COSMETIC ADVERTISING CODE: An Overview

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Presentation Outline

• Introduction
• Regulation of cosmetics in Malaysia
• Cosmetic Claims
• Cosmetic Advertising Code
Definition

• A cosmetic product shall mean “any substance or preparation intended to be placed in contact with various external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with teeth and the mucous membranes of the oral cavity, with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance and/or correcting body odours and/or protecting them or keeping them in good condition”
Definition

External parts
• epidermis
• hair system
• nails
• lips
• external genital organs
• teeth
• oral cavity

Functions;
• to perfume
• to change the appearance
• to clean
• to protect
• to keep in good condition
• to correct body odours
Product Classification

• Not classified as cosmetics:
  1) Product intended for treatment of disease/infection
  2) Product for sexual performance- men & women
  3) Product for oral consumption/ taken orally
  4) Injection – Vitamin C, Collagen, Hyaluronic acid
  5) Product to be instill into nose, eye & ear
  6) Product use beyond the scope of cosmetic
     (e.g. massage oil for joint pain, sprains & essential oil- for mind, physiological function)
Regulation of Cosmetics in Malaysia (1)

- Cosmetics are regulated under the Sale of Drugs Act 1952 (Revised 1989) and the Control of Drugs and Cosmetics Regulations 1984 (amendment 2009)

- No person shall manufacture, sell, supply, import or possess any cosmetic unless the cosmetic is a notified cosmetic.

- The person responsible for placing the notified cosmetic in the market shall comply to any directives or guidelines issued under regulation 29 and any conditions imposed by the Director of Pharmaceutical Services (DPS)
The company or person placing the product in the market must be responsible for ensuring safety, quality and claimed benefit of the cosmetic product placed in the local market and to ensure that the product complies with all existing regulations.
Regulation of Cosmetics in Malaysia (3)

• Cosmetic Manufacturers need to ensure:
  - products are manufactured in facilities that comply with the ASEAN Guidelines on Good Manufacturing Practice (GMP)
Regulation of Cosmetics in Malaysia

(4)

- No person shall possess or publish any label, information, pictorial, statement or document which describes the claim of the cosmetics otherwise than in the manner as determined in the directives or guidelines issued by the DPS.
Guidelines for Control of Cosmetic Products in Malaysia
(1)

• The Guidelines comprises of:

- Ingredients Annexes
- ASEAN Guidelines for Product Information File (PIF)
- ASEAN Guidelines for Safety Assessment of Cosmetic Product
- ASEAN Cosmetic Labeling Requirements
- ASEAN Cosmetic Claims Guidelines
- ASEAN Guidelines on Good Manufacturing Practice (GMP) for Cosmetic
- Guide Manual For Adverse Event Reporting
- Cosmetic Advertising Code
Guidelines for Control of Cosmetic Products in Malaysia (2)

- **Ingredients Annexes**
  - Annex II: List of Substances Which Must Not Form Part of The Composition of Cosmetic Products
  - Annex III: List of Substances that Cosmetic Products Must Not Contain Except Subject to Restrictions and Conditions Laid Down
  - Annex IV: List of Colouring Agents Allowed for Use in Cosmetic Products
  - Annex VI: List of Preservatives Allowed for Use in Cosmetic Products
  - Annex VII: List of UV Filters which Cosmetic Products May Contain
Cosmetic Claims -1

• The following may constitute cosmetics claims:
  – Words, images, illustrations, marks or descriptions that may appear on:
    ➢ products (packaging, labels & inserts)
    ➢ in advertising (at sales points or circulated by different media)

• Cosmetic products should not make claims that are regarded as medicinal in nature.
Cosmetic Claims -2

• As a general rule, claimed benefits of a cosmetic product shall be justified by substantial evidence and/or by the cosmetic formulation or preparation itself.

• The company responsible for placing the cosmetic product in the market should seek legal or expert advice to ensure that the proposed claims are not in breach of existing Acts or Regulations.
Cosmetic Claims

How to determine?

5-step decision-making process
Advertisement

• Advertising appears in **media** in space or time paid for by the advertiser.

• It includes advertising in leaflets, circular, poster, outdoor signs and point of sales materials.

**Media:**

➢ any means of mass communications used to disseminate information or messages publicly including television/cable television radio, magazines, newspapers, cinema, outdoor signs.
Cosmetic Advertising Code

Objective:

- To ensure the marketing and advertising of cosmetics to the public is conducted in a manner that promotes the quality of use of cosmetics, is socially responsible and does not mislead or deceive the consumer.
PRINCIPLES - 1

• To provide reliable, accurate, truthful, informative, balanced, up to date information that can be substantiated.

• Keep away misleading or unverifiable statements/claims to induce unjustifiable use or give rise to undue risks.
• Advertisements should not contain statements or visual presentation which are, or likely to be interpreted to be contrary or offensive to the standard of morality or decency prevailing in the Malaysian society.

• Advertisements should not directly or by implication exploit the religious requirements/beliefs of any community.
• Advertisement should not contain anything which might lead/encourage or lend support to acts of violence, criminal or illegal activities.

• Advertisements addressed to infant, children or young people or likely to be seen by them, shall not contain anything whether an illustration or otherwise, which result in harming them physically, mentally or morally or which exploit their credulity, natural sense of loyalty or their lack of experience.
• Advertisements shall not be similar in general layout, copy, slogans, visual presentation, music or sound effects to other advertisement as to likely mislead or confuse.

• Particular care shall be taken in the packaging and labeling of goods to avoid causing confusion with competing products.
Direct comparison advertisements against competitors‘ products or service are not allowed

Comparison advertising may be permitted:
- it does not use symbols, slogans, titles, or statements that are clearly identified or directly associated with competitive brands.

Advertisements **should not** directly or indirectly disparage, ridicule or unfairly attack competitors, competing products or services including distinguishing feature of their advertising campaigns
- i.e.: specific layout, copy, slogan, visual presentation, music/jingle or sound effects.
COMPARISON

- Advertisement **shall not** contain any statement which either expressly, or by implication disparage any profession, product, services or advertisers in an unfair or misleading way.

- "Before" and "after" situation must reflect truthful and factual comparisons.

- Advertising comparing "before" and "after" situations should cite with prominence the specific time elapsed between the two situations.
Advertisements shall not contain or refer to any testimonial or endorsement unless it is genuine and related to the personal experience over a reasonable period or time of the person giving it.

Testimonials or endorsements which are obsolete or no longer applicable shall not be used.
  - e.g. a significant change in formulation of the product concerned

Testimonials of professionals should observe the ethics of their professions and not violate regulations of the government bodies or institutions regulating that profession.
Reference expressly or by implication to test, trials, research and the likely may only be used if they are fully substantiated and not misleading.

References to tests or trials conducted in a named hospital, clinic, institute, laboratory or college or by named professional or official organization are permissible only if authorized and approved by the authority of the institution or organization concerned.

Test, trial and research in supporting medicinal claims are not allowed to be used in the advertisement.
HYPERBOLE WORDS/SUPERLATIVE/CLAIMS

- All claims in the Advertisement should be substantiated and able to provide when being challenged by authority or competitors.

- Advertisement may contain hyperbole words or superlative or claims only when it can be substantiated when challenge.
Findings from the Post Market Surveillance activity:

• Excessive and insubstantial claim
  - body contour products
  - product use beyond the scope of cosmetic
    (e.g. massage oil for joint pain, sprains & etc)
  - Aromatherapy products – Essential oil
    (for mind, physiological function)

• Cosmetic advertisement with medicinal claims
Prohibited Claims

- Cure disease
- Permanent change of skin condition
- Significantly modify physiological functions
- Treatment or preventing symptoms
Examples of prohibited Claims in cosmetics

- slows down enzymatic action
- improve blood circulation.
- inhibiting the tyrosinase melanin production
- …prevent sagging breast & breast cancer.
- To enhance pleasure & to improve sexuality
- Reduces white discharge, prevent bacteria, yeast, fungi infection & to excite muscle contract at the vagina area
- Stimulate the growth of the breasts and helps to increase cup size
Examples of prohibited Claims in cosmetics

- Eliminates/stop/prevent dandruff \textit{permanently}
- Anti-psoriasis
- Anti-seborrheic dermatitis
- Treatment or cure of any type of skin diseases
- Disinfectant /Fungicide
- Cleans cuts/wounds
- Treatment of infection
- Heals, cure or stops acne
- Treatment or cure of any type of skin diseases (eczema, dermatitis & psoriasis)
Prohibited advertisement in the TVC

1) Shower gel products

- “Kills germs that cause common illnesses including tummy ache, runny nose and fever”

- “Banyak jenis bakteria yang boleh menyebabkan anak saya jatuh sakit”

- “Good hygiene practices and the use of Brand A have proven to reduce illness in children”
Prohibited advertisement in the TVC

2) Oral care product
   - “Produk ini boleh mengurangkan gusi berdarah”
   - “Brand A adalah 2x lebih berkesan berbanding ubat gigi Brand B”
   - The use of professional as an icon in the advertisement
Conclusion

Cosmetic Advertising Code is established with the aims:

• To provide guidance to the cosmetics industries (advertising agency) in developing advertising message in ethical manner

• To provide adequate and non-misleading information to the consumer for an informed choice & ensure a safe use of cosmetics
Thank you for your attention...