

Labeling Requirement for Advertising Toys and Games
Section 105 of the Consumer Product Safety Improvement Act (“CPSIA”)
Request for Comments and Information*

The Commission staff invites comments on Section 105 of the CPSIA, Labeling Requirement for Advertising Toys and Games, for which a final rule is required by November 12, 2008.

The packaging for certain toys and games containing small parts intended for use by children three to six years old and for balloons, small balls and marbles intended for children 3 years of age or older (as well as any toy or game containing such a balloon, small ball or marble) is required by sections 24(a) and (b) of the Federal Hazardous Substances Act to contain a label, or cautionary statement, regarding choking hazards. Section 105 of the CPSIA requires that advertising for these products that provides a direct means for the purchase or order of a product (including advertisements on Internet websites or catalogues and other printed materials) must contain the same cautionary statement.

The requirements for Internet advertising will take effect December 12, 2008. Absent a grace period, the requirements will apply to catalogues and other printed materials *published or distributed* on or after February 10, 2009, including catalogues that were printed prior to the effective date but not distributed until after the effective date. The Commission may by regulation provide a grace period of no more than 180 days for previously printed catalogues and other printed material.

The Commission staff is interested in comments and information regarding:

- The size and placement of cautionary statements in catalogues and other written materials in light of the statutory requirement to post these statements in a manner consistent with part 1500 of title 16 of the Code of Federal Regulations.
- The impact of the advertising requirements on businesses.
- How often catalogues or other written materials are published and how much lead time is required to prepare these materials for publication.
- Whether and why a grace period may be needed for catalogues and other printed material.
- Whether the advertising requirements for catalogues and other printed materials should also apply to materials distributed solely between businesses and not to ultimate consumers, and, if so, how the Commission can distinguish catalogues distributed solely between businesses from those intended for final distribution to the ultimate consumers, which may include institutions such as schools and day care centers.

Comments must be received by the Office of Secretary not later than October 15, 2008. Comments may be filed by email to cpSC-os@cpSC.gov. Comments may also be filed by facsimile to (301) 504-0127 or by mail or delivery to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland. Comments should be captioned “Section 105 Advertising Requirements.” Interested persons will also have an opportunity to comment following publication of the notice of proposed rulemaking in the Federal Register.

****This document, which was prepared by CPSC staff, has not been reviewed or approved by and may not necessarily represent the views of the Commission.***