



PRC Retail Newsflash
1 February 2007

Newsflash: Report on the Inspection of the Quality of Brand Apparel by the Shanghai Administration of Industry and Commerce

In early January 2007, the Shanghai Administration for Industry and Commerce (**SHAIC**) conducted an inspection on the quality of brand apparel sold in a number of major shopping malls throughout Shanghai. On 19 January 2007, the SHAIC issued a report on its findings, disclosing various defects in the quality of foreign-brand apparel. The report mentioned 40 brands, including major foreign brands such as Armani, Burberry, Chanel, Dior, MaxMara and Polo Ralph Lauren. Of the 59 samples of brand apparel examined, 42% failed to pass the SHAIC's inspection.

Notable Issues

The SHAIC's report outlined the following categories where the brands failed to meet the compulsory criteria determined by the state:

- **Personal Safety:** Relevant inspected articles of apparel contained high levels of formaldehyde, pH and/or used dyes with poor colorfastness, presenting potential personal health risks to consumers.
- **Labeling:**
 - Incomplete labeling: Non-conformity with Chinese labeling and failure to provide relevant information, *e.g.*, distributor's name or address, safety standards, or the class of products (and its relevant standards); and
 - Incorrect labeling: Labels of some imported textiles stated generic fiber names to describe fiber content (*e.g.*, real silk, rayon, elastic fiber, lactoprene, nylon, polyester and/or elastic), inconsistent with the national standard terms.
- **False Information:** Actual fiber content of some inspected articles of apparel differed dramatically from the information provided on the label.

The SHAIC's report emphasized the requirement that manufacturers/distributors establish a sound internal product quality control system and advised that in the event of any doubt of the quality of a product, such product should be forwarded to the quality supervision and inspection authorities for further inspection.

Commentary

- **First Inspection of Foreign Brand Products:** The SHAIC's report is the result of the very first inspection of foreign brand products carried out in tandem with its regular inspection; previously, only domestic brands were targeted. However, it is not the only of such inspections in China. We understand from officials at the Guangzhou AIC that it also conducted a similar inspection of brands in their local market, including many world famous brands. While the findings of the Guangzhou inspection have not been announced, officials have indicated that the results are not positive. Furthermore, Beijing AIC officials have expressed their intention to conduct an inspection similar to the SHAIC's, and will take the necessary actions in the event of any negative results.
- **Strengthening Supervision:** Given the recent proliferation of foreign brands entering the domestic retail market, the SHAIC's actions (as well as those in Guangzhou and Beijing) can be interpreted to signify an intention to strengthen supervision over this sector and ensure that foreign brand products are sold in compliance with PRC law.
- **Penalties & Remedies:** Aside from negative publicity and potential damage to brand image, if products fail to meet the state criteria as described above, the manufacturers/distributors of the relevant products in the PRC will be required to rectify the situation within a limited time, failing which, the said manufacturers/distributors will be subject to administrative penalties (*e.g.*, confiscation of products and revenue arising therefrom, termination of production and sale of the products in question, revocation of business license, and fine).

In addition to consumers' product liability claims, criminal liability may be pursued in serious cases.

However, pursuant to the PRC *Product Quality Law*, the manufacturers/distributors implicated in the SHAIC's report are entitled to appeal the findings by applying to the relevant Administration for Quality Supervision, Inspection and Quarantine for re-inspection of the relevant products within 15 days after receipt of the report.

- **Role of Consumers' Associations:** Local consumers' associations play an important role in leading and guiding the activities of consumers to protect their lawful rights. In this regard, regular consultation with consumers' associations can facilitate resolutions (*e.g.*, product recall and compensation) with consumers in the event of disputes.

This newsflash was coauthored by Tan Joon Ho and Emilie Niu in Shanghai.

We trust that you find these newsflash useful. If you have any questions on these subjects or any other area of retail law, please contact:

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Full English translations of the aforementioned report as well as PRC legislation are available for purchase upon request.

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