



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection
Division of Advertising Practices

April 9, 2007

Mr. Andrew R. Gatto
President and CEO
Russ Berrie and Company, Inc.
111 Bauer Drive
Oakland, NJ 07436

Mr. Fritz Hirsch
President
Sassy, Inc.
2305 Breton Industrial Park Drive, SE
Kentwood, MI 49508

Re: Russ Berrie and Company, Inc. and Sassy, Inc. (FTC File No. 062 3147)

Dear Msrs. Gatto and Hirsch:

As you know, the staff of the Federal Trade Commission has conducted an investigation into whether Russ Berrie and Company, Inc. and Sassy, Inc. (together, "the companies") have violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a), in connection with the labeling of certain children's products, sold under the Sassy name, as phthalate-free. This matter was the subject of complaints to the Federal Trade Commission by U.S. PIRG and by individual U.S. consumers.

Phthalates are a collection of colorless, oil-like chemicals that are added to polyvinyl chloride (PVC) plastic in order to soften it and make it more flexible. Regulatory bodies throughout the world have paid significant attention to the presence of phthalates in products intended for use by children. In 2003, the U.S. Consumer Product Safety Commission concluded, after a multi-year review, that PVC toys or other products intended for children under age 5 posed no demonstrable health risk and therefore declined to ban their use. The European Union, by contrast, has placed limits on the use of phthalates in toys and child care articles. The EU restrictions prohibit the presence, in all toys and child care articles, of certain enumerated phthalates – DEHP, DBP, and BBP – in concentrations of greater than 0.1% by mass of the plasticized material. Other specified phthalates – DINP, DIDP, and DNOP – are similarly limited with respect to toys and child care articles that can be placed in children's mouths.

In its complaint to the Federal Trade Commission, U.S. PIRG indicated that tests it had conducted on one of the companies' children's products, labeled as phthalate-free, revealed detectible levels of phthalates, as measured by a standard of parts per billion. According to PIRG's complaint, the use of a phthalate-free label on products that contain any detectible levels of phthalates misleads consumers and has a material effect on consumer purchasing behavior.

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The staff's inquiry addressed whether the companies possessed adequate substantiation for labeling claims that its children's products were phthalate-free. Upon careful review of the matter, including non-public information submitted to the staff, we have determined not to recommend enforcement action at this time. Among the factors we considered are that the companies have ceased making phthalate-free (or similar) claims on all of their children's products, and that no inventory of the products containing such claims remains on the market. We note, however, that a phthalate-free claim is likely to be material to some purchasers of infant toys; accordingly, the companies have agreed that they will not include such a claim on products where tests reveal the presence of phthalates based on measurements commonly accepted in the scientific community for phthalate detection. Moreover, the companies have agreed to exercise caution in characterizing the actual detected levels of phthalates in their products to ensure that all such claims are accurate and non-misleading. Certain toy manufacturers appear to follow this approach, for example, by indicating on the label that a product contains no more than a certain percentage of phthalates by weight.

This action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,



Mary Koebel Engle

Associate Director

Division of Advertising Practices

cc: Frederick Locker, Esq. (via electronic mail)