

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

19 Aug 2022



Factory Information

FLA Affiliates	PopSockets LLC
Country	Vietnam
Number of Workers	

Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

FLA Code Element

Number of Violations

Child Labor (CL)	1
Compensation (C)	1
Employment Relationship (ER)	3
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	4
Hours Of Work (HOW)	5

Assessment Information

Assessor	SCSA
----------	------

Assessment Date	19 Aug 2022
Assessment Purpose	Factory Assessment (In-Person)

ASSESSMENT RESULTS

Child Labor (CL)

Benchmark ID	CL.2
Benchmark Details	Employers shall not employ anyone under the age of 15 or under the age for completion of compulsory education, whichever is higher.
Finding Details	During the assessment, there was 1 child employed at the facility. After confirming the child's date of birth and date of hire, the assessment determined that the child was 14 years, 10 months, and 22 days old at the time of hiring. At the time of the assessment, the child was 14 years, 11 months, and 17 days old. The assessment reviewed an identification card which the factory maintained on file as the child's proof of age. The assessor noted that the date of birth appeared to have been changed from 2007 to 2003. During an interview, the child confirmed that they had changed the identification card to seek employment.
Recommendation for Immediate Action	Immediately stop using child labor and take action in accordance with the factory's child labor procedures. Implement an effective system to prevent any child labor.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with the Labor Code 2019, Article 3. Definitions For the purposes of this document, the terms below shall be construed as follows: 1. "employee" means a person who works for an employer under an agreement, is paid, managed and supervised by the employer. The legal working age is 15, except for the cases specified in Section 1 Chapter XI of this Labor Code.

Compensation (C)

Benchmark ID	C.7
--------------	-----

Benchmark Details	All payments to workers, including hourly wages, piecework, fringe benefits and other incentives shall be calculated, recorded, and paid accurately.
Finding Details	25 members of the factory’s firefighting team participated in fire prevention and firefighting training on Dec 29-30, 2021. The factory paid these workers their normal wages for that day, but did not pay them a 30% bonus, as required by local law.
Recommendation for Immediate Action	Pay the 25 members of the fire prevention and firefighting team the proper bonus for the two training days.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with the Decree No. 79/2014/ND-CP dated July 31, 2014, Chapter IV, Article 35, Clause 3: Apart from receiving adequate salary and other allowances (if any), a Captain or a Vice captain of a part-time intramural firefighting team may receive a regular support paid by his supervisory organization. According to actual condition, the head of that organization shall provide every position with a support provided that it is not lower than 0.3 basic salary.

Employment Relationship (ER)

Benchmark ID	ER.1.1
Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.

Finding Details	The factory instituted a termination policy (document number JY-B1-18) on 20 January 2021. The policy states that a worker who is absent for five days in a 30 day period without justified reasons will be terminated and must pay the employer half a month's salary as compensation. Local laws on resignation and termination do not allow for such a penalty. In a review of resigned and terminated worker records, the assessment found no documented case in which this deduction was applied.
Recommendation for Immediate Action	Review all factory policies and procedures to ensure compliance with local law.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with Labor code 2019, article 36 The right of an employer to unilaterally terminates the employment contract 1. An employer shall have the right to unilaterally terminate an employment contract in one of the following circumstances: e) The employee is not present at work without acceptable excuses for at least 05 consecutive working days;
Benchmark ID	ER.19.1
Benchmark Details	Employers shall maintain on file all documentation needed to demonstrate compliance with the FLA Workplace Code and required laws.
Finding Details	One cleaning worker's employment contract with the factory laid out a 30-day probationary period. Since the position does not require secondary education or technical skills as defined by local law, local law requires this position to be subject only to a six-day probationary period.
Recommendation for Immediate Action	Ensure that all workers' probationary periods align with local law.
Compliance Classifications	Immediate Action Required

Local Law	In accordance with the Labor Code, Article 25. Probationary period The probationary period shall be negotiated by the parties on the basis of the nature and complexity of the job. Only one probationary period is allowed for a job and the probation shall not exceed: 3. 30 days for positions that require a secondary vocational certificate, professional secondary school; positions of or for technicians, and skilled employees; 4. 06 working days for other jobs.
Benchmark ID	ER.1.3
Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	The factory does not practice regular review and updates of several policies. The factory issued its freedom of association policy, grievance system, performance review policy, juvenile and child labor policy, recruitment policy, and working hours & overtime policy on 18 April 2018 and wrote these policies to align with the now-expired Labor Code of 2012.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.15
Benchmark Details	Worker representatives shall have the facilities necessary for the proper exercise of their functions, including access to workplaces and office space where required by law.
Finding Details	The factory does not provide an office space for the trade union at the facility.

Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Health, Safety And Environment (HSE)

Benchmark ID	HSE.6.2
Benchmark Details	A sufficient number of workers shall be trained in first aid and firefighting techniques. Training shall be upon hire and with periodic refresher training.
Finding Details	The factory's firefighting team does not have sufficient members. Records dated 29-30 December 2021 indicated that there were 25 members at the time. Four of these 25 members, however, left the factory between 30 December 2021 and the time of the assessment. At the time of the assessment, there were 328 total employees working in the factory. Local law requires the factory to have at 25 members on the team.
Recommendation for Immediate Action	Ensure that there are sufficient members of the firefighting team at all times, in keeping with local law.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with the Decree No. 136/2020/ND-CP, Article 31. Establishment and management of internal and specialized firefighting forces and assurance of operating conditions thereof 3. Composition of internal and specialized firefighting forces:
Benchmark ID	HSE.6.1
Benchmark Details	All safety and medical equipment (e.g. fire fighting equipment, first aid kits) shall be available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and easily accessible to workers.

<p>Finding Details</p>	<p>(1) One out of two fire extinguishers in the Chemical Warehouse was undercharged at the time of the assessment, with the gauge clearly in the red area. (2) The Binh Duong Firefighting and Rescue Police Department conducted a Fire prevention and Fighting Inspection on 11 May 2022. This Inspection found that factory did not guarantee at least one fire extinguisher per 50 square meters in production areas and one per 75 square meters in non-production areas, as required by law. The factory currently has 80 fire extinguishers for around 20,690 square meters, which is equivalent to 1 per 258 square meters. (3) The facility does not keep any fire extinguishers on reserve as backups/replacements. Local law requires that the reserve stock total at least 10% of the total number. (4) The factory has not installed a fire extinguisher at the Hazardous Waste Storage area. (5) The assessment observed that the level of water in the firefighting tank had dropped more than 0.5m from the top of the tank, which is not in line with local law.</p>
<p>Recommendation for Immediate Action</p>	<p>(1) Keep all fire extinguishers charged at all times. (2) Provide the sufficient number of fire extinguishers at the facility per local law requirements. (3) Maintain a sufficient stock of backup fire extinguishers per local law requirements. (4) Provide sufficient number of fire extinguishers at the facility per local law requirements. (5) Maintain sufficient firefighting water stores at all times.</p>
<p>Compliance Classifications</p>	<p>Immediate Action Required</p>

Local Law	<p>In accordance with the Decision No. 2726/QD-BKHCH, point 5.1.1. All areas and items in the buildings and works that are in danger of fire and explosion including places equipped with firefighting system must be equipped with fire extinguisher. In accordance with the National Standard (TCVN) No. 3890-2009: Fire protection equipment for construction and building – Providing, installation, inspection, maintenance, Item 5.1.3: Calculation of providing, installing fire extinguishers on the basement of fire extinguisher`s installing norm and the maximum moving distance from the fire extinguisher`s putting position to the furthest point is defined in Table 2. In accordance with the Decision No. 2726/BKHCH, 5.1.7: Reserving fire extinguishers are not less than 10% total of fire extinguishers which replace in need. (In accordance with TCVN 2622:1995, Article 10.7: 10.7. For industrial parks or industrial works, in which production class C, D, E has an area of not more than 200,000m², the water flow used for fire fighting outside the house is not more than 20 liters/second and for other buildings. In residential areas with no more than 8,000 people, then not more than 8,000 people, it is not necessary to design an external fire-fighting water supply pipe system, but a fire pump or pump truck can be used to draw water from natural water sources such as: rivers, lakes or reservoirs, artificial lakes for fire fighting with the following conditions: a) There is enough reserve water for fire fighting in the prescribed seasons b) The water absorption depth is not more than 4m from the ground to the water surface and the water level is not more than 0.5m</p>
Benchmark ID	HSE.4.1
Benchmark Details	<p>Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.</p>
Finding Details	<p>The factory issued its firefighting plan on 15 May 2020. At the time, the factory compound consisted of six buildings. The factory added a new 3-story building to the compound in late 2020. The firefighting plan has not been updated to cover this new building.</p>

Recommendation for Immediate Action	Update the firefighting plan to include all existing buildings.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with the Decree No. 136/2020/ND-CP, Article 19. Firefighting plans 1. a) Types of firefighting plans: d) The plan must be revised in a timely manner and reapproved by the competent authority upon large change in size, dangers posed by fire, explosion and toxic hazards and firefighting-related conditions.
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.
Finding Details	(1) The factory has not specifically assigned personnel to be in charge of rescue operations in the factory, as required by local law. (2) The factory's posted evacuation maps do not mark the location of first aid kits or fire alarm buttons.
Recommendation for Immediate Action	(1) Assign personnel to be in charge of rescue operation as required and train them on their roles. (2) Include all necessary information, such as the location of first aid kits and fire alarm buttons, on posted evacuation maps.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with the Circular No. 08/2018/TT-BCA, Article 9. Records on management and monitoring of rescue operations by establishments and other subjects as regulated by laws c) Decisions on establishing neighborhood watch teams, internal emergency response team and professional firefighter teams and lists of people in charge of rescue operation as assigned
Hours Of Work (HOW)	
Benchmark ID	HOW.1.1

Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.
Finding Details	Workers at the factory work overtime hours in excess of legal limits. The assessment identified cases of workers working 7 overtime hours in one day in July & May 2022 and 6.5 hours in December 2021. The assessment identified cases of workers working 154.5 overtime hours in one month in July 2022; 116 hours in May 2022; and 125.5 hours in December 2021.
Recommendation for Immediate Action	Ensure that workers are not exceeding legal limits on daily and monthly overtime.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with the Labor Code (2019), Article 107. Overtime work 2. An employer has the right to request an employee to work overtime when all of the following conditions are met: b) The number of overtime working hours of the employee shall not exceed 50% of the normal working hours in 01 day; in case of weekly work, the total normal working hours plus overtime working hours shall not exceed 12 hours in 01 day, and 40 hours in 01 month; In accordance with the Dispatch No. 1312/LDTBXH-ATLD, Guidance on organizing implementation of Resolution No. 17/2022/UBTVQH15, Implementing Resolution No. 17/2022/UBTVQH15 dated March 24, 2022 of the Standing Committee of the National Assembly on annual and monthly overtime hours ensuring covid-19 prevention and control, socio-economic recovery and development (hereinafter referred to as "the Resolution"), the Ministry of Labor, War Invalids and Social Affairs requests Departments of Labor, War Invalids and Social Affairs of provinces/central-affiliated cities to: 1. Take charge and cooperate with provincial Confederation of Labor and relevant authorities in disseminating and guiding the implementation of the Resolution in their provinces. Some notable contents: b) All employees who are permitted to work overtime for up to 300 hours per year are also permitted to work overtime for more than 40 hours but not exceeding 60 hours per month from April 01, 2022.
Benchmark ID	HOW.5

Benchmark Details	Employers shall maintain necessary records identifying all women workers and all workers under the age of 18 entitled to legal protection concerning work hours.
Finding Details	The assessment found that both of the two female employees currently raising a child under 12 months of age were performing heavy, toxic, or dangerous work responsibilities. Both workers were working 8 hours per day plus overtime and were working night shifts (10:00pm – 6:00am), despite local law requirements limiting working hours and shift arrangements for nursing workers performing these responsibilities.
Recommendation for Immediate Action	Ensure that female workers who are nursing a child under 12 months and performing heavy, toxic, or dangerous work responsibilities are not required to work at night, not required to work overtime, and have their working hours reduced, as stipulated by local law.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with the Labor Code (2019), Article 137. Maternity protection 1. An employer must not require a female employee to work at night, work overtime or go on a long distance working trip in the following circumstances: a) The employee reaches her seventh month of pregnancy; or her sixth month of pregnancy when working in upland, remote, border and island areas; b) The employee is raising a child under 12 months of age, unless otherwise agreed by her. 2. Whenever an employer is informed of the pregnancy of a female employee who is doing a laborious, toxic or dangerous work, a highly laborious, toxic or dangerous work or any work that might negatively affect her maternity, the employer shall assign her to a less laborious or safer work, or reduce the working hours by 01 hour per day without reducing her salary, rights or benefits until her child reaches 12 months of age.
Benchmark ID	HOW.21
Benchmark Details	Other than in exceptional circumstances, the total weekly work hours (regular work hours plus overtime including any alternative shifts such as 4x4 or 3x3) shall not exceed 60 hours per week.

Finding Details	The second set of time and payment records (see finding HOW.2 for details) showed that working hours exceeded 60 hours per week as a general practice. Throughout the last 12 months, weekly working hours ranged from 66 to 80 hours per week.
Recommendation for Immediate Action	Ensure that total weekly work hours do not exceed 60 hours per week.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with FLA Workplace Code
Benchmark ID	HOW.22.3
Benchmark Details	Time worked by all workers, regardless of wage system, shall be fully documented by time cards or other mechanical or electronic recording systems.
Finding Details	The first set of time and payment records provided for review show the exact time in and time out for each worker. The assessment, however, found inconsistencies between this set of records and other information gathered. See finding HOW.2 for details. The second set of time and payment records provided for review did not include workers' actual time in and time out. Instead, the records only show a total number of working hours. Factory management explained that the factory monitors attendance using a biometric system and monitors overtime using manual records kept by line leaders. However, the factory could not provide time in/out records from the biometric system or samples of line leaders' manual records for review.
Recommendation for Immediate Action	Implement reliable time recording systems for attendance, working hours, and overtime. Keep proper time records showing workers' actual time in and out. Maintain all records for review.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with FLA Workplace Code.
Benchmark ID	HOW.2

Benchmark Details	Workers shall be entitled to at least 24 consecutive hours of rest in every seven- day period. If workers must work on a rest day, an alternative consecutive 24 hours must be provided within that same seven-day period or immediately following.
Finding Details	The first set of time & payment records gathered in the assessment were inconsistent with other records obtained by the assessor and with information gathered from worker interviews. The assessors communicated this observation to factory management, who provided a second set of time and payment records for review. This second set of time & payment records showed that workers were not guaranteed one day's rest in every seven day period. For example, workers worked 31 days consecutively, without a rest day, in July 2022. In May 2022, workers worked up to 29 days consecutively. In June 2022, workers worked up to 25 days consecutively.
Recommendation for Immediate Action	Provide at least 24 consecutive hours of rest in every seven-day period to all workers.
Compliance Classifications	Immediate Action Required
Local Law	In accordance with the Labor Code (2019), Article 111. Weekly rest period: 1. In every week, each employee shall be entitled to a rest period of at least twenty-four consecutive hours. In special cases, due to the work cycle, and the employee cannot take a weekly rest, then the employer shall ensure that the employees are entitled to at least 04 days/ 01 months on average.

