



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: MV Sport - The Game Inc.

COUNTRY: China

ASSESSMENT DATE: 10/28/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 620

Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

FLA Code Element	Number of Violations
Compensation	1
Hours of Work	3
Employment Relationship	2
Health, Safety, and Environment	4
Nondiscrimination	2

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not provide social insurance to all eligible workers. There are a total of 507 workers working in the factory, including 53 retired but re-recruited workers and ten new hires. The factory has provided 33 out of 444 eligible workers (7.4%) with pension, work-related injury, medical, maternity, and unemployment insurances. As a supplement, the factory has provided commercial accidental injury insurance to 499 workers, which is valid from March 17, 2020 to March 16, 2021, and has a maximum benefit amount of CNY 500,000 (USD 73,529) per worker. [C.1, ER.22]

2. The contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to pension, work-related injury, medical, maternity and unemployment insurances based on local minimum requirement of CNY 3,368 (USD 495) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. 70% of workers' average monthly wages of previous year were higher than local minimum contribution base, ranging from CNY 3,400 (USD 500) to CNY 8,000 (USD 1,176). [C.10.1, ER.22]

3. The factory does not contribute to the Housing Provident Fund for any of the 444 eligible workers. [ER.22.1]

Local Law or Code Requirement

The China Labor Law, Article 72; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15. FLA Workplace Code (Compensation Benchmarks C.1 and C.10; Employment Relationship Benchmark ER.22)

Recommendations for Immediate Action

1. <!--[endif]-->Provide social insurance to all eligible workers.

2. <!--[endif]-->Contribute to social insurance based on worker's average monthly wage of previous year.

3. <!--[endif]-->Provide all workers with the legally required Housing Provident Fund.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory has obtained the written approval for adopting a Comprehensive Working Hours System, which allows a total of 2,432 working hours during the approval implementation period from April 30, 2019 to April 30, 2020, and from April 30, 2020 to April 30, 2021 respectively. However, 80% of workers worked more than the approval limit of 2,432 hours and up to 2,825 hours from April 30, 2019 to April 30, 2020. Total working hours reached 1,464 hours for the period from April 30, 2020 to October 28, 2020 (the first visit date). [HOW.1.1]

2. The factory sets a production plan based on 60 hours per week (two overtime hours per day on five workdays and ten overtime hours on Saturday). Factory management sets production targets and the production system at a level that workers need to work 20 overtime hours per week. [ER.24]

3. Total working hours regularly exceed 60 hours in a week. Time records for the period from October 2019 to October 28, 2020 indicate that weekly working hours for 80% of workers exceeded 60 hours and up to 65 hours in one to two weeks per month in all reviewed months except April 2020. [HOW.1.3]

4. Workers are not always provided with one day off for every seven-day work period. Time records from October 2019 to October 28, 2020 indicate that all production workers worked seven to thirteen consecutive days for one to three times in a month in all reviewed months except April 2020. [HOW.2]

Local Law or Code Requirement

The Opinion of the Ministry of Labor on Several Questions concerning the Implementation of the China Labor Law, Article 65. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmarks HOW.1 and HOW.2)

Recommendations for Immediate Action

1. <!--[endif]-->Ensure total working hours are in full compliance with the requirements of the Comprehensive Working Hours System.

2. Set a production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.

3. <!--[endif]-->Control total working hours so that they do not exceed 60 hours in a week.

4. <!--[endif]-->Provide workers with at least one day off (24-consecutive hours of rest) for every seven-day work period.

5. <!--[endif]-->Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:

1) Implement FLA Principles of Fair Labor and Responsible Sourcing and

2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:

a. How to provide better order forecasts to the factories;

b. Possible workshops/consultancy for the factory on how to improve productivity/quality;

c. Clear guidelines on how to extend shipment deadlines in case of contingencies;

d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);

e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;

f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. [FOA.2, FOA.10]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.10)

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has not installed eye shields on about 20% of the high-speed sewing machines. In addition, 25% of workers move the eye

shields away when operating the high-speed sewing machines. [HSE.14.1, HSE.14.2]

2. The factory does not keep a food sample as legally required. [HSE.22.1]

3. The factory has never conducted an inspection for the lightning protection system in the production building. [HSE.13]

4. The evacuation plans posted on the 3rd floor of the production building are inconsistent with the actual layout. There are three emergency exits on the 3rd floor, while there are two emergency exits on the evacuation plans. [HSE.5.1]

Local Law or Code Requirement

The Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6; Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; The Food Safety Operation Specifications for Catering Service, Article 7.9.2; The Fire Prevention Law of the People's Republic of China, Article 16. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5, HSE.13, HSE.14 and HSE.22)

Recommendations for Immediate Action

1. <!--[endif]-->Install eye shields on all high-speed sewing machines. Provide additional training on machine safety and supervise workers to use machine safety guards properly during working hours.

2. <!--[endif]-->Keep a food sample for at least 48 hours as per legal requirement.

3. <!--[endif]-->Conduct an annual inspection on the lightning protection system and maintain the inspection reports.

4. <!--[endif]-->Update the evacuation plans posted on the 3rd floor of the production building to match the actual layout.