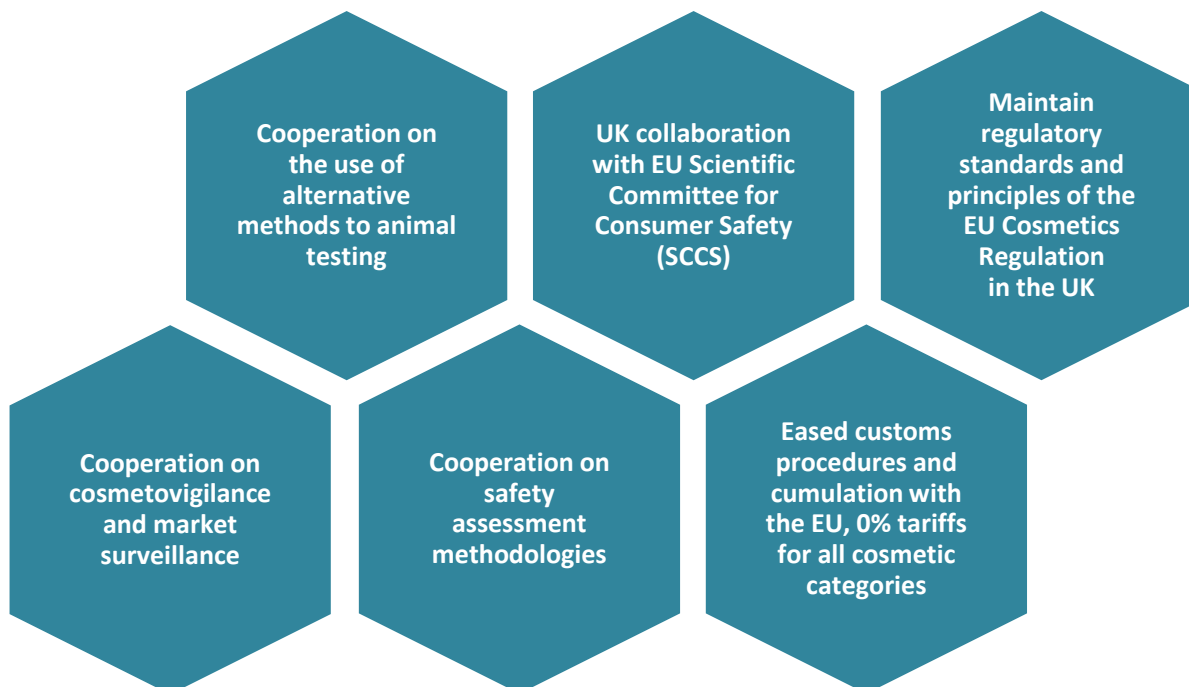


CTPA POSITION PAPER

THE UK COSMETICS INDUSTRY STANCE ON THE FUTURE UK COSMETIC PRODUCTS LEGISLATION

Negotiation Arguments and UK Cosmetics Regulation Proposal



Why Is It Important?

Maintain the regulatory and safety principles for the UK cosmetics regulatory framework

- This will ensure a fairer playing field for businesses, whilst also protecting consumers from low quality and unsafe products.
- The EU Cosmetic Products Regulation 1223/2009 (CPR) is seen as a gold standard across the world, with numerous third countries having implemented or planning to implement the same principles in their own regulatory framework.
- Products complying with the EU CPR are highly regarded outside of the EU, facilitating trade and opportunities for businesses. If the UK regulation implements current principles and standards of the CPR, it will be easier to continue to trade cosmetics with third countries.
- Trade between the UK and the EU will be facilitated if cosmetic products follow the same rules for formulation, labelling, safety assessment principles, and more.
- The UK cosmetics industry can continue to flourish in both the internal and external markets.
- Collaboration will support innovation and research to ensure wide consumer choice. This will also help maintain competitiveness at industry and authority levels.

Reduce risk of compromising the safety for the consumer and the environment

- Safety for both the consumer and the environment is the priority for the cosmetics industry. Exchange and collaboration on safety assessment methodologies is key to maintaining this principle.
- Collaboration of the UK with the EU SCCS to review and manage cosmetic ingredients will enable the industry to maintain and maximise safety for consumers. It will also be advantageous for companies to use the same ingredients in the UK and the EU.
- Exchange of information between UK and EU competent authorities will enable the industry to continue to carry out post-marketing surveillance activities effectively and alert each other of any safety concerns.

Uphold the strict EU animal testing ban

- The cosmetics industry in the EU and the UK does not test on animals as the animal testing bans on finished products and ingredients have been in place since 2004 and 2009 respectively (and earlier in the UK).
- Collaboration and sharing of information and data on alternative methodologies will enable the cosmetics industry to further develop alternative methods to animal testing.

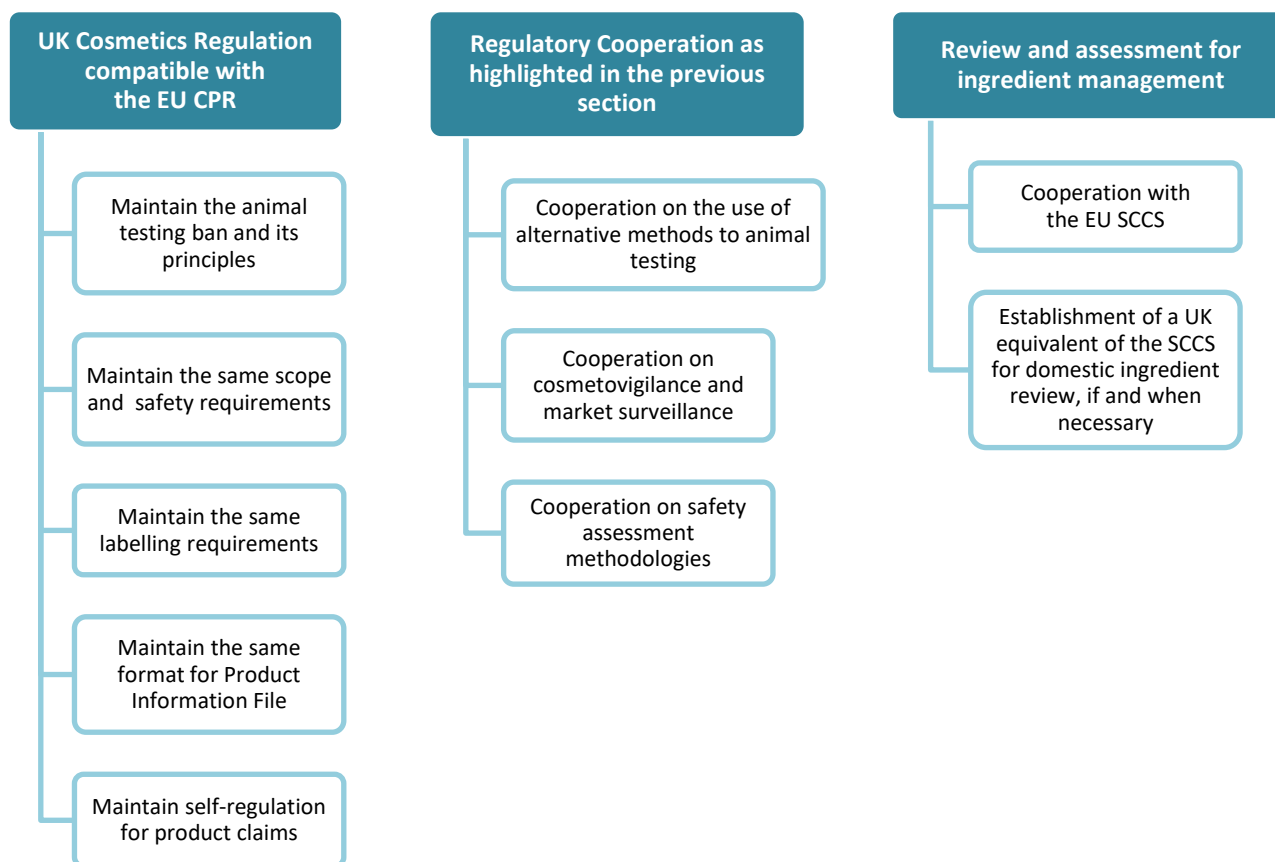
Minimise impact to businesses and consumers

- The UK is a key trade partner of the EU, with many UK companies exporting into the EU and *vice-versa*.
- Mutual recognition of safety assessor qualifications will minimise unnecessary duplication for companies.
- Regulatory compliance is feasible, but costs that companies will incur will need to be absorbed along the supply chain. Some companies may not survive, or may decide to stop marketing in the UK or to bypass the UK (reducing income to the UK economy) to avoid unnecessary costs.
- No tariffs and limited administration at the borders for all actors (importers, exporters, customs authorities) will minimise disruption to the cosmetics supply chain to ensure continuity of business as smoothly as possible.
- The supply chain of the UK cosmetics industry is fully integrated with that of the EU. Lack of cooperation, high tariffs and complex customs administration will cause the UK to lose capabilities only available in the EU (e.g. science and technology, manufacturing, ingredients, equipment, etc.). This could result in less innovation and a reduction of products available to the consumer, possibly leading the UK industry to lag behind vs the EU or the rest of the world.
- The cosmetics industry supports the need of an independent regulatory framework, but regulatory burden should be minimised, to ensure the industry continues to invest in consumer choice and innovation (R&D, sustainability, etc.). It will be extremely difficult for businesses to absorb the costs of sudden compliance with divergent regulations in such a short amount of time.

Avoid technical barriers to trade

- Cooperation and collaboration between the UK and the EU post-Brexit will avoid the rise of trade barriers, such as formulation requirements, incompatible labelling, different definitions, etc. Avoiding this will allow the EU and the UK to continue to trade with minimal disruptions.
- Avoiding trade barriers also enables minimal supply chain disruptions and refrains from unnecessary red tape.

The UK Cosmetics Regulatory Framework in Detail



ANNEX I: Why the EU CPR is seen as a gold standard and consequences of divergence

The cosmetics and personal care industry includes a wide range of products dedicated to health, beauty and wellbeing. Ranging from hair care, skin care, shaving products, antiperspirants and deodorants, sun protection, oral and body care to perfumery and decorative cosmetics, cosmetic and personal care products are an important part of people's everyday life and bring important functional and emotional benefits. The cosmetics industry is a science-driven, fast-paced and a highly innovative sector which makes large investments in R&D and innovation. Innovation, R&D and product development occur at a global scale, therefore regulatory convergence supports global businesses and business expansion at a global level. Regulatory convergence is an approach whereby regulatory requirements across countries and/or regions become more similar or aligned over time as a result of the gradual adoption of internationally recognised technical guidance documents, standards and best practices. The objective of regulatory convergence is to create a regulatory environment that is consistent with best practice principles of cosmetic legislation. This will ensure consumer safety, reduction of trade barriers, simplification of market access through the supply chain and promote an efficient global marketplace based on innovation and fair competition.

CASE STUDY 1: Product Classification

It is preferable that there is one product classification in any given market as sometimes regulations can be in conflict regarding requirements. The EU CPR provides for a good system of classification with a clear definition of the product category that is easy to understand, and includes elements that would encompass all products that would fit within the appropriate risk classification for cosmetics and separate cosmetics clearly from other sectors such as food, pharmaceuticals or biocides.

For example, sun protection products in the US are classed as Over-the-Counter (OTC) drugs. This means that sunscreen products in the US have requirements that are aligned with the pharmaceutical industry and have to either apply for a Food and Drug Administration (FDA) registration under the FDA Sunscreen Monograph or undergo a New Drug Application process. Not only this, but the US also has different sunscreen active ingredients that are authorised for use in the US and additional labelling requirements.

In practice this means that a company cannot sell the same product developed for one country/region in the US, but has to create a different and specific product and go through a long pre-market approval process.

Smaller companies are likely not to be able to enter a market with different regulatory requirements, because they may not have the physical and financial resources to invest in the development of a different product for a single different market. The business strategy would not support new product development and maintenance of supply to different markets.

A similar assessment can be considered for different ingredients allowed or not allowed for use in cosmetic products.

CASE STUDY 2: Product Claims

Cosmetic product claims serve mainly to inform end users about the characteristics and functions of the products. Claims are essential ways of differentiating between products. Product claims are also the foundation of innovation in cosmetics and personal care products.

To guarantee a high level of protection for end users, in particular from misleading claims in relation to cosmetic products, but also to guarantee innovation, the EU CPR provides for key guiding principles regarding types of claims for cosmetic products and the appropriate level of support that might be needed. These key guiding principles do not prevent cosmetic companies from promoting innovation, and the absence of specific wording of cosmetic claims avoids restrictions to a positive list of allowed claims.

Some third countries, such as Japan, have a list of approved cosmetic claims which are allowed for use and a list of prohibited claims. As highlighted in the above overview, this type of provision may not only limit companies from innovation, but may also limit market entry into the UK.

CASE STUDY 3: In-market Control

The EU CPR provides for in-market control, rather than a pre-approval authorisation type of regulation.

In-market control is a surveillance process that allows competent authorities to ensure safety and compliance of all commercialised products in the market.

In-market control is more beneficial than a pre-registration system since it guarantees the safety of the products in the long-term. Indeed, the safety of the products available on shelves for the consumer is strengthened due to the random inspection and cosmetovigilance requirements. In the case of a pre-registration system, the products are controlled only once and prior to being marketed, this gives no guarantee to the consumer and the respective authority about the continued product safety. In addition, in-market control allows for achieving a high level of consumer safety in a scenario of innovative and fast-moving consumer goods by:

- setting safety requirements and defining safety standards;
- allocating clear legal responsibilities for safety and compliance to the actors in the supply chain;
- submitting companies to random controls and inspections by local authorities.

In order to meet the requirements of competent authorities without compromising businesses, the EU CPR provides for a notification system that allows authorities to know which products are on the market and to have a quick and efficient access to the product information, while allowing companies to reduce the timeframe for placing on the market.

A country with an in-market control regulation allows a product to be more easily placed on the market once it is developed, and therefore a company can launch new products to keep up with the fast pace of the cosmetics industry in order to grow and maintain its competitiveness and meet consumers' needs. A pre-market approval or registration regulation significantly increases the time it takes to place a product on that market (from a few months to one year for example).