

The Cosmetics and Perfumery Association of Hong Kong Ltd.

Position Paper

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Definition of Cosmetics

The Federal Food, Drug, and Cosmetics act in the USA defines cosmetics as articles other than soap which are applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance without affecting the body's structure or functions. Included in this definition are products such as skin creams, lotions, perfumes, lipsticks, fingernail polishes, eye and facial make-up preparations, shampoos, permanent waves, hair colors, toothpastes, deodorants, and any material intended for use as a component of a cosmetic product.

According to the European Union COSMETICS DIRECTIVE 76/768/EEC

Article 1

A "cosmetic product" shall mean 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 odors and/or protecting them or keeping them in good condition.

Pre-market authorization

Pre-market authorization, which is considered as a barrier to free trade, is not required in both of our main importing countries, the USA and the EU

Community and Japan.

In the **European Union** safety of the cosmetics is assured through the by the responsibility of the person who places the product on the market and a simple notification of manufacturing, importing site, and an in-market surveillance system.

Ref: The rules governing cosmetic products in the European Union Volume 1, 1999 Edition

In the **USA**, the U.S. Food and Drug Administration (FDA) is only able to regulate cosmetics after products are released to the marketplace. Neither cosmetic products nor cosmetic ingredients are reviewed or approved by FDA before they are sold to the public.

Ref: FDA Authority Over Cosmetics

<http://www.cfsan.fda.gov/~dms/cos-206.html>

In **Japan** due to the deregulation of cosmetics products, prior approval of cosmetic products is not required.

http://www5.cao.go.jp/otodb/english/houseido/hou/lh_02070.html

Cosmetics in Hong Kong is governed by 'Chapter 456 Consumer Goods Safety Ordinance. It is required that a person shall not supply, manufacture or import consumer goods unless the consumer goods comply with the general safety requirement for consumer goods or the consumer goods must satisfy an approved standard if applicable.

Ref: Chapter 456 Consumer Goods Safety Ordinance.

<http://www.info.gov.hk/justice/new/laws/index.htm>

Cosmetic Safety

It is important to point out that safety is assured at the manufacturing process. Many manufacturers adopted the standard used in the leading manufacturing countries and export destination such as USA, EU, and Japan.

Cosmetic Ingredient – Except prohibited or restricted, the manufacture could use any ingredient to compose the cosmetic product.

Ref: <http://www.cfsan.fda.gov/~dms/cos-206.html>

Cosmetic Good Manufacturing Practice - In order to establish goodwill for their company, cosmetic manufactures adopted the Good Manufacturing Practice (GMP) established by the FDA in the USA. GMP is a guideline use by the FDA agent when inspecting cosmetic manufacturing plant and its equipment, finished and unfinished materials, containers and labeling in the factory.

Ref: <http://www.cfsan.fda.gov/~dms/cos-gmp.html>

Labeling – In Japan, US, EU and China, identity of each ingredient, are required to list on the packaging of each product. The names of the ingredients, particularly their chemical names are conformed to Cosmetic and Fragrance Trade Association (CTFA), INCI, or World Health Organization (WHO) standards.

Ref: <http://www.cfsan.fda.gov/~dms/cos-lab2.html>

Ingredients Information – In the USA, cosmetic companies voluntary submit information of the establishments and data on ingredients to the FDA. The EU and Japan have similar system.

Ref: <http://www.cfsan.fda.gov/~dms/cos-206.html>

Hong Kong's Cosmetics and Toiletries Industry

Import and re-export statistics on cosmetics in HK.

In the year 2001 Hong Kong imported HK\$2,749,430,000 worth of cosmetics and skincare, out of the total value, 27% were reported re-export to other countries.

Ref: Census and Statistics Department - Hong Kong Import and Re-export data 2001

Manufacturing In Hong Kong

Hong Kong has a very small cosmetic manufacture industry, mostly producing cosmetics, toiletries and perfume with own private labels. The majority of the product is exported to China

Ref: http://www.tdctrade.com/main/industries/t2_2_41.htm

Sales channel of Cosmetics and Perfumery in Hong Kong

Most of the cosmetic companies are agents and distributors for the Hong Kong and China market, the sales channel in HK composed of department stores, superstores, supermarkets, cosmetic retail chains stores and own image boutique. The professional market consists of beauty salons and beauty schools.

Ref: http://www.tdctrade.com/main/industries/t2_2_41.htm

Trademark rights

The exhaustion of the trademark rights from 1997 has leads to a chose in the consumer market. The cosmetic industry has transformed from a profession run, sole importer and distributor system into an influx of inexperienced and

quick profiteering traders who wish to make profit overnight. Most parallel traders were unaware of the proper ingredient requirement, labeling requirement and the safety requirement in cosmetic. The result is a flood of unknown products with over exaggerated claim products found in the market.

Ref: Chapter 43 Trade Marks Ordinance

<http://www.info.gov.hk/justice/new/laws/index.htm>

Ref: AIM position Paper – What price Parallel Trade? <http://www.aim.be/>

The Value provided by the Cosmetic Industry

The survival of the cosmetics and perfumery industry in Hong Kong depends on how the industry delivers a perpetual set of benefits to their consumers.

The set of benefits or values could be a combination of (a) research in beauty science and market research (b) manufacturing of using the finest ingredient, good manufacturing practice and quality control and first class packaging (c) marketing includes, branding, advertising, display, advertising and promotion and personal sales assistance (d) product position includes setting up sales counter in the cosmetic retail areas, retail shop, or shelf in the supermarket and cosmetics retail chain. (e) after-sales services includes customer satisfaction program, product exchange or refund, etc.

The list could continue for another few pages, but we other then the consumers there are other stakeholders we must satisfy, the Government, the consumer interest groups and the press.

Recommendations from the Cosmetic and Perfumery Industry in Hong Kong

The majority of the cosmetic importers and traders in Hong Kong were Multi-national Corporation and professional bodies; they have staffs equipped with high standards of professional knowledge and services. The way the cosmetic

industry behaves has earned a lot of satisfaction and applause from the cosmetic users. The few isolated problems we face to day are due to some ignorant traders without professional knowledge. In order to ensure consumer satisfaction and safety, we feel that extra labeling on the products with the importer's name or distributor's name, main ingredient list and direction of use, will be able to disclose to the consumer more information. But at the present stage, we suggest if the Government is to consider imposing mandatory labeling requirements on the marketing of cosmetic products, it is important not to affect the free trade of Hong Kong. Further more, the Government must consult the trade and conduct feasibility study, before any long-term devastating effect imposed to the cosmetic industry.

The question imposing mandatory labeling requirements on the marketing of cosmetic products, we understand that the present law and regulation has provided adequate protections to the consumers. The world trend today is to deregulate the cosmetic industry, and replace it with an industry self regulate, voluntary submission system. If the Government decided to impose a mandatory labeling requirement on the marketing of cosmetic products, it should definitely increase the cost of the trade and damage the recovery of the economy and our competitive advantages.

We suggested that the Government should fund the Cosmetic and Perfumery of Hong Kong Ltd. to conduct a research in setting up a European or American type of industry voluntary submission system, to strengthen the consumer's confidence towards the cosmetic manufacture and importers.

We highly value the Government's long-term policy of non-interference to the trade, and believe that this policy has brought fruitfulness to the Hong Kong economy's success. In consideration to any mandatory requirement on cosmetic products, the Government should also consider carefully the cost and

benefit to the trade.

Reference

Ministry of Health P. R. China www.moh.gov.cn

Food and Drug Administration USA www.fda.gov

European Union COSMETICS DIRECTIVE 76/768/EEC <http://pharmacos.eudra.org>

Japan Ministry of Health and Welfare <http://www.mhlw.go.jp/english/index.html>

HK CONSUMER GOODS SAFETY ORDINANCE Chapter 456