

CTPA Tackles Brexit

Implications for the Cosmetics Industry

5 October 2016

The Regulatory Impact of the Cosmetics Industry of the UK Leaving the EU

About the Cosmetic, Toiletry & Perfumery Association (CTPA)

Representing a wide diversity of companies involved in making, supplying and selling cosmetic and personal care products, the Cosmetic, Toiletry & Perfumery Association (CTPA) acts as the voice of the UK industry. Over 175 companies are members of CTPA, representing small, medium, large and multi-national companies supplying the UK market. Companies include manufacturers, distributors, ingredient and service suppliers, contract laboratories, contract manufacturers, retailers of own brand. CTPA represents around 80 – 85 % by value of the £9 billion UK market at retail sales price.

About the UK Market

The UK's export of cosmetic products to the EU 27 in 2015 was valued at £2 billion and to non-EU countries worldwide at £1 billion. Imports from the EU 27 to the UK market were £2 billion. Trade with the EU is therefore practically even at 65 % of all exports and 66% of all imports. The UK cosmetics industry provides employment for nearly 170,000 people in the UK.

CTPA Position

The UK cosmetics industry respects the decision of the people of the United Kingdom to leave the European Union and wishes to work with the UK government to ensure the deal it negotiates allows the industry to prosper both within and outside the Europe Union in the future.

CTPA believes the best way to ensure the UK cosmetics industry continues to flourish and to be competitive would be for the UK to continue to operate to EU cosmetics/chemicals legislation. **Ideally, a deal should be negotiated which would allow the UK to be regarded as "being established in the European Community"*, as EEA members are, irrespective of the UK's status as an EEA member or not.** Importantly, the UK government should initiate proposals to ensure free movement of goods from the UK and the EU and vice versa. Also it would be necessary to have a reasonable transition period to ensure business continuity.

Whilst CTPA welcomes the opportunities that might be realised by the UK being able to negotiate its own trade deals, in the short to medium term the impact of these may be limited. Large companies already sell to the major world markets usually with local manufacturing. The block to smaller companies is often not just tariffs but also the lack of local sales teams, transport/logistics costs and regulatory complexity. It would be difficult for these companies to quickly replace EU/EEA sales with sales to other markets.

The UK cosmetics industry would welcome the opportunity to work with the UK government in order to achieve the best possible outcome in the upcoming negotiations with the EU. Industry is looking to support the UK government via regular communication exchanges.

CTPA's Impact Assessment

The CTPA is conducting an impact assessment on the regulatory implications on the cosmetic industry of the UK being regarded as an importer into the European Community. Some of the main points are summarised below. Currently, finished cosmetic products placed on the European Community Market are subject to the requirements laid down in Regulation (EC) N° 1223/2009 on Cosmetic Products (hereafter “the Cosmetics Regulation”).

According to the Cosmetics Regulation, each cosmetic product placed on the Community Market should be labelled with the name and address of the ‘Responsible Person’ (RP). The RP is responsible for ensuring that each cosmetic product placed on the Community Market complies with all the requirements of the Regulation. The RP may be an individual (a natural person) or a company (a legal person) located within the European Community and should have access to the Product Information File (PIF).

If after leaving the EU the UK is not regarded as being already established in the European Community, this will have a significant impact on the UK and EU cosmetics industry. In particular, UK companies exporting to the European Community Market will no longer be considered as “*the Responsible person based in the community*” and will have to set up arrangements with EU/EEA based companies to act as the RP on their behalf or to acquire an office in an EU/EEA country. UK companies will have to anticipate such changes by re-organising their business and make sure that confidential information is protected and their intellectual property rights maintained.

Also, it is important to note that UK companies **already** place cosmetic products on the EU market and those are compliant with the rules. Companies will need time not only to set up EU RPs but also to relabel their products and re-submit relevant notifications (to the Cosmetic Product Notification Portal – CPNP). Setting up an RP in the Community, re-notifying and re-labelling products will be difficult and costly even for large companies and may be prohibitive for Small and Medium-sized enterprises. Companies and UK Competent Authorities will need sufficient time to adapt to these changes. We recommend a transition period to ensure compliance without impacting business continuity. Such timing will reassure companies and provide financial stability. It is important to note that when the Cosmetics Regulation was published in 2009, industry was given a four year transition period. A similar period would be recommended to implement the changes that will be required due to Brexit subject to sight of final arrangements.

The impact assessment likewise highlights that UK Competent Authorities will also be severely impacted by a withdrawal from the EU. In particular, the UK enforcement authorities will no longer be able to rely on EU Member States Competent Authorities’ collaboration for market surveillance. Their access to the CPNP or other community database such as RAPEX will be restricted. This would incur increased enforcement costs needed to ensure that consumers have access to safe cosmetic products. In addition, it is important to note that divergent regulations would increase the number of issues and the costs to police them. For instance, as UK poison centres and enforcement authorities would not have access to the CPNP, a separate system may be needed and additional notifications required. And lastly, CTPA is concerned that the UK government would no longer be able to influence the review and adaptations of the European Cosmetics Regulation nor have insights into the discussions taking place.

Other European Regulations which could significantly impact the cosmetics industry

The cosmetics industry will also, in addition to the Cosmetics Regulation be impacted by other Regulations dealing with ingredient supply, packaging waste, borderline, product intent and transport including:

1. *Regulation (EC) No 1907/2006 on Registration, Evaluation, Authorisation and Restriction of Chemicals*
2. *Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures*
3. *Regulation (EU) No 528/2012 on the making available on the market and use of biocidal products*
4. *Medicine - (Directive 2001/83/EC and in Regulation (EC) No 726/2004)*
5. *Council Directive 93/42/EEC concerning medical devices*
6. *General Product Safety Directive 92/59/EC*
7. *Council Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages*
8. *Directive 94/62/EC on Packaging and Packaging waste regulation*
9. Electronic Regulations
10. *Directive 2011/65/EU on RoHS*
11. *Directive 2008/98/EC on Waste regulation*
12. *Directive 2009/48/EC on Toy Safety*
13. The EU Ecolabel scheme
14. *Regulation (EU) No 511/2014 on Nagoya Protocol*
15. *Regulation (EU) No 995/2010 on Timber*
16. *Directive 75/324/EEC on aerosol dispensers*
17. Food/colours/supplements rules
18. Consumer rights / advertising
19. Recognised standards
20. HSE rules
21. Customs rules
22. *Regulation (EC) No 648/2004 on Detergents*
23. Trademark / Patent protection rules
24. Animal welfare rules
25. *Commission Regulation (EU) No 142/2011 on Animal by product ...etc.*

Further Information available upon request (info@ctpa.org.uk)

* "European Community" includes countries that are members of the EU and EEA

Disclaimer: This is the CTPA's position as of 05/10/16, nevertheless, due to the complexity of the process of withdrawing from the European Union, this document will be reviewed on a regular basis and therefore is not to be used for commercial decisions without first consulting the CTPA current position.