

FROM THE ED'S DESK

Dear CTFA Members

The first quarter of 2018 has been a hive of activity. The activity has revolved around the redraft of the regulations, waste management, chemical management, the animal testing ban and the advertising environment amongst others.

The main focus in this issue of CTFA News is the Department of Health's redraft of the Regulations relating to labelling, advertising and composition of cosmetics. CTFA and a dedicated group of member companies, tirelessly worked on the comments based on the redraft published in December 2017, with a deadline of March 2018 for the submission of comments. We now wait for the Department of Health to go through the comments submitted, confirm the date for the upcoming public workshop and eventual promulgation.

Waste management registration took place in February 2018, waste management plans are being put together for the September deadline.

The topic of animal testing has considerable emotive and social impact, the push from animal rights activists, consumers and ethical organisations is gaining momentum, CTFA will be part of this regulatory debate on your behalf.

You will notice that this newsletter's title has been changed to CTFA News, which we believe better reflects the quarterly content, keeping members abreast of what is happening in the regulatory landscape. This does not take away from the ongoing 'updates', 'notifications' and adhoc information sent to you during the year. Thank you to all members for your ongoing support.

Kind regards.



Adelia Pimentel

IN THIS ISSUE:

1. **Executive Directors Note** - Page 1
2. **Cosmetic Regulations** - Page 1
3. **CTFA AGM** - Page 2
4. **Waste Management Plans** - Page 3
5. **Animal Testing** - Page 3
6. **Ad Valorem Increase** - Page 4
7. **INCI Listing** - Page 5
8. **CTFA Debriefing Sessions** - Page 5
9. **New CTFA Website** - Page 5
10. **LGFB – Social Responsibility** - Page 6

REGULATIONS RELATING TO LABELLING, ADVERTISING AND COMPOSITION OF COSMETICS

In December 2017, the Department of Health (DoH) published the redraft of the Regulations relating to labelling, advertising and composition of cosmetics. The CTFA and its membership welcomed the proposal of these regulations as a positive step towards international compatibility of the local regulatory system for cosmetics, as well as a proponent for elevated considerations for consumer safety. The CTFA has continuously reiterated to the regulator that the industry is committed to the continued development of safe, innovative and efficacious products as it has been for the past twenty years within a self-regulated environment.

The CTFA is pleased with the proposals that have been adopted in the redraft, which were partly as a result of our continuous robust engagement with the DoH. The Cosmetic Regulations Review Work Group (CRR) re-convened as a result of the redraft being published. This was necessary as a further response was required and comments and proposals were collated and submitted to the regulator on 20 March 2018.

Below is a summary of the comments submitted to the DoH, highlighting areas that require alignment with international and local best practice, as well as practical challenges and impacts that the industry will experience with the current proposed regulations.

GENERAL COMMENTS:

The specified commencement procedures provided in the proposed regulation are not realistic as a compliance period is not included. It is important for the cosmetic industry to understand the timelines it will be afforded to comply with the regulation. We requested that various compliance periods be considered in-line with the various levels of intricacy that will be introduced by some of the requirements in the regulation.

We proposed that the Industry be given a transitional period for compliance as was the case in Europe when the EU moved from the Cosmetic Directive to the new cosmetic regulation that came into effect in July 2013. We proposed to the regulator to allow an implementation period of at least 2-3 years in order to ensure business continuity, especially for small and medium sized companies. We anticipate that the timelines envisioned by the regulator in line with the legislative process, will include a process where the cosmetic industry will be afforded an audience to explain and workshop with the regulator on these submitted comments through stakeholder consultation meetings. At these meetings, we anticipate that comments will be reviewed by the regulator together with

cosmetic industry stakeholders. It is further envisioned by the cosmetic industry that a key part of this process will include a socio-economic impact assessment.

Whilst it is accepted and acknowledged that the articles included in the proposed regulation are necessary, such regulations should be ever evolving and kept up to date. We urged the Department to include a provision in the draft regulation to provide that the regulation in its entirety be annually reviewed in consultation with a trade association(s), which has proved to the satisfaction of the Authority that it is representative of cosmetic companies in South Africa and that collectively possesses the necessary cosmetic expertise. Given that there is legal precedent for relying on trade associations in the Electronic Communications Act, 2005, it is submitted that the inclusion of the aforementioned provision would not only ensure fast-tracking of the review process of the regulations so that the regulation remains up to date and current, but would also afford the Department the opportunity to benefit from the collective expertise on matters specific to the South African cosmetic industry, as well as effective resource management. These can be provided by the cosmetic industry through the CTFA as its representative trade association.

Safety

There is a requirement on the regulator's part to be reasonable in the enforcement of these provisions and the granting of a transition period for compliance, for the cosmetic industry to adapt to the regulatory shift from self-regulation to formal regulation on this matter. A further request was made of the regulator on this topic, i.e. that it be made clear in the regulation that safety assessments conducted internationally and the safety assessors that conduct them will be acceptable to it. In addition, the requirement for, "an appropriately trained person" to conduct safety assessments must be better explained, through a guideline issued by the regulator.

Good manufacturing Practice (GMP)

We welcomed GMP compliance as proposed in the re-draft of the regulations and in accordance with SANS/ISO, however since we are an essential part of the global trade village and products manufactured in other countries are imported into the local market, it is essential that the other internationally accredited GMP standards, also be recognised by the regulator.

Product Information File (PIF)

We welcomed the definition and responsibility of the 'responsible person' with regards to the PIF. We believe that it is prudent to mention in article (6) the period within which the file must be presented to the regulator upon request, we thus proposed specifying a period within which the Product Information File must be submitted following a request from an inspector.

Product Composition

We welcomed the provision of the existence of trace substances in the redraft of the regulation. However, we are deeply concerned about the misalignment of the Annex numbering in the current redraft of the Regulations. In the self-regulated environment, the CTFA provides the Cosmetic Compendium as a guideline for Industry. This document was aligned with the Regulation EC 1223/2009 with regards to the Annexes. This enabled the ease of the regular review, reference and update of the information in the Annexes.

Labelling

Some of the provisions in this section of the proposed draft regulation have previously not been part of the self-regulatory system and thus current cosmetic industry practice. These are in respect to the information appearing on secondary & primary packaging, multiple address, ingredient listing, date of minimum durability, application of the PAO symbol and harmonized aerosol labelling practices. The cosmetic industry is not opposed to these provisions, as a result we had proposed workable solutions to them in our submission. It is imperative that a transition period for compliance is considered to afford member companies enough time to change and adapt to the new regulatory requirements when the proposed draft regulation comes into force. The proposals are included in the detailed comments of the submission.

Product Claims

The requirement for scientific substantiation has been mandatory for claims made irrespective of the type of claim made. This ensures responsible marketing and compliance to specific scientific methods to ensure consumer safety. It is therefore a concern that the redraft proposes the necessity for scientific substantiation only for a specific group of claims. This may lead to confusion and result in divergence from current best practice, with possible misinformation to the consumer.

Post-marketing surveillance

We welcomed the article in the proposed regulations, however, in order to ensure that the record keeping and investigation processes are optimized for the purpose of trending and subsequent actioning, it is imperative to distinguish between the type of information that is required, depending on the type of the adverse event.

Annexes

The Annexes in the redraft of the regulation as proposed have some editorial omissions and require update in some cases. The detailed part of this submission includes the corrections and updates based on the most recent information available in the Regulations EC 1223/2009 and recent EU Directive, with specific consideration of some unique nuances specific to the South African Cosmetic Industry. The annexes are driven by consumer safety and available safety data, it is therefore important to ensure that they are current to ensure that the cosmetic industry acts responsibly to continue to provide safe cosmetic products to consumers.

TOPICS PROPOSED FOR INCLUSION INTO THE PROPOSED DRAFT REGULATION

It is the cosmetic industry in South Africa's belief that not all of the proposals made in our previous submission have been adopted, as the regulator foresees a graded approach to these requirements. We believe that this will form the premise for future ongoing updates that will address these areas. These areas include but are not restricted to, In-market control organization, Obligations of the responsible person, and associated definitions.

In conclusion the CTFA extended gratitude to the regulator for affording the cosmetic industry of South Africa the opportunity to comment on the proposed redraft of the regulation. We highlighted that our submission is representative of the cosmetic industry concerns and are accompanied by objective proposals that are likely to cause the least amount of disruption in this transition. These proposals are based on our experience as an industry that has self-regulated for the past twenty years as well as expert opinion on local and international cosmetic industry best practice. The CTFA believes that our comments will receive due consideration in the finalisation of the regulation that will be enacted.

Post the commentary period the CTFA will continue engaging with the regulator, as was the case post the first round of commentary. The CTFA will use this opportunity to present the concerns and challenges highlighted in the submission. The regulator will hold a public consultation opportunity prior to promulgation. The CTFA will keep members updated on the developments.

CTFA ANNUAL GENERAL MEETING (AGM)

The CTFA Annual General Meeting was held at The Saxon Hotel in Sandhurst, on the 12 April 2018 at 09h00 followed by the CTFA Executive Council meeting, the Look Good Feel Better AGM and lastly the LGFB Executive Council meeting.

The CTFA would like to thank each and everyone who attended the AGM meeting as it is important for us to include our Members at this brief annual event.

Each attendee received a copy of our printed annual 2017, featuring the CTFA Financials as audited by Watermans, the CTFA Auditors. The annual report also features general and technical

work done by the CTFA for and on behalf of the Cosmetic Business Sector.

If you would like to receive a printed copy of the Annual Report kindly let us know and we will send you one for your records.

The digital copy can be found on the CTFA website www.ctfa.co.za.



INDUSTRY WASTE MANAGEMENT

Industry Waste Management (IWM) continues to be a hotly debated topic by the Department of Environmental Affairs (DEA), the packaging industry and associations on behalf of various industries. Paper and packaging have been declared a priority waste by government.

2017 saw the DEA publish and then retract notices, thereafter consulting with industry prior to finally publishing Notice 1353 calling on the Paper and Packaging Industry, Electrical and electronic industry and Lighting Industry to prepare and submit Industry Waste Management Plans to the Minister for approval and for the registration of "Producers" as defined by the notice. The definition of a producer (under definitions in gazette) includes brand-owners who are engaged in the commercial manufacture, conversion, refurbishment or import of products. It is important to note that "Producers" is inclusive of Brand owners, Importers, Retailers and Material Suppliers using industrial bulk containers (IBCs) or Users of IBC's below the stipulated 1000 litre threshold as defined in the notice.

Each packaging waste stream will have to submit an Industry Waste Management Plan (IWMP) to the Minister for approval within nine months from the date of publication of the Notice (September 2018). Companies can either submit their own plan or subscribe to one of the Producer Responsibility Organisations (PRO's) that are currently co-ordinating Industry Waste Management Plans to submit to government by the stated deadline. There are seven main PROs;

1. PET Recycling Company (Pty) Ltd (PETCO)
2. Polyolefin Recycling Company (POLYCO)
3. Polystyrene Packaging Council (PSPC)
4. Southern African Vinyls Association (SAVA)
5. The Paper Recycling Association of South Africa (PAMSA)
6. The Glass Recycling Company (Pty) Ltd (TGRC)
7. METPAC-SA

The Minister will approve IWMPs, following which "Producers" are required to subscribe to at least one IWMP within their majority waste stream sector.

Thus far DEA have not provided further details on the Waste Tax strategy and implications thereof, which would additionally impact industry players.

There was also a call for registration with the Minister of producers operating on the date of publication of the above Notice within two months after the Notice publication (6 February 2018). A producer commencing business after the date of publication of this Notice must register within 30 days of commencing business. The

Minister will thereafter issue the producer with a registration number within sixty days after receipt of the registration.

Further points to keep in mind:

- No registration fees apply,
- Penalties and offences have been removed from the Notice,
- Failure to register or late registration could result in heavier taxation further down the line,
- When completing the registration form the major sector or subsector should be applicable eg. a) paper and packaging material,
- Should an individual company want to submit an IWMP then the same process would apply as covered in the Notice and applicable to PRO's,

The impact on member companies will have far-reaching effects. The CTFA will be seeking further clarity from the DEA as this process unfolds and will be supporting the industry through it.

**Notice 1353 is available on the CTFA website under the member login.*

POSSIBLE ANIMAL TEST BAN:

The topic of animal testing has considerable emotive and social impact. Cosmetic animal testing is banned in the European Union, India, Israel, and Norway. In South Africa it is currently not banned, however, it is important to note that there are no animal testing facilities for cosmetics in South Africa.

Notwithstanding, the push from animal rights activists, consumers and ethical organisations is gaining momentum and on the 30th of November 2017 a bill was gazetted relating to the Animal protection Bill and the memorandum on the objects of the bill, in Government Notice 942, by the Department of Agriculture, Forestry and Fisheries (DAFF). The intentions of the Bill are threefold; to prohibit the sale and manufacture of cosmetics (final product and ingredients) which were tested on animals in South Africa; to criminalise the testing of cosmetics on animals and to criminalise the failure to provide animals with an appropriate environment.

The CTFA developed and submitted collated comments on behalf of the industry which highlighted considerations prior to the bill being accepted by the parliamentary committee. The CTFA made the regulator aware that existing and impending regulations require consideration prior to finalising any amendments to the bill. We also made the regulator aware that consultation is necessary with the Cosmetic Industry and Department of Health, the regulator of Cosmetics

in South Africa during this process. Our comments included a request for clarity on the process as well as timelines that will follow the submission of comments and future opportunities to comment on the amendment bill

We sought clarity on whether the proposal is for banning animal testing in the Republic of South Africa or whether this will encompass prohibition of sale of cosmetics that have been tested on animals outside of the borders of the Republic. In addition, the impact of this possible requirement on local cosmetic industry has to be considered so as to sustain and encourage the development of this industry, we thus requested due consideration prior to the acceptance of the amendments. We further posited that the industry anticipates that the legislative process will include a public consultation process where the cosmetic industry will be afforded an audience to explain and workshop with the regulator on these submitted comments. We also encouraged the regulator to include as a key part of this process, a socio-economic impact assessment.

In March 2018, the memorandum was introduced to the National Assembly and is currently under consideration by the National Assembly. Due to the overwhelming response to the gazetting of this bill, all submissions, including that of the CTFA was forwarded to the Portfolio Committee on Agriculture. The bill is currently awaiting to be placed on the programme for presentation to the committee. Here the speaker will draw the committee's attention to the public participation aspect and submissions.

If the committee decides that the bill is desirable, it will proceed with its own public participation process which will include advertising, calling for submissions and public hearings, before deliberating and discussing possible amendments.

CTFA will at this stage resubmit the Industry's concerns and commentary. The CTFA is tracking the process and will keep members informed of the developments.

AD VALOREM INCREASE

One of the salient features for the Cosmetic Industry of the National Budget, 21 February 2018, was higher Ad Valorem excise duties for luxury goods. This affects Importers and local Manufacturers of specific products in terms of Schedule No.1 Part 2 B.

All cosmetic products that attract Ad Valorem were increased as follows:

7% increased to 9%

Tariff item 118.15 Tariff Heading 33.03 Tariff Sub-Heading 3303.00

Perfumes and toilet waters (excluding pastes and immediate products not put for sale by retail) and

5% increased to 7%

Tariff item 118.20 Tariff Heading 33.04 Beauty and make-up preparations and preparations for the care of the skin (excluding medicaments), including sunscreen or sun tan preparations; manicure or pedicure preparations.

The increase was effective from 1 April 2018 in line with the Ad Valorem account quarter.

No.	Tariff Item	Tariff Heading	Tariff Sub Heading	Description	Rate of Ad Valorem Excise Duty
1.	118.15	33.03	3303.00	Perfumes and toilet waters (excluding pastes and immediate products not put for sale by retail)	9%
2.	118.20	33.04		Beauty and make-up preparations and preparations for the care of the skin (excluding medicaments), including sunscreen or sun tan preparations; manicure or pedicure preparations.	
			3304.10	Lip make-up preparations (excluding pastes and other intermediate products not put up for sale by retail and any preparations having a Sun Protection Factor (SPF) of 15 or more)	7%
			3304.20	Eye make-up preparations (excluding pastes and other intermediate products not put up for sale by retail)	7%
			3304.30	Manicure or pedicure preparations (excluding pastes and other intermediate products not put up for sale by retail)	7%
			3304.91	Powders, whether or not compressed (excluding pastes and other intermediate products not put for sale by retail and baby powders and any preparations having a Sun Protection factor (SPF) of 15 or less)	7%
			3304.99	Other (excluding pastes and other intermediate products not put for sale by retail and barrier cream in packings of 5kg or more and preparations having a Sun Protection Factor (SPF) of 15 or less)	7%



LOCAL MANUFACTURERS

In terms of Section 69 (1) (a) of the Customs and Excise Act 91 of 1964, the value shall be taken to be the full and final market price at which similar goods are being sold for consumption in South Africa. Further conditions are contained in this section of the Act and the Rule thereto. Ad Valorem Excise duty is industry specific. For example, with regards to cosmetics, typically 55% may be deducted from the final selling price as indicated below. No other discounts are allowed either on or off invoice as per Rule 69.01, (a) through (c).

Calculation:

100-55% x 7%

100+ ((100-55%) x 7%)

IMPORTERS

In terms of Section 65 through 67 of the Customs and Excise Act 91 of 1964, the value shall be taken to be the "transaction price" for sale into South Africa. Typically the value would be the FOB+15% uplift + Schedule 1 Part 1 customs duty multiplied by the applicable rate in Schedule 1 Part 2 B (7% in the example).

Ad valorem was primarily established back in the year 1960's as a duty tax/ section 1 part 2B. Over the years SARS enforced the payment of tax. With not much clarity in handling the adherence of tax, the industry (CTFA) held numerous meetings

between SARS and Treasury to assist the industry and government in drafting policies that can be mutually benefiting to all parties involved. The percentage was dramatically reduce, however, currently the industry still has challenges with the way in which SARS interprets the policies which have been put into place by Treasury.

CTFA continues to liaise with SARS and Treasury on the Ad Valorem issue to address the current challenges.



INCI LISTING – BRAZIL

Early in 2018 the CTFA learnt that the Brazilian Chamber of Deputies are considering disallowing the use of international nomenclature for cosmetic ingredients. The CTFA raised its concerns about this possibility and we submitted a letter of support of the Brazilian trade association ABIHPEC's efforts to maintain the INCI system for products in the Brazilian market. Below is a summary of the concerns raised:

The INCI labelling system is one that has been in use for over 3 decades and is recognised by regulators and the cosmetic industry globally, including Brazil's trade partners. This scientifically-based nomenclature system allows consumers, public health officials, scientists and regulators to interpret and compare ingredients in cosmetics and personal care products that are marketed globally.

Furthermore, for the global consumer, the INCI system provides transparency as ingredients can be identified by a single labelling name regardless

of the country of origin of the product. In addition, medical professionals are ensured a consistent scientific identification system that allows expedient information on potential allergens and adverse reactions.

The CTFA also raised concerns from a trade barrier perspective as this ingredient-labelling format promotes free movement of products globally, and to disallow INCI nomenclature, would compromise the Brazilian market and its consumers and would be viewed as a step towards encouraging trade barriers.

The local Brazilian market wishing to export products will face the additional burden of re-labelling products. These products would certainly not meet the South African labelling regulations.

The CTFA learnt that the Mozambique Authorities are looking to take a similar direction with INCI listing. The CTFA is currently liaising with the regulator, industry and export officials in Mozambique to define clarity on this matter. We endeavour to keep our members updated on developments.

CTFA DEBRIEFING SESSIONS

The CTFA regulatory department held a successful roadshow in March 2018. The CTFA's Regulatory Affairs Manager, Dershana Valla, presented the details of the impending Department of health regulations relating to the labelling, advertising and composition of cosmetics.

The main regions covered were Johannesburg, Durban and Cape Town. This was a free intervention where members and non-members were invited to gain insight into the contents of the impending regulations. The roadshow proved to be a resounding success as all three venues were booked to capacity. The comprehensive presentation also provided industry with first-hand information on the details surrounding the requirements that are soon to become law. This also presented the opportunity to hold one-on-one discussions on areas of concern for some members, but the overall message conveyed was one that iterated the CTFA membership benefit is more important now than ever before as the

industry journeys to a more regulated environment.

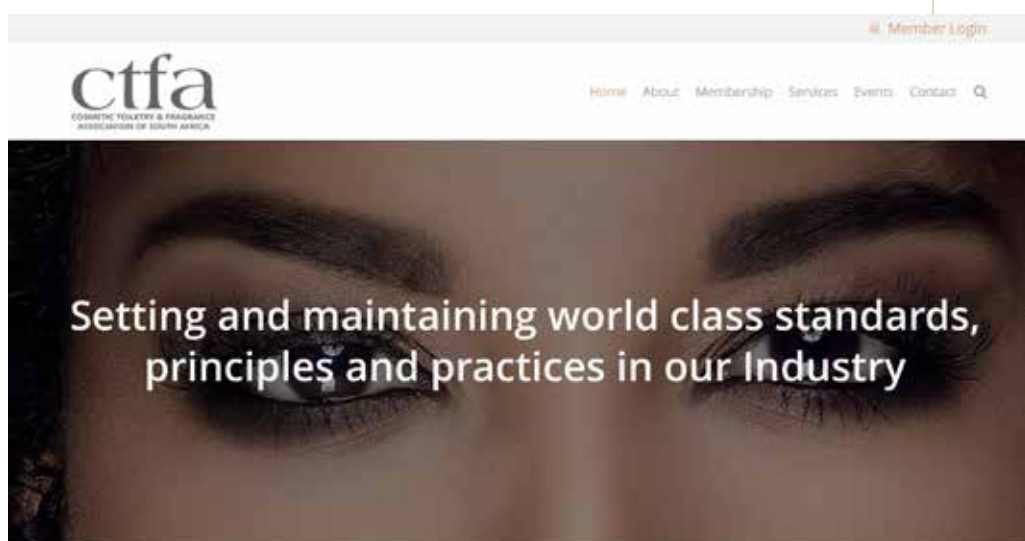
The feedback received from the attendees made it clear that there is a need for a better understanding of the regulator's intention and that the industry looks to the CTFA for continued lobbying with the regulator on regulatory requirements that may negatively impact on the industry.

Since the CTFA has unfortunately had to decline member attendance due to venue capacity reasons, further such targeted presentations are planned in the foreseeable future.



WHEN LAST DID YOU VISIT THE CTFA WEBSITE?

Username & Password



The new site has been up since the start of 2018; with effective interactive pages for both members and non-members.

Our goal with this new website is to provide our visitors and members with an easier way to navigate, to learn about our services and to allow the visitor to browse relevant information. The new website is designed to be interactive and gives better access to links on Membership, Service Offerings, Emerging News and Events amongst others.

Amongst the new features, the site contains integrated media buttons for Facebook to foster improved communication with members and non-members respectively.

We hope you will find the new website with a fresh look, easy to access information and helpful to navigate.

We are pleased to announce that our brand-new website is live!

With technology evolving daily; we have made it our primary focus to make use of the latest trends. Our newly designed website is built to be compatible with today's browsers and mobile devices. We endeavour to provide an easy access, user-friendly, functionality and faster navigation experience.

LGFB – SOCIAL RESPONSIBILITY

Look Good Feel Better has moved premises

The Look Good Feel Better (LGFB) programme was started in the USA in 1989 and promoted in 26 countries, including South Africa. The programme was introduced to South Africa in 2004 by the Cosmetic Toiletry and Fragrance Association of South and is now a recognised support programme offering workshops to patients in public and private hospital in cities across South Africa. The two-hour skincare and make-up workshop, which is offered to groups of patients, is specifically designed to assist both women and men in active cancer treatment to address the appearance related side effects of their treatment. This helps them to gain the self-confidence they need to face the world and fight the disease.

Since inception of LGFB in South Africa nearly 40 000 patients have been assisted during a record number of 3 549 workshops, and counting. With Programme Director, Christie Fraser and National Co-Ordinator, Glenda Hutchins overseeing the programme, it is making a difference in people's lives. The Programme is run with the help of truly amazing volunteers who give up their time for those less fortunate on a regular basis for no monetary reward.



look good
feel better

LGFB moved premises in March this year and their new address is:

**Coram Park, No. 7
Ferero Avenue (off John Vorster Road)
Randpark Ridge**

**Land line Phone: 011 795 3927
Christie Fraser: 079 498 2082**

A sincere thank you to all CTFA members who support this worthy cause.

ctfa
COSMETIC TOILETRY & FRAGRANCE
ASSOCIATION OF SOUTH AFRICA

POSTAL ADDRESS

P.O. Box 721, Randpark Ridge, 2056

T: +27 11 795 4272

F: +27 11 794 3039

E: info@ctfa.co.za

www.ctfa.co.za

PHYSICAL ADDRESS

86 John Vorster Ave, Baobab Business Park,
Randpark Ridge, 2156, Johannesburg, South Africa