



Infant Sleep Products final recommendation to the Minister

August 2023

Acknowledgement of country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission
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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	An infant is typically a child less than 12 months of age, but in this instance may include a child over 12 months where that child may still use the product
CCA	<i>Competition and Consumer Act 2010</i> (Cth)
Consultation Paper	Infant Sleep Products Consultation Paper published by the ACCC on 11 August 2022
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 (these reports are not public)
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
Mandatory information standard	Specifies minimum warnings and information products must meet before being supplied
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
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

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

	as suffocation. Some deaths may remain unexplained and are then attributed to Sudden Infant Death Syndrome (SIDS) ²
US-CPSC	United States Consumer Product Safety Commission
VSL	The Value of Statistical Life (VSL) according to the Office of Impact Analysis.

² Red Nose, *What does Sudden Unexpected Death in Infancy (SUDI) mean?*.

Scope

The ACCC's recommendation addresses the risks associated with infant sleep. The following 3 terms, Infant Sleep Products, Inclined Sleep Products, and Inclined Non-Sleep Products are defined below.

'Infant Sleep Products' relates to any product that has a surface on which an infant may lay which creates a sleep environment, including products that soothe or settle. Examples of Infant Sleep Products include infant hammocks, bassinets, bedside sleepers, sleep positioners or wedges, household cots and folding cots. Infant Sleep Products includes Inclined Sleep Products (see below).

A specific risk the ACCC is intending to address is incline. As such, the ACCC has applied 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 on 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. The ACCC does not propose to apply further regulation to these products, and they will be excluded from the proposed mandatory safety standard and mandatory information standard.

The definition of Inclined Non-Sleep Products would exclude products where the infant is at 90 degrees from the horizontal such as highchairs or baby seats. However, it may include those products where the product has a feature which has been designed to encourage sleep, for example reclining highchairs.

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) are excluded from the proposed regulation.

Table 1: Images of infant product types (not exclusive)

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

Mandatory safety standard and mandatory information standard recommendation

Executive summary

The ACCC recommends the Minister:

- Make a mandatory safety standard for Infant Sleep Products, including Inclined Sleep Products, with an 18-month transition period. This would introduce testing and design requirements to address the risks associated with incline, curvature, rigidity and material used, in addition to established requirements such as stability.
- Make a mandatory information standard for Infant Sleep Products, including Inclined Sleep Products, and Inclined Non-Sleep Products with an 18-month transition period before full operation. This would include safety information and warnings so consumers are better informed of infant safe sleep practices and related risks.
- Revoke the *Consumer Product Safety Standard: Children's Household Cots 2005* mandatory safety standard and the *Consumer Product Safety Standard for Children's Portable Folding Cots 2008* mandatory safety standard which would then be captured by the new mandatory safety standard.

In 2019, the United States Consumer Product Safety Commission (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.³

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 mandatory 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 expanded this consultation to all Infant Sleep Products to consider the broader risks associated with infant sleep.

In August 2022, the ACCC published a [Consultation paper](#) seeking stakeholder feedback on the likely effectiveness and cost of regulatory and non-regulatory options to address the risk of incline, curvature, rigidity and materials used. The Consultation Paper simultaneously consulted on the existing household cots and folding cots mandatory safety standards. This was necessary because the

³ Red Nose, [Why back to sleep is the safest position for your baby](#), Red Nose website, 27 February 2018, accessed 10 June 2021.

household cots and folding cots mandatory safety standards also consider infant sleep risks and would be captured under the definition of Infant Sleep Products.

The ACCC's preliminary view in the Consultation Paper was to pursue a permanent ban for Inclined Sleep Products, a mandatory safety standard for Infant Sleep Products, and a mandatory information standard for Infant Sleep Products and Inclined Non-Sleep Products. The ACCC considered this option would be the most effective in preventing the risk of injury and fatalities of infants because it would ban the supply of the highest risk Inclined Sleep Products in the Australian market in the short term while a holistic mandatory safety standard for all Infant Sleep Products was developed.

The ACCC did not pursue a ban for Inclined Sleep Products because:

- A permanent ban would have only covered a discrete subset of Infant Sleep Products, being Inclined Sleep Products. Because of this confined scope, suppliers could have circumvented the ban by removing references to sleep in their marketing, thereby making their product an Inclined Non-Sleep Product. This meant inclined products on which infants may sleep could have continued to be sold without information provided to consumers about the risks of infants sleeping at an incline.
- As above, a permanent ban would have only addressed Inclined Sleep Products and delayed the development of a mandatory safety standard which addresses the risks associated with curvature, rigidity and material used in Infant Sleep Products, other than household and folding cots.
- There is a significant second-hand market for Infant Sleep Products. If a permanent ban were pursued in the first instance it would have no immediate effect on the second-hand market. This would also have delayed the comprehensive information requirements proposed by a mandatory information standard from flowing through to the second-hand market.

The ACCC has now refined the options previously presented in the Consultation Paper to:

- **Option 1:** Take no action (maintain the status quo).
- **Option 2:** Amend the mandatory standards for household and folding cots.
- **Option 3:** Make a mandatory information standard for Infant Sleep Products and Inclined Non-Sleep Products, plus an education campaign.
- **Option 4 (recommended):** Make a mandatory safety standard, mandatory information standard for Infant Sleep Products and Inclined Non-Sleep Products and revoke the household and folding cots mandatory standards, plus an education campaign.

The ACCC recommends Option 4 as it considers this option will best improve safety and address the risks associated with Infant Sleep Products and Inclined Non-Sleep Products by:

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

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

1.1. Risks associated with Infant Sleep Products

The Mammen Report (commissioned by the US-CPSC) and subsequent ACCC-procured Expert Reports identified that incline, curvature, rigidity and the breathability of materials used in products pose a risk to infants when sleeping:

- **Incline:** increases the risk of suffocation and positional asphyxiation by blocking the infant's airway with fabric or padding when they roll or turn their head and promotes the chin to chest position.
- **Curvature:** curvature in the back (seat portion) of a product increases the risk of suffocation and carbon dioxide rebreathing when infants roll because their faces may be covered by the product and promotes the chin to chest position.
- **Rigidity:** the lack of rigidity of the lying surface and added padding poses a suffocation risk as it could prevent infants from self-correcting if they roll, especially when infants are unlikely to have enough strength to lift their heads to breathe.
- **Materials used:** the material on the side of the product can pose a risk of suffocation and carbon dioxide rebreathing when the infant's face has partial or near contact with the side of the product.

A 1995 Australian study which tested the side to side (horizontal) incline of infant products found infants tested on a 5 and 7 degree angle were able to breathe.⁴ One of the Expert Reports noted this may indicate a 7 degree incline is appropriate, given the dynamic nature of infant sleep.

The Expert Reports and submissions to the ACCC's Issues Paper and Consultation Paper reiterated established safe sleep advice that a firm, flat sleep surface is safest for infants. However, 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. Household and folding cots

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) 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).
- The [mandatory standard for Folding Cots](#) (*Consumer Product Safety Standard for Children's Portable Folding Cots 2008*) (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).

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
- entrapment in folding and locking mechanisms

⁴ 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. <https://doi.org/10.1111/j.1440-1754.1995.tb02910.x>

- entrapment and suffocation from mattresses by requiring mattresses to neatly fit the base of the cot
- strangulation caused by infant clothing being caught by prohibiting protrusions and snag points
- 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. However, both voluntary standards referenced in the mandatory standards have been updated to meet additional design requirements (see section 3.1 and 3.2).

The Household Cots Mandatory Standard and Folding Cots Mandatory Standard are the only mandatory standards for Infant Sleep Products in Australia, meaning there is a regulatory gap for all other Infant Sleep Products such as bassinets.

1.3. Fatalities

In 2019 the 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.⁵

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 pathologists have 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.

Medical stakeholders advised the ACCC that 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 infant products. We have assumed the product is a causative link for SUDI and SIDS. The ACCC acknowledges there are assumptions and limitations with this approach:

- 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.

⁵ US-CPSC, [CPSC Cautions Consumers Not to Use Inclined Infant Sleep Products](#) [media release], US-CPSC, 31 October 2019, accessed 10 June 2021.

- Even when finalised, reports of infant fatalities generally capture limited information about the product and therefore assumptions have been made in determining the infant fatalities included in these calculations (see Table 2).
- The change in population size over time. Although the fatality data covers 20 years, the calculations are based on 2020 data available from the Australian Bureau of Statistics, which is the 2020 population, 2020 infant population and 2020 infant fatalities figures.⁶ Therefore, the estimated infant fatalities are likely an under estimation due to population growth.

Based on data collected from the Child Death Review and Prevention Groups in the ACT, NSW, Vic, Qld, Tas and SA, the ACCC estimates the total number of infant fatalities in Australia attributable to Infant Sleep Products and Inclined Sleep Products are:

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

Additional information was provided by the Child Death Review and Prevention Groups since the publication of the Consultation Paper in August 2022, therefore, the estimated number of fatalities increased. 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.

The calculation methods are set out in **Appendix 1**, noting the calculations have been omitted for confidentiality reasons.

For the purposes 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 to 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.

For context, a total of 799 infant fatalities occurred in Australia in 2020.⁷ 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 Australian figure due to the difference in products available in the market, and population, socio-economic and behavioural differences.

⁶ Australian Bureau of Statistics (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.

⁷ ABS, [Data explorer](#), ABS website, accessed 8 August 2022.

Table 2: 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 ⁸	Total fatalities
Infant Sleep Products	
Bassinet	27
Cot	58
Folding cot	9
Infant bed	1
Inflatable bed	1
Mattress	1
Snuggle bed	1
Inclined Sleep Products	
Anti-roll pillow or sleep positioner wedge	14
Beanbag	2
Bouncer	4
Cot elevated (tilted)	5
Hammock	2
Infant swing/rocker	12
Total fatalities	137

A significant portion of infant fatalities, 112 fatalities, in the same period are attributed to infants propped on items, such as pillows, wedges and other items. These products and practices are not included in the scope due to limitations in regulating sleep practices. Therefore, these figures are not included in the calculation of infant fatalities. However, they highlight the risks associated with soft inclined surfaces and can be addressed to some extent through an education campaign and mandatory information standard.

2. Why is government action needed?

Unlike most other developed economies, 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.

As outlined above, it is estimated that 7.67 fatalities associated with Infant Sleep Products and 2.76 fatalities associated with Inclined Sleep Products and Inclined Non-Sleep Products will continue to occur per year if no government action is taken. The ACCC considers the risk to infants posed by unsafe Infant Sleep Products is significant and likely to become more prominent in the future. The ACCC considers there is little likelihood the market will correct the problem, therefore, government action that requires a consistent direction for customer protection measures provides the strongest approach to achieving a positive outcome for the Australian community.

⁸ 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.

2.1. Australian standards

There are 2 relevant mandatory safety standards, being the Household Cots Mandatory Standard and the Folding Cots Mandatory Standard, meaning there is a regulatory gap for all other Infant Sleep Products, including common products such as bassinets. 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](#).

2.2. Overseas standards and regulations

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.⁹ Additionally, there is a voluntary standard for Cribs and Cradles that has an incline limit of 10 degrees.¹⁰ European voluntary standards do not address curvature or material.
- Canada's Cribs, Cradles and Bassinets Regulations capture all infant products that create a sleep environment and effectively ban 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.¹¹ These regulations do not address mattress rigidity.
- The United States' recent *Safe Sleep for Babies Act 2019* 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
 - non-full-size cribs.

There are no requirements for curvature or material within any of these mandatory standards.

- New Zealand has a permanent ban preventing the sale of Inclined Sleep Products with an incline greater than 7 degrees.¹²

These standards do not holistically address all safety risks associated with Infant Sleep Products. Therefore, the ACCC considers adopting any one of these existing overseas standards would not address the scope of risks posed by Infant Sleep Products.

2.3. 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, comprising of industry,

⁹ European Standards, 'Children's furniture - Mattress for cots and cribs – Safety requirements and test methods (EN 16890:2017)', 2017.

¹⁰ European Standards, 'Children's furniture – Cribs – Safety requirements and test methods (EN1130:2019)', 2019.

¹¹ *Canada Consumer Product Safety Act*, Cribs, Cradles and Bassinets Regulations (SOR/2016-152); Beal et al., 'The danger of freely rocking cradles'.

¹² Unsafe Goods (Inclined Infant Sleep Products) Indefinite Prohibition Notice 2022 (New Zealand).

medical, research and consumer advocacy representatives, 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 highlight design and marketing considerations.

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.¹³
- 'SIDS and Kids' are not-for-profit organisations based in South Australia, Tasmania and the Northern Territory.¹⁴ These organisations provide state-based education programs and undertake public awareness campaigns in relation to safe sleep practices.
- Red Nose Australia (Red Nose) published safe sleep guidelines that recommend infants sleep on a flat, firm surface to reduce the risk of SIDS.¹⁵ This advice is consistent even for infants experiencing gastro-oesophageal reflux and aligns with international best practice and has been consistent for decades.¹⁶
- The ACCC's [Your First Steps](#) website provides important information for parents and carers to consider when purchasing, installing, and using baby products, to keep babies safe. It also directs industry and consumers to the Product Safety Australia website for further information on their product safety rights and obligations.¹⁷

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.

2.4. Objectives of intervention

The ultimate objective of regulatory intervention is to reduce injury and fatalities associated with Infant Sleep Products and Inclined Non-Sleep Products. Improving consumer awareness on the risks posed by infants sleeping in Inclined Non-Sleep Products is also expected to help achieve this outcome.

Industry compliance is an important factor of regulatory intervention, and non-compliance, whether deliberately or by omission, would limit the effect of the regulation. For an optimal outcome, retailers and the wider industry must engage with the regulation, meet the prescribed requirements and further promote the relevant information to consumers.

Whilst most risks will be addressed by the design requirements of the mandatory safety standard for Infant Sleep Products, the information standard for both Infant Sleep Products and Inclined Non-Sleep Products must resonate with consumers in the purchase and use. Should this intervention be unclear or be ignored, it will have a diminished outcome.

We expect an improvement in consumer awareness over 5 years will demonstrate that the intervention has had a positive impact for Australian consumers.

¹³ 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 \(document number OH-GDL-362:2013\)](#), 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.

¹⁴ SIDS and Kids SA, [About SIDS and Kids SA](#), SIDS and Kids SA website, n.d., accessed 2 February 2022.

¹⁵ Red Nose, [Why should you sleep your baby on their back?](#), Red Nose website, 22 February 2022, initially accessed 2 February 2022.

¹⁶ 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.

¹⁷ ACCC Product Safety, [Your First Steps website](#), 14 February 2022.

2.5. Estimated future impact

The ACCC estimates **7.67** infant fatalities occur per year for Infant Sleep Products and **2.76** infant fatalities occur per year for Inclined Sleep Products. If no government action is taken, the ACCC estimates **78** fatalities will occur by 2029 (see Table 6). The combined cost of fatalities is estimated to be **\$300 million** over this period (see part 5.1).

The true impact of injuries and fatalities is not quantifiable due to intangible costs faced by families and caregivers following a fatality or serious injury. The loss of a child will have an immense effect on the wellbeing of those affected in subsequent years.

3. Who did you consult and how did you incorporate their feedback?

The ACCC consulted on multiple occasions on Infant Sleep Products, Inclined Sleep Products and Inclined Non-Sleep Products to understand the specific risks, if these apply to products within the Australian market and potential options to address these risks and the impacts.

In summary:

- In 2014 and 2016, the ACCC sought public consultation on the effectiveness of the Household Cots Mandatory Standard as per the ACCC's role to monitor mandatory standards (see 3.1 below).
- In 2021, the ACCC consulted with 14 stakeholders in a targeted consultation to understand if the risk of incline for Inclined Sleep Products was applicable in the Australian market. Stakeholders from industry, advocacy organisations, health professionals and international regulators agreed the incline risk applied to Inclined Sleep Products and Inclined Non-Sleep Products and likely applied to those in the Australian market.
- In 2021, the ACCC published an Issues Paper for public consultation on the risks associated with Inclined Sleep Products, Inclined Non-Sleep Products and possible options to address those risks. The ACCC received 27 submissions from a broad range of stakeholders, the majority of which supported regulatory intervention for Inclined Sleep Products and Inclined Non-Sleep Products (see 3.3 below).
- In 2022, the ACCC received the Expert Reports from Dr Tom Whyte, a biomechanical engineer and Professor Rosemary Horne, a paediatrician. The Expert Reports confirmed curvature, rigidity and the material used pose a risk to infants and warrant consideration in addition to incline. 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. The Expert Reports considered there is insufficient scientific evidence to suggest the width of a product or side height pose a significant risk on their own. Based on this information, the ACCC expanded the scope of the products intended to be regulated.
- In 2022, the ACCC published a Consultation Paper which considered the broader risks associated with infant sleep and the likely effectiveness and cost of regulatory and non-regulatory options to address the risks identified in the Expert Reports. The Consultation Paper simultaneously consulted on the existing household cots and folding cots mandatory safety standards. The ACCC received 27 submissions from a broad range of stakeholders including manufacturers, government agencies, international bodies, advocacy organisations, businesses, consumers and health professionals (see 3.4 below).
- In March 2023, the ACCC sought further feedback from industry in relation to possible test methods and requirements for surface materials (breathability), firmness and bassinets. Additionally, cost information was requested to estimate the impacts of a mandatory safety

standard and mandatory information standard. Stakeholders generally supported the requirements and test methods proposed. Bloom & Grow, CNP Brands and the Infant Nursery Products Alliance of Australia (INPAA) provided cost information which has been used in the cost benefit analysis (see part 5).

- In April 2023, the ACCC continued to liaise with medical professionals to better understand the products provided in health care and outreach programs aimed at families in high-risk situations. Based on the information provided, it appears these products are likely to comply with the requirements of the proposed mandatory safety standard.

3.1. Household cots

The Household Cots Mandatory Standard was introduced in 2005 and references the 2003 Voluntary Standard. However, the 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 latest requirements.

The ACCC conducted public consultations on the Household Cots Mandatory Standard in 2014, 2016 and 2022:

- 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.
- In 2022, stakeholder responses supported updates to the Household Cots Mandatory Standard amended to adopt sections of the most recent respective Household Cots Voluntary Standard and allow compliance with trusted overseas standard (see 3.4 below).

3.2. Folding cots

The Folding Cots Mandatory Standard was introduced in 2008 and references the 1999 Voluntary Standard for folding cots. The 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 latest requirements.

The Consultation Paper consulted on updates to the Folding Cots Mandatory Standard and considered whether that was done as part of a holistic standard for Infant Sleep Products or as a separate process (see 3.4 below).

3.3. Issues Paper

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 ACCC received 27 submissions 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 for Inclined Sleep Products and Inclined Non-Sleep Products. There was no significant stakeholder opposition to the options outlined in the Issues Paper being an interim or permanent ban, a mandatory information standard and/or a mandatory 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 on 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 and 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](#).

3.4. Consultation Paper

In August 2022, the ACCC published the Infant Sleep Products [Consultation Paper](#), which sought feedback on the likely effectiveness and costs of the following options to address the risks of Infant Sleep Products and Inclined Non-Sleep Products:

- **Option 1:** Take no action (maintain the status quo).
- **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:** 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. This option was presented as enabling a quicker outcome while the mandatory safety and information standards were developed.

The ACCC’s preliminary view was that Option 7 would be the most effective in preventing the risk of injury and death of infants because it would ban the supply of the highest risk Inclined Sleep Products in the Australian market in the short term while a holistic mandatory safety standard for all Infant Sleep Products was developed. However, the ACCC did not pursue a permanent ban because it was possible to circumvent the ban by still supplying Inclined Non-Sleep Products which could be used for sleep and would not prevent the sale of second-hand Inclined Sleep Products via the second-hand market.

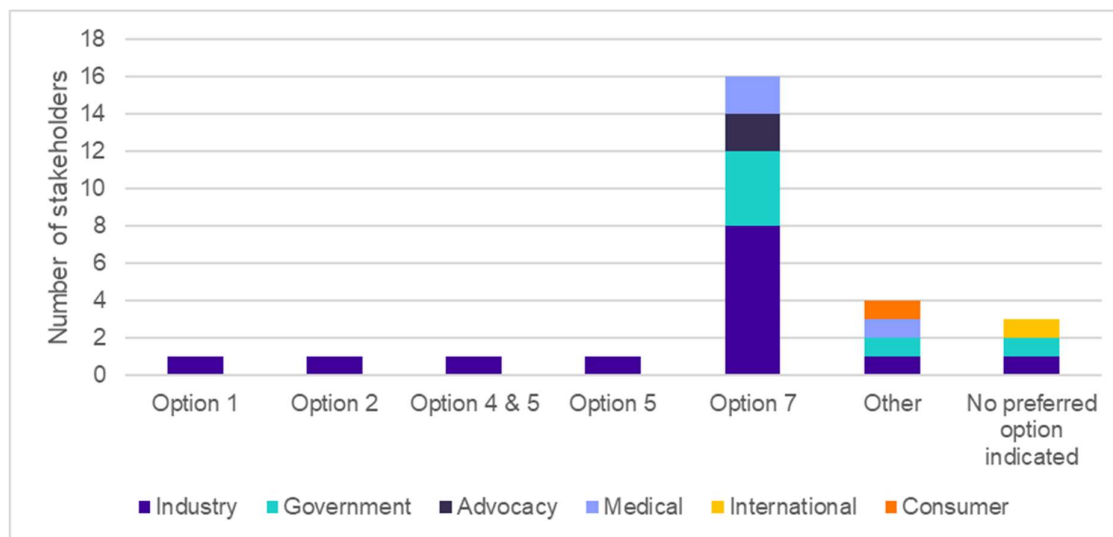
The ACCC received 27 submissions to the Consultation Paper:

- 59% of stakeholders (16 submissions; 8 industry, 4 government, 2 advocacy and 2 medical) supported a permanent ban being introduced in the short term while a mandatory safety standard and a mandatory information standard were developed (Option 7).
- 19% of stakeholders (5 submissions; 2 industry, one government, medical and international) proposed alternative options or a different combination of proposed options. For example, the NSW Department of Education supported a permanent ban, an information standard (Option 5) and an education campaign (Option 2).
- 11% of stakeholders (3 submissions; one industry, government and international) did not preference an option.

Figure 3 summarises the options supported by stakeholders by stakeholder categories.

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

Figure 3: Options supported in stakeholder submissions by stakeholder category



The Consultation Paper also sought stakeholder feedback on the existing mandatory safety standards for household cots and folding cots. As the ACCC’s preferred option presented in the Consultation Paper included developing a holistic safety standard capturing all Infant Sleep Products, it was 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 was envisaged updates to these standards would occur in conjunction with the outcomes of the Consultation Paper and if a holistic safety standard were developed, it 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 were:

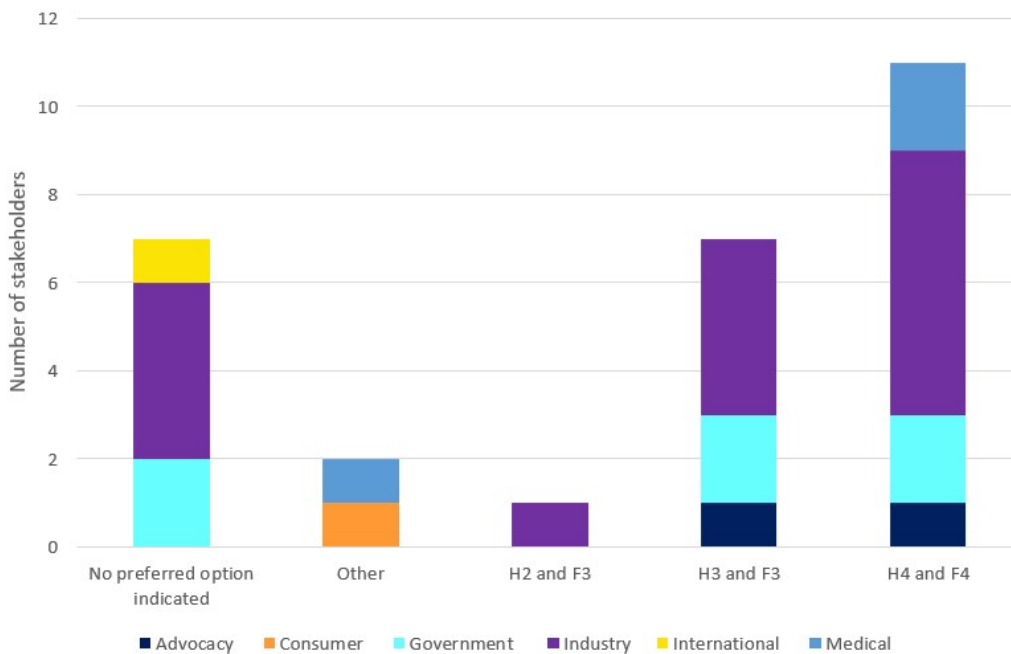
- **Option H1 and F1:** No change to the existing standards.
- **Option H2 and F2:** Amend by adopting sections of the most recent respective Voluntary Standards.
- **Option H3 and F3:** Amend by adopting the entirety of the most recent respective Voluntary Standards.
- **Option H4 and F4:** Amend by adopting sections of the most recent respective Voluntary Standards and allowing compliance with trusted international standards.

Of the 27 submissions received, overall:

- 11 stakeholders (one advocacy, 2 government, 6 industry and 2 medical) supported the Household Cots Mandatory Standard and Folding Cots Mandatory Standard be amended to adopt sections of the most recent respective Voluntary Standards and allowing compliance with trusted international standards (Option H4 and F4).
- 7 stakeholders (one advocacy, 2 government and 4 industry) proposed the Household Cots Mandatory Standard and Folding Cots Mandatory Standard be amended to adopt the entirety of the most recent respective Voluntary Standards (Option H3 and F3). One of these industry stakeholders also supported the Household Cots Mandatory Standard and Folding Cots Mandatory Standard adopting sections from the most recent respective Voluntary Standards (Option H2 and F2).
- 2 stakeholders (one consumer and one medical) proposed alternative options, such as banning drop sides in addition to the current requirements for household cots.
- 7 stakeholders (2 government, 4 industry and one international) did not preference an option.

Figure 4 summarises the options supported by stakeholders by stakeholder categories.

Figure 4: Options supported in stakeholder submissions by stakeholder category



3.4.1. Stakeholder feedback

Mandatory information standard

The Consultation Paper proposed the following warnings for the mandatory information standard:

- warning that infant should be placed on their back
- warning that 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) (Infant Sleep Products only)
- warning against use for sleep (Inclined Non-Sleep Products only)
- warnings against unsupervised use (Inclined Non-Sleep Products only).

19 of 27 stakeholders from advocacy associations, industry, including industry associations, health professionals and government supported a mandatory information standard. The majority of stakeholders reiterated the need of the above warnings.

Mandatory safety standard

The Consultation Paper presented the mandatory safety standard general requirements for all Infant Sleep Products would have:

- 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
- static strength sufficient to support an infant

- quality component requirements (e.g. metal components must be corrosion-resistant and wood must be free from splinters)
- toxicology requirements
- have no restraint system.

16 of 27 stakeholders supported implementing a holistic mandatory safety standard covering all Infant Sleep Products with requirements for incline, curvature, rigidity, and materials used.

Additional requirements were suggested by various stakeholders. The Australian Toy Association recommended stability requirements so products do not easily tip over.

Bloom & Grow suggested an age limit of 3 months and dimensional requirements such as maximum internal length to prevent use by older children. Bloom & Grow also advised restraints do not pose a risk of strangulation if properly used and banning restraints could be hazardous.

Dr Barker et al recommended the proposed general requirements in addition to addressing gaps (static and dynamic), snag hazards (static and dynamic), strength (static and dynamic) quality and no restraints.

Red Nose supported specific requirements for bassinets in addition to the Household Cots Mandatory Standard and Folding Cots Mandatory Standard. Red Nose recommended the following requirements for bassinets:

- a wide, stable base to reduce risk of the bassinet tipping over or collapsing
- sides that are sufficiently high to prevent the infant from falling out of the product
- sides that are mesh or other air-permeable material to ensure adequate ventilation to prevent overheating and reduce risk of suffocation
- a firm, flat, well-fitting mattress that is no more than 75mm in thickness
- be free from ribbons, cords or other decorations that could cause choking/strangulation hazards.

Other options

The Australian Toy Association supported an education campaign, mandatory information standard and mandatory safety standard regulating incline, but did not support a permanent ban.

The Consumers Federation of Australia considered a mandatory safety standard and mandatory information standard (Option 7) might not keep up with product design and innovation. The Consumers Federation of Australia recommended a general safety provision but did acknowledge this was outside the scope of consultation.

The NSW Department of Education supported a permanent ban preventing the supply of Inclined Sleep Products with an incline greater than 7 degrees, a mandatory information standard for Infant Sleep Products and Inclined Non-Sleep Products (Option 5) and an education campaign (Option 2). The NSW Department of Education did not support a holistic mandatory safety standard for Infant Sleep Products because it could result in unintended consequences for the early childhood education and care sector as they may deem an Infant Sleep Product, such as a bassinet, as 'safe' which would increase the use for sleep. However, should a mandatory safety standard be implemented, all Infant Sleep Products will be required to meet minimum design requirements to address the risks associated with these products and infant sleep.

Definitions and scope

11 stakeholders agreed with the definitions for Infant Sleep Products, Inclined Sleep Products and Inclined Non-Sleep Products. These stakeholders included advocacy associations, consumers, industry, industry associations, health professionals and government.

9 stakeholders recommended sleep accessories such as wedges, sleep positioners, pillows, anti-roll devices and cot bumpers be included in the definition of Infant Sleep Products. Some stakeholders suggested cot bumpers also be banned.

3 industry stakeholders and an advocacy organisation disagreed with the proposed definitions:

- Britax Childcare Pty Ltd reiterated child restraints for motor vehicles, prams and strollers should not be captured.
- National Retail Association coordinated its response with INPAA, both of which supported banning sleep accessories captured above.
- Kidsafe Australia raised concerns for non-essential infant products used for sleeping such as infant pillows, sleep positioning/wedges, nests, sleeping pods, infant cocoons, head restraints which are specifically designed to restrain an infant in a child car restraint in a vehicle and reclined sleeping accessories for use in portable cots.

Based on this feedback, the ACCC removed infant pillows, sleep positioners and wedges from the exclusion of the proposed mandatory safety standard so they are captured by the scope. However, the use of other infant products and accessories in the sleep environment is a risk due to consumer behaviour which cannot be regulated but will be addressed somewhat by the education campaign.

Mattress firmness

The Consultation Paper proposed minimum requirements for mattress firmness for all Infant Sleep Products and referenced the Mattress Firmness Voluntary Standard as possible requirements.

There was broad support for a mattress firmness test for Infant Sleep Products, including household cots and folding cots. Stakeholder responses, including the INPAA, raised concerns about whether the test contained in Mattress Firmness Voluntary Standard may not be suitable for Infant Sleep Products with an incline as the sleep surface is required to be horizontal when tested.

The ACCC also received further feedback from industry about an additional mattress firmness test which follows on from the Mattress Firmness Voluntary Standard and can be used for inclined products. To reduce the burden of test costs for industry, a test order for the mandatory safety standard requires products to be tested against the incline requirements (maximum incline of 7 degrees from the horizontal) so the products will effectively be flat, before being tested against the rigidity requirements.

Materials used (breathability)

The Consultation Paper recommended including requirements for breathability to address the risk of carbon dioxide rebreathing, specifically the product be made of breathable fabric that meets testing requirements.

- Britax Childcare Pty Ltd, a manufacturer, advised that Standards Australia Committee CS-003 considered breathability requirements for mattresses and concluded requiring mattress breathability was not of any benefit as the infant would still be unable to breathe in the prone position.
- Dr Barker et al noted the concept of breathability is currently undergoing rigorous reassessment. Kidsafe Australia similarly noted further research is required as breathability has become an unsupported marketing claim.

Household and folding cots

The Consultation Paper sought feedback on the relevance, effectiveness and whether to allow compliance with international voluntary standards for the Household Cots Mandatory Standard and Folding Cots Mandatory Standard.

The NSW Department of Education considered adopting only the most recent voluntary standard in full (Option H3 and F3) would provide clearer requirements that better ensure the mandatory

standards are relevant, effective and provide a better level of safety. The NSW Education advised adopting international voluntary standards in addition to Australian voluntary standards (Option H4 and F4) would create confusion and make it difficult for regulators and consumers to test compliance. The NSW Department of Education believe this uncertainty will lead to increased risk for children and did not perceive this option would adequately address identified risks.

The INPAA also felt including international requirements was unnecessary.

The Australian Toy Association advised it considers adopting international voluntary standards in addition to Australian voluntary standards (Option H4 and F4) would significantly reduce compliance costs for suppliers.

The Consultation Paper also sought feedback on definitional issues with the Folding Cots Mandatory Standard, where 8 stakeholders responded.

- CNP Brands suggested making the scope of folding cots and household cots clearer.
- Kidsafe Australia, the Nation Retail Association and the INPAA recommended updating the folding cot definition to clearly specify the terminology for ‘floor’ which would exclude playpens.

Transition period

The Consultation Paper suggested an 18-month transition period for a mandatory safety standard and a 12-month transition period for a mandatory information standard.

4 stakeholders from industry and government agreed with the proposed transition periods. One stakeholder advised 12 months would be challenging to sell existing products before they become non-compliant and a 24-month transition period would be more realistic for both a mandatory information standard and mandatory information standard.

4. What policy options are you considering?

4.1. Regulatory options under the ACL

The Australian consumer product safety framework is underpinned by the Australian Consumer Law (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 ACL¹⁸
- a mandatory information standard under section 134 of the ACL¹⁹
- interim and permanent bans on products of a particular kind under section 109 and 114 respectively²⁰
- a safety warning notice under section 129 of the ACL.

¹⁸ 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.

¹⁹ 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.

²⁰ 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.

Given the enduring trend of infant fatalities and public and expert health advice, the ACCC focused on pre-emptive risk mitigation strategies (mandatory standards) rather than reactive options such as safety warning notices, bans or recalls to better address the problem.

4.2. Assessing the regulatory options

The ACCC is of the view that a mandatory safety standard for all Infant Sleep Products and a mandatory information standard for Infant Sleep Products and Inclined Non-Sleep Products is the most effective action to reduce the risk of injury and fatalities associated with these products.

Stakeholder responses have informed the preferred option, having regard to both quantitative and qualitative considerations including the cost to industry and effectiveness at preventing or reducing the risk of injury and fatalities.

Benefits and costs for each option were also considered, noting they contain a degree of uncertainty. There is limited specific market information available, so the cost-benefit calculations were based on various assumptions.

The requirements in each option would apply to any entity in the supply chain, including manufacturers, importers, distributors and retailers, who supply Infant Sleep Products and Inclined Non-Sleep Products. Updates to the mandatory standards for household and folding cots will apply to any entity who supplies household and folding cots, including current and future entities:

- **Option 1:** Take no action (maintain the status quo).
- **Option 2:** Amend the mandatory standards for household and folding cots.
- **Option 3:** Make a mandatory information standard for Infant Sleep Products and Inclined Non-Sleep Products, plus an education campaign.
- **Option 4:** Make a mandatory safety standard for Infant Sleep Products, mandatory information standard for Infant Sleep Products and Inclined Non-Sleep Products and revoke the household and folding cots mandatory standards, plus an education campaign.

4.2.1. Option 1: Take no action (maintain the status quo).

Option 1: Take no action (maintain the status quo).

Maintaining the status quo would mean taking no regulatory action to address the current availability of Infant Sleep Products. There would be no impact on reducing the number of fatalities and injuries associated with Infant Sleep Products. No additional cost would be imposed on business under this option.

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. Additionally, the Household Cots Mandatory Standard and Folding Cots Mandatory Standard would continue to mandate minimum safety requirements for construction, design, performance labelling and include mandatory safety warnings and labelling about safe use. However, these do not address the risks addressed in the updated voluntary standards such as rigidity or drop sides and would continue to be outdated.

4.2.2. Option 2: Amend the current mandatory standards for household and folding cots

Option 2: Amend the current Household Cots Mandatory Standard and Folding Cots Mandatory Standard to adopt sections of the most recent respective voluntary standards to allow compliance with trusted international standards.

This option will ensure the Household Cots Mandatory Standard and Folding Cots Mandatory Standard are relevant, effective and up to date. Suppliers would be required to comply with the relevant sections of any of the following voluntary standards:

- **Folding cots**
 - Australian voluntary: *Folding cots – Safety requirements (AS/NZS 2915:2010)*;
 - United States voluntary: *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards (ASTM F406-22)*; or
 - British voluntary: *Furniture - Children’s cots and folding cots for domestic use - Part 1: Safety requirements (BS EN 716-1:2017 Incorporating corrigendum March 2019)*.
- **Household cots**
 - Australian voluntary: *Cots for household use - safety requirements (AS/NZS 2172-2013)*;
 - United States voluntary: *Standard Consumer Safety Specification for Full-Size Baby Cribs (ASTM F1169-19)*; or
 - British voluntary: *Furniture - Children’s cots and folding cots for domestic use - Part 1: Safety requirements (BS EN 716-1:2017 Incorporating corrigendum March 2019)*.

This option received the most stakeholder support and will enhance minimum safety requirements for household and folding cots, which will reduce the likelihood of injuries and fatalities.

The ACCC considers a 6-month transition period is sufficient because the update provides greater flexibility to suppliers.

4.2.3. Option 3: Mandatory information standard and education campaign

Section 134 of the ACL allows the commonwealth minister to make a mandatory information standard. Mandatory information standards ensure consumers are provided with important information about a product to assist them in making a purchasing decision.

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

1. in instructions for use to be provided with the product
2. on a permanent affixed product label
3. on packaging containing the product at the point of sale, including where supplied online.

Plus a safe sleep consumer education campaign.

This option is confined to addressing the incline risk present in Infant Sleep Products and Inclined Non-Sleep Products and it would not address the other risks identified.

Although there are some warning label requirements in overseas standards, they seek to address suffocation risks generally²¹ or to address the need for supervision.²² As such, the ACCC proposes the following information be required on the packaging, at the point of sale and in the instructions:

Infant Sleep Product	Inclined Non-Sleep Product
<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

²¹ ASTM International, ‘Standard Consumer Safety Specification for Infant Bouncer Seats (ASTM F2167-19)’, 2022.

²² NSAI Standards, ‘Child use and care articles – Reclined cradles (IS EN 12790:2009)’, 2009.

Infant Sleep Product	Inclined Non-Sleep Product
<ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> warning against use for sleep warnings against unsupervised use

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



The ACCC anticipates the mandatory information standard would have an 18-month transition period from the date of commencement.

In addition to the mandatory information standard, the ACCC in partnership with other stakeholders would undertake a safe sleep consumer education campaign which would seek to ensure new parents and caregivers are aware of the various risks associated with infant sleep, including:

- Infant Sleep Products, Inclined Non-Sleep Products and inclined accessories such as wedges and sleep positioners.
- Outline risk mitigation strategies for other design features including curvature, rigidity and breathability of materials used.
- Foreign objects and accessories (including cot bumpers, loose blankets and soft toys) in an infant's sleep environment.

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, including early childhood education professionals and centres.

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 in the sleep environment. 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.

24 of 27 stakeholders supported an education campaign. Additionally, in response to both the Issues Paper and Consultation Paper, 15 stakeholders expressed a willingness to partner with the ACCC for an education campaign.

4.2.4. Option 4: Mandatory safety standard and mandatory information standard and revoke current mandatory standards for household and folding cots, plus an education campaign (recommended)

Section 104 of the ACL allows the commonwealth minister to make a mandatory safety standard. Mandatory safety standards prescribe requirements for the design, construction, labelling and testing of products.

Option 4: In addition to an education campaign and a mandatory information standard for all Infant Sleep Products and Inclined Non-Sleep Products, a holistic mandatory safety standard for Infant Sleep Products and revoking the current Household Cots Mandatory Standard and Folding Cots Mandatory Standard.

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 such as entrapments, and ensures the design of Infant Sleep Products aligns with long-standing public health advice.

In addition to the mandatory information standard requirements outlined in Option 3, the holistic mandatory safety 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):

- cots (household and folding), cribs, cradles
- bassinets and Moses baskets
- loungers, co-sleepers and bedside sleepers
- inclined sleepers
- bouncers, reclined cradles and rockers
- infant swings and hammocks
- infant boxes and nests
- sleep positioners/wedges
- any multi-use, hybrid or convertible product which may convert into an Infant Sleep Product.

The **general requirements for all Infant Sleep Products** include:

- no incline greater than 7 degrees, including test requirements
- no curvature (i.e. a flat sleeping surface), including test requirements
- breathable fabric on the sides product that meet test requirements where applicable
- 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
- sufficient strength and integrity to support an infant
- quality component requirements (e.g. metal components must be corrosion-resistant and wood must be free from splinters)
- no ribbons, cords or other decorations that would cause choking or strangulation hazards
- no small parts

- no restraint system.

The product specific requirements would be in addition to the general requirements for all Infant Sleep Products and include:

- **Bassinets:** The additional requirements address side height, filler bars, base width, and necessary warnings specific to bassinets which are not captured by the information standard for Infant Sleep Products (Option 3).
- **Folding cots:** The additional requirements address side height, stability and strength risks. Suppliers would be required to comply with the relevant sections of any of the following voluntary standards:
 - Australian voluntary: *Folding cots – Safety requirements (AS/NZS 2915:2010)*;
 - United States voluntary: *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards (ASTM F406-22)*; or
 - British voluntary: *Furniture - Children’s cots and folding cots for domestic use - Part 1: Safety requirements (BS EN 716-1:2017 Incorporating corrigendum March 2019)*.
- **Household cots:** The additional requirements address design, stability, strength and drop side strength where applicable. Suppliers would be required to comply with the relevant sections of any of the following voluntary standards:
 - Australian voluntary: *Cots for household use - safety requirements (AS/NZS 2172-2013)*;
 - United States voluntary: *Standard Consumer Safety Specification for Full-Size Baby Cribs (ASTM F1169-19)*; or
 - British voluntary: *Furniture - Children’s cots and folding cots for domestic use - Part 1: Safety requirements (BS EN 716-1:2017 Incorporating corrigendum March 2019)*.

As outlined in Option 2, the current Household Cots Mandatory Standard and Folding Cots Mandatory Standard would be updated to reflect the most recent voluntary standards, both domestic and overseas. These mandatory standards as they currently stand would be revoked because they would be captured in the proposed safety standard as the risks addressed relate to the sleep environment. Revoking the current household and folding cots mandatory standards also avoids regulatory duplication.

The ACCC anticipate the mandatory safety standard would have an 18-month transition period.

The ACCC received feedback from industry which recommended stands be mandated on bassinets in the proposed mandatory safety standard. We do not consider this approach to be appropriate because it would effectively ban other Infant Sleep Products such as baskets, bed nests, and devices used to reduce the risk of injuries and fatalities in co-sleeping situations. It is important these products are still available for consumers from low socio-economic households where the cost of cots and bassinets may be a barrier.

Some stakeholders also considered bassinet mattress thickness as a risk, however, we consider this is addressed by the rigidity requirement for all Infant Sleep Products and specifying additional requirements will add an unnecessary burden to industry.

5. What are the costs and benefits of regulatory intervention?

The cost-benefit analysis indicates the cost of intervention relative to outcomes in terms of injuries and fatalities prevented. According to the Best Practice Regulation Guidance Note Value published by

The Office of Impact Analysis, the Value of Statistical Life (VSL) is most appropriately measured by estimating how much society is willing to pay to reduce the risk of fatalities. Based on international and Australian research, a credible estimate of the VSL is \$5,300,000 for a young adult assuming 40 years of life ahead.²³ The VSL figure allows for the potential monetary costs and benefits of regulatory options to be compared.

The cost-benefit analysis has been calculated based on information provided by industry. Based on this, we understand there is a large second-hand market, between 40% - 55% of sales per year depending on the product, for Infant Sleep Products, Inclined Sleep Products and Inclined Non-Sleep Products. Additionally, these products have an average lifespan of 4 years. The quantitative costs, in terms of fatalities, of each option being considered are outlined below and are based on the assumption that every birth will generate a purchase of more than one product (there are approximately 300,000 births per year in Australia).²⁴ This over estimation of products purchased also accounts for consumers who migrate to Australia post infant birth, noting there is a minimal difference between the number of births per year and the population of infants.

While the cost-benefit analysis has assumed there will be a likely benefit from intervention broadly (i.e. reduced number of fatalities), not all impacts of a fatality can be quantified. 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 recommended option and are difficult to quantify. For example, parental bereavement has been linked to an increase in mortality, physical health issues and reduced mental health.²⁵

Given the difficulty to quantify the costs of these impacts, the ACCC's analysis of impacts and associated cost estimates are conservative and do not account for qualitative considerations such as emotional distress and long-term psychological impacts. The cost of the proposed mandatory information standard (Option 3) and proposed mandatory safety standard (Option 4) will be measured against the cost of taking no action (Option 1) with an estimated cost of \$55,279,000 for 2022.

5.1. Option 1 Take no action (maintain the status quo). Implement a consumer education campaign with no regulatory change.

5.1.1. Costs

Under this option, there would be no regulation, and an education campaign would be undertaken by government. 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 \$200,000.²⁶

Further, if no government action is taken, it is estimated that 7.67 fatalities associated with Infant Sleep Products and 2.76 fatalities associated with Inclined Sleep Products and Inclined Non-Sleep Products will continue to occur. With no regulatory intervention, the total VSL lost is estimated as \$55,279,000 for 2022. Table 5 outlines the estimated costs of no regulation.

Table 5: Estimated costs of no regulation

²³ Australian Government, *Best Practice Regulation Guidance Note 'Value of statistical life'*, The Office of Impact Analysis website, August 2022, accessed 13 April 2023.

²⁴ ABS, *Data explorer*, ABS website, accessed 19 April 2023.

²⁵ 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.

²⁶ 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.

Value of Statistical Life (VSL)	\$5,300,000 (2022 dollars)
Estimated deaths associated with Infant Sleep Products per year	7.67 fatalities
Estimated deaths associated with Inclined Sleep Products and Inclined Non-Sleep Products per year	2.76 fatalities
Total = (5,300,000 X (7.67 + 2.76))	\$55,279,000 per year

Table 6 outlines the 5-year projection of estimated and accumulated costs based on the projected population.²⁷

Table 6: 5-year projection of costs and fatalities with no regulation

Year	Projected population	Fatalities per 100,000	Forecast fatalities	Estimated net cost	Accumulative costs over 5 years
2025	28,311,405	0.0388	10.99	\$58,235,813	\$58,235,813
2026	28,796,151	0.0388	11.18	\$59,232,923	\$117,468,736
2027	29,283,507	0.0388	11.37	\$60,235,401	\$177,704,137
2028	29,773,492	0.0388	11.56	\$61,243,288	\$238,947,425
2029	30,264,147	0.0388	11.75	\$62,252,552	\$301,199,977

If no action occurs, based on the fatalities forecasted outlined in Table 6, a total of 78 fatalities is predicted to occur between 2023 and 2029, estimated to cost over \$300 million.

5.1.2. Benefits

No additional regulatory costs would be imposed on industry, therefore, the level of compliance and testing costs to industry will remain the same.

The industry will remain at its current levels of activity, with the level of sales remaining the same.

5.2. Option 2– Update the current mandatory standards for household and folding cots

The current Household Cots Mandatory Standard and Folding Cots Mandatory Standard would be updated to reflect the most recent Australian and overseas voluntary standards. The additional requirements will address design, stability, strength and drop side strength. Certain stakeholder responses have supported updates to these standards.

5.2.1. Costs

Stakeholders advised the costs of this option are expected to be minimal because industry is already required to meet design and labelling requirements of the Household Cots Mandatory Standard and Folding Cots Mandatory Standard.

²⁷ ABS, [Data explorer Population Projections Australia](#), ABS website, accessed 19 April 2023.

5.2.2. Benefits

Stakeholders advised they already comply with the updated recent voluntary standards. Therefore, updating the mandatory standards to reflect the current voluntary standards would remove testing duplication and reduce testing and compliance costs (some stakeholders have advised they test compliance with both the mandatory safety standard and the updated voluntary standards).

5.3. Option 3– Mandatory information standard for Infant Sleep Products and Inclined Non-Sleep Products

5.3.1. Costs

If a mandatory information standard was to be implemented, industry would face costs relating to product warnings, packaging changes and instruction manual changes, in addition to ongoing internal administration cost verifying compliance. Table 7 shows the total estimated costs based on information provided by industry.

Table 7: Estimated costs of a mandatory information standard

Cost of product warning label	\$0.20 - \$1.00 per unit
Cost to include warnings on product packaging	\$0.05 - \$0.10 per unit
Cost to include warnings in the instruction manual	\$0.05 - \$0.10 per unit
Cost of internal administration	\$473,200 - \$728,000 per year for all suppliers
Total estimated costs	\$627,700 - \$1,346,000 per year

The ACCC projects the total cost to be between the cost ranges estimated by industry. As such, the ACCC estimates the total estimated cost for the mandatory information standard would be \$986,850 per year.²⁸ The calculations are shown in **Appendix 2**.

The ACCC considers the mandatory information standard would have an impact on reducing fatalities and the estimated cost of \$55,279,000 per year. The ACCC anticipates a reduction of 2 fatalities in the first year following the transition period. Based on the 4-year lifespan of the products and large second-hand market, the ACCC estimates the rate of fatalities will reduce by a quarter each year to match the rate of non-regulated products exiting the second-hand market. Table 8 demonstrates the 5-year projection of fatalities, total costs of regulation, plus total costs to society for continued fatalities and the overall accumulated cost.²⁹ The last row (shaded grey) compares the final net cost and the accumulative cost over 5 years to the costs of Option 1, taking no action (maintaining status quo). A visual comparison of a mandatory information standard compared to no action is illustrated in Figure 13 and 14.

Table 8: 5-year projection of total costs for a mandatory information standard on industry and society

Year	Fatality reduction	Fatalities per year	Cost of fatalities	Final net cost	Accumulative costs over 5 years
2025	2	8.43	\$44,679,000	\$45,665,850	\$45,665,850
2026	2.25	8.18	\$43,354,000	\$44,340,850	\$90,006,700
2027	2.5	7.93	\$42,029,000	\$43,015,850	\$133,022,550
2028	2.75	7.68	\$40,704,000	\$41,690,850	\$174,713,400
2029 (and there on)	3	7.43	\$39,379,000	\$40,365,850	\$215,079,250
2029 No action	0	11.75	\$62,252,552	\$62,252,552	\$301,199,977

The estimated costs do not account for inflation and assumes the VSL remains at \$5,300,000 per fatality.

5.3.2. Benefits

When considering the benefits of a mandatory information standard in relation to the costs to society of continued fatalities, we assume the anticipated number of fatalities in the first year of regulation also reduce by 2 and the cost of a mandatory information standard is \$986,850 per year for industry. This means the net benefit of regulation begins at \$9,613,150 from 2025 and increases each following

²⁸ The estimated cost is calculated based on an assumed number of products sold and various product lines sold per year.

²⁹ The 'Final Net Cost' adds the estimated yearly cost of a mandatory information standard and the remaining costs of fatalities (based on the VSL). The 'Accumulative cost over 5 years' adds the cost of regulation plus the cost of estimated fatalities based on the VSL.

year as seen in Table 9. Overall, there is net benefit of a mandatory information standard for Infant Sleep Products, Inclined Sleep Products and Inclined Non-Sleep Products to industry and society.

Table 9: Net benefit of a mandatory information standard

Year	Fatality reduction	Benefit	Net benefit	Accumulative net benefit
2024 (transition period)	0	\$0	\$0	\$0
2025	2	\$10,600,000	\$9,613,150	\$9,613,150
2026	2.25	\$11,925,000	\$10,938,150	\$20,551,300
2027	2.5	\$13,250,000	\$12,263,150	\$32,814,450
2028	2.75	\$14,575,000	\$11,736,400	\$44,550,850
2029	3	\$15,900,000	\$13,061,400	\$57,612,250
2030	3	\$15,900,000	\$13,061,400	\$70,673,650
2031	3	\$15,900,000	\$13,061,400	\$83,735,050
2032	3	\$15,900,000	\$13,061,400	\$96,796,450
2033	3	\$15,900,000	\$13,061,400	\$109,857,850
2034	3	\$15,900,000	\$13,061,400	\$122,919,250

5.4. Option 4– Mandatory safety standard and mandatory information standard and revoke current mandatory standards for household and folding cots

5.4.1. Costs

In addition to an education campaign and the above estimated cost for a mandatory information standard, a mandatory safety standard would require Infant Sleep Products to meet design requirements meaning industry would face costs relating to testing, redesign and ongoing internal administration cost verifying compliance. Table 10 shows the total estimated cost based on information provided by industry. Due to the limited and confidential information provided by industry, a further breakdown of costs cannot be provided.

Table 10: Estimated costs of a mandatory safety standard per year

Cost of product testing	\$1,600 - \$8,000 per product line
Cost of product redesign	\$3,500 - \$350,000 per product line
Cost of internal administration	\$473,200 - \$728,000 per year for all suppliers
Total estimated costs	\$1,193,200 - \$161,828,000 per year

The ACCC considers redesign of products would occur during the transition period prior to the commencement of the mandatory safety standard. However, to account for potential delays, the calculations include the cost of redesign for the first 2 years of regulation following the transition period. The ACCC projects the total cost to be between the cost ranges estimated by industry. Therefore, the total estimated cost for the mandatory safety standard would be \$82,298,100 per year for the first 2 years and \$2,760,600 per year from year 3 onwards.³⁰ The calculations are shown in **Appendix 2**.

³⁰ The estimated cost is calculated based on an assumed number of products sold and various product lines sold per year.

It is unclear how much, if any, of the projected cost of a mandatory safety standard would be passed onto consumers via price increases to products. However, the ACCC considers the mandatory safety standard would have the most benefit and impact on reducing infant fatalities associated with Infant Sleep Products because it addresses the risks associated with Infant Sleep Products at a design level, reducing the likelihood of misuse by consumers.

The ACCC anticipates a reduction of 4 fatalities in the first year following the transition period. Based on the 4-year life span of Infant Sleep Products and large second-hand market, the ACCC estimates the rate of fatalities will reduce by a quarter each year after the first year to match the rate of non-regulated products exiting the second-hand market at the end of their lifespan. Table 11 demonstrates the 5-year projection of fatalities, total costs of regulation, plus total costs to society for continued fatalities and the overall accumulated cost.³¹ The last row (shaded grey) compares the final net cost and the accumulative cost over 5 years to the costs of Option 1, taking no action (maintaining the status quo). A visual comparison of a mandatory safety standard compared to no action is illustrated in Figure 13 and 14.

Table 11: 5-year projection of total costs for a mandatory safety standard on industry and society

Year	Fatality reduction	Fatalities per year	Cost of fatalities	Final net cost	Accumulative costs over 5 years
2025	4	6.43	\$34,079,000	\$116,377,100	\$116,377,100
2026	5	5.43	\$28,779,000	\$111,077,100	\$227,454,200
2027	6	4.43	\$23,479,000	\$26,239,600	\$253,693,800
2028	7	3.43	\$18,179,000	\$20,939,600	\$274,633,400
2029 (and there on)	8	2.43	\$12,879,000	\$15,639,600	\$290,273,000
2029 No action	0	11.75	\$62,252,552	\$62,252,552	\$301,199,977

The estimated costs do not account for inflation and assumes the VLS remains at \$5,300,000 per fatality. The ACCC also assumes non-compliant products are sold prior to the end of the transition period and therefore have not included the cost of disposing of non-compliant products in the estimated costs.

Additionally, the ongoing internal administration cost verifying compliance was included for both the mandatory information standard and a mandatory safety standard. Whereas Infant Sleep Products would be required to comply with both the mandatory safety standard and mandatory information standard, meaning that by including the internal administration cost twice, it is likely an over estimation of the practical costs.

5.4.2. Benefits

When considering the benefits of a mandatory safety standard in relation to the costs to society of continued fatalities, we assume the anticipated number of fatalities in the first year of regulation also reduce by 4. The cost to industry of a mandatory safety standard is \$82,298,100 per year for the first 2 years, and \$2,760,600 per year from year 3 onwards. This means the net benefit of regulation will be negative until 2029 but becomes a positive cost benefit from 2030 onwards as shown in Table 12. The initial negative benefit of a mandatory safety standard accounts for the cost to industry for the redesign of products to comply with the design requirements.

Table 12: Net benefit of a mandatory safety standard

³¹ The 'Final Net Cost' adds the estimated yearly cost of a mandatory information standard and the remaining costs of fatalities (based on the VSL).

Year	Fatality reduction	Benefit	Net benefit	Accumulative net benefit
2024 (transition period)	0	\$0	\$0	\$0
2025	4	\$21,200,000	- \$61,098,100	- \$61,098,100
2026	5	\$26,500,000	- \$55,798,100	- \$116,896,200
2027	6	\$31,800,000	\$29,039,400	- \$87,856,800
2028	8	\$42,400,000	\$39,639,400	- \$48,217,400
2029	8	\$42,400,000	\$39,639,400	- \$8,578,000
2030	8	\$42,400,000	\$39,639,400	\$31,061,400
2031	8	\$42,400,000	\$39,639,400	\$70,700,800
2032	8	\$42,400,000	\$39,639,400	\$110,340,200
2033	8	\$42,400,000	\$39,639,400	\$149,979,600
2034	8	\$42,400,000	\$39,639,400	\$189,619,000

Table 12 only outlines the net benefit of a mandatory safety standard. Should a mandatory information standard and mandatory safety standard be implemented, the net benefit of both regulations after 10 years would be \$312,538,250 by 2034.

As outlined in the Scope section of this paper, Inclined Sleep Products and Inclined Non-Sleep Products are defined based on their representation (designed, intended, marketed or contain any representations that it is suitable for sleep). The estimated cost of the mandatory safety standard does not account for suppliers that will update the representations of their Infant Sleep Products, so they are then considered Inclined Non-Sleep Products and are only captured by the mandatory information standard.

6. What is the best option?

6.1. Recommended option

The ACCC considers that implementing a mandatory safety standard and a mandatory information standard (Option 4) is the best option. This view is informed by stakeholder consultations, the Mannen Report, Expert Reports and the regulatory cost-benefit analysis.

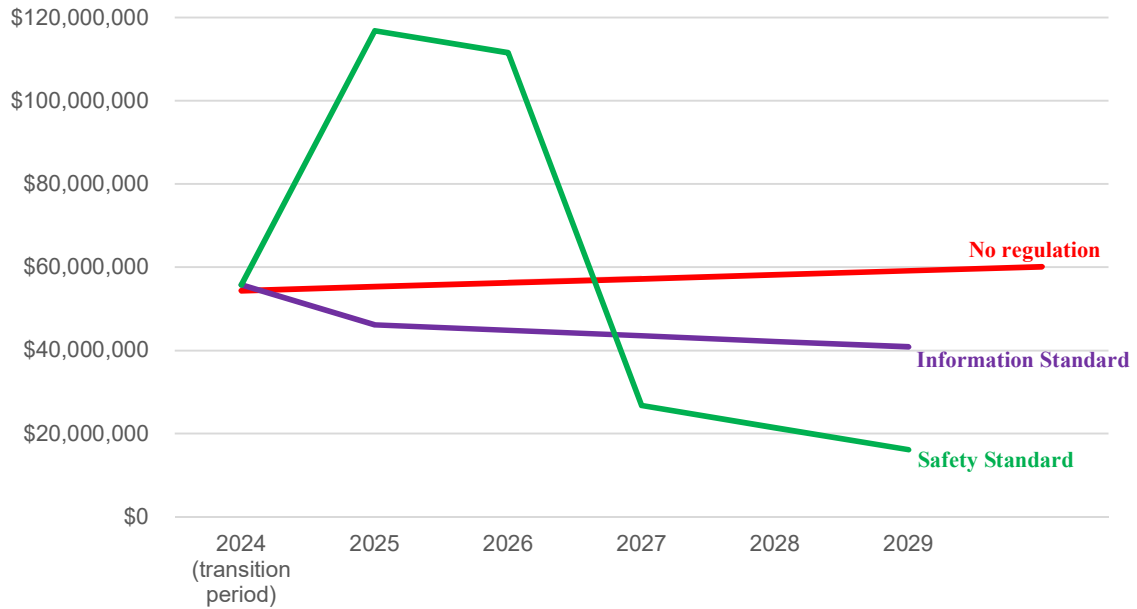
While there is support for updating the mandatory standard for household and folding cots, this option is unlikely to prevent as many fatalities given the majority of Infant Sleep Products will remain unregulated.

The cost-benefit analysis indicates the cost of intervention outweighs the continued cost of fatalities. The total accumulative net benefit after 10 years is projected to be:

- A mandatory information standard = \$122,919,250.
- A mandatory safety standard = \$189,619,000.

The total net cost and accumulative costs over the 5 years for Option 1, 3 and 4 are shown in Tables 5 - 12. Figure 13 compares the final net cost over 5 years. This figure adds the estimated yearly cost to industry of a mandatory information standard and mandatory safety standard, plus the remaining costs to society of fatalities (based on the VSL). Figure 13 illustrates the initial increase in costs of a mandatory safety standard because of the redesign of the product, but then has the greatest benefit at 5 years and beyond.

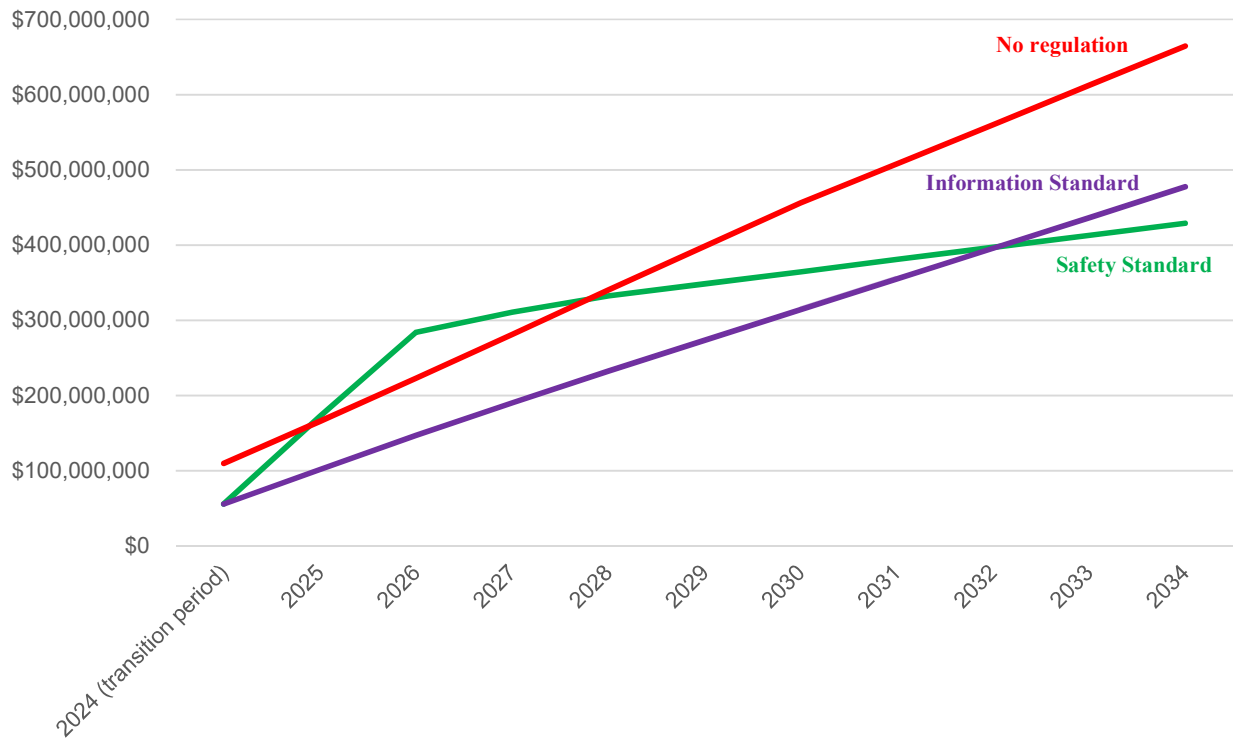
Figure 13: 5-year projection of final costs (cost of regulation plus remaining costs to society of fatalities)



While the cost-benefit analysis predicts a mandatory safety standard would have an initial burden in cost to suppliers, it forecasts the greatest net benefit over a 5-year period, as demonstrated in Figure 13 and 14.

Figure 14 illustrates the accumulative costs over 5 years for the mandatory safety standard, mandatory information standard and if no regulatory action is taken. The accumulative cost adds the cost of regulation on industry plus the cost of estimated fatalities based on the VSL. Based on the estimated costs outlined in section 5, illustrated in Figure 14, the mandatory information standard has the greatest net benefit after 5 years. Figure 14 also demonstrates the cost of the mandatory safety standard starts to plateau which indicates the mandatory safety standard would have the greatest accumulative cost benefit in future.

Figure 14: 10-year projection of accumulative costs



While the cost-benefit analysis demonstrates benefits of regulatory intervention, there are limitations to the analysis of the costs. However, these limitations result in an overestimation of the cost. Additionally, the costs of no regulation may also be overestimated noting it is unclear how much impact an education campaign will have on infant fatalities.

We acknowledge some stakeholders do not support the mandatory information standard and mandatory safety standard, however, the ACCC considers this provides the greatest safety and cost benefit. We also note not all impacts of a fatality can be quantified and the loss of a child is one of the most extreme stressors that a person can face.

6.2. Impacts of a mandatory information standard

A mandatory information standard is expected to influence consumer behaviour. Providing multiple warnings and consistent product safety information at the point of sale (instore and online) will inform consumers of the risks of infants sleeping at an incline and the need for supervision:

- **Infant Sleep Products:** Warnings infants should be placed on their back and not to put objects or accessories in an infant's sleep environment.
- **Inclined Non-Sleep Products:** Warnings that infants should be placed on their back, and against using for sleep and unsupervised use.

These warnings act as an immediate, affirmative call to action by stating safety advice at the point of sale and are consistent with medical and public health advice relating to safe sleep practices. By having these warnings prominent and readily available on each product, it increases the likelihood of carers reading and understanding the advice, minimising the barrier of requiring consumers to access the information by research or medical attention.

The mandatory information standard will also provide benefit during the lifespan of the product through affixed permanent warning labels, as the warning labels will assist in educating second-hand

consumers who may not have access to the instructions or original packaging. However, the ACCC acknowledges many second-hand products in this market are generally one-off sales from consumers whose child has outgrown the product and may not be considered in trade or commerce, as such, would not be captured by the ACL.

Stakeholders who responded to the Issues Paper and Consultation Paper were generally of the view that a mandatory information standard would need to complement a mandatory safety standard and/or other form of regulation such as a permanent ban.

A mandatory information standard will result in initial costs to industry in implementing new warning labels, packaging changes and instruction manual changes, in addition to ongoing internal administration cost verifying compliance (see section 5.3 above for further information). However, although there will be initial costs to industry, these will be offset by the expected benefits and cost savings of the mandatory safety standard over time as discussed above in this paper.

6.3. Impacts of a mandatory safety standard

A mandatory safety standard would likely remove the design risks inherent in Infant Sleep Products, including Inclined Sleep Products. All Infant Sleep Products would be subject to the standard, preventing any regulatory gaps, with the ability to capture future emerging products designed for infant sleep. These safety design requirements will also have a flow on effect to other sectors who use Infant Sleep Products such as the childcare and early learning sectors.

The design requirements are devised to be safe for infant sleep, which is consistent with long-standing public health and medical advice that infants sleep on a firm, flat sleep surface. An educational campaign alone may not be sufficiently effective to create a lasting impact that mitigates against the known risks that are not currently addressed in the Australian product safety framework.

59% of stakeholders who responded to the Consultation Paper were of the view that a mandatory safety standard would help reduce the 7.67 fatalities per year associated with Infant Sleep Products and 2.76 fatalities per year associated with Inclined Sleep Products and Inclined Non-Sleep Products. While the cost-benefit analysis predicts a mandatory safety standard would have an initial burden in cost to suppliers in redesign testing and ongoing internal administration costs verifying compliance (see section 5.4 above for further information), it forecasts the greatest net benefit over a 5-year period, as demonstrated in Figure 13 and 14.

7. How will the ACCC implement and evaluate the chosen option?

Under section 104 and 134 of the ACL, the commonwealth minister has the power to make or declare a mandatory safety standard and a mandatory information standard respectively for a consumer product or product-related service. These standards apply nationally.

Prior to making or declaring a mandatory information standard, the Commonwealth minister is required to consult with relevant state and territory ministers as per section 34 of the *Intergovernmental Agreement for the Australian Consumer Law*. This process will include a 90-day consultation period, as well as an additional 35-day period in which the states and territories must make a decision. A mandatory information standard may also be subject to the Trans-Tasman Mutual Recognition agreement between Australian and New Zealand. This process does not apply to a mandatory safety standard where the Minister can make or declare a mandatory safety standard following a recommendation from the ACCC.

Following approval from states and territories ministers (for the mandatory information standard) and subsequently the Commonwealth Minister (for the mandatory information standard and mandatory

safety standards), the ACCC will lodge the instruments to introduce a mandatory safety standard and a mandatory information standard on the Federal Register of Legislation.

7.1. Transition period

The ACCC considers the Infant Sleep Products mandatory standards would have an 18-month transition period, from the date of commencement. The ACCC envisions the current mandatory standards for household and folding cots to be revoked on the date the transition period for the mandatory safety standard concludes.

The transition periods provide reasonable time for industry to sell or dispose of stock that may not comply and source new stock. The transition periods are considered appropriate given the broad range of Infant Sleep Products likely to be affected and were also considered reasonable by most stakeholders.

7.2. Provision of guidance materials

If a mandatory safety standard and mandatory information standard are introduced, the ACCC will engage with industry to provide guidance materials and further clarity on the application of the requirements and best practice recommendations. This should assist suppliers (especially smaller suppliers) who do not have adequate resources or design capacity to easily comply with the new mandatory standards.

7.3. Review of standards

The ACCC considers a formal review of any new mandatory safety standard and mandatory 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, consumer awareness, changes in product design, and changes in the prevalence of injuries and fatalities caused by Infant Sleep Products:

- Compliance with mandatory safety standard and mandatory information standard: Safety regulation in Australia is a shared responsibility and is enforced by the ACCC and state and territory consumer protection agencies. The ACCC will monitor industry compliance with the mandatory safety standard and mandatory information standard through complaints to the ACCC, surveillance and industry engagement. The ACCC will take enforcement action where appropriate. Under section 136 of the ACL, pecuniary penalties may apply for the supply of goods that do not comply with a mandatory standard. The ACCC considers that observed levels of industry compliance and limited reports of non-compliance to the ACCC will in part demonstrate effectiveness.
- Injuries and fatalities: Ultimately, any reduction in injuries or fatalities is an indicator of success. Ideally, a measure of success is no injuries or fatalities, however the ACCC considers a more realistic aim of this intervention is a 70% reduction in fatalities. This information can be extrapolated from coronial data following the implementation of the mandatory safety standard and mandatory information standard.

Improved consumer awareness, including through the engagement and reach of the education campaign, will also demonstrate success.

The ACCC will also address any issues as they arise and maintain communications with stakeholders.

Appendices

Appendix 1: Calculation methods for infant fatalities

The ACT, NSW, Qld, SA, Tas, and Vic 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 NT is partnered with Qld.

The 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.³²

Tables 15 and 16 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.

Table 15: Estimated national infant fatalities for Infant Sleep Products (excl Inclined Sleep Products)

	Average	Weighted average	Most similar
Population	7.32	7.59	7.08
Infant population	7.36	7.67	7.13
Infant fatalities	6.80	7.43	7.12

Table 16: Estimated national infant fatalities for Inclined Sleep Products

	Average	Weighted average	Most similar
Population	2.58	2.68	2.53
Infant population	2.60	2.76	2.60
Infant fatalities	1.32	2.72	2.71

³² 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.

Appendix 2: Calculation methods for costs of regulation

Compliance cost to industry

Table 17: Mandatory information standard calculations

Minimum range		
Compliance cost	Calculation	Total cost
Labelling	\$0.30 x 515,000 (Label cost x products sold per year)	\$154,500
Internal administration (all supplier per year)	2 hrs @ \$65 per hr per/wk = \$6,760 per year	\$473,200
	\$6,760 x 70 (Multiple by no. suppliers)	
Total		\$627,700

Maximum range		
Compliance cost	Calculation	Total cost
Labelling	\$1.2 x 515,000 (Label cost x products sold per year)	\$618,000
Internal administration (all supplier per year)	2 hrs @ \$70 per hr per/wk = \$7,280 per year	\$728,000
	\$7,280 x 100 (Multiple by no. suppliers)	
Total		\$1,346,000

Table 18: Mandatory safety standard calculation

Minimum range		
Compliance cost	Calculation	Total cost
Testing (per product line)	\$1,600 x 450 (Testing x no product lines)	\$720,000
Redesign (per product line)	\$3,500 x 450 (Redesign x no product lines)	\$1,575,000
Internal administration (all supplier per year)	2 hrs @ \$65 per hr per/wk = \$6,760 per year	\$473,200
	\$6,760 x 70 (Multiple by no. suppliers)	
Total cost for first 2 years		\$2,768,200
Testing (per product line)	\$1,600 x 450 (Testing x no product lines)	\$720,000
Internal administration (all supplier per year)	2 hrs @ \$65 per hr per/wk = \$6,760 per year	\$473,200
	\$6,760 x 70 (Multiple by no. suppliers)	
Total for years 3 & onwards		\$1,193,200

Maximum range		
Compliance cost	Calculation	Total cost
Testing (per product line)	\$8000 x 450 (Testing x no product lines)	\$3,600,000
Redesign (per product line)	\$350,000 x 450 (Redesign x no product lines)	\$157,500,000
Internal administration (all supplier per year)	2 hrs @ \$70 per hr per/wk = \$7,280 per year	\$728,000
	\$7,280 x 100 (Multiple by no. suppliers)	
Total cost for first 2 years		\$161,828,000
Testing (per product line)	\$8000 x 450 (Testing x no product lines)	\$3,600,000
Internal administration (all supplier per year)	2 hrs @ \$70 per hr per/wk = \$7,280 per year	\$728,000
	\$7,280 x 100 (Multiple by no. suppliers)	
Total cost years 3 & onwards		\$4,328,000

5-year projection of total costs for on industry and society

Table 8, demonstrates the 5-year projection of fatalities, total costs of regulation for a mandatory information standard, plus total costs to society for continued fatalities and the overall accumulated cost. These figures were calculated using:

- VSL = \$5,300,000.
- No regulation = \$55,279,000 per year.
- Mandatory information standard = \$986,850 per year.
- Mandatory safety standard first 2 years = \$82,298,100 per year.
- Mandatory safety standard year 3 and onwards = \$2,760,600 per year.
- **Cost of fatalities** = number of fatalities predicted multiplied by the VSL. For example, for 2025, 8.43 fatalities, multiplied by \$5,300,000 = \$44,679,000).
- **Final net cost** = cost of fatalities plus cost of mandatory information standard. For example, for 2025, \$44,679,000 (calculated above) plus \$986,850 = \$45,665,850.
- **Accumulative cost** = adds the final cost of each year to demonstrate the accumulative cost to industry and society over 5 years. For example, for 2026, the final net cost of 2025, \$45,665,850, plus the final net cost of 2026, \$44,340,850 = \$90,006,700.

This was the same method used to calculate the 5-year projection for the mandatory safety standard outlined in Table 11.

Benefits of regulation

The benefits of a mandatory information standard and a mandatory safety standard are the costs of the anticipated number of fatalities saved by the proposed regulation. The net benefit is then calculated by

subtracting the cost of regulation by the cost of anticipated number of fatalities saved by the proposed regulation.

The figures in Table 9 and 12 were calculated using:

- VSL = \$5,300,000.
- No regulation = \$55,279,000 per year.
- Mandatory information standard = \$986,850 per year.
- Mandatory safety standard first 2 years = \$82,298,100 per year.
- Mandatory safety standard year 3 and onwards = \$2,760,600 per year.
- **Benefit** = the cost of the anticipated number of fatalities saved by the proposed regulation. For example, the mandatory information standard is predicted to save 2 lives in 2025 which would have a benefit of \$10,600,000 (2 x \$5,300,000).
- **Net benefit** = the anticipated number of lives saved subtract the estimated cost of regulation. For example, the mandatory information standard in 2025, \$10,600,000 - \$986,850 = \$9,613,150.

Appendix 3: Summary of key decisions

