

The EU classification maze

Continuing our series on the challenges of entering the EU market, this time **Tadej Feregotto** looks at which products are classified as cosmetics in the EU.

The term 'cosmetic products' covers a wide range of products, but not every product that we may consider to be a cosmetic in everyday life would actually be classified as a cosmetic product in the EU.

So, would your product be classified as a cosmetic product in the EU? In order to provide a positive answer to this question, your product has to fulfil certain criteria. According to the current cosmetics legislation in the EU (regulation 1223/2009), the product has to be a substance or a mixture intended to be placed in contact with the external parts of the human body (epidermis, hair system, nails, lips and external genital organs) or with the teeth and the mucous membranes of the oral cavity with a view exclusively or mainly to clean them, perfume them, change their appearance, protect them, keep them in good condition or correct body odours.

Therefore, products that may seem to be cosmetics, like nail wraps, are not cosmetics even though they are placed in contact with the external parts of the human body and their primary function is to change the appearance of nails, but they wouldn't be considered a substance or a mixture. Similarly, for

example, a comb or a tooth brush are not cosmetics.

Since products have to be placed in contact with the external parts of the human body or with the teeth and the mucous membranes of the oral cavity, a product intended to be ingested, inhaled, injected or implanted into the human body would also not be considered a cosmetic product in the EU. Breast implants, therefore, are not cosmetics, even though their primary function is also to change appearance.

Claims

Classification of the product often depends on the claims which the manufacturer makes for that product. This is especially the case with the so-called borderline products, where products have characteristics of more than one product category, and it is therefore difficult to classify them. Cosmetic products can be borderline with medical devices, pharmaceuticals, biocides, toys etc.

As explained above, cosmetic products should have the function of exclusively or mainly cleaning, perfuming, changing appearance,

protecting, keeping in good condition or correcting body odours. The intended function does, among other things, not include products presented as having properties for treating or preventing disease in human beings. Therefore mentioning, or visually presenting, any diseases on cosmetic product labels is not allowed. Neither is using words or phrases which present a medicinal intent, such as: cures, heals, treats, restores, prevents, clears, protects against disease, helps control the symptoms of, traditionally used for treatment of, strengthens the immune system etc. **PB**

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