



Brexit and Cosmetics - Advice for Small Businesses

All businesses, from the biggest multinationals to owner-managed companies, are going to see changes when Brexit takes effect from 1 January 2021. If your business sells cosmetic products, it's really important to have an idea of how the laws are changing and any practical steps you need to take, to make sure you are able to meet all your legal obligations. This is important for any businesses, including salons selling products to consumers, any big or small retailers, private sellers, etc.

Cosmetics aren't just make-up; according to the laws which govern cosmetics, they are any product which is applied to the surface of the body and which cleans, perfumes, keeps the skin or hair in good condition, corrects odours, or protects. For example, anything from soaps and lip balms, to sunscreen and make-up, shampoo and toothpaste.

Transition period and negotiation timelines

The UK left the European Union on Friday 31 January 2020. However, not much has changed since then because of the 'transition period'. The transition period allows time for new UK/EU negotiations to take place, ready for our new trading relationship which will start from 1 January 2021.

It has been 'business as usual' during the transition period - EU laws have still been applicable in the UK, but the UK has not been able to participate in EU meetings or discussions.

Although the UK left the EU on 31 January 2020 with a Withdrawal Agreement, this 'deal' didn't set out any detail of how the future relationship would work in practice. The 'deal' only set out the terms under which the UK left the EU. Therefore, this transition period was really intended to be a time for the UK and EU to negotiate the terms of our future relationship, called the Free Trade Agreement (FTA).

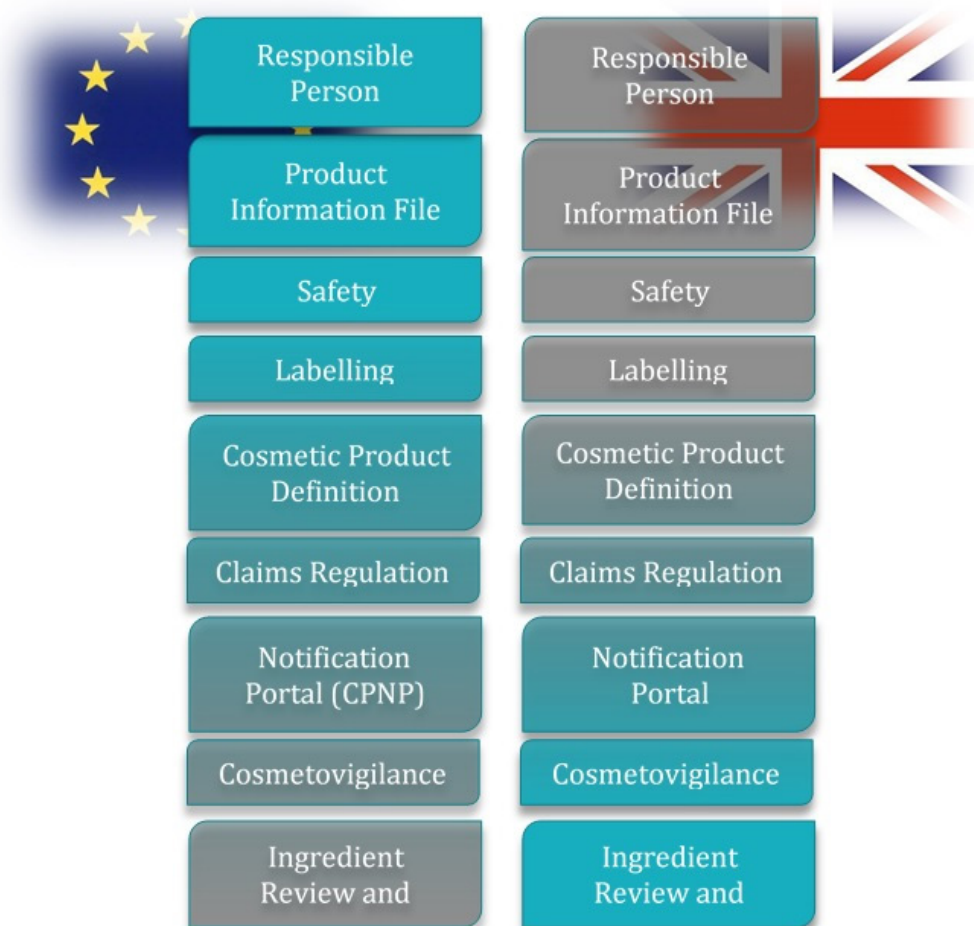
Despite the complications caused by the unwelcome appearance of COVID-19, the UK and EU do have very different priorities for the future relationship. For example, fisheries and the level playing field are two main areas of contention. The level playing field basically means that businesses in the UK and EU operate to the same rules and standards for issues such as workers' rights, business subsidies and environmental protection.

The deadline for extending the transition period was in June, so at the time of writing, the UK will leave the EU Customs Union fully on 31 December 2020, FTA or no FTA. If an FTA is not agreed, the UK and the EU will continue to trade under World Trade Organisation (WTO) rules. Independent of whether the future relationship between the UK and the EU will be under the terms of an FTA or WTO rules, changes and applicability of UK legal requirements will be inevitable from 1 January 2021.

Cosmetics in the UK after Brexit will still be safe

The new cosmetics legislation in the UK will keep the same high standards of safety that we currently have.

So, what does all of this mean for cosmetic products? During the transition period, you won't have seen any changes to the products you sell because the UK has still been following the EU Cosmetics Regulation (1223/2009). From 1 January 2021, the UK will have its own cosmetics legislation.



CTPA has been working very closely with the Department for Business, Energy and Industrial Strategy (BEIS), which is the Government department responsible for cosmetic safety laws in the UK. The future UK law will be very similar to the current EU law; the key principles which currently ensure the safety of the products will remain embedded in the UK law:

As the future UK law will be very similar to the current EU law, this does unfortunately mean that companies will need to duplicate a lot of the work. For example, to be able to sell in both the UK and EU, companies will need to have a legal entity (the 'Responsible Person') established in both the UK and an EU Member State, the Product Information File (which contains all the safety and regulatory information about the product) will need to be in both locations, in both languages, the product will have to be notified on two separate notification portals, and more.

Will cosmetic products look different?

Remember that products sold online still need to comply with all aspects of the laws covering cosmetics.

The cosmetics that you sell may look a little different after the transition period ends, but the differences will be very small. For example, if the brand (the 'Responsible Person') has its headquarters somewhere else in the EU, you may have seen an EU address on the label. Now, you will start to see only UK addresses on the label because brands must have a 'Responsible Person' in the UK to sell within the UK.

However, to minimise costs and disruption to businesses, the UK Government has said it will allow a 2-year transition period for the labelling changes to be made.

Also, if the cosmetic is not made in the UK, companies will need to update the label to include the Country of Origin. Under EU law, cosmetics made anywhere within the EU did not require a Country of Origin on the label.

Other than these small differences, you probably won't see many other changes to the product label.

Things you need to consider when selling products

If your salon or shop currently acts as a distributor of cosmetic products, it's really important to investigate a few key points to make sure you will still be compliant after the transition period ends.

Compliance of the product labels

There is no transition period for the appointment of a UK Responsible Person, so you need to make sure the brand you are selling has a UK Responsible Person from 1 January 2021.

Now we know that product labels are going to change slightly, are you still allowed to sell products with old labels?

The new labelling rules, such as having the address of the UK Responsible Person on pack, apply to products which are newly 'placed on the market'. Products which are already on the market, and will be placed on the market until 31 December 2020, don't need to be updated. This concept can be a bit confusing, so to clarify, it applies to every single unit that comes out of a factory.

It doesn't mean that if a certain brand has been around for years, then every product under that brand now and in the future is already considered to be placed on the market.

Every individual product is 'placed on the market' at some point in its life, and this is usually considered to be the point in the supply chain where ownership of the product passes from the Responsible Person to the next person in the chain, which could be you as the distributor. If this is the case, make sure that the products you are buying from the brand have a Responsible Person located in the UK and are labelled legally for the UK market. As mentioned before, the UK Government has said it will allow a 2-year transition period for the labelling changes to be made.

Do you sell products which are purchased from an EU-Based RP? You may become an 'importer'

After the transition period ends, some shops or salons who are currently acting as distributors may become importers, and this brings extra responsibilities.

Do you currently sell cosmetic products which have been sourced directly from a brand based in the EU?

If the answer is yes, then it is really important to find out whether the EU brand has set up a Responsible Person in the UK or not. If the brand has set up a UK Responsible Person, this is good news because as long as you buy through the UK operation, you will remain as a distributor.

However, if the EU brand has not set up a UK Responsible Person and you are the first importer of the EU products onto the UK market, your shop or salon will become an 'importer' by default.

Being an importer means you automatically become the Responsible Person, so you become legally responsible for ensuring the cosmetic product complies with the legislation. This is not a situation you want to find yourself in unless you, and the brand owner, are fully prepared as it involves many responsibilities. Alternatively, you may wish to check whether there is another UK-based importer of products from this EU brand, which you could factor into your supply chain.

Also, there is a big piece of legislation covering chemicals, including cosmetic ingredients, in the EU called REACH. This stands for Registration, Evaluation and Authorisation of Chemicals and it ensures the safety of chemicals on the EU market. It does this through gathering detailed data files on each chemical, which are compiled by the Registrant of the chemical (usually the manufacturer or importer).

After the transition period ends, the UK will have its own version of REACH called UK REACH. Negotiations are still taking place between the UK and EU to see whether there is any opportunity to share data and information between the two systems.

Although it's not clear yet exactly how the UK REACH system will operate, if you are selling cosmetic products to clients that you have sourced from within the EU, you need to check to ensure you won't have any extra responsibilities under UK REACH too. This is because companies will need to be based in the UK to be able to register substances under UK REACH, so you will need to ensure your EU-based supplier has got this covered.

Where can you find help?

CTPA acts as the voice of the British cosmetics and personal care industry, promoting good working practice to ensure that consumers are provided with the very best products. It represents the interests of the industry as a whole by working with the UK Government, representative bodies, the media and many different organisations as needed.

Take a look at our advice on Brexit, how it could impact businesses and how to prepare at www.ctpa.org.uk/brexit-advice

The Cosmetic, Toiletry and Perfumery Association (CTPA) is the trade association for the UK cosmetic, toiletry and perfumery industry. This means it is an organisation supported and funded by its membership, and CTPA members include companies of all sizes involved in making, selling or distributing cosmetics on the UK market.

Since the day after the Referendum in 2016, we have been very busy trying to manage the biggest change to the UK legal situation for cosmetics in a very long time. CTPA has been working closely with the different Government departments which are responsible for cosmetics, chemicals and trade legislation to ensure that the needs of the UK cosmetics industry are taken into account in the decisions that are made.

CTPA has run regular events and webinars helping our members, and the wider industry, to prepare, on topics ranging from advice tailored for small businesses, to more technical aspects such as 'rules of origin' and customs and tariffs. Details can be found within the Brexit Advice pages on the CTPA website.

Even though the future is still uncertain, there are a lot of actions that companies must take now to prepare for the changes that will come into effect as of 1 January 2021, independent of whether there is an FTA agreed between the UK and the EU or not.

Companies involved in making or selling cosmetic products must act as soon as possible to prepare for Brexit, to ensure they can keep selling safe and compliant products with as little disruption as possible.

The Cosmetic Toiletry and Perfumery Association (CTPA) is the trade association for the UK cosmetic and personal care industry.

The Association's role is to advise manufacturers, distributors and suppliers about the strict legal framework for cosmetics, to represent industry views to UK Government, and external stakeholders and help promote information to the media on issues relating to the safety of cosmetic products. The CTPA is the voice of the British cosmetics industry and provides the most up-to-date interpretation of, and guidance on, regulatory matters affecting cosmetic products in the UK and Europe.

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