

COSMETIC PRODUCT CLAIMS & ADVERTISING

A well-established European regulatory model

Claims are essential tools for differentiating between products, stimulating innovation and fostering competition. 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 trends and consumer expectations.

The existing European regulatory framework¹ for cosmetic product² claims and advertising is, in the words of the European Commission, “very comprehensive and ensures a high level of consumer protection”³.

It applies to any claims, including those related to environmental benefits, that refer to the characteristics and the functions of the products.

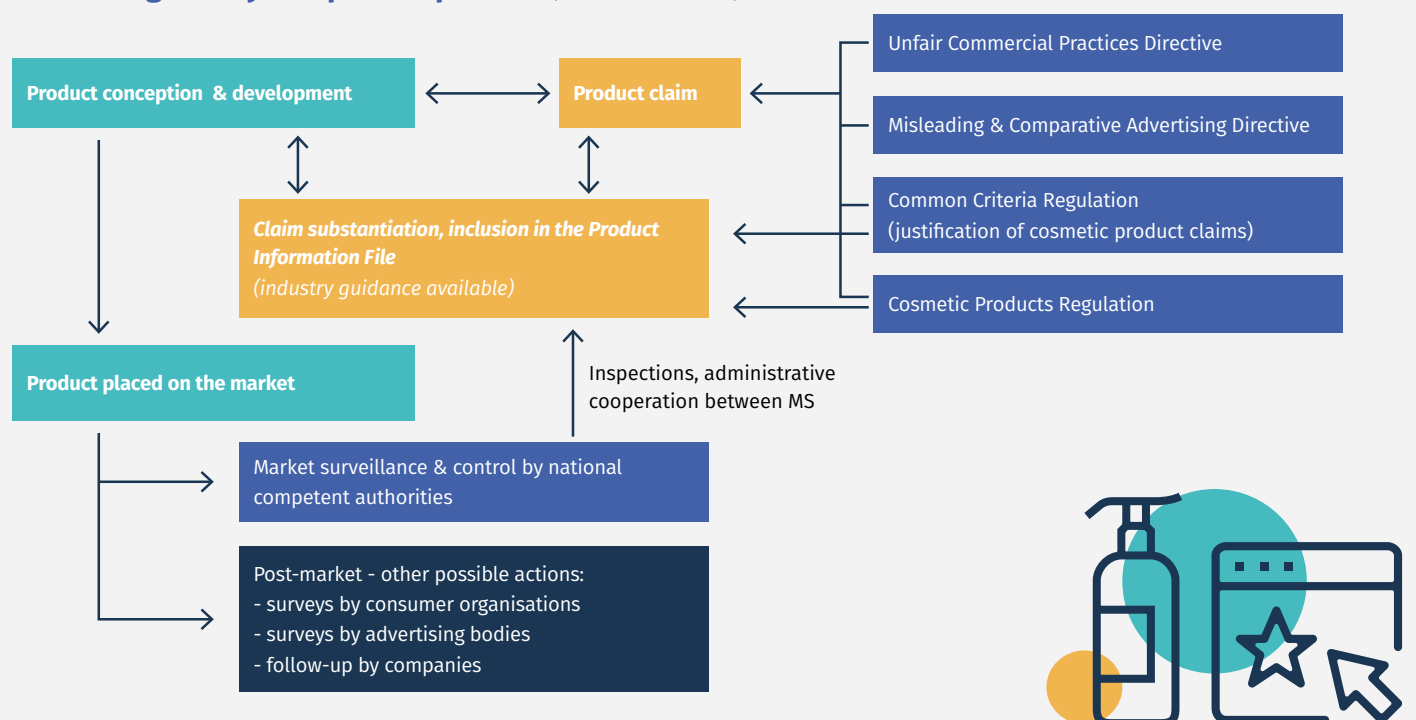
Cosmetic product claims must comply with horizontal legislation (e.g. the Unfair Commercial Practices Directive 2005/29/EC, the Misleading and Comparative Advertising Directive 2006/114/EC) as well as with cosmetics-specific legislation, namely the Cosmetic Products Regulation (CPR) 1223/2009 and the Common Criteria (for the justification of claims) Regulation 655/2013.

Specifically, the Cosmetic Products Regulation requires that: (a) **claims (regardless of their format or medium) shall not be used to imply that the products have characteristics or functions which they do not have** and (b) **substantiation of the claim be included in the product’s ‘information file’ which can be inspected by control authorities at any time**. The Common Criteria Regulation requires **claims to be legally-compliant, truthful, supported by evidence, honest, fair and allow informed decision-making**.

Cosmetics Europe strongly supports the existing framework as it:

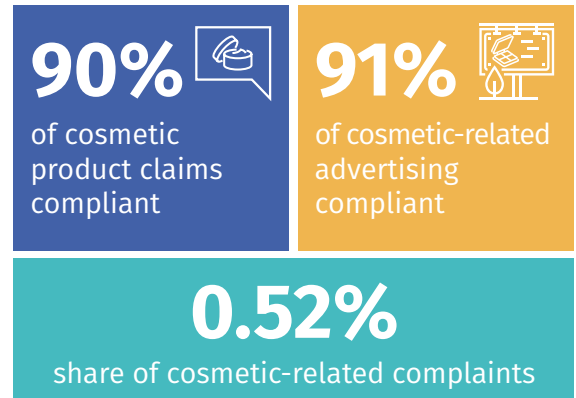
- includes clear and robust legal requirements;
- combines legal obligations with manufacturer responsibility and market surveillance by competent authorities and by self-regulatory organisations;
- allows the necessary degree of flexibility, to accommodate cultural and linguistic differences between consumers across the EU, scientific progress, evolving societal trends and consumer expectations, etc.

Cosmetic product claims: current regulatory compliance process (brief outline)



Industry responsibility and compliance

The cosmetics industry has a long-standing 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 EASA⁴ 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**).



Self-regulation in the cosmetics industry

The European Commission's 2015 Better Regulation package⁵ 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. **Cosmetics Europe's Charter and Guiding Principles for Responsible Advertising and Marketing Communications** is one such example of self-regulation that successfully complements the regulatory tools.

References

- https://cosmeticeurope.eu/files/9516/0015/5200/Compendium_of_applicable_legislation_self-regulation_best_practices_and_guidance.pdf
- Cosmetic products cover a wide variety of categories ranging, for example, from personal hygiene, fragrances, and colour cosmetics to sunscreens, skin-, oral- and haircare products and deodorants.
- <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0580&from=EN>
- European Advertising Standards Alliance
- The European Commission's Better Regulation Package, 19.05.2015
- Cosmetics Europe - The Personal Care Association :: Charter and Guiding Principles on Responsible Advertising and Marketing Communications

