



UNITED STATES  
 CONSUMER PRODUCT SAFETY COMMISSION  
 4330 EAST WEST HIGHWAY  
 BETHESDA, MD 20814

**BALLOT VOTE SHEET**

Date: **OCT 30 2008**

TO : The Commission  
 Todd A. Stevenson, Secretary

THROUGH: Patricia Semple, Executive Director *PS*  
 Cheryl F. Falvey, General Counsel *CAF*

FROM : Barbara E. Parisi, Attorney *BEP*

SUBJECT : Labeling Requirement for Toy and Game Advertisements—Final Rule

Ballot Vote Due: November 6, 2008

Attached is a briefing package for a Final Rule regarding advertising requirements for certain toys and games. The Commission is required to promulgate regulations to effectuate Section 105 of the Consumer Product Safety Improvement Act of 2008, P.L. 110-314 with respect to catalogues and other printed materials. The General Counsel memorandum and a draft Federal Register notice (both official use only) are provided under separate cover.

Please indicate your vote on the following options.

I. Publish the draft Federal Register notice as drafted.

\_\_\_\_\_  
 Signature Date

II. Publish with changes.

A. Grace Period.

1. Publish the portions of the draft Federal Register notice relating to the grace period for catalogues and other printed materials.

\_\_\_\_\_  
 Signature Date

2. Publish the portions of the draft Federal Register notice relating to the grace period for catalogues and other printed materials, with changes (please specify).

~~CPSA 6(b)(1) CLEARED for PUBLIC~~

~~NO MFRS/PRVTLRS OR PRODUCTS IDENTIFIED~~

~~EXCEPTED BY: PETITION RULEMAKING ADMIN. PRCDG~~

~~WITH PORTIONS REMOVED:~~

Note: This document has not been reviewed or accepted by the Commission.  
 Initials rh Date 10/30/08

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Signature

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Date

3. Do not publish the portions of the draft Federal Register notice relating to the grace period for catalogues and other printed materials.

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Signature

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Date

B. Business to Business Catalogues.

1. Publish the portions of the draft Federal Register notice relating to the exemption from the advertising requirements for catalogues distributed solely between businesses.

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Signature

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Date

2. Publish the portions of the draft Federal Register notice relating to the exemption from the advertising requirements for catalogues distributed solely between businesses, with changes (please specify).

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Signature

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Date

3. Do not publish the portions of the draft Federal Register notice relating to the exemption from the advertising requirements for catalogues distributed solely between businesses.

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Signature

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Date

C. Cautionary Statements.

1. Publish the portions of the draft Federal Register notice relating to the size and placement of the cautionary statements, as well as the use of abbreviated cautionary statements.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

2. Publish the portions of the draft Federal Register notice relating to the size and placement of the cautionary statements, as well as the use of abbreviated cautionary statements, with changes (please specify).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

3. Do not publish the portions of the draft Federal Register notice relating to the size and placement of the cautionary statements, as well as the use of the abbreviated cautionary statements.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**BRIEFING PACKAGE**

FINAL RULE:  
LABELING REQUIREMENT FOR TOY AND GAME ADVERTISEMENTS



October 2008

For additional information contact:

Barbara E. Parisi, Project Manager  
Regulatory Affairs Attorney  
Office of the General Counsel  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814  
301-504-7879, bparisi@cpsc.gov

*10/30/08*  
~~CPSA 6(b)(1) CLEARED for PUBLIC~~  
NO MFRS/PRVT BLRS OR  
PRODUCTS IDENTIFIED

EXCEPTED BY: PETITION  
RULEMAKING ADMIN. PRCDG

WITH PORTIONS REMOVED: \_\_\_\_\_

Note: This document has not been  
reviewed or accepted by the Commission.  
Initials rh Date 10/30/08

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- Tab B: Memorandum from Timothy P. Smith, Engineering Psychologist, Division of Human Factors, Directorate for Engineering Sciences, to Barbara Parisi, Regulatory Affairs Attorney, Office of the General Counsel, "Response to NPR Comments and Revised Requirements for the Size and Placement of Cautionary Statements Specified in Section 105, Labeling Requirement for Advertising Toys and Games, of the CPSIA," October 21, 2008.
- Tab C: Memorandum from Barbara E. Parisi, Attorney, Office of the General Counsel, to the Commission, "Response to Comments Raising Questions Regarding the Scope of the Labeling Requirements for Advertising Toys and Games," October 24, 2008.



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
BETHESDA, MD 20814

MEMORANDUM

DATE: October 26, 2008

TO: The Commission  
Todd Stevenson, Secretary

THROUGH: Patricia M. Semple, Executive Director DS  
Cheryl A. Falvey, General Counsel CAF

FROM: Barbara E. Parisi, Project Manager, Attorney BEP  
Office of the General Counsel

SUBJECT: Toy and Game Advertising Requirements—Final Rule

## I. INTRODUCTION

Section 105 of the Consumer Product Safety Improvement Act of 2008, Public Law 110-314, 122 Stat. 3016 (August 14, 2008), (“CPSIA”), directs the Commission to promulgate a final rule for advertisements of certain toys and games “with respect to catalogues and other printed materials” not later than 90 days after enactment, or November 12, 2008. Section 105 contains only one mandatory rulemaking obligation, to “clarify the applicability” of the section’s requirements for “catalogues and other printed materials distributed solely between businesses.” In addition, Section 105 also indicates that the Commission may promulgate regulations concerning (i) the size and placement of cautionary statements and (ii) the grace period, if any, to be permitted for catalogues and other printed material printed prior to the effective date for catalogues and other printed materials.

On September 29, 2008, the Commission voted unanimously (2-0) to approve the publication of a notice of proposed rulemaking (NPR) in the *Federal Register*. This briefing package presents a draft final rule that reflects comments received on the NPR, including economic issues arising from (i) determining whether a grace period is necessary for catalogues and other printed materials and (ii) determining the applicability of the requirements to catalogues distributed solely between businesses. The briefing package also addresses the appropriate size and placement of the warnings to be included in the advertising, as determined by a Human Factors staff analysis.

## II. BACKGROUND

Section 24(a) of the Federal Hazardous Substances Act (FHSA) prescribes cautionary labeling requirements for toys or games that contain small parts and are intended for use by children from 3 to 6 years old. The cautionary statement warns potential purchasers that these products are not for children under 3 years old due to choking hazards. Section 24(b)

of the FHSA prescribes similar requirements for balloons, small balls, and marbles intended for children 3 years and older, or any toy or game which contains such a balloon, small ball, or marble. The regulations on these provisions can be found at 16 C.F.R. 1500.19.

Section 105 of the CPSIA amends section 24 of the FHSA to require that, when a product's packaging requires a cautionary statement, advertising for the product that provides a direct means for purchase or order of the product must bear the same cautionary statement. The amendment also provides that the advertising requirements are to be treated as a consumer product safety standard promulgated under section 9 of the Consumer Product Safety Act (CPSA), and the publication or distribution of any advertisement not in compliance with the requirements is to be treated as a prohibited act under section 19(a)(1) of the CPSA.

The CPSIA does not mandate that the Commission promulgate a final rule with regard to requirements for Internet advertising in this time frame. While the text of the proposed rule included requirements for Internet advertising, the draft final rule text does not include requirements specific to Internet advertising. The comment period for comments with respect to Internet advertising closes November 20, 2008. The Commission may issue another final rule, if necessary, regarding Internet advertisement requirements at a later date, or may opt to have staff issue a guidance document. It is important to note that regardless of whether and when the Commission issues a final rule dealing with Internet advertising requirements, the effective date for compliance with Internet advertising requirements as implemented by Section 105 of the CPSIA remains December 12, 2008.

### **III. ECONOMIC ISSUES**

The CPSIA stipulates the Commission may provide a grace period of no more than 180 days for catalogues and other printed material printed prior to the effective date of February 10, 2009. The CPSIA also directs the Commission to determine the applicability of the advertising requirements to catalogues distributed solely between businesses. The CPSIA exempts the Commission from conducting a Regulatory Flexibility Act analysis and Paperwork Reduction Act analysis in this rulemaking.

#### ***1. Grace Period.***

Section 105(c)(2) of the CPSIA provides that, with respect to advertisements on Internet websites, the requirements shall take effect 120 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, or December 12, 2008. The advertising requirements with respect to catalogues and other printed materials will take effect 180 days after enactment of the CPSIA, or February 10, 2009. The CPSIA provides that the Commission may provide a grace period of no more than 180 days for catalogues and other printed material printed prior to the effective date of February 10, 2009, during which time distribution of such catalogues and other printed material would not be considered a violation of section 19(a)(1) of the CPSA.

Based on research and on comments received in response to the notice of proposed rulemaking, the staff has determined there can be relatively long lead times for developing

and printing catalogues, and that the costs to catalogue publishers could be significant if a grace period were not granted. Thus, the staff recommends a grace period of 180 days, or until August 9, 2009, for distribution of catalogues and other printed materials printed prior to the effective date of February 10, 2009.

## ***2. Business to Business Catalogues.***

The CPSIA directs the Commission to determine the applicability of the advertising requirements to catalogues and other printed materials distributed solely between businesses. In large part the comments received in response to the NPR confirmed the economic analysis in the NPR briefing package. Commenters stated that if the goal of the legislation and rule was to caution the ultimate consumer that the products contained small parts, balls, marbles or balloons before they purchased the product, then that goal would not be served by requiring the warnings in catalogues that are never seen by the end consumers. The comments indicated that the benefit of the cautionary statements to resellers is low, but that significant costs could be incurred in including the cautionary statements in the catalogues. Several commenters also noted that manufacturers are required to provide retailers with the information concerning the required cautionary statements applicable to any of their products and that requiring the cautionary statements in catalogues that are distributed solely among businesses would limit the ability of manufacturers to convey this information in ways that could be more effective and less costly.

While the benefits of requiring cautionary statements in business to business catalogues appear low, staff believes there are greater benefits to requiring the cautionary statements in catalogues distributed to entities that could be expected to provide children with direct access to the product, such as schools and day care centers. Thus, staff recommends that the final rule exempt business to business catalogues from the requirements of the rule, unless the recipient business is one that could be expected to be purchasing the product for the use of children (instead of for resale).

## ***3. Environmental Impact.***

As a labeling rule, the rule falls within the provisions of 16 CFR 1021.5(c) which designates categories of actions conducted by the Consumer Product Safety Commission that normally have little or no potential for affecting the human environment. In the NPR, the Commission made a preliminary finding that neither an environmental assessment nor an environmental impact statement was required for this rule. The only comments received on this issue emphasized the importance of providing for a grace period to avoid having to discard large stocks of catalogues and print replacement catalogues. Because this rule will at most cause a very slight increase in the amount of material entering the waste stream annually, it is reasonable to conclude that neither an environmental assessment nor an environmental impact statement is required.

#### **IV. ADVERTISING SIZE AND PLACEMENT**

The CPSIA directs that the cautionary statements required by section 105 of the CPSIA be prominently displayed in a manner consistent with 16 CFR part 1500. The CPSIA also provides the Commission with the authority to promulgate a regulation concerning the size and placement of the required cautionary statements.

Staff recommends replacing the original type-size requirements for abbreviated warnings with a requirement that the type size of these warnings be reasonably related to the type size of any other printed matter in the product advertisement, and in conspicuous and legible type by typography, layout or color with other printed matter in the advertisement and separated from other graphic matter. The staff recommends the final rule permit the use of a single set of full cautionary statements near the beginning of the catalogue or adjacent to the ordering information, provided that abbreviated warnings appear in each product advertisement and a reference to the precise location of the full cautionary statements appears at the bottom of each catalogue page that contains an abbreviated warning. The staff also recommends that a full cautionary statement located on the cover, or equally conspicuous location, of a catalogue should be permitted to replace the corresponding abbreviated warnings in the catalogue if all products contained in the catalogue would require that cautionary statement. Similarly, staff recommends that a full cautionary statement located on the top of a catalogue page should be permitted to replace the corresponding abbreviated warnings on that page if all products on that page require the same cautionary statement. Lastly, staff recommends revised abbreviated warnings that permit multiple cautionary statements to be combined.

#### **V. CONCLUSION/ RECOMMENDATIONS**

Staff recommends that a grace period of 180 days, or until August 9, 2009, be provided for catalogues and other printed materials, during which catalogues and other printed materials printed prior to February 10, 2009 may be distributed without the required cautionary statements. With regard to business to business catalogues, staff recommends that the Final Rule exempt business to business catalogues from the requirements of the rule, unless the recipient business is one that could be expected to be purchasing the product for the use of children, instead of for resale. Staff recommends requirements regarding the conspicuousness, size and placement of the warnings, as well as the use of abbreviated warnings in the rule, as detailed above.

**Tab A**  
EC Staff Memorandum



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, DC 20207

**Memorandum**

Date: 30 October 2008

TO : Barbara Parisi  
Attorney  
Office of the General Counsel

THROUGH: Gregory B. Rodgers, Ph.D. *GBR*  
Associate Executive Director  
Directorate for Economic Analysis

Deborah V. Aiken, Ph.D. *DVA*  
Senior Staff Coordinator  
Directorate for Economic Analysis

FROM : Robert Franklin *RF*  
Economist  
Directorate for Economic Analysis

SUBJECT : Response to Comments Raising Economic Issues Associated with Section 105 of the Consumer Product Safety Improvement Act of 2008 (Concerning the Inclusion of Cautionary Labeling for Toys and Games in Catalogues and Other Printed Materials)

Section 105 of the Consumer Product Safety Improvement Act (CPSIA) of 2008 requires that advertisements for certain toys and games on Internet websites and catalogues or other printed materials include the applicable cautionary statements required under Section 24 of the Federal Hazardous Substances Act (FHSA) pertaining to small parts, latex balloons, small balls, or marbles. The Commission is required to promulgate regulations effectuating the requirements by 12 November 2008. Among the issues to be addressed in the regulations are whether the Commission will provide a grace period of up to 180 days during which catalogues printed prior to 10 February 2009 could be distributed and the applicability of the requirements to catalogues and other printed materials that are distributed solely among businesses and not to individual consumers. The Commission solicited public comments on these issues in a notice of proposed rulemaking (NPR), which was published in the Federal Register on 6 October 2008 and through a request for comment and information posted on the Commission's Internet site. This memorandum responds to the public comments that addressed these issues. It also discusses the environmental considerations associated with this rulemaking.

## Issues Concerning the Provision of a Grace Period

Unless the Commission provides for a grace period, no catalogue or other printed material can be distributed after 9 February 2009 unless it contains the required cautionary statements. If the Commission provides for a grace period, retailers, manufacturers, and other suppliers can continue to distribute catalogues and printed materials that do not contain these statements provided that they were printed prior to 10 February 2009. The longest grace period that the Commission can provide is 180 days, or until 9 August 2009.

In the notice of proposed rulemaking, the Commission preliminarily found that a grace period of 180 days is warranted. This finding was based on, among other things, information received from a small number of catalogue publishers that it could take one to three months to prepare and print a catalogue. Once printed, some catalogues are distributed over several more months or more. These firms argued that if the Commission did not provide for a grace period, they would have to incur the costs of discarding stocks of already printed catalogues that they had intended to distribute after February 9, and the costs of printing replacement catalogues. Additionally, the NPR noted that even if a 180 day grace period was provided for, all catalogues distributed after 9 August 2009 and before the 2009 holiday shopping season, would require the cautionary statements. Since the NPR was published, the Commission has received several comments that provided additional support for providing a grace period.

Most of the comments confirmed that the costs to catalogue publishers could be significant if a grace period is not granted. One retailer, for example, estimated that if the Commission does not provide for a grace period the cost to reprint, ship, and mail new catalogues could be as high as \$3.7 million.<sup>1</sup> Another commenter estimated that it could cost his company \$1 million to republish its catalogues before their normal life cycles had ended.<sup>2</sup> Although these specific estimates cannot be confirmed, based on published estimates that the cost per copy of printing catalogues exceeds \$1 for most firms (excluding layout and postage),<sup>3</sup> it is reasonable to expect that some firms could face very significant costs if they had to reprint a large number of catalogues because a grace period was not provided.

Another commenter stated that it is taking some time to obtain the information from manufacturers concerning which products require the cautionary statements. Before the passage of the CPSIA, many manufacturers did not have this information assembled in a format that could be easily provided to retailers. Thus, manufacturers have had to assemble this information and develop procedures for providing this information to their retailers. Some retailers cannot

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<sup>1</sup> Comment from Stephanie Lester, Vice President, International Trade, Retail Industry Leaders Association (20 October 2008).

<sup>2</sup> Terry Clayton, General Manager and COO, Triarco Arts and Crafts (14 October 2008).

<sup>3</sup> Telephone conversation with Rick Woldenberg and Lisa Guili of Learning Resources, Inc. and Sandy Schusteff of ETA/Cuisenaire (8 September 2008) and Jim Tierney, "Print, Production, & Paper," Multichannel Merchant (1 November 2007), available at [http://multichannelmerchant.com/printchannel/printchannel/print\\_production\\_paper/](http://multichannelmerchant.com/printchannel/printchannel/print_production_paper/) (last accessed on 10 September 2008).

begin to change the layout of their catalogue pages to reflect the cautionary statements until they receive this information from the manufacturers.<sup>4</sup>

Another commenter stated that most of their catalogue recipients actually make their purchases on-line. The commenter noted that since all Internet advertisements must contain the required cautionary statements by 12 December 2008, most of their customers that receive the catalogues will still be exposed to the cautionary statements before they make their purchases during a grace period.<sup>5</sup>

Some catalogue publishers stated that a 180 day grace period would not be sufficient. Some of these publishers had an annual cycle for printing and distributing their catalogues and a few had an even longer cycle. Several commenters requested that the Commission provide a one year grace period and two requested a two year grace period. However, the CPSIA limits the Commission's discretion for providing a grace period to no more than 180 days.

### **Issues Concerning the Application of the Requirements to Catalogues Distributed Solely Between Businesses**

According to the CPSIA, the Commission is to determine the applicability of the requirements in Section 105 of the CPSIA to catalogues and other printed materials that are distributed solely between businesses. In the notice of proposed rulemaking, it was noted that although the cautionary statements could be of some value to retailers, the value would be lower than the value of the cautionary statements in catalogues distributed to households and other end users. However, the costs of incorporating the cautionary statements into the catalogues distributed solely to businesses would be the same as the costs of including the cautionary statements in catalogues distributed to retail customers. The Commission also expressed concern that exempting catalogues that were distributed to entities that could be expected to provide children with direct access to the product, such as schools and day care centers, could thwart the intent of the law.

The Commission received several comments that have helped to clarify these issues. After analyzing the comments, the staff is proposing that catalogues that are distributed solely between businesses be exempted from the requirements unless the recipient business is one that could be expected to be purchasing the product for the use of children (instead of for resale, e.g.). Examples of businesses that could be expected to purchase products for the use of children include schools, day care centers, churches, and recreational facilities. The comments that were received on this topic are discussed below.

Several of the comments that endorsed exempting catalogues that are distributed solely between businesses confirmed some of the conclusions that were included in the analysis contained in the notice of proposed rulemaking. These commenters stated that if the goal was to

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<sup>4</sup> Comment from James H. Rice, CEO and Mary Ann Everett, Vice President, Creative Catalog Concepts (15 October 2008).

<sup>5</sup> Comment from Nancy MacPherson, Director of Quality and Compliance, LEGO Systems, Inc. (17 October 2008).

caution the ultimate consumer that the products contained small parts, balls, marbles, or latex balloons before they purchased the product then that goal would not be served by requiring the warnings in catalogues that are never seen by the end consumers. They stated benefit of the cautionary statements to resellers is low, but that significant costs could be incurred in including the cautionary statements in the catalogues. Moreover, several commenters noted that manufacturers are required to provide retailers with the information concerning the required cautionary statements applicable to any of their products and that requiring the cautionary statements in catalogues that are distributed solely among businesses would limit the ability of manufacturers to convey this information in ways that could be more effective and less costly.

One of the more difficult issues related to the applicability of the requirements to catalogues distributed solely among businesses is whether catalogues distributed to organizations such as schools and day care centers would also be exempted from the requirements. These organizations share some of the characteristics of businesses and many are in fact businesses. However, because the people ordering products at these organizations would be ordering products for the use of children, they could benefit from knowing which products contain choking hazards and are not appropriate for some age groups. For this reason, the staff is recommending that catalogues distributed to businesses that can be expected to be purchasing product for the use of children instead of for resale be required to include any applicable cautionary statements.

Several comments were received on this issue. Some companies that supply educational materials to educators stated that they also have catalogues that target household consumers. These companies stated that it would be too costly to maintain one set of catalogue pages (without the cautionary statements) for schools and another set, (with the cautionary statements) for household consumers. Therefore, they would be including the cautionary statements in all of their catalogues whether catalogues intended for schools were exempted or not. Several balloon manufacturers or distributors stated their belief that the “overwhelming majority of entities such as schools, churches, day care centers, and recreational facilities would purchase balloons products through retailers,” instead of from manufacturers or distributors. Any product catalogues issued by the retailers would have to include the applicable cautionary statements.<sup>6</sup>

The Commission received two comments that opposed the staff’s proposal to require catalogues that are distributed to schools and similar entities to contain the cautionary statements. These comments stated that the cost to some businesses that supply educational products could be significant and that some businesses might have trouble separating their “school or nursery” customers from other institutional customers. The staff acknowledges that there will be some costs to businesses to comply with this requirement.

The notice of proposed rulemaking requested comments on how the Commission could distinguish catalogues distributed solely between businesses from those intended for distribution to final consumers, including those distributed to entities such as schools, churches, day care centers, and recreational facilities. Several commenters stated that in many cases there is no clear way to distinguish between these types of catalogues. One commenter suggested that this is a

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<sup>6</sup> Comment from Daniel A. Flynn, Chairman, The Balloon Council (16 October 2008).

factual distinction that could best be made through “inquiry or observation of the use of the catalog.”<sup>7</sup> In other words, if the catalogue is being distributed to households or to entities that purchase products for the use of children, it is not a catalogue that is distributed solely among businesses.

Some catalogues that are intended only for other businesses do have characteristics that can be used to distinguish them from catalogues intended for the general public and some manufacturers and distributors have procedures in place that serve to limit sales and distribution to resellers. For example, some have minimum order quantities that are greater than a typical consumer would order. Some manufacturers or distributors require a sales tax identification number before taking an order from an entity or providing them with a catalogue. This serves to limit their sales to resellers. Some manufacturers will only provide catalogues to existing customers or those businesses that have registered with it.

It could be inferred from some of the comments from the balloon industry that although the “overwhelming majority” of schools, day care centers, and other entities that purchase balloons for the use of children do so through retailers, some balloon distributors might also distribute catalogues to these types of entities. If so, under the staff proposal, these distributors would have to include the cautionary statements in any catalogues that they distributed to schools, day centers, and similar entities or take steps to ensure that their catalogues are not distributed to these types of entities.

Three comments from the general public opposed exempting catalogues distributed solely between businesses. These comments stated that the warnings would benefit retailers as well as consumers.

The information in the cautionary statements may be of some benefit to retailers. However, the need that retailers have for the information is different from that of consumers. The intent of this requirement is to caution parents that a product has small parts, small balls, marbles, or latex balloons, and therefore, is not appropriate for young children before the consumer purchases an item through a catalogue or the Internet. Retailers need this information to know in which section of the store to stock an item and which items will require cautionary statements in their catalogues. The CPSIA requires manufacturers to provide this information to retailers. However, there may be more effective or less expensive means of providing this information to retailers than through the use of warnings designed for consumers.

One of the comments opposing the exemption for catalogues noted that sometimes bulk purchases are made for dentists’ or physicians’ offices, carnivals, and fairs, among other places.<sup>8</sup> However, under the staff’s proposal any catalogue that is distributed to these types of entities would have to include the cautionary statements since these are businesses that could be expected to be purchasing products for the use of children.

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<sup>7</sup> Comment from Richard Woldenberg, Chairman, Learning Resources, Inc. (16 October 2008)

<sup>8</sup> Comments of Consumers Union of U.S. Inc., et. al. (20 October 2008).

## **Environmental Considerations**

Usually labeling requirements, such as the requirement that advertisements contain cautionary statements, have little potential for adversely affecting the environment. However, because the requirements in Section 105 of the CPSIA would apply to all catalogues or other printed materials distributed after 10 February 2009, materials printed prior to this date that do not have the cautionary statements could not be distributed and would have to be disposed of. If replacement catalogues are printed there would be a small increase in the volume of materials entering the waste stream. Additionally, the warning statements in the catalogues will require some additional space, which could somewhat increase the size of some catalogues and slightly increase the volume of material that enters the waste stream each year. Although the increase in the volume of materials entering the waste stream would be small relative to the total volume of materials that enter the waste stream each year, providing for a grace period during which time materials printed prior to 10 February 2009 could be distributed and providing options for catalogue publishers to use abbreviated warnings under some conditions would reduce this impact.

In the NPR, the Commission made a preliminary finding that neither an environmental assessment nor an environmental impact statement was required for this rule. The only comments received on this issue emphasized that importance of providing for a grace period to avoid having to discard large stocks of catalogues and print replacement catalogues. Because this rule would at most cause a very slight increase in the amount of material entering the waste stream annually, a finding that neither an environmental assessment nor environmental impact statement is required is justified.

**Tab B**  
ESHF Staff Memorandum



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
BETHESDA, MD 20814

MEMORANDUM

DATE: October 21, 2008

TO: Barbara Parisi, Regulatory Affairs Attorney,  
Office of the General Counsel

THROUGH: Hugh M. McLaurin, Associate Executive Director, *Hm*  
Directorate for Engineering Sciences

Robert B. Ochsman, Ph.D., CPE, Director, *RBO*  
Division of Human Factors, Directorate for Engineering Sciences

FROM: Timothy P. Smith, Engineering Psychologist, *TPS*  
Division of Human Factors, Directorate for Engineering Sciences

SUBJECT: Response to NPR Comments and Revised Requirements for the Size and Placement  
of Cautionary Statements Specified in Section 105, Labeling Requirement for  
Advertising Toys and Games, of the CPSIA

## BACKGROUND

Section 105 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) amends Section 24 of the Federal Hazardous Substances Act (FHSA; 15 U.S.C. 1278) to include labeling requirements for the advertising of toys and games. In brief, any toy or game that requires a cautionary statement about the choking hazard associated with small parts, balloons, small balls, or marbles must bear that cautionary statement in the product's advertising if the advertising provides a direct means for consumers to purchase or order the product. This advertising includes, but is not limited to, advertisements in catalogues or other printed materials or on Internet websites.

In response to Section 105 of the CPSIA, the CPSC staff prepared a draft notice of proposed rulemaking (NPR) that detailed the proposed requirements for cautionary statements in the advertising of toys and games. On September 29, 2008, the Commission voted unanimously (2-0) to approve the publication of a *Federal Register* notice issuing the NPR, with revisions. This notice was published October 6, 2008, and the public comment period for NPR comments related to print advertising closed October 20, 2008. This memorandum responds to major public comments on the NPR related to the size and placement of required cautionary statements in print advertising and proposes revised requirements relevant to these issues.

## DISCUSSION

Among the comments received in response to the *Federal Register* notice, the most common concern regarding the size and placement of required cautionary statements was that print

catalogues have very limited space, and that any given page may contain numerous items for sale that would require multiple cautionary statements. The general consensus of these comments was that the CPSC staff's proposed requirements related to size and placement of the cautionary statements do not adequately address this concern. The commenters offered alternative requirements, which will be discussed in the subsections that follow.

### **TYPE-SIZE REQUIREMENTS**

Several commenters expressed concern about the proposed minimum type-size requirement of 0.08 inches, stating that is seemed unnecessary and implied even larger sizes for other parts of the warnings, such as the safety alert symbol, signal word, and hazard statement, even if abbreviated warnings were used. Some commenters suggested that the size of the required cautionary statements only be "reasonably related" to the size of other text in the advertisement, except for the heading, which would be consistent with the provisions for literature and descriptive material that accompany a product subject to Consumer Product Safety Act (CPSA) labeling, as specified in 16 CFR 1500.121 and 16 CFR 1500.19.

The commenters' concerns about larger safety alert symbols, signal words, and hazard statements is not consistent with the Human Factors staff's intent regarding the sizing of the abbreviated warnings. This misunderstanding may stem from the lack of specificity in the staff's original proposal. The staff's original reference to the 16 CFR 121 type-size requirements, and the staff's suggested minimum type-size requirement of 0.08 inches, was not intended to indicate that certain text in the abbreviated warning would be correspondingly larger based on the chart of type size requirements specified in 16 CFR 121(c)(2)(ii). Rather, the Human Factors staff intended the safety alert symbol and all text in the abbreviated warnings to be the same height.

The staff does agree that specifying the type size in absolute terms may not be necessary if the warning text also must meet requirements that specify the type size relative to the other text in the advertisement. As noted above, some commenters referred to the type-size requirements for cautionary labeling of accompanying literature containing directions for use, specified in 16 CFR 1500.121(c)(6), which states that such cautionary labeling "shall be reasonably related to the type size of any other printed matter in the accompanying literature and must be in conspicuous and legible type by typography, layout, or color with other printed matter on the label." The Human Factors staff agrees that a modified version of this requirement would be reasonable for abbreviated warnings and could replace the absolute (0.08 inches) and relative type-size requirements previously specified. This revised requirement could read, for example, "The type size of abbreviated cautionary statements shall be reasonably related to the type size of any other printed matter in the product advertisement, and must be in conspicuous and legible type by typography, layout, or color with other printed matter in the advertisement."

### **PLACEMENT REQUIREMENTS**

Several commenters requested more flexibility in the placement of the full cautionary statements so that they are not required to appear at the bottom or top of the same page as the abbreviated warning or across two facing pages. For example, some commenters suggested that the statements be allowed to be located elsewhere in the catalogue, such as on the inside cover. One commenter suggested the use of a single general warning on the front cover of the catalogue

stating that some of the products within might contain small parts. Another suggested placing the warnings in the catalogue Table of Contents to identify entire sections subject to the cautionary statements. One commenter suggested that, at the very least, the full cautionary statements be permitted anywhere on the same or facing page that contains the abbreviated warning.

The Human Factors staff generally agrees with the concerns expressed by some commenters about the large amount of space in print catalogues that could be occupied by the full required cautionary statements. The staff's original proposal, which involved permitting the use of abbreviated warnings as long as a full cautionary statement was included at the bottom or top of the same or facing page for each unique abbreviated warning (Smith, 2008), was an attempt to address this situation. Members of the catalogue industry, however, have provided the CPSC staff with mock-up catalogue pages that approximate how some of their catalogue pages would appear if they met the requirements proposed in the NPR, and these samples reveal that the required cautionary statements still would take up a substantial amount of space, even with the use of abbreviated warnings. Thus, the Human Factors staff has concluded that, if abbreviated warnings are employed, it would be acceptable to permit the use of a single set of full cautionary statements either (1) near the beginning of the print catalogue, before any pages containing advertisements of products available for purchase, or (2) adjacent to the ordering information. The bottom of every catalogue page that includes abbreviated warnings, however, must provide a reference to the precise location of the full cautionary statements. Each full cautionary statement should clearly identify its corresponding number code to be referenced in the abbreviated warnings (see the next subsection for more on this).

The Human Factors staff believes that a single general cautionary statement located on the cover of, or elsewhere in, a catalogue would provide little to no benefit to consumers if it merely warned that some of the products advertised might contain small parts or other choking hazards. Under such circumstances, consumers would have no way of identifying those products that present the warned-about hazard. The staff, however, does believe that it would be appropriate to permit a cautionary statement on the front cover, or equally conspicuous location, of a catalogue to replace the corresponding abbreviated warnings within the catalogue if that cautionary statement applies to all products available for purchase in that catalogue and if this fact would be clear to consumers. For example, if a catalogue only contained balloons subject to CSPA labeling, the staff believes it would be appropriate to permit a single full cautionary statement—specifically, the cautionary statement identified in 16 CFR 1500.19(b)(2)—to appear on the cover of the catalogue rather than individually labeling each product advertisement within the catalogue. The staff suggests that the method used to notify consumers that the cautionary statement applies to all products in the catalogue be flexible.

Similarly, because full cautionary statements will no longer appear on each page or two-page spread of the catalogue and because some catalogue pages may include products that require identical cautionary labeling, the Human Factors staff believes that it would be appropriate to permit the use of a single full cautionary statement at the top of a page to replace individual warnings on that page, provided that the page contains products that would require the same cautionary statement and that this fact would be clear to consumers. If, for example, a page contains products that would all require the cautionary statement related to small parts, the abbreviated warnings associated with small parts that would otherwise appear in each product advertisement on that page could be replaced with the cautionary statement identified in 16 CFR

1500.19(b)(1) positioned at the top of the page. This, again, presumes that consumers are notified that this cautionary statement applies to all products on that page—for example, a full cautionary statement related to small parts could be preceded by the statement, “All products on this page contain small parts”—but the staff suggests that the method used to notify consumers that the cautionary statement applies to all products on the page remain flexible. Because a “section” of a catalogue might extend over multiple pages, the staff continues to believe that a single cautionary statement at the beginning of a section could be missed by consumers and would not be appropriate.

## **REVISED ABBREVIATED WARNINGS**

Some commenters suggested that the CPSC staff’s proposed abbreviated warnings, though better than the full cautionary statements, were still too lengthy. The commenters suggested several alternative approaches including the use of abbreviated warnings without the prohibited age range, the use of a safety alert symbol and numbered codes to identify the applicable cautionary statements, and the use of icons alone to represent the applicable cautionary statements. One commenter also suggested that the abbreviated warnings be allowed to be combined in some manner.

The staff’s original proposal for abbreviated warnings was developed under the assumption that combining abbreviated warnings would not be permitted. The staff recognizes, however, that certain products will require multiple cautionary statements and that this could lead to substantial redundancy even with the use of abbreviated warnings. For example, each abbreviated warning begins with a safety alert symbol; thus, an advertisement that requires multiple abbreviated warnings would require multiple safety alert symbols. Additionally, three of the abbreviated warnings include the phrase “Not for under 3 yrs.” Advertising for a toy or game that requires more than one of these warnings, therefore, would repeat this phrase multiple times. This is further complicated by the possibility of the advertisement also requiring an abbreviated warning that warns “Not for under 8 yrs.” Simultaneously warning that a toy is not for children “under 3 yrs” and not for children “under 8 yrs” could create confusion among consumers, and seems unnecessary given that one age range encompasses the other. For these reasons, the Human Factors staff believes it would be appropriate to permit a product advertisement that would require multiple abbreviated warnings to combine those warnings into a single abbreviated warning. The staff’s specific proposal appears later in this subsection.

The suggestion above, combined with the staff’s previous suggestion that a single set of full cautionary statements be permitted near the beginning of the catalogue, has caused the Human Factors staff to reconsider the design of the abbreviated warnings themselves. For example, in the original abbreviated warnings, emphasis was placed on the source of the choking hazard—for example, “SMALL PARTS”—rather than on the choking hazard itself because the full cautionary statements would already display the phrase “CHOKING HAZARD” prominently and would be visible on the same or facing page; the source of the choking hazard was one of the easiest ways to distinguish among the full cautionary statements on the page. The staff’s original suggestion of the use of a less-than symbol (<) in the abbreviated warnings also was dependent on the full cautionary statements being located on the same or facing page.

The Human Factors staff’s revised abbreviated warnings now consist of three parts, in the following sequence:

- 1) A safety alert symbol (▲) and the phrase “CHOKING HAZARD.”
- 2) Number codes—separated by commas, enclosed within a single set of parentheses, and ending in a period—that identify the required cautionary statements for the product being advertised:

Required cautionary statement location	Code
16 CFR 1500.19(b)(1)	1
16 CFR 1500.19(b)(2)	2
16 CFR 1500.19(b)(3)(i)	3
16 CFR 1500.19(b)(3)(ii)	4
16 CFR 1500.19(b)(4)(i)	5
16 CFR 1500.19(b)(4)(ii)	6

- 3) The prohibited age range written in the form “Not for under X yrs,” where X is either 3 or 8, based on the most restrictive age range for all required cautionary statements for that product.

For example, a product that requires the cautionary statements specified in 16 CFR 1500.19(b)(1) and 16 CFR 1500.19(b)(2) would be permitted to use the following abbreviated warning in its advertising:

▲ CHOKING HAZARD (1,2). Not for under 8 yrs.

This approach allows consumers to focus on two key pieces of information: the nature of the hazard (choking) and the prohibited age range for that product (under 3 years or under 8 years). This is reasonably consistent with warnings literature, which generally recommends that consumer products with limited available space for warning labels select certain information for emphasis, exclude less important information, and refer the reader to more complete cautionary information elsewhere (Laughery & Hammond, 1999; Wogalter & Leonard, 1999; Wogalter & Vigilante, 2006). Information about the source of the choking hazard, though important, is likely to be less important during the purchasing stage than knowing that a choking hazard exists and for whom the toy is not appropriate. The staff also believes that the prohibited age range is necessary for those cases in which consumers do not seek out the full cautionary statement elsewhere. Those consumers who would like additional details about the choking hazards, however, can use the displayed codes to identify which of the full cautionary statements shown at the beginning of the catalogue or adjacent to the ordering information apply. While, on first glance, the abbreviated warnings appear longer than the abbreviated warnings originally proposed by the staff, this is true only for those products that require a single cautionary statement since the abbreviated warnings can now be combined. Furthermore, space on any

given catalogue page will be regained by permitting the full cautionary statements to be moved from the same page as the abbreviated warnings to the beginning of the catalogue or adjacent to the ordering information (see previous subsection).

The Human Factors staff had considered the use of icons rather than abbreviated warnings to further reduce the amount of space required for warnings in a catalogue, but several issues suggest that abbreviated warnings would be superior for consumers at this time. The primary criterion for evaluating an icon or symbol is the extent to which consumers are likely to understand its intended meaning (ANSI Z535.3, 2002). Some commenters suggested the use of a European symbol that is intended to communicate that a toy is not suitable for children under age three (British Toy & Hobby Association, 2008; Toy Retailers Association, 2008), but it is unclear whether consumers would correctly interpret such a symbol as a warning about a choking hazard rather than simply an age recommendation. Moreover, this symbol may not be suitable to warn about balloon-related choking hazards to children under eight. The commenters have proposed no other specific icon designs to distinguish among the various choking hazards that must be addressed through cautionary labeling, making it impossible to judge whether small unique icons would be sufficiently legible to allow consumers to distinguish among them. Additionally, developing icons or symbols that would be reasonably understandable without consumers first having to learn the intended meaning of the icon is highly unlikely; abstract or arbitrary icons probably would have to be relied upon. Such icons are likely to communicate little to no information about the hazard and, therefore, would require consumers to seek out the full cautionary statements to obtain this information and to eventually learn the icon's meaning. In general, consumers are less likely to use information that is provided at the point-of-sale as the effort required to process that information increases (Mazis & Morris, 1999), a finding that is consistent with the scientific consensus that consumers are less motivated and less likely to perform appropriate behaviors, such as complying with a warning, as the effort required to do so increases even by a small amount (Kalsher & Williams, 2006; Riley, 2006). Some consumers will not put forth the effort to seek out and learn the meanings of icons, especially if their safety implications are not obvious. As a consequence, these consumers would be unlikely to receive the relevant safety information. In contrast, abbreviated warnings would provide consumers with basic information about the hazard and prohibited ages immediately.

## **CONCLUSIONS**

The Human Factors staff believes that it would be acceptable to replace original type-size requirements for abbreviated warnings with a requirement that the type size of these warnings be reasonably related to the type size of any other printed matter in the product advertisement, and must be in conspicuous and legible type by typography, layout, or color with other printed matter in the advertisement. The staff believes that it would be appropriate to permit the use of a single set of full cautionary statements near the beginning of the catalogue or adjacent to the ordering information, provided that abbreviated warnings appear in each product advertisement and a reference to the precise location of the full cautionary statements appears at the bottom of each catalogue page that contains an abbreviated warning. The staff also believes that a full cautionary statement located on the cover of a catalogue should be permitted to replace the corresponding abbreviated warnings in the catalogue if all products contained in the catalogue would require that cautionary statement. Similarly, a full cautionary statement located on the top of a catalogue page should be permitted to replace the corresponding abbreviated warnings on that page if all

products on that page require the same cautionary statement. Lastly, the staff has proposed revised abbreviated warnings that permit multiple cautionary statements to be combined.

## REFERENCES

- American national standard criteria for safety symbols* (ANSI Z535.3, Rev. Ed.). (2002). Rosslyn, VA: National Electrical Manufacturers Association
- British Toy & Hobby Association. (2008). *Guidance on toys for children under 3 years*. [On-Line]. Available: [http://www.btha.co.uk/about\\_us/toy\\_safety\\_guide\\_guidance.php](http://www.btha.co.uk/about_us/toy_safety_guide_guidance.php).
- Kalsher, M. J., & Williams, K. J. (2006). Behavioral compliance: Theory, methodology, and results. In M. S. Wogalter (Ed.), *Handbook of warnings* (pp. 313–331). Mahwah, NJ: Lawrence Erlbaum Associates.
- Laughery, K. R., & Hammond, A. (1999). Overview. In M. S. Wogalter, D. M. DeJoy, & K. R. Laughery (Eds.), *Warnings and risk communication* (pp. 3–13). Philadelphia: Taylor & Francis.
- Mazis, M. B., & Morris, L. A. (1999). Channel. In M. S. Wogalter, D. M. DeJoy, & K. R. Laughery (Eds.), *Warnings and risk communication* (pp. 99–121). Philadelphia: Taylor & Francis.
- Riley, D. M. (2006). Beliefs, attitudes, and motivation. In M. S. Wogalter (Ed.), *Handbook of warnings* (pp. 289–300). Mahwah, NJ: Lawrence Erlbaum Associates.
- Smith, T. P. (2008, September 22). *Size and Placement of Cautionary Statements Specified in Section 105, Labeling Requirement for Advertising Toys and Games, of the Consumer Product Safety Improvement Act of 2008*. CPSC Memorandum to Barbara Parisi, Regulatory Affairs Attorney, U.S. Consumer Product Safety Commission, Bethesda, MD.
- Toy Retailers Association. (2008, October 21). *Guidance on toys for children under 3 years old*. [On-Line]. Available: [http://www.toyretailersassociation.co.uk/safety/children\\_0-3.htm](http://www.toyretailersassociation.co.uk/safety/children_0-3.htm).
- Wogalter, M. S., & Leonard, S. D. (1999). Attention capture and maintenance. In M. S. Wogalter, D.M. DeJoy, & K.R. Laughery (Eds.), *Warnings and risk communication* (pp. 123–148). Philadelphia: Taylor & Francis.
- Wogalter, M. S., & Silver, N. C., Leonard, S. D., & Zakina, H. (2006). Warning symbols. In M. S. Wogalter (Ed.), *Handbook of warnings* (pp. 159–176). Mahwah, NJ: Lawrence Erlbaum Associates.
- Wogalter, M. S., & Vigilante, Jr., W. J. (2006). Attention switch and maintenance. In M. S. Wogalter (Ed.), *Handbook of warnings* (pp. 245–265). Mahwah, NJ: Lawrence Erlbaum Associates.

**Tab C**  
OGC Staff Memorandum



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
BETHESDA, MD 20814

MEMORANDUM

DATE: October 24, 2008

TO: Cheryl A. Falvey, General Counsel *CAF*

FROM: Barbara E. Parisi, Project Manager, Attorney *BEP*  
Office of the General Counsel

SUBJECT: Response to Comments Raising Questions Regarding the Application of Scope of the Labeling Requirements for Advertising Toys and Games

## BACKGROUND

On September 29, 2008, the Commission voted unanimously (2-0) to approve publication of a NPR in the *Federal Register* addressing proposed requirements for cautionary statements in toy and game advertisements. The *Federal Register* notice was published October 6, 2008, and the public comment period for comments related to catalogue and other printed material closed October 20, 2008. This memorandum responds to comments on the NPR related to the scope and application of the rule.

## RESPONSE TO COMMENTS

### Hazards Required to be Labeled in Advertisements

There was some confusion in the comments received about what hazards must be labeled in the form of cautionary statements in advertisements, and several commenters asked that we clarify the scope of the advertising requirements. A couple of commenters questioned whether, now that the Standard Safety Specification for Toy Safety (ASTM F963) is becoming mandatory, the labeling requirements therein become part of the advertising labeling requirements.

Section 105 of the Consumer Product Safety Improvement Act, of 2008, Public Law 110-314, 122 Stat. 3016 (August 14, 2008), ("CPSIA"), amends Section 24 of the Federal Hazardous Substances Act (FHSA), which requires that packaging for toys and games intended for use by children between the ages of 3 to 6 that contain small balls, marbles, or small parts, to require a precautionary labeling warning that such items present choking hazards and are not appropriate for children under three. Section 24 of the Federal Hazardous Substances Act also requires that packages for balloons have warnings related to the choking and suffocation hazards that balloons present to children less than eight years of age. The draft final rule follows the mandates of Section 105 and would require that, when a product's packaging is required to have any of those cautionary statements regarding choking hazards, advertising for the product that provides a direct means of purchase or order by a consumer must have the appropriate cautionary

statements. Thus, the rule would only apply to warnings required by section 24 of the FHSA regarding choking hazards pertaining to small parts, small balls, marbles, and balloons.

The labeling requirements of ASTM F963 are not required to be included in product advertisements under the CPSIA and this draft final rule. Again, the cautionary statements required in advertisements by this rule are those found in section 24 of the Federal Hazardous Substances Act—specifically, cautionary statements regarding choking hazards presented by small parts, small balls, balloons, and marbles.

### **Permissibility of Additional Safety Warnings**

Several commenters asked whether businesses could include other safety warnings, statements or information in Internet, catalogue or other advertising in a form and format in the sole discretion of the advertiser. This draft final rule does not preclude advertisers from including other safety warnings, statements or information in their advertising. Further, additional safety warnings not required by the rule need not be in the format prescribed by this rule.

### **Direct Means of Purchase or Order**

The advertising requirements apply only to advertisements that provide a direct means for the purchase or order of the product. Examples of direct means for the purchase or order of the product include catalogues or other printed advertising material that contain order blanks, telephone numbers, or fax numbers for placing orders, and Internet websites that enable consumers to purchase a product online or through the use of a telephone number or fax number provided on the Internet website.

Some commenters asked whether the rule would apply to advertising leaflets sent directly to consumers, where consumers would be required to make the purchase at a store. Such an advertisement would not be providing a direct means of purchase or order of the product, since the consumer would be required to make a trip to the store to purchase the product. Thus, Commission staff believes it would not require the cautionary statements.

Others questioned whether a website address alone on a flyer or free-standing insert would constitute a “direct means of purchase.” CPSC staff does not believe this would constitute a direct means of purchase, since a purchaser would still need to take the additional step of going to the website to purchase the product, wherein the cautionary warnings would be present. However, if the flyer or free-standing insert directed the purchaser to a specific phone number for order, this would constitute a “direct means or purchase or order” so that the flyer or free-standing insert would need to comply with the requirements of the rule.

A couple of comments raised the issue of the applicability of the rule to coupons and cards that consumers can mail in (e.g., with proof of purchase, payment for shipping and handling, sometimes for a fee). CPSC staff believes that a mail in coupon for a toy or game subject to the cautionary statements of section 24 of the FHSA would require the cautionary statements on the coupon, since the coupon would be providing a direct means of purchase or order of the product in question. If the coupon was one which needed to be taken to the store or used for an online Internet purchase, and did not include a mail-in option, then it would not need to comply with the advertising requirements in the draft final rule.

### **Applicability of Rule to Television Advertisements**

Several commenters asked the Commission to confirm that the rule does not apply to television advertisements. While the CPSIA prescribes an effective date for advertisements on Internet websites and an effective date with respect to catalogues and other printed materials, there is no effective date prescribed for television advertisements. The draft final rule addresses only catalogues and other printed materials; thus, the requirements of the draft final rule are not applicable to television advertisements.

### **Grace Period**

Several commenters requested that a grace period exceeding 180 days in length be provided by the Commission for catalogues and other printed materials. One commenter requested a grace period for internet advertisements.

The CPSIA only gives the Commission the authority to provide a grace period of “no more than 180 days” for catalogues and other printed material printed prior to February 10, 2009. The CPSIA provides that the effective date for Internet advertisements is December 12, 2008, and does not provide the Commission with any authority to provide a grace period with respect to Internet Website advertisements.