



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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Via Electronic Mail and Regular Mail

September 21, 2012

Anne Lardner-Stone
Director, Public Affairs
PPAI - Promotional Products Association International
3125 Skyway Circle North
Irving, Texas 75038

Re: Advice in Follow-up to August Product Safety Conference

Dear Anne:

I write to follow up on two questions raised at your product safety conference last August. Thank you again for inviting the CPSC to participate as education and outreach is an important goal for the agency.

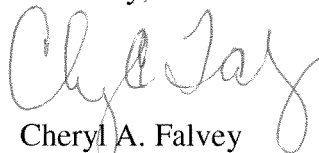
First, your members asked whether they can rely on a component certificate from the firm that they use to imprint children's products (ink supplier) so long as the firm indicates that the ink has been tested once a year. The short answer to that question is yes. The certificate from the imprinter (or firm applying the ink) can cover multiple batches or lots of productions. The only caveat is that the firm selling the imprinted item (distributor) must have exercised an appropriate level of due care to ensure that the ink being used by the imprinter is the same that is covered in the certificate such that each additional batch or lot of production will continue to comply with all applicable children's product safety rules.

Second, your members asked whether both the distributor and supplier/importer's name must be on the product in order to comply with the tracking label requirement. As I explained at the product safety conference, the difficulty your industry faces is that technically there may be more than one "manufacturer" of a promotional product. The slides go over that issue legally. As a practical matter the "distributor" meets our definition of manufacturer by virtue of its "assembly" of the final product (by virtue of embellishing or otherwise modifying the product), but the supplier who either imports or manufactures the base product to be embellished is also a

manufacturer. Although the Commission's Statement of Policy on Tracking Labels allows a great deal of flexibility, at this time, it would not be sufficient to have only the distributor's information on the tracking label. The tracking label is to provide information to the ultimate consumer as to the origin of the product. While the supplier may be able to ascertain the necessary information if it has the distributor's name and design, it is difficult to see how the consumer could use the distributor's name and design to ascertain all the necessary information (identity of "manufacturer or private labeler, location and date of production of the product, and cohort information"). For example, section 103 asks for the location of production, not the location of the distributor. You could ask the Commission to address this issue but my guess is that any relief would require the distributor to keep records of the same tracking information that the supplier needs to provide by way of a tracking label right now. I was asked whether it would suffice to put the supplier's url on the package so as not to detract from the distributor's branding so long as if the consumer would be able to determine the identity of the supplier (which is often an importer). That seems reasonable, particularly since Section 103 states that the tracking label is required on the product and its packaging "to the extent practicable." The Statement of Policy provides guidance on when marking of the product might not be practicable. The expectation, however, is that the packaging would be marked so that the manufacturer and consumer could readily ascertain the necessary information. The consumer may not know that the url is there to provide tracking information, but if the purpose becomes immediately apparent when the url is accessed, and the distributor knows what the url means and can explain that to the consumer if contacted, such a system could help you avoid multiple labels and branding confusion.

I hope this provides you with some additional guidance on the issues we discussed in August.

Sincerely,



Cheryl A. Falvey
General Counsel