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Record of Amendments			
Version	Date	Amendment	Section/page affected
1	23.08.10	First published	
2	5.1.12	Changed format to match Obligations of Economic Operators version 6 Updated Overview Updated Table 1 – Traceability Markings priority decisions	

Note: Also see Markings & Warnings – FAQ's

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.

The British Toy and Hobby Association does not accept any liability with regard to the contents of this document.

Warnings and Markings - Guidance on location decisions

1. Obligations of Economic Operators

Obligation	Manufacturer		Importer		Distributor		Authorised Representative	
Affix conformity marking (CE), batch or model number to toy or packaging	A4(2) A4(5)	Obligated	A6(2)	Ensure its done	A7(2)	Verify its done	If mandated	
Add name and address onto toy or packaging	A4(6)	Obligated	A6(2) A6(3)	Obligated	A7(2)	Verify its done	A4(6)	If mandated
Ensure the required documents (instructions and safety information) accompany the toy in the correct languages	A4(7)	Obligated	A6(4)	Obligated	A7(2)	Verify its done	If mandated	

See separate BTHA guidance on the Obligations of Economic Operators which should be read first.

2. 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 provides an interpretation of the requirements and guidance on where such markings, warnings and instructions need to appear to meet the obligations. It is based on the current understanding of the revised Directive and may be subject to change as more information is published by the EU Commission and UK Enforcement Authorities. This document is guidance on the TSD markings only. References to other standards and directives are intended for use as examples only and should not be considered as definitive lists.

3. Overview

This document provides guidance to Economic Operators so that they can determine the most appropriate placement for markings and warnings. It is not intended to provide guidance on the actual text of markings and warnings but to provide a decision making process to help determine where such markings and warnings should be located.

Due to the size and nature of some toys, multilingual labelling and "*for other reasonable technical or economic reasons*", decisions need to be made regarding placement of markings and warnings. Some markings are specifically required to be on the toy itself, some can appear on the toy or on an affixed label, within instructions or on packaging, some must be visible to the consumer before purchase (at the point of sale). As a result, each toy's marking requirements need to be assessed on a case by case basis, for example a small action figure may not be able to carry many markings whilst a large ride-on toy could carry many more.

The markings and warnings required by the Toys Safety Directive cannot be considered in isolation and marking requirements of all other Directives, regulations and standards appropriate to an individual Toy must also be considered.

Some Directives and standards specify the font, size, style, colour of warnings and markings and these must be adhered to when relevant. If no such specifications exist, the font size, style, colour etc must be such that warnings and markings can be read and understood easily. The Toys Safety Directive requires that warnings should be:

- Clearly Visible
- Easily Legible
- Understandable
- Accurate

Users of this guide should also refer to the related Frequently Asked Questions document.

4. How to use this guide

The process for determining the required markings and warnings and their location has been broken down into 7 steps as follows:

The Seven Steps for determining the Required Markings and warnings	
1	Determine the warnings and markings which MUST be placed (a) on the toy under the Toy Safety Directive and, (b) on the toy from other sources.
2	Determine the location of the traceability markings specified under the Toys Safety Directive using table 1
3	Determine the remainder of the warnings and markings and their locations
4	Determine the location of the CE mark
5	Identify the warnings that determine the decision to purchase the toy
6	Determine the sizes of markings and warnings
7	Document the process (Whilst not specifically required in the Directive, it may be prudent to document the process) A suggested worksheet is provided and an example in the appendices

1 Markings and Warnings that MUST appear on the toy

Determine the warnings and markings which MUST be placed (a) on the toy under the Toy Safety Directive and, (b) on the toy from other sources.

The first markings and warnings to consider are those that MUST appear on the toy itself. They can in addition appear on packaging or instructions. For example:

- (a) Toy Safety Directive / Toy Safety Standards**
Some warnings specified in the Toy Safety Directive and/or toy safety standards e.g. warnings for toys that are intended to be strung across a pram or perambulator.
- (b) Safety Assessment**
The Toy Safety Directive requires Manufacturers to carry out a safety assessment. This assessment may conclude that certain warnings must be placed in the toy itself.
- (c) Other Directives and Standards**
Manufacturers must examine all standards and Directives that are applicable to the toy to determine the required markings that must appear on the Toy itself (e.g. the crossed out wheeled bin symbol from the WEEE Directive).
- (d) Other required markings**
Copyright details
Trademarks and licensing requirements
Marks required by some non-EU countries relating to export

If warnings or markings are required to be permanently fixed to a toy, methods could include tamper printing, engraving etc. The use of labels, including sew in labels and printing is also permissible. Standards exist for companies who wish to assess the durability of any markings e.g. EN62115 Clause 7.7.

2 Traceability markings

Determine the location of the traceability markings using Table 1.

Traceability markings are specified by the Toys Safety Directive and are required to enable enforcement authorities and consumers to be able to identify the toy itself and the Economic Operator(s) responsible for the toy.

Due to the intended use of the traceability markings the primary location is on the toy itself. However, in many cases this will not be possible, for example there may be limited space. The directive does therefore allow for a secondary location only *"where the size or nature of the toy does not allow it"* or *"where that is not possible"*.

If you do decide that all the traceability markings cannot appear on the toy itself you must be able to defend or justify such decisions if challenged. You should be aware that:

- Aesthetic grounds alone cannot be used to justify not having traceability markings on the toy.
- Where a toy has no packaging or is not accompanied by any document, the identification must be on the toy itself.
- Where it is not possible markings to be on the toy they must be given on the packaging or in a document accompanying the toy. Although not stated by the Toy Safety Directive, In these cases the BTHA suggest that the consumer is advised to retain the details.

If it is determined that all of the traceability markings cannot appear on the toy itself, Economic Operators need to determine the order of priority for application. Although the Directive does not give a priority order **table 1** is intended to assist Manufacturers in determining this.

Table 1. Traceability Markings priority decisions

Priority	Article	Marking	Description	Primary location	Secondary location
1	4.6	Manufacturer identification	Name, registered trade name, or registered trade mark	Toy	Packaging or document accompanying the toy
The manufacturer shall indicate their name, registered trade name or registered trade mark. See Note 1.					
2	4.5	Product identification	Element allowing identification of the product	Toy	Packaging or document accompanying the toy
The product identification is a unique code for the toy which is identical to the one used on the EC declaration of conformity. Manufacturers can choose the element they want to use as identification of the toy as long as traceability is ensured.					
3	4.6	Manufacturer address	Single point at which manufacturer can be contacted	Toy	Packaging or document accompanying the toy
The address shall indicate a single point at which the Manufacturer or their Authorised Representative can be contacted. See Note 2					
4	6.3	Importers identification	Name, registered trade name, or registered trade mark	Toy	Packaging or document accompanying the toy
The importer shall indicate their name, registered trade name or registered trade mark. Where it is not possible for this identification to be on the toy can it be given on the packaging or in a document accompanying the toy. This may be the case when the importer would have to open the packaging to add his name and address to the toy. Furthermore in the case of a Manufacturer manufacturing a single toy for multiple importers, it may not be considered reasonable for each of the importers to add its identification to the toy itself. Toys may bear one or two identifications: the manufacturer alone or the manufacturer and the importer. See Note 1.					
5	6.3	Importers address	Address at which importer can be contacted	Toy	Packaging or document accompanying the toy
The address shall indicate a single point at which the importer can be contacted. Where it is not possible for this address to be on the toy can it be given on the packaging or in a document accompanying the toy. This may be the case when the importer would have to open the packaging to add his identification and address to the toy. Furthermore in the case of a Manufacturer manufacturing a single toy for multiple importers, it may not be considered reasonable for each of the importers to add its identification and address to the toy itself. See Note 2. Toys may bear one or two identifications: the manufacturer, and the importer. However, If the manufacturer is established in the EU, it is not necessary to add the importer's address, as there is no an importer in this case as understood by the directive. See Obligations of Economic Operators Guidance for further details on roles					

Note 1. A trademark is a distinctive sign or indicator used to identify the company to consumers. A trademark is a type of intellectual property, typically a name, word, phrase, logo, symbol, design, image, or a combination of these elements. Registration of such marks ensures that they are searchable and can identify the company.

Note 2. The address is not necessarily the address where the Economic Operator is actually established, it must however lead to direct contact with the Economic Operator. A website address is not adequate. An address consists of a street and number or post-box and number, town and postal code, however some member states may have specific requirements. Although not stated in the Directive, where there may be possible confusion regarding which Economic Operator is taking responsibility for the toy e.g. branding or licensing issues, it would be advisable to prefix the identification with "Manufactured by" or "Imported by",
If more than one address appears, the single contact point can be designated by underscoring.

3 The remainder of the warnings and markings

Determine the remainder of the warnings and markings and their locations

Determine the remaining warnings from applicable Standards and Directives that are required to accompany the toy but where there is no specific requirement for their placement. These are the warnings and markings that do not have to be on the toy itself and therefore may appear on the toy or on an affixed label or on the packaging or in the instructions.

These constitute the majority or the warnings required for toys, such as small parts warnings, age recommendations, projectile warnings etc.

4 The CE Mark

Determine the location of the CE mark

The Toy Safety Directive allows the CE mark to be placed on the toy, or on the packaging. It must be clearly visible at the point of sale without the need to open the packaging. Generally, this will mean that it will appear on the pack.

There are other Directives that require the application of a CE mark (e.g. PPE, EMC Directives) and separate location and other requirements may apply. There are size and format requirements for the CE mark that must be adhered to.

5 Purchase Decision Warnings

Identify the warnings that determine the decision to purchase the toy

These are generally warnings that allow consumers to make informed purchase decisions:

- Those listed in Annex V (excluding warning number 9) (This is a requirement as defined by the Expert Safety Committee)
- Those that specify minimum and maximum ages of users, and
- Other information that specifies user limitations i.e. weight restrictions

They must be visible at the point of sale. Generally this will mean on the packaging of the toy itself, but also in catalogues and on websites where consumer purchases are made. These warnings cannot solely appear on counter displays or vending machines.

Note: It is likely that distributors will require a listing of such warnings for each product so that they can arrange for them to appear in their catalogues and on any consumer retailing website. Catalogue and website owners are responsible for ensuring that the required information is available before of purchase.

6 Size of Markings and Warnings

Determine the size of the Markings and Warnings

Many markings and warnings will have size requirements laid out in standards or Directives, for example the CE mark. Where these are specified they must be adhered to.

The sizes of the traceability markings are not specified by the Toy Safety Directive. Where sizes are not specified companies need to decide for themselves what is considered as clearly visible and easily legible. There are other sources which provide general guidance for warning and marking sizes on products.

Examples are:

- The EU guidance document which suggests a minimum of 3mm (lower case or “x height”) for warnings on product.
http://ec.europa.eu/enterprise/sectors/toys/files/tsd_explanatory_guidance_document_en.pdf
- ASTM, the US toys safety standards
- CEN / CENELEC Guide 11 – Product information relevant to consumers guidelines for standard developers ftp://ftp.cen.eu/BOSS/Reference_Documents/Guides/CEN_CLC/CEN_CLC_11.pdf

It is important to note that such guidance is not legally binding and each company needs to be able to justify any rational behind the decisions made regarding size.

Note: It is not possible for this guidance to list all the warnings and markings or their content and format.

7 Documentation

Document the process

Whilst not specifically required in the Directive, due to the varying decisions that need to be made, it may be prudent to document the process to record specific decisions. In **Appendix 1** a suggested format sheet is given.

Appendix 1 – Example format to document markings and warnings decisions for a toy

STEP 1 – Your obligations with regards to markings and warnings under the Toys Safety Directive					
Economic Operator Role:					
Product/range Description:					
Product Code(s):					
Description of warning (or warning symbol)	Source (Directive / Standard / Safety Assessment)	Size / colour / format restrictions	Final Location	Rationale	Affects the decision to purchase?
STEP 2 – Warnings and markings that MUST be placed in the toy itself					
STEP 3 –Location of the traceability markings specified under the Toys Safety Directive					
Manufacturer Identification	TSD				No
Product Identification	TSD				No
Manufacturers Address	TSD				No
Importers Identification	TSD				No
Importers Address	TSD				No
STEP 4 –Remainder of the warnings and markings					
CE Mark	TSD	Yes			No (but must be visible without having to open pack)
STEP 5 –Warnings and markings that determine the decision to purchase the toy					

