before you today to discuss Mattel's approach to consumer product safety.

Mattel is a leading global toy company with a mission to create innovative products and experiences that inspire, entertain, and develop children through play. Since our founding in 1945, Mattel has been proud to be a trusted partner in empowering children to explore the wonder of childhood and reach their full potential.

Fisher-Price was founded over 90 years ago and was acquired by Mattel in 1993. Fisher-Price's purpose is to be the most trusted brand for parents and caregivers for babies, toddlers, and preschoolers. We take our heritage as a trusted partner to parents and families very seriously, and we earn that trust by being true to our mission and purpose and operating with integrity. This requires that we act as responsible corporate citizens, pursue social, eco-

conomic, and environmental sustainable, and promote equity, diversity, and inclusion.

I joined in company in April 2018 as chairman and CEO. And since my first day, I've always been impressed with the attention to detail and the emphasis on quality and safety. I am fully committed personally to ensuring that we continue to make quality products that are safe for babies and children, and I will continue to hold that as our highest priority above everything else.

On behalf of myself and everyone at Mattel, I want to convey my deep and sincere condolences to parents and anyone affected by the heartbreaking tragedies we will discuss today. I'm a father of four children, and I can only imagine that there cannot be a more terrible loss than that of a child.

Product quality and safety are at the heart of everything we do. Today Mattel maintains a department of approximately 450 professionals focused on product safety and quality. Our internal experts oversee safety assessments and product development and manufacturing, adherence to Federal requirements and other standards, communication with the CPSC, and monitoring of safety incidents reported to us about our products.

Equally important, we never stop improving our safety policies and practices and establishing new ones. Over the last year and a half, we made significant progress to strengthen our capabilities and have added respected leaders in quality safety and compliance, created the Medical and Scientific Safety Council, and launched the Safe Start education campaign for parents and caregivers.

My colleague, Chuck Scothon, is here with me today. Chuck is a 30-year industry veteran, two decades of that with Fisher-Price. He's one of the most experienced leaders in the toy industry, working on products for babies, toddlers, and preschoolers. Chuck will provide you with more of the detail surrounding the development of the Rock 'n Play and our decision to recall it, as well as our decision to recall the two gliders last week.

Thank you for the opportunity to speak with you about Mattel's and Fisher-Price's extensive efforts to promote consumer product safety. I am happy to answer your questions.

Chairwoman MALONEY. The gentleman yields back.

Thank you.

Mr. Scothon, you are from recognized for your testimony.

**STATEMENT OF CHUCK SCOTHON, SENIOR VICE PRESIDENT
AND GENERAL MANAGER OF FISHER PRICE, GLOBAL HEAD
OF INFANT AND PRESCHOOL, MATTEL INC.**

Mr. SCOTHON. Chairwoman Maloney, Ranking Member Comer, and members of the committee, I want to thank you for the opportunity to be here today to discuss Mattel and Fisher-Price's consumer product safety efforts.

At the outset I echo Mr. Kreiz's comments and convey my deepest condolences to families who have faced the terrible loss of a child. I also share Mr. Kreiz's view about the foundational importance of trust in Fisher-Price and the safety of our products. I have placed my trust in Fisher-Price personally. Fisher-Price played a key role in my daughter's childhood. And until the Rock 'n Play recall, this item was the gift that I gave to friends and expecting par-

ents. The Rock 'n Play was also used extensively by Fisher-Price employees and their families.

I assure you that everyone at Fisher-Price believes that every product we offer is safe and we do not and would never sell any product about which we thought otherwise. As a trusted partner to parents, we recognize that one of the most important parts of a baby's development is sleep. Newborns can sleep as much as 18 hours a day, while infants will normally sleep 12 to 15 hours each day in that first year. Recognizing that a baby can fall asleep almost anywhere, it is why there are products designed specifically for overnight, unsupervised sleep. The difference between products intended for sleep and those that are not is an important distinction and relates to the products that we're discussing today.

The Rock 'n Play was designed, marketed, and sold as a product intended for sleep. When introduced, it met the CPSC and consensus standards applicable to bassinets. Beyond meeting those standards, Fisher-Price conducted extensive research and analysis to assess the Rock 'n Play safety prior to the introduction including consulting with a medical doctor with expertise in biomechanics, evaluating many different aspects in our extensive testing in our laboratories, and conducting in-home tests with families in the communities around our headquarters in Buffalo, New York.

After the product launch, Fisher-Price regularly examined and analyzed any safety incident that was reported and regularly shared the reports of fatalities and serious incident with the CPSC for its own analysis. We asked two top doctors to evaluate the safety of the product specifically related to observing the breathing of an infant sleeping in an incline in the product. These doctors confirmed the Rock 'n Play Sleeper was safe when used in accordance with the warnings and instructions.

In 2018, we had extensive discussions with the CPSC about the Rock 'n Play and asked one of the top engineering firms to assess independently whether infants were at risk of rolling over when using the product. We are confident that all of our products are safe when used as intended in accordance with the warnings and instructions. At the same time we take into account reports of injuries that are associated with other patterns of use.

In light of the risks of accidents in the use of inclined sleepers, the safety restraints were not used, we decided two years ago to recall the Rock 'n Play voluntarily as the best way to reduce this risk.

Recently we considered a similar situation with the 4-in-1 Rock 'n Glide Soother. Although this is not a sleeping product, the data indicated a risk of accidents if the safety restraints were not used or children were left unsupervised. Based on this, we decided to recall the glider which we announced last Friday.

We also recalled the 2-in-1 Soothe 'n Play Glider, even though there are no reported fatalities associated with this product, because it is similar to the 4-in-1 Glider. Importantly, with these two actions, we no longer make any products in either the inclined sleep category or the glider category. And we have no intention of doing so in the future.

I look forward to providing additional information about Fisher-Price's commitment to the safety of our products. Thank you, and I would be happy to answer your questions.

Chairwoman MALONEY. The gentleman yields back.

Thank you, and I now recognize myself for five minutes for questions.

Mr. Kreiz, the report that the committee released today is based on interviews and internal documents from your company, Mattel. And these internal sources are damning. They show Mattel did not do any independent research as to the safety to see if Rock 'n Play was safe for sleeping before starting to sell it in 2009.

They show that Mattel did not consult a single licensed pediatrician to make sure that the product was safe. And they show that Rock 'n Play, after it came to market, they ignored, Mattel ignored, a pediatrician's warning in writing and brushed off reports from mothers who had lost their children, that babies had stopped breathing, and even died from the product. They were warned from foreign countries that had taken it off the market.

And the documents show that after the Consumer Product Safety Commission raised concerns with Mattel in 2018, your company fought back for nearly a year, even though you knew at least 14 infants had died in your product, 14 babies lost.

This is a national scandal. It is breathtakingly irresponsible. It is corporate conduct that cannot be tolerated and has to change in the future.

Mr. Kreiz, on behalf of Mattel, will you accept responsibility for this tragedy and apologize to the dozens of families whose children died using your product?

Mr. KREIZ. Well, let me first say that our hearts go out to every family who suffered a loss. The Rock 'n Play Sleeper was safe when used in accordance with its instructions and safety warnings. The sleeper was designed and developed following extensive research, medical advice, safety analysis, and more than a year of testing and reviews. The product met or exceeded all applicable regulatory standards. As recent as 2017, the CPSC proposed the ASTM standards for 30 degree sleeper as a Federal law.

After the product launched, different independent medical and other expert analyses verified that it was safe when used in accordance with the instructions and warnings. Two studies confirmed that the Rock 'n Play Sleeper was as safe or safer than other sleep environment such as cribs and bassinets, and one of these studies found that the product had—

Chairwoman MALONEY. Reclaiming my time, reclaiming my time, the bottom line is 50 children, infants, died, 50. You did not conduct any studies. You didn't even—you didn't even talk to a licensed pediatrician. You didn't even talk to the medical profession. You didn't do anything but pump it out there and sell it, and your actions weren't just irresponsible. I believe they were motivated by the company's bottom line.

I'd like to put a chart up for the internal 2013 Fisher-Price presentation, showing revenue from the Rock 'n Play from 2009 to 2012 and a forecast of 2013 revenue.

Can we put this up, the revenue projections? Well, we're seeming to have technical problems.

In 2010, Rock 'n Play generated over \$5 million in revenue. Just three years later it was projected to generate over \$26 million, an increase of more than 500 percent.

Mr. Kreiz, how much revenue did Mattel or Fisher-Price receive in total from Rock 'n Play from 2009 to 2019? Can you give us a number?

Mr. KREIZ. I don't have the number in front of me but I can assure you—

Chairwoman MALONEY. OK. Reclaiming my time.

Why don't you look it up? Our documents confirm that Mattel received \$200 million from selling this dangerous product, 50—over 50 documented lives lost. Your company knew about these deaths at Rock 'n Play in 2012, our documents show. And, yes or no, if the public had learned about these deaths starting in 2012, would that have negatively impacted your company's revenue?

We just heard from two mothers who lost their children, and they definitely would not have bought this product if they had known about these deaths.

Well, he seems to have lost—

Mr. KREIZ. I'm sorry.

Chairwoman MALONEY.—his voice.

Mr. KREIZ. I thought you were—

Chairwoman MALONEY. Mattel clearly had a financial incentive to keep this information under wraps, even if it meant dozens more babies might be injured or die. That is why the decision to disclose safety information to the public should not be in the hands of corporations. It should not.

The government should be able to release this information. We intend to change the law to allow that to happen. We must strengthen the Consumer Product Safety Act to give the CPSC the tools it needs to protect consumers, to protect consumers over profits. Thank you.

I now recognize Mr. Cloud for five minutes.

Mr. Cloud.

Mr. CLOUD. Thank you, Chairwoman.

Mr. Kreiz, you became CEO in April 2018 and the voluntary recall was just a year later in 2019. Is that correct?

Mr. KREIZ. Correct.

Mr. CLOUD. And were you involved in the decision to recall the Rock 'n Play or aware of it before it was announced?

Mr. KREIZ. Yes, I was.

Mr. CLOUD. What went into the decision to recall?

Mr. KREIZ. By the time we decided to recall the product, it became apparent that there's a pattern of use were based on the data that we collected that the product was not used in accordance with the instructions and warnings. And although the accidents were rare and well below the national SIDS rate, we recalled the product in the best interest of the consumers and to avoid further additional incidents.

Mr. CLOUD. OK. Previously, though, there had been pushback from authorities in Canada, the UK, and Australia. Do you think aggressively in retrospect aggressively marketing the Rock 'n Play as a sleeper in the U.S. was the right thing to do?

Mr. KREIZ. We consult with all regulators in all jurisdictions and meet or exceed every—every standard. In the U.S. the product was approved. We met or, rather, we met all standards, all applicable standards. And with that, we did everything we believe in the best interest of consumers. We will never, never compromise the safety of consumers above profits or any financial consideration.

Consumer safety and product quality is by far the highest priority for Mattel, and we're very committed to that. This is our—this is part of our DNA and we will continue to withhold that, you know, for hopefully for the many, many next generations.

Mr. CLOUD. You mentioned a lot of research went into the product development and consulting with physicians. You know, as far as our investigation, the understanding is, is that you consulted one physician who later lost his license, who made tremendously outrageous claims about safety and pediatricians recommend babies to sleep in a car seat overnight for months or even a year. I mean, Did that not raise any red flags? Do we have wrong information here? Why was only this one physician who seemed kind of outside of the box of mainstream medical thought the only one advising?

Mr. KREIZ. We did consult a medical doctor with expertise in biomechanics and that who was board-certified in family medicine which included pediatrics. At the time when we consulted with him, he gave us good advice. And we relied on his position. Later what you described came to light, and it's fair to say we would not use him if we knew of these findings.

That said, we did use and leverage our extensive safety capabilities. As I mentioned in my opening remarks, we employ 450 employees that are dedicated to product safety. We operate eight accredited state-of-the-art labs to evaluate our toys for safety, quality, and durability. And we have our own Play Lab where we observe interaction with our product.

So we believe that the product was safe when used in accordance with the instruction. Later studies also confirmed that the product was safe. These studies were conducted in 2016, 2018, and as recent as last year after we recalled the product.

Mr. CLOUD. You mentioned they're safe. But, of course, we have, you know, many families who would disagree obviously with the tragic loss of life. What is Mattel, Fisher-Price learning from this experience? What are we going to do better? And then what as policymakers do we need to do to ensure that this kind of thing does not happen?

Mr. KREIZ. Yes, we share the pain of every family that suffered the loss. Unfortunately, injuries are often associated with other risk factors and we are familiar with the SIDS phenomenon which is the nightmare of every new parents. This is a terrible tragedy that happens often and, you know, where babies died in an unexplained manner.

Our jobs is to continue to prioritize safety, to work in collaboration with the CPSC, to share every data and every piece of information that we have, and to understand what can we do in our product to design better safety mechanism and continue to collaborate with parents and emphasize the importance of following instructions.

I can tell you that at Mattel we recently formed the Medical and Scientific Safety Council that is comprised of renowned pediatricians, five pediatricians. This council meets regularly with our internal safety teams to provide professional opinions, different advice, and recommendation to Fisher-Price about the safe and proper use of our products.

So we are learning as well. We are evolving our practices. We will never stop improving what we can do and—and, you know, prioritize and make sure that our product are held at the highest standard in terms of safety and quality.

Mr. CLOUD. Thank you.

I have more questions, but I think I'm out of time.

Chairwoman MALONEY. The gentleman yields back.

The gentlelady from the District of Columbia, Ms. Eleanor Holmes Norton, is now recognized for five minutes.

Ms. NORTON. Thank you, Madam Chair, for this important hearing.

The notion that one cannot disclose danger of a product of this kind without the consent of the manufacturer is something the committee needs to look into. We have to be fair to both parties. That is not fair to both parties.

We know that mistakes were made from the beginning, that Mattel did not consult a pediatrician, when it was designing Rock 'n Play, to confirm that it was safe. Even more alarming, when a pediatrician did reach out to the company to raise alarms that Rock 'n Play was not safe for infant sleep, apparently nothing was done.

In February 2013, our information is that a pediatrician, Dr. Benaroch, contacted Fisher-Price to raise concerns about the numerous ways that Rock 'n Play design conflicted with, of all places, the American Academy of Pediatrics' guidelines for safe infant sleep.

And this was after the company had already received a report from a parent, perhaps like the parents we heard from this morning, whose baby had stopped breathing while in the Rock 'n Play. Company documents show that Mattel ignored Dr. Benaroch's warning. In fact, Dr. Benaroch requested to speak to Mattel's senior director of product safety. But the company declined to make her available.

Now we have an email responding to Dr. Benaroch. A Fisher-Price employer wrote this. We encourage consumers who have questions or concerns about providing safe sleep environment for their babies to discuss these issues with their doctors and pediatricians.

Dr. Scothon, a Fisher-Price employee told the committee that it was highly unusual for a pediatrician to contact the company, warning that a product was unsafe. Did Fisher-Price have any—make any changes to the design of Rock 'n Play in response to Dr. Benaroch's warning?

Mr. SCOTHON. Thank you for the question.

Looking at that instance, we were focused on ensuring that the product adhered to the policies or the—excuse me the—standards of the bassinet standard. We certainly took it into account. I believe people engaged with Dr. Benaroch—

Ms. NORTON. But you didn't make any changes.

Mr. SCOTHON. We did make any deliberate changes to the product at that time because it didn't—OK.

Ms. NORTON. Thank you. My time is limited.

Did Fisher-Price issue any sort of warning to the public based on Dr. Benaroch's concerns?

Mr. SCOTHON. We did not, again, because it adhered to the bassinet standard.

Ms. NORTON. Dr. Kreiz, let me turn to you.

Mattel and Fisher-Price encouraged consumers to consult their pediatricians—I just read—I just issued—I just indicated that—about providing a safe sleeping environment for their babies. Isn't that right?

Mr. KREIZ. Correct.

Ms. NORTON. At the same time, the company was ignoring a pediatrician who was raising concerns about Rock 'n Play, that it did not provide a safe sleep environment for babies. In retrospect, let's just look back for a moment. Do you think Mattel took Dr. Benaroch's warning seriously enough?

Mr. KREIZ. I'm aware of that interaction and I know we took his recommendation and considered those seriously. That said, as my colleague just mentioned, we did not see an issue with what he raised because the product did meet the bassinet standard. And while we did consider his observation, we did not agree with them.

Ms. NORTON. Mattel's decision not to take Dr. Benaroch's warning seriously seems to me to be inexcusable. It also demonstrates why it is important that we repeal section 6(b) of the Consumer Product Safety Act and stop letting corporations hide behind the law to hide deaths associated with their products from the public.

Dr. Benaroch knew in 2013 the Rock 'n Play was dangerous. At that time Mattel also knew that infants had died in Rock 'n Play. Perhaps if the public knew as well, Dr. Benaroch's warning would not have fallen on deaf ears.

Let me thank you, again, Madam Chair, for this very important hearing.

And I yield back.

Chairwoman MALONEY. The gentlelady yields back.

I now recognize the gentlewoman from North Carolina, Ms. Foxx. You are now recognized for five minutes, Ms. Foxx.

Ms. FOXX. Thank you, Madam Chairwoman.

And I thank our witnesses for being with us today.

Mr. Scothon, beyond consultation for safety, did Fisher-Price conduct any research about changing the marketing of the product from a sleeper to a soother might affect consumer interest in the product?

Mr. SCOTHON. Yes, there was a study done as we were evaluating the situation. There was a study done. I can't remember the year that it was done but yes.

Ms. FOXX. OK. What's the difference between a sleeper and a soother besides marketing?

Mr. SCOTHON. So, again, what that speaks to is very much what I said in my opening statement which is there's products that are designed for long-term overnight sleep where a child may be left unattended or the parent may be sleeping and then there are other

products which would be intended for a place where you can place a child. They may fall asleep or nap or fall asleep quickly, but they're usually right next to the parent or very close to the parent. So the distinction between a soother and a sleeper would be the application and the use.

Given that we had designed the Rock 'n Play Sleeper for overnight sleep, we're designing it to adhere to the bassinets standard, that was really our focus as we were trying to look at designing the product to the standard that met the bassinet standard.

Ms. FOXX. Thank you.

What role does marketing play in how a consumer uses the product?

Mr. SCOTHON. Well, the marketing of a product is really intended to focus on for parents the intended use. So, again, there are places where, when you're parents, as a young parent, you may be putting your child down for a moment in time, those are things that you would look at such, they're what I'll call short-term or parking places. There are other long-term sleep, and we really talk about the benefits of both because ultimately parenting is a challenging time. We are designing the safest places to really help parents during those early months when babies are sleeping so much, and we really focus on making sure that we design those products in awareness that children may fall asleep everywhere but designing them with the right intent for either use.

Ms. FOXX. Thank you.

Does Fisher-Price currently have a soother on the market?

Mr. SCOTHON. I'm trying to remember specifically. We do not have—the gliders, we may be using the name “soothe” here and there but, no. There—well, soothers are in many different places but the soother is the gliders is what we've been calling them to date and we just removed those from the market.

Ms. FOXX. How does the soother—well, you just said the soother currently on the market but the one you just removed from the market, how did it differ from the Rock 'n Play Sleeper?

Mr. SCOTHON. Certainly. So when you look at those two products, both the 4-in-1 Glider, and as well as the 2-in-1 Glider, both gliders have been removed from the marketplace. Those have—the Rock 'n Play had a hard back or flat surface to it, very similar to that. Was really designed based on the bassinet standard. The Rock 'n Play was at an angle approximately 23 to 26 degrees.

The glider is more of a soft shell and that will move front to back or toe to head or side to side, depending on the orientation of the product. So it allows the infant to rest and sit next to mom typically when she's in, you know, doing one of the things that a parent is doing and they need some free hands but it keeps and entertains the babe by rocking them and soothing them.

Ms. FOXX. Have there been deaths associated with any Fisher-Price soother or similar products currently on the market?

Mr. SCOTHON. With regard to the glider or soother, again, we've removed those as referenced by the four fatalities that we referred to as the recall and that soother would be the ones that, yes, so no.

Ms. FOXX. Just four? Is that—do you know of any other soothers where there have been deaths?

Mr. SCOTHON. Well, the question there would be the definition or the term “soother.” Again, we focus on products—we make many different platforms or products, as we refer to them. So there are gliders. There are swings. There are other incidents like any consumer product category where we do—we are aware of incident or fatalities related to other products. We have turned all of that and communicate that within 24 hours to the CPSC in all of that information.

We report both weekly to the CPSC, as well as within 24 hours of learning of an incident. So we are aware of other incidents related to other product categories that we make, as we always are. And the two that right now we have recalled and removed from the market would be the glider and the Rock 'n Play Sleeper.

Ms. FOXX. Thank you, Madam Chairman.

I yield back.

Chairwoman MALONEY. The gentlelady yields back.

And the gentleman from Massachusetts, Mr. Lynch, is recognized for five minutes.

Mr. LYNCH. Thank you, Madam Chair.

I'd like to ask some questions about the safety standards surrounding this product. You know, a July 2020 Consumer Reports found that 96 percent of the American people believe that products that they buy for their home are governed by mandatory safety standards that are set by the government. But as we know on this committee, for the vast majority of products on the market, that is simply not true. Most products including the Rock 'n Play are only governed by voluntary standards set by an organization called ASTM International, the formerly the American Standard—excuse me—the American Society for Testing and Materials.

Mr. Scothon, I understand the Rock 'n Play, the Rock 'n Glide, and the Soothe 'n Play Glider were all subject to voluntary standards set by ASTM international. Is that right?

Mr. SCOTHON. They were. Yes, they were set by the ASTM standards as well the CPSC guidelines where appropriate.

Mr. LYNCH. Right. And ASTM is comprised of—and again, I hate to use acronyms, but the American Society for Testing Material International is comprised of a bunch of different groups, and individuals, including product manufacturers, like yourselves, testing labs, some consumer advocates and others. But what many consumers don't know is that through the ASTM committees, manufacturers like yourself can influence the voluntary standards that are set for their own products. Is that correct?

Mr. SCOTHON. We are involved in those standards. It is a consensus-based organization, which takes into account all of the different expertise from all of the different individuals. So, the consensus is really designed to ensure that no single company or group can influence.

Mr. LYNCH. Right. But Mattel employees, including the people who helped design the Rock 'n Play, actually sit on the ASTM committees that design standards for infant products, don't they?

Mr. SCOTHON. They are involved in the ASTM standard setting process, correct.

Mr. LYNCH. Right. And when they participate in ASTM's work to set safety standards, they are doing so as representatives of the company, and not as independent individuals. Is that correct?

Mr. SCOTHON. Well, they are representatives of the company, but, typically, their roles are to facilitate the process, to focus on getting the groups together, to aggregating and putting all the information together, and coming back with consensus points of view. Again, as a consensus process, the role that is played is a bit more around the process. But, again, the focus is always around making the safest product, to delivering and being on the safest standards to make sure that we keep the consumer safe.

Mr. LYNCH. But you're a business, right? I mean, look, let's take the average price of one of these Rock 'n Plays. I think it retailed anywhere between \$50 and \$80 apiece. Let's take the average \$65. So, you multiply that by the 4.7 million units sold, and that's what we got on the recall numbers. 4.7 million units, \$65, that's over \$300 million. So, you have an employee sitting on the standards committee, and there's a tremendous financial incentive for that individual to work on your behalf in setting the voluntary standards. Isn't that correct?

Mr. SCOTHON. Well, I would differ slightly, but, yes, I understand the view. But what I would say is this, the safety teams, these individuals that are on our 450 safety and quality team members, do not actually report into myself or the business. We keep those separate. So, while I'm aware of what they are doing, we try to keep them as independent as possible to ensure that they are looking through the best ones.

Mr. LYNCH. Come on. Wouldn't it be easier, wouldn't it be better, wouldn't it be more credible if we had, you know, just objective—we had people from companies that were not, you know, incentivized to support a standard that made a lot of money for the companies they worked for? I mean, don't you see a conflict there? I mean, I do. It is glaring to me that the people who designed the Rock 'n Play are sitting on a board to establish the voluntary standards for safety for these families, for these kids.

Mr. SCOTHON. I understand those individuals, obviously, come with a significant amount of information and awareness, both background and current. The ASTM, as I understand it, is open to many people contributing. That's why the CPSC is there, that's why child advocacy groups are there, and there is a consensus standard.

Mr. LYNCH. But you also have testing firms that also stand to make a lot of money if they have a good relationship with you, the manufacturer. Isn't that correct?

Mr. SCOTHON. Again, I'm not close to the relationships, but I understand the point.

Mr. LYNCH. Yes. OK.

Madam Chair, my time has expired. I yield back.

Chairwoman MALONEY. The gentleman yields back. The gentleman from Wisconsin, Mr. Grothman, is recognized for five minutes. Mr. Grothman.

Mr. GROTHMAN. Thank you much. I just do want to briefly followup on what Congressman Cloud said. I really wish this committee would have a hearing on the COVID. We haven't had one

in a long time. I think the failure to push Ivermectin, failure to push vitamin D, has resulted in tens of thousands of excess deaths. I'm just begging the chairman to hold a hearing on that.

Now, with regard to the witnesses we have here, could one of you explain to me how the children died in this? Were they suffocated? Just give any a general—when I look at it, how did the children die?

Mr. SCOTHON. Congressman, I will take that to start. Mr. Kreiz can add as he may. But when you look at all of the incident data—and this is what we started back in 2010 up and through, even 2000 at the time of recall—we were consistently looking at every individual accident, both individually and collectively. There are many contributing factors to this. And throughout that process—

Mr. GROTHMAN. All right. Did the child—how did they die? Did they tip over? Did they suffocate? Was it their head went forward? What happened?

Mr. SCOTHON. Again, in many instances we continue to investigate and we're investigating those. There was no single cause that we could find. There were theories around, questions around things, like the rate of incline. And we did research around that, to determine the breathing and whether there was any impact on that, which we did not see. There were questions of rollover as related to the product. We did studies with exponent on that. A world-renowned firm who could not show us the rollover incident when used properly. So as we continue to go through it, there was no pattern and the data did not subject a product attribution issue. There were—

Mr. GROTHMAN. Even used improperly. What could I do to use it improperly to cause a child's death?

Mr. SCOTHON. Well, when we speak to that, the intent is to suggest it, to make sure that you use the restraint systems. The restraint systems are intended to ensure that a child would not roll over. It is both on the product itself and—

Mr. GROTHMAN. So the child that passed away, did they roll over?

Mr. SCOTHON. Again, we don't have data that suggested rollover. There was concerns on that. The data typically would show us, you know, the difference between statements and medical examiner reports. We could not find incidents where a child rolled over when using the restraint.

Mr. GROTHMAN. Well, not getting far here.

Some of the notes we have here indicate that most of the children who died, died early on, you know, during the 10-year period or whatever it was on the market. Is that accurate?

Mr. SCOTHON. It's hard to specifically state a window. What I would—look—

Mr. GROTHMAN. You don't know when the children died even? You must know that.

Mr. SCOTHON. With regard to, you know, the incidents themselves, I'm sorry, sir, I'm—what—

Mr. GROTHMAN. You don't know that children primarily died in 1909, 1910, or 1918, 1990. You don't know that?

Mr. SCOTHON. No. I'm sorry. The pattern—and I misunderstood the question, so I apologize for that. The incident rate up until ap-

proximately February, we were aware of approximately 14 in 2018. We were aware of 14 incidents through 2018. That is when we filed the 15(b) report with the CPSC. Throughout the course of those previous years, we were notifying the CPSC upon learning of any incident. Immediately we—go ahead.

Mr. GROTHMAN. How many children have died totally in this toy or whatever? How many total died?

Mr. SCOTHON. Today, we are aware of approximately, I believe the number is currently 97. Although, those numbers change as we are also finding that some of the products that had been attributed to the Rock 'n Play were not Fisher-Price or incline sleep. So the data, one of the things, sir, and it is why it is making it more difficult is typically when we find an incident report, the data is very inconsistent. It is sometimes inaccurate or incorrect. That is why we investigate things individually. And that is what—

Mr. GROTHMAN. Sorry. They only give us five minutes here. Is 97, is that for all over the world or just the United States?

Mr. SCOTHON. I believe that is a U.S. number.

Mr. GROTHMAN. OK. So it could be significantly more. How many other countries was this marketed in?

Mr. SCOTHON. No.

Mr. SCOTHON. I would have to get back to you specifically on that. And by the way, I believe that actually is a worldwide number. I apologize for the Zoom thing. I apologize. But it was a worldwide number.

Mr. GROTHMAN. OK. Finally it says here, in Canada banned this in 2011. Do you have any other toys out there right now that Canada has banned, but you're still selling in the U.S.?

Mr. SCOTHON. No. I don't believe so. No.

Mr. GROTHMAN. OK. It seems a little unusual. So it was banned in Australia, or came down on it in 2010, Canada in 2011, and for another 9 to 10 years, you just kept going. Is that unusual? It was banned in one country, but you keep selling it here?

Mr. SCOTHON. Our focus is on making sure that the products adhere to the regulatory standards of each regulation or country. So where this did, you know, in the U.S. it was consistent with the ASTM bassinet standards, so we sold it here. There were other markets where they did not have a bassinet standard that met that, and we adhered to those policies as well. So we always followed the local market standards as we did here.

Mr. GROTHMAN. OK.

Thank you for the additional time.

Chairwoman MALONEY. The gentleman yields back. And I did want to respond to his statement that the committee has not had enough hearings on COVID. We have a subcommittee that is dedicated totally to looking at the COVID crisis. We've had Dr. Fauci twice before this committee. And at our last hearing, which was roughly 2-1/2 weeks ago, we looked at a \$260 million—\$600 million contract to a company that was not able to produce a single shot in the arm yet to help vaccinate people in our country because of management problems. But I appreciate his concern.

I now call upon the gentleman from the great state of Virginia, Mr. Connolly. You are now recognized for five minutes.

Mr. CONNOLLY. I thank the chairwoman from the great state of New York.

Mr. Kreiz and Mr. Scothon, do you have children?

Mr. SCOTHON. I do.

Mr. KREIZ. I do. I have four children.

Mr. CONNOLLY. Yes. So, you can certainly understand the incredible pain of the loss of a child, what a tragedy, even one child being lost, perhaps because of your product. The pain of a parent in suffering that loss. Certainly you can relate to that?

Mr. KREIZ. Absolutely. I can tell you I can't even imagine the terrible loss of a child. This is—

Mr. CONNOLLY. Yes. Well, according to Mr. Scothon, we've lost at least 97, and that's 97 sets of parents, and grandparents, and siblings who no longer have a loved one. They relied on you, and maybe, as Mr. Lynch suggests, they believed falsely that a product wouldn't come to market without it having been certified as safe by the Consumer Products Safety Commission, which, of course, actually under the law, doesn't really do that. It can look at a product after it comes on the market, but not before it comes on the market. That's really your job.

Mr. Kreiz you talked about having 450 product safety personnel. You talked about a committee, a review committee. You talked about consulting parents and other professionals. You talked about a professional pilot test playground for products. And yet, with all of that, 97 children died, and you, ultimately, decided to recall a product. What went wrong with your process? Because clearly something went wrong.

Mr. KREIZ. Well, as I said in my opening remarks along the different conversations today, we believe the Sleeper, the Rock 'n Play Sleeper was safe when used in accordance with the instructions and safety warnings. At no point, we had any reason to believe—

Mr. CONNOLLY. Mr. Kreiz, excuse me because of time. Excuse me for interrupting. OK. We'll stipulate you say you believed it was safe. But there were warning signs. Our investigation shows that one of your own product safety executives urged more study because he thought there were inherent dangers with the product. And as we just heard, in 2011, Canada banned this product. How many warning signs were required before you decide, you know what, the better side of safety really prevails, and we're going to, you know, we're going to pull back that product so that there aren't more losses of lives.

Mr. KREIZ. We shared every information with the CPSC beyond the requirements of the Consumer Product Safety Act. We conducted multiple studies and surveys. I referred earlier to our study that was done by two doctors in 2016 that confirmed that the Rock 'n Play incline was safe at the 30-degree angle when used with instructions.

Mr. CONNOLLY. Is it your testimony right now that it is—OK. The logical extension of what you're saying is that product is still safe, but you recalled it anyhow. Why did you recall it if it is still safe? Because you had all of these reviews that said it was safe if used properly.

Mr. KREIZ. The reason we recalled it is because we saw a pattern of use in the data that came to us. And as I mentioned before, the

incident were below the SIDS rate. We decided to recall it to avoid the risk of additional incidents that could involve use of the product in accordance with instructions.

Mr. CONNOLLY. Well, at the very least, don't you think you could be charged with the fact that were you awfully late to the game in making that decision? I mean, is there an acceptable death quota before you decide to remove a product because of loss of life? We're talking babies here.

Mr. KREIZ. Even one loss of life is too many.

Mr. CONNOLLY. Right. So why didn't you pause and recall a product then? And if you wanted to wait, why didn't you at least see the warning flag from Canada that clearly disagreed with your assessment that it was an inherently safe product if used properly.

Mr. KREIZ. The reason is because every step along the way all the study, and research, and information that we gathered did not show that the product was unsafe. And we continued to investigate every incident and share it with the CPSC.

Mr. CONNOLLY. Madam Chairwoman, my time is up. I would simply observe, I think that's an argument that is overtaken by events when we've had the loss of—an admitted loss of 97 children, and their grieving families. This product should have been recalled long before it was by this company. And the argument that it is safe, if used properly, clearly is belied by the facts on the ground, tragic facts on the ground.

I yield back.

Chairwoman MALONEY. I thank the gentleman for raising that concern and really responding to the witnesses today. And I'd like to also join you in responding to some of their statements today. Fisher-Price claims that its inclined products are safe if they are not used for overnight sleep, as instructed, and blames parents for product misuse. 97 deaths because of, quote, "product misuse." But the company marketed the Glide Soother, and Rock 'n Glide Soother, an inclined product, that was just recalled because of four infant deaths expressly for sleep. So, the company can't have it both ways.

And I'd now like to recognize the gentleman from Pennsylvania, Mr. Keller, you're recognized for five minutes.

Mr. KELLER. Thank you, Madam Chair. The role of this committee is to examine pertinent issues facing the American people, certainly, the safety of America's infants is paramount importance to all of us. However, this committee has done nothing to address the issues that will also impact all Americans, including these children, such as a growing crisis at our southern border, rampant inflation, and continued labor shortages due to the administration's outrageous spending, and failure to reopen the American economy, and get Americans back to work.

While the issue of infant safety is an important one, I wonder why the committee is using its power to consider decade-old litigation, already addressed by the court system, instead of focusing its efforts on the many crises affecting the American people today.

That being said, parents should not have to second-guess the safety of their childcare products, and the death of any child at the hands of faulty design is unacceptable and it is a tragedy.

In its October 2009 release, Mattel advertised that the Rock 'n Play, a baby can sleep at a comfortable incline all night long. However, healthcare professionals were not consulted regarding the design, nor ratified the benefits advertised for the product. In fact, the American Academy of Pediatrics advised a firm crib mattress covered by a sheet is the recommended sleeping surface.

So Mr. Scothon, as head of the Infant & Preschool division at Fisher-Price, do you think products that claim to have such revolutionary health benefits, especially concerning infants, should be reviewed by healthcare professionals before being put out into the market?

Mr. SCOTHON. Sir, I believe that we will do, and will continue to do, everything we can to keep things safe. As a matter of fact, we've just recently created the MSSC, which is an advisory panel that we have brought on to ensure that we have additional consultation as it relates to new products.

So, we are committed to both safe products, constant evaluation of that data through our safety professionals, our safety group, as well as our product design experience. And we are committed, where necessary and appropriate, to also get that external support, those eyes to help us continue to improve on the process, because we ultimately believe that our job and our goal is always to make the safest products for families.

We are committed to doing that, it is what we have done for 90 years, and it is what we are committed to doing for the future.

Mr. KELLER. So you've done that, and that's a mechanism that you have put in place to ensure the products are reviewed by medical experts. So you will have medical experts on your panel?

Mr. SCOTHON. Yes. What we refer to as the Mattel Scientific and Safety Committee. There are five pediatricians that will be involved in our safety review process looking at many products that are not, what I will call standards products, that we make that would be potentially unique. And they will be reviewing those products as part of our safety review process.

Mr. KELLER. Also from your perspective, is there anything Congress can be doing to work with Federal agencies to clarify the various rules associated with consumer safety of the products your company makes?

Mr. SCOTHON. Look, I think that's a very important question. It's why we're here today, to talk about how to continue to evolve and improve the safety. Because ultimately, we, you, the CPSC, we all have the same intent, which is keeping consumers safe.

I believe that, you know, I don't want to say specifically what can be done, but I would say we'd be more than willing to work with you to figure out how we can continue to improve those processes, just as this hearing is intended to do today.

Mr. KELLER. Thank you.

I appreciate the opportunity to speak today, Madam Chair. And I yield back.

Chairwoman MALONEY. The gentleman yields back. And the gentleman from Illinois, Mr. Krishnamoorthi, is now recognized for five minutes.

Mr. KRISHNAMOORTHY. Thank you, Madam Chair.

I think that the statement was made, Mr. Scothon, you said that essentially the Rock 'n Play comported with the bassinet standard. Didn't you?

Mr. SCOTHON. That's correct. At the time of launch, it was part of the bassinet standard.

Mr. KRISHNAMOORTHI. And I'm looking at the CPSC website right now, and the final rule clearly states that the standard limits, the allowable angle to 10 degrees incline. So, your Rock 'n Play absolutely did not, did not comport with the bassinet final rule.

Mr. Scothon, the Rock 'n Play is an incline sleeper. Isn't it?

Mr. SCOTHON. Yes. It is an incline sleeper.

Mr. KRISHNAMOORTHI. And the baby would sleep at an incline, not flat on its back, correct?

Mr. SCOTHON. It was at an incline, but the back of the seat was flat, not curved.

Mr. KRISHNAMOORTHI. But it was not horizontal flat, correct?

Mr. SCOTHON. That's correct.

Mr. KRISHNAMOORTHI. OK. Good. And you said Rock 'n Play was introduced in 2009, correct?

Mr. SCOTHON. That is correct.

Mr. KRISHNAMOORTHI. In 2005, four years before the Rock 'n Play was introduced, the American Academy of Pediatrics in guidelines on preventing SIDS, you probably can't see it, but basically, it says "New guidelines on preventing SIDS," said "infants should be placed for sleep in a 'supine position' wholly on the back for every sleep. I didn't know what supine meant. I looked it up in a medical dictionary, it means, quote, "lying flat on your back, looking up."

So, it looks like you ignored the American Academy of Pediatrics' recommendation that basically babies sleep flat on their back as opposed to an incline.

Now, let's go to 2010. Foreign authorities recognized similar problems. When you sought to sell the Rock 'n Play in Australia, the Australian authorities wrote back in an email in June 18, 2010, that the sleeper was at odds, your sleeper was at odds with widely accepted and promoted best practices that these types of products should not be used as an infant bedding alternative. You don't dispute they wrote you that in 2010, correct?

Mr. SCOTHON. I do not dispute that. No.

Mr. KRISHNAMOORTHI. And in 2011, the U.K. Royal College of Midwives told you that, quote, "It would not endorse the product as a sleeper because it would only be suitable for short periods of supervised wakefulness."

Then, that same year in 2011, the Canadian regulator sent you negative signals, too. They said the product could only be sold as a, quote-unquote, "soothing seat," which, as you explained earlier in your testimony to Mrs. Foxx, is something that cannot be used as a sleeper. And in 2011, the Rock 'n Play was withdrawn from the Canadian market as well as a sleeper, correct?

Mr. SCOTHON. That's correct. Once again, we always adhere to—

Mr. KRISHNAMOORTHI. So again, now let's just go to the tape. So, in 2010, Australia rejects it as a sleeper; 2011, U.K. groups reject

it as a sleeper; in 2011, Canadian regulators reject it as a sleeper. But you kept selling in the U.S.

Now can you please bring up COR staff the 2018 presentation, Fisher-Price presentation? OK, what we're looking at here is market research that you did in 2018. There's a little typo at the top, it should be 2018. And basically, it has feedback from moms on the right-hand side which we highlighted. Let me just point you to a few of them. Quote, "It's on an incline and I have read that babies should not sleep on an incline unattended. It is obviously very unsafe. Babies need a flat surface to sleep on. No incline!" Exclamation point. The next one down. "It is not approved as a safe sleeping surface." Sir, you did not stop selling the Rock 'n Play in 2018, correct?

Mr. SCOTHON. That's correct. We were in discussions—

Mr. KRISHNAMOORTHY. You, instead, kept selling it, despite what the moms were telling you. And you only recalled it on April 12, 2019, four days after the Consumer Reports published the deaths linked to your particular product.

Now I know you've adopted a blame-the-parents defense. And it's just appalling what Mr. Kreiz keeps saying, that the parents are to blame for what happened here. Mr. Scothon, what bothers me especially is what caused you to stop selling the Rock 'n Play. It wasn't the warnings from the health experts, and the pediatricians in 2005. It wasn't the Australian Government and the Canadian Government that rejected your sleeper in 2010 and 2011. It wasn't the moms who complain about the safety of your sleeper in 2018. It wasn't even the deaths, the 97 deaths associated with your Rock 'n Play Sleeper. No, it wasn't any of that. Instead, what it was is Consumer Reports publishing a report about the deaths. You only acted because you got caught red-handed, knowingly selling a dangerous product. Sir, integrity is what you are when no one's looking. And this episode demonstrates a shocking, shocking lack of corporate integrity.

I yield back.

Chairwoman MALONEY. The gentleman from Arizona, Mr. Biggs, is recognized for five minutes.

Mr. BIGGS. I thank the chair for allowing me to take my five minutes. I thank the witnesses for being here. And I appreciate this hearing today.

I don't defend the company's actions in any way. And I also am concerned. Ninety-seven deaths of infants is something that really tugs at the heartstrings of every parent and grandparent.

But I want to read to you a letter that I wrote to you, Madam Chair. It was written about 15 hours ago now. Dear chairwoman Maloney. Today, the House Committee on Oversight and Reform will hold a committee hearing for which committee members, and maybe not all committee members, certainly I felt this way, are woefully unprepared. If you have a serious expectation that committee members will be able to discuss the topic and learn from the witnesses, you should reschedule the hearing until a later date. Why? Because on Friday, May 28, 2021, the committee gave notice of this hearing titled, "Sleeping Danger: The Rock 'n Play and Failures in Infant Product Safety." According to your published guidance, the committee "launched an investigation into the safety and

regulation of Fisher-Price's Rock 'n Play and other infant incline sleep products," closed quote, in August 2019. And the purpose of this hearing, as you stated in your guidance, is to, quote, "examine findings from the committee's investigation," closed quote.

Yet, when I wrote the letter about 12, 15 hours ago, I hadn't received the report from this committee. In fact, you said in your opening statement that you released it today. I received it at 5:40 a.m., Arizona time, which is where I am. That meant, it came out into my office in D.C. at 8:40 a.m. Holding a hearing to examine findings that are not made available to committee members in time to adequately prepare is an utter waste of time.

Do you want to have a productive hearing, rather than another piece of political theater, you will please reschedule this hearing until the report is released. And now, of course, it has been released at 5:40 a.m., Arizona time.

Sadly, it looks like this hearing is just a distraction to keep us from focusing on the real needs of the Nation, or other needs of the Nation. I'm not saying this is a *de minimis* hearing. What I'm saying is there are other issues as well, such as ending the crisis at the southern border, finding the origins of the COVID-19 virus, or stopping drastic inflation of the Biden administration's policies, and others that I've requested hearings on from you, Madam Chair.

So, I look at this, and I'd say, I am learning a lot as I listen today, but I didn't have a chance to actually go through your report, and then investigate it further. For instance, when the previous speaker said supine doesn't mean horizontal—supine means horizontal. It actually means laying on one's back. It doesn't even necessarily mean horizontal. I would like to know more of what that is and how it figures into this particular matter that we're at.

Your opening statement, Madam Chair, resembled more of a closing statement at a class action lawsuit, which, it is my understanding, that there is litigation ongoing in this matter. What we're reviewing is specified allegations about a specific company that deserved specified remedies that you get through the court system.

I am content that we are doing this hearing. I would have liked to have the report, so I could read it, analyze it, and pour over it, the way I read every other guidance regarding this particular hearing.

I have found that it looks to me like people's minds are already made up. And mine was more I want to get to the bottom of this and understand what's going on. I think I've been regrettably denied that opportunity because of the failure to release the report. I don't know when the witnesses received the report, or if they have received the report yet.

And so, I have two questions for the witnesses. And I don't know who wants to take it, but have either of you received a copy of the report from the committee?

Mr. KREIZ. It came in this morning.

Mr. BIGGS. You got this this morning? Did you have a chance to review it and include and prepare based on what you saw in preparation for this hearing?

Mr. KREIZ. Our advisers received apparently last night. I saw some of it this morning, but I have not had the opportunity to review it.

Mr. BIGGS. Second question. How many of these units did you sell before you took it off the market worldwide?

Mr. SCOTHON. 4.7 million, 4.7 million.

Mr. BIGGS. 4.7 million. Were there any other incidents reported besides the reported deaths?

Mr. SCOTHON. There were incidents. I don't know the specifics on those. We'll call other incidents they were not death related. I would have to get you the detail on that.

Mr. BIGGS. I wish you would.

And I thank the Madam Chair for the time. I appreciate it.

Chairwoman MALONEY. I thank the gentleman for raising your concerns. And I recognize myself to respond.

This was a two-year effort, and the minority staff, the Republicans and Democrats, worked together on this report. For every single interview, staff members from both the Republican and Democratic side were present. And the text of the report was a bipartisan one in which they both cooperated.

It's true that the report was just released this morning to Democrats and Republicans at the same time. Mr. Comer and I got it roughly two days before that. And the hearing really is on the subject matter, just not on the report itself, but on the subject matter of this hearing. And I would say that your colleagues, our colleagues on both sides of the aisle, are asking very thoughtful and pointed questions just based on that. But if you're concerned that you did not have appropriate time to prepare, we could have another meeting or another hearing on this at a later time that's convenient for you, and for which you feel you can have more time to respond.

This is a very, very serious matter. The loss of a child that could have been prevented if these products had been tested and taken off the market when they were aware that children were dying. We are working on legislation to give more teeth to the CPSC so that they can enforce safety standards going forward. We look forward to working with you and your colleagues in a bipartisan way on this legislation to make sure that this never happens again.

Mr. BIGGS. Would the chair yield?

Chairwoman MALONEY. I look forward to working with you in the future.

I yield back.

Mr. BIGGS. Madam Chair, would you yield time?

Chairwoman MALONEY. Yes, I will yield.

Mr. BIGGS. Thank you, Madam Chair. I would only say that the reason that it was vexing for me is because I hadn't been on this committee until January of this year, No. 1. No. 2, one of the reasons for holding this hearing is stated in the chairwoman's notification of the hearing, was to examine findings from the committee's investigation. That report is, I assume, the findings of the committee's investigation. That's why it was so imperative, and I would have liked to have more time.

I appreciate it. And I yield back.

Chairwoman MALONEY. We will be delighted to give you more time and have another hearing if you so wish.

I will now recognize Mr. Raskin. You're now recognized for five minutes.

Mr. RASKIN. Madam Chair, thank you very much for calling this important hearing. And if you're being accused of acting like a lawyer for 97 American families who lost a child to this product, then that's nothing for you to be ashamed of. I would much rather be accused of being a lawyer for those families than acting as a pro bono counsel for this corporation.

Mr. Kreiz, I want to ask you, we're looking at this nightmare of 97 families who lost an infant in using your product. And you've said repeatedly that the product's safe when used with its instructions and its warnings. And when you say that, I hear you to be blaming the parents for what went wrong. What did the parents do wrong that caused the deaths of their own children?

Mr. KREIZ. Well, we absolutely do not blame the parents. This is not the parent's fault. I never said it, and we don't believe it's the parents' fault. It is about using the product in line with instructions and safety warnings. And there are different reasons, or different causes, that could have brought terrible losses and terrible accidents. And I mentioned earlier the phenomenon of SIDS, which is one situation where young babies die suddenly in an unexpected manner. This is a nightmare for every young parent. In addition, in some cases, babies were not strapped, and that is an important part of the safety and warning instructions. So, we feel it is our continuous commitment to work with parents and other—

Mr. RASKIN. OK. Mr. Kreiz, I'm going to reclaim my time here because we're limited.

Last week we learned that Fisher-Price is recalling two more incline products that you had marketed for sleep. Four infants died in one of the products, the Rock 'n Glide Soother. The announcement came two days after the CPSC passed a new rule banning all incline sleep products, because they are unsafe for children. I would like to enter into the record a letter that the committee received from Consumer Reports dated June 4, 2021. Consumer Reports wrote that in November 2019, it sent a letter to you, Mr. Kreiz, urging Mattel to stop selling all incline products marketed for sleep, and to immediately recall all incline sleepers.

Mr. RASKIN. The following week Mr. Scothon, you wrote back, stating that the company would not recall those products, including the Rock 'n Glide Soother, because, quote, "It has not been marketed for overnight sleep." Mr. Kreiz, how many infants had died in the Rock 'n Glide Soother by the time Consumer Reports sent you this letter?

Mr. KREIZ. Well, we were aware of four fatalities, all of which all of those cases unfortunately were found, and this is according to the investigation report from the CPSC, in all four incidents, the infants were unrestrained and left for overnight or unsupervised sleep.

Mr. RASKIN. Well, two of them died before the letter was sent to you by Consumer Reports. And then after you refused to recall the product, two more died. And we know not just through scientific studies and data, but from the number of infants who died in your company's incline products, that it's not safe for infants to sleep at any incline at any time, day or night, whether you call it napping or something else.

Mr. Scothorn, your letter to Consumer Reports stated the Rock 'n Glide was not marketed for overnight sleep. But in the company's own marketing materials, the product was marketed for, quote, "napping" and, quote, "while your baby gets rocked to sleep."

In Ms. Thompson's video that we watched at the start of the hearing, she said that she put her son, Alexander, in the Rock 'n Play for 10 minutes, and when she checked on him, he had stop breathing, and he had died. Does Fisher-Price now acknowledge that the length of an infant's sleep time is irrelevant if the sleep position is unsafe? Mr. Kreiz, what is your answer to that?

Mr. KREIZ. Well, let me first say that we did not know of any fatalities at the time of receiving the letter. We found of those cases, the first case we found in January 2020.

Mr. RASKIN. But the whole reason they sent you the letter was because of the fatalities. Do you believe the company was wrong not to recall the Rock 'n Glide earlier before we lost two more children?

Mr. KREIZ. What every loss is a tragedy. And we continue to collaborate with the CPSC to understand what is behind those incidents. And we still believe that the Glider was safe when used in accordance with instructions.

Mr. RASKIN. Do you have any other incline products that are still being marketed for sleep, still on the market?

Mr. KREIZ. No.

Mr. RASKIN. You will have taken them all off?

Mr. KREIZ. Correct.

Mr. RASKIN. Well, Madam Chair, I just want to say this company had overwhelming evidence it was unsafe for babies to sleep at an incline, even for short periods. They've been told by a number of foreign countries. They've been told by a number doctors. They have warned by Consumer Reports. If they chose to keep their inclined products marketed for sleep on the market, this demonstrates the absolute recklessness, at least, if not a deliberate defiance of the facts. And this is a terrible tragedy.

I hope that all of our colleagues, and I hope that these witnesses will recognize, this is what government is for. We need regulation because these companies overwhelmingly put profit first. And that's the way that our system works. But we cannot entrust to these companies the safety of our children. This is why we need government.

I yield back to you, Madam Chair.

Chairwoman MALONEY. The gentleman yields back.

Mr. CLOUD. Madam Chair.

Chairwoman MALONEY. To startup, Mr. Donalds is recognized for five minutes. Mr. Donalds.

Mr. CLOUD. Madam Chair. Madam Chair. Madam Chair.

Chairwoman MALONEY. Whose seeks recognition?

Mr. CLOUD. Michael Cloud.

Chairwoman MALONEY. Michael Cloud, you're now recognized.

Mr. CLOUD. The committee staff just asked me, for the purposes of correcting the record, to bring up the fact that the minority staff was not involved in producing the report. They were not invited to do so. They were able to attend some briefings along the way. But as the report's cover suggests, it says it's prepared for the chair-

woman. It does not mention the chairman. And, so, just for the purposes of correcting the report, I wanted to acknowledge Mr. Biggs' point.

Thank you very much. I yield back.

Chairwoman MALONEY. So noted.

The gentleman from Florida, Mr. Donalds, is recognized for five minutes. Mr. Donalds.

Mr. DONALDS. Thank you, Madam Chair. First, I want to associate myself with the comments that were stated by Mr. Biggs. It would have been nice if I actually had a chance to actually read this report before coming into this hearing, you know, but it is what it is, and we're here now.

The second thing I would say, Madam Chair, is obviously I have three sons, let's start there. I justly actually just dropped my oldest off at college on Saturday. And, so I know what it is to raise your children from when, you know, they are infants, watching them sleep, trying to find something, anything to help your children sleep. I've been through it. My oldest was easy. He could sleep just about anywhere so it was really not a big deal. My younger two sons, I mean, for lack of a better phrase, it was kind of a nightmare to find the right solution for them specifically to be able to get a two-hour nap, let alone an overnight sleep.

And, so, my wife and I went through a lot of products. We went through a lot of different things. I think my youngest son, we actually did use an incline sleeper in his crib. And it was tough, you know. We understand the possibilities of rollover. But when a child won't sleep, unfortunately a lot of parents who feel the pressure, whether it's just ultra-fatigue, crying, trying to find a way to just get your child to be comfortable. And it is very trying for a lot of parents.

So that's just my own personal stories. I know we used an incline sleeper for our youngest son. And we had to take some additional steps past what the manufacturer said on the product.

The reason why I want to state that is because, don't get me wrong, but the topic of this hearing is important. Nobody wants to lose a child, let alone an infant. That's a tragedy I can't even come to grips with or even understand. But I think it's important for the chairwoman and the majority to understand, that there are other issues affecting our country which are impacting children. My colleagues have said some of them.

The origins of the coronavirus, which seems like more and more every day, it does look like it was leaked out of a lab, and we're not even talking about that in this hearing. Hopefully, that's something that the majority chooses to hear and actually discuss, have a robust discussion in the Oversight Committee, especially considering if anything had to do with any grants that may or may not have been authorized or written out of the executive branch, that would be very helpful to understand, especially what's going on in southern border.

I was actually with Representative Cloud for my second trip to the border. I was there last week. And you do have young children who are in holding facilities, whether it's with Border Patrol, or whether it is Health and Human Services. You have young kids who are being basically moved by the current administration all

over the United States on coach buses, or on airplanes, to other facilities that are being licensed or basically being used through contract by HHS. It would be important for the Oversight Committee to actually get to the bottom of that, because you do have a situation where you have children, infants up to 6 to 10, to 17 years old, who are crossing our border with smugglers. They are not crossing with parents. I've been down there. I've seen it.

You have some who are crossing with parents, but the vast majority are crossing with smugglers. They are unaccompanied minors and they are ending up in our facilities. You see kids cry, you see the type of things you would never want to see your child go through. And there are many, many children who are experiencing that. I think that these are things that this committee should definitely be looking into as well.

But that being said, you know, Mr. Scothon I think that's how you pronounce your name. Is that right, Scothon?

Mr. SCOTHON. Scothon.

Mr. DONALDS. Scothon. My apologies. My question for you is, for the record, what are the actual safety protocols for the Rock 'n Play Sleeper? How is it actually supposed to be utilized?

Mr. SCOTHON. The Rock 'n Play Sleeper was a sleeper intended for long-term, overnight, or unsupervised sleep. The intent was to put the baby on the back, use the restraints.

Mr. DONALDS. Let me ask this question. Define the restraints. What are the actual restraints? Because restraints, that sounds good in a committee. What is it actually?

Mr. SCOTHON. Thank you. It is basically a small harness, it goes around the waist, it fits up between the legs, hits around the waist to the slide and clips in. So it is basically two clips around a triangular pad that would fit over the belly and between the legs.

Mr. DONALDS. So, in some respects, it is like an upside down five-point harness, in some respects? Is that about right?

Mr. SCOTHON. In some respects it's a three-point, not a five-point. We do the three point to keep it lower on the waist and below.

Mr. DONALDS. The clips that you basically buckle the child in with into the restraints harness, are those adjustable?

Mr. SCOTHON. They are.

Mr. DONALDS. How many deaths have occurred associated with your products?

Mr. SCOTHON. Again, as I shared I believe right now we have a report of 97, we are investigating those. Four have been shown right now not to be our product. We are continuing to investigate. At the time of the recall, it was 32. That was the number.

Mr. DONALDS. Are you currently in litigation in court associated with these deaths?

Mr. SCOTHON. We are. We are in conversations with—yes?

Mr. DONALDS. OK. Last question, of the ones that you've been able to go and investigate, how many of these deaths have occurred where the harness, or the restraint was not utilized?

Mr. SCOTHON. I don't have that specific number at this time. And I wouldn't want to give you a specific quote to that at this point.

Mr. DONALDS. All right. I'm done.

I yield back, Madam Chair.

Chairwoman MALONEY. The gentleman yields back.

And the chair recognizes the herself to really respond briefly to his heartfelt comments. It's true we should be focusing on COVID. In fact, the leader created a subcommittee just dedicated to COVID led by very talented and dedicated Representative from South Carolina, Congressman Clyburn.

We've had a series of meetings very focused on getting help out to people, supplies they need and vaccinations. I believe that his leadership and President Biden has been extraordinary in centralizing the distribution of vaccines, giving them out to the people. The President has called for a 70-percent vaccination rate. We are working very hard in New York to meet that rate. We will meet it, I believe, by July 4th. And I understand a number of other states are working with the Federal Government. We can't open up and be safe until everyone's vaccinated. We have all dedicated ourselves to working on it.

He rightfully expressed concern about the border. We have conducted studies on the separation of children at the border. We are working, trying to find their parents. No paperwork was saved for this. No paperwork at all. So, it's very hard to find the parents. In some cases, the parents of—we've documented, they've already been deported, and the children we are trying to figure out how to put them back together again. I want to compliment one of the members of our committee, Jackie Speier, who has led several journeys to the border with Members, myself included, on many of the challenges there.

And we are in the midst, now, of a study on the sterilization of women against their will, immigrants who came to our country that were put into forced sterilization, which I believe is cruel and unusual punishment. Maybe we should have a meeting and go down to the border and to the facilities, and meet with these women. We invite you to join us. I thank you for raising those issues. And we are working on—

Mr. DONALDS. Madam Chair?

Chairwoman MALONEY. And I must say, very importantly, we are looking at sole source, no-bid contracts that were just negotiated and given to people. Our last hearing was over \$600 million that was given to a company, sole source, no-bid contract, to develop vaccines; only they haven't, to this date, even developed one successful vaccine that we can trust to put into people's arms. So we're working very hard in many of the areas that the gentleman mentioned, and we ask you to join us.

And I now call on—

Mr. DONALDS. Will the chairwoman yield?

Chairwoman MALONEY.—Illinois, the gentleman from Illinois, Mr. Davis, you are now recognized.

Mr. DONALDS. Will the chairwoman yield?

Chairwoman MALONEY. I am yielding to Mr. Davis.

Mr. DAVIS. Thank you, Madam Chairman.

Mr. DONALDS. The chairwoman won't yield.

Mr. DAVIS [continuing]. For calling this very important hearing, and I certainly appreciate our witnesses for being with us.

The Rock 'n Play was recalled in April 2019, but documents obtained by the committee shows that Mattel began receiving reports

that infants had died in the Rock 'n Play as early as 2012. On October 26, 2012, Mattel received a report from a consumer who said that a year earlier, in October 2011, her two-month-old son, and I quote, "had stopped breathing," end of quote, while in the Rock 'n Play.

The consumer told Mattel that she believed, and I quote again, "Due to the slant in the product, his head may have been positioned in his chest at the time. She picked him up, and thankfully he began breathing again. The mother wrote to Mattel because she loved the convenience of the Rock 'n Play, and was considering using it for her next child, but she was worried about the safety of the design.

She then asked whether the company had made any changes. A Mattel employee told the mother that the company had not made any changes, offered her a refund, and asked her to ship the Rock 'n Play back to the company. Internal documents show that a Mattel employee made a note on the report dated June 2013, more than six months later, which simply read, quote again, "No further contact. Closing case."

Mr. Scothon, is this how Mattel typically handles these type of reports?

Mr. SCOTHON. Sir, whenever we get a report, we do our best to investigate, and find out, and look at every report individually. So, I can't speak to that one incident. I was not involved directly with that incident. What I can tell you is, when we elevate and escalate anything that might be considered a safety contact or phone call into our safety process, and it elevates and activates the ability for us to go back, engage with those and really implement the safety overview process to better understand the situation.

Mr. DAVIS. Let me ask, did you conduct any additional research or testing to make sure that the Rock 'n Play was safe for use?

Mr. SCOTHON. We have done extensive testing, both from the beginning, prior to the product launch. We followed that up with additional continued observational research study throughout. In 2016, we did additional study with regard to the rate—excuse me, the degree of incline and the impact on breathing as it was shown not to have any impact at all.

Mr. DAVIS. Thank you.

Did Mattel take any steps to warn consumers about the possible danger reported in that case?

Mr. SCOTHON. Specific to that case, I'm not aware of any steps that were taken to talk to the consumer. What I can say is we were obviously were investigating that case. When we could not make contact further, that may be why it was closed, that case specifically. But what I can tell you is going back to the beginning, whenever we get a report of safety, we implement our safety processes. We engage with the consumers. We try to understand more—

Mr. DAVIS. My time is running. So let me ask you this: Less than two months after the report we just discussed, Mattel received another report about an infant who had died in the Rock 'n Play. And according to internal documents, the company tried to followup with the consumer twice, received no response, closed the case. Does the company do any other research to try and rectify or deal with that situation?

Mr. SCOTHON. Once again, sir, we will make contact and make the efforts to reach those consumers. We immediately also communicate back to the CPSC with all of our information to make sure that they are notified within 24 hours of what we are to see if they have any information.

Mr. DAVIS. Let me—my time is about to run out, Mr. Kreiz. Let me ask you, based on the reports we just discussed, do you think your company took the potential safety issues with the Rock 'n Play seriously enough when you first began receiving these troubling reports?

Mr. KREIZ. I am absolutely convinced that we did everything we could to ensure that our products are safe, and that we looked at every case to understand if there is anything we can do to change or to protect—

Mr. DAVIS. Well, I'm not really convinced that that's what totally happened. And I think that there's no reason why the manufacturers should be allowed to shield information from the public about deaths associated with their products. Americans have a right to know whether the products they are buying may pose a danger to them or their families. I think a legend corporation can do better.

Madam Chairman, I know my time has expired, but I'd like to submit two additional questions for the record and get a response in writing.

And I yield back.

Chairwoman MALONEY. So ordered. Thank you.

The gentleman yields back.

Chairwoman MALONEY. The gentleman from Texas, Mr. Fallon, is recognized for five minutes. Mr. Fallon.

Mr. FALLON. Madam Chair, thank you. I yield one minute to my colleague, Representative Donalds, from Florida.

Representative Donalds?

Mr. DONALDS. Oh, I'm here. I was waiting for the chairwoman. I didn't hear her, so I was trying to be respectful of the committee.

OK. Well, I will say this and add this in it. Thank you, Mr. Fallon, for yielding some time to me.

I do understand that the administration has been doing what it feels is best when it comes to making sure people get shots in arms. But we have a real theory going on right now, an active one, about whether the coronavirus came from a lab in Wuhan Province. Instead of us just waiting for the administration to figure out and do some investigation, this committee should be doing this. Like I said, I'm just a new member so I'm not on the special committee led by Mr. Clyburn. I don't know what they are doing in their committee. I think it is important that the Oversight Committee actually step into these issues as well and begin to actually study them, and have hearings on them, and get to the bottom of stuff as well. We shouldn't just push it off to some select committee, because what I've found in observing Congress is that multiple committees tend to investigate things when Congress decides that it wants to investigate things. So that's what I'll say. I'll stop there.

And I yield back to Mr. Fallon.

Mr. FALLON. Thank you.

And Madam Chair, thank you for the time. I'd like to associate my remarks with Representative Biggs and Representative

Donalds. Historically, decades, and even in a century from now, folks are going to be looking at how the United States handled the coronavirus, and I really believe the Biden border crisis. And these are things that would be wonderful if this committee, and we are really perfectly poised to deal with things just like this.

The lab leak theory is the story of the century. Is it true? And we should do everything we can to foster finding out the truth. And also with the Biden border crisis, having visited the border, being a border states, the things that frighten me are the drugs cartels are de facto in charge of our southern border and they create misery. And I think everybody on this committee, and for that matter, the folks in our Chamber, nobody is going to sympathize with the drug cartels. So how active are they? Because the folks that are coming from Central America, so many of them are being provided free transit, and then working essentially as indentured servants.

I've also read because, again, we are a border state, and I have been researching this for over a decade, that a very high percentage of women that migrate from Southern Mexico and Central America are either raped or sexually assaulted along the journey. These are the kinds of things that I think everybody on this committee would be in favor of getting to the bottom and stopping evil. So I wanted to thank my colleagues for their remarks.

I'm trying to get my arms around this and simplify things. I know it's difficult, as a former business owner, to operate in a very imperfect world, and particularly when you're making and producing products that infants will use. And, unfortunately, there are tragedies that will occur. And I thought initially reading the material that we're talking about single digits here. Ninety-seven is an alarming number, a frightening number. And, so, I wanted to ask quickly and I don't have a lot of time, but Mr. Kreiz, did you just say in your testimony about 30 minutes ago that you were personally unaware of any fatalities until 2020? Did I get that right?

Mr. KREIZ. That was only in relation to the glider, the 4-in-1 Glider, not the Rock 'n Play.

Mr. FALLON. OK. So when were you made aware of some fatalities with the Rock 'n Play was it the sleeper?

Mr. KREIZ. Yes, the company first learned about it in 2012.

Mr. FALLON. 2012.

Is that when—were you the CEO then? Were you working?

Mr. KREIZ. No. I joined the company in April 2018.

Mr. FALLON. 2018. OK. Thank you. All right.

So Mr. Scothon, were you—how long have you been with the company?

Mr. SCOTHON. My total tenure with the company is 20 years. I was with Mattel up until approximately 2011, 2012, left, and came back in January 2018 as the head of Fisher-Price.

Mr. FALLON. OK. So you were there when Australia, I guess—did they ban it or did they even allow it to be there in the first place?

Mr. SCOTHON. Yes, so to be clear, I did not have responsibility on Fisher-Price during that period in time. I was in a Mattel role but not on the infant and preschool business but I can speak to that. It's my understanding that we were reaching out. We were considering the launch of the product, and it was the Australian

regulatory group that was not comfortable with that. And as we do with many products, we work with the local regulation groups to understand and be aligned. As a result, we did not launch the product in Australia.

Mr. FALLON. OK. And so and my time is pretty much up.

But I just wanted to say real quickly that it concerns me greatly that an American company would see that and have full knowledge that Australia and Canada wouldn't allow this product to be sold and yet I just don't think—maybe it was the legal thing that, you know, legally you could sell the product in the United States. I just don't feel it was the moral thing to do when you're talking about 97 deaths. That's tremendous.

And, Madam Chair, my time is up. So I'll yield back.

Mr. RASKIN. [Presiding.] Thank you.

The gentleman's time is expired.

Ms. Wasserman Schultz is recognized for your five minutes of questioning.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman.

And I want to thank the chairwoman and the leadership of this committee for not just being a one-track mind when it comes to the issues that the Committee on Oversight and Reform focus on. Ninety-seven babies, as Mr. Fallon just noted, is a stunning number.

And, in fact, in 2005, a full four years before the Rock 'n Play was released on the market, the American Academy of Pediatrics released safe sleep guidelines, advising that babies should be wholly on their backs for sleep and that a, quote, "firm crib mattress covered by a sheet is the recommended sleeping surface." In fact, I put up the definition of "supine." The worked "horizontal" is nowhere in it. It is face up, on your back. That's the definition.

With an inclined seat and plush padding, the Rock 'n Play clearly defied safe sleeping recommendations and it was released in 2009. It was—when it was released in 2009, it was the only product on the market designed for infants to sleep at an angle, settling on a 30-degree incline for the Rock 'n Play's seat back.

Mr. Scothon, briefly, how did Mattel land on the 30-degree incline for the Rock 'n Play seat back?

Mr. SCOTHON. So, the Rock 'n Play was extensively researched and developed. We used both expertise that we had in-house. We looked at external studies that had been done on other product categories to understand inclines and reports. We spoke to an outside medical family practitioner with a focus on biomechanics. And it was at that point that the 30 degree and under, that was done in partnership as well. That was where our first started—

Ms. WASSERMAN SCHULTZ. Reclaiming my time, in fact, that outside expert has since lost his medical license and was completely discredited in many cases in which he served as an expert witness.

You know, the committee conducted interviews with several Mattel employees, none of whom could confirm how or why the company settled on a 30-degree angle, other than in reference to products that were not intended for sleep.

For example, Mattel's senior director for product safety said the company, quote, "relied on the research that was available, showing where angles had been a problem like car seats." Car seats have an angle of about 45 degrees, and medical studies available

at the time the Rock 'n Play was released show they are not safe for infant sleep. A Fisher-Price engineer who helped create the Rock 'n Play said that the company decided on 30 degrees for the Rock 'n Play because it is, quote, "well below 45 degrees."

Mr. Scothon, before bringing the Rock 'n Play to market, did the company do any research to verify that a—to verify that a 30-degree angle was safe for a product that would be marketed for sleep? Yes or no, please.

Mr. SCOTHON. We did extensive research. I can't say that it was verifying the 30-degree question.

Ms. WASSERMAN SCHULTZ. OK. Thank you.

The committee interviewed Mattel's senior director of product safety. When asked whether the company had done any research to establish that a 30-degree angle was safe, he responded, and I quote, "I can't say I've seen research like that. Typically at least in my experience you don't see research saying things are safe. You know, people research things that are not safe."

Mr. Scothon, does that response align with your experience?

Mr. SCOTHON. That response certainly is reflective of how we've looked at things in the past. I think as we've shown—

Ms. WASSERMAN SCHULTZ. Reclaiming my time.

So in other words, Mattel relied only on research showing what is not safe, rather than conducting its own research showing that your product design is safe.

Mr. Kreiz, let me give you an opportunity to respond. Is the statement by your employee a fair characterization of Mattel's practice where they just focus on what wasn't safe, not what was safe?

Mr. KREIZ. This is what the company did at the time, I believe. But it is important to say that we also looked at other studies and we did in 2018 a study by one of the top engineering firms in the country that said, that concluded that infant fatalities occurred as frequently—

Ms. WASSERMAN SCHULTZ. Reclaiming my time. Thank you.

You know, if most parents knew how Mattel had gone about designing the Rock 'n Play, they never would have bought it for their infants. I have three children of my own. I know it's hard to get babies to sleep. I had twins. Trust me. I understand. And busy moms and dads count on safe products from trusted brands to help with that. Fisher-Price is, you know, supposed to be among them but it's shameful what the company did here. Just listen to the answers to my questions.

They focused not only what was safe but on what wasn't. And if companies can't be trusted, the government has to have a real ability to notify parents or quickly recall products. The existing protections failed here. Parents deserve a lot more from the companies designing products for our children and from the laws designed to protect them, and I'm very eager to work with the chairwoman and my colleagues on improving both.

Thank you. I yield back the balance of my time.

Mr. RASKIN. The gentlewoman yields her time back.

I now recognize Mr. Johnson for his five minutes of questioning.

Mr. JOHNSON. I thank the chair.

Mr. Scothon, a baby's head is large and heavy in proportion to the rest of the infant's body. Isn't that correct?

Mr. SCOTHON. Yes.

Mr. JOHNSON. And the baby's neck muscles are not strong enough to support its head. Correct?

Mr. SCOTHON. Well, that's very much focused around the development of a child.

Mr. JOHNSON. I mean, in general, an infant is not able to support its head with its neck muscles. Isn't that correct?

Mr. SCOTHON. In the first few weeks of life, yes. That is correct.

Mr. JOHNSON. And the Rock 'n Play's 30-degree incline allows a baby's head to slump forward which can block the baby's trachea and cause the baby to choke to death by suffocation. The 97 babies who died, most of them died from suffocation. Isn't that correct?

Mr. SCOTHON. Sir, first of all, the—

Mr. JOHNSON. Is that correct, yes or no?

Mr. SCOTHON. No. I do not—

Mr. JOHNSON. All right. OK. Thank you.

In April 2019, when the Consumer Product Safety Commission and Mattel were negotiating the terms of the Rock 'n Play recall, Mattel tried to insert language into the agreement, stating that the Rock 'n Play's design had not caused dozens of infant deaths that occurred while using the product. The Consumer Product Safety Commission rejected that language, and the Rock 'n Play was recalled in April 2019.

Isn't that correct, Mr. Kreiz?

Mr. KREIZ. I don't recall the specifics, but I trust what you say.

Mr. JOHNSON. Is that your understanding, Mr. Scothon?

Mr. SCOTHON. Well, when we enter into a voluntary recall, we are removing the product. So that's what I can recollect and remember. I can't—

Mr. JOHNSON. Do you recall that—that there was language which you sought to include which stated that the Rock 'n Play was not the cause of deaths for the infants?

Mr. SCOTHON. Sir, when we're recalling a product, what we're doing is removing it from the marketplace.

Mr. JOHNSON. I understand that. I'm just asking you a question. Let me move on.

Mr. SCOTHON. Sorry.

Mr. JOHNSON. In October 2019 the Consumer Product Safety Commission published an independent study conducted by Dr. Erin Mannen, who is a baby biomechanics researchers, and a team of pediatric experts and the study concluded that infant inclined sleepers were unsafe for infant sleep and put infants at a higher risk of suffocating than a firm crib mattress.

Last week based on—based in part on Dr. Mannen's research, the Consumer Product Safety Commission passed a rule banning all infant inclined sleepers because of the dangers that they posed to infants.

Mr. Kreiz, do you agree that the new rule banning infant inclined sleepers will help protect infants from suffocation in the future?

Mr. KREIZ. My understanding was that Dr. Mannen's report was false. It was wrong in that she placed the infants—

Mr. JOHNSON. You don't believe then that the new rule banning infant inclined sleepers will help infants from suffocating in the future?

Mr. KREIZ. Well, we're out of that business. I think it's important to recognize the study—

Mr. JOHNSON. Do you think that that—do you think that that new rule will protect infants from suffocation?

Mr. KREIZ. I believe that it's important to use product in accordance with the product, what it was intended.

Mr. JOHNSON. OK. Well, let me ask you this. Do you acknowledge that Rock 'n Play was not safe for infants?

Mr. KREIZ. We believe the product was safe when used in accordance—

Mr. JOHNSON. Is that misused and that these infants suffocated because the parents failed to follow the instructions. I get that.

Mr. KREIZ. No, we don't blame the parents.

Mr. JOHNSON. Has Fisher-Price or Mattel issued any written warnings to the millions of consumers who purchased the recalled Rock 'n Play products, warning those consumers about the inherent dangers of the Rock 'n Play and that they should not put their babies in that Rock 'n Play?

Mr. KREIZ. Well, we work in collaboration and strong cooperation with the CPSC and—

Mr. JOHNSON. Have you sent a notice to consumers, sir? Yes or no.

Mr. KREIZ. No.

Mr. JOHNSON. Mr. Kreiz, is Fisher-Price or Mattel or any of its affiliates or subsidiaries still selling the Rock 'n Play in foreign countries? Yes or no.

Mr. KREIZ. Sir, just want to come back to my prior question, we—

Mr. JOHNSON. Yes or no, are you still selling that Rock 'n Play in foreign countries?

Mr. KREIZ. No.

Mr. RASKIN. The gentleman's time is expired, but the witness may answer that question.

Mr. Kreiz.

Mr. KREIZ. No, no, we don't.

And we did send a recall notice to consumers to correct my prior answer.

Mr. RASKIN. OK. Thank you. The gentleman's time is expired.

I now recognize Ms. Speier for her five minutes of questioning.

Ms. SPEIER. Thank you, Mr. Chairman.

Mr. Kreiz, I realize you weren't the CEO of the company at the time. But back in 2012, CPSC actually—or FDA, I should say, warned customers to avoid any kind of contraption that was being used for babies that was not totally flat. By then, your product was linked to 13 deaths over 15 years. So, the FDA had made that statement. You already had 15 deaths.

In 2013, you actually recalled 800,000 Rock 'n Plays because of mold. So, death wasn't significant to recall the Rock 'n Plays but mold was? Do you have a comment to that?

Mr. KREIZ. Sure. My understanding was that the mold recall was about a product issue.

But, more importantly, when it comes to babies' safety, we do not compromise, we do not take any risk, and we will always go the extra length to confirm that our products are safe and appropriate for usage. In the—as my understanding is that we continued to analyze and investigate every specific incident—

Ms. SPEIER. Reclaiming my time, if this happened today and it was an issue of mold versus death, would you have done the same thing and not recalled the Rock 'n Plays?

Mr. KREIZ. Well, of course. Babies—

Ms. SPEIER. Yes or no, please. Yes or No. I have limited time.

Mr. KREIZ. Yes. And we will always prioritize safety above all.

Ms. SPEIER. All right. What about the fact that daycare centers may still have these Rock 'n Plays? Have you recalled them? Have you notified them, and have you recalled them?

Mr. KREIZ. Yes, we take extensive actions to promote the recall in an effort to raise consumer awareness. We provide information on our website. We use—

Ms. SPEIER. No. Are you recalling them? It's unclear whether you're just noticing the public now. Or are you recalling these products?

Mr. KREIZ. Yes, we have recalled it.

Ms. SPEIER. You have recalled them. So, you're refunding money to all of these purchasers?

Mr. KREIZ. I'm sorry. Yes. Sorry. I got—now I understand your question. We have recalled the product back in 2019 and are proactively in the marketplace, ensuring that we reclaim any product that is in the market that we can get—that we are aware of.

Ms. SPEIER. Would you support—would you support an amendment to the CPSC that would no longer provide the kind of a gag rule that allows for deaths of products to not be disclosed to the public?

Mr. KREIZ. We would be more than happy to collaborate with the regulators to improve all—every aspect of consumer safety and I'm here, committing to do that and work—

Ms. SPEIER. So, I guess my question is: Would you oppose the repeal of that section 6(b) of the Consumer Product Safety Act?

Mr. KREIZ. I would need to understand that better.

Ms. SPEIER. It's quite simple. Basically, it would allow that the names and the information about products that are linked to injuries and death be made public.

The only reason why you ended up recalling the Rock 'n Play was because consumer—the Consumer Reports inadvertently got the data from the CPSC that showed the deaths and once the deaths were made public through consumer reports, then game over.

So, the problem is that the public does not know. And my question to you is: Do you have any other products that are manufactured today that are in the marketplace that have been linked to deaths of children?

Mr. KREIZ. Well, we recalled the gliders that were linked—

Ms. SPEIER. I understand that. I'm talking about any other products that we, the American public, do not know about that have caused or have been associated with the deaths of children.

Mr. KREIZ. We share all information with the CPSC. I don't have any further data than that, but I can tell you we work transparently with the CPSC—

Ms. SPEIER. So, to the extent they already have the information, would you be willing to allow them to release that information to the general public and not be subject to this section 6?

Mr. KREIZ. I think it's important to note that—

Ms. SPEIER. Yes or no, please.

Mr. KREIZ. Yes. But it's important to note that some of the information that is in the market is inaccurate and not always correct. And, of course, as I said, I'm saying here that we will commit to work collaboratively with the regulators.

Ms. SPEIER. You just said, yes, you would allow the Consumer Product Safety Commission to release the names and information of any products associated with deaths that you have manufactured. That's what you just said. Is that correct?

Mr. KREIZ. I said yes, but it's important that some of the information is not accurate. And, therefore, it's important that whatever is being released is vetted and confirmed before it's being put out there.

Ms. SPEIER. Well, either a child has died or a child has not died. And if associated with a product, then I think the American public has the right to know.

I yield back.

Chairwoman MALONEY. [Presiding.] The gentlelady from Massachusetts, Ms. Pressley, is now recognized for five minutes.

Ms. PRESSLEY. Thank you, Madam Chair. And thank you for convening this critically important hearing.

And also given your prioritization of children in this committee, I thank you for your partnership on the Children's Protection Act, centering the health and well-being of our Nation's children.

You know, for too long the Federal Government has not prioritized the safety and well-being of infants, toddlers, and children in the regulatory process. We are here today because our flawed system of consumer protection makes it far too easy for corporations and manufacturers like Mattel to hide the harmful and potentially deadly impacts of their products on the infants, toddlers, and children who use them. Additionally, because of a lack of oversight, companies may not even adequately research whether or not their products are safe for their intended and advertised use.

The Rock n' Play Sleeper, built to be an aid to parents putting their babies to sleep fast and easy, resulted in more than 50 deaths from suffocation and injuries. Just last month or, rather, recently Fisher-Price executives told the committee that the company did not conduct any additional safety reviews of its infant products, despite the tragic loss resulting from the Rock n' Play Sleeper.

Mr. Scothon, is it correct that Mattel did not conduct new safety reviews of its other infant products when deaths from the Rock 'n Play were first reported?

Mr. SCOTHON. What I can say is when deaths of the Rock 'n Play were first reported, we investigated those extensively. We continued to do research. And we applied any of those learnings not just to anything that we might have found about we, again, continued to find the products—

Ms. PRESSLEY. I'm sorry. Reclaiming my time. I'll take that as a no.

And the reason why I'm asking is just last week we learned that Mattel has agreed to recall two additional infant products, the Rock 'n Glide Soother and the Soothe 'n Play Glider, because of multiple infant deaths.

Mr. Scothon, in light of these two recalls, has the company published any plans to conduct a safety review of its infant products that currently remain on the market?

Mr. SCOTHON. So, we are always looking at all of the products that we market, that we sell, and we take those. The learnings that apply to the 2-in-1 Glider related to seeing that a product not intended for long-term sleep was being used in that manner—

Ms. PRESSLEY. Mr. Scothon, Mr. Scothon, it's a very simple question. So, just yes or no, has the company published any plans to conduct a safety review of its infant products that currently remain on the market?

Mr. SCOTHON. We very not published any commitment to that effect but—

Ms. PRESSLEY. Thank you. Thank you.

Mr. Kreiz, Mattel and Fisher-Price are two of the most recognized names in the world of infant and child products. Your own company's materials produced to the committee site the brand's name recognition as a competitive asset. Mr. Kreiz, would you agree that name recognition is an asset for Mattel? Yes or no?

Mr. KREIZ. Yes.

Ms. PRESSLEY. And would you agree that consumers are more likely to trust that products from brands they recognize by name are safe and have been thoroughly vetted? Yes or no?

Mr. KREIZ. Yes.

Ms. PRESSLEY. Given how your company has repeatedly abused this trust, do you support regulatory reforms which will prioritize the safety of children and make it easier for products to be recalled? Yes or no?

Mr. KREIZ. I do not agree with your premise, respectfully.

Ms. PRESSLEY. All right. Moving on. I'll take that as a no.

Parents understandably believe that when they buy products for their babies, those products have been thoroughly tested and are safe. They also believe and trust that rules and regulations are in place to hold manufacturers accountable. However, the current consumer product safety system is failing parents and families across the Nation. It is quite literally costing us the lives of our children.

Today's hearing is devastating proof we cannot trust companies to act with moral clarity, even when babies' lives are on the line. And that is why we need to pass legislation like the Children's Protection Act proposed by Chairwoman Maloney and myself. We must hold companies accountable.

Thank you, and I yield back.

Chairwoman MALONEY. The gentlelady from California, Ms. Porter, is recognized for five minutes.

Ms. Katie Porter.

Ms. PORTER. Thank you so much, Madam Chair.

Mr. Scothon, you served in a series of executive roles at Fisher-Price, which is part of Mattel, from 2000 to 2012. And those roles

included developing and introducing the Rock 'n Play to American consumers in 2009, while you were executive. Fisher-Price marketed the Rock 'n Play as a safe, easy way for exhausted parents on a budget to get their babies to sleep at night. Is that correct?

Mr. SCOTHON. I was with Mattel during 2000 to 2012. I was not involved in the Rock 'n Play development from 2009.

Ms. PORTER. Only. But that is how Fisher-Price marketed the product.

And let me tell you, as an exhausted parent on a budget who wants their kids to go to sleep, babies to go to sleep, I can understand why American consumers responded to that marketing and purchased Rock 'n Play. Now it's been well-established at this point that inclined sleep can be harmful, even deadly, to infants. And today, Mr. Scothon, Fisher-Price and Mattel are no longer selling any incline sleeper products. Is that correct?

Mr. SCOTHON. That is correct.

Ms. PORTER. And you've recalled all incline sleepers, and you've notified parents that they're dangerous. Is that correct?

Mr. SCOTHON. The Rock 'n Play was our inclined sleeper product. That was recalled in 2019, and we have done all the outreach to due to prior to bringing the product back, yes.

Ms. PORTER. Do—you mentioned—I asked about all incline sleepers and you responded about the Rock 'n Play. Do you have other inclined sleepers on the marketplace today?

Mr. SCOTHON. No. Once again, to clarify, there is an inclined sleeper which is something that is considered for long-term and overnight sleep and other products that are intended where a baby may fall asleep but we suggest that are then moved to a hard, flat surface. So, the Rock 'n Play—

Ms. PORTER. So, babies—babies, like exhausted moms, can fall asleep anywhere because they need sleep but, Mr. Scothon, you're a marketing expert. So, I want to ask you a marketing question, drawing on your expertise. If you wanted to sell someone a product related to sleep, would you mention things like counting sheep, catching some Z's, having sweet dreams? Because sleeping and dreaming are pretty closely tied together in folks' minds. You can't dream while you're awake. Correct?

Mr. SCOTHON. Yes.

Ms. PORTER. OK. So, I want to ask you about a Fisher-Price product that I found on Target's website. It is called the Fisher-Price Sweet Snugapuppy, Sweet Snugapuppy Dreams Deluxe Bouncer. Would a baby sleeping in this and fell asleep in this; Dreams Deluxe Bouncer be at an incline?

Mr. SCOTHON. If a baby fell asleep, yes, they would be at an incline.

Ms. PORTER. OK. And they would be asleep in this incline situation and it's marketed as Dreams Deluxe Bouncer but nowhere in your sales information, on your website, on Target's website, or Amazon's website does it say that a child should not be allowed to sleep in it. In fact, in response to a Question and A on the Mattel's website, it just says it shouldn't be used for prolonged periods of sleep. What does "prolonged" mean?

Mr. SCOTHON. Well, the way—the fact is we know that babies with the amount of hours that they sleep in a year will occasionally

fall asleep wherever they might be and that's why we recommend and the warning statement state to not leave them unsupervised, to move them, and don't use it for prolonged sleep. And it's why we also—

Ms. PORTER. Reclaiming my time.

Mr. SCOTHON. Yes.

Ms. PORTER. How long can my child safely sleep at an incline?

Mr. SCOTHON. Again, I don't have that specific number. I, you know, what I would say is that—

Ms. PORTER. How long—

Mr. SCOTHON [continuing]. If you were with your child—

Ms. PORTER. Reclaiming my time, how long can they have Sleep Snugapuppy dreams? Why are you marketing this as a product that will give people dreams if it's not for sleeping?

Mr. SCOTHON. Again, we reference that as a product where a baby will sit and play and soothe and I understand your point but—

Ms. PORTER. You market it, just reclaiming my time, Mr. Scothon, you market it as a product where babies will dream a/k/a sleep. And yet it is not safe for a baby to sleep in this position. So, I have two questions for you. Will you commit to parents and consumers right now to change the name of this product to avoid and remove any mention of "dreams" or "sleep" from the name?

Mr. SCOTHON. Back in 2019, we removed any reference to "sleep" on all those products. I will commit to going back through all of our current offering, evaluating everything, and to ensure that we are as clear because, again, our commitment is to safety and I will commit to going back through every item to make sure we are sending the right message.

Ms. PORTER. OK. Last question. Will you commit to including in all future bouncer or similar products like this clear information for the parents that their children should never be allowed to sleep in these products? Because right now the only way you can find that is visiting the Fisher-Price Q and A. Will you put it on the product and in the description of the product that it is not—children should never be allowed to sleep?

Mr. SCOTHON. I—we do put that there. We have also committed to the Safe Start campaign which is an educational video campaign to help parents understand—

Ms. PORTER. Mr. Scothon, it does not say on the Target web page not to allow your baby to sleep in this product. And it's called the Dreams Bouncer. Look at it. Look how cute the Snugapuppy is. I feel like taking a nap right now.

Mr. Scothon, please don't market things about dreams or sleep or counting sleep or catching some Z's if the product isn't safe to sleep in. I'm sure it's a wonderful bouncer. I raised my kids in Fisher-Price products. I care about your company. I counted on your company. Please commit to taking action so that other parents can count on their kids getting safely to the teen years like mine have.

Thank you very much, and I yield back.

Chairwoman MALONEY. The gentlelady's time has expired. She yields back.

The gentleman from Maryland, Mr. Sarbanes, you are now recognized for five minutes.

Mr. SARBANES. Thank you very much, Madam Chair. I want to thank our witnesses for being here today.

Representative Krishnamoorthi, I think, touched on something that has many of us on the committee anxious and that is that there seems to be a breakdown in the culture there at Mattel and Fisher-Price when it comes to safety which really is about integrity and leadership at all levels, certainly coming from the top. And I want to put a finer point on that.

The testimony today, the track record around this product, and even to some degree your explanations of how we've gotten to this point suggest to me that you view the loss of life, in this case the loss of children's lives, as a cost of doing business in this space. Because it doesn't seem as though, until press reports or consumer reports or other outcrying criticism caught up with you, that you were willing to make some of the changes that you describe today and seek to reach a higher level of safety standard.

Mr. Kreiz and Mr. Scothon, did you view loss of life as a cost of doing business for Mattel and Fisher-Price?

Mr. KREIZ. Of course not. Safety is our highest priority. And nothing, nothing is more important to us than the safety and well-being of our consumers. And we—I can tell you that we are confident that all of our products are safe when used as intended in accordance with the warning and instructions.

We always operate with integrity, with the highest integrity, with quality and safety as our most important priority. And this is how we operate the company.

Mr. SARBANES. Let me reclaim my time.

I think you described a safety committee that has now been established. Can you tell me what that is again recently?

Mr. KREIZ. I'm sorry. Can you repeat the question?

Mr. SARBANES. You mention a safety committee that has now been established. What is that exactly?

Mr. KREIZ. This is a new committee composed of five pediatricians that we formed recently to provide medical and scientific advice to the company. The council meets regularly with our internal safety teams to provide professional opinions, advice, and recommendations.

Mr. SARBANES. When was that established?

Mr. KREIZ. Earlier this year.

Mr. SARBANES. When exactly? I mean, in the last month or so?

Mr. KREIZ. I can't recall exactly. Around February or March.

Mr. SARBANES. Uh-huh. If safety has been historically the highest priority—you keep saying that over and over again—why is it that it took until the first months of this year after all of this outcry and heightened accountability coming at you to establish a safety committee with five pediatricians and other experts, I gather? Why did it take this long if safety is a cultural hallmark of your company?

Mr. KREIZ. Well, we always aim to improve. And I can tell you that this committee specifically was been in the works for many months before until we identified the right doctors, the right pedia-

tricians with the highest qualifications we could find that we believe would be a very important support in our safety practices.

Mr. SARBANES. Well, what I understand from the record is this search for the pediatricians, the highest standard and expertise, is one that you had completely abandoned or never actually undertaken previously, because the people advising you on the particular product that we're looking at today didn't seem to meet that standard.

So I'm glad you've done it but it troubles me that you only set this thing up, in a sense, after the fact and I think the standard by which you're seeking to operate now is in effect an admission that the standard that you were using previously was woefully inadequate.

And I'm going return what I said at the front of this call, because I still think it's an accurate description. I think until you got called out significantly on the dangers around this product, the view from inside the company—now hopefully it's not a cultural perspective but if it is, it needs to be cleaned up. The view from inside the company is, if there's loss of life, that's a cost of doing business.

With that, I yield back my time, Madam Chair.

Chairwoman MALONEY. The gentleman yields back.

Before we close, I want to offer Mr. Cloud an opportunity to offer any closing remarks he may have.

Mr. Cloud, you are now recognized.

Mr. CLOUD. I just want to thank the chairwoman for this topic. As you know, has been mentioned, this is an extremely important topic. Nothing could be more concerning than safety, security of our children when buying one of these products.

Also just want to echo we would love to be able to collaborate on these sort of topics. And so as many committee members have mentioned, the ability for us to be able to be involved in the process, even from a committee level in preparing reports and such, and to get them in advance in such a way that we could have time to review them before hearings on said reports would be extremely helpful.

And it's also been mentioned that there's a number of topics that we were ready to address in the last—in the last term under a different administration that this committee has not been willing to take up during this term and they're as much as important to the American people now as they were then. Many of the issues have only gotten worse and, therefore, need to be addressed even more and so I would just, as we continue to move forward, continue to urge that those topics be taken up in future committee hearings.

Thank you for the testimony today. Thank you for being here to work with us on this issue. We look forward to continued discussions on this.

Thank you very much, Chairwoman.

Chairwoman MALONEY. The gentleman yields back and I thank you and I now recognize myself.

I would like to thank our witnesses for their testimony today and Mattel for cooperating with the committee's investigation.

Before I close, I would like to enter into the record letters and statements the committee received including one from a mother whose daughter died while she was in a Rock 'n Play and a sev-

eral others regarding the flaws in Federal oversight of consumer product safety.

I ask unanimous consents that these materials be placed in the record as part of the official hearing.

So ordered.

Chairwoman MALONEY. I am appalled by the conduct of this company in selling a product for 10 years, despite the company knowing the risk to infants. Fisher-Price admitted here today for the first time 97 infants died in the Rock 'n Play. That is nearly twice the number of deaths previously reported, and it's nearly seen times the number that Fisher-Price admitted to CPSC in 2018 when it was fighting tooth and nail—they were fighting to stop the recall.

It is clear that Fisher-Price has not been honest with the American public, with the American parents about the danger of this product.

So, Mr. Kreiz, Mr. Scothon, I am asking your company provide complete records on every single death in the Rock n' Play Sleeper you sold, regardless of where these babies died. We also need records of all infants who died in your company's other products including sleepers, rockers, or gliders.

Mr. Kreiz and Mr. Scothon, will you commit to providing those documents to the committee by the end of the week? Will you?

Mr. KREIZ. We're happy to cooperate and I can't commit to provide all documents, if they're not available, but we will do whatever we can to comply with your request.

Chairwoman MALONEY. By the way, I want to be clear that I hold the Federal Government to the very same standard. And just this last week I reintroduced 3716, along with Congresswoman Pressley, with whom I've worked on the Children's Protection Act. Right now, Federal agencies are not required to analyze or disclose the impact of regulatory changes on children, and they rarely provide evidence that their policies do no harm to Americans's youth.

Mr. Kreiz, do you think the Federal Government should be required to perform such analysis and disclosures before Federal rules go into effect? Mr. Kreiz.

Mr. KREIZ. We will do whatever we can do support your actions and your recommendations. We share a common interest and a common commitment to safety, and we will do whatever we can from our side to support you and collaborate with you.

Chairwoman MALONEY. Well, I firmly believe that this rigorous analysis and transparency is critical, which is why H.R. 3716 would require Federal agencies to undertake a childhood trauma impact study before a rule is finalized to ensure the health and well-being of all children are prioritized.

These analyses would be conducted by review panels with expertise in children's health and education, as well as experience in advocating for the health and welfare of all children.

It is absolutely crucial that the actions of industry and government alike are informed by expert analysis when it comes to the health and well-being of children before it is too late.

Had Mattel done adequate research before bringing this product to market, if they had conducted interviews with licensed pediatricians, disclosed infant deaths to the public when they learned

about them, or agreed to recall it earlier, lives of children would have been saved.

With the two new recalls announced just last week, we now know that Mattel also left other products on the market that posed the same dangers as Rock 'n Play and more infants have died. Enough is enough. We need to put people before profits.

The committee's investigation and today's testimony show what happens when corporations hold the power to set the safety standards for their own products, to withhold information from consumers, and to delay recalls for months or even years to protect their bottom line.

CPSC's new rule banning infant inclined sleepers is an important step toward getting these dangerous products off the market, but the new rule is not enough to protect consumers from other dangerous products in the future.

CPSC needs stronger oversight and enforcement tools so that parents can buy products for their children without fear of lurking dangers. The Consumer Product Safety Act was enacted to protect consumers, but it is clearly falling short and not working. Congress must act to strengthen this law and protect Americans from dangerous products.

Thank you and in closing I want to thank our panelists for their remarks and I want to commend my colleagues for participating in this important conversation.

With that and without objection, all members will have five legislative days within which to submit extraneous materials and to submit additional written questions for the witnesses to the chair which will be forwarded to the witnesses for their response. I ask our witnesses to please respond as promptly as you can.

This hearing is adjourned.

[Whereupon, at 1:44 p.m., the committee was adjourned.]

