

Prakash Sethi

24.07.2003 12:39

To:

Michael Posner

Subject:

RE: Comments on the FLA public reports

Dear Mr. Posner:

Thanks for your email. Clearly, our perspectives are very different in how to interpret the information contained in the FLA report. I may have sounded a bit harsh in my comments for which I am sorry. It showed my disappointment at all the missed opportunities where FLA's progress could have been so much better but was not.

All your observations make perfectly good sense as general statements. But, unfortunately, as a researcher and an empiricist, I look for the detail, since it is always the devil in detail that befuddles all of us.

You mention that FLA used a weighted average in selecting the sample, which you indicate was a better approach than mere random selection. I do not wish to argue with you the fine points of statistical definition of randomness, but the fact remains that nothing in the report describes what kind of weighting, if any, was used in sample selection. Therefore, I am at a loss to give any credence to this statement.

The same applies to the FLA staff's going through these reports. Without knowing how many staffers are there, and how much time did they actually spent in going through these hundreds of reports, one really cannot make a judgment call as to the adequacy of their analysis. My assertions were based on my knowledge of the size of FLA's staff and unless it was increased by a large multiplicative factor, I would stick by my observations.

Yes, I did read the time-line charts. They are great about how the companies were following the progress of individual factories.

However, when all is said and done, the Report did not answer A Very Important Question. To wit, after 5+years of work, how far these companies have succeeded in complying with FLA's code. Here we are talking about not factories, but FLA members as total entities and as Brands. Can we say, based on this report, that the companies are 10%, or 20% or 50% in compliance with the FLA code? In the absence of this one crucial piece of information, all we are doing are counting the trees, and hoping people would ignore talking about the health of the entire forest.

Be that as it may, I wish FLA well. I hope your future reports would show better evidence of the progress these companies are making in reducing the magnitude of worker abuses in the factories that make products for them.

There is no single method of independent external monitoring, or evaluation which is superior to all others. But all methods must deliver on substance and in a form that is credible. I hope FLA will meet the expectations of both its sponsors and the larger public. Please believe me when I say that I would be amongst the first ones to applaud you and your colleagues for your enormous effort and dedication.

Kindest personal regards.

Prakash Sethi

Please rest assured that as desired by Ms. Mila Rosenthal of your office, we would circulate your comments to our "elist". We would be happy to do the same for any future comments that you would want us to circulate.

Prakash

Mike Posner

07/23/2003 09:35 AM

To:
Subject:

Prakash Sethi
RE: Comments on the FLA public reports

Dear Dr. Sethi:

I am writing to respond to your comments of June 12 on the Fair Labor Association's first public reports. I appreciate your taking the time to review these reports, especially in light of your own extensive work with the toy industry. However, I am troubled by both the substance and the tone of your comments, and therefore am responding to a number of the points you raise.

At the outset you criticize the FLA's statement that its reporting is "unprecedented in any industry" in that it reveals both how participating companies have tried to uphold worker protections, and where they need to undertake further measures. In response you write, "None of this is strictly accurate and some of it is untrue." You cite reports by an unnamed toy company, saying that these reports are more comprehensive, specific and transparent. I would be interested in learning more about this company. What features of these reports make them more comprehensive, specific or transparent than the FLA's tracking charts? Are these reports available on the Internet? Do the reports contain information collected by independent external monitors and is this company continuing to produce these reports and making them available to the public?

Your critique of the FLA's reporting devotes very little time and attention to the 50 tracking charts that the FLA published, along with the FLA public report, on June 4. I assume you have studied these tracking charts, each of which contains detailed information on specific conditions in factories that make products for companies participating in the FLA. These tracking charts are available publicly on the FLA's website (www.fairlabor.org).

These reports are not a one-time effort. The monitoring continues, reports of several additional companies will begin to be made public, and reports of all future external monitoring will be posted on the FLA's website. I would be interested in learning from you whether there are other examples, in the toy industry or elsewhere, where this type of ongoing external monitoring, remediation and public reporting is taking place.

In your analysis of the FLA public reports, you make a number of more specific criticisms, to which I wish to respond. The basis for many of your criticisms is an apparent misunderstanding of how the FLA process works. Let me give you a few illustrative examples in each of the areas you highlight:

1. In your critique you write: "The so-called FLA consultation [regarding which factories to monitor] is mere verbiage because the FLA does not have sufficient independent resources to challenge the company's recommendation."

In fact, the FLA staff determines where to send monitors, based on input from multiple sources, including but not limited to recommendations from participating companies. Reports from NGOs, unions, the media, and other monitoring organizations (such as the Workers Rights Consortium) are all relevant and useful. To cite one example, the FLA sent an independent external monitor to the Primo factory in El

Salvador earlier this year. The decision to do this was based in large part on information FLA staff received about potential problems at this factory. This information was provided by the Workers Rights Consortium and other NGOs based in El Salvador and elsewhere.

2. Your assertion that “participating companies also select and hire external monitors” is misleading.

While this was true in year one, today the FLA staff selects and contracts directly with each of these independent external monitors, and decides which factories they will visit. Even in the first year, the companies were constrained in that they could hire only FLA-accredited monitors.

3. You challenge the FLA’s monitoring program, which combines internal monitoring done by participating companies and independent external monitoring. You write that this system “relieves individual companies from being accountable for their global performance.”

On the contrary, the FLA methodology is the only monitoring system that does hold the participating company responsible for non-compliance issues and remediation at supplier facilities. We believe that this combination of internal and external monitoring is the best way to hold companies accountable for their global performance. It requires their involvement as internal monitors of all of their factories, with independent monitors’ public reports acting as a check on the system.

4. You raise concerns about the quality of the monitoring and are critical of the FLA’s public reports for not evaluating the monitoring process.

We share many of your concerns about the quality and uniformity of the monitoring and have raised these concerns with the FLA Board of Directors. These concerns are shared by members of the FLA staff and the Board. Our concerns apply generally to the monitoring field, which is still in an early stage of development. As you suggest, the monitoring needs to be improved and standardized. This is a priority for us, and it is something we will continue to press for within the FLA.

Having said this, the first public report was not intended as an evaluation of the participating companies as they are all still in their implementation phase. Their overall levels of compliance will be evaluated at the end of the three year implementation phase.

5. You also criticize the fact that the selection process for external monitoring of factories was not “randomized.”

Contrary to your critique, the FLA’s selection process for external monitors is in fact randomized — based on a carefully constructed method of “risk weighting” that we believe is more helpful than a purely random selection process. The FLA process focuses external monitors’ visits on selected “at risk” facilities. This is precisely the kind of “scientifically selected” approach you advocate, and counters your assertion that the process is “largely influenced, if not totally determined, by the participating companies for their own particular reasons.”

6. You note that the FLA’s data and analysis appear to be “superficial and largely ineffectual.”

It is hard to respond to this comment without knowing more specifically the basis of this charge. I assume you refer to the tracking charts, which record the findings of independent external monitors with respect to FLA code provisions and company reports on remediation. Many of the tracking charts contain evidence of severe violations and the remedial efforts of the participating companies concerned, and a cursory glance at the case studies and examples cited in the public report reveals similarly significant compliance issues and remediation which is clearly effective. Take for example the collective agreement signed at the BJ&B facility in the Dominican Republic, or the election of worker representatives at facilities in China. These are hardly superficial and ineffectual.

These tracking reports do not include, or attempt to include, much analysis. They are intentionally more descriptive than analytical. We see this as being the type of information that will enable consumers, investors, the media and others to make meaningful comparisons among companies. Over time monitoring can and should improve, with reporting becoming clearer and more consistent. But the information provided in these initial reports begins to give various stakeholders the type of information they need to make more informed purchasing and investing decisions.

7. As you point out, the FLA's report cites widespread abuses of workers' rights. The lesson you draw is that, "It is a sad commentary, and a cruel joke, when we present a clear-cut picture of 'indifference and neglect' of the past, and present it as an encouraging sign of the future."

We draw a very different conclusion. We see it as an encouraging sign that several leading multinational companies are willing not only to allow independent external monitors access to their factories, but also to release the results of these factory visits to the public. We also find it encouraging that participating companies are beginning to remedy problems that are found, and to look for broader corrective actions to address these problems. Have they done enough? Certainly not. Is there a long way to go? Yes, clearly there is. But it seems clear that the FLA process is already a step in the right direction, and with greater potential for positive change in the future.

You frame your criticisms in harsh terms, and we strongly disagree with certain of your assessments of the reports and the tone of your critique. However, the high expectations you have for the FLA's disclosure process are flattering, and we hope you continue to hold them as the FLA process continues to develop. Where we differ with you most is in putting the FLA's work in perspective and comparing it to other efforts in this field. We believe this public report and the accompanying factory tracking charts are an important milestone on the way to routine, reliable transparency by multinational corporations. We see our role in the FLA as helping to stimulate further meaningful progress toward that goal, with fully developed disclosure of reports to which the FLA has committed in upcoming years as the test of that progress.

Sincerely,

Mike Posner