

Sea Of Change

by Lisa Horn, CAS

The CPSIA is the first wave of regulations to hit the promotional-products industry—but it won't be the last



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CRIMINAL PENALTIES: forfeiture of assets and up to five years imprisonment. Civil penalties: up to \$15 million—per violation. These are the ramifications of not complying with the Consumer Product Safety Improvement Act (CPSIA). While the consequences of noncompliance are serious, there is much confusion throughout the industry about whom the Act affects and the products it regulates.

Impacting the industry

While CPSIA strictly addresses children's products, which may be considered a small segment of the promotional-products industry, the impact is significant on a number of levels. CPSIA has not only heightened the requirements and regulations but also implemented more stringent enforcement around product safety for all manufacturers and importers. As a result, David Nicholson, president

of Polyconcept North America, parent company of New Kensington, Pa.-based Leed's, says that suppliers not only need to understand the specific regulations for a given product, but they must also have the procedures in place to ensure they are meeting the standards.

"This can be a difficult proposition given the complexity of a supply chain where the manufacturing occurs offshore," he says. "Ultimately, the requirements for product safety have always been there, but many suppliers are just now realizing the practical implications and associated risks of non-compliance."

But this is only the first big piece, according to Jonathan Isaacson, CEO of Lawrence, Mass.-based Gemline. "The second piece to this centers around customer perception," he says. "CPSIA has raised awareness around product safety issues at the distributor level and, more importantly, at the end buyer and end user levels."

Many end buyers, however, frequently misinterpret CPSIA and think it applies to all products rather than those intended for and marketed to children. "When you think about it, though, the duty of care regarding the product that ends up in the hands of a child end user is the same duty of care we have to *all* end users," says D E Fenton, executive director-compliance of Chicago-based Quality Certification Alliance (QCA). "CPSIA has simply forced us all to refocus on this."

Jay Deutsch, CEO of Woodinville, Washington-based Bensussen Deutsch & Associates, Inc. (BDA) agrees, and believes it is important to care about what products make it to the end users' hands. "Because this industry wasn't committed to safety as a top priority, CPSIA is now forcing distributors and suppliers to do something that should have been a standard all along: Provide safe products," he says. "Hiding behind the false security blanket of indemnification, which does not solve the issue, is no longer an option."

Addressing the issues with end users

Regardless of any legislation, end buyers expect the products they purchase to meet applicable standards and end users expect the products they receive are safe. That's the bottom line.

Whether you have Fortune 500 clients who are all over the issues and demand compliance or you're working with customers who are new to the issues and need some education, suppliers and distributors must be well versed with all CPSIA regulations and what they are each doing individually to be compliant.

As clients become more educated and processes more sophisticated, Fenton says blind faith in your partners is inadequate. "Documented testing and auditing policies with results demonstrating the product meets applicable standards is quickly becoming the minimum bar for entry," she says.

Deutsch agrees and says that today's buyers are moving beyond what has long been the traditional consideration of quality—that is, the look, feel and accuracy of the product and its decoration. "Now, by having a Federal law like CPSIA in place, more end buyers are already demanding safe products by adding proof of compliance to their business requirements and supply agreements."

For distributors and, ultimately, the industry, Nicholson believes in the need for greater accountability around product safety. "The risks are simply too great," he says. "Distributors must know where a given supplier is in terms of its level of



Understanding the CPSIA Basics

Anyone who makes, produces, assembles a product or imports that product to the U.S. is considered to be a manufacturer, according to CPSIA. Under the law, companies sourcing products manufactured overseas—including those in the promotional-products industry—are considered to be manufacturers and must meet the requirements enacted under the legislation.

CPSIA is focused on the safety of children's products, but what constitutes a children's product is often debatable. Thus, CPSIA has developed a test for what is and what is not a children's product. It examines:

- A statement by the manufacturer about the intended use of the product, including a label on the product, if such statement is reasonable.
- Whether the product is represented in its packaging, display, promotion or advertising as appropriate for use by children 12 years of age or younger.
- Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.
- The Age Determination Guidelines issued by CPSC (see www.cpsc.gov/businfo/adg.pdf).

Once a product has been identified as a children's product, it must be in compliance with the law in terms of the amount of lead and phthalates present in the product. Current requirements mandate that lead in surface coatings or paint must be less than 90 ppm, and the phthalates DEHP, DBP and BBP cannot exceed 0.1 percent of the product's weight.

The legislation requires that manufacturers of children's products must provide a General Conformity Certificate to certify the product complies with all safety regulations. The certificate must accompany the product through all aspects of the distribution chain, and it must be available on demand for inspection by the Consumer Product Safety Commission (CPSC).

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compliance—and self-reporting is simply not sufficient.”

Thus, proof of compliance is the key. Many suppliers have started the product testing process. But having a third-party audit of a company's policies and procedures can uncover issues many suppliers haven't considered.

Trevor Gnesin, president of Tustin, Calif.-based Logomark, Inc., felt quite confident in his company's compliancy when CPSIA first came up. “Like many other industry suppliers, I thought we were doing all the tests necessary to prove our products are safe,” he says. “But as we went through the independent audit of all company processes, we found many aspects that needed improvement to meet the new standards. Today, I can look any distributor in the eye and tell him or her that we have the policies and procedures in place to meet CPSIA's requirements—and I have the documents to prove it. There is no better way to deliver the peace of mind to our distributor partners, and it has completely changed our whole business.”

Moving forward

CPSIA is just the tip of the iceberg in the sea of change called product safety. This piece of legislation has received much of the media attention not only due to its intentions to protect children but also because of the aggressive nature the law calls for restrictions in lead and phthalates in a relatively short period of time.

But there are many other regulations in terms of product quality, product safety, social accountability, supply chain safety and environmental stewardship that will make their own marks on the promotional-products industry. And since legislation isn't static, new rulings will continue to be commonplace.

On the surface, compliance might appear to be complicated and require extra work that results in additional costs to institute the right processes. However, Deutsch believes it actually *saves* money in the long run by avoiding mistakes, recalls and lawsuits.

“The biggest misconceptions are that these regulations are somehow bad or that they will put smaller suppliers and distributors out of business,” he says. “But providing safe products is something we should have been doing all along. If you're not looking at this as an obligation to keep unsafe products out of the hands of end users, whether they are children or adults, then you shouldn't be in business.”

Industry resources are becoming available to help promotional-products distributors navigate regulations and set the bar to reflect this responsible attitude toward products. For one, the QCA is an independent accreditation organization working to “elevate the comprehensive standards by which industry firms that import and/or manufacture promotional products provide consistently safe, high-quality, socially compliant and environmentally-conscious merchandise,” according to Fenton. QCA Accreditation is granted to member companies that complete an independent third-party audit and comply with stringent, comprehensive standards that are based upon a combination of state and national laws, international standards and industry-accepted best practices.

In addition to receiving assistance with compliance program development, QCA members are kept abreast of continually changing product safety regulations with product safety expert downloads to make better sense of the requirements and quickly identify how to apply these changes to their specific product categories. Such resources are becoming a trend in our industry, taking a proactive stance on regulatory and social issues, and providing a roadmap to compliance. (*Note: For more information on this particular certification, visit www.qcalliance.org.)*

From Isaacson's perspective, he sees the changing regulatory environment as the next social trend. “Our expectation is that the regulatory environment is going to continue to get tougher, and CPSIA is just one set of issues we must address,” he says. “The industry is just going to have to get comfortable with it.” **PR**