



**NATIONAL AGENCY FOR FOOD AND DRUG
ADMINISTRATION AND CONTROL (NAFDAC)**

**COSMETIC PRODUCTS (ADVERTISEMENT)
REGULATIONS 2018**

**COMMENTS ARE WELCOMED FROM STAKEHOLDERS WITHIN 60 CALENDAR DAYS
(ending 29th August, 2018).**

PLEASE SEND ALL INPUT TO REGULATORYAFFAIRS@NAFDAC.GOV.NG

ARRANGEMENT OF REGULATIONS

Commencement:

1. Scope
2. Prohibition
3. Nature of advertisement
4. Non-Referential Advertisement
5. Application for the approval of advertisement
6. Validity of Approval
7. Alteration in approved script
8. Withdrawal of an approval
9. Appeal in case of withdrawal of approval
10. Prohibition of reference to member of health care professionals, etc.
11. Contravention of ethical standards not permitted
12. Advertisement not to prejudice public confidence
13. Unfairly disparaging competition
14. Restriction
15. Prohibition of misleading comparison
16. Accurate interpretation of research findings
17. Scientific articles and literatures to contain both positive features and negative findings
18. Product launches and Press release
19. Claims
20. Penalty
21. Forfeiture
22. Interpretation
23. Repeal
24. Citation

Commencement:

In exercise of the powers conferred on the Governing Council of the National Agency for Food and Drug Administration and Control (NAFDAC) by Sections 5 and 30 of the NAFDAC Act Cap N1 LFN 2004 and Section 12 of the Food, Drugs and Related Products (Registration, Etc.) Act Cap F33 LFN 2004 and of all the powers enabling it in that behalf, **THE GOVERNING COUNCIL OF THE NATIONAL AGENCY FOR FOOD AND DRUG ADMINISTRATION AND CONTROL** with the approval of the Honourable Minister of Health hereby makes the following Regulations:-

1. Scope

These Regulations apply to all advertisements and promotion of cosmetics products (both single and compound entity) manufactured, imported, exported, sold, distributed or used in Nigeria.

2. Prohibition

No person shall advertise a cosmetics product unless-

- (1) the product has been registered by the Agency;
- (2) the advertisement has the approval of the Agency.

3. Nature of advertisement

The advertisement of any cosmetic product shall be accurate, complete, clear and designed to promote credibility and trust by the general public and therefore statements or illustrations shall not mislead directly, indirectly or by implication.

4. Non-referential advertisement

No advertisement of a cosmetic product shall-

- (1) imitate the general layout, text, slogan or visual presentation of another cosmetic product in a way likely to mislead or confuse the consumer; or
- (2) be framed in such a manner as to exploit any superstitions or be calculated to induce fear among consumers causing them to purchase the cosmetic product being advertised.

5. Application for the approval of advertisement

- (1) All advertisement materials including scripts, story-boards, art work, radio scripts and any other advertisement material as may be required by the Agency shall be submitted along with an application, to the Agency.

- (2) All materials submitted under these Regulations shall be authenticated by the Chief Executive or the appropriate technical persons of the cosmetics company sponsoring the product.

6. Validity of approval

- (1) An approval for advertisement of cosmetics product shall be valid for a period of one year from the date of the approval and may be renewed.
- (2) Notwithstanding 6(1), consumer promotions shall have validity of fifteen weeks.

7. Alteration in approved script

Any alteration in the format of the approved script or recording without the approval of the Agency shall render the approval null and void

8. Withdrawal of an approval

The Agency may withdraw the approval for an advertisement of cosmetic products if-

- (1) the grounds on which the approval is granted was later found to be false or incomplete;
or
- (2) any of the conditions under which the approval was granted has been contravened; or
- (3) in the light of new scientific evidence against claims contained in the advertisement can no longer be substantiated or are no longer correct.

9. Appeal in case of withdrawal of approval

- (1) If the approval of an advertisement of cosmetic products is withdrawn within the validity period of approval, the applicant may, within 30 days of the receipt of the withdrawal notice, lodge an appeal to the Governing Council of the Agency in writing and accompanied by supportive information; if no appeal is made after thirty days, the withdrawal stands as issued.
- (2) Where no appeal is made after thirty days, the withdrawal stands as issued.

10. Prohibition of reference to member of health care profession, etc.

No advertisement of cosmetic products shall make reference directly or indirectly to any member of the healthcare profession, any professional body or to a hospital, clinic or any other health centre.

11. Contravention of ethical standards not permitted

No advertisement of cosmetic products shall contravene the ethical standard of the health care profession.

12. Advertisement not to prejudice public confidence

No advertisement of cosmetic products shall bring the pharmaceutical industry into disrepute, undermine or prejudice public confidence in medicine.

13. Unfairly disparage competition

No advertisement of cosmetic products shall unfairly disparage any company of its competitive products either directly or by implication.

14. Restriction

No advertisement of cosmetic products shall contain-

- (1) half-truths, inadequate qualification and limitation regarding the safety or effectiveness of the product; or
- (2) vague or unsubstantiated statement or suggestion of superiority over competing product; or
- (3) any false impression that the product advertised is more effective or safer than any other competing product.

15. Prohibition of misleading comparison

- (1) No comparison in an advertisement of cosmetic products shall mislead the public either directly, indirectly or by implication and where there is comparison it shall be supported by reliable current scientific data.
- (2) A reference to a competitive manufacturer or its specialties in an advertisement of cosmetic products shall be restricted to factual comparison without the use of identifiable regulated product or brand name.
- (3) Data illustrations including charts and graphs, tables extracted from reference studies or other sources or reproduced by art work, presented in an advertisement, shall correct in drug-
 - (a) be accurate, complete and clear, with their source specifically identified;
 - (b) not be misleading or ambiguous or distort the original intended meaning or interpretation either directly or by implication.

16. Accurate interpretation of research findings

- (1) All advertisement materials including scripts, story-boards, art work, radio scripts and any other advertisement material for cosmetic products shall be so written as to accurately interpret valid and representative research findings.
- (2) Statistics in an advertisement of cosmetic products shall be so written as to reflect only their true validity and significance.
- (3) Any claim or quotation from a scientific literature concerning the efficacy, safety and adverse reaction, use in children or during pregnancy or any such precautionary statements with the constraints of the accepted products monograph, shall specify the scientific source of the claim or quotation.
- (4) Copy of any reference cited by an applicant or in the advertisement of cosmetic products shall be provided to the Agency for verification.

17. Scientific articles and literatures to contain both positive features and negative findings

- (1) A claim or quotation shall contain both the negative and positive findings and shall be submitted to the Agency for verification.
- (2) A claim based on, or quotation that has been selected from a scientific article or series of articles which emphasises only the positive features while ignoring negative findings, shall not be acceptable.

18. Product launch and Press release:

No product launch or press release of cosmetic products shall be carried out unless approval has been sought and received from the Agency.

19. Claims

- (1) Claims for cosmetic products shall be substantiated before approval.
- (2) Superiority claim may be used only when a product proves to be superior to a comparator or to all products in same category.
- (3) Top parity claims and 'Natural claims' may be permitted provided they are adequately substantiated.
- (4) No advertisement for cosmetic products shall state or imply that any cosmetic product is or has guaranteed efficacy.
- (5) Any statement claiming or implying a superlative function such as "**most effective**", or

special status such as “**the product of choice**“, or any such statements, for a cosmetic product shall not be used unless it can be adequately substantiated.

- (6) “Best-selling” claims when used shall not imply superiority in any form to other products in same category.
- (7) “Duration of action” claims in cosmetic product advertisements shall be allowed provided such claims can be adequately substantiated.

20. **Penalty.**

1. Any person who contravenes any of the provisions of these Regulations shall be guilty of an offence and liable on conviction. In case of :
 - (a) an individual, to imprisonment for a term not exceeding one year or to a fine not exceeding 50,000 or to both such imprisonment and fine; and
 - (b) a body corporate, to a fine not exceeding N100, 000.

2. Where an offence under these Regulations is committed by a body corporate, firm or other association of individuals every:-
 - (a) director, manager, secretary or other similar officer of the body corporate; or
 - (b) partner or officer of the firm or
 - (c) trustee of the body concerned ;or
 - (d) person concerned in the management of the affairs of the association ;or
 - (e) person who was purporting to act in a capacity referred to in paragraphs (a) to (d) of this regulation, is severally guilty of that offence and liable to be proceeded against and punished for that offence in the same manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

21. **Forfeiture after conviction**

- (1) A person convicted of an offence under these Regulations shall forfeit to the Federal Government-
 - (a) any asset or property constituting proceeds derived from or obtained, directly or indirectly, as a result of the offence;
 - (b) any of the person's property or instrumentalities used in any manner to commit or to facilitate the commission of the offence.

- (2) In this section, “**proceeds**” means any property derived or obtained, directly or indirectly, through the commission of the offence.

22. Interpretation

In these Regulations, unless the context otherwise requires-

“**Agency**” means the National Agency for Food and Drug Administration and Control;

“**Advertising**” means the publicity of goods and description of all products (which includes any form of notices in circulars, handouts, labels, wrappers, catalogues and price lists, bill boards, posters, newspapers, magazines, and any other documents) made orally or otherwise or by means of projected light and sound recordings;

“**Advertisement**” is a form of communication through the media about products, services or ideas paid for by an identified sponsor. It is used to encourage, persuade or manipulate an audience (viewers, readers or listeners) to continue with or take some new action.

“**Agency**” means the National Agency for Food and Drug Administration and Control;

“**Claim**” means any representation which states, suggests or implies that the cosmetic product has particular qualities relating to its origin, nature, processing, composition or any other quality;

“**Cosmetic**” means any substance or mixture of substances intended to be rubbed, poured, sprinkled or sprayed, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the complexion, skin, hair or teeth and includes deodorants and detergent powder.

“**Justification**” in respect of any claim shall be in the light of current knowledge;

“**Label**” means a display of written, printed or graphic matter upon the immediate containers to the cosmetics product;

“**Package labelling**” includes the label on the immediate container plus all other printed matter such as outer wrapper, carton or leaflet associated with the package;

“**Media**”: means newspaper, magazine, medical/journal, television, radio, the Internet;

Out of home, vehicle branding, posters, handbills, cinema, point of sale material; any form of projected light and sound recordings or any of such means of communication.

“**Top Parity**”: Where several products within the same category are of equal efficacy and the evidence shows that no product is superior to the one being advertised, a top parity claim may be used.

23. Repeal:

- (1) The Cosmetics and Medical Devices Advertisement Regulation 1996 is hereby repealed.
- (2) The repeal of these Regulations specified in Regulations 23(1) shall not affect anything done or purported to be done under the repealed Regulations

24. Citation:

These Regulations may be cited as the Cosmetics and Medical Devices (Advertisement) Regulations, 2018.

MADE at Abuja thisday of2018

.....

Inuwa Abdulkadir Esq

Chairman Governing Council

National Agency for Food and Drug product Administration and Control (NAFDAC)