



Cosmetics Europe
the personal care association



COSMETIC PRODUCT CLAIMS & ADVERTISING:

Compendium of applicable legislation,
self-regulation, best practices and guidance

About the compendium

Claims and advertising are an important means of communicating information about cosmetic products to consumers. They are subject to a broad range of legal requirements at EU level, both horizontal (applicable to all sectors) and vertical (applicable to cosmetics). The European Commission¹ itself states that the “existing European regulatory framework for claims and advertising of cosmetic products is very comprehensive and ensures a high level of consumer protection.” It is complemented by a self-regulatory system at both European and international levels, driven by the European Advertising Standards Alliance (EASA) and the International Chamber of Commerce (ICC). In addition, both the European Commission and Cosmetics Europe have issued guidelines for compliance.

To provide an educational resource, facilitate stakeholders’ awareness and to support industry’s compliance, Cosmetics Europe has assembled the most important components of this comprehensive regulatory and self-regulatory landscape into one package. This compendium provides an introductory overview of the regulatory and self-regulatory landscape and a user-friendly index with links to the main pieces of legislation, self-regulation, best practices and guidance.

Introduction

Cosmetic products and the role of claims

Cosmetic products cover a wide variety of categories ranging, for example, from personal hygiene, fragrances, and colour cosmetics to sun-screens, skin-, oral- and hair-care and deodorants.

Claims are essential tools for differentiating between products, stimulating innovation and fostering competition. The claims that are subject to the composing elements of this Compendium are those that refer to the characteristics and functions of cosmetic products, including those that are environmental.

To fulfil their role, it is vital for claims to evolve with national markets, scientific progress and the diversity of consumers, as well as the changes in societal demands, trends and fashions.

The European regulatory model

The regulatory framework must take all the above factors into account and must, while protecting consumers from being misled, promote innovation and foster competition. This objective is best served by a framework combining horizontal and specific legislation with self-regulation. All these together establish key principles that must be complied with whilst allowing a certain degree of flexibility for their application, to accommodate cultural and linguistic differences, scientific progress, evolving societal trends and consumer expectations, etc. Another important feature of the regulatory framework governing cosmetic product claims is that it combines manufacturer responsibility with market surveillance by competent authorities and by self-regulatory organisations.

Self-regulation in the cosmetics industry

The European Commission's 2015 Better Regulation package² refers to self-regulatory tools as being equally important and complementary to the regulatory tools.

Self-regulatory systems help industry provide an additional level of consumer protection by building consumer trust in brands through the promotion of responsible advertising. These systems are characterised by:

- a highly flexible and responsive nature; such a nature is well adapted to cosmetic claims and advertising because it can easily evolve along with societal and market changes as well as with changes in consumer expectations over time;

- adaptability to national, cultural and linguistic specificities; for example, taste and decency are best assessed against national sensitivities; this is an area where the role of national Self-Regulatory Organisations is particularly well adapted and efficient;
- alternative dispute resolution mechanisms or complaint handling systems which can quickly respond to complaints and are typically free of charge.

Guidance and best practices

Guidance for compliance and best practices are extremely valuable as they help companies implement the regulatory requirements. They can also assist control authorities in their market surveillance activities.

Industry responsibility and compliance

The cosmetics industry has a responsible attitude toward claims and advertising. This can be demonstrated at two levels, through:

- (a) the low number of complaints related to cosmetics advertising as recorded by EASA on an annual basis (for example, in 2018 cosmetic-related complaints represented 0.52% of the total number of complaints, despite the fact that the cosmetics industry is a major advertiser) and
- (b) compliance checks by national control authorities (a survey of Member States carried out by the European Commission in 2015 found that 90% of cosmetic product claims were compliant with the Common Criteria Regulation); EASA's 2015 audit of compliance with self-regulation and all applicable legislation found that 91% of cosmetic-related advertising was compliant).



Index of regulation, self-regulation, best practices and guidance

Main pieces of EU legislation that apply to cosmetic product claims and advertising:

- The Unfair Commercial Practices Directive
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005L0029&from=EN>
amended by:
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L2161&from=EN>
- The Misleading and Comparative Advertising Directive
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0114&from=EN>
- The Cosmetic Products Regulation, Article 20
https://ec.europa.eu/health/sites/health/files/endocrine_disruptors/docs/cosmetic_1223_2009_regulation_en.pdf
- The Common Criteria Regulation
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:190:0031:0034:en:PDF>

Main international and European Codes of Practice:

- ICC Advertising and Marketing Communication Code, 10th Revision, 2018
<https://iccwbo.org/publication/icc-advertising-and-marketing-communications-code/>
- ICC Framework for Responsible Environmental Marketing Communications, 2019
<https://cdn.iccwbo.org/content/uploads/sites/3/2019/08/icc-framework-for-responsible-environmental-marketing-communications-2019.pdf>
- EASA Best Practice Recommendations for Digital Marketing Communications, 2015
<https://www.easa-alliance.org/sites/default/files/EASA%20Best%20Practice%20Recommendation%20on%20Digital%20Marketing%20Communications.pdf>

- EASA Best Practice Recommendations for Influencer Marketing, 2018
https://www.easa-alliance.org/sites/default/files/EASA%20BEST%20PRACTICE%20RECOMMENDATION%20ON%20INFLUENCER%20MARKETING_2020_0.pdf
- Cosmetics Europe Charter & Guiding Principles for Responsible Advertising and Marketing Communications, 1st review, 2020
<https://cosmeticseurope.eu/download/a1p2OFJoVUNZeXdBQmVwTTdYVlVmUT09/readonly/>

Guidance:

- European Commission Technical Document on Claims, 2017
<https://ec.europa.eu/docsroom/documents/24847>
- Cosmetics Europe Guidelines for Cosmetic Product Claim Substantiation, 2019
https://cosmeticseurope.eu/files/4016/0015/2480/Guidelines_for_Cosmetic_Product_Claim_Substantiation.pdf

Reports related to cosmetics industry compliance:

- EASA Audit Report, 2015
https://cosmeticseurope.eu/files/6614/7403/0177/Cosmetics_Advertising_Audit_2015.pdf
- European Commission Report, 2016.
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0580&from=GA>

REFERENCES

1. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on product claims made based on common criteria in the field of cosmetics, Brussels, 19.9.2016 COM (2016) 580 final
2. The European Commission's Better Regulation Package, 19.05.2015