

Full title of law or regulation

Cosmetic Products Advertising Code 2023

Reclamecode Cosmetische Producten (RCP) 2023

<https://www.reclamecode.nl/nrc/reclamecode-cosmetische-producten-rcp/>

This is an unofficial non-binding translation of the new clauses in the SRC Cosmetics Products Advertising Code applicable January 1, 2023. The NL 2023 version is linked above and the former SRC EN version is immediately below. The new clauses, taken from the NL version and translated pro-tem until the SRC version is ready, are shown in red below. The existing clauses, retained from the EN version linked below, have been tweaked minimally where we judge the translation might be enhanced.

<https://www.reclamecode.nl/nrc/advertising-code-for-cosmetic-products/?lang=en>

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Title of sections

All sections/ clauses are included

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### 1. General provisions – scope

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1. General provisions – scope

This advertising code applies to advertising in the sense of Article 1 of the Dutch Advertising code for cosmetic products specifically targeted at cosmetic products marketed in the Netherlands. This code does not alter the rules of Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products and the Commission Regulation (EU) No. 655/2013 of 10 July 2013 laying down common criteria for the justification of claims used in relation to cosmetic products. Nor does this code alter the misleading advertising rule as stated in Articles 7 and 8 of the general part of the Dutch Advertising Code.

This code sets out the main requirements applicable to advertising for cosmetic products. For a complete overview of the requirements and further elaboration and explanation, see the Cosmetics Europe Compendium of applicable legislation, self-regulation, best practices and guidance. Cosmetics Europe's guidance relates to claim substantiation and to environmental claims.

#### Explanation

For the locations of the Compendium and the guidance, see the following links:

Compendium of applicable legislation, self-regulation, best practices and guidance: [https://cosmeticseurope.eu/files/9516/0015/5200/Compendium\\_of\\_applicable\\_legislation\\_self-regulation\\_best\\_practices\\_and\\_guidance.pdf](https://cosmeticseurope.eu/files/9516/0015/5200/Compendium_of_applicable_legislation_self-regulation_best_practices_and_guidance.pdf)

Guidelines for cosmetic product claim substantiation:

[https://cosmeticseurope.eu/files/4016/0015/2480/Guidelines\\_for\\_Cosmetic\\_Product\\_Claim\\_Substantiation.pdf](https://cosmeticseurope.eu/files/4016/0015/2480/Guidelines_for_Cosmetic_Product_Claim_Substantiation.pdf)

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### Definitions

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Definitions

- a. Cosmetic product: any substance or mixture within the meaning of (EC) Regulation 1223/2009 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.
  - b. Minor: individual under the age of 18.
  - c. Child: individual of 12 and younger.
  - d. Cosmetic product claim: any communication, digital or otherwise, with the principal goal of informing consumer end users about the characteristics and qualities of the products.
  - e. Distributor: as defined in the Social Media & Influencer Marketing (RSM) Advertising Code. (The party that has a Relevant Relationship with the Advertiser and that distributes Advertising through Social Media. A Distributor may be a natural person or
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legal entity. Distributor is understood not to include an operator of social network sites and forums that facilitates communication between participants and that takes a neutral stand regarding content.)

- f. Average consumer: any person "reasonably informed, circumspect and observant, also taking into account social, cultural and linguistic factors."
- g. Vulnerable consumer: a consumer who, as a result of socio-demographic characteristics, behavioural characteristics, personal situation or market environment:
  - a) Is at an increased risk of negative effects and/ or consequences for well-being
  - b) Has a limited ability to optimise his/ her well-being;
  - c) Has difficulty obtaining or processing information;
  - d) Is less able to buy or choose suitable products;
  - e) Is more sensitive to certain marketing practices.

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## 2. General requirements

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### 2. General requirements

The following requirements apply to claims:

#### Paragraph 1

Claims that state the product has been authorized or approved by a competent authority within the European Union are not allowed.

#### Paragraph 2

Claims that convey the idea that a product has a specific benefit when this benefit is mere compliance with minimum legal requirements are not allowed.

#### Paragraph 3

If a product states that it contains a specific ingredient, said ingredient must actually be contained.

#### Paragraph 4

Claims referring to the properties of a specific ingredient shall not imply that the finished product has the same properties when it does not.

#### Paragraph 5

Presentations of a product's performance shall not go beyond the available supporting evidence.

#### Paragraph 6

Claims shall not attribute to the product concerned specific (i.e. unique) characteristics if similar products possess the same characteristics.

#### Paragraph 7

If the action of a product is linked to specific conditions, such as use in association with other products, this shall be clearly stated.

#### Paragraph 8

Claims shall not denigrate any ingredients used in a legal manner.

#### Paragraph 9

Claims shall be clear and understandable to the average consumer end user of the cosmetic product.

New techniques, such as artificial intelligence, should not be used misleadingly when used to support claims.

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## 3. Substantiation and plausibility of the Claimed Effect

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### Substantiation and

#### Paragraph 1

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plausibility of the Claimed Effect

Claims regarding cosmetic products, both explicitly and implicitly, shall be substantiated with adequate and verifiable evidence, if necessary, including assessments by experts and any other information which is comprised in the Product Information File as referred to in Article 11 of (EC) Regulation 1223/2009. This requirement does not apply if the average consumer understands that it clearly concerns exaggeration, which will not be taken literally by him/her, or if it concerns statements of an abstract nature.

When assessing whether the claimed effect is adequately substantiated and its likelihood is proven, account shall be taken of Commission Regulation (EU) No 655/2013 of 10 July 2013 laying down common criteria for the justification of claims used in relation to cosmetic products and the associated guidelines (1) are also taken into account.

Explanation

The 'associated guidelines' is reference to the "Guidelines to Commission Regulation (EU) No 655/2013 laying down common criteria for the justification of claims used in relation to cosmetic products". For information, see also the "Guidelines for cosmetic product claim substantiation" of Cosmetics Europe:

[https://cosmeticseurope.eu/files/4016/0015/2480/Guidelines\\_for\\_Cosmetic\\_Product\\_Claim\\_Substantiation.pdf](https://cosmeticseurope.eu/files/4016/0015/2480/Guidelines_for_Cosmetic_Product_Claim_Substantiation.pdf)

Paragraph 2

When substantiating claims account shall be taken of the state of the art. The acceptability of a claim shall be assessed on the basis of evidential support of all studies, data and information available depending on the nature of the claim and the general common knowledge of the average consumer end user.

Paragraph 3

If studies are used to substantiate a claim, they must be relevant to the product and the benefit the product claims. Moreover, the studies shall follow well-designed, well-conducted methodologies (valid, reliable and reproducible) and shall respect ethical considerations.

Paragraph 4

In addition to the information stated in the preceding paragraphs an advertiser shall be able to submit statements of one or more experts as evidence of the claimed effect based on such information, in the event of challenge of the claimed effect. Such statement(s) shall give insight into the manner of review by the expert(s) of the data and the relationship of the expert(s) with the advertiser. If the Advertising Code Committee does not find the statement(s) of the expert(s) adequate or sufficiently convincing, it can require further substantiation and/or give the advertiser an instruction for further evidence

Paragraph 5

The level of evidence or substantiation to be furnished shall be consistent with the type of claim being made, in particular for claims where lack of efficacy may cause a safety problem.

Paragraph 6

A claim extrapolating (explicitly or implicitly) ingredient properties to the finished product shall be supported by adequate and verifiable evidence, for instance by demonstrating the presence of the ingredient at an effective concentration.

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4. Pictures/ Images

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Paragraph 1

To communicate brand identity and the specific benefits of the product pre- and post-production techniques (digital techniques) for embellishing pictures are in principle allowed in commercial communications on the following conditions:

a. The advertiser shall ensure that the presentation of the performance of an advertised

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product is not misleading. Not misleading is considered the use of a clearly exaggerated or styled picture without any serious meaning or being purely illustrative and the use of techniques for embellishment, regardless of the product or the advertised effect.

- b. Digital techniques shall not alter any pictures of models in such manner that an unrealistic presentation is made of the results to be achieved with the product.
- c. Models and digital techniques used in commercial communications shall not suggest that a specific body-shape is preferable, or promote extreme thinness.
- d. Digital techniques, such as photo shopping, shall not suggest that the product has characteristics or functions it does not have.

Explanation

For example, the following are not considered misleading:

- Obvious exaggeration or stylized beauty images that are not supposed to be taken literally.
  - The use of techniques to enhance the images, regardless of the product or effect being advertised, if the result shown does not raise false expectations.
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## 5. Testimonials and Expert Statements

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### 5. Testimonials and Expert Statements

#### Paragraph 1

Testimonials and expert statements shall meet Articles 9 and 10 of the Dutch Advertising Code, as well as the provisions of the Advertising Code for Social Media.

#### Paragraph 2

Testimonials cannot individually serve as substantiation of the efficacy of the product.

#### Paragraph 3

It is allowed to use testimonials of celebrities, **influencers** and consumers, if such testimonials are presented as a personal opinion or impression of the product, and do not (also) suggest a special expertise. Testimonials shall not be seen as evidence of efficacy of the product; this can only be decided on the basis of adequate and appropriate evidence.

#### Paragraph 4

Reference to expert statements in advertising is only allowed if such experts can actually state or testify regarding the field in which they are considered experts

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## 6. Social media advertising

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### 6. Social media advertising

Advertising via social media must comply with the Social Media & Influencer Marketing Advertising Code and must be clearly recognisable.

Explanation

In the Netherlands any form of editorial 'control' is not required for content to qualify as advertising. Different requirements may apply in other European countries.

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## 7. Environmental Sustainability

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If claims are made with regard to the environment or ethical standards, the then applicable special advertising code, the Environmental Advertising Code (MRC), also applies.

Explanation

For information, see the Environmental Claims Guidelines of Cosmetics Europe (see the link in the explanation to Article 1).

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## 8. Children and Minors and vulnerable consumers

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### 8. Children and Minors

#### Paragraph 1

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**and vulnerable consumers** If the advertising is directed, wholly or partly, at children and minors, then the Children and Young People Advertising Code also applies in full. Advertising, and in particular advertising via social media, aimed at children, minors and vulnerable consumers should be made with care and respect.

Paragraph 2

Decorative cosmetics and perfume-cosmetic products, which have been specially developed for children and minors, may be advertised if they do not contribute to the premature sexualisation of children who are minors and do not encourage excessive use of these products.

Explanation

Decorative cosmetics (make-up) are used to care for, protect, beautify, change or to enhance or obscure certain external features. Decorative cosmetics consist of eye, lip, nail and complexion products.

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Entry into Effect and Evaluation

This code enters into effect on 1 January 2015 and was last amended on 1 January 2023. The code will be evaluated every two years.

(1) Guidelines to Commission Regulation (EU) No. 655/2013 laying down common criteria for the justification of claims used in relation to cosmetic products.

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