

5 Hanover Square
15th Floor
New York, N.Y. 10004

TOMPKINS & DAVIDSON, LLP
Counselors At Law

Phone: (212) 944-6611
Fax: (212) 944-9779
e-mail: customs@tdllp.com
internet: <http://www.tdllp.com>

February 26, 2009

**RE: Consumer Product Safety Improvement Act –
Request for Comments on Tracking Labels for Children’s Product**

In today’s Federal Register, the Consumer Product Safety Commission published a “notice of inquiry” concerning implementation of the tracking label requirement for children’s products under Section 103 of the Consumer Product Safety Improvement Act, which requires that, effective August 14, 2009, the manufacturer of a children’s product place permanent marks on the product and its packaging that provides certain manufacturer identifying information. Comments in response to the request must be received by April 27, 2009, and may be e-mailed to TrackingLabels@cpsc.gov.

CPSIA Section 103 requires, to the extent practicable, the placement of permanent, distinguishing marks on consumer products designed or intended primarily for children 12 years of age or younger and packaging to enable:

- (A) The manufacturer to ascertain the location and date of production of the product, cohort information, and any other information determined by the manufacturer to facilitate ascertaining the specific source of the product by reference to those marks; and
- (B) The ultimate purchaser to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including batch, run number, or other identifying characteristic).

The CPSC is desirous of exploring whether a uniform approach can be developed. Specifically, the Commission is requesting comments on:

1. The conditions and circumstances that should be considered in determining whether it is “practicable” to have tracking labels on children’s products and the extent to which different factors apply to including labels on packaging.
2. Whether labeling with or without standardized nomenclature, appearance, and arrangement of information would affect manufacturer identification of product source.
3. The impact on consumers of allowing manufacturers and private labelers to comply with labeling requirements with or without standardized nomenclature, appearance, and arrangement of information.
4. Whether there should be a multilingual requirement, and whether codes might be acceptable if there is an available reference method.

5. Whether there would be a substantial benefit to consumers if products were to contain tracking information in electronically readable form, and what form might be most suitable for this.
6. In cases where the product is privately labeled, by what means the manufacturer information should be made available by the seller to a consumer upon request, for example, via Internet, or toll-free number, or at point of sale.
7. The amount of lead time needed to comply with marking requirements if the format is prescribed.
8. Whether successful models for adequate tracking labels already exist in other jurisdictions.

The Commission references a study on possible product labeling protocols “Feasibility Study: Post-manufacturing Traceability System between the PRC and the EU, November 2008” as a background reference that companies might find useful when responding to the above queries. On its Web site, <http://www.cpsc.gov>, CPSC will provide links to Internet notices on tracing products by other jurisdictions as staff becomes aware of them.

Should you wish to discuss your approach to the tracking labeling requirement, or file comments that address the various points of inquiry raised by the Commission, please contact us.

Firm Contacts: Barbara Wierbicki (bywierbicki@tdllp.com); Louis Shoichet (lshoichet@tdllp.com); Robert Stack (rstack@tdllp.com) .

Note: The above comments are intended for general information only, and not as legal advice. Legal advice can only be offered after a review of a client’s specific facts and circumstances, which may affect the applicability of any general comments contained herein.