

UEAPME¹ draft position paper on the guidelines to Commission regulation (EU) No 655/2013 laying down common criteria for the justification of claims used in relation to cosmetic products

Brussels, 14 January 2015

UEAPME appreciates the effort of the European Commission in considering all the stakeholders' points of view and thanks the Commission for taking into consideration the following comments regarding annex III *Free from claims* and annex IV *Hypoallergenic claim*. UEAPME remains open for any clarification.

Regarding ANNEX III - Free from claims

General consideration

UEAPME is in favor of the way proposed by the Commission to address the “legal compliance”, the “truthfulness” and the “evidential support” criteria regarding free from claims. However, UEAPME has comments regarding the remaining criteria.

Fairness:

We are not in line with the new proposal knowing that it is difficult to analyse and define the negative perception of the end user, especially when it is question of different countries, different expectations, cultures etc....

The UEAPME position is hence to take off the following sentence from the criterion “fairness”:

“notably when they are mainly based on a presumed negative perception on the safety of the ingredient (or group of ingredients)”.

More specifically, regarding the example considered for this criterion, to our consideration “the paraben free” is neither unfair nor denigrating for the following two reasons:

1-Directive 2005/29/EC defines an unfair claim as:

*“(a) it is contrary to the requirements of professional diligence,
and*

(b) it materially distorts or is likely to materially distort the economic behaviour with regard to the product of the average consumer whom it reaches or to whom it is addressed, or of the average member of the group when a commercial practice is directed to a particular group of consumers.”

For UEAPME, the paraben free, or other free from ingredient claim, is mainly “to inform end users about the characteristics and qualities of the products. Those claims are essential ways of differentiating between products. They

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](https://ec.europa.eu/transparency/regexp1/index.cfm?do=grouping.grouping&id=55820581197-35).

also contribute to stimulating innovation and fostering competition” (Recital 2 of Commission Regulation (EU) No 655/2013).

2- Regulation 655/2013 for claims in cosmetic products specifies the following in the fairness criterion:

“Claims for cosmetic products shall be objective and shall not denigrate the competitors, nor shall they denigrate ingredients legally used.”

Finally, “paraben free” or any other “free from ingredient claim” does not contain any message denigrating competitors neither ingredients, if a document in the product information file (PIF) proves that the consumer can make a better informed decision of the claimed fact.

Informed decision-making:

In line with our assessment above and with this criterion interpretation, we would like to propose another example to add:

“Free from paraben” should not be allowed if it is the main message. It should be allowed when it gives an informed choice without confusing the end user with regard to the main function and benefits of the product, for example, when it is presented next to the INCI list in the same font and size.

ANNEX IV - Hypoallergenic claim

- 1- UEAPME considers that the criterion “Generally recognized as sensitizer in scientific literature” is not convenient and feasible because it may include any article without recognized scientific value. CLP and official scientific committees are already taken into account. We suggest however if necessary to take into consideration the CORAP sensitive ingredients’ list.
- 2- UEAPME would like to suggest re-writing the following sentence “Further information or clarification regarding the meaning should be made available, by “Further information or clarification regarding meaning could be necessary”. This decision is a case by case situation taking into account the country, the target consumer, the culture, the habits etc...
- 3- UEAPME would like to suggest removing the phrase “Consumers who know they are allergic to a specific ingredient should always check the lack of the ingredient from the ingredients list.” This general requirement is essential for every product and not only in the scope of such a claim. We are totally in line with this important message but to our opinion, this guideline destined to industry is not the good frame to educate the consumer. On the contrary, we are afraid that this might turn away the allergic consumer from checking automatically this information on every product

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