

25 March 2020

To:

Dr Jacqueline Awuor
Ministry of Health
Pharmacy and Poisons board
P. O. Box 27663 – 00506, Nairobi
Lenana Road Opp. DOD

Via email: jawuor@pharmacyboardkenya.org
cc: pmbwiiri@pharmacyboardkenya.org

To Whom it May Concern

Re: Commentary on Proposed Kenya's Draft Guidelines for Regulations of Cosmetic Products

The Cosmetic, Toiletry and Fragrance Association (CTFA) is a national trade association representing over 80% of cosmetic companies in South Africa. These range from major multi-national cosmetic manufacturers and brands to medium and small companies. Industry members include companies who import and export products internationally, including Kenya.

As the industry association in South Africa, CTFA has overseen the self-regulatory system for cosmetics for 25 years. Our industry members are committed to the continued development of safe, innovative and efficacious products both for the local market as well as for products destined for export. South Africa is in the process of regulatory reform since 2016, when we saw the first draft of the Regulations Relating to Advertising, Labelling and Composition of Cosmetics, published by the Department of Health, on the 19th of August 2016 in Government Notice R 921. Through the efforts of the CTFA and engagement with the regulator on what as an industry we deem as best practice and key regulatory parameters required in an effort to enhance an industry that has thrived under self-regulation, the Department of Health published a second draft on 22 December 2017 in Government Notice R 1469.

As South Africa is part of a global community, we are in support of the Kenyan Ministry of Health's proposal to move towards reforming the regulatory environment for cosmetics. This will facilitate the promotion of safe products for consumers, both locally and internationally. We are supportive of the requirement to have a Responsible Person who is responsible for product safety and efficacy prior to placing the product on the market. We are also supportive of the regulator's intent to perform in-market control. These principles are based on international regulatory best practice and South Africa has based its draft regulations on similar international regulatory influences.

However, with the current regulatory system in place in Kenya through the Kenyan Bureau of Standards, our concern is on how the MOH envisions the draft guidelines to co-exist in the same environment. Though the current system of evaluating products using standards and the requirement of a third party testing and issuing a certificate of conformity, is not ideal and does not align to global practice, the proposed draft Guidelines will also not present a solution to the current problem of consumer safety. We are of the opinion that the draft guidelines will introduce

complexity to the system which could prove to be detrimental to industry growth and increase trade barriers.

Superimposing the draft Guidelines on the current system will present local SMME's and other companies with the burden of extra administrative costs. This additional cost to company will be passed onto the retail price of products which could make products inaccessible from a price perspective for the local consumer. The proposed requirement for the registration of products will require that the Authority invest in additional time and resources to manage the large volume of registration applications. Furthermore, the requirement for product registration will result in a delay in placing product on the market ultimately affecting the local consumer. Such complexities may lead to noncompliant operators which may increase the presence of unsafe products in the market.

We propose that the content of the draft Guidelines be relooked considering the above concerns raised. As a country on the African continent and one that is currently in the process of reforming, we understand first-hand the challenges faced by our markets. We believe we are well positioned to offer proposals on introducing a regulation that would allow the Kenyan market to thrive as well as facilitate trade with international countries and simultaneously function to ensure safe and efficacious products for the local consumer. We would like to suggest that the South African draft Regulations relating to Labelling, Advertising and Composition of Cosmetics, R 1469, 22 December 2017, be considered as a template in an effort to subscribe to an incremental approach that will ensure local compliance through compliance and transition periods that will consider Kenya's specific local requirements.

The South African cosmetic industry members have submitted commentary on the Kenya Draft Guidelines for Regulations of Cosmetic Products to the Kenyan Association of Manufacturers (KAM) for collation with local commentary. The South African Department of Trade and Industry (the Dti) supports CTFA and the local industry's position and comments. We extend our gratitude to the Ministry of Health in Kenya for affording the South African industry association the opportunity to comment on the proposed draft Guidelines. CTFA remain available to provide further detailed information in this regard.

Yours sincerely

Dershana Valla
Head: Regulatory & Policy Affairs
CTFA

Adelia Pimentel
Executive Director
CTFA