

To be used with the Markings & Warnings Guidance document

Contents

1. Introduction
2. Questions

Record of Amendments			
Version	Date	Amendment	Section/page affected
1	23.08.10	First published	
2	06.11.11	Changes to match EU guidance version 1.3	Question 6 and 7 updated answer

LEGAL NOTICE

This document contains guidance only.

It is intended to explain obligations and how to fulfil them. However readers are reminded that the text of the original regulation, directive or standard is the only authentic legal reference and that the information in this document does not constitute legal advice.
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1. Introduction

The revised Toy Safety Directive (2009/48/EC) was adopted by the European Parliament on 18th December 2008 and the final text was formally adopted and published in the Official Journal of the European Union (OJ) on 30th June 2009. From this date, the overall timetable for implementation of the subject covered by this guidance document is 20th July 2011.

The Directive specifies new requirements for product markings and warnings required on the toy and/ or packaging or instructions. These markings are designed to ensure that the toy is traceable to the responsible economic operators and that the user's or supervisor's attention is drawn to any hazards and risks present.

This document gives a list of frequently asked questions relating to the BTHA Markings & Warnings Guidance document

2. Questions

1. Why are the required warnings not listed in this document?

Because standards and directives are being updated all of the time and this document may become out of date very quickly. Each product is unique and may need to be assessed individually; it is no longer possible to have one generic rule for all products. Some markings may be required as a result of your safety assessment and these are not in any standards or directives

2. Does the product Identification have to be a batch number?

No, it has to uniquely identify the product so can be a type, model or serial number.

3. Can the product Identification be the batch number?

Yes, this is possible as long as it can uniquely identify the product. The requirement of the revised Toy Safety Directive gives the freedom to the manufacturers to choose the element they want to use as identification of the toy, as long as traceability is ensured. But consider that the product identification must be that shown on the Declaration of Conformity which would need to be updated for each batch change.

4. How do I know if my trade mark is acceptable?

Trademarks must be registered with the appropriate organisations and therefore will be searchable and lead to more details of the manufacturer.

5. If an address appears on the product or pack/instructions does this mean that this makes the owner of the address the Manufacturer?

No – addresses for customer services, distributor addresses can appear as long as it is clear that they are not the Manufacturer. Such addresses can appear in addition to the Manufacturer address, they cannot replace the Manufacturer address. If the toy bears only one address, then it will be considered as the address of the manufacturer.

6. Where do I place markings on multi part toys?

It is not necessary to place the required markings on each part or component of a toy. It would be reasonable to expect Manufacturers to place the markings on one significant part. E.g. a board game may carry the markings on the board only.

Subsequent to this answer the EU Commission published version 1.3 of their guide to the TSD. This allows multi-part toys the option to be marked on the packaging and allows for various markings within the pack on toys that have been marked and sold separately, as long as traceability of the toy can be assured by the manufacturer.

7. Where do I place markings on sets or assortments of individual toys

Each toy in the set should be considered individually.

Subsequent to this answer the EU Commission published version 1.3 of their guide to the TSD. This allows multi-part toys the option to be marked on the packaging and allows for various markings within the pack on toys that have been marked and sold separately, as long as traceability of the toy can be assured by the manufacturer.

8. Manufacturers are obligated to apply the warnings to toys, packaging and instructions. Certain warnings that “determine the decision to purchase” must be clearly visible to the consumer before the purchase. This will include websites and catalogues where purchases are made. What obligations does a Manufacturer have in relation to these where they may have no influence over the other economic operators’ “points of purchase”?

Each economic operator is responsible for their own point(s) of purchase. The manufacturer must know which warnings “determine the decision to purchase” and should place these on the packaging and other points of purchase for which they are directly responsible. Manufacturers should supply them to other economic operators on request but each Economic Operator is responsible for their own point(s) of purchase.