

**Submission from the Consumer Council
to Legislative Council Panel on Economic Services on
the Regulation of Beauty Products and Services**

Introduction

1. The Consumer Council is pleased to provide views on the subject of regulation of beauty products and services.
2. The Council has been looking into the issue of beauty or cosmetic products (hereunder referred as cosmetic products) safety over the years. It tested AHA or Fruit Acid face cream in 1997, colour cosmetics (such as eye shadows, eyeliners, lip liner pencils, etc.) in 1998, and whitening skin care products in 2002.
3. The public has, from time to time, expressed concern over the safety standards of cosmetic products, especially after the recent mercury poisoning cases where some models of beauty cream were found to contain high concentrations of mercury. Until this incidence, consumers generally seem to have confidence in the safety of cosmetic products as reflected by the comparatively low enquiry and complaint figures. Between January 2000 and April 2002, the Council has received a total of 2,642 enquiries and complaints concerning cosmetic products and beauty services.

Statistics of enquiries and complaints received by the Consumer Council

Type of Enquiries/Complaint	2000	2001	2002 (Jan – April)	Total
Cosmetic Products	128/68	168/99	56/35	352/202
Beauty Services	447/293	638/331	185/194	1,270/818
Total	936	1,236	470	1,622/1,020

4. In order to protect consumer health, the Council sees a need to improve the protection of consumers in the area of cosmetic product safety and would like to see the introduction of some regulatory measures to this effect.

Definition of cosmetic products

5. Under the specific laws of the European Economic Community (EEC) and USA, there are comprehensive and detailed definitions of cosmetic products,

which can serve as a useful guideline to define the scope of the proposed regulatory measures. For instance, EEC defines cosmetic products as “any substance or preparation intended to be placed in contact with the various external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance and/or correcting body odours and/or protecting them or keeping them in good condition”. (Annex 1 lists products within the meaning of this definition).

6. In section 201(i)(1) of the US Federal Food, Drug, and Cosmetic Act, the term “cosmetic” means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

Current legislative provisions relating to cosmetic products

7. The *Consumer Goods Safety Ordinance* (CGSO) stipulates that consumer goods (including cosmetic products) must comply with the "general safety requirement" or such safety standards as the Secretary for Economic Services may approve by regulation to apply to the product concerned.
8. Cosmetic products, insofar as they are not food, water, tobacco or medicine, etc. which are regulated under separate legislation, will be subject to this "general safety requirement". Under this circumstance, cosmetic products supplied, manufactured or imported into Hong Kong should comply with reasonable safety standards recognized by national or international standards institutes.
9. CGSO, however, has not laid down the safety limits of certain substances contained in cosmetic products. This has given rise to a concern over the transparency of Government's enforcement standards. CGSO also has not specified the labelling requirements of such products to enable the consumer to make an informed choice.
10. The Council suggests the Government consider the introduction of the following regulatory measures to enhance the safety of cosmetic products by :

- specifying the safety standards of certain substances used in cosmetics;
- introducing labelling requirements on these products.

Specifying the safety standards of certain substances used in cosmetics

11. **As an *immediate measure*, the Council proposes that the Government should set out, under the CGSO, the safety requirements of cosmetic products** with a view to protecting consumers from the use of hazardous substances contained therein.
12. The mandatory standards should include the following:
 - The safety limits of certain substances;
 - A list of substances which must not form part of the composition of cosmetic products; and
 - A list of substances which cosmetic products must not contain except subject to the restrictions and conditions laid down.
13. The standards adopted by other jurisdictions could serve as useful references. The Council suggests the detailed specifications of the above safety limits to be drafted by a technical committee or working group to be set up by the Government.

Assessment on impacts of the proposed measure on the market

14. The Council believes that the introduction of the proposed measure will not increase the burden on the enforcement authority as it has already been taking action along the same line.
15. The Council also believes that the proposed measure will be welcomed by the trade, as the safety standards provide certainty, i.e. standards that the trade should follow, and transparency to government's enforcement action.

Labelling requirements

16. The Consumer Council proposes that **the Government should, as a *long-term measure*, consider the introduction of a mandatory labelling system for cosmetic products under the CGSO.**
17. Currently, CGSO has no specific provisions to require cosmetic products to provide any necessary information to the consumer through labelling. This

means that manufacturers, importers or suppliers of cosmetic products are not legally bound to disclose such information as ingredients, expiry date, instruction of use etc.

18. Many jurisdictions have imposed mandatory labelling requirements on the marketing of cosmetic products. Some examples are set out at Annex 2 of this submission. Mandatory labelling requirements can serve the following purposes:

- Enhancing product information transparency;
- Enabling better consumer choice (consumers who are allergic to certain ingredients would be able to avoid products with such ingredients);
- Improving product safety (manufacturers will be more cautious in the use of ingredients);
- Facilitating the proper use and storage of the products;
- Enabling an efficient product recall exercise, if warranted.

19. The types of information required to be labelled are:

- Type of product;
- Content;
- Ingredients and concentration;
- Dates of manufacture and expiry;
- Warning statements against any potential hazard to certain consumers or for general use;
- Instructions for use and storage;
- Country of origin and batch number/batch code;
- Name and address of manufacturer, distributor and/or importer;

20. When the products are too small to bear labels, the required information, can be provided in an enclosed leaflet, cards or tapes.

21. As to the questions of whether all or certain types of cosmetic products should be subject to the proposed labelling requirements, the extent of information to be labelled, the language requirement, etc, **the Council proposes that a working group comprising representatives of the interested parties should be set up to look into the issues and make recommendations.**

Assessment of Impacts of the proposed measure on the market

22. It is envisaged that the regulatory measure will bring about some additional costs to traders whose supplies of cosmetic products do not contain the necessary information. Similarly, small importers and parallel importers will also be affected. This is because products imported by them, often bear labels and instructions in the languages of their countries of origin. If languages other than Chinese or English are being used, arrangements will have to be made for them to be translated in meeting the labelling requirements. This may pose a problem to small or parallel importers who lack technical support. Hence, some may contend that the proposed measure is creating a technical barrier.
23. However, the Council believes that if the requirements are limited to essential information and are implemented by stages, the cost to the affected traders is likely to be minimal and non-prohibitive. This is borne out by the experience of other jurisdictions operating such a system.
24. Useful reference can also be drawn from the experience in early 1980s when labelling requirements for pre-packaged food products was introduced. Similar reservations were encountered at that time. However, the labelling requirement has now become a matter of course and no food manufacturers, importers, or suppliers will find the costs in meeting the mandatory requirements prohibitive.
25. The Consumer Council strongly believes that the minimal additional costs will well be compensated by enhanced consumer confidence on the safety aspect of such products. A good labelling system for cosmetic products is beneficial not only to consumers; it will enhance business opportunities for local traders. The Hong Kong Government does not levy tariffs on cosmetic products and this has boosted Hong Kong's market share on such products in the region. The Council believes that Hong Kong will stand to gain even further if safety standard of such products are specified and the products are comprehensively labelled.

26. A good example is the setting up of the Trade Descriptions (Marking) (Gold and Gold Alloy) Order (Cap. 362 sub. leg. A) in 1985 (the Order requires that all gold articles for sale should bear a mark clearly indicating its fineness and weight). The regulation has fostered tremendous consumer confidence of Hong Kong's gold items and jewelry market, attracting both local consumers and visitors. Many visitors come to Hong Kong to buy gold articles because they know there is such a legal protection afforded to them.

Beauty Services

27. The Council supports the implementation of Trade Test for the Beauty Care Sector developed by the Beauty Care and Hairdressing Training Board.
28. The Council is aware of the fact that the Health and Welfare Bureau is regulatory the framework for medical equipment such as laser devices and the improper use of such equipment and awaits results of the review.

Consumer Council

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Annex 1

Products within the meaning of this definition include: -

- ◆ Creams, emulsions, lotions, gels and oils for the skin (hands, face, feet, etc.).
- ◆ Face masks (with the exception of peeling products).
- ◆ Tinted bases (liquids, pastes, powders).
- ◆ Make-up powders, after-bath powders, hygienic powders, etc.
- ◆ Toilet soaps, deodorant soaps, etc.
- ◆ Perfumes, toilet waters and eau de Cologne.
- ◆ Bath and shower preparations (salts, foams, oils, gels, etc.).
- ◆ Depilatories.
- ◆ Deodorants and anti-perspirants.
- ◆ Hair care products:
 - Hair tints and bleaches.
 - Products for waving, straightening and fixing.
 - Setting products.
 - Cleansing products (lotions, powders, shampoos).
 - Conditioning products (lotions, creams, oils).
 - Hairdressing products (lotions, lacquers, brilliantine).
- ◆ Shaving products (creams, foams, lotions, etc.).
- ◆ Products for making-up and removing make-up from the face and the eyes.
- ◆ Products intended for application to the lips.
- ◆ Products for care of the teeth and the mouth.
- ◆ Products for nail care and make-up.
- ◆ Products for external intimate hygiene.
- ◆ Sunbathing products.
- ◆ Products for tanning without sun.
- ◆ Skin-whitening products.
- ◆ Anti-wrinkle products.

Cosmetic Product Labelling Requirements in Different Economies

Item	China ¹	EU ²	Japan ³	Taiwan ⁴	USA ⁵
Product name	yes	-	yes	yes	-
Net content	yes	yes	yes	yes	yes
Ingredients	-	yes, a list of ingredients in descending order of weight	yes, a list of all ingredients found in the product is required on the outer container in descending order of predominance except for ingredients of less than 1% concentration which can be in any order	yes	yes, ingredients are listed in descending order of predominance except for those with less than 1% concentration which may be listed at the end in any order
Warning statements	yes, if necessary	yes	yes	yes	yes
Date of manufacture	yes	-	-	yes	-
Expiration date	yes	yes, if durability is less than 30 months	yes, only for designated products	yes, only required for products that have a shelf life of less than three years	yes, if there is a time limit for which the product may be used safely
Instructions for use	yes, if necessary	-	yes, if necessary	yes	yes, if necessary
Instructions for storage	yes, if necessary	-	yes, if necessary	-	yes, if necessary
Country of origin	yes	yes, if necessary	yes	yes	yes
Name and address of manufacturer or representative	yes	yes	yes	yes	yes
Name and address of importer	yes	yes	yes	yes	yes
Lot number/batch code	yes	yes	yes	yes	-
Language requirement	yes	yes	yes	yes	yes

Notes:

- : not required.

1. National Standard of the People's Republic of China, GB 5296.3-1995 - Instructions for use of products of consumer interest - General labelling of cosmetics.
2. European Union – Council Directive 76/768/EEC Article 6.
3. Pharmaceutical Affairs Law of Japan.
4. Law for the Control of Cosmetic Hygiene of Taiwan
5. US Code of Federal Regulations, Title 21 Part 701 - Cosmetic Labeling.