

Product Responsibility Best Practices	SUBJECT Determining Children's Products	LAST UPDATE July 2019
	APPLIES TO <ul style="list-style-type: none"> • Suppliers • Distributors 	FOCUS ON Factors and product attributes to consider when determining whether an item is, or could become, a product intended for children
	QUICK LINKS <ul style="list-style-type: none"> • PPAI Corporate Responsibility: ppai.org/corporate-responsibility • UL: industries.ul.com/premiums-promotional-and-licensed-goods • Consumer Product Safety Commission: www.cpsc.gov 	

Intended for beginner compliance programs

Italic grey text indicates a hyperlink listed in the Online Resources section of this document.

Background

Properly categorizing a consumer product is not always easy, and it is a challenge in the promotional products industry where the end user is not always known at the time of manufacture. Often times, many promotional products, which are intended for use by adults and are given out at trade shows and in workplaces, end up in the hands of children. This does not mean that anything could be a children's product, but it does mean that when a company is manufacturing or distributing a promotional product, a determination should be made of the product's appeal to children and potential for foreseeable use by them. While it is the responsibility of the manufacturer, importer or supplier to ensure compliance of a product, the end distributor also needs to ensure that the product complies with appropriate requirements and regulations.

Definition Of "Children's Product"

The Consumer Product Safety Improvement Act ("CPSIA") defines a "children's product" as a consumer product designed or intended primarily for children 12 years of age or younger. Products used by children 12 years of age or younger that have declining appeal for teenagers or adults are likely to be considered children's products.

- **Primarily intended.** Just because a child touches or interacts with a product, such as a lamp or writing instrument, that product does not necessarily become a children's product. However, if the item's primary market target is children 12 years or younger, it will most likely be defined as a children's product under the CPSIA.
- **Manufacturer Intent.** A manufacturer's intent to make and market an item as a children's product is most often demonstrated by the item's design, packaging, representations and marketing of the product.

CPSIA Factors To Determine Children's Products

The CPSIA includes four factors to consider in determining whether an item is a children's product:

1. **Manufacturer Statement.** A statement by the manufacturer about the intended use of the product, including a label on the product, if such a statement is reasonable.
 - o **Labeling.** Is there a label on the product that indicates the age of the intended user?
 - o Any label must be reasonably consistent with the expected or foreseeable use for a product. One cannot label a product "not intended for children under 12" in order to bypass product safety regulations.
2. **Product Display.** Whether the product is represented, in its packaging, display, promotion or advertising, as being appropriate for use by children 12 years of age or younger.
 - o Do advertisements of the product express or imply use by children? Implied intent can be communicated by including photos of children with the product in marketing and advertising.
3. **"Commonly Recognized."** Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.
4. **Age Grading.** The Age Determination Guidelines issued by the Consumer Product Safety Commission provide instruction and advice on considering appropriate age determinations for products. These guidelines can be accessed online here: www.cpsc.gov/BUSINFO/adg.pdf.

Additional Factors To Consider

Below are additional criteria to consider when evaluating whether a product is intended primarily for children:

- **Size and Shape.** How large is the product? Can a child even hold and use the item properly? In the promotional products industry, a good example of where size and shape play an important factor is with drinkware. A drinking bottle or plastic cup that holds 12 ounces or less may be considered a children's product. The addition of easy-to-grip handles or other features add to the likelihood that the product would be used by children. Larger and heavier drinking vessels or ones made of glass, ceramic or porcelain would more likely be considered general use items.
- **Materials Used.** Some materials are considered more suitable for children than others. Soft plastic, foam, plush and wood are more appropriate for young children than metal, glass or ceramic. A plush ball is more likely to be used by a child than a metal puzzle ball for a number of reasons, including the suitability of materials, the attractiveness of colors, and size and weight of the item.
- **Cause and Effect.** It is important to consider cause and effect; how a product responds to the user often determines its suitability for a young child. While an expensive toy replica of a truck is intended as an adult collectible, features such as battery-operated lights and horn, operable doors and hood, and free-spinning wheels may cause this item to be classified as a toy. There is a significant amount of play value and child appeal with this item, so it would be prudent to ensure it complies with the requirements for a children's toy. On the other hand, a static metal car with a clock, which lacks any moving parts or sounds or any other play value for a child, is more likely to be considered a general use item.
- **Number of Parts.** An item with numerous small parts is typically geared to adults while an item with fewer, larger parts could be used by children. Consider if children could grasp and use the components and if they would know what to do with them. A simple, easy-to-connect puzzle, for example, would be appropriate for a child, whereas 3-D wooden puzzles are more appropriate for adults, or older children, because there are multiple intricate pieces.
- **Motor Skills Required.** Consider what level of fine and gross motor skills are needed to properly use the product. Fine motor skills pertain to the ability to control the hands and fingers, including hand/eye coordination. Gross motor skills apply to the large muscle coordination necessary for using a product. A three-piece pyramid



made of large wooden blocks that are easy to grasp is more likely to be used by a child than the multiple piece magnetic sculpture. This does not mean that the three-piece wooden pyramid desktop item is a children's product, but the factor of only basic motor skills being required to use it may make it attractive to children.

- **Classic Products.** There are a number of classic products distributed as promotional products. Classic products are those that appeal to multiple generations. Adults may remember using them as kids, and if they used them as children, they are more likely to give them to their children. Despite the nature of the logo, wooden blocks and teddy bears would be considered classic children's products.
- **Color.** Children are attracted to bright, contrasting colors. As children get older, they prefer more realistic colors. A silver train would be more appealing to an older person whereas a brightly colored train is more appealing to a child. This does not mean you can't use bright colors with your adult product. Color is simply another factor to consider.
- **Sensory Elements.** Material elements to consider include lights, sounds, texture, smell and taste. This factor can be a challenge for items such as stress balls. Other factors should be considered in determining whether a particular stress ball could be considered a children's product. Does the ball light-up or make sounds? Lights and sounds will make the item more appealing to a child.



- **Realism.** Is the item cartoonish or does it have a realistic appearance? Cartoonish and realistic details pertain to the visual presentation of a product. The level of maturity, cognitive ability and motor skills are considered for the child/adult determination. One example of this is a car. A detailed replica of an automobile, down to the chromed hood ornament, is clearly targeting a different audience than a free-wheeling wooden car painted in bright colors. The same consideration applies to tools, telephones and any number of promotional items.
- **Licensing/Theme.** Television shows, movies, books and sports figures are some of the sources of licensed products. The appeal of licensed products varies depending on the source or theme of the license. This can be difficult for suppliers in the promotional products industry to determine, as it is often not known what logo or theme will be used until someone places an order. This is why other factors such as size, shape, materials and colors are important to consider.

Logo And Branding's Impact

What kind of logo do you intend to use? If you have an imprint that appeals to children in such a way that the adult appeal of the product is diminished, the item should be considered a children's product.

Questions To Ask When Determining A Product's Intended Audience

- In its undecorated state, is the item generally considered a children's product?
- Could the logo, imprint or decoration make the item appealing to children or make the item more appropriate for use by children?
- Would a child physically interact with the product?
- Is the product as likely to be used by the general public as by children?

General Use Products

General use products are consumer products that are designed or intended for use by consumers of all ages, including children 12 years old or younger. If a consumer older than 12 years of age is as likely to interact with a product as a child 12 years of age or younger, then the product would probably be considered a general use product.

There are some products that are intended for use in a child's environment, but are not intended primarily for use by children. For example, a nursery-themed lamp, clock or decorations that are made for use in a child's room are not meant to be operated or handled by the child and therefore would not be considered children's products.

Still Unsure?

If you are unsure about whether a product is a children's product, it may be best to err on the side of caution and ensure that the product meets all children's product safety standards.

Purchase Order Best Practice

Create fields on all purchase orders that require answers to the following questions:

1. Is this a children's product?
2. Will children be recipients of this product?

If the answer to one or both of these questions is yes, it is important to note clearly on all POs:

This product is intended for distribution to children. It must apply to all applicable federal and state regulations.

Children's Product Regulations

The CPSIA requires all children's products to undergo third-party testing for certain hazards:

- **Lead in content of substrate limit.** A substrate is the material of which something is made and to which a surface coating may be applied. The CPSIA limits lead in the substrate to 100 parts per million (ppm). Third-party testing is required.
- **Lead in paint and surface coatings limit.** Third party testing for lead in surface coating by an accredited third-party laboratory is required. The CPSIA limits lead in paint and surface coatings to 90 ppm.
- **Small parts ban.** The CPSIA bans small parts in products for children younger than 3 and requires warning labels for products intended for children between the ages of 3 and 6. Third-party testing is required.
- **Tracking labels.** Children's products must have a "tracking label" permanently affixed to the product and its packaging, if practicable.
- **Toys.** Toys and child care articles have additional heavy metals and phthalates compliance requirements.

Required Documentation

1. *Children's Product Certificate (CPC)* issued by the manufacturer or importer of record
2. Test report(s) from a *CPSC-accredited third-party testing lab*
3. *Tracking Labels*

Online Resources:**CPSC Age Determination Guidelines:**

https://www.cpsc.gov/s3fs-public/DRAFT%20Age%20Determination%20Guidelines%20for%20Toys.pdf?xc38j_e7mgBIBA.wPVonS_Q0_MN3fYHz

CPSC FAQ's: Children's Products: <https://www.cpsc.gov/Business--Manufacturing/Business-Education/childrens-products>

List of CPSC-Accredited Third-Party Testing Labs: www.cpsc.gov/cgi-bin/labsearch/

PPAI Product Responsibility Frequently Asked Questions:

<http://ppai.org/corporate-responsibility/product-responsibility/product-responsibility-faqs/>

PPAI Promotional Products TurboTest®:

<http://ppai.org/corporate-responsibility/product-responsibility/solutions/#8104f083-d27d-4788-83f6-8c236b8d9494>

Sample Children's Product Certificate (CPC): <https://www.cpsc.gov/Testing-Certification/Childrens-Product-Certificate-CPC>

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