



**THE STOCK EXCHANGE OF HONG KONG LIMITED**  
(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)  
(the “Exchange”)

7 December 2011

**The Listing Appeals Committee of The Stock Exchange of Hong Kong Limited (the “Listing Appeals Committee”) publicly censures the following parties for breaching the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the “Exchange Listing Rules”):**

- (1) Playmates Toys Limited (the “Company”) (Stock Code: 869);**
- (2) Mr Chan Chun Hoo, Thomas, current executive director of the Company (“Mr Chan”); and**
- (3) Mr Novak, Lou Robert, former executive director of the Company, retired on 28 May 2010 (“Mr Novak”).**

On 26 October 2010, the Listing Committee conducted a hearing into the conduct of, among others, the Company, Mr Chan and Mr Novak in relation to their obligations under the Exchange Listing Rules and the Director’s Declaration and Undertaking given by Mr Chan and Mr Novak to the Exchange in the form set out in Appendix 5 Form B to the Exchange Listing Rules (the “**Director’s Undertaking**”).

On 19 April 2011, the Listing Committee conducted a disciplinary (review) hearing on the application by, among others, the Company, Mr Chan and Mr Novak for a review of the decision of and the sanction imposed by the Listing Committee at first instance.

On 17 November 2011, the Listing Appeals Committee conducted a further disciplinary (review) hearing (the “**Listing Appeals Committee Hearing**”) on the application of the Company, Mr Chan and Mr Novak for a review of the sanction imposed at the earlier disciplinary (review) hearing.

### **Facts**

The Company was listed on 1 February 2008 resulting from a spin off by Playmates Holdings Limited (Stock Code: 635) (“**PHL**”) of its toy business. It was listed by way of introduction, with distribution of shares of the newly listed Company to shareholders of PHL as detailed in the Listing Document dated 31 December 2007 published in relation to the listing of the Company’s shares.

The Listing Document states that *“Our Directors collectively and individually accept full responsibility for the accuracy of the information contained in this document, and confirm that having made all reasonable enquiries, to the best of their knowledge and belief there are no other facts, the omission of which would make any statement in this document misleading.”*

The Listing Document disclosed, among other things, the historical trend of the second half of a year generating 65 per cent to 72 per cent of yearly sales in 2004, 2005 and 2006. It also disclosed better results in the first half of 2007 (\$14.6 million net loss compared to \$17.9 million net loss in the first half of 2006).

Whilst the Listing Document disclosed factors and circumstances which might or would adversely affect the toy business of the Company and its subsidiaries (the **“Group”**) including certain widely publicised product recalls resulting from safety concerns in the United States relating to toys manufactured in China by competitors of the Company, the major market for the Group’s toy products; and costs pressure etc, the Listing Document:

- (1) did not disclose the actual significant deterioration in the Company’s business in the fourth quarter (October to December) (**“Q4”**) of 2007; and
- (2) contained a Confirmation by the Directors of the Company that *“there has been no change in our financial or trading position since 30 June 2007, being the date of our latest audited combined financial results as set out in “Appendix I – ACCOUNTANTS’ REPORT” to this document”* (**“No Change Confirmation”**).

On 10 March 2008, the Company published its annual results for year ended 31 December 2007 (**“2007 Annual Results”**), key data and extracts are as follows:

- (1) \$34 million net loss was incurred which represented a significant deterioration from the 2006 Annual Results reporting \$23 million net profit:

\$	2007	2006	Negative Variance
Turnover	909M	1,128M	19.4%
Operating profit (loss)	(69M)	28M	346.0%
(Loss)/profit before taxation	(68M)	27.2M	350.0%
Taxation credit/(charge)	34M	(4M)	
Profit/(loss)	(34M)	23M	247.0%

- (2) The poor results were attributed to the decline in sales turnover in the United States resulting from factors including negative customer sentiment with the widely publicised product recalls in the year, higher cost of manufacturing in China and lower overall profit margin.
- (3) *“In 2007, the toy industry was affected by several high profile product recalls resulting from concerns over product safety. Despite Playmates Toys having maintained an excellent safety record for over four decades, US sales were significantly affected by general market concerns over those widely publicised product recalls. The major impact on Playmates Toys US business was felt in the fourth quarter, the prime holiday season, which normally accounts for approximately 50% of annual sales”*.

As acknowledged by the Company in the 2007 Annual Results, Q4 is the most important period in a reporting year in which the Group normally generates a significant proportion of its annual turnover (normally approximately 50 per cent of annual sales).

The Company had the established practice of preparing management accounts of the Group for three months ended 31 March, six months ended 30 June (interim), eight months ended 31 August, nine months ended 30 September, ten months ended 31 October, eleven months ended 30 November and one year ended 31 December (final). However,

- (1) the executive directors did not cause the management accounts made up to the end of October and November 2007 to be prepared; and
- (2) they did not take any other steps to obtain specific up-to-date financial information prior to the making of the No Change Confirmation. Such a Confirmation was made based upon the financial information of the Group up to 30 September 2007.

### **Assertions made by the Listing Division**

#### Breach of Rules 2.13 and 11.07

The Division referred to the following facts and matters:

- (1) As acknowledged by the Company, Q4 is the most important period for generating turnover in a reporting period. It normally accounts for about 50 per cent of annual sales.
- (2) The importance of Q4 sales is well illustrated by the established practice of the Company (and its predecessor PHL) of preparing the Group's management accounts to the respective end of March, June, August, September, October, November and December each year.
- (3) The Listing Document was dated the last day of Q4 of 2007 and 2007 year end date. Whilst it identified risk factors that might or would negatively affect the Group's business including the toy recall in the United States, it did not disclose the adverse impact of these risk factors on the business already felt in the course of Q4 which the Relevant Directors were, or should have been, aware of. It contained the Directors' No Change Confirmation that there had not been any material adverse change in the Group's trading and financial position since 30 June 2007.
- (4) The matters referred to above and mentioned only as risk factors in the Listing Document adversely affected the Company's business in Q4 2007 resulting in very significant adverse impact on the Company's 2007 Annual Results.

Rule 11.07 requires that *“In addition to these detailed requirements, all listing documents issued by a new applicant...must, as an overriding principle, contain such particulars and information which, according to the particular nature of the issuer and the securities for which listing is sought, is necessary to enable an investor to make an informed assessment of the activities, assets and liabilities, financial position, management and prospects of the issuer and of its profits and losses and of the rights attaching to such securities.”*

Under Rule 2.13(2), any announcement or corporate communication (which is defined to include listing documents) required under the Exchange Listing Rules must be accurate and complete in all material respects and not be misleading.

The Division alleged that the Listing Document as published which did not disclose the significant business deterioration in Q4 2007 and which included a No Change Confirmation provided on the basis of (a) specific (but outdated) financial information as of 30 September 2007; and (b) risk factors and matters expressed in general terms:

- (1) did not enable investors to make an informed assessment of (among other things) the Company’s actual “financial position” in breach of Rule 11.07; and
- (2) was not “accurate and complete in all material respects” and was “misleading” in breach of Rule 2.13(2).

#### Breach of the Director’s Undertaking

The Division alleged that, in relation to the breach of Rules 2.13 and 11.07, the executive directors, Mr Chan and Mr Novak, have breached their Director’s Undertaking to use their best endeavours to procure the Company’s rule compliance in relation to the Listing Document by reason of:

- (a) their failure to procure preparation of the Group’s management accounts to October and November 2007 respectively or otherwise procure specific updated information of the Group’s actual business and financial performance for consideration and decision on Listing Document disclosure; and
- (b) making the No Change Confirmation on the basis of the Group’s management accounts made up to only 30 September 2007.

#### **Decision**

The Listing Committee (at first instance) concluded that:

- (1) The Company breached Rules 2.13 and 11.07; and
- (2) Mr Chan and Mr Novak each breached his Director’s Undertakings for failing to use his best endeavours to procure the Company’s compliance with the Exchange Listing Rules in relation to the Company’s breaches of Rules 2.13 and 11.07.

The Listing Committee at first instance decided to impose a public censure on each of the Company, Mr Chan and Mr Novak for their respective breaches mentioned in (1) and (2) above.

At the disciplinary (review) hearing held on 19 April 2011, the Listing Committee endorsed the decision reached and the sanction imposed on the Company, Mr Chan and Mr Novak by the Listing Committee at first instance.

At the Listing Appeals Committee Hearing held on 17 November 2011, the Listing Appeals Committee upheld the sanction of public censure imposed on the Company, Mr Chan and Mr Novak.

In upholding the sanction of public censure the Listing Appeals Committee noted the Company's, Mr Chan's and Mr Novak's previous good compliance record. The Listing Document was not a prospectus, shares were only distributed to existing PHL shareholders and no new funds were raised. However, the Listing Appeals Committee considered that the listing document is a very important document in the lifecycle of a company and its accuracy and completeness must be respected. Listed company directors or directors of listing applicants must ensure necessary information is provided to enable investors to make informed assessment of the financial position of their companies.

For the avoidance of doubt, the Exchange confirms that the above public censure applies only to the Company, Mr Chan and Mr Novak and not to any other past or present member of the Company's Board of Directors.