



16 August 2021

Director, Infant Inclined Products Market Review  
Consumer Product Safety Division  
Australian Competition & Consumer Commission  
via email: [IIPMarketReview@accc.gov.au](mailto:IIPMarketReview@accc.gov.au)

**Dear ACCC,**

**RE: Issues Paper on Infant Inclined Products**

CHOICE welcomes the ACCC's review of infant inclined products and the proposed options to mitigate the risk of infant death or injury that these products present.

**Key recommendations**

- CHOICE strongly supports a prohibition on inclined sleep products. These products do not comply with the medical recommendation that infants sleep on a flat, firm surface to avoid asphyxiation and suffocation.
- Other interventions will be less effective than a prohibition. If a prohibition isn't implemented, the ACCC should progress with other regulatory options such as warning labelling and increased consumer awareness.
- The fact that infant inclined sleep products are currently available on the market despite medical advice provides an example of the need for a General Safety Provision in the Australian Consumer Law.

Please find below CHOICE's responses to relevant questions raised in the Issues Paper.

**1. Do you consider the definitions and categorisation of Infant Inclined Products in Table 1 are accurate? Are there additional categories that should be added, removed or excluded?**

CHOICE agrees with the proposed definitions presented in Table 1. However, the definition of 'Inclined Non-Sleep Products' should recognise how consumers commonly use these products as well as manufacturer intent for use. The definition should also include a statement that these products are commonly used by consumers for sleep, regardless of whether they are designed, intended, marketed or contain representations that they are for sleep.

**2. What data or information can you provide about the number and type of product lines sold in Australia that might be considered an Inclined Sleep Product and/or Inclined Non-Sleep Product? Of those products how many: (a) would be categorised as such due to marketing claims? (b) comply with a relevant international mandatory or voluntary standard or international regulations?**

57 Carrington Road Marrickville NSW 2204

Phone 02 9577 3333 | Fax 02 9577 3377 | Email [campaigns@choice.com.au](mailto:campaigns@choice.com.au) | [www.choice.com.au](http://www.choice.com.au)

*The Australian Consumers' Association is a not-for-profit company limited by guarantee. ABN 72 000 281 925 ACN 000 281 925*

CHOICE does not test a majority of products outlined in Table 1. However, we can provide CHOICE's testing data on inclined non-sleep products such as prams and strollers<sup>1</sup> and high chairs<sup>2</sup>. Prams and strollers are tested to mandatory and voluntary Australian standards. High chairs are tested to the Australian standard, which requires compliance with an international standard; CHOICE uses the European standard as a reference. CHOICE categorises failure as serious, minor or very minor based on in-house criteria.

**5. Do you consider that parents and carers of infants are sufficiently educated on safe sleeping practices generally, and also specifically in relation to Infant Inclined Products? If so, who are the leading providers of this education? Do you consider that increased consumer education is required?**

Unfortunately, due to the lack of a General Safety Provision in the consumer law, the onus is largely and inappropriately on consumers to ensure the safety of products they buy. CHOICE is aware of Red Nose's work in raising awareness and providing guidance on safe sleeping practices, as well as the work of KidSafe. CHOICE would be happy to work in partnership with child safety groups to promote increased awareness of safe sleeping practices and safe sleep products.

Consumer education on safe sleeping practices could also be provided online via parenting websites, and in person at child and family health nurse locations, government service locations e.g. Centrelink, and retail suppliers of infant products.

**8. What measures could be taken to improve recall return rates of Infant Inclined Products and other products more generally? What barriers are there for consumers returning recalled Infant Inclined Products and do you consider these apply to all children's products?**

Challenges that apply to other product recalls also exist for infant inclined products. For example, consumers may not be notified of the recall because the suppliers do not have their contact details or may be hard to contact. Equally, suppliers may not display the recall notices in highly visible places or for long durations of time, which limits the effectiveness of the recall.

The barriers for returning the product may also be too high for the consumer or they may not understand that they are entitled to a remedy, and choose to keep the product instead. General education campaigns on consumer guarantees may increase recall return rates. Manufacturers or suppliers could also assist in retrieving the recalled product by organising for its pick up or postage.

The ACCC may consider working in partnership with prominent parents/carers websites or groups to get recall information out to parenting networks.

An additional risk to consider is that recalled products may be available for sale on online marketplaces, for example in buy, swap, sell groups for parents, which may keep the product in circulation and is difficult for regulators and manufacturers to monitor. In these situations, the trader may not know the

---

<sup>1</sup> CHOICE 2021, *How we test prams and strollers*,

<https://www.choice.com.au/babies-and-kids/baby-transport/strollers-and-tricycles/articles/how-we-test-prams-and-strollers>

<sup>2</sup> CHOICE 2021, *How we test high chairs*,

<https://www.choice.com.au/babies-and-kids/baby-furniture/change-tables-high-chairs-and-playpens/articles/how-we-test-high-chairs>

risks of the product that they are onselling. The onus would lie with the online platform facilitating the trade to monitor for recalled products available for sale.

**10. To what extent do international standards or regulations address the safety risks associated with Infant Inclined Products? Please provide the reasons for your response.**

CHOICE is aware of New Zealand and Canada's move to prevent sale of unsafe inclined sleep products with an incline of more than 7 degrees. CHOICE would support similar regulations introduced in Australia, provided there is overwhelming medical advice that any incline permitted in a sleep product is appropriate for safe infant sleep. Without this evidence, a permanent prohibition on the sale of inclined sleep products is the most appropriate intervention.

**11. Do you consider that any of the following regulatory responses would prevent injuries or fatalities from Inclined Infant Products in Australia, either on their own or as part of a combined approach?**

**(a) a prohibition on the sale of Inclined Sleep Products (either temporary or permanent)**

CHOICE has chosen not to test inclined sleep products so as not to promote them as a viable option for safe sleeping. CHOICE's preferred regulatory intervention is a permanent prohibition on the sale of inclined sleep products so as to reduce the risk of infant death or injury.

**(b) a mandatory safety standard for Inclined Sleep Products and/or Inclined Non-Sleep Products**

In the absence of a permanent prohibition on the sale of inclined sleep products, CHOICE proposes an interim ban on the sale of inclined sleep products with the ACCC to monitor and incorporate learnings from the New Zealand, Canadian and American regulatory responses, where these are found to be effective. Provided medical expertise and the experience in other jurisdictions is taken into consideration when developing the standards, CHOICE would consider supporting separate mandatory safety standards for inclined sleep and non-sleep products over time.

**(c) a mandatory information standard for Inclined Sleep Products and/or Inclined Non-Sleep Products**

A mandatory information standard is CHOICE's least preferred option for inclined sleep products as it would not address the risk inherent in these products. However, warning and advice labels could be useful in combination with another regulatory response for both inclined sleep and non-sleep products.

**15. Please provide any other information you consider may be relevant to the ACCC's policy considerations in relation to a response to the risks associated with Infant Inclined Products.**

CHOICE supports the introduction of a General Safety Provision in the Australian Consumer Law to stem the flow of unsafe products into the Australian market.<sup>3</sup> As seen in the UK and EU, a General Safety Provision would assist in reducing the risk of unsafe products, like infant inclined products, from being available for sale in the first place. CHOICE notes that the Treasury considered the General Safety Provision in its 2019 review of the product safety system. CHOICE urges the Australian

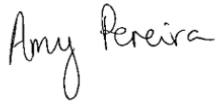
---

<sup>3</sup> CHOICE 2019, [CHOICE and CALC submission to Treasury on their review of the product safety system](#).

Government to progress this important reform and bring the Australian product safety system in line with its international counterparts.

For further information please contact CHOICE on [apereira@choice.com.au](mailto:apereira@choice.com.au)

Yours sincerely,



**Amy Pereira**

Product Safety Campaigner

**57 Carrington Road Marrickville NSW 2204**

**Phone 02 9577 3333 | Fax 02 9577 3377 | Email [campaigns@choice.com.au](mailto:campaigns@choice.com.au) | [www.choice.com.au](http://www.choice.com.au)**

*The Australian Consumers' Association is a not-for-profit company limited by guarantee. ABN 72 000 281 925 ACN 000 281 925*