

The Extended List of Allergens:

Explanation of 'Placing on the Market' and 'Making Available'

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The definitions included in the EU and UK Cosmetics Regulation are as follows:

- 'Placing on the market' means the first making available of a cosmetic product on the internal market.
- 'Making available on the market' means any supply of a cosmetic product for distribution, consumption or use in the internal market in the course of a commercial activity, whether in return for payment or free of charge.

Placing on the Market

The concept of 'placing on the market' applies to each individual product unit, and not to a type of product or product line. Therefore, even if the brand or product type has been supplied or has been in circulation before the new placing on the market deadline, individual units of this product type which are placed on the market after the deadline must comply with the new requirements.

Manufacturers or importers are the only economic operators able to place products on the market. Any subsequent operations such as distribution are defined as 'making available'.

When Exactly is a Product Placed on the Market?

The [EU Blue Guide](#) states that it "requires an offer or an agreement between two or more legal or natural persons for the transfer of ownership, possession or any other property right concerning the product in question after the stage of manufacture has taken place. This transfer could be for payment or free of charge. It does not require the physical handover of the product". However, this is subject of several interpretations depending on the country in which this would take place.

In most EU Member States, placing on the market occurs from the date in which a transfer of ownership or transaction takes place, with a transfer being monetary or physical, between the Responsible Person (manufacturer or importer) to the next operator within the supply chain (distributor, retailer, etc.). This interpretation is similar to the concept of 'making available on the market' (see below). However, in other countries including the UK, transferring products into stock would qualify as placing on the market, as it is at that point in which they are being made available for supply, regardless of whether there is an existing agreement or transaction for further distribution.

Making Available on the Market

This is the date by which all products in the market must comply with the given requirements. After this date, products can no longer be supplied to the consumer if they do not comply, and any non-compliant products on the market must be withdrawn.

Making available on the market also applies to individual product units, and there does not need to be a physical exchange of product, and it can be for payment or free of charge. The definition has the same interpretation in the UK and all EU Member States.

Imported Goods

The interpretation of 'placing on the market' for imported products is generally recognised as the time at which a product has cleared customs and is introduced into free circulation. However, it is possible for customs clearance and placing on the market to be separate processes too, such as when ownership has passed to the importing entity and where the goods are already available for distribution, consumption or use in the import market. In such cases, placing on the market occurs from the date of transfer of ownership or transaction, where there is a physical or monetary 'transfer'. Therefore, placing on the market would occur prior to the product being imported.

Online Sales

Products offered for sale by online operators based in the EU or UK are considered to have been placed on the EU or UK market respectively, regardless of who placed them on the market (online operator, importer, etc.) Products offered for sale online by sellers based outside of the EU or UK are placed on the EU or UK market respectively if sales are targeted at EU or UK consumers.

Where products offered by online operators are stored in fulfilment houses, products in these fulfilment houses are considered to have been supplied for distribution, consumption or use and are therefore placed on the market.

Further Information

These concepts are further explored in the [EU Blue Guide](#), a document from the EU Commission intended to contribute to a coherent application of EU product rules across different sectors and throughout the single market. In the UK, references to 'placing on the market' and 'making available on the market' are explored in related documents such as the [UKCA Implementation Guidance](#) published by the Office for Product Safety and Standards (November 2021). While not directly related to cosmetics, the information contained regarding these topics is still relevant.