

Cosmetic Products

Introduction:

"Cosmetic product" can be defined as *"any substance or preparation intended to be put in contact with the different superficial parts of the human body (epidermis, head and body hair, nails, lips and external genital organs), or with the teeth and the mucous membrane of the mouth in order to exclusively or generally clean, perfume, modify their appearance and/or correct body odors, and/or protect or keep them in good condition"* (article 2 of the European regulation n°1223/2009 of November 30th 2009 concerning cosmetic products.)

A "claim" is any claim, indication or presentation used for advertising a product. Claim must be truthful, clear, fair, objective and should not be likely to mislead.

Advertising has to ban all statements or visual representations that could generate irrational or unfounded fears.

These measures target advertising aimed at consumer.

They apply to any advertising claim for cosmetic products, whatever is the used support: television, radio, electronic media, telephone, display, press, POP, packaging, notes, etc.

The advertising claim has to comply with the provisions of the last version of "Manual on the scope of application of the Cosmetics Directive 76/768/EEC" which is available on the following link:
http://ec.europa.eu/enterprise/cosmetics/html/cosm_borderline_docs.htm

They also have to respect the dispositions of the Recommendations of the ARPP ("Autorité de Régulation Professionnelle de la Publicité"), and in particular Notes and Overlays, Vocabulary advertising executive and Sustainable development¹.

¹ <http://www.arpp-pub.org/Regles-en-vigueur.html>

1. GENERAL PRINCIPLES

1/1 COMPETITION

- a/** The advertisement must contain no mention to create the impression that the product has particular characteristics while all the similar products have the same characteristics, in particular because of the category of the considered product or the simple application of the laws in force.
- b/** The messages should not be built on arguments denigrating one or several competitive products.

1/2 PROOFS

- a/** Any claim must be supported by appropriate proofs.
- b/** The claim must be consistent with the nature and the scope of such proofs.

1/3 PRESENTATION OF A PRODUCT PERFORMANCES

1/3. 1 Types of tests

- a/** If studies or tests are mentioned in advertising, their nature must be explicitly stated: statistically valid scientific tests (evaluation by professional experts under medical supervision or not, instrumental tests, sensory studies under protocol, tests ex vivo / in vitro) or tests of satisfaction (tests of use by consumers on a self-important number of subjects).
- b/** In order not to mislead the consumer, measuring the efficacy of a product can only be linked to scientific test.
- c/** When the message is based on tests of satisfaction, it can only mention the percentage of satisfied people or of those who confirmed the asserted effect.
- d/** The presentation of both scientific or satisfaction tests must clearly distinguish them from each other when used in a single advertisement.
- e/** These tests must be conducted in accordance with the Guidelines of Cosmetics Europe: "Efficacy evaluation of cosmetic products"².

1/3. 2 Presentation of the results

a/ Quantified results

- a/1** When advertising claims include figures, advertising must refer to the average results, obtained on the whole tested population (the total number of subjects must be indicated) and statistically valid.
- a/2** The indication of a quantified result obtained on a population lower than the one who is the subject of the test is possible for all the following conditions:
- The partial population cant' be lower than one third of the total population that has been tested;
 - This result of the partial population must be an average result;
 - The average result of the partial population mustn't exceed three times the average result of the total population that has been tested;
 - The partial result must be completed by written statement of the average result obtained on the total population in the same conditions of visibility and legibility; the number of subjects concerned by the partial average result must be clearly stated as well as that of the total population that has been tested.

² The European Cosmetics Association, www.cosmeticseurope.eu

a/3 Some wordings like quartile or last quartile are of no meaning for the consumer, and are likely to mislead him and are therefore prohibited.

b/ Visual representations

When the advertisement refers to illustrations or demonstrations, for instance of a "before / after" visuals, these visual representations should proportionately and coherently reflect the performances of the product and be representative of the tested sample.

c/ In vitro results

c/1 When the advertised results are derived from in vitro testing methods, it should be mentioned in advertising.

c/2 In any case, the presentation of results from in vitro studies should not suggest a result in vivo.

1/3.3 Illustration of performance

a) Digital techniques can be used to improve the beauty of the images in order to communicate on the character and the position of the brand or any specific advantage of the product.

b) Nevertheless, the illustration of the performance must not be misleading:

b)1 The digital techniques must not modify the images in such a way that the forms and features are misleading concerning the performances of the product

b)2 Pre and post production techniques are acceptable as long as they don't convey features or functions that the product doesn't have.

For example, the following cases aren't deemed misleading:

- Obvious exaggeration or stylish beauty shots that aren't supposed to be taken literally
- Techniques that improve the beauty of the image and that don't concern the product or the performances claimed

1/3.4 GUARANTEES

a/ A recommendation, coming from one or several members of a medical, para medical or scientific profession, can apply either to an ingredient of a product, to a product or to a general message on hygiene or beauty, provided that it is based on objective scientific proofs that can be checked, and that it not only reflects the personal opinion of one or a few of these interviewed skilled individuals.

b/ When the direct recommendation for a product comes from a specialist working for the brand, the link must clearly be indicated in the ad.

c/ The specialist, if he is named, must really exist. An actor can be used though to represent him in the ad.

d/ These messages should not lead to confusion for consumers between cosmetic product and medicinal product.

1/3.5 REFERENCES TO SURGICAL OR MEDICAL PROCESSES OR OPERATIONS

The reference to medical procedures or surgery is possible provided that it does not mislead the consumer into believing that the product will give results equal or comparable to these processes or medical procedures or surgery.

1/3.6 REFERENCES TO MECHANISM OF ACTION

It is possible to refer to the mechanism of action of a product or of its ingredients if the mechanism relies on objective substantiations and that the main claim concerning the product is related to a visible cosmetic effect.

2. SPECIFIC CLAIMS

2/1 "New"

a/ The word "new" and all its derived terms should only be used in relation with an actual modification of:

- the formula of the product or of its use
- its presentation or its packaging, provided that it is well understood that this is new to this level only.

b/ The use of this term is usually limited to one year.

2/2 "Without" claims

a/ In order to contribute to a positive image of cosmetics, advertising must be devoted primarily to positive arguments.

b / A this title, the use of an allegation indicating the absence of one or more ingredients or category of ingredients is possible only if the claim meets the following specific conditions :

b/1 It is not the main argument of the product but provides consumer with additional information ;

b/2 It is not denigrating, in particular it does not put forward a risk or a danger to health or the environment;

b/3 It is fair and not misleading, especially when the ingredient or the combination of ingredients can be indirectly brought, including through another raw material.

2/3 Environmental allegations

The whole Recommendation *Sustainable development* of the ARPP is intended to apply to the communications of the sector. In particular:

a/ Advertisements should not contain any statement likely to mislead directly or indirectly the consumer on the actual ecological benefits or properties of products as well as on the reality of the actions that the advertiser leads for the environment.

b/ Advertisements must not give or appear to give a total guarantee of safety in the field of the environment, where the ecological properties of the product only concern a single stage of the life of the product or only one of its properties.

c/ The choice of words or signs in advertising, as well as the colours that could be associated there, must not suggest ecological virtues which the product does not possess.

2/4 "Hypoallergenic"

The word "*hypoallergenic*" is the only word derived from allergy which can be used, without particular explanation, to qualify products that are designed to minimize the possible risks of allergy. All the other terms derived from the word "allergy" are forbidden. The term "allergy" can only be used with great caution.

The use of this term should be consistent with the practices of the profession.

2/5 "Slimming / cellulite"

a/ Weight loss is the result of either illness or a specialized treatment or a change of diet. Therefore, in a claim concerning cosmetics, no reference can ever be made to this word or to any derived terms.

b/ The use of the words "*slim*" or "*getting slimmer*" or its derived terms is acceptable to express an improved aesthetic appearance, without any ambiguity in the expression.

c/ In this case, considering the varying results from one individual to the other, the quantified claims concerning reduced measurements and/or any precise information of the deadline for obtaining the results are only allowed if scientific proof is given.

d/ Products which mention an aesthetic action can refer to the word « cellulite » only by using the term "*anticellulite*" for example, provided that both visuals and claims relate to the cosmetic appearance of the skin, its appearance and its maintenance in good conditions (for example: "*smoothing*", "*firmer skin*", "*softer skin*",...).

e/ Any claim related to the prevention or treatment of the cellulite is forbidden and the action of the product should only refer to the signs, effects, or appearance of cellulite.

2/6 "anti age / anti wrinkles"

a/ A product can claim an action on the signs or the effects of aging. In this case, allegations concerning attenuation or reduction of wrinkles and fine lines can be used.

b/ This way, the use of the expression « *getting younger* » or its derived terms must express the appearance of more youthful skin, without ambiguity in the wording of the advertising message.

2/7 "Anti hair loss"

a/ What is allowed :

-The use of the word "*anti hair loss*" to qualify a product or a treatment aimed at diminishing, slowing down, limiting or preventing hair loss. The advertising message must not imply a definitive result.

-Claims about growth of existing hair.

b/ What is forbidden :

-The terms of growth or fresh growth of new hair, or any other sentence leading to the conclusion that the product can be a cure for hair loss.

-The terms "*baldness*", "*stops hair loss*" or any other similar expression.

2/8 "Moisturizing"

Moisturizing products are cosmetic products aimed at improving or maintaining the water balance of the epidermis. A cosmetic product cannot be presented as susceptible to deeply moisturize or moisturize again the skin.

3. PARTICULAR PRODUCTS

3/1 Natural cosmetic product

A cosmetic product can be qualified as "*natural*" only if the finished product contains a minimum of 95 % (w/w) of ingredients defined as "natural" or "of naturally derived", according to the rules in use (for example : national or community regulations, specifications or published references).

3/2 Organic cosmetic product

a/ A cosmetic product can be considered as "*organic*" only if it satisfies at least one of the following conditions:

- It contains 100 % of certified ingredients from organic farming ;

- It has been certified "organic" by a certifying body ;

- It can be justified that it was elaborated according to published standards, having a requirement level, in terms of composition and content of certified ingredients stemming from organic farming, equivalent to level(s) of requirement required by the certifying bodies.

b/ The use of a sign or symbol in advertising should not be confused with official labels.

c/ Advertising does not imply that these signs, symbols or labels worth more than their effective range.

3/3 Sunscreens product

a/ Claims concerning sunscreen products must comply with the EU Commission

Recommendation of 22 September 2006 on the efficacy of sunscreen products and the claims made relating thereto.

b/ In particular, the following informational message, on the proper use of the sun, must be integrated in the advertising, each company remains having the freedom to choose the most appropriate support and return the following three concepts in the form or the expression of choice:

- 'Do not stay too long in the sun, even while using a sunscreen product';

- 'Keep babies and young children out of direct sunlight';

- 'Over-exposure to the sun is a serious health threat'.

c/ No claim should be made that implies the following characteristics:

- 100 % protection from UV radiation (such as 'sun block', 'sun blocker' or 'total protection');

- no need to re-apply the product under any circumstances (such as 'all day prevention').

Translation courtesy of FEBEA – « Fédération des Entreprises de la Beauté »

3/4 Products for acne problems

a) Are prohibited all claims concerning treatment or prevention of acne, treatment or prevention of papules, pustules, cysts, micro-cysts as well as the endocrinal action on sebum production.

b) Any other claim is possible if substantiated by scientific evidence.

3/5 Products for oral/dental health

a) Are prohibited all claims concerning the treatment of cavities or gingivitis (for example: reduction of gum inflammation or gum bleedings)

b) Are possible all claims related to the prevention of cavities or the prevention and the reduction of occasional gum bleedings and inflammation.