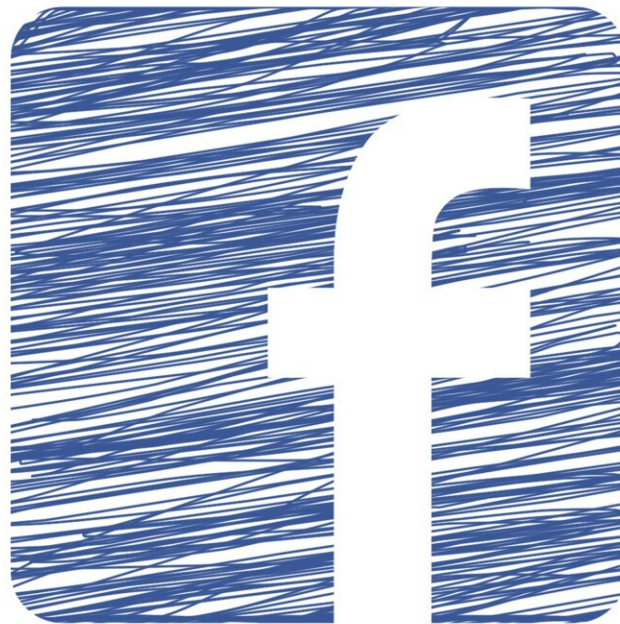


'They cannot be trusted': Lawmakers slam Facebook over sale of deadly children's products

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Despite repeated warnings that Facebook Marketplace allows the sale of recalled products that have killed children, the platform's parent company, Meta, has still failed to prevent such items from being available on its site. Now, members of Congress are demanding the company do more, writing to Meta last week that its "continued failure" to block the sale of recalled items is a "remarkable dereliction of duty by your company on behalf of your users."

Similar letters members of Congress sent in 2019 and 2020 failed to spark significant action by the social media giant. In addition, pressure from safety advocates, grieving families, [federal regulators](#) and a USA TODAY investigation have not led to meaningful changes to how Facebook addresses the danger.

"They cannot be trusted. They'll make statements that they'll do better," said Rep. Jan Schakowsky, D-Ill., one of the authors of the letter, which was sent to Meta last week. "Then they don't abide by it. And the consequence is the loss of life."

A USA TODAY investigation last year found deadly recalled children's products regularly change hands through Facebook Marketplace despite available remedies such as photo or text recognition technology. USA TODAY found scores of listings on Marketplace spanning 14 separate recalled products that had contributed to the deaths of at least 121 children and hundreds more incidents or serious injuries. Many were listed using their brand names. Dozens of the products were later marked as having been sold.

Given new life on Facebook Marketplace, recalled products have gone on to harm, USA TODAY found. In July, a 5-month old girl smashed her head on a laminate floor after falling out of a recalled Bumbo baby seat purchased on Facebook Marketplace, according to a report made to federal safety regulators. At least 112 children have been injured using the seats, including 24 who suffered fractured skulls.

They are still available on Facebook Marketplace, as are many other recalled items flagged by USA TODAY last year.

Last week, among the dangerous items USA TODAY identified for sale on Facebook Marketplace were Nap Nanny inclined sleepers tied to at least six deaths, Maclaren strollers with a faulty hinge that has caused fingertip amputations and Boppy lounger pillows recalled last year after being blamed for at least eight infant deaths.

A Facebook spokeswoman did not respond when asked about the the letter sent by Schakowsky and Sen. Richard Blumenthal, D-Conn.

The spokeswoman, Devon Kearns, last year told USA TODAY that Facebook bans the sale of recalled goods on its site and enforces that restriction primarily through automated reviews of listings and occasionally manual checks. She declined to say how many or which recalled products the system checks for.

"Like other platforms where people can buy and sell goods, there are instances of people knowingly or unknowingly selling recalled goods on Marketplace. We take this issue seriously and when we find listings that violate our rules, we remove them," Kearns said.

Patty Davis, spokeswoman for the U.S. Consumer Product Safety Commission, told USA TODAY the agency regularly contacts Facebook about recalled items for sale on its site, doing so for thousands of listings

last year alone.

"We have urged Facebook to do more to prevent listings for recalled products," Davis said.

Facebook launched its Marketplace application in 2016. Though not the only place where recalled products are sold online, the platform is a leading venue for selling secondhand goods. More than 1 in 3 people on Facebook in the United States use Marketplace each month, according to the company.

Though it is illegal under federal law to sell a recalled product, Facebook is merely facilitating the sale of items on its site.

In a similar debate over defective or dangerous products sold on Amazon, judges have typically said Amazon can only be held liable if the product shipped from one of its warehouses, according to Justin "Gus" Hurwitz, a professor of law at the University of Nebraska-Lincoln who focuses on regulation in the tech world.

"There is no legal framework that would require Facebook to do anything about recalled products," Hurwitz said.

Blumenthal said he hopes to address that by introducing legislation that would "make it absolutely clear that Congress expects online marketplaces to be held accountable for defective products on their platforms and illegal sales of recalled products." He and Schakowsky said they are exploring options and plan to introduce legislation within the next few months.

"I have no great expectation or optimism that Facebook will voluntarily take stronger action to fulfill its moral obligation," he said.

Schakowsky echoed his sentiments. "We are so done," she said. "It is now time for us to regulate."

Experts say Facebook could do much more to limit recalled goods on its site, using a range of technologies similar to how it restricts the sale of firearms or drugs. In their letter—which is addressed to Facebook co-founder and Meta CEO Mark Zuckerberg—Blumenthal and Schakowsky posed several questions including what specific systems Facebook uses to prevent recalled items from being listed and how many items those systems caught over the last year. They also asked Facebook why it has not added a way for users to flag items as being recalled, like it has for counterfeit or stolen goods.

At a minimum, the company could block listings with the names of recalled products.

Facebook is already doing that for at least one item—the Fisher-Price Rock 'n Play, which was recalled in 2019 and has been linked to nearly 100 deaths. When USA TODAY reporters last year, as a test, created postings on Facebook Marketplace for eight recalled products, Facebook only blocked the Rock 'n Play, saying the listing violated its commerce policy. Nevertheless, the reporter was able to post the item as a "Fisher-Price baby rocker."

USA TODAY last week found more than a dozen Rock 'n Plays for sale on Facebook Marketplace, at least two which later sold.

Blumenthal and Schakowsky last week also wrote to Mattel, which owns the Fisher-Price brand, with concerns about the company's recall, saying that progress "has stalled, leaving hundreds of thousands of [products](#) left unaccounted for, and perhaps in use by parents and caregivers." They pointed to February reporting by Consumer Reports that found at least eight infant deaths have been linked to the Rock 'n Play since the 2019

recall.

Fisher-Price spokeswoman Catherine Frymark declined to comment on the legislators' letter. In a statement, she said that the company "voluntarily recalled the Rock 'n Play Sleeper more than two years ago and have continued to work diligently to remove all recalled product from the market."

Rachel Weintraub, legislative director and general counsel for the Consumer Federation of America, called it "incredibly important" that members of Congress continue to demand answers and action from Facebook. She said she hopes they can obtain more specific information than Facebook has provided to date about what the company is doing to address the problem and what its plan is going forward.

"For some safety issues, the solution is not clear," she said. "In this case, especially with companies that exist because of [technological advances](#), those technological advances should be used to further safety, just as it's furthering its brand, just as it's furthering its own economic growth. And I think that's what's frustrating here."

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