

An open letter to the directors of corporate social responsibility at Wintek, Apple, Motorola, Nokia, Samsung, Lenovo and Huawei, and the director of the Electronic Industry Citizenship Coalition (EICC).

We are writing to express our grave concern at reports of unlawful management behavior at Wintek Dongguan Masstop, an important supplier for Apple, Nokia, Samsung, Motorola, Lenovo, Huawei and others. The reported abuses outlined below, moreover, constitute a serious breach of the compliance standards established in the [EICC's Code of Conduct](#), which Apple, Samsung, and Lenovo are signatories to.

The reports of managerial misconduct at Wintek Dongguan Masstop, are based on documentary evidence and interviews with the workers, and are published by the Hong Kong based group, [Students and Scholars Against Corporate Misbehavior](#) (SACOM).

Regarding conduct that is illegal under Chinese labour laws, SACOM's report states the following:

- Article 41 of the *Labour Law of the People's Republic of China* stipulates that overtime shall not exceed 36 hours per month. From March 2009, workers at Wintek factories were averaging about 280 hours per month. According to the *Labour Law*, working 8 hours per day for 21.75 days means that workers should work 174 hours per month, and thus many workers were doing more than 100 hours of overtime each month without adequate compensation. Workers frequently worked 13 hours a day, more than the three hours of overtime per day allowed by the law.
- Article 41 also states that "The employer can prolong work hours due to needs of production or business after consultation with its trade union and workers". However, the workers were not consulted about the excessive overtime, and felt that the enterprise union was controlled by management and could not fulfill its role as a representative of labour.
- Article 40 of the *Labour Law* stipulates that workers are entitled to a rest day on public holidays. In order to fulfill orders, Wintek employees were forced to work on 28 May 2009, Dragon Boat Festival, which is an official holiday in China.
- Article 88 of the Wintek Dongguan Masstop employee rulebook reportedly stipulates that employees who are not "flexible" in their working schedule will be given a demerit, and fined 60 yuan. There is no legal justification for fining workers who refuse to work excessive and illegal overtime.

Behavior that does not correspond to the (EICC) code of conduct:

- **A.3. Working Hours.** The code states: "A *workweek should not be more than 60 hours per week, including overtime, except in emergency or unusual situations.*" Employees routinely worked more than 60 hours per week.
- **A. 4. Wages and Benefits.** The code states: "*Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted.*" Employees were not compensated in accordance with the law in regards to overtime. Furthermore, deductions as a disciplinary measure seemed to have been systematically and commonly used.

- **A. 5. Humane Treatment.** The code states, “*There is to be no harsh and inhumane treatment, including... verbal abuse of workers.*” Many workers complained of frequent verbal abuse.
- **A. 7. Freedom of Association.** The code states, “*Open communication and direct engagement between workers and management are the most effective ways to resolve workplace and compensation issues. Participants are to respect the rights of workers to associate freely, join or not join labor unions, seek representation, join workers’ councils in accordance with local laws. Workers shall be able to communicate openly with management regarding working conditions without fear of reprisal, intimidation or harassment.*” On 15-17 April 2009, over a thousand employees went on strike to protest the unlawful and unreasonable overtime system. Wintek later fired 19 of the strikers, a move that can be seen as a form of reprisal and intimidation meant to warn other workers, thereby, decreasing their ability to communicate openly with management about their workplace concerns.
- **B. 7. Sanitation, Food, and Housing.** The code states, “*Workers are to be provided with ready access to... sanitary food preparation, storage, and eating facilities.*” Many workers complained about unsanitary and substandard food. On 3 April 2009, around 100 employees suffered from diarrhea and fever due to unsanitary food. Workers on the night shift complained about having to eat food that had been prepared for the previous day shift.

In light of these circumstances, **China Labour Bulletin** suggests the following for the EICC and relevant companies involved:

- Conduct an independent investigation to confirm the veracity of SACOM’s report.
- Rigorously ensure that all Chinese labour laws are adhered to.
- Ensure that employees are fully compensated for all the work that they have done, including overtime.
- Implement mechanisms or channels through which the workers can express their grievances without fear of retaliation. It is CLB’s view that many of problems described above could have been avoided if such a channel for communication and dialogue between workers and management existed. Holding genuine democratic workplace elections for the enterprise union would be one way in which such a mechanism could be implemented.
- Companies, such as Apple, Motorola, Nokia, Samsung, Lenovo and Huawei, currently working with Wintek Dongguan Masstop should not simply cut and run, but continue to work with the company so as to improve its management practices and ensure it conforms to the law.