

THE REGULATION OF COSMETIC CLAIMS

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FOAM WASH

150 ml.

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Since the entry into force in 2013 of Cosmetics Regulation 1223/2009, cosmetic claims are under tension and are constantly being examined in the light of the Common Criteria with which they must comply in order to be used. Several of them, targeted as denigrating or even misleading, have been the subject of heated debate. The industry feared a stricter framework with a restrictive list of authorized claims, similar to what is practiced in food. The threat is still not completely excluded, even if it now seems to be contained thanks to self-regulation and its new rules, applicable from 1 July 2019.

Beyond the already known principles, they have established a very restrictive framework, in particular for “Free-from...” or “Hypoallergenic” claims, which would be almost all impossible to display on packaging and in advertisements for cosmetic products. How to do without the “Without...” claims? Which claims should be prohibited and which should be replaced them? How can the authorities sanction non-compliance in this area?

More recently, the wave of legislation in favour of the preservation of the environment, such as the AGECE law in France, has brought their share of additional prohibited claims... and even if it is the trend of the moment, it is very difficult to claim to be respectful of the planet, sometimes quite forbidden to put forward that a product is biodegradable, even if it is in reality... All the provisions applicable to claims, their elaboration and motivations, the deadlines, the debates they have generated and the advice to interpret them well are gathered in this databook.



The basis of the European regulation

Based on Article 20 of Cosmetic Regulation 1223/2009 which states that *“the consumer should be protected from misleading claims concerning efficacy and other characteristics of cosmetic products,”* two founding texts govern the use of cosmetic claims and are applicable since July 2013. Regulation 655/2013 laying down Common Criteria for the justification of claims used in relation to cosmetic products, and the accompanying Guidelines, form the basis of the principles to be respected. Although it appeared that they were not sufficient on their own, since they have recently been supplemented by other texts, they already impose many limitations and restrictions on the use of certain claims.



CLAIMS: THE COMMON CRITERIA

They were expected, they were already known in broad outline and were confirmed by Regulation 655/2013 “laying down Common Criteria for the justification of claims used in relation to cosmetic products”, dated 10 July 2013 and applicable as from 11 July. Reminder of the principles.

This Regulation is the result of cooperative work between the European Commission and the Member States, induced by Article 20 of the Cosmetics Regulation, which states that *“In the labelling, making available on the market and advertising of cosmetic products, text, names, trademarks, pictures and figurative or other signs shall not be used to imply that these products have characteristics or functions which they do not have.”*

In other words, claims must not be misleading. This is the general, framing principle.

In its Recitals, Regulation 655/2013 justifies this principle by specifying that *“end users”* – meaning consumers, but also hairdressers or beauticians who use cosmetic products at work – *“are faced with a wide diversity of claims relating to the function, content and effects of a cosmetic product. As cosmetic products play such a big part in end users’ lives, it is important to ensure that the information conveyed to them through such claims is useful, understandable and reliable, and that it enables them to take informed decisions and to choose the products that best suit their needs and expectations”*.

Everything is said: *“the main objective of laying down Common Criteria is to guarantee a high level of protection for end users, in particular from misleading claims in relation to cosmetic products.”*

And then everything is detailed, step by step.

The 6 Common Criteria

We knew them, they are now official. Here is the main part of it.

1. Legal compliance

Claiming mere compliance with regulations in force is not allowed:

- Claims that indicate that the product has been authorized or approved by a competent authority within the Union shall not be allowed
- Claims which convey the idea that a product has a specific benefit when this benefit is mere compliance with minimum legal requirements shall not be allowed

2. Truthfulness

This sounds quite obvious, but it is better when it is said:

- If it is claimed on the product that it contains a specific ingredient, the ingredient shall be deliberately present
- Ingredient claims referring to the properties of a specific ingredient shall not imply that the finished product has the same properties when it does not
- Marketing communications shall not imply that expressions of opinions (note: for instance, consumers’ comments ...) are verified claims unless the opinion reflects verifiable evidence.

3. Evidential support