DBT SMARTER REGULATION CALL FOR EVIDENCE

CTPA RESPONSE 2024

This document outlines how CTPA intends to respond to the Department for Business & Trade (DBT) call for evidence on 'Smarter regulation and the regulatory landscape', as presented on the online platform. Members can access the call for evidence here.

Summary of CTPA's response to the Smarter Regulation Call for Evidence

Overall, CTPA has found UK regulators open to engagement and collaboration with industry and have built close relationships with key authorities for the cosmetics sector. However, some key challenges appear in the form of absence of transparency; unclear UK Government organisational structures; low understanding of how to support efficient business decisions; and a slow pace of implementing legislation following policy announcements on business easements.

Call for Evidence Questionnaire

1. Questions on the Landscape of Regulation

Q1. Based on your experience, do you think that UK regulators are supportive of the individual businesses they regulate in a way that appropriately balances considerations of consumers and other businesses within the sector more broadly?

The Cosmetic, Toiletry and Perfumery Association (CTPA) is the trade association for the UK cosmetics industry, representing all types of companies involved in making, supplying, and selling cosmetic and personal care products in the UK.

CTPA's experience with UK regulators and authorities has overall been a collaborative, open, and supportive one. As the national regulator for the cosmetics industry, CTPA has consistently worked with the Office for Product Safety and Standards (OPSS) on many occasions in a way that has been beneficial to businesses. This has been demonstrated when OPSS regularly share draft guidance with CTPA to comment on, most recently the OPSS Enforcement Policy. Through the publication of draft guidance, stakeholders are offered the opportunity to comment and question policy changes which would directly affect industry in an open process.

OPSS has also been working collaboratively with CTPA on the implementation of restrictions for cosmetic ingredients that ensure consumer safety whilst minimising disruption and impact to business. Under the UK Cosmetics Regulation (UKCR), cosmetic ingredients under scrutiny are assessed for safety by an independent pool of scientists (the Scientific Advisory Group on Chemicals Safety – SAG-CS) which works with OPSS; SAG-CS issues independent scientific opinions on the safety of cosmetic ingredients under specific conditions of uses. In recent opinions, the wording used to describe product categories may be quite limiting to innovation; therefore, CTPA worked with OPSS to ensure that the wording used to describe such product categories in the legislation implementing a specific restriction for an ingredient still meets the safety requirements assessed by SAG-CS, without limiting innovation by industry. Furthermore, OPSS has been very receptive regarding the transition periods related to upcoming ingredients bans or restrictions to allow businesses enough time to prepare and reformulate products.

While relationships and communication are open, there is a definite need from industry and associations to have greater clarity and visibility of the decision-making process within the UK Government, as well as the structure and organisation of the regulators and their internal directorates and departments.

OPSS demonstrated their consideration to consumers in July 2023 when they commissioned research on consumer attitudes and awareness of the products they regulate, as a key aspect of developing reactive regulation. This research stemmed from the view of OPSS that consumer products are more easily accessible than ever and therefore regulation needs to be adapted and updated regularly. The main objective of the research was to understand consumer views on a range of product safety issues exploring topical policy areas including online shopping, second hand shopping and inclusive design. The research report highlighted consumers perception of cosmetic safety, how they report safety issues, and how they access product information. Therefore, the research outcomes provide a reference that cosmetic companies may find helpful in understanding how to communicate information with their customers.

On other meaningful occasions, however, the voice of the UK industry has not been fully considered when highlighting the importance or relevance of proposed changes or existing issues, where calls for proportionality and reduction of impact to businesses was not treated with due consideration. While legitimate decision can be made in order to fulfil policy or regulatory obligations, it is important that regulators articulate the specific and valid reasons for disregarding both independent and business impact assessments.

In terms of the Resources and Waste Strategy, CTPA feels that interaction and alignment between the Department for Environment, Food & Rural Affairs (Defra) and HM Treasury/HM Revenue and Customs (HMRC) with regards to objectives and timelines could have been improved. For example, the Plastic Packaging Tax should have been implemented after Extended Producer Responsibility (EPR), to ensure a sufficient quantity and quality source of recyclate that could be used in plastic packaging. Furthermore, when certain regulations are implemented that affect producers, such as EPR, CTPA has had to persist for representation of the cosmetics sector, even though the impact is equal to that of the food and drink sector for example. CTPA is now heavily involved in the various EPR workstreams and is pleased to be actively contributing to the development of this policy.

On an international level, CTPA is continuously engaging with the Department for Business and Trade (DBT) to ensure UK businesses can export cosmetic products globally without regulatory hurdles. To this effect, CTPA and DBT are together:

- raising awareness to UK businesses on conducting business in international markets;
- working on technical barriers to trade affecting UK businesses exporting to specific markets;
- discussing long-term benefits for UK businesses in the context of free trade agreement negotiations.

On specific technical barriers to trade issues, CTPA is closely working with the UK embassies around the world which bring valuable support to UK businesses, and an avenue to engage with the competent authority in the countries where they are located.

Q2. Please name the UK regulator(s) you engage with most frequently?

CTPA engages most frequently with OPSS, and the Market Frameworks team are the main contact for changes or impact to the regulatory framework for cosmetics, not just the UK Cosmetic Regulation (UKCR) but support in broader policy areas across horizontal legislation, such as the ongoing Product Safety Review

and the conformity assessment for cosmetic aerosols. The Chemicals Advisor is the main contact for industry to be able to defend the safe use of cosmetic ingredients within products, and other aspects of product safety.

CTPA also engages with the Competition and Markets Authority (CMA) on consumer protection and product claims. In January 2023 the CMA announced a review of claims made on a wide range of fast-moving consumer goods including toiletries and personal care items, expanding their ongoing work on misleading environmental claims. CTPA reached out to CMA to discuss the review and potential impact on cosmetic businesses. CMA arranged a call to provide more information but also to hear more about how environmental claims are used within the cosmetics industry to ensure the review was targeted and beneficial to both businesses and consumers. CMA further assisted industry by attending the CTPA Sustainability Seminar where they presented a lecture on applying the Green Claims Code in practice and gave an overview of the environmental claims review.

The CTPA Claims and Advertising Stakeholders Group (CASG) includes the Advertising Standards Authority (ASA), Clearcast and the Medicines and Healthcare products Regulatory Agency (MHRA). This group, setup by CTPA, aims to identify and address issues related to cosmetic claims and advertising, new regulatory provisions, new trends and innovation. The goal of the group is to develop a collaboration with the cosmetics industry on key issues, to promote a common understanding between the industry and relevant external stakeholders involved in claims and advertising for cosmetics, and their impact on product classification. The involvement MHRA has had with CTPA, including within CASG, has aided in the creation and development of guidance, training, and best practice for cosmetic companies to ensure their products are correctly classified and do not mislead consumers.

Defra is also a key department CTPA engages with very frequently. One of the key areas of engagement with Defra is the UK Registration, Evaluation, Authorisation and restriction of chemicals (REACH) framework and the implementation of an Alternative Transitional Registration model (ATRm), as mentioned in the answer to question one. CTPA engages directly with the team at Defra responsible for policies on UK REACH, and the Association is a part of a number of forums as well as the Technical Working Group on UK REACH, which has directly worked with Defra on the development of the ATRm. CTPA actively engages with the Resources and Waste team at Defra, particularly in relation to EPR, as well as Waste Waster team on the subject of wipes.

CTPA directly engages with different teams at the Home Office in relation to matters related to the development of animal-free safety assessment, explosives and drugs precursors.

CTPA engages with officials from Health and Safety Executive (HSE) and the Environment Agency on technical issues relating to specific chemicals which are used as cosmetic ingredients; for example, CTPA provide information to the regulators to assist with risk management decision making.

CTPA has ongoing engagement between CTPA and DBT's Beauty Sector Lead. CTPA also engages with the Technical Barriers to Trade and the Bilateral Trade Relations teams.

In the recent years, DBT successfully managed to resolve a number of trade barriers which affected UK businesses at the time:

- acceptance of Companies House Certificate instead of Good Manufacturing Practice (GMP) Certificate issued by the UK Government in Indonesia, through bilateral discussion between the UK and Indonesian Governments;

- Launch of a unique process where UK businesses can request a GMP Certificate issued by the UK Government in order to be exempt from animal testing in China.

CTPA continues to work closely with DBT to ensure UK businesses have access to all the tools they need to export cosmetics with minimal disruptions.

Q3. What do you consider to be the most positive and/or negative aspect of how the UK regulators that you engage with operate?

The cosmetic industry deems it crucial for UK regulators to support and work with the current UKCR. There have been cases when the voice of the UK cosmetics industry has not been fully considered despite providing the government with comments and positions on operational challenges due to issues such as: skills, resources and capacity of regulators, complexity of the horizontal regulatory landscape for cosmetics, the requirement to replace EU legislation. The industry needs clarity and visibility of the decision-making process within the UK government as well as the structure.

The OPSS' Business Engagement team help to facilitate direct conversations between CTPA and the relevant teams at OPSS. With the support of this team, CTPA is able to maintain regular engagement with OPSS as an organisation, ensuring that both sides can bring the most suitable representatives based on the topics for discussion, and allowing for open conversations and questions to achieve the aims of the exchange. Having a dedicated engagement team has allowed CTPA to connect easily with different functions or departments within OPSS that would have not been easily accessible otherwise due to lack of organisational transparency.

An example of where the collaborative relationship with OPSS has been successful would be the development and improvement of the Submit Cosmetic Product Notification (SCPN) portal. Article 13 of the UKCR covers the legal requirement that each cosmetic product placed on the Great Britain (GB) market must be notified on the SCPN Portal. CTPA was introduced to the team within OPSS in charge of the development of the online platform. CTPA established regular and collaborative meetings with this team, allowing for the raising of concerns and improvements requested by cosmetic companies, and the chance to understand the status and developments of the platform. As well as these regular meetings, the OPSS set up ad-hoc workshops directly with cosmetic companies to understand their needs and to demonstrate or test changes to the platform. The improvements made through the collaborative engagement meant that the platform was developed in a way which remained fit for purpose without imposing excessive burden or bureaucratic requirements, and overall reducing the time required from company personnel to notify products on the SCPN and comply with their legal obligations. Before the changes were implemented, the average time to notify a product was 14 minutes. By improving the process, this reduced to 6 minutes. During the year 2021/2022, 135,930 product notifications were made showing a significant time saving across multiple users.

As well as the regular meetings, the Business Engagement team will facilitate specific enquiries. An example of this was the recent Product Safety Review (PSR) consultation, where several teams involved in the consultation met with CTPA, allowing the association to explain the industry position submitted, and providing OPSS with a chance to question any points that required further explanation.

The Business Engagement team at OPSS also manage the Business Reference Panel (BRP). This group is made up of representatives from the different sectors that OPSS regulate, including trade associations such as CTPA. The BRP has both regular meetings to provide general updates of OPSS work, but also topic targeted meetings, such as for the PSR consultation. Again, this allows businesses a chance to ask questions to the relevant OPSS

teams, but also provides transparency on how other sectors are affected by and react to changes to horizontal legislation.

Another example of engagement can be found through the MHRA, who host the CAP group which has members from different sectors who have a borderline with medicines. The CAP group meets biannually allowing the MHRA to explain and review the work the borderlines team have been conducting, and where they are targeting future work. It gives the stakeholders involved an open forum to raise borderline issues with the regulators directly.

CTPA has found on occasion instances of a lack of transparency from OPSS and SAG-CS on the processes for assessment of the ingredients under scrutiny. These processes, decisions as well as the minutes from the meetings of SAG-CS should be made publicly available so that companies, non-governmental organisations (NGO), and other interested parties have an understanding of which ingredients are under review and the status of the process. It should also publicise the ingredients that may go under review and the reasons for their assessment. CTPA have noted a recent improvement on this, however, would still like to see greater public transparency around the status of SAG-CS ongoing reviews.

There is also a lack of transparency on the research projects that OPSS have conducted on matters relevant to the cosmetics sector. For example, CTPA have been notified of research projects that have already started or are ongoing, limiting the possibility for CTPA to input into the suitability and relevance of the project for the cosmetics industry.

Defra is very active in business and industry engagement, and they have a number of forums to report updates or discuss relevant matters of chemicals legislation. These groups have been helpful not only to receive policy updates, but also to provide industry the opportunity to feed into proposals. However, the same challenges in regard to lack of transparency, including slow timings for concluding projects, may apply.

Lack of transparency has also been experienced with the HSE. HSE implemented specific processes for mandatory classification under the GB Classification, Labelling and Packaging (CLP) Regulation. One of these processes proposes mandatory classifications by reviewing Committee for Risk Assessment (RAC) opinions, which is part of the EU framework; however, there is no public consultation period before the HSE concludes on whether it agrees, or disagrees, with the RAC opinion. This issue has been raised to HSE, who welcomed the feedback and provided an informal mechanism to provide data to the HSE on specific substances. This is not an ideal solution because it is not fully transparent, but it does provide a better opportunity for industry to communicate with HSE.

Delays in policies and consultation responses has led to uncertainty in the sector. With particular relevance to EPR, Defra is very engaged with a select few stakeholders, but outside of this group, producers have found it very difficult to keep up to date with new developments or contribute meaningfully to the work.

Outside of transparency, we must also consider access to resources and budget as an occasional constraint for effective actions. It is well understood that Trading Standards (TS) local authorities have had their budgets significantly reduced over the last years, hindering their ability to continue supporting consumers and businesses in their regions. CTPA has engaged with many local TS authorities through the provision of guidance and best practices, education and training, advice, and established the Primary Authority Coordinated Partnership. While this has been well received, it is limited in its usefulness to the staff and resources available in each local unit. Other examples include the budgets for key activities in support of the resolution of trade barriers, where supporting meetings and events can foster a relationship with UK businesses or foreign authorities and support the fast resolution of trade barriers.

2. Complexity and Ease of Understanding the Regulatory System

Q4. Based on your experience or understanding of UK regulators, do you find it clear what the overall purpose and objectives of individual regulators are?

Yes, CTPA finds the overall purpose and objectives of individual regulators to be clear. Specific initiatives, such as the CMA guidance for businesses to ensure compliance with relevant legislation, such as the Green Claims Code, which aims to help businesses understand how to comply with their existing obligations under consumer protection law when making environmental claims, further helps to make clear the scope and objectives of the regulator.

Q5. Within these overall objectives (as considered in the preceding question), do you find it clear what the specific statutory duties (i.e required by legislation) of individual UK regulators are?

The enforcement authorities for cosmetics in the UK are TS, who apply policy and deliver enforcement at a local level. As the national regulator, the OPSS supports TS and manages the Cosmetic Products Enforcement Regulations 2013. Authorities are required to take action over a product that does not comply with the UKCR, and the enforcement regulations give the UK enforcement authorities the power to investigate and prosecute an alleged contravention of any obligations imposed by the UKCR. These statutory duties have been clear to CTPA and the cosmetic industry.

It therefore has historically been expected that requests for information to investigate noncompliance would come from TS. However, CTPA received communication that their members received requests directly from OPSS to access the Product Information File (PIF) for cosmetics on the market. This was an unexpected and unusual request that caused concern and required CTPA to contact OPSS to understand the duties under which OPSS were requesting PIFs. OPSS explained that alongside TS they also investigate products on the market and enforce the regulations. This statutory duty of OPSS on enforcement was not clearly communicated to industry previously, and therefore was unclear and unexpected.

Q6. Do you think that the statutory duties (i.e required by legislation) imposed on UK regulators:

Cover the right issues?

Are clearly stated in relevant statute, including where supplemented by relevant guidance?; and

Are sufficiently consistent across regulators, where this is relevant?

Overall, the approach the regulators CTPA work with, namely OPSS, CMA and MHRA, Defra, the HSE, the Home Office, and international trade departments is consistent in that they cover the relevant and necessary issues to support businesses and consumers, and their statutory duties are relatively clear for the remit of the legislations they are responsible for.

There is a need for guidance on the specific responsibilities and duties of regulators, clearly defining their scope of activities and powers. An example of this is the OPSS Enforcement Policy which is guidance that reflects on how OPSS conduct some of their enforcement responsibilities. It is useful, but not every regulator has it, and not all areas of OPSS' statutory duty are covered.

Q7. As set out above, UK regulators have a remit that is set through legislation and guidance. Which of the below do you consider best applies?

Yes, we have no experience of regulators working outside of their remit.

Q8. Do you often have to engage multiple UK regulators on the same issue or area?

Yes.

One example of an area where CTPA engage with multiple UK regulators is claims and advertising, which is regulated by different organisations, namely OPSS, CMA and ASA. OPSS enforce the UKCR and Article 20 gives the provisions for cosmetic claims. The ASA is the UK's independent advertising regulator, who makes sure advertisements for all products including cosmetics across UK media adhere to the advertising rules. The ASA can prescribe actions to remove or have amended any ads that are in breach of these rules. The CMA also investigate and enforce against adverts to protect the competitive market for businesses and consumers from misleading adverts. All organisations have rules and guidance for claims and advertising that cosmetic companies must be aware of, and whilst they do not contradict each other and the legislation follows similar requirements such as the need to provide evidential support to substantiate claims, it is important to understand all of the requirements and follow any updates from these organisations.

On an international level, CTPA can also engage with several UK regulators on the same issue. For example, CTPA is currently engaging with the Bilateral Trade Relations team, the Consulate General in Shanghai and the Home Office to discuss about the approach to take for re-establishing a relationship with China's officials and discuss alternatives to animal testing for special cosmetics and other cosmetics which cannot benefit from the animal testing exemption currently in place.

With regards to REACH, Defra is the policy maker and the HSE is the UK agency responsible for implementing and enforcing the legislation. Therefore, CTPA engages with Defra with anything related to policy changes under UK REACH: such as the ATRm, or the testing requirements for registration dossiers. HSE carries out substance evaluation and related Regulatory Management Option Analysis (RMOA) to best inform outcomes in relation to restriction or authorisation of chemicals under UK REACH, and often works in collaboration with the Environment Agency for environmental assessment of chemicals. CTPA provides responses to calls for evidence to the HSE, or the Environment Agency, when these are relevant to cosmetic ingredients.

In terms of EPR, CTPA has been engaging heavily with Defra which has been driving the policy and setting the labelling obligations; however, OPSS will be enforcing the environmental labelling requirements and therefore CTPA will be engaging with them on this topic to understand their priorities.

Q9. Do you consider that UK regulators collaborate effectively with each other and their international counterparts?

CTPA have found that the Defra and the HSE have been working collaboratively in regard to chemicals legislation. CTPA's biggest collaboration with Defra and the HSE on this matter is the development of the UK Registration, Evaluation and Authorisation of Chemicals (REACH) Regulation. CTPA engaged very closely with Defra to outline the impact to business and the key challenges of having a full duplication of the REACH framework in GB. As a result of this work, Defra committed to the revision of the registration framework for chemicals already registered under EU REACH and has been working with trade associations and the chemicals industry to develop the ATRm. The collaboration throughout this work has also been welcome.

There are instances where a specific matter may fall under the remit of different Government departments. For example, the legal status of the use of CBD in cosmetic products was previously addressed by both the Home Office (in relation to the regulations on narcotics and which forms of CBD do not fall under this remit), OPSS (in relation to overall opinion of the safe use of CBD in cosmetics) and the MHRA (in relation to

classification of products containing CBD). On this matter, CTPA facilitated the communication between the different regulators to provide comprehensive advice for members, as there was not an initial collaboration across the departments on this matter.

CTPA feel there is a disconnect between Government departments in regard to the integration of animal free safety assessment into chemicals regulations. This matter is relevant to the Home Office, OPSS, Defra, the HSE and the Environment Agency. All are individually engaged with CTPA on the topic, but it is there is not a clear collaboration between the Government departments, or within different teams in the same department.

It is not clear whether OPSS and Defra engage fully on matters such as labelling requirements. For example, under the UKCR, cosmetic products require specific mandatory information to be labelled on-pack, and new environmental labelling requirements are now being introduced by policy set by Defra. Such collaboration could avoid trade barriers and additional burden to businesses, and ensure consistency.

Additionally, an understanding of the UKCR and how it impacts on the use of recyclate in cosmetic packaging might have informed the UK Plastic Packaging Tax and the implications for the cosmetics sector.

As outlined in question five, both OPSS and TS are responsible for enforcing the UKCR. As well as there being a lack of transparency with industry to communicate investigations being conducted by OPSS in the cosmetic sector, this information is also not communicated with TS. TS are often unaware of any of OPSS policy development, product safety legislation, and other relevant matters. There are cases where TS are not informed of investigations being undertaken by OPSS for specific products or brands. This is significant particularly where both regulators may be investigating the same case.

On the International level, CTPA welcome OPSS participation to the International Cooperation on Cosmetics Regulation (ICCR), which establishes a formal dialogue between regulatory authorities and cosmetics industry trade associations that are members of the group. OPSS has participated as an observer country in several ICCR meetings over the years, and together with CTPA, are actively contributing to the work developed under the group. OPSS has expressed its intention to become a full member of ICCR in the future and CTPA is looking forward for the UK to further its collaboration with ICCR partners.

Q10. Where you engage with multiple UK regulators, do you find it clear which regulator is responsible for a specific issue or area, and how regulator mandates interact?

As noted in the examples above, it is not always clear which regulators are responsible for specific issues. Custody of policy, legislation, and enforcement is fragmented across UK regulators.

Q11. Do you consider there to be underregulated areas of the economy, or gaps in regulatory responsibility between UK regulators?

As referenced previously, Defra has been the driving force of EPR including new labelling obligations; however, OPSS will be enforcing the requirements, but it is not clear whether OPSS and Defra have been collaborating on this matter. Under the UKCR, cosmetic products require specific mandatory information to be labelled on-pack, and new environmental labelling requirements are now being introduced in addition.

Q12. Do you consider that guidance issued by UK regulatory bodies makes the regulatory system clearer and easier to understand?

The guidance OPSS have published on Regulation 2009/1223 and the Cosmetic Products Enforcement Regulations 2013: Great Britain gives a thorough overview of the regulatory requirements applicable to cosmetic products sold on the GB market as of 1 January 2021, when the UKCR came into force. The UKCR is a retained EU law and therefore there were requirements that had to be implemented to reflect the GB market as opposed to the EU market. The legislation itself does not contain transition dates for companies to fulfil specific parts of the regulation and this is where the guidance provides clarity. For example, the guidance states under 'Article 19 (1)(a) transitional arrangements':

81) For a period of seven years see footnote 7 until 31 December 2027, the name, address and country of origin requirements are satisfied if there is compliance with the requirements of Article 19(1)(a) of the Regulation as it has effect in EU law (that is, where it has the name and address etc. of the Responsible Person based in the EU/EEA and meets the other requirements of Article 19(1)(a) of the EU Cosmetics Regulation).

This provides a clear deadline for businesses to ensure their product labels are compliant with the UKCR.

There are instances where some legal texts may be lengthy and complicated, such as CLP or REACH. Guidance certainly simplifies the understanding of these regulations. However, guidance may not be able to address certain specificities that are found in within the detail of the regulation.

Generally, guidance issued by Defra in relation to EPR is useful. However, in relation to HMRC and the Plastic Packaging Tax, guidance around what was in and out of scope of the tax was inconsistent and needed clarifying.

However, a good system is based on robust regulation, detailed guidance, and proportionate voluntary standards. It should be noted that guidance supports the regulations, and the use of guidance, over regulation, to meet safety requirements is opposed by CTPA. Guidance should not replace regulation.

3. Regulator Agility, Responsiveness and Skills

Q13. Do you find UK regulators to be agile and responsive to new and emerging issues?

There has been no greater need to be agile and responsive to issues as the requirements OPSS faced to regulate cosmetics following the UK leaving the EU. Whilst the UKCR is retained EU regulation, OPSS had to work fast to implement processes and systems to enable businesses to meet their regulatory requirements, such as the requirements of a UK Responsible Person (RP). The RP must be established in the UK, and many companies' RP address was based in an EU Member State, therefore they needed to fulfil this obligation. Furthermore, the RP name and address must be labelled on the cosmetic product, and with products and packaging already produced and on the market, companies needed time to update the product labels. OPSS provided transitional arrangements for a period of seven years and within this time, the RP labelling requirements are satisfied if there is compliance with the requirements of the EU Cosmetic Products Regulation e.g. an EU RP name and address.

However, there are other aspects of regulatory transitions that occurred upon the UK leaving the EU that OPSS faced which has not been approached with the same responsiveness. There were announcements in 2022 regarding deadline extensions for the UK Conformity Assessment (UKCA) mark labelling. Cosmetic aerosols sold in GB must have the UKCA marking on pack as proof that the aerosol complies with the requirements under the UK Aerosols Regulation. These labelling requirements originally benefitted from a three-year transition period whereby the EU conformity assessment marking would be acceptable during this period.

However, in July 2023, almost two years into the transition period, the DBT announced their intention to introduce legislation to extend indefinitely the recognition of the CE marking for products placed on the market in Great Britain. The new rules would allow products sold in GB to continue to use either the reverse epsilon or the UKCA mark after the 2024 deadline. Whilst these extensions can be beneficial to business, the ongoing changes to deadlines mean that business are implementing new labelling requirements before a further extension is announced, costing money and resources that could have been spread out over a longer period of time with advanced knowledge. Following this announcement, as of November 2023, a Statutory Instrument has not yet been published to confirm this extension and therefore businesses are uncertain.

Another aspect of regulatory transition that did not demonstrate as much agility is the implementation of the CMR management process under the UKCR. Article 15 of the UKCR requires substances classed as Carcinogen, Mutagen and toxic to reproduction (CMR) with a mandatory classification under GB CLP to be banned for use in cosmetics. Furthermore, Article 15 provides specific exemption criteria for these substances that industry can apply to for continued safe use of some of these substances under specific conditions for which safety is demonstrated. A specific legislative process must be implemented in order to ban or restrict these substances in cosmetic products, as well as provide industry the opportunity to apply for an exemption. The UKCR came into force on 1 January 2021; such CMR management process was officially implemented at the beginning of October 2023. The lack of clarity on the legal status of CMR-classified ingredients in GB caused supply chain challenges for businesses.

The CMA has also demonstrated that they are responsive regulators with the example noted in this survey of the publication of the Green Claims Code. On 2 November 2020, the CMA issued an investigation for environmental claims across different sectors, including cosmetics and beauty products, to assess whether environmental and green claims are compliant with the consumer protection laws or are misleading consumers. On 20 September 2021, the CMA then published its Green Claims Code, which aims to help businesses understand how to comply with their existing obligations under consumer protection law when making environmental claims.

Q14. What factors do you think work for and against UK regulators' ability to respond sufficiently rapidly?

A key factor that works for OPSS to respond sufficiently to updates and changes in legislation is their willingness to work with businesses directly. Not only do CTPA have regular meetings with OPSS allowing us to discuss issues effecting the cosmetic industry, OPSS also has set up the BRP. The BRP facilitates a dialogue between OPSS and businesses in the sectors they regulate as an opportunity to discuss both emerging and existing issues across the regulatory landscape, explore business thinking and where possible identify solutions. It also allows members to scrutinise the work of OPSS, share concerns and inform future direction. An example of the BRP being an effective platform was the announcement of the PSR consultation. A meeting was organised allowing OPSS to breakdown the structure of the consultation so business could understand how to respond to the different proposals within the document. Members also had a chance to directly ask questions to OPSS to gain clarity on the proposals.

The consultation process OPSS uses is an effective way to interact with key stakeholders on updating or changing legislation and is grounded in the understanding of regulatory frameworks in the UK. A clear proposal followed by a deadline to respond allows stakeholders to voice their opinions and help form regulation. This process is important and should remain.

A factor that works against regulators which has been apparent in the previous three years is the direct impact of the changes in ministerial leadership. For example, the launch of the PSR consultation was expected much earlier but a factor of the delay was a continuous reshuffle of the Secretary of State for the DBT, which meant that work with various departments was delayed, providing industry with a prolonged feeling of uncertainty.

Due budgetary allocation is also a serious influence on the effectiveness of a regulator or authority. TS, a key player in ensuring market surveillance and product safety, has repeatedly suffered the reduction in their budget. This has meant not only a challenge to their supervisory capacity, but also in their ability to support businesses in their path to compliance.

Environmental regulation seems to react to public concern, rather than science-based regulation for seeing the need for policy change.

Q15. Do you consider the processes that UK regulators have in place allow them to make decisions in an appropriate time frame?

The current consultation process allows for businesses to express their considerations to proposals which is an effective way to manage change. This can be a lengthy process, but it is necessary. It is important that the decision-making alongside this process is always transparent and supported by independent impact assessments where needed. However, it is important to note that businesses need more time to provide responses to complex regulatory areas that could have significant impact on their operations.

Q16. In the sector(s) that you operate in, do you think there are specific improvements that UK regulators and / or the Government could make to facilitate a more agile implementation of rules and regulations?

The consultation process that regulators conduct allows businesses and stakeholders to input and provide feedback to regulators and authorities. An issue that can arise from the process is it can often feel as though regulators combine different sectors or many proposals into a consultation, making the consultation less specific to industries responding and difficult to answer a broad scope. An example of this is the PSR consultation, which outlined 13 proposals across all sectors OPSS regulate.

Cosmetic ingredients are well regulated in the UK through the annexes to the UKCR, leveraging the existence of an independent committee (SAG-CS) to protect consumers and provide clarity to industry. Under the UKCR it is stated that the Secretary of State has the power to amend the Annexes to the UKCR; in practice this means that any amendment to the Annexes of the UKCR must be signed off by the DBT Minister. We have examples where publication of regulations updating the status of cosmetic ingredients took a significantly long time to be published and to enter into force. So, this is a clear example where a more agile implementation can be proposed.

CTPA has found that on occasions, consultations have been published at weekends or during peak holiday times, sometimes with short timeframes, which does not allow adequate opportunity for businesses to input. Furthermore, Government Responses and Summaries of Responses can take a long time to be published. For example, the Government Response and Summary of Responses to the 2021 Consistent Collections consultation was only published very recently.

Q17. Do you think UK regulators have the appropriate mix of skills to deliver their objectives?

The organisational structure of OPSS and Defra are broken down into topic areas to deliver their objectives. Within OPSS, CTPA liaise with the Business Engagement team to form agendas for meetings, and the correct

personnel are then invited to join each. CTPA are also provided with the contact details for the representatives within OPSS on each topic allowing for direct communication on specific issues.

For example, CTPA will communicate with the Market Frameworks team to discuss changes or updates to regulations, or implementation of new regulation. This has been beneficial specifically regarding the transitional deadlines for companies to fulfil labelling obligations of the UKCR following the UK leaving the EU. One obligation is to label products with the name and address of the UK RP. The deadline to fulfil this was initially set as December 2024, but has been further extended to December 2027. The direct communication between CTPA and the relevant OPSS team allowed for CTPA to gain clarity on the new deadlines and notify members in the cosmetic industry efficiently.

CTPA has also been in touch with the Regulatory Compliance team to stay informed of any investigations of cosmetic products or implications of any procedural updates, such as the redraft of the enforcement policy.

Q18. Do you think UK regulators are appropriately resourced to discharge their duties?

OPSS set and enforce the UKCR, however the enforcement authority for cosmetic products on the market is also overseen by TS, who apply the policy set by OPSS and deliver enforcement at a local level. The relationship between the OPSS and TS should be one of collaboration and cooperation and therefore TS are a vital resource for OPSS to discharge their duties as the national regulator. The priority for TS is safety and they work with businesses to bring products into compliance, or they can issue a notice to ensure that the products are either recalled or destroyed. However as outlined in question 9, there are, on occasions, times where the collaboration between OPSS and TS appears to lack clear communication between the two organisations.

Technical agencies including, but not limited to, the HSE will see a significant volume of work resulting from UK REACH Registration dossiers in the near future. These departments will need to be resourced appropriately.

Q19. Do you think existing processes enable UK regulators to test new regulatory reform proposals?

Although not specific to testing regulatory reform proposals, the current process that regulators take to seek opinions, gain further insight and request information from businesses and key stakeholders on regulatory reform proposals is mostly efficient and fair.

An example is the OPSS PSR. In March 2021 the OPSS launched an initial call for evidence on the UK product safety framework. The objective of the review was to create a Product Safety Framework that is simple, flexible, and fit for the future, delivering safety for all consumers, supporting businesses to flourish and innovate, whilst also supporting the transition to net zero. The review would ensure the framework is able to keep pace with new technologies and business models, whilst offering the opportunity to regulate in a way which suits the UK economy.

In response to the PSR call for evidence, CTPA stated how the current regulatory framework for cosmetic products, the UKCR, ensures product safety while allowing companies to maintain growth and innovation. The cosmetics industry maintained that the UKCR combines comprehensive risk-management with a deep understanding of the particularities of the products that fall under the legal definition of a cosmetic product.

In November 2021, OPSS published the analysis of responses to the call for evidence as a high-level summary to form part of the overall review into the product safety framework.

In August 2023, OPSS then published the launch of the PSR consultation which outlined proposals to reform the regulatory framework for product safety in the UK. CTPA had the opportunity to respond on behalf of the UK cosmetics industry and further voice that the UKCR meets the objectives of ensuring consumer safety, supporting businesses through compliance, fostering innovation, and promoting growth through domestic and international trade. CTPA requested the OPSS to recognise what works, preserving the UKCR and the high standards reflected therein.

Defra has been working on an ATRm to make the registration requirements under UK REACH, for chemicals already registered under EU REACH, less burdensome and costly and more feasible for industry. In December 2021, Defra announced their commitment to review the registration model which was welcomed by industry. Defra set up different groups with industry and trade association representatives, to review the development of the new model both from a strategic and technical perspective. The work allowed Defra, the HSE and stakeholders to develop and assess a proposal. The proposal was tested with industry and useful feedback was collected. In November 2023, Defra published a policy paper on the new model, explaining what the ambition and focus of the development. A public consultation is expected to be launched in Q1 of 2024, which is delayed from the original plan. In the meantime, a Statutory Instrument extending the registration deadlines under UK REACH has been published, allowing time for the development of the new model, and for industry to become familiar with it to ensure compliance.

4. Proportionality in Implementing Regulation

Q20. Do you consider UK regulators to be proportionate in the measures they take, e.g. in applying regulations or responding to emerging issues?

CTPA find the approach regulators take to apply regulations for cosmetic to be proportionate with an overall priority to bring products into compliance where possible and to remove unsafe products from the market where required. This approach is outlined in the OPSS Statutory Guidance Regulation 2009/1223 and the Cosmetic Products Enforcement Regulations 2013: Great Britain. Under Article 25 'Non–compliance by the Responsible Person', the guidance states that competent authorities should primarily require the RP of a product to take corrective action. The action should consider all appropriate measures, proportionate to the nature of the risk, to ensure compliance, or withdrawal or recall the product. Competent authorities have all the powers they need to prevent any further distribution or sale of the product if the RP is not taking the necessary actions. The competent authority must also use the UK Product Safety Database to inform all other competent authorities of the measures taken. Overall, cosmetic companies find OPSS' enforcement approach to be proportionate with an aim to educate industry. This supports business' whilst upholding high safety expectations of consumers.

Another example that demonstrates that UK regulators make proportionate decisions is around the implementation of the UK REACH ATRm. Due to the transposition of EU law into UK law, the REACH registration requirements were fully duplicated, leading to significant administrative, costly and legal challenges for industry. Trade associations and businesses liaised with Defra proactively on this point. Defra was receptive of the issue and committed to develop an alternative model under UK REACH to register chemicals already registered under EU REACH; work is still ongoing but the latest policy paper on the topic shows that the proposal is likely to be proportionate and feasible for industry. Furthermore, the new proposal is likely to focus on strengthening the collection of information on uses and exposures of chemicals, which is key to inform proportionate and risk-based regulatory management of chemicals. CTPA welcomes this approach.

As mentioned previously, on environmental issues, there can be a reactive element to policies based around issues that are high on the agenda for the public, without necessarily taking a scientific approach.

At a global level, when the Chinese Government published its new cosmetics regulation and announced that companies may be able to be exempt from animal testing under specific conditions, the UK stepped up and was one of the first countries to implement a system which would allow UK businesses to benefit from such exemption. From the date the regulation was effective, UK businesses were able to obtain the document from the UK Government which would allow them to export to China without testing on animals. Without this document, UK businesses would have been forced to either turn down potential growth in China or being forced to manufacture their products in countries which were able to issue the said document. In addition, when Chinese provinces questioned why the Import Licensing Branch from the Department for International Trade was issuing the document rather than the regulator OPSS, the UK Government was quick in releasing a letter to the Chinese authorities to explain how the issuance process work under the authority and mandate of OPSS.

Q21. In making decisions that involve risk, which of the below do you consider most accurate?

2. *UK regulators achieve the right balance of risk in their decision making*

CTPA believe that for the cosmetic industry, UK regulators achieve the right balance of risk in their decision making. It is important to highlight that making decisions based on risk does not mean compromising safety. Risk assessment allows for the regulator to make decisions based on both hazard properties of, and exposure to, chemicals. This not only leads to chemical management that targets the highest identified risks and will therefore have the most impactful outcome; but it also helps chemical management to become as realistic and specific as possible, relevant to real life scenarios.

An example of this is the CMR management process under the UKCR. As previously explained, substances having a mandatory classification as a CMR under GB CLP are banned for use in cosmetic products; however, industry can apply for an exemption to the ban as long as the specific exemption criteria to demonstrate the safe use of that substance in cosmetics are met, as outlined in Article 15 of the UKCR. This process allows OPSS to make risk-based decisions on this matter, without compromising consumer safety.

UK REACH is another risk-based legislation. The HSE has been carrying out RMOAs looking at both the intrinsic hazard properties of chemicals and their uses which determine the exposure to those chemicals; this allows the HSE to inform any regulatory management of chemicals taking into account all relevant factors and making sure that the outcome is effective and proportionate.

Q22. Do you consider that individual UK regulators have the appropriate level of discretion when taking decisions that involve risk?

CTPA believe that UK regulators have the appropriate level of discretion when making decisions that involve risk. Should a concern on a chemical or a cosmetic ingredient occur, regulators have the right tools to involve industry by launching calls for data and collecting any information they need to carry out a safety assessment that would inform regulatory decisions. The UK regulators also have the right processes in place to publish regulations effectively.

However, a more scientific based evaluation of environmental issues would make better, more effective regulations.

Q23. If you are a business or consumer, how does the approach that UK regulators take to risk impact your own decision-making?

The approach taken by UK regulators to risk plays a pivotal role in informing UK businesses decision-making. The assessment of risk is a very important aspect of managing the safety of cosmetic products, one which underpins the decisions made at various stages in the development and manufacture of cosmetic products. It is very important that UK regulators continue to take a measured and proportionate approach to assessing risk and seek alignment with businesses on their approach.

Regulators provide businesses with opportunities to comment on their risk assessments and decisions by launching calls for data, or surveys to understand the impact of a specific decision. As an example of the latter, OPSS launches surveys to assess the impact of upcoming ingredient bans or restrictions after the draft regulation is notified to the World Trade Organisation (WTO), ahead of its official publication.

Furthermore, the process that will lead to ingredients bans and restrictions must be transparent enough to alert businesses that the regulatory status of an ingredient may change and to provide businesses with sufficient time to defend an ingredient's continued use. CTPA also plays a vital role in communicating to industry on these matters. Therefore, businesses generally have early warnings to plan for reformulation and sell through stock. Of course, reformulation does impact businesses and can be costly; sometimes it may be extremely difficult to reformulate if alternative ingredients are not available, especially to match key performance properties of the product. However, if companies can have prior warning, they can plan reformulation in a way to minimise impact to their business.

Q24. UK regulators often need to balance delivery across a range of different legislative duties or regulatory requirements, some of which may involve trade-offs. Do you consider that they balance these trade-offs effectively and transparently?

No comment.

Q25. If you are a UK regulator, are there specific areas where you consider it would be beneficial to seek further steer or guidance from the Government?

No comment.

Q26. In general, do you consider the approach that UK regulators take to requests for information to be proportionate to any burden they may impose on you?

Yes, in some cases and no in others.

CTPA would not always disagree with the approach that UK regulators take to requests for information, but an example can be drawn on where a request for information by OPSS has imposed a disproportionate burden to the cosmetics industry in the PSR consultation.

The framework proposed in the consultation intends to introduce cross sector hazard-based legislation. Therefore, the proposal is going to have a serious and high impact on businesses if it were to be implemented. OPSS launched the PSR as a consultation with 13 proposals over four different policy areas, all of which would impose significant challenges. The proposals of the consultation would have been more effective if it considered how they may apply to sectors individually.

However, CTPA supports the approach taken to requesting information prior to assessing cosmetic ingredients for safety, or chemicals for proposed risk management measures. This allows the industry to provide high quality scientific and socioeconomic information prior to a decision being made by the regulators. This ensures that a balanced decision, taking into account all available information, can be made. In particular, it is vital for OPSS to launch calls for data on specific cosmetic ingredients under scrutiny to give industry the possibility to demonstrate the safe use of those ingredients. The HSE may also launch calls for evidence on substances being reviewed under the UK REACH framework; again, these processes are vital and must ensure adequate time to allow industry to submit safety data on chemicals and make sure that any regulatory management option is proportionate and relevant.

Public consultations are also a great opportunity for industry and stakeholders to provide their contributions and ensure that whichever regulatory measure is under assessment will be proportionate. For example, the public consultation launched by Defra to extend the deadlines for registering chemicals under UK REACH had a very positive outcome for industry, as they could prepare, but also for the UK Government because it allowed time to create the ATRm. The Home Office has also recently revised its regulation on explosives precursors; a public consultation was launched to allow industry to provide feedback on the new requirements and the outcome was well balanced and effective for both Government and industry.

Q27. Do you ever receive duplicative requests for information from the same or multiple UK regulators? (i.e., requests asking for essentially the same information)

No comment.

5. Process and Governance

Q28. Do you consider that UK regulators have in place the right governance structures to deliver the best outcomes? If not, how can they be improved?

Considering the structure of OPSS as an example, they are an office within the DBT. The DBT Ministers set the strategic, policy, and legislative framework and OPSS take responsibility or creating and managing the policy. They also have the enforcement role, to discharge regulatory functions within the policy framework.

The structure is fit for purpose to deliver the required outcomes within a political structure required for government departments.

Q29. Do you consider that UK regulators use digital systems in their interactions with you in an efficient fashion? (e.g. data transfer or other digitised methods)

The UK cosmetics industry have a specific digital system that allows businesses to notify the products they place on the GB market to the regulators, the SCPN portal. The information that must be submitted on the SCPN includes: the product name and picture enabling its specific identification, the name and address of the RP as well as details of a contact person in the case of urgency, information on the product formulation. The portal enables OPSS post-market surveillance of products on the market and a direct contact to efficiently communicate with the company responsible for the products. It also allows for communication from the UK national poison centre to a cosmetic company if a consumer has inadvertently consumed a product.

Q30. Do UK regulators sufficiently communicate the processes they follow to make decisions?

No.

As noted in question 15, CTPA are familiar with the consultation process regulators follow to make decisions. These are announced and published in a way that allows us to follow the process that regulators take to make legislative or policy changes. However, where this process isn't applied, the alternate process should be clear and transparent. An example of this would be the extension of the UKCA labelling deadline as described in question 13. The intention to extend the deadline was not clearly communicated and therefore many companies had already updated implemented the changes unnecessarily. There should also be clear communication when a decision is taken against the feedback provided within a consultation.

There has been a lack of transparency around cosmetic ingredients going under scrutiny by OPSS. CTPA has requested publication of the agendas and minutes of the meetings of the SAG-CS. However, this has not occurred. Following requests for increased communication around the status of ingredients under review by the SAG-CS and upcoming calls for data, there has been an improvement in information sharing, which is welcomed.

Another example is in relation to the process for mandatory classification under GB CLP. There are two processes for proposing mandatory classifications of chemicals under GB CLP:

- Article 37, which reviews harmonised classifications coming from EU CLP;
- Article 37A, which proposes GB specific mandatory classifications.

The Article 37 process does not provide a formal consultation with GB businesses; GB companies are encouraged to submit their feedback to the EU consultations, as the HSE will review the EU dossiers as part of their decision-making process for GB classification. However, there are examples where the HSE disagreed with the EU conclusion and did not allow for industry to respond to the GB authorities. This example shows where issues arise due to a lack of transparency.

Q31. Are you provided sufficient opportunity to input into decision making by UK regulators processes (e.g., via consultations, workshops etc)? If not, how would you suggest improving the process?

As described in question 15 and 19 the current consultation process that regulators use to seek opinions on regulatory decisions, they are looking to implement allows companies to provide input, usually at multiple stages. The stages usually include a call for evidence followed by a consultation.

In the example provided in question 19 of the PSR consultation, a further stage to provide input was requested by CTPA to OPSS to set up a meeting with the relevant teams to explain and discuss the consultation response submitted. The request was accepted and OPSS engaged with CTPA actively to understand the position from the cosmetics industry.

However, as previously mentioned, when certain regulations are implemented that affect producers, such as EPR, CTPA has had to persist for representation of the cosmetics sector, even though the impact is equal to that of the food and drink sector for example. CTPA is now heavily involved in the various EPR workstreams and is pleased to be actively contributing to the development of this policy.

CTPA has found that on occasions, consultations have been published at weekends or during peak holiday times, sometimes with short timeframes, which does not allow adequate opportunity for businesses to input. Furthermore, Government Responses and Summaries of Responses can take a long time to be published. For example, the Government Response and Summary of Responses to the 2021 Consistent Collections consultation was only published very recently.

Please also refer to previous answers for examples regarding calls for data on cosmetic ingredients and chemicals, where we have provided positive and negative instances.

Q.32 Do you consider the processes that UK regulators follow deliver reasonable outcomes?

In general, CTPA believe that the outcomes published by UK regulators following consultations or calls for data is reasonable.

An example here follows the public consultation by Defra on the extension to the deadline for submitting registration under UK REACH. The consultation provided two different length timeline options on the deadline extensions for registration. Industry almost unanimously provided input in favour of the longer extension to the deadlines, to allow enough time for Defra to develop the ATRm and ensure that companies have enough time to familiarise themselves with and comply with the new registration model. Defra responded to the consultation confirming that the deadlines were going to be extended by the longest option, and this was officially implemented into legislation.

However, the prolonged development of EPR has not enabled companies to make informed decisions in relation to packaging choices. Furthermore, CTPA has done a lot of work on take-back schemes for small cosmetic packaging that cannot be recycled kerbside but can be recycled via alternative routes; however, while the ultimate aim of CTPA is the harmonisation of take-back schemes, amalgamation of waste and its meaningful reprocessing, these goals are intrinsically linked with EPR, key aspects of which are currently undetermined. In the meantime, CTPA has committed to work with companies to maximise collection through Take-Back Schemes that are already in place and encourage other schemes to be set up. In addition, working with the Recycle Now team at WRAP, CTPA will aim to increase the number of cosmetics brands that are listed on the Recycling Locator tool and highlighting Take-back Schemes to their consumers and so encouraging this form of recycling for currently unrecycled cosmetic packaging.

Q33. Do you think UK regulators treat those that they regulate consistently?

No comment.

Q34. As a business, do you think the process to challenge a UK regulator you interact with is sufficiently clear, robust and fair?

No comment.

Q35. What steps, if any, do you think could be taken to further improve the effectiveness and clarity of the reviews and appeals processes?

CTPA are not aware of a clear and formal process to challenge regulators in our industry outside of Judicial Review.

6. Regulator Performance

Q36. In your experience, have UK regulators that you interact with delivered on their stated objectives in that interaction?

Whilst we have provided examples within this survey where regulators may have not delivered objectives in a timely or transparent manner, we have also had instances where regulators consistently deliver on the objectives we discuss.

One important policy objective that OPSS had to deliver under the UKCR was the implementation of the CMR management process. We have provided information about this process in a question 13. A specific legislative process must be implemented in order to ban or restrict CMR substances in cosmetic products. The UKCR came into force on 1 January 2021; such CMR management process was officially implemented at the beginning of October. CTPA worked with OPSS to create and publish the CMR process, furthermore CTPA hosted a webinar and invited OPSS to present the process to CTPA members. This demonstrated OPSS not only delivering the objective to publish the CMR process but going further to educate and communicate with the cosmetics industry.

We also see a useful example of how a UK regulator is delivering on its policy objectives with the work of Defra on UK REACH. As mentioned within the survey, Defra committed on the revision of the registration framework for chemicals already registered under EU REACH and has been working with trade associations and the chemicals industry to develop the ATRm. Whilst the work is not yet concluded and it is still ongoing, Defra is working hard to deliver this important policy objective.

Q37. Do you think UK regulator performance reporting is proportionate, objective and transparent?

As government organisations, the regulators CTPA engages with are required to publish annual reports including the OPSS, CMA and MHRA.

The OPSS annual delivery reports provide an overview of the key actions taken within the year within the different sectors that OPSS regulate, including cosmetics. Within the report there are specific examples of objectives delivered in the cosmetics sector and whilst the performance is delivered in an objective manner, there historically has not been transparency on what actions are being investigated and how the data is being gathered. An action drawn out in the OPSS Delivery Report 2021/22 was for the SCPN system. The report stated that OPSS provided the NHS with the ability to search for ingredients in cosmetic products via the service so that they could provide better protection and treatment to the public.

The ability to search the SCPN database by ingredient was implemented as a new function in 2022. There was no transparency on why this was being implemented and the new process was challenged by industry as it caused further administrative burden to notify cosmetics. The communication from OPSS was that the function would benefit businesses to search their own notifications by ingredients, a function that was not requested by industry so it the reasoning behind the development was questioned. Furthermore, the implementation of the functionality was not efficient, and businesses were suddenly facing a much longer process to notify their ingredients. CTPA worked directly with the OPSS SCPN development team to find and deliver a more effective way to notify the ingredients of cosmetic products. If there had been a more collaborate approach to creating this process before it was implemented on the SCPN, there would have been no need to retrospectively find a solution.

The reasoning behind the need to implement a search by ingredient function to the SCPN was also not communicated with the cosmetics industry, and whilst it fulfils the objective to provide consumer safety, the cosmetic industry can assist to deliver this objective further when there is an open and collaborative relationship. The access the NHS have to the portal does not create a burden for cosmetic companies, but if cosmetic companies are aware of this, they can actively participate in providing relevant data.

Q38. Do you think UK regulators report on the right set of criteria and metrics to monitor their performance and ensure accountability?

No comment.

7. Concluding Questions

Q39. If you could suggest a single reform to improve how UK regulators operate, what would it be?

The single reform for improvement to how UK regulators operate drawn from the examples provided through the survey is transparency. This transparency must be structural, procedural and skillset.

Q40. Are there any examples of international approaches to regulation that you think set best practice that UK regulators could learn from?

The current regulatory framework for cosmetic products in the UK is based on the EU regulations which is considered globally as a gold standard in the regulation of cosmetic products. This approach has been adopted in many other areas, such as ASEAN countries, and has greatly influenced other territories such as the GCC and other Middle Eastern countries.

CTPA has previously explored with members the opportunity to introduce amendments or changes that would simplify the operation of the UKCR under the Retained EU Law (Revocation and Reform) Bill 2023. There were no areas of the UKCR that were found to be burdensome, disproportionate, or impeding the ability for companies to place cosmetic products on the market, showing that the EU's framework is still preferred by UK cosmetic companies.

Furthermore, the UK's main trading partner remains the EU accounting for 64.7% of all exports. Alignment with the EU in regulation also benefits businesses by simplifying potential trade barriers such as divergence. The unique situation of Ireland should also be considered, given that GB businesses selling products in Northern Ireland and Republic of Ireland must ensure those products comply with EU relevant regulations, this makes for some complexity in the supply chain for businesses selling through UK and Ireland.

The EU Switzerland mutual recognition agreement recognises the equivalency of legislation across the EU and Switzerland. This helps market access for Swiss businesses to the EU and vice versa. Such a model in the UK would provide certainty to UK business' and promote better cooperation between the UK and EU.

Q41. What is the best designed regulation you face, and why?

The UKCR is the main regulation for cosmetics but also the best designed. It ensures product safety while allowing companies to maintain growth and innovation. The cosmetics industry maintains that the UKCR combines comprehensive risk-management with a deep understanding of the particularities of the products that fall under the legal definition of a cosmetic product.

The UKCR is a framework that allows for innovation, enabling businesses to grow and invest. Examples of this innovation can be seen in personalised cosmetic products or packaging design, which allow consumers to benefit not just from an improved experience but also factor in inclusive and accessible practices; developments in sustainable packaging options to promote the UK's climate objectives; and the scientific development of validated *in vitro* and *in silico* testing methodologies for safety and efficacy outcomes.

The UKCR includes risk-management tools to effectively ensure that cosmetic ingredients and cosmetic products are safe for consumers. This allows companies to examine the safety of cosmetic products in their correct context (use of ingredients within a formulation, exposure, target consumers, method of use, etc.), and to ensure that a safety decision is made based on robust exposure-led approaches, taking all these factors into account. This is exemplary in how legislation should reflect real consumer risk and establish the requirements and mechanisms to ensure safety based on those risks identified.

The UKCR requires all products to be safe and establishes clear roles and responsibilities within the regulation to ensure this outcome is met. The RP is the figure ultimately accountable for product safety and legal compliance. This burden lies clearly with industry, but the UKCR also establishes the minimum requirements for all RPs to meet and is able to place regulatory measures to intervene on matters such as ingredients. The UKCR ensures a systematic and continuous updating scheme on effectively regulating ingredients.

The UKCR continues to support businesses to create and market innovative products on the GB market. Furthermore, it facilitates trade in an increasing global market as it aligns or integrates with the cosmetic regulatory framework in many other countries.