

COALITION FOR SAFE AND AFFORDABLE CHILDRENSWEAR, INC.

P.O. Box 20144 ° Greeley Square Station ° New York, NY 10001-0005

February 12, 2009

A MESSAGE TO OUR RETAIL PARTNERS

On January 30, 2009, the Consumer Product Safety Commission (CPSC) issued a one year stay of enforcement for certain testing and certification requirements for children's products under the Consumer Product Safety improvement Act of 2008 (CPSIA). The action represented an admission by the Commission that rules for enforcing the congressionally mandated requirements could not realistically be put in place by the February 10, 2009 deadline. The stay applies to Third-Party Testing requirements and General Certification of Conformity (GCC's) for lead content, phthalates, flammability, and the ASTM F963 toy standard as of February 10, 2009.

While all applicable products manufactured or sold by manufacturers or importers must still meet these new CPSIA requirements, CPSC by issuance of the stay has indicated that third-party testing and **GCC's will not be required until February 10, 2010**. This action has been characterized by the CPSC as a limited "time out" so that time to develop and issue clear rules defining exemptions, exclusions and appropriate testing protocols for the new lead and phthalate lead provisions.

The lack of clear requirements defining what constitutes a "part", accessible parts, material exclusions, test protocols allowing reliance on input component part or material certifications and acceptable testing methods for determining the presence of lead or phthalates, all resulted in chaotic, arbitrarily imposed testing requirements in the marketplace. The Commission acted as it became increasingly apparent that enforcement of such requirements is impossible without clear rules in place. Admitting that rules were not yet in place, the Commissioners noted that this will give staff time to develop clear rules and an approach to allow component parts testing. The CPSC Acting Chairman Nancy Nord noted that *"It is critical that we develop component part testing requirements in a way that adds clarity, eliminates some unnecessary testing and provides limited relief to product sellers, especially small manufacturers."*

Congress had urged the Commission to move forward quickly on defining exclusions from the lead content provisions of the law, especially with respect to children's books, apparel and other products that do not present real world health or safety risks. Commissioners have indicated that the *"stay of enforcement will give some temporary relief to small manufacturers and crafters who cannot comply with the law without incurring substantial testing costs"*. **The Commissioners also noted that during the stay period if a company does not test and certify, the agency will not take enforcement action against the company on that ground.**

COALITION FOR SAFE AND AFFORDABLE CHILDRENSWEAR, INC.

P.O. Box 20144 ° Greeley Square Station ° New York, NY 10001-0005

Adding to the confusion were a variety of retailer demands that testing and GCC's be provided for products which were not even subject to such certification requirements as a matter of law. **GCC's were never required for products manufactured prior to November 12, 2008.**

Despite the stay, GCC's will still be required to certify compliance with the lead in paint standard for goods made on or after November 12, 2008. In addition, third party testing for lead in paint is still required for goods made on or after December 21, 2008. Finally, the stay does not affect voluntary guarantees, such as those used in connection with the flammability requirements under the Flammable Fabrics Act (FFA).

The Coalition urges Retailers to heed the CPSC stay and presume that inventory on shelves does not violate CPSIA requirements, unless specifically advised otherwise by the Commission or suppliers.

As CPSC Commissioner Thomas Moore noted in voting for the stay ***"If there is one message a small manufacturer should take from the Commission's action today it is this: If you have been making products without receiving any safety-related complaints, you should go on making and selling your products."***

This approach was extended last Friday February, 6 2009, when the agency said it is accepting a manufacturer's determination that a component part is inaccessible (excluded from regulation); indicated it will not prosecute anyone for manufacturing, importing, distributing, selling or offering for sale a children's product on the basis that it contains more than 600 ppm lead in any natural material that is the subject of the agency's preliminary determination, such as wood, cotton, wool; dyed or undyed textiles (other than leather, vinyl or PVC), non-metallic thread and trim used in children's apparel or textile goods (other than treatments that add lead, ornamental metals, rhinestones, snaps, grommets, zippers or buttons) or other certain excluded metals and alloys, unless the Director of Compliance finds that the seller had actual knowledge otherwise or continued to manufacture, import, distribute or sell the product after being put on notice of not to by agency staff.

We're taking the Commission at its word and urging you to do so as well. Without compromising safety, we're also asking Congress and the Commission to act to absolutely insure that inherently safe products that do not expose children to established health risks are not indiscriminately removed from store shelves or charitable pantries.

COALITION FOR SAFE AND AFFORDABLE CHILDRENSWEAR, INC.

P.O. Box 20144 ° Greeley Square Station ° New York, NY 10001-0005

Member Companies:

A. H. Schreiber Co., Inc.
ABG Accessories, Inc.
Allura Imports Inc.
Bentex Group Inc.
Children's Apparel Network
Children's Resource Club, Inc.
C-Life Group LTD
Fashion Accessory Bazaar, LLC
Five Star Apparel LLC
Franshaw, Inc.
Gerber Childrenswear LLC
Gina Group LLC
HIS LLC
JHL Holdings, LLC
Kahn Lucas Lancaster, Inc.
Kids With Character, Inc.
LT Apparel Group
M. Hidary & Company Inc.
Mamiye Brothers, Inc.
Oved Apparel Corp.
Parigi Group LTD
Robar Inc.
Simon International Trading Corp.
Star Ride Kids, Inc.
Stargate Apparel
Success Apparel
Tawil Associates, Inc.
Wear Me Apparel LLC d/b/a Kids Headquarters
Weeplay Kids LLC
Wiesner Products, Inc