

GRUNFELD, DESIDERIO, LEBOWITZ, SILVERMAN & KLESTADT LLP
COUNSELORS AT LAW

399 Park Avenue
25th Floor
New York, New York 10022-4877
(212) 557-4000
Fax: (212) 557-4415

CPSC UPDATE

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By: David J. Evan (devan@gdlsk.com)

**CPSC Requests Comments on Proposed Interpretive Rule for
Children's Product Definition**

On March 18, 2009, the Consumer Product Safety Commission ("CPSC") issued a draft Federal Register notice concerning its proposed interpretation of the term "children's product" as set forth in the Consumer Product Safety Improvement Act of 2008. Comments on this proposal will be due 30 days after publication in the Federal Register.

The notice elaborates on the children's product definition as set forth in the CPSIA which defines a children's product as "a consumer product designed or intended primarily for children 12 years of age or younger". In this notice, the CPSC states that term "designed or intended primarily" applies to those products designed and commonly recognized as intended for use by a population of consumers constituted by a significant portion of children 12 years old or younger.

The notice also expands on the factors listed in the CPSIA to be considered in making this determination and cites several examples:

- Manufacturer's Statement – this statement should be reasonably consistent with the expected use patterns for a product.
- Product Packaging, Display, Promotion or Advertising – for example, express or implied advertising that the product is not for use by ages 12 and younger, the physical location within the retail store.
- Consumer Recognition – whether the product has childish features or characteristics of children's products (e.g., small size uncomfortable for adults, safety features not found on adult products, children's colors and decorative motifs, play value, cost of the product).
- The Age Determination Guidelines – the CPSC considers those actions that children of certain ages can successfully perform when making determinations about the appropriate user groups for products.

Please feel free to contact this office should you have any questions, would like a copy of the notice or wish to submit comments to the CPSC.