

**Full title:**

Code of Advertising and Marketing Communications for Cosmetic Products – May 2020 (Code de la publicité et de la communication commerciale pour les produits cosmétiques / Code inzake reclame en marketingcommunicatie voor cosmetische producten)

Produced by DETIC, the Belgian-Luxembourg Association of producers and distributors of soaps, cosmetics, detergents, cleaning products, hygiene and toiletries, adhesives and related materials.

Administered and applied by: JEP (Le Jury d’Ethique Publicitaire / De Jury voor Ethische Praktijken inzake Reclame), the Belgian Self-Regulatory Organisation.

Changes from the 2015 edition are shown in yellow highlights

SECTION 1.**INTRODUCTION**

This new version of the code of advertising and marketing communications for cosmetic products is the result of an update taking into account the latest regulations. It integrates the self-regulatory provisions of the European cosmetics industry (Guiding Principles on Responsible Advertising and Marketing Communication in sections 2.2 – Definitions and 3 – General Provisions). It also contains provisions specific to Belgium and Luxembourg (section 4 – Specific Provisions).

This Code is one of the tools used by JEP (SRO – Jury of Ethical practice in advertising) to assess / evaluate the advertisements referred to it because they are subject to a request for copy advice by the advertiser, advertising or media agency, or they are subject to a complaint by a third party.

In the interpretation of this code, we do not lose sight of the development of European rules both with regard to advertising and in respect of free movement of goods and services.

The European guidelines (Guiding Principles for responsible advertising and marketing communications) translate the principles to which the European cosmetics industry

URL of source: <http://www.detic.be/Public/images/pdf-s/code-publicite.pdf>

commits in the charter on responsible advertising and marketing communication (section 5.1) into concrete provisions. These principles form a framework specific to cosmetic products that consolidates existing principles and best practices, setting out common ground on cosmetics advertising and marketing communication in Europe.

SECTION 2.

REFERENCES

Section 2.1.

REGULATORY REFERENCES

It is recalled that the advertising of cosmetic products is subject in particular to the obligations arising from the following laws:

- a) Directive [2005/29/EC](#) on unfair commercial practices
- b) Directive [2006/114/EC](#) concerning misleading and comparative advertising
- c) Regulation (EC) [1223/2009](#) on cosmetic products (The Cosmetics Products Regulation CPR)
- d) The common criteria for the justification of claims used in relation to cosmetic products (Commission Regulation (EC) [655/2013](#))
- e) Technical Document on Cosmetics claims – agreed by the Sub-Working Group on Claims (version of 3 July 2017)
- f) [Commission Recommendation of 22 September 2006](#) on the efficacy of sunscreen products and the claims made relating thereto
- g) [ICC Advertising and Marketing Communication Code](#)
- h) Guidelines for cosmetic product claim substantiation – Cosmetics Europe

For advertising in Belgium:

- The Royal Decree of 20 June 2002 amended 22-10-2010 stipulating the conditions for the management of sunbed centres
- [Book VI of the Code on Economic Law](#) of 28th February 2013, market practices and consumer protection
- [JEP Environmental Advertising Code](#) (FR)
- [Code of ethics for audiovisual advertising](#). French community – Belgium. (GRS note: this text still exists, in the sense that it is not repealed. But it was never a binding text, more an interpretative / advisory document, and the body that created it originally no longer exists)
- [CSA Code of Ethics on audiovisual advertising directed at children](#) (French Community)
- [Act of 27th March 2009 on radio and television broadcasting](#) (Flemish Community)
- [Code on Native advertising and related marketing communications](#) (JEP)
- [Rules on the depiction of people](#) (JEP)
- [Guidelines on the issue of Online Influencer marketing](#) (JEP)

For advertising carried out in the Grand-Duchy of Luxembourg:

- Law of 8th April 2011 concerning introduction of the Consumer Code (Memorial A No 69 of 2011).
- GrandD-Ducal Regulation of 5 April 2001 laying down rules for commercial communications in audiovisual media services (as amended). (Memorial A No 42 of April 17, 2001).
- Advertising Code of ethics of advertising in Luxembourg developed by the Advertising Council of the Grand Duchy of Luxembourg.

Section 2.2.

DEFINITIONS

(a) The term “cosmetic product” means “any substance or 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 cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours" (Article 2 of the Cosmetic Regulation).

(b) "Cosmetic products' claims" refer to "text, names, trade marks, pictures and figurative or other signs" used in the labelling, marketing and advertising of cosmetic products (Article 20 of the Cosmetic Regulation).

(c) The terms "advertising" or "advertisement" means "any form of marketing communications carried by any media, usually in return for payment or other valuable consideration" This includes digital marketing communication. (ICC Code).

(d) The term "marketing communication" includes "advertising as well as other techniques, such as promotions, sponsorships and direct marketing, and digital marketing communications, and should be interpreted broadly to mean any communications produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behavior" (ICC Code).

(e) "Misleading advertising" means "any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor" (Directive 2006/114/EC).

(f) The term "average consumer" means any person "who is reasonably well-informed and reasonably observant and circumspect, taking into account social, cultural and linguistic factors" (Recital 18, Directive 2005/29/EC).

SECTION 3.

GENERAL PRINCIPLES

Principles on Responsible Advertising and Marketing Communications

Section 3.1.

SCOPE

These principles aim to lay down the common ground for responsible advertising of cosmetic products across Europe. However, as with all self-regulatory provisions, they may need to be tailored to reflect local conditions across Member States in order to be effective and credible.

In practice this means that national rules, while meeting a common pan-European baseline, can go beyond these guiding principles if appropriate.

This code of advertising and marketing communications for cosmetic products applies equally to the areas of digital marketing and commercial communications (e-marketing and e-commerce)

Section 3.2.

ADVERTISING SINCERITY

The European cosmetics industry commits to provide sincere advertising and marketing communication that do not mislead and misinform the consumer about products' characteristics. Sincerity is the basic and essential part of a responsible approach to the advertising of all products.

Section 3.2.1.

Product claims substantiation

- Claims, whether implicit or explicit, must be supported by appropriate and

adequate evidence that demonstrates performance. The specific context and circumstances in which the claim is made should be taken into account (including social, linguistic, and cultural factors).

- Claims must conform to:
 - (a) the list of common criteria developed by the European Commission: (*i.e. common criteria for justifying their use*)
 - legal compliance,
 - truthfulness,
 - evidence support,
 - honesty,
 - fairness,
 - allowing informed decisions¹
 - (as laid out in Annex to Commission Regulation (EU) No 655/2013²).
 - (b) the “Best practice for claim substantiation evidence” (*i.e. claims must conform with the best practices related to the type of evidential support used for their justification*), applying to:
 - experimental studies,
 - consumer perception tests,
 - the use of published studies

(See Annex II Guidelines to Commission Regulation (EU) No 655/2013³)

Section 3.2.2.

Image Honesty

- Digital techniques may be used to enhance the beauty of images to convey brand personality and positioning or any specific product benefit.
 - The use of pre and post production techniques such as styling, re-touching, lash inserts, hair extensions, etc., should abide by the following principles:
 - (a) The advertiser should ensure that the illustration of a performance of an advertised product is not misleading (see Product Claim Substantiation).
 - (b) Digital techniques should not alter images of models such that their body shapes or features become unrealistic and misleading regarding the performance achievable by the product.
 - (c) Pre- and post-production techniques are acceptable provided they do not imply that the product has characteristics or functions that it does not have.
- For example, the following cases would not be considered misleading:
- Using obvious exaggeration or stylized beauty images that are not intended to be taken literally.
 - Using techniques to enhance the beauty of the images that are independent from the product or effect being advertised.

Section 3.2.3.

Testimonials and specialist recommendations

¹ List of common criteria for claims which may be used for cosmetic products according to Art 20 1223/2009. See Annex to Commission Regulation 655/2013 and Annex I Guidelines to Commission Regulation (EU) No 655/2013.

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:190:0031:0034:EN:PDF>

³ http://ec.europa.eu/consumers/sectors/cosmetics/files/pdf/guide_reg_claims_en.pdf

URL of source: <http://www.detic.be/Public/images/pdf-s/code-publicite.pdf>

3.2.3.1. General provisions

Testimonials and specialist recommendations may be used to emphasise the characteristics of cosmetic products and create a brand image. Testimonials and specialist recommendations:

- (a) may be used in the form of written or spoken statements.
- (b) must be genuine, responsible and verifiable.
- (c) cannot replace material substantiation of a claim (see Product Claim Substantiation).
- (d) shall avoid any misrepresentation and misinformation with regards to the nature of the product being advertised, its properties and the achievable results.

3.2.3.2 Testimonials

Testimonials from celebrities, private persons (bloggers, influencers,...) or consumers, etc., may be used provided they are presented as a personal assessment or impression of a product and that they conform to the ethical rules that may bind testimonees.

Testimonials should not be considered as proof of product efficacy that can only be established on the basis of adequate and appropriate evidence (see Products' Claims Substantiation).

3.2.3.3. Specialist Recommendations

Recommendations from medical, para-medical or scientific specialists (referred to as "specialist(s)") on an ingredient, a product, or a general message on hygiene or beauty, is acceptable provided they are established on the basis of adequate and appropriate evidence (see Product Claims Substantiation).

Such specialists must be selected on the basis of their qualifications, expertise or experience in the particular area.

Section 3.2.4.

Environmental aspects in advertising

When environmental claims are made, cosmetics companies shall respect the principles of truthfulness, clarity, accuracy, relevance and scientific substantiation (see Product Claims Substantiation – s. 3.2.1).

If the environmental claim being made is not literally true or is likely to be misinterpreted by consumers or is misleading through the omission of relevant facts, this environmental claim shall not be made.

Specific attention should be brought to:

3.2.4.1. General presentation:

The general presentation of a cosmetic product (colours, visuals, etc.) and individual claims shall not:

- (a) Be based on false information.
- (b) Imply an environmental benefit that the product does not have.
- (c) Exaggerate the environmental aspect of the product to which the claim relates.
- (d) Emphasise any single environmental benefit while concealing the aspects which present a negative environmental influence.

3.2.4.2 Use of symbols / suggestion of third party certification:

- (a) Any supporting information, imagery or symbols shall be justified to and understandable by the average consumer.

(b) Any use of symbol or logo must not imply that the product has achieved the required relevant third-party endorsement when it is not the case.

3.2.4.3. Accuracy and relevance of the environmental claim:

(a) The environmental claim shall be presented in a manner that clearly indicates whether the claim applies to the complete product or only to a product component or to the packaging or to an element of a service.

(b) The environmental claim shall be relevant to the particular product, and used only in an appropriate context or setting.

(c) The claim shall be specific as to the environmental benefit or environmental improvement which is claimed; consequently, an environmental benefit may be claimed provided that an appropriate assessment of the environmental impact of the product has been carried out.

3.2.4.4. Substantiation:

(a) Environmental claims for cosmetic products, whether explicit or implicit, must be supported by adequate and appropriate scientific evidence.

(b) Test methods and studies being used as evidence must be relevant to the product and to the environmental benefit claimed.

(c) Environmental claims shall be reassessed and updated as necessary to reflect changes in technology, competitive products or other circumstances that could alter the accuracy of the claim.

(d) In the context of "natural" and "organic" cosmetic products, the International Organisation for Standardisation (ISO) is currently developing a set of technical criteria and definitions regarding organic and natural cosmetic ingredients and products (ISO 16128-1/2)

These technical criteria do not apply to claims but can be used as a reference for the substantiation of claims "natural" and "organic" for cosmetic ingredients and products.(see specific provisions 4.2.1.4. and 4.2.1.5).

Section 3.3.

SOCIAL RESPONSIBILITY

The cosmetics industry is committed to responsible advertising and marketing communication which respect the human being, body image and human dignity.

Section 3.3.1

General principles

All cosmetic advertising and marketing communication shall comply with general provisions, concerning:

(a) **Taste and Decency:** Cosmetics advertising and marketing communication "should not contain statements or audio or visual treatments which offend standards of decency currently prevailing in the country and culture concerned".

(b) **Portrayal of gender:** Cosmetics advertising and marketing communication should not contain any sexually offensive material and should avoid any textual material or verbal statements of a sexual nature that could be degrading to women or men. Furthermore, advertising and marketing communication should not be hostile toward a certain gender.

(c) **Offensiveness:** Any statement or visual presentation likely to cause profound or widespread offence to those likely to be reached by it, irrespective of whether or not it is directly addressed to them, is not acceptable. This includes shocking images or shocking

claims used merely to attract attention.

(d) **Violence:** Cosmetics advertising and marketing communication “should not appear to condone or incite violent, unlawful or anti-social behaviour”.

(e) **Play on superstition:** “Marketing communications should not play on superstition” .

(f) **Play on fear:** Cosmetics advertising and marketing communication “should not without justifiable reason play on fear or exploit misfortune or suffering”.

(g) **Exploitation of credulity and inexperience:** Cosmetics advertising and marketing communication should not be framed so as to abuse the trust of consumers or exploit their lack of experience or knowledge.

(h) **Discrimination:** Cosmetics advertising and marketing communication “should respect human dignity and [diversity. It] should not incite or condone any form of discrimination, including that based upon [...] [ethnic group], national origin, religion, gender, age, disability or sexual orientation”

(i) **Denigration:** Cosmetics advertising and marketing communication “should not denigrate any person or group of persons, firm, organisation, industrial or commercial activity, profession or product, or seek to bring it or them into public contempt or ridicule” .

(j) **Safety and health:** Cosmetics advertising and marketing communication “should not without reason, justifiable on educational or social grounds, contain any visual presentation or any description of dangerous practices or of situations which show a disregard for safety or health”. Models used in advertisements and post production techniques should not appear to promote a preferred body image of extreme thinness.

(k) **Humour** may be used in advertising and marketing communication in such a manner that it does not stigmatize, humiliate or undermine any person or group of persons.

Section 3.3.2.

Specific Principles

3.3.2.1. Respect for the human being

Given the possible impact that cosmetics advertising and marketing communication may have on consumers' self-esteem, the following should be taken into consideration when using models in advertising:

- (a) Do not focus on bodies and parts of bodies as objects when not relevant to the advertised product.
- (b) Do not stage nude models in a way that is demeaning, alienating or sexually offensive. When using nudity, the media used and the intended audience should be considered.

3.3.2.2. Vulnerable populations – children

The European cosmetics industry commits to provide responsible advertising and marketing communication towards children and young people. Cosmetic products especially designed for children may be advertised provided that:

- (a) Advertising should foster the hygiene and sanitary benefits of cosmetic products to children in particular sun protection products, oral care products, and cleaning products (including soap, shampoos and teenage acne cover-ups).
 - (b) Advertising of decorative cosmetics and perfumes should not incite children to overuse of such products.
 - (c) Advertising of cosmetic products, including images, should not promote early
-

sexualisation of young people

SECTION 4. SPECIFIC PROVISIONS

Section 4.1. Claims relating to health

Section 4.1.1. Principles

In advertising of cosmetic products (see definition of cosmetic product in section 2.2⁴), it is not forbidden to reference health and hygiene characteristics, provided that the products possess them. The terms describing diseases can be used only insofar as it is not claimed or suggested that the cosmetic product has prophylactic (preventive) or curative/healing properties of the diseases concerned. Examples include: acne (*acné / acne*), rosacea (*FR/NL: couperose*), psoriasis (scales/scabs) (*dartres / huidaitslag*), atopic eczema (*eczéma atopique / atopische eczeem*).

Special attention must be paid as to the way the cosmetic product is presented as well as to the choice of terms/words used in advertising. The presentation of the product and the choice of terms/words used in the slogans will form the main elements in assessing the product classification (cosmetic or medicinal product⁵).

In each assessment (case by case), account should be taken of these two elements:

(1) Presentation of the Product

Advertisers will ensure their cosmetic products cannot be viewed/perceived by a reasonably well-informed consumer as drugs (medicinal product) on account of their overall presentation.

(2) Choice of terms used

The terms attributing to cosmetic products a prophylactic (preventative) or directly curative effect or a prophylactic (preventive) or directly curative action on the disease will not be permitted.

Examples:

"care/treat" (attends to) (disease). (*soigne/ behandelt*)

"heal" (the disease). (*guérit/ geneest*)

"combat" (disease)". (*combat/ bestrijdt*)

"prevent" (the disease). (*empêche/ prévient; verhindert/ voorkomt*)

⁴ Art. 2(a) of Regulation (EC) No . 1223/2009 on Cosmetic Products:

'cosmetic product' means any substance or 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 cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours.

⁵ Under the Medicine's Act of 25 March 1964 (as amended), the term medicinal product

Art. 1(1a/1b) – medicinal product, being either a medicinal product for human use or a veterinary medicinal product:

(a) Medicinal Product for human use: Any substance or combination of substances presented for treating or preventing disease in human beings or animals OR Any substance or combination of substances which may be administered to human beings or animals with a view to restoring, correcting or modifying physiological functions in human beings or in animals by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis.

(Terms such as "combat" (*combat/ bestrijdt*) , "acts against"... (*agit contre / tegen*) can however be used to describe action on purely aesthetic phenomena such as e.g. wrinkles, dark circles,...).

Section 4.1.2.

Specific recommendations

4.1.2.1. Slimming

- It is permissible for a cosmetic product to use the term 'slimming / slim down' (*mincir / afslanken*) and derivatives that express an improved aesthetic appearance. On the other hand, "weight loss" (*Amaigrissement / vermageren*), in terms of a loss of weight, is a consequence either of illness or specialized treatment or diet plan and cannot result from the use of a cosmetic product. It is therefore not possible to make reference to this and report results in terms of weight loss for a cosmetic product. Where, for a cosmetic product, reference is made to the results, generalized⁶, precisely determined specifications of reduced body sizes, shall not be permitted (because of specific individual variations)

Ranges between which body measurements and timescales can fluctuate may be mentioned insofar as supporting/ substantiating evidence exists.

4.1.2.2. Cellulite – Anti-cellulite

The use of the term cellulite (*cellulite / cellulitis*) is allowed:

- a) provided that the term applies only to the phenomenon known by the terms of orange skin / orange-peel (*peau d'orange / sinaasappelhuid*), unsightly dimples (*capitons inesthétiques / onesthetische vetkussentjes*) or similar.
- b) provided that any reference to an inflammatory condition, and any prophylactic (preventive) or curative claim relating to this condition is banned/ prohibited (Dutch version: avoided)
- c) provided that the products are limited to claims focusing on purely aesthetic and cosmetic aspects, and this, in compliance with Cosmetics Regulation 1223/2009.

4.1.2.3. Products for the bust

Advertising of products for external use/ application, intended to expand or reduce the bust is not permitted in the current state of cosmetic science or regulation. On the other hand, the term "to firm up" (*raffermir / verstevigd*) and its derivatives can be used provided there is sufficient evidence to support the claim.

4.1.2.4. Pimples/Spots (*Boutons/ Puistjes*)

In everyday language, the term "Pimple", especially in relation to the face, suggests less an ailment of a pathological nature, more an aesthetic imperfection. Used without further specification, this word, has no precise medical meaning⁷. Therefore, it can be used in the advertising of a cosmetic product. However, it is recalled that acne is considered a disease and that the advertising referring thereto is subject to the provisions of section 4.1.1.

4.1.2.5. Irritation, cracking, itching (*Irritation, gerçure, démangeaisons / Irritatie,*

⁶ French version reads: "Generalisations (to all consumers) of quantified and exact reductions in (body) measurements). Ranges of measurements (body sizes) or timelines/ timeframes can be cited, to the extent that the substantiating evidence exists".

⁷ The idea is that the word "bouton", in itself, has no precise medical meaning. It's only when you add another word ("un complément déterminatif") that it can have a real scientific meaning: "bouton synaptique", for instance, is a precise medical denomination. Like *bouton de chaleur, bouton de fièvre, bouton infectieux, bouton rouge, bouton d'acné*, etc.

kloofjes, jeuk)

The terms "irritation", "chapped (cracking)" and "itching" can be used if they refer to/ cover phenomena/events resulting from external causes (*G-Regs note*: such as dry/cold environment or excessive perspiration and not as being of pathological origin; the sensations should not be presented as symptoms of diseases where the product is presented as treating/preventing an underlying disease – an internal cause)

4.1.2.6. Allergy, hypoallergenic (*Allergie, hypoallergénique/ Allergie, hypoallergeen*)

The use of the term 'allergy' and all its derivatives must be carried out with great caution, both in advertisements as well as for trade marks/ brand names and fanciful/made-up names. The term "Hypoallergenic" can be used when it conveys the idea that the formula has been the subject of a particular choice of raw materials and when scientific work demonstrates that the materials have a low allergenicity and provided that it can be demonstrated that the combination of these materials reduces the risk of allergic reactions.

4.1.2.7. Scientific terminology

Scientific terms or terms with a scientific connotation (scientific sounding) will be defined to make them understandable to the consumer, either in the instruction leaflet, or instructions accompanying the product.

4.1.2.8. Rejuvenate, regenerate, anti-wrinkle, anti-aging skin (*Rajeunir, régénérer, antirides, anti-vieillessement de la peau / Verjongen, regenereren, tegen rimpels, veroudering van de huid*)

Since the definition of the word "rejuvenate" is "return to a state of youthfulness", the use of this word or its derivatives (e.g.: rejuvenated, rejuvenating, rejuvenation: *rajeuni, rajeunissant, rajeunissement / verjongd, verjongend, verjonging*) is acceptable only to express a more youthful appearance / an appearance of greater youthfulness, without ambiguity in the advertising expression⁸. The verb "regenerate" (*régénérer/ regenereren*), its derivatives or synonyms, can be used where the cosmetic product has a demonstrable/ verifiable effect on the renewal of skin cells. Substances such as vitamins (where allowed), and/ or natural extracts, etc., can actually be cited as contained in a preparation, provided false claims are not made as to their actual effect and/or they stay within the parameters reserved for cosmetic products.

4.1.2.9. Hydrate or Moisturize (*Hydrater /Hydrateren*)

Advertising may emphasize that a product hydrates/ moisturizes the skin (in generally accepted sense). The expression "the upper/outer/top layers of the epidermis" (*aux couches supérieures de l'épiderme / bovenste lagen van de opperhuid*) can be used.

4.1.2.10. Hair

The term "hair re-growth" (*repousse des cheveux/ hernieuwde haargroei*) or any other phrases that might give a consumer reason to believe that a cosmetic product can be a cure for baldness should not be used.

The terms "anti-loss" (*anti-chute/ tegen haaruitval*), "stop" (*arrête / stopt haaruitval*), "brake/ slow-down/curb" (*freine/ remt haaruitval af*), "slow down" (*ralentit/ vertraagt haaruitval*), "limit" (*limite/ beperkt haaruitval*), their equivalents or those derived for hair loss, can be used only if it can be supported by scientific evidence or serious techniques establishing the truth of such claims.

⁸ i.e. the use of "rajeunir" and its derivatives can be used unambiguously only to refer to the *appearance* of greater youthfulness. The product doesn't actually *make* the user more youthful...

4.1.2.11. Oral and Dental Hygiene

Advertising for oral and dental hygiene is permitted where it is merely stated that the use of products or equipment is intended to clean (*nettoyer/ het poetsen*), protect (*à protéger/ het beschermen*), keep in good condition (*à maintenir en bon état/ het in goede staat houden*), scent (*à parfumer/ het parfumeren*), cool/ refresh (*à rafraîchir/ verfrissen*) and without the use of ambiguous wording regarding prophylactic (preventive) and therapeutic/healing properties.

Advertising which references the need for removal of tartar and / or plaque is permitted provided the message is restricted to the fields of cleaning and hygiene.

Terms such as "decay" (*carie/ cariës*), "gingivitis/ gum disease" (*gingivite/ tandvleesontsteking*), "periodontal disease" (*parodontolyse/ parodontolyse*) (breakdown or loosening⁹: *déchaussement/ tanduitgroei*) indicate illness/ disease and should not be used in advertising, except in compliance with the rules mentioned in section 4.1.1. (i.e. such terms can be used provided it is not claimed or suggested that the cosmetic product has curative/healing or preventive properties of the diseases concerned)

However, it appears that slogans attributing a protective effect or an indirect effect to a cosmetic product in the context of tooth decay could be used provided that these slogans are expressed by clearly indicating the cosmetic nature of the product.

At this (present) stage, the above interpretation seems to apply only to tooth decay (cavities) and other dental diseases.

Examples of protective effect:

"Strengthens the teeth against tooth decay (cavities)"

(*renforce les dents contre les caries / verstevigt de tanden tegen cariës*)

"makes the teeth more resistant to tooth decay (cavities)"

(*rend les dents plus résistantes aux caries / geeft de tanden een grotere weerstand tegen cariës*)

"protects teeth against decay (cavities)"

(*protège les dents contre les caries / beschermt de tanden tegen cariës*)

"daily brushing of the teeth with X offers a good dental hygiene that helps protect teeth against the risk of tooth decay (cavities)"

(*un brossage quotidien des dents avec X vous offre une bonne hygiène dentaire ce qui aide à protéger les dents contre les risques de caries / dagelijks de tanden poetsen met x verzekert een goede tandhygiëne die helpt de tanden te beschermen tegen het risico op cariës*)

G-Regs note : Under the 2011 Detic Code – s. 3.2.2(l)¹⁰, this last example « daily brushing...» was intended as an additional reference or qualifying statement (indicating cosmetic nature of the product) which had to accompany or follow the other slogans/ examples referenced before it. It appears that the specific requirement of the accompanying statement has been dropped and instead incorporated as an example of another protective effect. It is possible that the final example should still be read as an accompanying statement – but it will be a question of waiting for the Jury to determine the correct interpretation as and when the

⁹ Usually associated with receding gums

¹⁰ <http://www.gregsregs.com/downloads/BECosmeticCodeDETIc2011.pdf>

issue specifically arises.

Example of indirect effect:

Advertisers may also rely on "indirect or implied" justification/ reasoning¹¹:

"regular brushing with X" (*le brossage régulier avec X / regelmatig poetsen met X*)...."strengthens tooth enamel" (*renforce l'émail des dents / versterkt het tandglazuur*)

+

"a solid tooth enamel helps reduce/ fight cavities" (*un émail solide favorise la lutte contre les caries / een sterk tandglazuur helpt cariës te bestrijden*)

4.1.2.12. Sunscreen products

(a) - Claims for sunscreen products must comply with the 2006 European Commission Recommendation (22nd Sept) on sunscreen and the claims about its effectiveness¹²

(b) - In particular, the following information messages on the proper use of sunscreen, must be integrated into the advertising communication, each company/ enterprise having the freedom to choose the most appropriate medium and address the following three concepts/ideas in the form or expression of its choice:

- "Don't stay too long in the sun, even if you use a sunscreen product"

(*Ne restez pas trop longtemps au soleil, même si vous utilisez un produit de protection solaire / Blijf niet te lang in de zon, zelfs niet wanneer u een zonnebeschermingsproduct gebruikt*)

- "Do not expose infants and young children directly to the sun"

(*N'exposez pas les bébés et les jeunes enfants directement au soleil / Stel baby's en jonge kinderen niet rechtstreeks bloot aan de zon*)

- "Overexposure to the sun is a serious threat to health"

(*La surexposition au soleil est une menace sérieuse pour la santé / Te veel blootstelling aan de zon vormt een ernstige bedreiging voor de gezondheid*)

(c) - No claims suggesting the following characteristics should be made:

- 100% protection against UV radiation (like "sunblocker" or "total protection")

(*comme "écran total" ou "protection totale" / zoals "total block" of "totale bescherming"*)

- no need to renew the application, regardless of the circumstances (such as 'prevention throughout the day')

(*comme "prévention durant toute la journée" / zoals "preventie de hele dag lang"*)

4.1.2.13. Sunbeds (*Bancs solaires / Zonnebanken*)

Given the dangers of sunbeds, given the warnings and prohibitions contained in particular in Royal Decree of 20/06/2002¹³ amended by Royal Decree 22/11/2007, such as e.g. the obligation to completely remove makeup and the prohibition on the use of sunscreens and

¹¹ In effect, one can say that "brushing with X strengthens tooth enamel" which then indirectly helps fight / reduce cavities. This is another type of indirect reasoning where the product is first associated with non-disease related effect (strengthening tooth enamel) which in turn is related to an effect on a disease (tooth decay). This approach differs to 3 examples + qualifying statement where using the product is related (indirectly) to the disease but is accompanied with a reference on the cosmetic nature of the product.

¹² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006H0647>

¹³ RD 20/06/2002 stipulating the conditions for the management of sunbed centres - http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2002062055&table_name=loi

other cosmetics (Annex II RD 20/06/2002), any advertising is prohibited for cosmetic products intended for use before or during the use of sunbeds.

Section 4.2.

Composition and manufacturing of products

Some claims on the composition of products which are likely, as such, to undermine public confidence cannot be used in an ambiguous way

Section 4.2.1.

Environmental claims

4.2.1.1. Definition

The concept of environmental claim is not legally defined either in European law or in Belgian law. However, "environmental claim" or "ecological claim" is usually understood to mean any message or representation that relates to the environmental characteristics of a product or service that affirms, suggests or gives the impression:

- that this good or service has a positive effect on the environment;
- that this good or service has no impact on the environment;
- that this good or service is less harmful to the environment than competing goods or services

The reason may be its composition, the way it was made or produced, the way it can be disposed of, or the reduction in energy consumption or pollution that can be expected from its use.

4.2.1.2. An environmental claim must be made in clear, exact, precise, explicit and unambiguous language

Claims that are vague, imprecise, ambiguous, or that generally imply that a product is beneficial or harmless to the environment cannot be used. Therefore, avoid using terms: "environmentally friendly", "green", "friend of nature", "ecological", "sustainable", "ecologically correct", "preserves the environment", "Respectful of the planet", "non-polluting", "non-toxic", "protects the ozone layer", ... An absolute claim presented in the form of a message or symbol, risks being misinterpreted by the consumer. It should be clarified by adding an explanatory statement or a nuance.

A claim must make clear whether it applies to the whole product or only to one of its components, the manufacturing process or transport.

4.2.1.3. A company that makes commitments to protect the environment or "green behavior" in a code of conduct to which it claims to be bound must comply with them.

4.2.1.4. The term "natural" (*naturel / natuurlijk*)

May only be used in the following circumstances

- either for a finished product which does not contain any synthetic substance and/or product,
- or for specified ingredients, provided that the term 'natural' is limited to that (those) one component(s).
- for a percentage of ingredients defined by standard ISO 16128-1 and calculated according to ISO 16128-2, or any other reference at least as demanding.

4.2.1.5. The term "organic" (*biologique / biologisch*)

May be used in the following circumstances:

- either for a finished product derived or obtained from an animal or plant organism
 - or for specified ingredients of these organisms and to the extent that the term
-

URL of source: <http://www.detic.be/Public/images/pdf-s/code-publicite.pdf>

- "organic" is limited to that (those) one component (s).
 • for a percentage of ingredients defined by standard ISO 16128-1 and calculated according to ISO 16128-2, or any other reference at least as demanding.

Section 4.2.2.

The wording "based on/ based" (*à base de / op basis van*) "contains" (*contient / bevat*) , "with" (*à / met*)

Reference to the presence of one or more of the substances identified in a product should be expressed using one of the following expressions:

- the words "based on"¹⁴ will be used to the extent that it relates to one or more substances that are essential to the operation (effectiveness) of the product, without quantitative criteria¹⁵;
- references such as "contains" (*contient / bevat*) or "with" (*à / met*) or similar will be used to the extent where the presence of the substance is detectable in the analysis.

Section 4.2.3.

The term "new" (*nouveau (fr) / nieuw (nl) / neu (de)*)

and their derivatives must be used only in connection with an actual modification to the product or its use/application, its presentation or packaging, provided that it is clearly stated to which aspect the novelty relates. The use of this term is usually limited to the duration of one year.

Section 4.2.4.

The use for advertising purposes of the terms **place of manufacture** or **place of formulation/ preparation of the formula** (*lieu de fabrication ou de l'élaboration de la formule / plaats van vervaardiging of formulering*) must be accurate (strictly correspond to reality/ actual situation), regardless of whether such information is given in the form of text or graphical representation.

Section 4.2.5.

Presentation of product performance

4.2.5.1 Nature of tests

(a) When studies or tests are mentioned in advertising, their nature must be explicitly indicated: statistically valid scientific tests (evaluation by professional experts whether or not under medical supervision, instrumental tests, sensory studies under/ according to protocol, ex vivo/in vitro tests) or satisfaction tests (consumer usage tests carried out on a sufficient number of subjects).

(b) In order not to mislead the consumer, measuring the effectiveness of a product can only be connected to scientific tests.

(c) When the communication is based on satisfaction tests, it must only mention/report the percentage of satisfied individuals or percentage of those who have experienced the claimed effect.

(d) The presentation of scientific tests or satisfaction tests should be clearly distinguished from one another when used in the same advertising message.

4.2.5.2. Presentation of results

¹⁴ i.e. collagen based cream - Crème à base de collagène"

¹⁵ Meaning - the ingredient plays a big role in the effectiveness of the product (i.e. it's a key ingredient), the formula doesn't contain much of it in terms of quantity.

a) Numerical Results /Figures

When advertising claims include quantified results (figures), in accordance with "Practical guidance on methodology for cosmetic claims substantiation"¹⁶ (Cosmetics Europe – version May 2008), advertising must refer to the average results obtained throughout the population tested (the total number of subjects must be indicated), and must be statistically valid.

b) Visual Representations

When advertising refers to diagrams or demonstrations, e.g. "before and after", the visuals used should reflect the performance of the product in a proportionate and coherent way and be representative of the test sample.

c) Results *in vitro*

- When the results in advertising, are derived from testing *in vitro*, this clarification should be included in advertising
- In all cases, the presentation of the results of studies *in vitro* should not leave people to believe that the results are *in vivo*.

Section 4.2.6.

Claims "without..." (*sans ... / zonder...*) (i.e. "free-from" claims)

(a) must be accurate and not misleading: it refers to a product which does not contain, presented as an ingredient, a specific ingredient, raw material/substance or generic group of ingredients, either directly as such or indirectly by the use of another raw material/substance¹⁷.

(b) must be relevant: it must not involve/ apply to an ingredient prohibited by the regulations or whose use is not normally necessary for the formulation of the product.

(c) must be fair and not derogatory:

- it must be strictly informative, it cannot become the main/ central claim of the product but provide the consumer with additional information;
- should not infer that the absence of the ingredient provides a safety benefit/ advantage for the consumer or the environment;
- should not imply that the products that do not contain the specific ingredient are better than the ones that contain it.

Section 4.3.

Endorsements/ Certifications - labels – graphic representations - symbols

(Attestations – labels – représentations graphiques – symboles / Attesten – Labels – Grafische voorstellingen – Symbolen)

4.3.1. The title of "doctor" (*docteur / doctor*) and any other academic/university title, regardless of the nationality of the holder and regardless of the advertising context in which it is used, must be accompanied by the name of the discipline to which the title refers. Similarly, the term "diploma" (*diplôme / diploma*) and its derivatives must also be accompanied either by the name of the discipline to which the title refers, or the name of the institution that issued it, which identifies the activity covered by the diploma. Any endorsement that refers to a particular profession as well as the depiction and use of members of the medical or paramedical professions or persons presented or perceived as

¹⁶ <http://www.canipeec.org.mx/woo/xtras/bibliotecavirtual/Colipa.pdf>

¹⁷ G-regs interprets the "direct/indirect" section as follows: If the product contains substance X, and substance X contains ingredients a, b and c, then advertising for the product cannot claim it is free from b. And of course, the product cannot claim to be free from b if it contains b directly/as such.

such, must conform to the ethical rules and duty of discretion/ rules of restraint applicable to these professions.

4.3.2. When reference is made to a label as a guarantee of quality, it is necessary to specify the type/ nature and the name of the organization that issued it.

4.3.3. Any label (such as the European 'ecolabel' - *écolabel* / *milieukeuren*) or logo (such as recycling - *logo de recyclage* / *logo van recycling*) imposed by a regulation or an EC Directive (subsequently) transposed into national legislation, will be used provided that the conditions imposed by this regulation or this directive have been followed.

4.3.4. All graphical representations, photos, drawings, photomontages, including the "before - after" photographs, symbols, statistical curves, are to be considered as texts and subject to the same rules as those set out by the present Code in respect of texts.

4.3.5. The use of a medical and/or pharmaceutical symbol such as a cross (red, yellow and white, green, blue and white...) or Caduceus on the packaging or the container or any advertising is forbidden without express permission of rights holders.

4.3.6. Commonly accepted conventions

All advertising must take into account the commonly accepted conventions (GRS note: or decency norms)

Section 4.4.

Use of Disclaimers

To meet the common criteria set by the European Commission (Commission Regulation (EU) No. 655/2013 of 10th July 2013 laying down common criteria for the justification of claims used in relation to cosmetic products), where use is made of a disclaimer (= asterisk with explanatory reference), it should always be visible and legible, taking into account the medium used (Press/ Media page, TV spot...)

Section 4.5.

Diversity and its inclusion in advertising and marketing communications

To encourage gender equality, diversity and inclusion, to avoid stereotypes and to treat all people equally, regardless of gender, origin, age, sexual orientation, of their disability or their beliefs, the

Belgian cosmetics sector adheres to and respects the "Unstereotype Communication" charter of UBA (Belgian Union of Advertisers).

SECTION 5.

ANNEXES

Section 5.1.

Guiding Principles on responsible advertising and marketing communication – Cosmetics Europe¹⁸

Section 5.2.

An indicative list of claims/ indications that are not considered as a description of therapeutic or prophylactic (preventive) properties. (Federal Agency for Medicines and Health Products¹⁹)

GRS translation: <http://www.g-regis.com/downloads/BECosAFMPSlistofclaims.pdf>

Section 5.3.

CHARTER « UNSTEREOTYPE COMMUNICATION » DE UBA

¹⁸ <https://www.cosmeticseurope.eu/publications-cosmetics-europe-association/guidelines.html?view=item&id=87>

¹⁹ (AFMPS - Agence fédérale des médicaments et produits de santé / FAMHP - Federaal Agentschap voor Geneesmiddelen en Gezondheidsproducten)

SECTION 6.

Final Provision

This code of advertising and marketing communications for cosmetics approved by the Board of Directors of DETIC 14/02/2020 comes into force on 01/03/2020.

It repeals and replaces all previous versions.
