



Infant Sleep Products

Consultation Paper

August 2022

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Glossary

| Term | Definition |
|--|---|
| ACCC | Australian Competition and Consumer Commission |
| ACL | Australian Consumer Law, Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth) |
| Infant | A child of less than 12 months of age |
| CCA | <i>Competition and Consumer Act 2010</i> (Cth) |
| Expert Reports | ACCC procured expert reports from Dr Tom Whyte, a biomechanical engineer and Professor Rosemary Horne, a paediatrician, asked to comment on the risks identified in the Mannen Report |
| Folding Cots Mandatory Standard | The mandatory standard for Folding Cots (<i>Consumer Product Safety Standard for Children's Portable Folding Cots 2008</i>) |
| Household Cots Mandatory Standard | The mandatory standard for Household Cots (<i>Consumer Product Safety Standard: Children's Household Cots 2005</i>) |
| Issues Paper | Infant Inclined Products Issues Paper published by the ACCC on 19 July 2021 |
| Inclined Sleep Products | An inclined product for infants that position the infant's head above the horizontal, which is designed, intended, marketed or contains representations that it is suitable for infant sleep, including to soothe or settle |
| Inclined Non-sleep Products | An inclined product for infants that position the infant's head above the horizontal, which is not designed, intended, marketed or contain any representations that it is suitable for sleep, but where an infant may still fall asleep |
| Infant Sleep Products | Any product for infants that has a surface on which infants lie which create a sleep environment, including to soothe or settle, including Inclined Sleep Products |
| Interim ban | A ban that prohibits a product from being supplied in Australia for a limited period of time |
| Mandatory information standard | Ensures consumers are provided with important information about a product |
| Mandatory safety standard | Specifies minimum requirements products must meet before being supplied |
| Mannen Report | The report by Erin Mannen PhD commissioned by the United States Consumer Product Safety Commission and published on 25 October 2019 to evaluate the design of Inclined Sleep Products |
| Permanent ban | A ban that prohibits a product from being supplied in Australia indefinitely |
| Prone position | Lying flat on the stomach |

| | |
|------------------------|--|
| SIDS | Sudden Infant Death Syndrome (SIDS) is a subset of Sudden Unexpected Deaths in Infancy (SUDI). Deaths are classified as SIDS where there is no cause that can be found for the death ¹ |
| SUDI | Sudden Unexpected Deaths in Infancy (SUDI) is an umbrella term used to describe the sudden and unexpected death of an infant where the cause is not immediately obvious unless an autopsy is conducted. Following investigation, some deaths may be explained by existing health conditions, genetic disorders or other known causes such as suffocation. Some deaths may remain unexplained and are then attributed to Sudden Infant Death Syndrome (SIDS) ² |
| Supine position | Lying flat on the back |
| US-CPSC | United States Consumer Product Safety Commission |

¹ Red Nose, [What does Sudden Unexpected Death in Infancy \(SUDI\) mean?](#), Red Nose website, 4 October 2016, accessed 9 July 2021.

² Red Nose, [What does Sudden Unexpected Death in Infancy \(SUDI\) mean?](#), Red Nose website, 4 October 2016, accessed 9 July 2021.

Have your say

The Australian Competition and Consumer Commission (ACCC) welcomes submissions from interested stakeholders in relation to Infant Sleep Products and Inclined Non-Sleep Products.

This Consultation Paper includes questions that are designed to elicit feedback and information on the proposed options. Respondents may answer some or all of the questions posed, or can raise a matter not explicitly addressed, as long as it is relevant to the safety of Infant Sleep Products or Inclined Non-Sleep Products. Consultation questions are in relevant sections of this paper.

Submissions must be provided on or before **11 September 2022**.

Submissions can be lodged

| | |
|-------------------------|---|
| Online | ACCC Consultation Hub at: consultation.accc.gov.au/ |
| By email or post | Director Infant Inclined Products Australian Competition & Consumer Commission GPO Box 3131 Canberra ACT 2601 |
| Contacts | Kerin Callard Phone: (02) 6243 1007 Email: IIPMarketReview@accc.gov.au |
| Website | productsafety.gov.au |

All submissions will be treated as public documents and published on the ACCC website, www.productsafety.gov.au, unless otherwise requested. Parties wishing to submit confidential information are requested to:

- clearly identify the information that is the subject of the confidentiality claim—the identified information must be genuinely of a confidential nature and not otherwise publicly available.
- provide a non-confidential version of the submission in a form suitable for publication—this public version should identify where confidential information has been redacted.

The ACCC will not disclose the confidential information to third parties, other than advisers or consultants engaged directly by the ACCC, except where permitted or required by law. The general policy of the ACCC on the collection, use and disclosure of information is set out in the [ACCC/AER Information Policy \(June 2014\)](#).

Scope

This consultation relates to all ‘**Infant Sleep Products**’, being any product that has a surface on which an infant may lie which creates a sleep environment, including products that soothe or settle. Examples of Infant Sleep Products include baby hammocks, bassinets, bedside sleepers, household cots and folding cots. Infant Sleep Products includes Inclined Sleep Products (see below).

A specific risk being addressed in this consultation is incline. As such, the ACCC uses the following additional definitions:

- ‘**Inclined Sleep Products**’ being any inclined product for infants that position the infant’s head above the horizontal, which is designed, intended, marketed or contains representations that it is suitable for infant sleep.

Examples of Inclined Sleep Products include inclined sleepers and rockers marketed for sleep.

- ‘**Inclined Non-Sleep Products**’ being any inclined product for infants that position the infant’s head above the horizontal, which is not designed, intended, marketed or contain any representations that it is suitable for sleep, but where an infant may still fall asleep.

Examples of Inclined Non-Sleep Products include infant swings and bouncer seats.

The application of these definitions to a particular product will depend upon an objective assessment of the product and associated marketing and information. For example, a rocker may fall into both definitions depending on whether the packaging or advertising represents the product as appropriate for sleep, including images showing a baby sleeping.

Table 1 illustrates some infant products captured by the product categories.

Exclusions

Some products that may fall within these definitions are already subject to mandatory standards, such as baby walkers, beanbags, prams, strollers, and car seats including capsules.³ We do not propose to apply further regulation to these products.

The ACCC expects sleep accessories would be exempt from any regulation. For example, sleep aid toys, infant pillows and sleep positioning wedges.

Inclined Non-Sleep Products would exclude products where the infant is at 90 degrees from the horizontal such as highchairs or baby seats.








The ACCC also considers medical devices subject to regulation by the Therapeutic Goods Administration and products designed to carry infants on the body of another person (such as slings) should be excluded from the proposed regulation.

Question

1. Do you agree with the definitions, exceptions and categorisation of Infant Sleep Products, Inclined Sleep Products and Inclined Non-Sleep Products? Please explain your answer.

³ More information can be found on the Product Safety Australia [website](#).

Table 1: Images of infant product types

| Product | Product Example | Product | Product Example |
|---------------|---|-------------------------------------|--|
| Baby hammock |  | Inclined sleeper/ bouncer/rocker |  |
| Baby lounger |  | Infant swing |  |
| Bassinet |  | Folding cot |  |
| Household cot |  | | |

Executive summary

Implementing strategies to prevent injuries and deaths to infants caused by inclined products that can be used for sleep is an ACCC [Product Safety Priority](#) for 2022-23. These products may include bouncers and rockers.

In 2019 the United States Consumer Product Safety Commission (US-CPSC) reported 1,108 incidents and 73 fatalities from January 2005 to June 2019 in the United States associated with the use of Inclined Sleep Products.⁴ Following this, the US-CPSC commissioned a study by biometrics expert Erin Mannen PhD (the Mannen Report) that conducted testing and evaluated the design of Inclined Sleep Products. The Mannen Report concluded that placing an infant to sleep on an inclined surface may cause suffocation or asphyxiation and ultimately, infant fatalities. The Mannen Report also noted that other design features of sleep products may pose a similar risk such as curvature, rigidity, the material of a product, width and side height. This is consistent with longstanding public health advice to place infants to sleep on their backs on a firm, flat surface.⁵

Infants may inadvertently fall asleep in products not intended for sleep. This includes products that may be purposely or unintentionally used to soothe or settle before sleep. For this reason, the ACCC is concerned about any inclined product that may create a sleep environment.

In July 2021, the ACCC published an [Issues Paper](#) seeking stakeholder feedback on risks associated with Inclined Sleep Products and Inclined Non-Sleep Products and possible options to address those risks. The majority of stakeholders were in favour of at least one form of regulatory intervention to address risks associated with Inclined Sleep Products and Inclined Non-Sleep Products, such as an interim or permanent ban, a mandatory information standard or a safety standard.

Following this, the ACCC procured 2 expert reports from Dr Tom Whyte, a biomechanical engineer and Professor Rosemary Horne, a paediatrician (the Expert Reports), who were asked to comment on the risks identified in the Mannen Report. The Expert Reports confirmed curvature, rigidity and the material used pose a risk to infants and warrant consideration in addition to incline. As a result, the ACCC decided to expand this consultation to all Infant Sleep Products to consider the broader risks associated with infant sleep.

Currently there are no Australian mandatory standards that address the risks associated with incline, curvature, rigidity and material used. There are mandatory safety standards for household cots and folding (portable) cots. However, neither of these standards capture all known risks, and they do not cover all current and emerging Infant Sleep Products such as bassinets or bedside sleepers. As a result, this Consultation Paper will consider whether a holistic standard for all Infant Sleep Products is required to address this regulatory gap.

While some types of Inclined Sleep Products and Inclined Non-Sleep Products are regulated in other jurisdictions, the scope of these standards differ and do not cover all known risks which makes it impractical to adopt any one existing international approach.

⁴ US-CPSC, [CPSC Cautions Consumers Not to Use Inclined Infant Sleep Products](#) [media release], US-CPSC, 31 October 2019, accessed 10 June 2021.

⁵ Red Nose, [Why back to sleep is the safest position for your baby](#), Red Nose website, 27 February 2018, accessed 10 June 2021.

To address the known risks associated with Infant Sleep Products, the ACCC is seeking feedback on the likely effectiveness and cost of the following regulatory and non-regulatory options.

| | |
|------------------------------|--|
| Option 1: | Take no action |
| Option 2: | A safe sleep education campaign |
| Option 3: | Mandatory information standard focusing on the inclined risk in Inclined Sleep Products and Inclined Non-Sleep Products, plus an education campaign |
| Option 4: | Mandatory safety standard focusing on the inclined risk, with a prescribed maximum incline angle of 7 degrees for Infant Sleep Products, plus a mandatory information standard focusing on the inclined risk in Inclined Sleep Products and Inclined Non-Sleep Products and an education campaign |
| Option 5: | Mandatory information standard focusing on all Infant Sleep Products and Inclined Non-Sleep Products, plus an education campaign |
| Option 6 | Mandatory safety standard focusing on all Infant Sleep Products, including general requirements for all Infant Sleep Products and additional specific requirements for discrete product categories (such as household and folding cots), plus a mandatory information standard focusing on all Infant Sleep Products and Inclined Non-Sleep Products, plus an education campaign |
| Option 7 (preferred): | In the short term, implement a permanent ban on the supply of Inclined Sleep Products with an incline greater than 7 degrees, plus Option 6 |

The ACCC's preliminary view is that Option 7 will be the most effective in preventing the risk of injury and death of infants because it will permanently ban the supply of the highest-risk Inclined Sleep Products in the Australian market in the short term while a holistic information standard and safety standard for all Infant Sleep Products are developed, which would:

- introduce testing and design requirements for the risks associated with incline, curvature, rigidity and material used, which are currently unregulated
- include safety information and warnings so consumers are better informed of infant safe sleep practices and related risks
- minimise the likelihood of infants being placed in unsafe sleeping environments
- complement existing educative resources such as Red Nose and the ACCC's Your First Steps [website](#) via a targeted education campaign focusing on safe sleep.

This Consultation Paper is also seeking stakeholder feedback on the existing mandatory safety standards for household cots and folding cots. As the ACCC's preferred option includes developing a holistic safety standard capturing all Infant Sleep Products, it is relevant and appropriate to consult on the efficacy and scope of these existing standards. This is consistent with the ACCC's role in periodically reviewing and updating safety standards. It is envisaged that updates to these standards would occur in conjunction with the outcomes of this Consultation Paper and if a holistic safety standard is developed, would be incorporated into that standard.

The options for consideration in relation to the Household Cots Mandatory Standard and separately the Folding Cots Mandatory Standard are:

| Options | Household Cots Mandatory Standard and Folding Cots Mandatory Standard |
|-------------------------------------|---|
| Option H1 and F1 | No change to the existing standards |
| Option H2 and F2 | Amend by adopting sections of the most recent respective Voluntary Standard |
| Option H3 and F3 | Amend by adopting the entirety of the most recent respective Voluntary Standard |
| Option H4 and F4 (preferred) | Amend by adopting sections of the most recent respective Voluntary Standards and allowing compliance with trusted international standards |

The ACCC will consider stakeholder responses to this Consultation Paper to inform the development of a recommendation to the Minister.

Table 2: Overview of Options

| Response to risks | Option 1 | Option 2 | Option 3 | Option 4 | Option 5 | Option 6 | Option 7 |
|--|----------|----------|----------|----------|----------|----------|----------|
| Education campaign | x | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Mandatory information standard on the inclined risk | x | x | ✓ | ✓ | x | x | x |
| Mandatory information standard focusing on all Infant Sleep Products | x | x | x | x | ✓ | ✓ | ✓ |
| Mandatory safety standard focusing only on the inclined risk, with a prescribed maximum incline angle of 7 degrees for Infant Sleep Products | x | x | x | ✓ | x | x | x |
| Mandatory safety standard focusing on all Infant Sleep Products | x | x | x | x | x | ✓ | ✓ |
| Permanent ban preventing the supply of Inclined Sleep Products with an incline greater than 7 degrees | x | x | x | x | x | x | ✓ |

1. What is the problem we are trying to solve?

1.1. Risks associated with inclined products

As outlined in the Issues Paper, the Mannen Report found infant fatalities in Inclined Sleep Products are likely due to:⁶

- (a) Suffocation, where the mouth and nose are covered by an external factor blocking the infant's airway. Specifically, when infants roll onto their side or stomach, the fabric or padding of the side or base of the product can cause their airways to be blocked.
- (b) Positional asphyxiation, where infants remain in a face-up position and:
 - i. the incline of the product causes the infant's head to fall forward during sleep, pressing the chin down towards the chest (chin to chest position), blocking the airway and reducing oxygen flow over time.
 - ii. the infant's face has partial or near contact with the side of the product, restricting airflow and reduced oxygen, leading to carbon dioxide rebreathing.

The Mannen Report concluded products with an incline angle of 10 degrees or less are likely safe for infant sleep and products with an incline of 20 degrees or greater are not safe for sleep.

The Expert Reports and submissions to the Issues Paper reiterated established safe sleep advice that a firm, flat sleep surface is safest for infants.

The ACCC is also aware that a 1995 Australian study which tested the side to side (horizontal) incline of infant products.⁷ That study found that infants tested on a 5 and 7 degree angle were able to breathe. One of the Expert Reports noted that this may indicate a 7 degree incline is appropriate, given the dynamic nature of infant sleep. It is also relevant to note that New Zealand have imposed a 7 degree incline limit for all Infant Sleep Products.

Imposing a zero-degree limit is impractical from both a regulatory and industry perspective, as it could capture unintended products, does not allow for manufacturing variations and may be difficult to test accurately.

1.2. Additional risks associated with Infant Sleep Products

As stated above, in addition to incline, the Mannen Report made other recommendations that are relevant to the safety of Infant Sleep Products.⁸ These are discussed below, along with the Expert Reports. The ACCC's approach to these risks is detailed in Option 6.

- *Curvature* – the Mannen Report stated there should be no curvature in the back (seat portion) of a product as it increases the suffocation and rebreathing risk when infants roll because their faces are covered by the product.

The Expert Reports agreed curvature of a sleep surface poses a risk and creates an unsafe sleep environment.

- *Rigidity* – the Mannen Report recommended that there should be minimum rigidity of the sleep surface to prevent suffocation. The lack of rigidity of the lying surface and added

⁶ E Mannen, [Biomechanical analysis of inclined sleep products](#) [with corrected pages], US-CPSC, 25 October 2019, accessed 10 June 2021.

⁷ SM Beal, L Moore, M Collett, B Montgomery, C Sprod and A Beal, 'The danger of freely rocking cradles', *Journal of Paediatrics Child Health*, 1995, 31: 38-40, doi: <https://doi.org/10.1111/j.1440-1754.1995.tb02910.x>.

⁸ E Mannen, [Biomechanical analysis of inclined sleep products](#), US-CPSC, 25 October 2019, accessed 10 June 2021.

padding of Inclined Sleep Products could prevent infants from self-correcting if they roll, especially when infants are unlikely to have enough strength to lift their heads to breathe.

The Expert Reports noted a lack of rigidity poses a risk because soft surfaces will not maintain their shape, conforming to the shape of the infant's head which increases the chance of suffocation and carbon dioxide rebreathing.

- *Material* – the Mannen Report stated the material used in Infant Sleep Products should allow airflow to prevent carbon dioxide rebreathing.

The Expert Reports agreed the material of the product can influence the risk of suffocation and carbon dioxide rebreathing. Thin single-layer mesh materials appear to have the lowest risk whilst thick, soft padding has higher rebreathing potential.⁹

- *Width and height of sides* – the Mannen Report noted a minimum product width may prevent infants from rolling, but other factors such as rigidity, curvature and incline limit likely reduce the horizontal space needed for infants to roll. Additionally, the height of the sides may affect infant safety, but further research is required to define a minimum safe height and width.

The Expert Reports considered there to be insufficient scientific evidence to suggest the width of a product or side height pose a significant risk on their own.

- *Supervision* – Both experts highlight the need for adult supervision of infants placed in inclined products, noting infant fatalities can occur in short timeframes for infants both sleeping and awake.
- *Restraints* – Previous infant fatalities and stakeholder submissions suggest restraints are hazardous.¹⁰

1.2.1. Risks of sleep practices

The ACCC is aware that infants may sleep on many products that are not intended for sleep. For this reason, we have included Inclined Non-Sleep Products in this Consultation Paper. The risks described above in Parts 1.1 and 1.2 apply equally to these products.

The ACCC is also aware loose items such as soft toys pose a risk when placed with an infant for sleep. Public health advice recommends all potential dangers are removed from the infant's sleep environment, including loose items such as blankets or soft toys.¹¹ These products are not subject to this Consultation Paper because the risks relate to safe sleeping practices rather than the product design, but would be covered in the education campaign proposed in Option 2.

1.2.2. Household Cots and Folding Cots Standards

The risks posed by household cots and folding cots are inherently linked to Infant Sleep Products and a safe sleep environment.

As stated above, household cots and folding cots are both covered by mandatory safety standards; the [mandatory standard for Household Cots](#) (*Consumer Product Safety Standard: Children's Household Cots 2005*) (Household Cots Mandatory Standard) and the [mandatory standard for Folding Cots](#) (*Consumer Product Safety Standard for Children's Portable*

⁹ MR Maltese and L Michael, 'Carbon dioxide rebreathing induced by crib bumpers and mesh liners using an infant manikin', *BJM Paediatrics Open*, 2019, 3(1): e000374, doi:10.1136/bmjpo-2018-000374.

¹⁰ Dr Ruth Barker et al, '[Collaborative response to Infant Inclined products issues paper: Sept 2021](#)', *ACCC Infant Inclined Products Issues Paper*, 19 July 2021, accessed 1 July 2022, p 2.

¹¹ Red Nose, [What is a safe sleeping environment for your baby?](#), Red Nose website, 7 March 2022, accessed 16 June 2022.

Folding Cots 2008) (Folding Cots Mandatory Standard). These standards were introduced to reduce the risk of injuries associated with the products, including:

- the risk of head, neck or limb entrapment, by regulating gap sizes
- the risk of entrapment in folding and locking mechanisms
- the risk of entrapment and suffocation from mattresses, by requiring them to neatly fit the base of the cot
- the risk of strangulation caused by infant clothing being caught, by prohibiting protrusions and snag points
- the risk of falls by removing the possibility of footholds and establishing minimum side height requirements.

The Household Cots Mandatory Standard and Folding Cots Mandatory Standard have minimum safety requirements for construction, design, performance labelling and include mandatory safety warnings and labelling about safe use.

1.3. Australian infant fatalities

In Australia, incident data relating to infant products is difficult to obtain due to a number of factors, including:

- the absence of an Australian national injury database
- infant fatalities usually cannot be conclusively attributed to a certain product due to difficulties in interpreting the cause of death
- near-miss incidents and fatalities are generally not reported because they do not meet the threshold for [mandatory reporting to the ACCC](#).

As a result of these limitations, the ACCC has developed the following method to estimate infant fatalities by Infant Sleep Products.

During previous consultation about the risk of incline, medical stakeholders advised incidents are likely to either result in a fatality or are unlikely to be serious enough to warrant medical attention or reporting. For this reason, the focus of the incident data is on fatalities and not injuries or near-misses.

There are a number of indirect factors associated with Sudden Unexpected Deaths in Infants (SUDI) or Sudden Infant Death Syndrome (SIDS), such as family circumstances, sleep environment and socio-economic status. SUDI occurs unexpectedly with no immediately obvious cause, but the cause of death can be determined following investigation (e.g. asphyxiation). SIDS is a subset of SUDI where no cause of death has been identified, meaning other health and environmental factors have been ruled out.

Based on the above understanding of how fatalities occur in Infant Sleep Products, the ACCC sought data relating to infant fatalities that cannot be attributed to any other cause of death, that occurred while sleeping in an infant products. We have assumed the product is a causative link for SUDI and SIDS. The ACCC acknowledges there are limitations with this approach, detailed in **Appendix 1**. However, due to difficulties in determining the cause of death, this approach was used to provide the basis of calculating the number of fatalities that have occurred in Australia for Infant Sleep Products and Inclined Sleep Products.

Based on data collected from ACT, NSW, Vic, Qld, Tas and SA, we estimated the total number of infant fatalities in Australia attributable to Infant Sleep Products and Inclined Sleep Products separately:

- **0.968** infant fatalities per year for Infant Sleep Products (excluding Inclined Sleep Products), and

- **1.87** infant fatalities per year for Inclined Sleep Products.

The calculation methods, limitations and assumptions associated with our approach are set out in **Appendix 1**, noting that the exact calculations have been omitted for confidentiality reasons.

The calculated total fatalities per year are an estimation, noting there are many factors which contribute to an infant's death and there are limitations in the data available.

For the purpose of these calculations, any Infant Sleep Product with an incline has been classified as an Inclined Sleep Product. It is not possible to access information about the exact product involved precisely meet our product definitions, for example whether the product is marketed for sleep. As a result, there is no discrete calculation of fatalities caused by Inclined Non-Sleep Products and these may be captured within the fatalities for Inclined Sleep Products. Additionally, Inclined Non-Sleep Products are broad, making identification of related deaths difficult.

For context, a total of 799 infant fatalities occurred in Australia in 2020.¹² As noted above, there were 73 infant fatalities in the United States between January 2005 and June 2019 caused by Inclined Sleep Products. This United States data was not used to estimate an Australia figure due to the difference in products available in the market, and population, socio-economic and behavioural differences.

Table 3: Summary of fatalities likely attributed to Infant Sleep Products and inclined surfaces between 2001 – June 2021 in the ACT, NSW, Qld, SA, Tas and Vic

| Sleep surface ¹³ | Total fatalities |
|--|------------------|
| Infant Sleep Products | |
| Baby lounger | 1 |
| Cot | 4 |
| Folding cot | 4 |
| Infant bed | 1 |
| Inflatable bed | 1 |
| Mattress | 1 |
| Inclined Sleep Products | |
| Beanbag | 2 |
| Bouncer | 4 |
| Cot elevated (tilted) | 5 |
| Hammock | 2 |
| Infant swing/rocker | 9 |
| Out of scope | |
| Anti-roll pillow or sleep positioner wedge | 14 |
| Propped on items (including pillows) | 112 |
| Total fatalities | 160 |

¹² Australian Bureau of Statistics (ABS), [Data explorer](#), ABS website, n.d., accessed 8 August 2022.

¹³ This data includes fatalities where other factors were present such as respiratory infections or other diseases, which could not have been a sole cause death.

There are a few things to note about this data:

- A significant portion of these fatalities are attributed to anti-roll pillows, sleep positioners and infants propped on items. These products and practices are not included in the scope of this consultation due to limitations in regulating sleep practices. Therefore, those figures were not included in the calculation of infant fatalities. However, they highlight the risks associated with soft inclined surfaces and would be addressed to some extent through an education campaign and information standards.
- There have been a small number of fatalities associated with cots which may indicate the existing safety standards are effective.

Questions

2. Do you have any additional comments on the risks associated with Infant Sleep Products? Please explain.
3. Do you have any data about injuries or fatalities caused by Infant Sleep Products, Inclined Sleep Products or Inclined Non-Sleep Products? If so, please provide it to the ACCC.

2. Previous Stakeholder Consultation

2.1. Inclined Sleep Products and Inclined Non-Sleep Products

Previous consultation and responses to the Issues Paper have contributed to the ACCC's consideration of this issue. Stakeholders have expressed concerns with the risks associated with infants sleeping at an incline and this risk in the Australian market:

- Medical professionals agree Inclined Sleep Products and Inclined Non-Sleep Products should not be used for sleep because of the risk, noting Inclined Sleep Products contradict public health advice for infants to sleep on their backs on a firm, flat surface.
- Industry stakeholders advised Inclined Sleep Products and Inclined Non-Sleep Products sold in Australia comply with the United States or European voluntary standards in the absence of an Australian Standard (see discussion of international standards below on page 8), some of which include limits on incline angle.

The ACCC received 27 submissions in response to the [Issues Paper](#), from a broad range of stakeholders including manufacturers, government agencies, international bodies, advocacy organisations, businesses, consumers and health professionals. Overall:

- The majority of stakeholders were in favour of at least one form of regulatory intervention. There was no significant stakeholder opposition to the options outlined in the Issues Paper being an interim or permanent ban, a mandatory information and/or a safety standard.
- There was a reasonable degree of consensus supporting banning Inclined Sleep Products and/or regulating Inclined Sleep Products and Inclined Non-Sleep Products by way of a mandatory safety standard. However, there were differences between industry and consumer groups about whether a potential regulation should apply to Inclined Sleep Products only, or to both Inclined Sleep Products and Inclined Non-Sleep Products. Where stakeholders supported a mandatory safety standard, they did not tend to specify what design aspects should be included.
- Several stakeholders supported the use of labels/warnings against unsafe or unsupervised sleep in Inclined Non-Sleep Products, in addition to a ban or mandatory safety standard for Inclined Sleep Products.

- Most stakeholders supported increased consumer education.

Submissions are publicly available on the [ACCC Consultation Hub](#).

2.2. Household cots

The Household Cots Mandatory Standard is based on the 2003 voluntary Australian standard for household cots (AS/NZS 2172:2003 Cots for household use - safety requirements) (Household Cots Voluntary Standard).

However, since the establishment of the Household Cots Mandatory Standard in 2005 the Household Cots Voluntary Standard was updated in 2010 and 2013. These updates included new test procedures for the strength and integrity of cots with drop sides and requirements for mattress firmness. As the Household Cots Mandatory Standard still references the 2003 version it does not capture these requirements.

Public consultations on the Household Cots Mandatory Standard were conducted in 2014 and 2016:

- In 2014, stakeholder responses supported inclusion of the voluntary standard for mattress firmness (AS/NZS 8811.1:2013 Methods of testing infant products, Method 1: Sleep Surfaces – Test for firmness) (Voluntary Infant Mattress Standard), which requires mattresses to meet a minimum rigidity by assessing whether infant sleep surfaces exhibit excessive compression when subject to constant applied force. This is incorporated in the 2013 version of the Household Cots Voluntary Standard. Stakeholders supported the inclusion of the Voluntary Infant Mattress Standard to apply to all infant mattresses supplied either with the cot or mattresses supplied separately, mattresses in folding cots and other sleep products where a mattress is included.
- In 2016, stakeholder responses reinforced support for inclusion of the Voluntary Infant Mattress Standard and for the Household Cots Mandatory Standard to reflect the current version of the voluntary standards.

However, revisions to the Household Cots Mandatory Standard were delayed. As a result, the options outlined below in Part 5 seek to consult on updates to the Household Cots Mandatory Standard, whether that is done as part of a holistic sleep standard or as a separate process.

2.3. Folding cots

The Folding Cots Mandatory Standard is based on the 1999 voluntary Australian standard for folding cots (AS/NZS 2195:1999 Folding cots – Safety requirements) (Folding Cots Voluntary Standard).

Since the introduction of the Folding Cots Mandatory Standard, the Folding Cots Voluntary Standard was updated in 2010 to include requirements for folding cots to have breathable materials, including the mattress and flexible sides. However, as the Folding Cots Mandatory Standard still references the 1999 version it does not capture these requirements.

There has been no public consultation on the Folding Cots Mandatory Standard. As a result, the options outlined below in Part 5 seek to consult on updates to the Folding Cots Mandatory Standard, whether that is done as part of a holistic standard for Infant Sleep Products or as a separate process.

3. The need for government intervention

The Australian product safety regime does not have a general safety provision that prohibits unsafe goods being supplied or any mandatory standards which specifically capture all Infant Sleep Products. There is currently no single Australian or international standard that can be adopted to address all risks identified for Infant Sleep Products.

3.1. Australian standards

Appendix 2 summarises key components of the 3 relevant existing Australian standards.

As outlined above, there are 2 relevant mandatory safety standards, being the Household Cots Mandatory Standard and the Folding Cots Mandatory Standard. Separate to mandatory standards, suppliers can choose to also comply with relevant voluntary standards. Voluntary standards are developed by non-government bodies such as [Standards Australia](#) or the [International Organization of Standardization](#). The only relevant Australian voluntary standard is AS/NZS 4385:1996 Infant's rocking cradles – Safety requirements which is largely obsolete.

None of these standards address the risks identified above. There is a regulatory gap for all other Infant Sleep Products, including common products such as bassinets.

3.2. International standards and regulations

Appendix 3 summarises key components of international standards and regulations that are relevant to the safety risks associated with Infant Sleep Products.

Internationally, some countries regulate the safety of Infant Sleep Products through general safety provisions, others do so through product specific regulations. For example:

- The European Union and the United Kingdom do not have regulations that directly address Infant Sleep Products but rely on its general safety provisions and voluntary standards. There is a voluntary standard that addresses rigidity of mattresses for cots and cribs including test requirements.¹⁴ Additionally, there is a voluntary standard for Cribs and Cradles that has an incline limit of 10 degrees.¹⁵ European voluntary standards do not address curvature or material.
- Canada's *Cribs, Cradles and Bassinets Regulations (CA)* capture all infant products that create a sleep environment and effectively bans sleep products with an incline greater than 7 degrees. These regulations also include requirements for the height of the sides of a product, stability, material used and warning labels.¹⁶ These regulations do not address mattress rigidity.
- The United States' recent *Safe Sleep for Babies Act 2019 (US)* requires Infant Sleep Products to be tested to ensure the incline is less than 10 degrees, or comply with one of the following pre-existing mandatory standards:
 - bassinets and cradles
 - bedside sleepers
 - crib mattresses
 - full-size cribs

¹⁴ European Standards, 'Children's furniture - Mattress for cots and cribs – Safety requirements and test methods (EN 16890:2017)', 2017.

¹⁵ European Standards, 'Children's furniture – Cribs – Safety requirements and test methods (EN1130:2019)', 2019.

¹⁶ *Canada Consumer Product Safety Act*, *Cribs, Cradles and Bassinets Regulations (SOR/2016-152)*; Beal et al., 'The danger of freely rocking cradles'.

- non-full-size cribs.

There are no requirements for curvature or material within any of these mandatory standards. However, there are separate proposed mandatory standards for Inclined Sleep Products and crib mattress standard that will address rigidity which will come into effect this year.

- New Zealand has a permanent ban preventing the sale of Inclined Sleep Products with an incline greater than 7 degrees.¹⁷

These standards do not holistically address all safety risks associated with Infant Sleep Products. Therefore, the ACCC considers adopting any one of these existing international standards would not address the scope of risks posed by Infant Sleep Products, but any proposed regulation may be able to draw requirements from various standards.

The ACCC will continue to consider and adopt overseas standards where appropriate. The Commonwealth Treasury is currently progressing a policy proposal to recognise up-to-date trusted overseas voluntary standards in Australia. In December 2021, the Commonwealth Treasury undertook [public consultation](#) on proposed options to amend the Australian Consumer Law (ACL) to allow mandatory standards to more effectively recognise overseas standards, and allow compliance with the most up to date version of referenced Australian and overseas standards.¹⁸

3.3. What government action can do to address the problem

The Australian consumer product safety framework is underpinned by the ACL, where the responsible Commonwealth Minister has regulatory options to prevent and reduce the risks associated with consumer goods. Options available to the Minister include:

- a mandatory safety standard under section 104 of the ACL¹⁹
- a mandatory information standard under section 134 of the ACL²⁰
- interim and permanent bans on products of a particular kind under section 109 and 114 respectively²¹
- a safety warning notice under section 129 of the ACL.

3.4. Alternatives to government action

Industry self-regulation activities are the primary alternative to mandatory regulation by government. The ACCC is not aware of any broad self-regulation in relation to the risks identified in this paper. The ACCC is aware that in June 2022 the Infant Safe Sleep Working Group, comprised of industry, medical, research and consumer advocacy representatives,

¹⁷ Unsafe Goods (Inclined Infant Sleep Products) Indefinite Prohibition Notice 2022 (New Zealand).

¹⁸ Australian Government, [Supporting business through improvements to mandatory regulations under the Australian Consumer Law \(consultation process\)](#), Department of Treasury website, 21 January 2022, accessed 26 May 2022.

¹⁹ Section 104 of the ACL enables the Commonwealth Minister to make a mandatory safety standard imposing certain requirements that 'are reasonably necessary to prevent or reduce risk of injury to any person'. A mandatory safety standard may include requirements for the composition, contents, method of manufacture, design, construction, contents, finish, performance or packaging of consumer goods.

²⁰ Section 134 of the ACL gives the Commonwealth Minister the power to make mandatory information standards to ensure that consumers are provided with important information about a product to assist them in making a purchasing decision. Information standards may specify required information to be supplied and may set out the required form of such information to be supplied. In some instances, an information standard may be used in addition to a safety standard.

²¹ Section 109 of the ACL gives the Commonwealth Minister the power to impose an interim ban on consumer goods of a particular kind if it appears that consumer goods of that kind will or may cause injury to a person or a reasonably foreseeable use or misuse of the product will or may cause injury. Section 114 of the ACL gives the Commonwealth Minister the power to impose a permanent ban by written notice published on the internet if it appears that consumer goods of that kind will or may cause injury to a person or a reasonably foreseeable use or misuse of the product will or may cause injury.

released a '[Best practice guide for the design of safe infant sleeping environments](#)' to provide industry with information on what makes infant sleep environments unsafe and highlights considerations for designing and marketing.

Education and awareness-raising is another alternative to mandatory regulation. In Australia, safe sleeping advice and education is made available to parents and caregivers via:

- The health departments in each state and territory which provide online information and resources. Many have safe sleeping standards or guidelines for healthcare providers to promote consistent safe sleeping practices.²²
- 'SIDS and Kids' are not-for-profit organisations based in South Australia, Tasmania and the Northern Territory.²³ These organisations provide state-based education programs and undertake public awareness campaigns in relation to safe sleep practices.
- Red Nose Australia published safe sleep guidelines that recommend infants sleep on a flat, firm surface to reduce the risk of SIDS.²⁴ This advice is consistent even for infants experiencing gastro-oesophageal reflux and aligns with international best practice and has been consistent for decades.²⁵

The safe sleep guidance for infants to sleep on their back on a firm, flat surface was published in the 1990s, resulting in an 85% reduction in SIDS. Although these sources of information provide general advice to parents and caregivers, the ACCC continues to see products available in the Australian market that do not comply with this advice.

4. Policy options – Infant Sleep Products, Inclined Sleep Products and Inclined Non-Sleep Products

This section outlines the ACCC's proposed policy options and the costs, benefits and limitations associated with each option. The options are listed in the ACCC's view of least to most effective to achieve the overarching objective of reducing infant fatalities related to Infant Sleep Products, Inclined Sleep Products and Inclined Non-Sleep Products.

These options are based on the ACCC's understanding and have been formulated in response to the risks identified in the Mannen Report and the Expert Reports.

The estimated costs and benefits are indicative only and the ACCC invites submissions to inform a quantitative estimate. In particular, the ACCC is unable to estimate the number of products available for sale in the Australian market, which impacts the estimated cost to industry. The ACCC will use responses to this Consultation Paper to inform a fulsome assessment of potential costs and impacts associated with each option, which will include predicting the efficacy of each option on reducing the number of fatalities and other long-term impacts.

Possible options relating to the Household Cots Mandatory Standard and Folding Cots Mandatory Standard have been included separately (see Part 5 and 6) as these relate to

²² SA Government, [Safe infant sleeping standards](#), SA Health website, 2 April 2022, accessed 2 February 2022; Vic Government, [Safe sleeping of infants](#), Vic Department of Health website, 19 February 2020, accessed 2 February 2022; WA Government, [Safe infant sleeping policy](#), WA Department of Health website, 18 April 2019, accessed 2 February 2022; Qld Government, [Safe infant sleeping, co-sleeping and bedsharing – guideline \(document number QH-GDL-362:2013\)](#), Qld Department of Health website, 1 July 2013, accessed 2 February 2022; ACT Government, [Safe Sleeping Guidelines – Neonates and Infants \(CHHS17/197\)](#), ACT Health website, 10 August 2017, accessed 2 February 2022.

²³ SIDS and Kids SA, [About SIDS and Kids SA](#), SIDS and Kids SA website, n.d., accessed 2 February 2022.

²⁴ Red Nose, [Why should you sleep your baby on their back?](#), Red Nose website, 22 February 2022, initially accessed 2 February 2022.

²⁵ In the United Kingdom, the Lullaby Trust provides similar advice on the best sleeping position for infants; The Lullaby Trust, [The best sleeping position for your baby](#), The Lullaby Trust website, n.d., accessed 2 February 2022.

existing regulations. However, the ACCC anticipates any updates to those standards would occur in conjunction with the outcomes of this Consultation Paper.

The loss of a child is one of the most extreme stressors that a person can face. There are wide ranging and long-term impacts for families and broader society following the death of an infant. These impacts are very important factors in considering the effect of the proposed options and are difficult to quantify. For example, parental bereavement has been linked to an increase in mortality, physical health issues and reduced mental health.²⁶ Given the difficulty to quantify the costs of these impacts, the ACCC's analysis of impacts and associated cost estimates are considered to be conservative and do not account for qualitative considerations such as emotional distress and long-term psychological impacts.

Questions

4. Which of the proposed options do you prefer and why?
5. Do you think there any other options not included in this Consultation Paper the ACCC ought to consider and why?
6. What are the likely costs to implement the requirements for each option for industry? Please outline how this would impact the price and availability of products for consumers.
7. How many units and product lines do you anticipate would be affected by each option?
8. Where possible, please provide further information about the likely costs or impacts for each of the proposed options.

4.1. Option 1: Take no action

Option 1: No regulatory changes.

Under the status quo, the risks associated with incline, curvature, rigidity and material would not be addressed and many Infant Sleep Products would continue to be unregulated, including bassinets.

Given international developments relating to Infant Sleep Products, particularly by the United States, suppliers may self-regulate by adopting voluntary or international standards that address some of the risks associated with Infant Sleep Products.

4.1.1. Estimated costs

No regulatory costs would be imposed on industry or consumers if the status quo is maintained. However, if no government action is taken, it is estimated that 0.968 fatalities associated with Infant Sleep Products and 1.87 fatalities associated with Inclined Sleep Products and Inclined Non-Sleep Products will continue to occur each year.

According to the Office of Best Practice Regulation Guidance Note, the Value of Statistical Life (VSL) is most appropriately measured by estimating how much society is willing to pay to reduce the risk of death. Based on international and Australian research a credible estimate of the value of statistical life is \$5.1m in 2021 dollars.²⁷ The VSL figure allows for the potential monetary costs and benefits of regulatory options to be compared.

²⁶ JR Duncan, RW Byard and editors, *SIDS Sudden Infant and Early Childhood Death: The past, the present and the future*, University of Adelaide Press, Adelaide, 2018.

²⁷ Australian Government, [Best Practice Regulation Guidance Note Value of statistical life](#), Office of Best Practice Regulation website, 1 September 2021, accessed 9 June 2022.

Using this framework, with no regulatory intervention, the value of statistical lives lost is estimated as \$14.47 million per year.

Table 4: Estimated costs of no action

| | |
|---|---------------------------------|
| Value of Statistical Life (VSL) | \$5.1 million (2021 dollars) |
| Estimated deaths associated with Infant Sleep Products per year | 0.968 fatalities |
| Estimated deaths associated with Inclined Sleep Products and Inclined Non-Sleep Products per year | 1.87 fatalities |
| Total | \$14.47 million per year |

4.2. Option 2: Education campaign

Option 2: Implement a safe sleep consumer education campaign

A safe sleep consumer education campaign would seek to ensure that new parents and caregivers are aware of the various risks associated with infant sleep, including those posed by incline, curvature, rigidity and material used and would outline risk mitigation strategies. An education campaign would respond to the risks by targeting first time parents through online platforms, social media and information provided at hospitals and by key infant safety stakeholders. The ACCC notes this option would not remove or address the design risks inherent in Infant Sleep Products or Inclined Sleep Products and Inclined Non-Sleep Products. However, such a campaign would further publicise existing public health advice regarding infant safe sleep, including to refrain from placing any objects such as soft toys or blankets in the sleep environment.

Most stakeholders who responded to the Issues Paper supported a consumer education campaign.

The ACCC envisions a safe sleep consumer education campaign would complement, rather than duplicate, existing measures, such as Red Nose and the ACCC’s Your First Steps website.

4.2.1. Benefits and limitations

The ACCC considers the benefits and limitations of a safe sleep consumer education campaign are:

| Benefit | Limitation |
|---|--|
| <ul style="list-style-type: none"> Educate parents and caregivers on safe sleep guidance, including at the antenatal stage. Benefits to public health and safety, with increased awareness of safe sleep principles. Encourage behavioural change so that infants would be placed on their backs to sleep on a firm, flat sleep surface in | <ul style="list-style-type: none"> Product safety best practice is that product safety ought to be in manufacturers’ minds during the design stage to identify and eliminate any hazards caused by products which are associated with injuries.²⁸ An education campaign would not necessarily achieve this outcome as it would be consumer focused. Education alone may not be sufficiently effective to create a lasting impact that |

²⁸ Standards Australia, Consumer product safety—Guidelines for suppliers (AS ISO 10377:2017)', 2017, section 3.6.

| Benefit | Limitation |
|---|---|
| <p>accordance with long-standing health advice.</p> <ul style="list-style-type: none"> Encourage caregivers to refrain from using unsafe Infant Sleep Products. Encourage behavioural change so that foreign objects and accessories are not placed in infants' sleep environments. | <p>mitigates against the known risks that are not currently addressed in the Australian product safety framework.</p> |

4.2.2. Estimated costs

Option 2 would impose no costs on industry or consumers.

The ACCC considers an education campaign would need to be widespread to generate awareness of safe sleep messaging and anticipates an education campaign would involve additional costs to government, estimated to be \$200,000.²⁹

The ACCC considers an education campaign would be an effective supplement to the regulatory options outlined below. In isolation, it is unclear what impact an education campaign would achieve to reduce the \$14.47 million per year estimated cost of fatalities associated with Infant Sleep Products. This is particularly the case where safe sleep guidance already exists and does not prevent these products from being sold and does not reach all new parents.

4.3. Option 3: Mandatory information standard – Inclined Sleep Products and Inclined Non-Sleep Products, plus an education campaign

Option 3: In addition to an education campaign (Option 2), introduce a mandatory information standard, focusing only on the incline risk in Inclined Sleep Products and Inclined Non-Sleep Products, that requires safety warnings and information advising against using these products for infant sleep:

- in instructions for use provided with the product
- on a permanently affixed product label and
- on packaging containing the product at the point of sale, including where supplied online.

Option 3 is confined to addressing the incline risk present in Inclined Sleep Products and Inclined Non-Sleep Products and it would not address the other risks identified above.

Although there are some warning label requirements in international standards, they seek to address suffocation risk generally³⁰ or to address the need for supervision.³¹ As such, the ACCC proposes the following information be required:

| Requirement | Inclined Non-Sleep Product | Inclined Sleep Product |
|----------------------|---|---|
| Instructions: | <ul style="list-style-type: none"> warning infant should be placed on their back | <ul style="list-style-type: none"> warning infant should be placed on their back |

²⁹ Australian Toy Association, [Australian Toy Association Submission \(response to ACCC Infant Inclined Products Issues Paper\)](#), ACCC consultation hub website, n.d., accessed 17 February 2021, p 1.

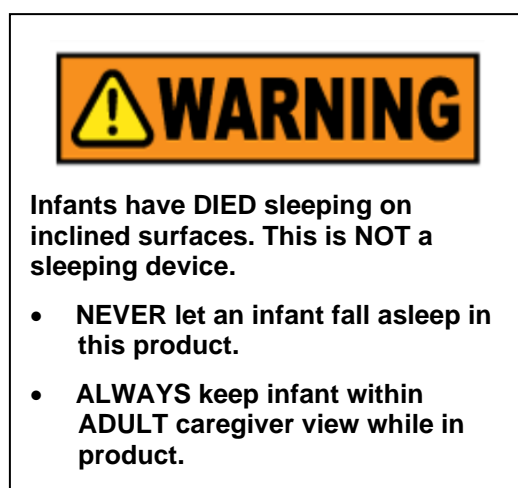
³⁰ ASTM International, '[Standard Consumer Safety Specification for Infant Bouncer Seats \(ASTM F2167-19\)](#)', 2022..

³¹ NSAI Standards, 'Child use and care articles – Reclined cradles (IS EN 12790:2009)', 2009.

| Requirement | Inclined Non-Sleep Product | Inclined Sleep Product |
|---|--|--|
| | <ul style="list-style-type: none"> warning against use for sleep warnings against unsupervised use | <ul style="list-style-type: none"> infants have died sleeping on an inclined angle |
| Product Label: obvious, durable and permanently affixed to the product | <ul style="list-style-type: none"> warning against use for sleep warnings against unsupervised use | <ul style="list-style-type: none"> warning infant should be placed on their back infants have died sleeping on an inclined angle |
| Packaging/point of sale | <ul style="list-style-type: none"> warning against using for sleep warnings against unsupervised use | <ul style="list-style-type: none"> warning infant should be placed on their back infants have died sleeping on an inclined angle |

In 2018 the ACCC commissioned a review of the research relating to the Efficacy of Warning Labels.³² The review confirmed that warning labels can be effective in highlighting hazards to consumers and noted that symbols and text should be provided together to limit the confusion or misinterpretation the display of symbols alone may provide.

An example warning label to be on an Inclined Non-Sleep Product is mocked up below:



4.3.1. Benefits and limitations

The benefits and limitations of Option 3 are outlined below:

| Benefit | Limitation |
|--|--|
| <ul style="list-style-type: none"> Consistent with medical and public health advice relating to safe sleep practices. Ensures health and medical advice is provided to consumers when making purchasing decisions. | <ul style="list-style-type: none"> Would not prevent the highest risk products from being supplied. Existing products and those manufactured during the transition period may become second-hand products, which are unlikely to contain the original instructions or packaging, |

³² A Adams, *The Efficacy of Warning Labels - A review of the research - Update 2018*, ACCC, Australian Government, unpublished, accessed 2 February 2022.

| Benefit | Limitation |
|---|--|
| <ul style="list-style-type: none"> Encourage behavioural change by informing consumers of the risks associated with infants sleeping in an inclined position. Acts as an immediate, affirmative call to action by stating safety advice at the point of sale. Counteracts marketing of bouncers, rockers and swings where there are claims of calming, soothing or sleep. Using a durable label will ensure it lasts for the lifetime of the product which will enable the safety messaging to eventually flow through to second-hand products. | <p>such that second or third owners will not be aware of the warnings or safe use information.</p> |

4.3.2. Estimated costs

Industry would face costs relating to product warnings, packaging changes and instruction manual changes. Initial estimates based on previous ACCC experience indicates compliance costs are:

| | |
|--|--------------------------|
| Cost of product warning label | \$0.20 - \$1.00 per unit |
| Cost to include warnings on product packaging | \$0.05 per unit |
| Cost to include warnings in the instruction manual | \$0.05 per unit |
| Total estimated costs | \$0.30 - \$1.10 per unit |

The ACCC considers that Option 3 would have an impact on reducing the estimated cost of \$14.47 million per year associated with Infant Sleep Products. However, it is difficult to estimate the exact impact due to a number of uncertainties, including around the number of products on the market (this applies equally to all options considered below).

Question

9. Do you suggest any additional warnings be included in the information standard for Inclined Sleep Products and Inclined Non-Sleep Products? Please explain.

4.4. Option 4: Mandatory safety standard – Inclined Risk, plus a mandatory information standard focusing on incline and an education campaign

Option 4: In addition to an education campaign and a mandatory information standard focusing on the incline risk in Inclined Sleep Products and Inclined Non-Sleep Products (Option 2 and 3), introduce a mandatory safety standard focusing on Inclined Sleep Products, with a prescribed maximum incline angle of 7 degrees.

The proposed mandatory safety standard would address the incline angle of Inclined Sleep Products but would not encompass other design features like curvature, rigidity or materials used. The mandatory standard would include the following requirements:

- (a) Inclined Sleep Products have an incline limit no greater than 7 degrees, and

(b) Inclined Sleep Products be required to be tested to ensure compliance with an incline test procedure.

Inclined Non-Sleep Products would not be captured by the mandatory safety standard. However, they would need to comply with content and form of warnings and other safety information specified in Option 3.

4.4.1. Benefits and limitations

In addition to the benefits outlined in Options 2 and 3, the ACCC considers Option 4 has the following benefits and limitations:

| Benefit | Limitation |
|--|--|
| <ul style="list-style-type: none"> The combined and multi-faceted approach involving education, information requirements and design requirements is likely to prevent infant fatalities caused by Inclined Sleep Products. Limiting the angle of Infant Sleep Products is consistent with international approaches in the Canada and New Zealand, which would reduce regulatory burden. Does not impose significant additional design requirements on industry. | <ul style="list-style-type: none"> Inclined Non-Sleep Products would remain available (though with additional information and warnings) and therefore may be used for sleep. Suppliers of Inclined Sleep Products may opt to alter the wording in the marketing of their product, by removing references to soothe or settle, such that this requirement may not apply where the product would then fall into the definition of an Inclined Non-Sleep Product). Other known sleep risks would not be addressed. |

4.4.2. Estimated costs

Under Option 4, it is likely that certain products would require design changes (though less than Option 7). The ACCC considers this may impact a small proportion of the market but notes it is difficult to quantify the number of products this would affect as suppliers may opt to alter the wording in the marketing of their product to ensure this requirement does not apply. Based on the ACCC's experience, we estimate these costs to be:

| | |
|-----------------------|----------------------------|
| Cost of design change | \$155,833 per product line |
| Cost of testing | \$2,640 per product line |
| Total estimated costs | \$158,473 per product line |

The total estimated costs for Option 4 are in addition to the compliance costs to suppliers identified in Option 3, being \$0.30 - \$1.10 per unit.

The ACCC notes that the cost may be less, or not applicable, for suppliers who are already supplying products that comply with existing regulations worldwide.

Question

10. Are you aware of any relevant testing methods or testing facilities to measure the incline angle of Inclined Sleep Products and Inclined Non-Sleep Products? Provide details.

4.5. Option 5: Mandatory information standard – Infant Sleep Products, plus an education campaign

Option 5: In addition to an education campaign (Option 2), introduce a holistic mandatory information standard, focusing on all Infant Sleep Products (including Inclined Sleep Products) and Inclined Non-Sleep Products that requires safety warnings and information reiterating safe sleep advice:

- in instructions for use provided with the product
- on a permanently affixed product label and
- on packaging containing the product at the point of sale, including where supplied online.

The ACCC proposes the following warning messages are required to be obvious, durable and permanently affixed to the product, noting the Inclined Non-Sleep Products requirements mirror Option 3.

| Requirement | Infant Sleep Product (including Inclined Sleep Products) | Inclined Non-Sleep Product |
|--|--|---|
| Instructions: | <ul style="list-style-type: none"> • warning infant should be placed on their back • warning infant should be placed to sleep on a firm, flat surface • warning not to put objects or accessories in an infant's sleep environment (including cot bumpers, soft toys, blankets) | <ul style="list-style-type: none"> • warning infant should be placed on their back • warning against use for sleep • warnings against unsupervised use |
| Product Label: obvious, durable and permanently affixed to the product | <ul style="list-style-type: none"> • warning infant should be placed on their back • warning infant can suffocate from inclined and curved features | <ul style="list-style-type: none"> • warning against use for sleep • warnings against unsupervised use |
| Packaging/point of sale | <ul style="list-style-type: none"> • warning infant should be placed on their back • warning not to put objects or accessories in an infant's sleep environment (including cot bumpers, soft toys, blankets) | <ul style="list-style-type: none"> • warning against using for sleep • warnings against unsupervised use |

4.5.1. Benefits and limitations

Further to the benefits and limitations of Option 3, Option 5 would provide the additional benefit of bolstering the long-standing public health messaging, including warning that objects or accessories should not be placed in an infant's sleep environment.

4.5.2. Estimated costs

The ACCC notes the estimated costs of Option 5 would mirror those outlined in Option 3. However, given this option applies to the broad category of Infant Sleep Products, additional product lines would be impacted. The total estimated cost from Option 3 is \$0.30 - \$1.10 per unit.

Question

11. Do you suggest any additional warnings be included in the information standard for Infant Sleep Products? Please explain.

4.6. Option 6: Mandatory safety standard – Infant Sleep Products, plus a holistic mandatory information standard and an education campaign

Option 6: In addition to an education campaign and a holistic mandatory information standard on all Infant Sleep Products (Options 2 and 5), introduce a holistic mandatory safety standard covering all Infant Sleep Products and Inclined Non-Sleep Products, including general requirements for all products and additional specific requirements for discrete product categories.

The proposed mandatory safety standard would incorporate overarching design requirements, which would apply to all Infant Sleep Products and include additional product-specific requirements, for example by annexing the Household Cots Mandatory Standard and Folding Cots Mandatory Standard. This would seek to include any feedback on the household and folding cots mandatory standards (see Parts 5 and 6).

This option addresses all known design risks outlined above in Parts 1.1 and 1.2, including incline, curvature, rigidity and material used, in addition to risks inherent in cots such as entrapments, and ensures the design of Infant Sleep Products aligns with long-standing health advice. Based on the Expert Report, the ACCC does not suggest regulation of width or side height.

The ACCC suggests this holistic mandatory standard for Infant Sleep Products would apply to the following products insofar as they are designed, intended, marketed or contain any representation that they are suitable for an infant to sleep in (not intended to be exhaustive):

- Household cots
- Folding cots
- Bassinets and Moses baskets
- Loungers, co-sleepers and bedside sleepers
- Inclined sleepers
- Bouncers, reclined cradles and rockers (if marketed for sleep)
- Infant swings.

However, the proposed mandatory safety standard would not apply to infant product accessories.

The proposed holistic safety standard for Infant Sleep Products would function in a similar manner to Canada's [Crib, Cradles & Bassinets regulations](#) which includes overarching general requirements, followed by product-specific design and safety requirements.

In practice, the ACCC envisions Option 6 would include the following **general requirements for all Infant Sleep Products**:

- no incline greater than 7 degrees
- no curvature (i.e. a flat sleeping surface)
- the product be made of breathable fabric that meets testing requirements

- minimum tests for rigidity (firmness) of the sleeping surface
- mattress requirements, including dimensions, rigidity and no gaps between the mattress and the base or sides of the product
- be strong enough to support an infant (static strength)
- meet quality component requirements (e.g. metal components must be corrosion-resistant and wood must be free from splinters)
- meet toxicology requirements
- not have a restraint system.

These requirements would sit alongside product-specific requirements and include a hierarchy mechanism that prioritises the general requirements.

4.6.1. Benefits and limitations

In addition to those in Option 2 and Option 5, Option 6 has the following benefits and limitations:

| Benefit | Limitation |
|---|---|
| <ul style="list-style-type: none"> • All Infant Sleep Products would be designed to be safe for infant sleep, reducing infant fatalities. • All Infant Sleep Products would be subject to the standard, preventing any regulatory gaps. • Reflects international developments relating to the incline risk. • Consistent with long-standing public health and medical advice that infants ought to sleep on a firm, flat sleep surface. • The standard will capture any emerging Infant Sleep Products entering the market. • Fills the existing gap between known risks and standards. | <ul style="list-style-type: none"> • A holistic standard would increase the regulatory burden and costs placed on industry, including capturing products not previously regulated. • There may be some resistance from manufacturers to comply with Australian requirements given it is a smaller market. |

4.6.2. Estimated costs

As Option 6 captures Infant Sleep Products in their entirety, industry would face a greater compliance cost than that outlined in Option 4 as additional product lines would be required to comply with the mandatory requirements. However, the estimate per product line would be consistent with the costs outlined above, being:

- For design changes and testing – \$158,473 per product line
- For warning label requirements – \$0.30 - \$1.10 per unit.

Questions

12. How should Option 6 deal with any inconsistency between the general requirements and specific requirements for Infant Sleep Products?
13. Are there other general or product specific requirements that should be included in a holistic sleep standard in addition to household and folding cots?

4.7. Option 7: Permanent ban – Inclined Sleep Products, plus a holistic mandatory safety standard on Infant Sleep Products, a holistic mandatory information standard on Infant Sleep Products and an education campaign

Option 7 (preferred): In addition to an education campaign, a holistic mandatory information standard and a holistic mandatory safety standard covering all Infant Sleep Products (Options 2, 5 and 6), implement a permanent ban preventing the supply of Inclined Sleep Products with an incline greater than 7 degrees.

The proposed permanent ban may be implemented quicker than the mandatory information or safety standard and would prevent the supply of Inclined Sleep Products with an incline greater than 7 degrees in Australia. The ACCC will consider whether this option would enable getting unsafe products off the market quicker than Option 6.

This is the ACCC's preferred option, because it would permanently ban the supply of the highest-risk Inclined Sleep Products in the Australian market in the short term while holistic Infant Sleep Products information and safety standards are developed.

The ACCC considers a permanent ban more suitable than an interim ban as it is proportionate to the well-established risks.

4.7.1. Benefits and limitations

In addition to those outlined in Option 3, Option 5, and Option 6, the ACCC considers the following represent the benefits and limitations of Option 7:

| Benefit | Limitation |
|---|--|
| <ul style="list-style-type: none"> A permanent ban may enable addressing the highest-risk products quicker. The permanent ban could be adapted from New Zealand's <i>Unsafe Goods (Inclined Infant Sleep Products) Indefinite Prohibition Notice 2022</i>, aiding trans-Tasman trade. | <ul style="list-style-type: none"> The ACCC would need to consider and plan for the practical implications of enforcing the ban whilst progressing any other regulatory or non-regulatory options. Impact on industry due to being unable to supply existing stock when the ban is introduced. The efficacy of the ban would be diluted by suppliers implementing marketing changes to Inclined Sleep Products. |

4.7.2. Estimated costs

As Option 7 captures Infant Sleep Products in their entirety, industry would likely face a similar compliance cost to that outlined in Option 6 being:

- For design changes and testing – \$158,473 per product line
- For warning label requirements – \$0.30 - \$1.10 per unit.

There may also be additional costs associated with disposing of existing unsold stock when the ban is introduced.

Questions

14. Would you prefer a permanent ban on Inclined Sleep Products with an incline angle of greater than 7 degrees to continue once the proposed mandatory standards in Option 7

came into force, or that such products be incorporated into such mandatory standards and the ban revoked? Please explain.

5. Policy options – Household Cots

As previously noted, the Household Cots Mandatory Standard is related to the risks outlined in the Consultation Paper as household cot relate to an infant’s sleep environment and are Infant Sleep Products. The purpose of this section is to ensure that the Household Cots Mandatory Standard is relevant, effective and up to date.

The options for Household Cots are similarly listed in the ACCC’s view of least to most effective and are accompanied by consideration of the benefits, limitations and costs of each option. The costs for each option are based on industry estimates.

These are in addition to, or in isolation of Options 1 to 7. As stated above, updates made in response to this feedback will be progressed in conjunction with any recommendation made to the Minister as a result of this Consultation Paper.

5.1. Option H1 – Maintain the Household Cots Mandatory Standard with no changes

Option H1: No changes to the existing standards

The Household Cots Mandatory Standard would remain in its present form and reference sections of the 2003 Household Cots Voluntary Standard.

| Benefit | Limitation |
|--|---|
| <ul style="list-style-type: none">• The Household Cot Mandatory Standard would continue to operate effectively.• There would be no change to industry burden or increased cost to industry. | <ul style="list-style-type: none">• Emerging hazards associated with the respective products would not be addressed, particularly:<ul style="list-style-type: none">○ drop side strength and integrity○ mattress firmness• Industry may be confused by whether to comply with the most recent voluntary standard. |

5.1.1. Estimated costs

There would be no additional cost to industry, with testing costs estimated to be approximately \$3,300 per product line under the current Household Cots Mandatory Standard.

There would be no change to infant fatalities or injuries associated with household cots.

5.2. Option H2 – Amend the Household Cots Mandatory Standard by adopting sections of the most recent Household Cots Voluntary Standard

Option H2: Amend the Household Cots Mandatory Standard by adopting sections of the most recent Household Cots Voluntary Standard.

This would involve updating the Household Cots Mandatory Standard to reflect certain sections in the most recent version of the Household Cots Voluntary Standard (AS/NZS 2172:2013). Key changes may incorporate:

- more rigorous and structured mechanical tests for drop sides (sections 9.3-9.11 of AS/NZS 2172:2013, excluding 9.9 and 9.10)
- the Voluntary Infant Mattress Firmness Standard (section 9.12 and AS/NZS 8811.1 of AS/NZS 2172:2013).

| Benefit | Limitation |
|---|---|
| <ul style="list-style-type: none"> • Other known risks, such as drop sides and mattress firmness are addressed. • Better alignment with the current voluntary standard would provide practical clarification of what is required under the Australian standard regime. • Enhanced minimum safety requirements. | <ul style="list-style-type: none"> • Some suppliers will face increased testing costs. • This option does not enable suppliers to easily comply with international standards. |

5.2.1. Estimated costs

Testing costs against specific sections of the most recent Household Cots Voluntary Standard are estimated to be \$3,630 - \$3,960 per product line, meaning a \$360-\$660 increase in the cost of testing. Existing suppliers would be required to have their products retested.

There would be enhanced minimum safety requirements for household cots, reducing the likelihood of associated injuries.

5.3. Option H3 – Amend the Household Cots Mandatory Standard by adopting the entirety of the most recent Household Cots Voluntary Standard

Option H3: Amend the Household Cots Mandatory Standard by adopting the entirety of the most recent Household Cots Voluntary Standard.

This would mean that suppliers would need to comply with all sections of the most recent Household Cots Voluntary standard, including the below sections not currently mandated relating to:

- Materials (section 4)
- Toys included with the cot (section 7)
- Transfers (section 8)
- Finger entrapment (section 9.2 (c))
- Torque test (section 9.9)
- Tension test (section 9.10)
- Plastic packaging (section 10).

| Benefit | Limitation |
|--|---|
| <ul style="list-style-type: none"> • Other known risks such as drop sides and mattress firmness are addressed. • Provides more clarity to suppliers about what is required under the Australian standard regime. | <ul style="list-style-type: none"> • Some suppliers will face increased testing costs. • This option does not enable suppliers to easily comply with international standards. • At the time the Mandatory Household Cots Standard was developed, these sections were deemed not to address critical minimum safety requirements. • Some sections may become outdated if the Voluntary Standard for Household Cots is updated in future. |

5.3.1. Estimated costs

Testing costs against the entirety of the Household Cots Voluntary Standard are estimated to be \$3,850 per product line, meaning a \$550 increase in the cost of testing.

There would be enhanced minimum safety requirements for household cots, reducing the likelihood of associated injuries.

5.4. Option H4 – Amend the Household Cots Mandatory Standard by adopting sections of the most recent Household Cots Voluntary Standard and trusted international standards

Option H4 (preferred): Amend the Household Cots Mandatory Standard by adopting sections of the most recent Household Cots Voluntary Standard and trusted international standards.

The Household Cots Mandatory Standard would be updated to reflect sections in the most recent version (2013 version) of the Household Cots Voluntary Standard as outlined in Option H2 and would also allow suppliers to comply with requirements contained in 2 recognised international standards outlined below, where they are comparable and provide a similar or better level of safety:

- European Standard (BS EN 716-1:2017 Furniture. Children's cots and folding cots for domestic use)
- United States Standard (ASTM F1169-19 Safety Standard for Full-Size Baby Cribs) for cots with moveable or adjustable sides but not drop side cots.

| Benefit | Limitation |
|---|---|
| <ul style="list-style-type: none"> • Other known risks such as drop sides and mattress firmness are addressed. • Alignment with the current voluntary standard would provide practical clarification of what is required under the Australian standard regime. • Suppliers would have the option to comply with either the Australian voluntary standard or 2 trusted international standards, reducing regulatory burden and cost | <ul style="list-style-type: none"> • There are some slight differences in the requirements of each international standard which may result in industry confusion • This option is difficult for regulator or consumer to test compliance. |

5.4.1. Estimated costs

Testing costs against certain sections of the Household Cots Voluntary Standard and trusted international standards are estimated to be \$3,630 - \$3,960 per product line, meaning a \$360-\$660 increase in the cost of testing. Existing suppliers would be required to have their products retested.

There would be enhanced minimum safety requirements for household cots, reducing the likeliness of associated injuries.

Questions

15. Which of the proposed options do you prefer and why?
16. Are there additional safety issues that should be incorporated into the Household Cots Mandatory Standard? Please explain.
17. Are there additional costs of compliance with these options? Are the estimated costs accurate? Please explain.
18. Do you already comply with a related international standard? If so, which one and why.
19. Please provide any data or information you have on the effectiveness of the Household Cots Mandatory Standard.

6. Policy options – Folding Cots

Similarly, the Folding Cots Mandatory Standard is related to the risks outlined in the Consultation Paper as folding cots relate to an infant’s sleep environment and are Infant Sleep Products. The purpose of this section is to ensure that the Folding Cots Mandatory Standard is relevant, effective and up to date.

The options for Folding Cots are similarly listed in the ACCC’s view of least to most effective and are accompanied by consideration of the benefits, limitations and costs of each option. The costs for each option are based on industry estimates.

These are in addition to, or in isolation of Options 1 to 7. As stated above, updates made in response to this feedback will be progressed in conjunction with any recommendation made to the Minister as a result of this Consultation Paper.

6.1. Option F1 – Maintain the Folding Cots Mandatory Standard with no change

Option F1: No change to the existing standard

The Folding Cots Mandatory Standard would remain in its present form and reference sections of the 1999 Folding Cots Voluntary Standard.

| Benefit | Limitation |
|---|---|
| <ul style="list-style-type: none">• The Folding Cots Mandatory Standard would continue to operate effectively.• There would be no change to industry burden or increased cost to industry. | <ul style="list-style-type: none">• Emerging hazards associated with the respective products would not be addressed, particularly:<ul style="list-style-type: none">○ material breathability. |

| Benefit | Limitation |
|---------|--|
| | <ul style="list-style-type: none"> Industry may be confused by whether to comply with the most recent voluntary standard. |

6.1.1. Estimated costs

There would be no additional cost to industry if there was no change to the Folding Cots Mandatory Standard, with testing costs currently estimated to be approximately \$3,740.

There would be no change to infant fatalities or injuries associated with folding cots.

6.2. Option F2 – Amend the Folding Cots Mandatory Standard by adopting sections of the most recent Folding Cots Voluntary Standard

Option F2: Amend the Folding Cots Mandatory Standard by adopting sections of the most recent Folding Cots Voluntary Standard.

This would involve updating the Folding Cots Mandatory Standard to reflect certain sections in the most recent version of the Folding Cots Voluntary Standard (AS/NZS 2195:2010). For example, changes may incorporate:

- requirements for breathable material within the cot (section 8.2)
- addressing any inconsistencies between the mandatory and voluntary standards including issues around detachable bassinets
- clarity about the types of products captured by the standard.

| Benefit | Limitation |
|--|---|
| <ul style="list-style-type: none"> Other known risks, such as breathable material are addressed. Better alignment with the current voluntary standard would provide practical clarification of what is required under the Australian standard regime. Enhanced minimum safety requirements. | <ul style="list-style-type: none"> Some suppliers will face increased testing costs. This option does not enable suppliers to easily comply with international standards. |

6.2.1. Estimated costs

Testing costs against specific sections of the most recent Folding Cots Voluntary Standard are estimated to be \$4,114 - \$4,598 per product line, meaning a \$314-\$858 increase in the cost of testing. Existing suppliers would be required to have their products retested.

There would be enhanced minimum safety requirements for folding cots, reducing the likelihood of associated injuries.

6.3. Option F3 – Amend the Folding Cots Mandatory Standard by Adopting the entirety of the most recent Folding Cots Voluntary Standard

Option F3: Amend the Folding Cots Mandatory Standard by adopting the entirety of the most recent Folding Cots Voluntary Standard.

Suppliers would need to comply with all sections of the most recent 2010 Folding Cots Voluntary Standard, including those not currently mandated including clauses relating to:

- Timber folding cots (section 5)
- Materials (section 6)
- Construction and assembly (section 7)
- Breathability (section 8.2)
- Folding mechanism design (section 8.4.2)
- Castors or wheels (section 8.6)
- Protrusions and gaps (section 8.7)
- Sharp edges and points (section 8.8)
- Textile mesh and strength (section 8.9)
- Accessories (section 8.10)
- Bassinets, change tables and mosquito nets (sections 8.11, 8.12 and 8.13)
- Labels or transfers (section 9)
- Entrapment hazards (section 10.2)
- Tests (sections 10.3, 10.4, 10.6-10.12, 10.15-10.21)
- Plastic packaging (section 11)
- Informative labelling (section 12)
- Marking (section 13).

| Benefit | Limitation |
|---|---|
| <ul style="list-style-type: none"> • Other known risks such as drop sides and mattress firmness are addressed. • Provides more clarity to suppliers about what is required under the Australian standard regime. • Enhanced minimum safety requirements. | <ul style="list-style-type: none"> • Some suppliers will face increased testing costs. • This option does not enable suppliers to easily comply with international standards. • At the time the Mandatory Folding Cots Mandatory Standard was developed, these sections were deemed not to address critical minimum safety requirements. • Some sections may become outdated if the Voluntary Standard for Folding Cots is updated in future. |

6.3.1. Estimated costs

Testing costs against the entirety of the most recent Folding Cots Voluntary Standard are estimated to be \$4,400 per product line, meaning a \$660 increase in the cost of testing. Existing suppliers would be required to have their products retested.

There would be enhanced minimum safety requirements for folding cots, reducing the likelihood of associated injuries.

6.4. Option F4 – Amend the Folding Cots Mandatory Standard by adopting sections of the most recent Folding Cots Voluntary Standard and trusted international standards

Option F4 (preferred): Amend the Folding Cots Mandatory Standard by adopting sections of the most recent Folding Cots Voluntary Standard and trusted international standards.

The Folding Cots Mandatory Standard would be updated to reflect sections in the most recent (2010 version) of the Folding Cots Voluntary Standard as outlined in Option F2 and would also allow suppliers to comply with requirements contained in 2 recognised international standards outlined below, where they are comparable and provide a similar or better level of safety:

- European Standard (BS EN 716-1:2017 Furniture. Children's cots and folding cots for domestic use)
- United States Standard (ASTM F406-19 Safety Standard for Play Yards).

| Benefit | Limitation |
|--|--|
| <ul style="list-style-type: none">• Other known risks such as material breathability are addressed.• Alignment with the current voluntary standard would provide practical clarification of what is required under the Australian standard regime.• Suppliers would have the option to comply with either the Australian voluntary standard or 2 trusted international standards, reducing regulatory burden and cost.• Enhanced minimum safety requirements. | <ul style="list-style-type: none">• There are some slight differences in the requirements of each international standard which may result in industry confusion• This option is difficult for regulator or consumer to test compliance. |

6.4.1. Estimated costs

Testing costs against certain sections of the Folding Cots Voluntary Standard and trusted international standards are estimated to be \$4,114 - \$4,598 per product line, meaning a \$314-\$858 increase in the cost of testing. Existing suppliers would be required to have their products retested.

There would be enhanced minimum safety requirements for folding cots, reducing the likelihood of associated injuries.

Questions

20. Which of the proposed options do you prefer and why?

21. Are there additional safety issues that should be incorporated into the Folding Cots Mandatory Standard? Please explain.

22. Are there additional costs of compliance with these options? Are the estimated costs accurate? Please explain.
23. Do you already comply with a related international standard? If so, which one and why.
24. Are there definitional issues with what products the Folding Cots Mandatory Standard captures and what products it does not? Please explain and outline any clarification required.
25. Please provide any data or information you have on the effectiveness of the Folding Cots Mandatory Standard.

7. Recommended approach

7.1. Preliminary position

The ACCC's preferred intervention is Option 7 as it would permanently ban the supply of the highest-risk Inclined Sleep Products in the Australian market while a holistic information standard and a holistic safety standard are developed for Infant Sleep Products.

The ACCC considers a holistic information standard and a holistic safety standard would be the most effective method to reduce infant fatalities associated with known risks of Infant Sleep Products. In particular, this would:

- introduce testing and design requirements for risks associated with Inclined Sleep Products, which are currently unregulated
- capture all Infant Sleep Products to ensure the design of Infant Sleep Products reflects public health advice and addresses the risks posed by incline, curvature, rigidity and material used
- include safety information and warnings so consumers are well-informed and understand the risks.

In addition to Option 7, the ACCC's preferred option is to adopt Option H4 and F4 to incorporate the most relevant changes to the Household Cots Mandatory Standard and the Folding Cots Mandatory Standard and enable compliance with trusted international standards. This would address emerging risks and allow for flexibility by permitting compliance with international standards. This is consistent with the ACL reforms identified above in 3.2.

7.2. Transition period

A transition period allows industry time to comply with new requirements, including implementing changes to design and packaging and to undertake testing. A transition period does not preclude parties from adopting the requirements early.

The ACCC considers any new mandatory standard would have a transition period, from the date of commencement, of:

- a 12-month transition period for a mandatory information standard, and
- an 18-month transition period for new design requirements in a mandatory safety standard.

We anticipate these transition periods provide reasonable time for industry to exit stock that may not comply and source new stock (excluding any stock captured by a ban).

Question

26. Provide comment on the transition period for the proposed options.

7.3. Review of mandatory standards

The ACCC considers a formal review of any new mandatory safety and/or information standard should be conducted at the end of 5 full years from the date of commencement.

Any review would consider levels of compliance with mandatory standards, changes in product design and changes in the prevalence of injuries and fatalities caused by Infant Sleep Products.

8. Next steps

Following an assessment of responses to the questions within this Consultation Paper, the ACCC will develop a Final Recommendation to the Minister in 2023.

Question

27. Provide any additional information or data you think may be useful to inform the ACCC's recommendation to the Minister.

Appendices

Appendix 1: Calculation methods for infant fatalities

The Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania, and Victoria provided data where a fatality occurred whilst the infant was placed in an Infant Sleep Product which could not be attributed to any other cause of death. The ACCC used this fatality data to estimate the total number of infant fatalities in Australia through the following methods using the population, infant population, and infant fatalities:

- The **average** – uses the average population, infant population, and infant fatalities separately to estimate the figure for unknown jurisdictions based on the data provided then finds the total Australian average.
- The **weighted average** – uses similar calculations to the ‘average’ method but weights each jurisdiction based on its population, infant population, and number of infant fatalities. This method is deemed the most accurate as it reflects the differing population, infant population, and number of infant fatalities for each jurisdiction.
- The **most similar** – extracts an estimated figure for unknown jurisdictions based on the data provided by its most similar known state. The ‘most similar’ jurisdiction is partnered dependent on its infant fatality similarities. For example, more infant fatalities occur in warmer climates, therefore, the Northern Territory is partnered with Queensland.

The most recent figures published by the Australian Bureau of Statistics were used for population, infant population and infant fatalities figures for each jurisdiction instead of the collective Australian figure for accuracy.³³

Tables 5 and 6 show the estimated national infant fatalities for Infant Sleep Products (excluding Inclined Sleep Products) and Inclined Sleep Products per year calculated from the above methods. The highlighted cell below represents the figure used in this consultation.

Table 5: Estimated national infant fatalities for Infant Sleep Products (excl Inclined Sleep Products)

| | Average | Weighted average | Most similar |
|-------------------|---------|------------------|--------------|
| Population | 0.944 | 0.958 | 1.14 |
| Infant population | 0.954 | 0.968 | 1.19 |
| Infant fatalities | 0.938 | 0.938 | 1.19 |

Table 6: Estimated national infant fatalities for Inclined Sleep Products

| | Average | Weighted average | Most similar |
|-------------------|---------|------------------|--------------|
| Population | 1.77 | 1.84 | 1.75 |
| Infant population | 1.78 | 1.87 | 1.77 |
| Infant fatalities | 1.79 | 1.88 | 1.83 |

³³ ABS, [Population data explorer](#), ABS website, accessed 2 June 2022; ABS, [Infant population data explorer](#), ABS website, accessed 2 June 2022; ABS, [Infant fatalities data explorer](#), ABS website, accessed 2 June 2022.

There are a number of limitations and assumptions in these calculations such as:

- Due to the difficulties in determining the cause of death, infant fatalities usually cannot be conclusively attributed to products. Therefore, where no other cause of death is identified, we have assumed the product is a causative link (as explained above in part 1.3).
- The time for authorities to finalise reports means there is a delay in reportable fatalities which also affected the ability of each jurisdiction to understand and report on the circumstances surrounding the fatality.
- Even when finalised, reports of infant fatalities generally capture limited information about the product and therefore we have had to make assumptions in determining the infant fatalities included in these calculations (see Table 3).
- The change in population size over the time. Although the fatality data was between a 20 year period, the calculations were based on the most recent data available, which was the 2020 population, 2020 infant population and 2020 infant fatalities figures.³⁴ Therefore, the estimated infant fatalities are likely an under estimation due to population growth.

³⁴ ABS, Data explorer, accessed 30 June 2022.

Appendix 2: Summary of Australian standards

| Regulation | Regulation type | Incline limit | Curvature | Rigidity of product | Material breathability | Scope (products) |
|---|-----------------|---------------|-----------|---------------------|------------------------|---|
| Consumer Protection Notice No. 4 of 2008 – Consumer Product Safety Standard: Children’s Portable Folding Cots | Mandatory | x | x | ✓ | x | Folding cots including playpens with floors. |
| Consumer Protection Notice No. 6 of 2005 – Consumer Product Safety Standard: Children’s Household Cots | Mandatory | x | x | ✓ | x | Cots that are a permanent sleeping enclosure for an infant including cots that convert to toddler beds. Includes second-hand cots. <i>Excludes:</i> bassinets, antique/collectable cots. |
| Infants’ rocking cradles (AS/NZS 4385:1996) | Voluntary | 10° | x | ✓ | ✓ | Rocking cradles with the ability to swing or rock/tilt. <i>Excludes:</i> baby hammocks or cradles which do not tilt. |

Appendix 3: Summary of international standards and regulations

| Jurisdiction | Regulation title | Regulation type | Incline limit | Curvature | Rigidity of product | Material breathability | Scope (products) |
|----------------|--|-----------------|---------------|-----------|---------------------|------------------------|---|
| Canada | Cribs Cradles and Bassinets Regulations 2016 (Canada) | Mandatory | 7° | x | x | x | A product whose primary function is as sleeping accommodation, including a crib, cradle or bassinet. |
| | General Prohibition under the Canada Consumer Product Safety Act | Mandatory | N/A | N/A | N/A | N/A | General safety provision – applies to any consumer products supplied in Canada that could reasonably be expected to be obtained by an individual for non-commercial purposes, including domestic, recreational and sports purposes. |
| European Union | Child use and care articles – Baby bouncers – Safety requirements and test methods (EN 14036:2003) | Voluntary | x | x | x | x | Vertically suspended bouncers. <i>Excludes:</i> Baby bouncers designed for special needs. |
| | Child Use and Care Articles – Carry cots and stands – Safety requirements and test methods (EN1466:2014) | Voluntary | x | x | ✓ | x | Products with carry handle intended for transporting a child in a lying position. |

| Jurisdiction | Regulation title | Regulation type | Incline limit | Curvature | Rigidity of product | Material breathability | Scope (products) |
|----------------|---|-----------------|---------------|-----------|---------------------|------------------------|---|
| | Children's furniture – Cribs – Safety requirements and test methods (EN1130:2019) | Voluntary | 10° | x | x | x | Cradles, suspended baby beds, bedside sleepers. |
| | General Product Safety Directive | Mandatory | N/A | N/A | N/A | N/A | General safety provision. |
| | Child use and care articles - Infant swings (EN16232:20130) | Voluntary | x | x | x | x | Infant swings. |
| | Children's furniture - Mattress for cots and cribs – Safety requirements and test methods (EN 16890:2017) | Voluntary | x | x | ✓ | x | Mattresses including bases and toppers used in cots, travel cots, cribs and suspended baby beds. <i>Excludes:</i> carry cots, prams, inflatable and water mattresses and those for medical purposes. |
| | Child use and care articles - Reclined cradles (EN12790:2009) | Voluntary | x | x | x | x | Products where children are in reclined position, may have adjustable backrest, bounce or be static. <i>Excludes:</i> Swings. |
| New Zealand | Unsafe Goods (Inclined Infant Sleep Products) Notice 2019 (New Zealand) | Permanent ban | 7° | x | x | x | Infant sleep products. <i>Excludes:</i> car seats, capsules, prams or strollers, slings, amusement products. |
| United Kingdom | General Product Safety Regulations 2005 | Mandatory | N/A | N/A | N/A | N/A | General safety provision. |

| Jurisdiction | Regulation title | Regulation type | Incline limit | Curvature | Rigidity of product | Material breathability | Scope (products) |
|---------------|--|-----------------|---------------|-----------|---------------------|------------------------|--|
| United States | Standard Consumer Safety Specification for Bassinets and Cradles (ASTM F2194-16e1) | Mandatory | 10° | x | ✓ | ✓ | Products which can be converted into bassinets or cradles, including removable bassinet bed attachments. <i>Excludes:</i> cribs, moses baskets and products used in conjunction with swing or stroller. |
| | Standard Consumer Safety Specification for Bedside Sleepers (ASTM F2906-13) | Mandatory | 30° | x | x | x | Rigid-framed products either fabric or mesh sides designed for sleeping and is secured to an adult bed. |
| | Standard Consumer Safety Specification for Infant Bouncer Seats (ASTM F2167-19) | Mandatory | x | x | x | x | Freestanding product with reclined position. |
| | Standard Consumer Safety Specification for Crib Mattresses (ASTM F2933-21a) | Mandatory | x | x | ✓ | x | Mattress for full size cribs, non-full-size cribs, aftermarket mattress for play yards. |
| | Standard consumer safety specification for full-size baby cribs (ASTM F1169-19) | Mandatory | x | x | x | x | Cribs (dimensions specified). |
| | Standard Consumer Safety Specification for Infant Inclined Sleep Products (ASTM F3118-17a) | Mandatory | 10° | x | x | x | Inclined products used for sleep that are not captured by the bassinets and cradles, full-size baby cribs, non-full-size baby cribs, |

| Jurisdiction | Regulation title | Regulation type | Incline limit | Curvature | Rigidity of product | Material breathability | Scope (products) |
|--------------|---|-----------------|---------------|-----------|---------------------|------------------------|---|
| | | | | | | | play yards and bedside sleeper standards. |
| | Standard Consumer Safety Specification for Infant and Cradle Swings (ASTM F2088-21) | Mandatory | 60° | x | x | x | Stationary unit with a frame and mechanism that enables infant that is unable to sit up unassisted to swing. <i>Excludes:</i> products that provide sleeping accommodation. |
| | Standard consumer safety specification for non-full-size cribs (ASTM F406-19) | Mandatory | x | x | ✓ | ✓ | Cribs larger or smaller than full-size crib, including portable cribs, pens, specialty cribs, play yard. <i>Excludes:</i> mesh/net/screen cribs, non-rigid cribs, car beds, baby baskets, rocking cradles. |
| | Standard consumer safety specification for non-full-size cribs (ASTM F406-19) | Mandatory | x | x | ✓ | ✓ | Framed enclosures with a floor, mesh/fabric side panels, including bassinet/inclined accessories. |
| | Safe Sleep for Babies Act of 2021 (United States) | Mandatory | 10° | x | x | x | Infant sleep products. <i>Excludes:</i> Products already subject to a mandatory standard: bassinets and cradles, baby cribs, play yards, bedside sleepers. |