



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: EB Brands
COUNTRY: China
FACTORY CODE: 12100151306J
MONITOR: Openview Service Ltd.
AUDIT DATE: October 19 – 20, 2011
PRODUCTS: Electronic Toys
PROCESSES: Plastic Injection, Paint Spraying,
Silk Screen Printing, Tempo-Printing,
Bonding, Soldering, Assembly, Packing
NUMBER OF WORKERS: 330

FLA Comment: This report was submitted to the FLA and the FLA-affiliated company by the accredited independent external monitor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA.



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Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

Noncompliance

Explanation: 290 out of 330 employees not provided with social insurances (i.e., pension, medical, work-related injury, unemployment and maternity insurances).

(Note: Factory obtained social insurance wavier from local authority January 1, 2011.)

Sources: social insurance receipt review; worker and management interviews

Legal references: Articles 9, 20, 29, 39 and 49 of Social Insurance Law of PRC

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Fair Wages: Worker Wage Awareness

WBOT.22 Employers shall make every reasonable effort to ensure workers understand the wages, including the calculation of wages, incentives systems, benefits and bonuses they are entitled to in a factory and under applicable laws. To this end, employers shall communicate orally and in writing to all workers all relevant information in the local language or language(s) spoken by the workers, if different from the local language. (P)

Noncompliance

Explanation: About 80% of interviewed workers were not aware of factory policies about annual, maternity, marriage and funeral leaves, although the factory has provided policies or procedures for workers to apply for annual, maternity, marriage and funeral leaves which are in line with the law.

Source: worker interviews

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Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

Noncompliance

Explanation: **FLA Comment:** The Chinese constitution guarantees Freedom of Association (FOA); however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union - the All China Federation of Trade Unions (ACFTU). According to the ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. However, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of Oct. 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. Trade unions also have an enhanced role in dispute resolution. In Dec. 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.

Monitor's Comment: There was a trade union under ACFTU established May 1, 1995, in the factory. All production workers were members of the trade union. They selected union committee members by voting and union committee members' selected the chairman. Chairman of the trade union was the factory's administration manager. Around 70% of union committee members were foremen or supervisors; the others were general production workers.

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Code Awareness:

GEN.1 Establish and articulate clear, written workplace standards. Formally convey those standards to Company factories as well as to licensees, contractors and suppliers.

Noncompliance

Explanation: EB Brands did not provide its code of conduct to the factory.

Sources: on-site observation, management interviews

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Code Awareness:

GEN.2 Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

Noncompliance

Explanation: Factory neither posted EB Brands' Code of Conduct (COC) in the factory, nor orally informed workers of COC.

Sources: worker interviews, on-site observation

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Code Awareness:

GEN.3 Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.

Noncompliance

Explanation: EB Brands did not provide a confidential noncompliance reporting mechanism for factory workers to contact company directly.

Sources: on-site observation employee interviews

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Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

Noncompliance

Explanation: 1 out of 2 emergency doors locked in finished goods warehouse (covering about 500 square meters, only 1 warehouse keeper worked there).

Source: factory walkthrough

Legal reference: Article 28 of China Fire Prevention Law

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Health and Safety: Chemical Management and Training

H&S.13 All chemicals and hazardous substances shall be properly labeled and stored in accordance with applicable laws. Labels shall be placed in the local language and the language(s) spoken by workers, if different from the local language. Workers shall receive training, appropriate to their job responsibilities, concerning the hazards, risks and the safe use of chemicals and other hazardous substances. (S)

Noncompliance

Explanation: [No anti-leakage facility in chemical warehouse.](#)

[Source: factory walkthrough](#)

[Legal reference: Article 16 of Regulations on Safety Administration of Hazardous Chemicals](#)

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Health and Safety: Sanitation in Dormitories

H&S.28 All dormitories shall be kept secure, clean and have safety provisions (such as fire extinguishers, first aid kits, unobstructed emergency exits, emergency lighting etc.). Emergency evacuation drills shall also be conducted at least annually. (S)

Noncompliance

Explanation: Some flammable materials stored under stairwell in 1st floor of one 6-story dormitory building.

Source: factory walkthrough

Legal reference: Article 7.4.1 of Code for Design of Building Fire Protection and Prevention (GB50016-2006)

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Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

Noncompliance

Explanation: 90% of employees worked more than 60 hours per week; all employees' monthly OT was more than 36 hours. 90% of employees worked 77 hours per week twice and 66 hours per week twice each month from March – August 2011 and 66 – 72 hours per week in other months. All employees' monthly overtime was 60 – 171 hours (exceeding maximum legal limit of 36 hours per month).

Source: time record review October 2010 – October 20, 2011

Legal reference: Article 41 of Labor Law of PRC

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Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

Noncompliance

Explanation: 1 day off for every 7 not guaranteed in factory. 90% of employees had 2 – 3 days off per month. Maximum consecutive work time was 12 – 13 days each month from March – September 2011; all employees had 1 day off per week in other months.

Source: time record review from October 2010 – October 20, 2011

Legal reference: Article 38 of China Labor Law

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