

CTPA Position on the Use of 'Free From' Claims

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"CTPA strongly believes companies should only use 'Free from' claims when they are intended to inform consumer choice. Consumers should not be led to believe that a cosmetic product with a 'Free from' claim is safer, which legally cannot be true."

What is the Issue?

Cosmetic claims are frequently used by brands to communicate directly with consumers, whether on the product ingredients, characteristics, efficacy or on the company values. Claims will usually relate to the positive aspects of the product and seek to inform consumers of its benefits. However, certain claims about a product or ingredient may, intentionally or inadvertently, stray into denigration or unfair treatment of some ingredients or other products.

Consumers, the media and NGOs may be generally regarded as well-informed and conscious of the messages included in cosmetic claims. However, some information may be subject to incorrect interpretation or subject to unfounded speculation, contributing to misinformation. As an industry, we have seen examples of this affect our ability to communicate, innovate and place products on the market. For example, an incorrect interpretation of the hazard information of a substance that does not take into account the likely exposure of a person to that substance through a consumer product; or, the publication of a scientific study on a negative health outcome that mentions a particular cosmetic ingredient without establishing a clear cause-effect relationship nor taking into account the weight of evidence on the safety of the ingredient.

'Free from' claims may easily result in the denigration of safe and legal ingredients, creating uncertainty in the minds of consumers. This inevitably leads to a lack of trust and reputational damage for both brands and the industry. Attempting to gain competitive advantage by creating or encouraging the perception that the use of a safe and legal ingredient may create an immediate or long-term damage to the health of a particular individual is not only unethical, but also goes against the legislation in place to protect consumers. Additionally, widespread messaging may lead to safe and effective ingredients no longer being used. It could be argued that instead of defending ingredients, the cosmetics industry is contributing to the unfounded concern over certain ingredients among consumers by making 'Free from' claims.

On behalf of the UK cosmetics, personal care and beauty industry, CTPA has developed a position on the use of 'Free from' claims for cosmetics. CTPA is the UK trade association representing companies involved in making, supplying and selling cosmetics and personal care products. As the voice of the UK industry, CTPA promotes best practice and advises companies about the strict legal framework for cosmetics as well as the safety of cosmetic products.

Why does This Matter?

Cosmetic claims are regulated under Article 20 of both the UK Cosmetics Regulation found within Schedule 34 of the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (for the GB market)¹ and the EU Cosmetic Products Regulation (EC) No. 1223/2009 (CPR) (for the EU and NI markets)². They also must comply with Regulation (EU) No. 655/2013 - Common Criteria for Justification of Claims³.

The six Common Criteria for claims are: Legal Compliance, Truthfulness, Evidential Support, Honesty, Fairness, Informed Decision-Making.

The European Commission's Technical Document on Cosmetic Claims⁴ was agreed by the Commission's Sub-working Group on Claims (3 July 2017). The aim of the document is to present a collection of best practices, providing guidance for the case-by-case application of the Common Criteria. The Technical Document is not legally-binding and does not reflect an official position of the European Commission. However, it reflects a common understanding of national competent authorities, several of which have already indicated their intention to apply the guidance given in the document.

Annex III of the Technical Document looks at how the six Common Criteria apply to 'Free from' claims (including claims with a similar meaning, e.g. 'made without', 'no' or '0%' claims). To summarise this guidance:

- 'Free from' claims are not all prohibited – some may be permitted when they allow an informed choice or target a specific group of end users. For example, 'free from animal-derived ingredients' in a product intended for vegans.
- 'Free from' claims may not be made where they declare the absence of a prohibited ingredient, when the absence relates to ingredients which normally would not be present in that particular kind of product or when the implication is that it guarantees properties based on the absence of an ingredient. For example, 'preservative free' in a fragrance, which usually does not require preservation.
- 'Free from' claims should not be allowed when they imply a denigrating message based on a presumed negative perception of an ingredient or group of ingredients. For example, 'paraben free' should not be accepted because it denigrates a safe and legal group of ingredients.
- Decisions will be taken nationally on a case-by-case basis (competent authority, national courts, European Court of Justice).

What is the CTPA Position?

CTPA is encouraging the cosmetics industry to now take the opportunity to rebuild confidence in cosmetic products and its ingredients among consumers, in order to minimise any further damage to the industry. Instead of continuing to deliver negative messages, CTPA urges companies to talk more positively about cosmetics and their ingredients. Companies are advised to focus their communications on the benefits and the positive attributes of their products. These should be the key selling points of a cosmetic, not the absence of certain ingredients. Companies should consider if there is a real benefit to the consumer for a product to be identifiable as free from certain ingredients.

CTPA strongly believes companies should only use 'Free from' claims when it is intended to inform consumer choice. Consumers should not be led to believe that a cosmetic product with a 'Free from' claim is safer, which legally cannot be true. The Common Criteria for cosmetic claims are law and must be complied with, and the guidance provided in the Technical Document and in CTPA resources provides an interpretation of how the Common Criteria apply to such claims. Companies would be expected to be able to demonstrate how any different interpretation is still in compliance with the Common Criteria. 'Free from' claims which denigrate safe and legally used ingredients can create uncertainty in the minds of consumers, leading to lack of trust and reputational damage which in turn has led to safe and effective ingredients no longer being used.

References

¹ Legislation.gov.uk. (2022). Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (recast) (Text with EEA relevance). [online] Available at: <https://www.legislation.gov.uk/eur/2009/1223/contents>.

² Europa.eu. (2009). Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (recast) (Text with EEA relevance). [online] Available at: <https://eur-lex.europa.eu/eli/reg/2009/1223/oj>

³ Europa.eu. (2013). Regulation (EU) No. 655/2013 - Common Criteria for Justification of Claims laying down common criteria for the justification of claims used in relation to cosmetic products. [online] Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0655>

⁴ Europa.eu. (2020). Technical Document on Cosmetic Claims, [online] Available at: <https://ec.europa.eu/docsroom/documents/24847>

Further Guidance

[CTPA 'Free From' Claims Members Guide](#)

[CTPA Help Note on 'Free From' Claims](#)

[CTPA 'Free From' Claims Decision Tree](#)

[CTPA Confidence in Cosmetics booklet](#)

[CTPA Guide to Advertising Claims](#)