

Cosmetic Advertising – Challenges today and for the future

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Outline of presentation

- ❧ Background
 - the Cosmetic Products Regulation 1223/2009
 - Article 20 and the Common Criteria
- ❧ European Commission Report on compliance – July 2016
- ❧ Cosmetics Europe Charter and Guiding Principles – June 2012
 - roll-out across the membership
 - presentation to the Community of Practice – November 2014
- ❧ Audit of compliance by EASA (European Advertising Standards Alliance)
- ❧ Cosmetics Europe paper on cosmetic product claims

Background

- Regulation (EC) No 1223/2009 on Cosmetic Products
- Recital 51 – protect consumers from misleading claims and define common criteria for specific claims for cosmetic products
- Article 20
 - an action plan
 - adopt common criteria for claims
 - report by 11 July 2016 on the use of claims on the basis of the common criteria
 - if necessary, take appropriate measures to ensure compliance

European Commission Report on compliance – July 2016

- ❧ Commission asked Member States for input
- ❧ Concentrate on ‘health-related’ claims
- ❧ 17 so far have responded
- ❧ ‘Free-from’ and ‘hypoallergenic’ claims common concern
- ❧ Specific ‘free-from’ claims – preservative-free and fragrance-free
- ❧ Do consumers understand ‘hypoallergenic’?

- ❧ Is the input truly representative of compliance for all claims?

What the industry has promised

- ❁ Cosmetics Europe Charter and Guiding Principles on Responsible Advertising and Marketing Communications – June 2012
- ❁ Incorporate into the national self-regulatory codes for advertising standards
- ❁ Be held to account by both competent authorities and self-regulatory organizations (e.g. IAP in Italy)

Community of Practice

- ❧ European Commission initiative to promote effective self- and co-regulation
- ❧ Cosmetics Europe presented Charter and Guiding Principles
 - November 2014
 - Chairman Robert Madelin - then of DG Connect
 - Robert Madelin said that, 'Cosmetics Europe demonstrated best practice in seeking our [the European Commission] advice before starting their process of drafting their Charter and Guidelines. They set a clear goal and worked towards to it. It is not a 'pass/ fail' test but an on-going journey.
- ❧ Audit and publication of compliance is key

EASA Audit

- ✿ Examine compliance with the Charter and Guiding Principles
- ✿ Independent audit by SROs belonging to EASA
- ✿ Six countries:
 - Italy, France, Hungary, Poland, Sweden, UK
- ✿ Three months:
 - September 2014, March 2015, June 2015
- ✿ All print and TV advertisements audited - in total nearly 2,000
- ✿ The largest such audit ever conducted by EASA
- ✿ Robust and representative!

Main conclusions of the audit

- 91% were in compliance
- 6% were in breach
- 3% could not be assessed
- Of the 119 in breach, the majority were misleading claims that lacked substantiation
- Translation issues can cause problems
- In Italy, two were related to health and safety (complete sun protection) and one to taste and decency (objectified the woman featured)
- Interestingly, not all SROs agreed with this last one
- Report will be published by EASA
- This is a very good outcome!

Cosmetic Europe Paper

- ❧ Cosmetic Europe paper - to the European Commission
- ❧ Horizontal legislation as well as the Cosmetics Regulation
- ❧ Presents breadth of self-regulation by SROs
- ❧ Claims regulation beyond Article 20 and the Common Criteria
- ❧ Presents EASA survey results
- ❧ Hopes to establish the existing system is comprehensive and effective
- ❧ Allows control by authorities and complaint by the public or by companies
- ❧ Flexible to cope with national characteristics and target audiences

The future?

- ❧ The European Commission will report in July 2016
- ❧ It may conclude all is well with the Common Criteria
- ❧ It may conclude improvements are necessary
- ❧ We would argue these should be minor, not a major regulatory effort
- ❧ There remains uncertainty until the report is available
- ❧ Cosmetic Europe is in close contact with the European Commission, Members of Parliament, Member States authorities and EASA
- ❧ My thanks go to the members of the CE Task Force Cosmetics Claims and the SCT Responsible Advertising and Claims for their hard work throughout

