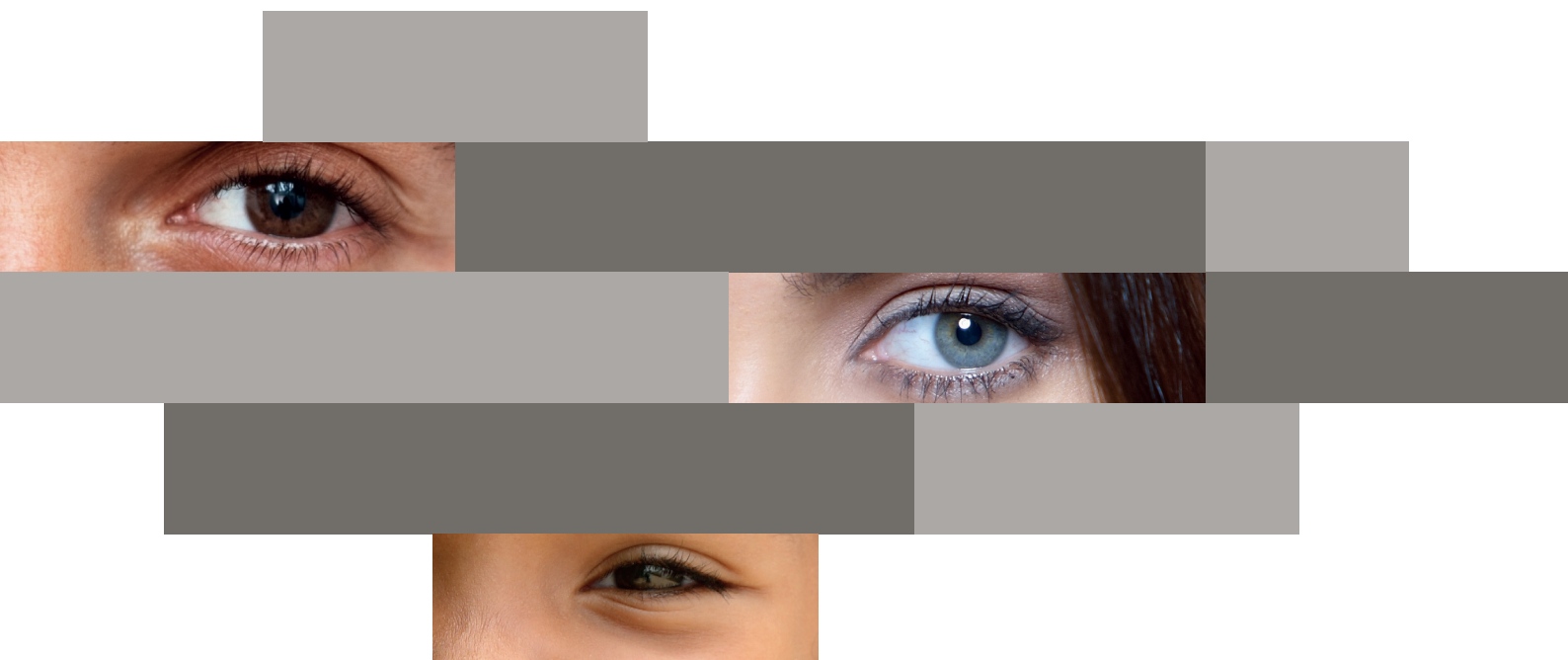




COSMETICS EUROPE:
GUIDING PRINCIPLES ON RESPONSIBLE ADVERTISING
AND MARKETING COMMUNICATION

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FOREWORD

The European cosmetics industry has always been committed to the highest standards when dealing with consumers, as well as when producing cosmetics and personal care products. Cosmetics Europe has been working proactively to promote best practice in cosmetics advertising. This responds to consumer concerns about any adverse impact cosmetics advertising may have on individuals and society as a whole.

The European cosmetics industry has opted for a self-regulatory approach to cosmetics advertising. Complementing the European Commission's list of common criteria for cosmetics claims, the industry adopted , in June 2012, guiding principles designed to avoid misleading advertising. A Charter setting out the overall standards accompanies the principles. This set of documents acts as a baseline for cosmetics advertising in Europe.

The guiding principles demonstrate the industry's commitment to standards of responsibility, whilst balancing and reflecting the views of the various stakeholders involved in the drafting process. These include representatives from the advertising industry, the European institutions, the self-regulatory network and NGOs. Their important contribution has defined the challenges to be addressed, and how this should be achieved.

This commitment is only the first step. The cosmetics industry is keen to make this initiative come to life, reflecting societal trends and expectations in its advertising. After all, earning and maintaining consumer trust in cosmetic and personal care products is a key driver for the sector's activities. Upholding strong values is an important part of this, shown by the guiding principles and Charter on self regulation in advertising.



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CHARTER

ON RESPONSIBLE ADVERTISING AND MARKETING COMMUNICATION

The European cosmetics industry recognises the importance of responsible advertising and marketing communication as essential means of informing consumers about characteristics and qualities of their cosmetic products. In particular, the cosmetics industry commits, through this Charter, to ensure that its advertising and marketing communication shall:

- Comply with the relevant European and national legal and self-regulatory frameworks;
- Be sincere, truthful and not misleading;
- Allow consumers to make informed choices;
- Act in a socially responsible manner.

The purpose of this charter is to set out the cosmetics industry's common ground on responsible cosmetics advertising and marketing communication in Europe.

This charter is endorsed by Cosmetics Europe members as a fair and honest representation of their commitment. Cosmetics Europe members actively encourage respecting its principles.

The charter is completed by a framework including the European Commission list of common criteria and the Cosmetics Europe self-regulation guiding principles on responsible advertising and marketing communication.

Complying with the relevant European and national legal and self-regulatory frameworks

The European cosmetics industry commits to fully abide by relevant regulations, directives, laws, and codes of practice. Such legal and self-regulatory framework allows responsible

trade and brings benefits to both consumers and economic operators. The industry will also continue to co-operate with public authorities and self-regulatory organisations at European and national level.

Advertising which is sincere, truthful and not misleading

The European cosmetics industry commits to ensuring that its advertising and marketing communication will be sincere and truthful, delivering accurate and honest information to consumers. Claims for products will be true and substantiated. In particular, environment-related claims will be addressed with particular care. Members will neither unduly criticise nor denigrate competitor products.

Informed Choices

The European cosmetics industry commits to providing consumers with advertising and marketing communication that will allow them to make informed choices and buy those products that best suit their needs and expectations. Advertising and marketing communications should not exploit credulity, lack of knowledge or inexperience whilst remaining varied, innovative, entertaining and aspirational.

Social Responsibility

The European cosmetics industry commits to respecting society's evolving values towards social responsibility and to recognising the variety of cultures and standards. Advertising and marketing communication should meet taste and decency principles and pay special attention to the respect of human beings and vulnerable consumers.

FACTS ABOUT:

Cosmetics Europe – The Personal Care Association, has been the voice of Europe's EUR 70 billion cosmetic, toiletry and perfumery industry since 1962. Cosmetics Europe membership includes 19 international companies, 27 national associations of the EU Member States and beyond, and 4 associated members.

Cosmetics Europe represented the interests of more than 2000 companies ranging from major international cosmetics manufacturers to small family-run businesses operating in niche markets. Direct and indirect employment in the European cosmetics industry is approximately 1.7 million.

GUIDING PRINCIPLES

ON RESPONSIBLE ADVERTISING AND MARKETING COMMUNICATION

These guidelines translate the principles to which the European cosmetics industry commits in the charter on responsible advertising and marketing communication into concrete provisions. This document is a framework specific to cosmetic products that consolidates existing principles and best practices, setting out common ground on cosmetics advertising and marketing communication in Europe.

INTRODUCTION

1.1. Regulatory framework:

These guiding principles abide by relevant provisions included in:

- (a) Directive [2005/29/EC](#) on Unfair Commercial Practices
- (b) Directive [2006/114/EC](#) on Misleading and Comparative Advertising.
- (c) Article 20 of the Regulation (EC) [1223/2009](#) on cosmetic products (hereafter named Cosmetic Regulation) which states that products claims should *“not be used to imply that cosmetic products have characteristics or functions which they do not have”* and that calls for the setting up of common criteria for all types of claims. Such criteria are being developed by the European Commission, in co-operation with EU Member States and relevant stakeholders.
- (d) The Consolidated [ICC Code of Advertising and Marketing Communication Practice](#).

1.2. Definitions:

For the purposes of these guiding principles:

- (a) The term *“cosmetic product”* means “any substance or mixture intended to be placed in contact with the 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, protecting them, keeping them in good condition or correcting body odours” (Article 2 of the Cosmetic Regulation).

- (b) *“Cosmetic products’ claims”* refer to “text, names, trade marks, pictures and figurative or other signs” used in the labelling, marketing and advertising of cosmetic products (Article 20 of the Cosmetic Regulation).
- (c) The term *“advertising”* or *“advertisement”* means “any form of marketing communications carried by any media, usually in return for payment or other valuable consideration” (Consolidated ICC Code). This includes digital marketing communication.
- (d) The term *“marketing communications”* includes “advertising as well as other techniques, such as promotions, sponsorships and direct marketing, and should be interpreted broadly to mean any communications produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behavior” (Consolidated ICC Code).
- (e) *“Misleading advertising”* means “any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor” (Directive 2006/114/EC).
- (f) The term *“average consumer”* means any person “who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors” (Recital 18, Directive 2005/29/EC).

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ON RESPONSIBLE ADVERTISING AND MARKETING COMMUNICATION

1.3. Scope of application

The guiding principles aim to lay down the common ground for responsible advertising of cosmetic products across Europe. However, as with all self-regulatory provisions, they may need to be tailored to reflect local conditions across Member States in order to be effective and credible.

In practice this means that national rules, while meeting a common pan-European baseline, can go beyond these guiding principles if appropriate.

1.4. Participatory guiding principles drafting

Reflecting the accepted best practice model for effective advertising self-regulation¹, Cosmetics Europe has consulted a range of stakeholders in drawing up these guiding principles.

1.5. Implementation and enforcement

All Cosmetics Europe members commit to implement and uphold, in letter and in spirit, these guiding principles. In order to ensure maximum effectiveness, and reflecting the accepted European best practice model, national cosmetics association members of Cosmetics Europe are encouraged to cooperate with their respective Self-Regulatory Organisations (SROs) in the most appropriate manner, with a view to having these principles adopted at national level.

In countries where for that purpose a SRO adopts specific national guidelines, SROs are responsible for adjudicating on complaints from both competitors and consumers, and help ensure that any cases of non-compliance with such guidelines are rectified. In this case, SROs are also able to apply their existing sanctions in cases of persistent and repeated breaches.

1.6. Reporting, compliance monitoring and review

Cosmetics Europe commits to report regularly and publicly on progress in terms of having these guiding principles shared with national SROs. Cosmetics Europe will also endeavour to ensure that compliance with the provisions of these guiding principles by its members is monitored regularly in a transparent, participative and accountable manner.

On the basis of progress in implementing the guiding principles, compliance data, ongoing dialogue with relevant stakeholders etc., Cosmetics Europe commits to regularly review the guiding principles. This is in order to ensure they continue to reflect societal trends and expectations, and to amend them as necessary.

1. Cf. [European Commission 2006 report on Self-Regulation in the EU Advertising Sector](#)

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GUIDING PRINCIPLES

2.1. Advertising sincerity

The European cosmetics industry commits to provide sincere advertising and marketing communication that do not mislead and misinform the consumer about products' characteristics. Sincerity is the basic and essential part of a responsible approach to the advertising of all products.

2.1.1. Product claims substantiation

Any cosmetic products' claims, whether explicit or implicit, must be supported by adequate and appropriate evidence demonstrating the performance of a product. The specific context and circumstances in which the claim is made (including social and cultural factors) should be taken into account.

Claims must conform to:

- (a) the list of common criteria developed by the European Commission²:
 - legal compliance;
 - truthfulness;
 - evidence support;
 - honesty;
 - fairness;
 - allowing informed decisions.
- (b) the "Best practice for claim substantiation evidence"³, applying to:
 - experimental studies;
 - consumer perception tests;
 - the use of published information.

2.1.2. Image honesty

Digital techniques may be used to enhance the beauty of images to convey brand personality and positioning or any specific product benefit.

However, the use of pre and post production techniques such as styling, re-touching, lash inserts, hair extensions, etc., should abide by the following principles:

- (a) The advertiser should ensure that the illustration of a performance of an advertised product is not misleading (see Product Claim Substantiation).
- (b) Digital techniques should not alter images of models such that their body shapes or features become unrealistic and misleading regarding the performance achievable by the product.
- (c) Pre- and post-production techniques are acceptable provided they do not imply that the product has characteristics or functions that it does not have.

For example, the following cases would not be considered misleading:

- Using obvious exaggeration or stylized beauty images that are not intended to be taken literally.
- Using techniques to enhance the beauty of the images that are independent from the product or effect being advertised.

2. List of Common Criteria for Claims which may be used with respect to cosmetic products according to Article 20 of Regulation (EC) N° 1223/2009

3. Annex "Best practice for claim substantiation evidence" in List of common criteria for claims which may be used with respect to cosmetic products according to Article 20 of Regulation (EC) N° 1223/2009

GUIDING PRINCIPLES

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2.1.3. Testimonials and specialist recommendations

2.1.3.1. General provisions

Testimonials and specialist recommendations may be used to emphasise the characteristics of cosmetic products and create a brand image.

Testimonials and specialist recommendations:

- (a) may be used in the form of written or spoken statements.
- (b) must be genuine, responsible and verifiable.
- (c) cannot replace material substantiation of a claim (see Product Claim Substantiation).
- (d) shall avoid any misrepresentation and misinformation with regards to the nature of the product being advertised, its properties and the achievable results.

2.1.3.2. Testimonials

Testimonials from celebrities, private persons or consumers, etc., may be used provided they are presented as a personal assessment or impression of a product.

Testimonials should not be considered as proof of product efficacy that can only be established on the basis of adequate and appropriate evidence (see Products' Claims Substantiation).

2.1.3.3. Specialist recommendations

Recommendations from medical, para-medical or scientific specialists (referred to as "specialist(s)") on an ingredient, a product, or a general message on hygiene or beauty, is acceptable provided they are established on the basis of adequate and appropriate evidence (see Product Claims Substantiation).

Such specialists must be selected on the basis of their qualifications, expertise or experience in the particular area.

2.1.4. Environmental aspects in advertising

When environmental claims are made, cosmetics companies shall respect the principles of truthfulness, clarity, accuracy, relevance and scientific substantiation (see Product Claims Substantiation).

If the environmental claim being made is not literally true or is likely to be misinterpreted by consumers or is misleading through the omission of relevant facts, this environmental claim shall not be made.

Specific attention should be brought to:

2.1.4.1. General presentation:

The general presentation of a cosmetic product (colours, visuals, etc.) and individual claims shall not:

- (a) Be based on false information.
- (b) Imply an environmental benefit that the product does not have.
- (c) Exaggerate the environmental aspect of the product to which the claim relates.
- (d) Emphasise any single environmental benefit while concealing the aspects which present a negative environmental influence.

2.1.4.2. Use of symbols / suggestion of third party certification:

- (a) Any supporting information, imagery or symbols shall be justified to and understandable by the average consumer.
- (b) Any use of symbol or logo must not imply that the product has achieved the required relevant third-party endorsement when it is not the case.

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2.1.4.3. Accuracy and relevance of the environmental claim:

- (a) The environmental claim shall be presented in a manner that clearly indicates whether the claim applies to the complete product or only to a product component or to the packaging or to an element of a service.
- (b) The environmental claim shall be relevant to the particular product, and used only in an appropriate context or setting.
- (c) The claim shall be specific as to the environmental benefit or environmental improvement which is claimed; consequently, an environmental benefit may be claimed provided that an appropriate assessment of the environmental impact of the product has been carried out.

2.1.4.4. Substantiation:

- (a) Environmental claims for cosmetic products, whether explicit or implicit, must be supported by adequate and appropriate scientific evidence.
- (b) Test methods and studies being used as evidence must be relevant to the product and to the environmental benefit claimed.
- (c) Environmental claims shall be reassessed and updated as necessary to reflect changes in technology, competitive products or other circumstances that could alter the accuracy of the claim.
- (d) In the context of “natural” and “organic” cosmetic products, the International Organization for Standardization (ISO) is currently developing a set of technical criteria and definitions regarding organic and natural cosmetic ingredients and products. These technical criteria do not apply to claims but can be used as a reference for the substantiation of claims “natural” and “organic” for cosmetic ingredients and products.

2.2. Social Responsibility

The cosmetics industry is committed to responsible advertising and marketing communication which respect the human being, body image and human dignity.

2.2.1. General principles

All cosmetic advertising and marketing communication shall comply with general provisions, concerning:

- (a) Taste and Decency: Cosmetics advertising and marketing communication “should not contain statements or audio or visual treatments which offend standards of decency currently prevailing in the country and culture concerned”⁴.
- (b) Portrayal of gender: Cosmetics advertising and marketing communication should not contain any sexually offensive material and should avoid any textual material or verbal statements of a sexual nature that could be degrading to women or men. Furthermore, advertising and marketing communication should not be hostile toward a certain gender.
- (c) Offensiveness: Any statement or visual presentation likely to cause profound or widespread offence to those likely to be reached by it, irrespective of whether or not it is directly addressed to them, is not acceptable. This includes shocking images or shocking claims used merely to attract attention.
- (d) Violence: Cosmetics advertising and marketing communication “should not appear to condone or incite violent, unlawful or anti-social behaviour”⁵.
- (e) Play on superstition: “Marketing communications should not play on superstition”⁶.
- (f) Play on fear: Cosmetics advertising and marketing communication “should not without justifiable reason play on fear or exploit misfortune or suffering”⁷.

4. Article 2 ICC Code
5. Article 4 ICC Code
6. Article 4 ICC Code
7. Article 4 ICC Code

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- (g) Exploitation of credulity and inexperience: Cosmetics advertising and marketing communication should not be framed so as to abuse the trust of consumers or exploit their lack of experience or knowledge.
- (h) Discrimination: Cosmetics advertising and marketing communication “should respect human dignity and [diversity. It] should not incite or condone any form of discrimination, including that based upon [...] [ethnic group], national origin, religion, gender, age, disability or sexual orientation”⁸.
- (i) Denigration: Cosmetics advertising and marketing communication “should not denigrate any person or group of persons, firm, organisation, industrial or commercial activity, profession or product, or seek to bring it or them into public contempt or ridicule”⁹.
- (j) Safety and health: Cosmetics advertising and marketing communication “should not without reason, justifiable on educational or social grounds, contain any visual presentation or any description of dangerous practices or of situations which show a disregard for safety or health”¹⁰. Models used in advertisements and post production techniques should not appear to promote a preferred body image of extreme thinness.
- (k) Humour may be used in advertising and marketing communication in such a manner that it does not stigmatize, humiliate or undermine any person or group of persons.

2.2.2. Specific principles

2.2.2.1. Respect for the human being

Given the possible impact that cosmetics advertising and marketing communication may have on consumers’ self-esteem, the following should be taken into consideration when using models in advertising:

- (a) Do not focus on bodies and parts of bodies as objects when not relevant to the advertised product.
- (b) Do not stage nude models in a way that is demeaning, alienating or sexually offensive. When using nudity, the media used and the intended audience should be considered.

2.2.2.2. Vulnerable populations – children

The European cosmetics industry commits to provide responsible advertising and marketing communication towards children and young people.

Cosmetic products especially designed for children may be advertised provided that:

- (a) Advertising should foster the hygiene and sanitary benefits of cosmetic products to children in particular sun protection products, oral care products, and cleaning products (including soap, shampoos and teenage acne cover-ups).
- (b) Advertising of decorative cosmetics and perfumes should not incite children to overuse of such products.
- (c) Advertising of cosmetic products, including images, should not promote early sexualisation of young people.

8. Article 4 ICC Code
9. Article 12 ICC Code
10. Article 17 ICC Code

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