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<i>S.I. No.</i>	<i>Short Title</i>	<i>Page</i>
62	Cosmetics Products Advertisement Regulations, 2021. . . .	B3031-3038

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**NATIONAL AGENCY FOR FOOD AND DRUG
ADMINISTRATION AND CONTROL ACT
(CAP. N1 LFN), 2004**

COSMETICS PRODUCTS ADVERTISEMENT REGULATIONS, 2021



ARRANGEMENT OF REGULATIONS

Regulation :

1. Scope of application.
2. Prohibition.
3. Nature of advertisement.
4. Non-referential advertisement.
5. Application for the approval of advertisement.
6. Validity of approval.
7. Withdrawal of approval.
8. Reference to professional body or association, etc.
9. Contravention of ethical standards.
10. Unfairly disparage competition.
11. Restriction.
12. Prohibition of misleading comparison.
13. Accurate interpretation of research findings.
14. Scientific articles and literatures.
15. Product launch and press release.
16. Claims.
17. Offences and Penalties.
18. Forfeiture after conviction.
19. Revocation.
20. Enforcement of these Regulations.
21. Interpretation.
22. Citation.

S. I. No. 62 of 2021

**NATIONAL AGENCY FOR FOOD AND DRUG
ADMINISTRATION AND CONTROL ACT
(CAP. N1, LFN) 2004**

COSMETICS PRODUCTS ADVERTISEMENT REGULATIONS, 2021

[7th Day of July, 2021]

Commence-
ment.

In exercise of the powers conferred on it by sections 5 and 30 of the National Agency for Food and Drug Administration and Control Act (Cap. N1, LFN) 2004 and section 12 of the Food, Drug and Related Products (Registration, Etc.) Act (Cap. F33, LFN) 2004 and all other 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 Minister of Health makes the following Regulations—

1. These Regulations shall apply to all advertisements and promotion of cosmetics products, manufactured, imported, exported, sold, distributed or used in Nigeria.

Scope of
application.

2. A person shall not advertise a cosmetic product unless the—

Prohibition.

(a) product is registered by the Agency ; and

(b) advertisement is approved by the Agency.

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

Nature of
advertisement.

4. Advertisement of a cosmetic product shall not—

Non-
referential
advertisement.

(a) imitate the general layout, text, slogan or visual presentation of another cosmetic product in a way likely to mislead or confuse the consumer ; or

(b) 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.—(1) Advertisement materials, including scripts, story-boards, artwork, radio scripts and any other advertisement material shall be submitted along with an application in a manner as may be prescribed by the Agency.

Application
for the
Approval of
Advertisement.

(2) Materials submitted under these Regulations shall be authenticated by the Chief Executive or the appropriate technical persons of the cosmetics company sponsoring the advertisement.

B 3034

Validity of approval.

6.—(1) An approval for advertisement of cosmetics product shall be valid for a period of one year at first instance from the date of the approval and may be renewed.

(2) Subsequent advertisement applications shall be valid for two years provided that no alteration is made and conditions of renewal of approval remain the same.

(3) Notwithstanding the provisions of sub-regulation (1) of this regulation, consumer promotions shall be valid for fifteen weeks.

Withdrawal of approval.

7. The Agency may withdraw the approval for an advertisement of cosmetic products, where—

(a) the grounds for the grant of approval is later found to be false or incomplete ;

(b) any of the conditions under which the approval was granted has been contravened ;

(c) a new scientific evidence against the claims contained in the advertisement can no longer be substantiated or are no longer correct ; or

(d) there is an Order of Court.

Reference to professional body or association, etc.

8. Advertisement of cosmetic products shall make reference directly or indirectly to any member of the healthcare profession, any professional body or association or to a hospital, clinic or any other health centre, in line with the criteria by the Agency.

Contravention of ethical standards.

9. Advertisement of cosmetic products shall not contravene the ethical standard of the health care profession.

Unfairly disparage competition.

10. Advertisement of cosmetic products shall not unfairly disparage any company of its competitive products either directly or indirectly.

Restriction.

11. Advertisement of cosmetic products shall not contain—

(a) false information or misleading information ;

(b) inadequate qualification and limitations regarding safety or effectiveness of the cosmetics product ;

(c) vague or unsubstantiated statement or suggestion of superiority over other competing products ; or

(d) any false impression that the cosmetic products is more effective and safer alternative to other related cosmetic products.

12.—(1) Comparison in an advertisement of cosmetic products shall not mislead the public either directly, indirectly.

Prohibition
of misleading
comparison.

(2) Where there is comparison in an advertisement of cosmetic products, it shall be supported by reliable current scientific data.

(3) 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.

(4) Data illustrations including charts and graphs, tables extracted from reference studies or other sources or reproduced by artwork, presented in an advertisement, shall—

(a) be accurate, complete and clear, with their source specifically identified ; and

(b) not be misleading or ambiguous or distort the original intended meaning or interpretation either directly or by implication.

13.—(1) All advertisement materials including scripts, story-boards, art work, radio scripts and any other advertisement material for cosmetic products shall be written as to accurately interpret valid and representative research findings.

Accurate
interpretation
of research
findings.

(2) Statistics in an advertisement of cosmetic products shall be written 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.

14.—(1) A claim or quotation shall contain both the negative and positive findings and shall be submitted to the Agency for verification.

Scientific
articles and
literatures.

(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.

15. All product launch materials or press release of cosmetic products shall be as approved by the Agency for the product advertising materials.

Product
launch and
press
release.

16.—(1) Claims for cosmetic products shall be substantiated before approval.

Claims.

(2) Superiority claim may be used only where 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) Advertisement of cosmetic products shall not state or imply that a 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.

Offences and
Penalties.

17.—(1) A person who contravenes any of the provisions of these Regulations commits an offence and liable on conviction, in the case of—

(a) an individual, to imprisonment for a term not exceeding one year or to a fine not exceeding ₦800,000.00 or to both ; and

(b) a body corporate, to a fine not exceeding ₦5,000,000.00

(2) Where an offence under these Regulations is committed by a body corporate, firm or other association of individuals, the—

(a) director, manager, secretary or other similar officer of the body corporate ;

(b) partner or officer of the firm ;

(c) trustee of the body concerned ;

(d) person concerned in the management of the affairs of the association ; or

(e) person who purports to act in a capacity referred to in paragraphs

(a) to (d) of this sub-regulation,

is liable to be proceeded against and punished for the offence in the same manner as if the person committed the offence, unless the person proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

18. A person convicted of an offence under these Regulations shall forfeit to the Federal Government—

Forfeiture
after
conviction.

(a) any asset or property constituting proceeds derived from or obtained, directly or indirectly, as a result of the offence ; and

(b) any of the person's property or instrumentalities used in any manner to commit or to facilitate the commission of the offence.

19.—(1) The Cosmetics and Medical Devices (Advertisement) Regulations, 1996 is revoked.

Revocation.

(2) The revocation of the Regulations specified in sub-regulation (1) of this regulation shall not affect anything done or purported to have been done under the revoked Regulations.

20. The Agency shall be responsible for the enforcement of these Regulations.

Enforcement
of these
Regulations.

21. In these Regulations—

Interpretation.

"*Advertisement*" means a form of communication through the media about products, services or ideas paid for by an identified sponsor and it is also used to encourage, persuade or manipulate an audience (viewers, readers or listeners) to continue with or take some new action ;

"*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, digital and social media, and any other documents) made orally, online or otherwise or by means of projected light and sound recordings ;

"*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*" means written explanation in respect of any claim, which shall be in the light of current knowledge acceptable to the Agency ;

"*Label*" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stenciled, marked, embossed or impressed on, or attached to, a package (container) of a cosmetic product ;

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

“Proceeds” means any property derived or obtained, directly or indirectly, through the commission of the offence ;

“Media” means newspaper, magazine, medical or journal, television, radio, the internet; out of home, vehicle branding, posters, handbills, cinema, point of sale material, online, digital and social media, any form of projected light and sound recordings or any of such means of communication ; and

“Top Parity” means a claim used 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.

Citation. **22.** These Regulations may be cited as the Cosmetic Products Advertisement Regulations, 2021.

MADE at Abuja this 7th day of July, 2021.

DR OSAGIE E. EHANIRE, MD, FWACS
Honourable Minister of Health