

EASA

The European Advertising Standards Alliance (EASA) is the single authoritative voice of advertising self-regulation. EASA promotes high ethical standards in commercial communications by means of effective self-regulation for the benefit of consumers and business. For further information, please visit: www.easa-alliance.org.

As a non-profit organisation based in Brussels, EASA brings together national advertising self-regulatory organisations and associations representing the advertising industry in Europe.

EASA editorial team

Maria Tsoumou, Project and Finance Coordinator

Chiara Odelli, Policy Manager

Sibylle Stanciu-Loeckx, Director of Operations and Policy

Oliver Gray, Director General

EASA contact information

Maria Tsoumou

+32 (0)2 513 78 06

maria.tsoumou@easa-alliance.org

Copyright

The complete or partial reproduction of this publication is forbidden without the prior express written permission from the Cosmetics Europe.

Compiled in

November 2015

Contents

Introduction	3
Project overview.....	4
Note.....	7
Executive summary	8
Overall Compliance Results	10
Compliance Results per Media	18
Conclusion	23
Annex A: How an Advertising Self-Regulatory System Works	24

Figures

Figure 1: Overall compliance figures (N=1,861)	11
Figure 2: Overall compliance results reported per country (N=1,861).....	12
Figure 3: Breakdown of misleading issues (N=121)	14
Figure 4: Compliance with Commission Regulation No 655/2013 (N=1,861).....	16
Figure 5: Type of breaches of Commission Regulation (EU) No 655/2013 (N=128)	16
Figure 6: Compliance results on television advertisements (N=577)	19
Figure 7: Compliance results of print advertisements (N=1,284).....	21
Figure 8: Types of breaches flagged in print advertisements (N=116)	22

Tables

Table 1: List of self-regulatory organisations.....	4
Table 2: Total number of advertisements reviewed per country	10
Table 3: Total number of television advertisements reviewed per country	18
Table 4: Total number of print advertisements reviewed per country	20

Introduction

In 2015, Cosmetics Europe commissioned EASA to conduct a monitoring exercise of cosmetics¹ advertisements on television and print in media across six European countries.

The exercise aimed at checking the compliance of advertisements against the national self-regulatory advertising codes and laws and included an assessment of these advertisements against the Commission Regulation (EU) No 655/2013² and its guidelines³, which lay down common criteria for the justification of claims used in relation to cosmetic products.

The exercise also aimed to assess the level of implementation of the Cosmetics Europe Charter and Guiding Principles on Responsible Advertising and Marketing Communication⁴ through the national advertising self-regulatory organisations (SROs) in Europe, which are responsible for the enforcement and monitoring of advertising codes. The Charter and Guiding Principles are part of a voluntary self-regulatory initiative created by Cosmetics Europe in June 2012. The Charter lays down key principles for responsible cosmetics advertising with a focus on honesty and social responsibility.

This monitoring exercise has been preceded by a thorough Gap Analysis project, conducted by EASA in 2013. The aim of the Gap Analysis was to facilitate the implementation of the Cosmetics Europe Charter and Guiding Principles at Member State level. The gap analysis offered a benchmarking of national rules related to cosmetics advertising against the Cosmetics Europe Charter and Guiding Principles and allowed thus tracking the implementation progress.

¹Definition of cosmetic products: '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'.

² Commission Regulation (EU) No 655/2013 laying down common criteria for the justification of claims used in relation to cosmetic products <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0655&from=EN>

³ Guidelines to Commission Regulation (EU) No 655/2013 laying down common criteria for the justification of claims used in relation to cosmetic products http://ec.europa.eu/consumers/sectors/cosmetics/files/pdf/guide_reg_claims_en.pdf

⁴ Full document can be found here <https://www.cosmeticseurope.eu/news-a-events/news/355-launch-of-the-cosmetics-europe-guiding-principles-on-self-regulation-in-advertising.html>

Project overview

Countries/Participating SROs

Six European self-regulatory organisations (SROs⁵) were selected by EASA and Cosmetics Europe to participate in the monitoring exercise. The six SROs are well-established organisations with extensive experience in assessing advertisements and their compliance with advertising self-regulatory codes. The selected SROs represent different systems in terms of size (big vs. small SROs), location (geographical coverage) and maturity (new vs. old systems). Each SRO assigned one expert to review all advertisements for that country to ensure consistency in reporting.

Table 1: List of self-regulatory organisations

Country	Self-Regulatory Organisation	Year of establishment
France	Autorité de régulation professionnelle de la publicité (ARPP)	1935
Hungary	Önszabályozó Reklám Testület (ÖRT)	1996
Italy	Istituto dell'Autodisciplina Pubblicitaria (IAP)	1966
Poland	Związek Stowarzyszeń Rada Reklamy (RR)	2006
Sweden	Reklamombudsmannen (Ro.)	2009
UK	Committee of Advertising Practice (CAP)	1959

Media and capture period

The assigned experts from the six SROs reviewed television and print advertisements broadcasted/published during September 2014, March 2015 and June 2015, which are the months with the highest ad spend for the cosmetics Industry. The advertisements were provided by ebiquity, an independent global media and marketing performance management company. Ebiquity provided EASA with a complete recording of all the original advertisements that were broadcast and published in the selected markets and media during

⁵ Self-Regulatory Organisations (SROs), sometimes known as advertising watchdogs or ad standards bodies, are responsible for the application, enforcement and revision of national advertising self-regulatory codes. SROs provide advice to the advertising industry to ensure compliance of advertisements with the code before campaigns are launched, conduct - depending on capacity - regular monitoring of the advertising market, handle complaints from consumers or other entities and issue sanctions when advertisements are found in breach.

Top line report

the chosen period of time, while removing, to the extent possible, all duplicate advertisements from the sample as well shorter versions of the same advertisement.

Reviewing period

The experts performed the review of the advertisements between August and September 2015.

Methodology

The monitoring exercise was divided into two phases. In the first phase, the experts were requested to review the advertisements, assess their compliance against the national codes and both national and European laws and report the findings to the EASA secretariat using a dedicated questionnaire. The experts were also asked to flag those claims in the advertisements that require additional substantiation in order to comply with the Commission Regulation (EU) No 655/2013 laying down common criteria for the justification of claims used in relation to cosmetic products and its guidelines.

During the second phase of the exercise, each expert sent to the national cosmetics association the list of advertisements that included claims that require additional substantiation and requested the necessary evidence that would substantiate the claims. Upon receipt of the evidence, the experts assessed it to decide if it was sufficient to substantiate the claim.

Subsequently, EASA collected the results of the assessments and compiled the overall results of this exercise which are summarised in this report.

Throughout this monitoring exercise, the experts assessed the advertisements following a similar process used when investigating complaints about an advertisement.

Benchmark for assessment

The SROs were requested to check the compliance of all advertisements against:

- The 2011 International Chamber of Commerce (ICC) Consolidated Code of Advertising and Marketing Practice;
- Commission Regulation (EU) No 655/2013 laying down common criteria for the justification of claims used in relation to cosmetic products;

Top line report

- Guidelines to Commission Regulation (EU) No 655/2013 laying down common criteria for the justification of claims used in relation to cosmetic products;
- All relevant national advertising codes and relevant legislation.

EASA's role

The experts of the participating national SROs performed all reviews independently before sending the results to the EASA Secretariat. EASA's role was to ensure that these results were complete and reported on in a consistent manner. EASA was also responsible for the compilation of this final report.

Note

EASA has taken great care to ensure that the results of this project are accurate and consistent by developing a clear methodology and questionnaire for the SROs.

However, the advertisements were not reviewed against an identical set of codes and laws, but against the codes and laws in place in the country where the advertisements have been broadcast or published. While these do differ, a level of consistency is ensured by the implementation of the Cosmetics Europe Charter and Guiding Principles and the Consolidated Code of Advertising and Marketing Practice, which has been established by the International Chamber of Commerce (ICC) and is used either as a basis for a national advertising code or a benchmark in the development or revision of national codes.

When evaluating the advertisements, the experts have also considered the national average consumer, whom the advertisements are targeting, to determine if the advertisements and the claims made in the advertisements are sufficiently clear and precise for the average consumer and if the advertisements respect the prevailing standards of taste and decency and social responsibility in that country.

Another important difference between the self-regulatory systems in place in the six countries involved in this monitoring exercise is that under the French and UK broadcasting legislation all television advertisements in these two countries are subject to mandatory pre-clearance⁶ before they can be broadcast. Therefore, the SROs in France and the UK may be less likely to find issues with advertisements on television than SROs in Hungary, Italy, Poland and Sweden where there is no compulsory pre-clearance in place.

While this inevitably leads to some differences in the results of the exercise, it also means that this report reflects accurately the situation and issues encountered in the local market which will enable the cosmetics sector to respond adequately.

⁶ Pre-clearance is the compulsory examination of an advertisement by a self-regulatory organisation before it is broadcast or published, to ensure that it complies with the relevant statutory or self-regulatory rules. In most cases pre-clearance is the result of an agreement with the public authorities.

Executive summary

A total of 1,861 advertisements, including 577 television and 1,284 print advertisements of cosmetic products were analysed by SROs in the six participating countries.

- 91% of the advertisements were considered as compliant with all relevant advertising codes/laws;
- 6% of the advertisements were found to be in breach of relevant advertising codes/laws;
- 3% of the advertisements could not be assessed, as the experts did not receive the information necessary to assess the compliance of the claims made in the advertisements;
- The main issue identified with the 6% of advertisements found to be in breach was misleading advertising followed by social responsibility, health and safety and taste and decency. Misleading advertising mainly concerned unsubstantiated claims and health/medical claims. Other misleading issues flagged by the SROs were related to: claims regarding legal requirements, claims related to studies/tests, denigration of the use of ingredients that are legal to use, testimonials, promotions with no expiration date, misleading imagery and comparative advertising;
- 91% of the advertisements were found to be compliant with the Commission Regulation (EU) No 655/2013;
- Lack of evidential support was the main issue identified in the advertisements flagged as in breach of the Commission Regulation (EU) No 655/2013.

Television advertisements

A total of 577 television advertisements were analysed, which represented a third of the whole sample.

- 97% of the television advertisements were considered as compliant with all relevant advertising codes/laws;
- 2% of the television advertisements were found to be in breach of one or more of all relevant advertising codes/laws. The main issue identified for television advertisements was related to misleading advertising;

Top line report

- 1% of the television advertisements could not be assessed, as companies did not provide the requested evidence to substantiate the claims made in the advertisements.

Print advertisements

A total of 1,284 print advertisements were analysed, representing 69% of the whole sample.

- 88% of the print advertisements were considered as compliant with all relevant advertising codes/laws;
- 9% of the print advertisements were found to be in breach one or more of all relevant advertising codes/laws. The main issue identified for print advertisements was related to misleading advertising;
- 3% of the print advertisements could not be assessed, as companies did not provide the requested evidence to substantiate the claims made in the advertisements.

Overall Compliance Results

1. Information on the sample of advertisements reviewed

A total of 1,897 television and print advertisements were reviewed by the participating SROs. The table below provides an overview of the number of advertisements reviewed per country and the share these represent in relation to the total.

Table 2: Total number of advertisements reviewed per country

Country	Total number of advertisements reviewed	% of total number of advertisements reviewed
France	294	15%
Hungary	196	10%
Italy	302	16%
Poland	589	31%
Sweden	150	8%
United Kingdom	366	19%
Total	1,897	100%

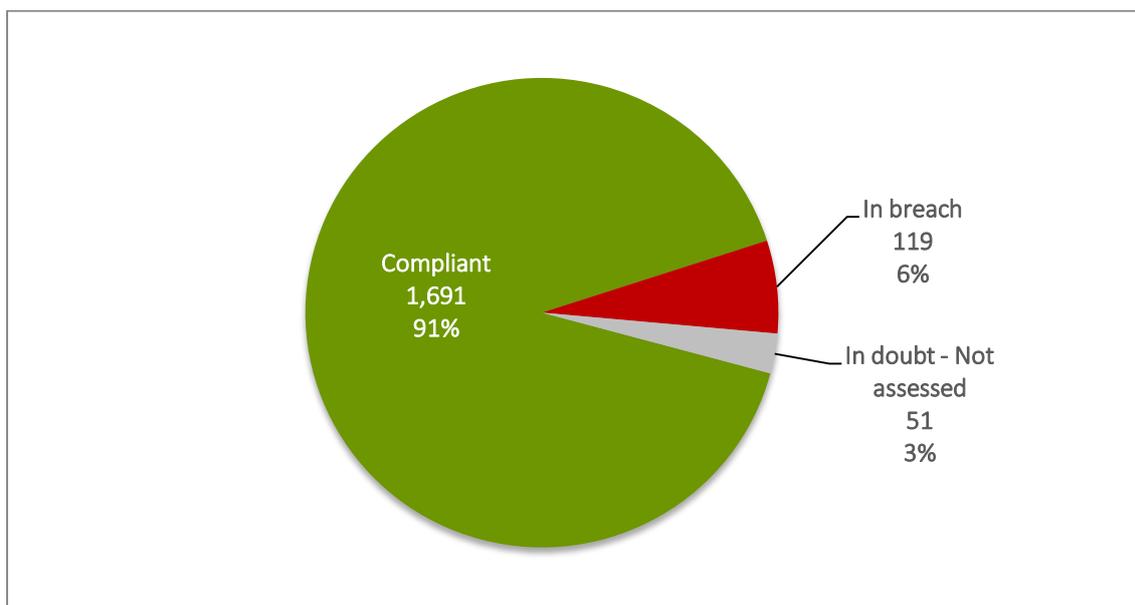
Out of the 1,897 advertisements reviewed, 1,861 advertisements were analysed in more detail, while 29 advertisements were excluded due to technical problems⁷. Seven advertisements were considered to be out of the remit of the national advertising codes. Therefore, a total of 36 advertisements were excluded from the analysis.

⁷ Examples of technical problems are illegible or missing text on print advertisements, lack of sound of the television advertisements, etc.

2. Overall Compliance Figures

Out of the 1,861 advertisements that were further analysed, 1,691 advertisements (91%) were considered as compliant with all relevant advertising codes/laws while 119 advertisements (6%) were found to be potentially in breach.

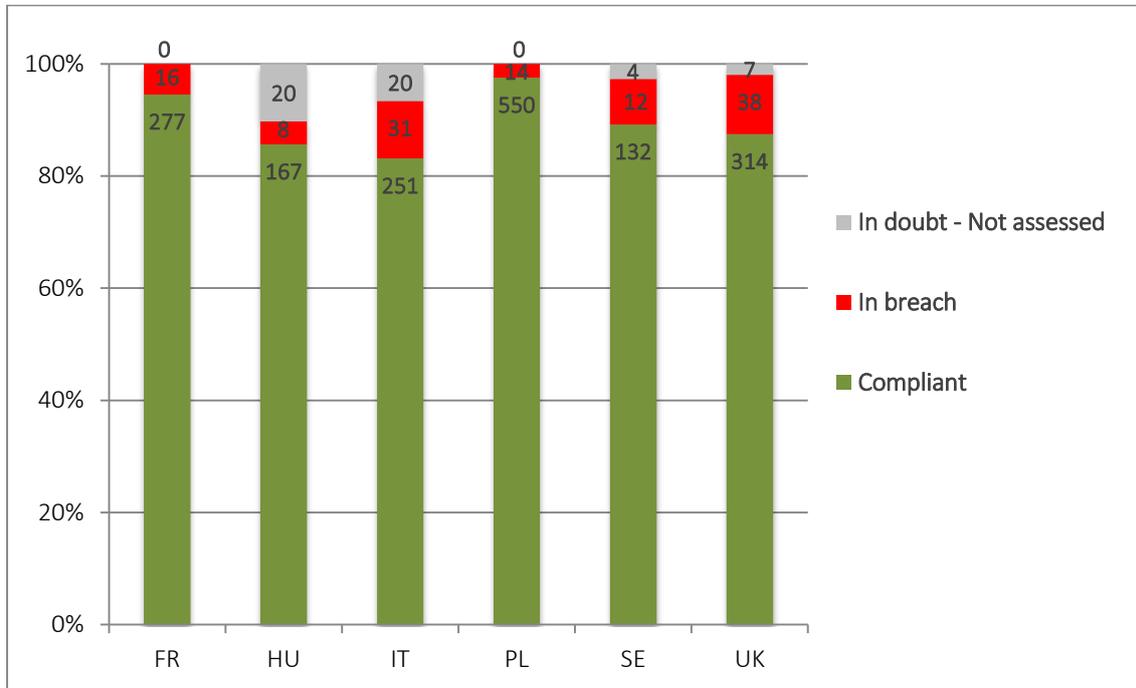
Figure 1: Overall compliance figures (N=1,861)



51 advertisements (3%) could not be assessed. As explained in the methodology (page 5), the national cosmetics associations requested, on behalf of the reviewers, their member companies to provide substantiation of claims made in the advertisements if these were flagged by the experts as including claims requiring evidence. Attempts were made by national associations to also contact companies which were not in membership of the national cosmetics associations, some but not all of whom responded. A total of 283 requests were made. In 51 instances, the advertisements belonged to companies not in membership of the national cosmetics associations that did not respond, or to companies that refused providing any information. Therefore, the experts could not assess the compliance of the claims made in these 51 advertisements.

The table below shows the compliance rates per country.

Figure 2: Overall compliance results reported per country (N=1,861)



On average, across the countries 90% of the reviewed advertisements were considered to be compliant with the relevant advertising codes and laws. The experts in Poland and France reported the highest compliance rates with 98% (550 advertisements) and 95% (277 advertisements) respectively. The compliance rates in Sweden (89%, 132 advertisements), UK (87%, 314 advertisements), Hungary (86%, 167 advertisements) and Italy (83%, 251 advertisements) showed in comparison a lower compliance rate.

On average, 7% of the advertisements reviewed per country were found to be problematic and potentially in breach of the national advertising codes and laws. In Italy and the UK they were roughly 10% of the reviewed advertisements and in the other countries less than 10%.

As mentioned previously, 51 advertisements could not be further assessed as the experts lacked the access to the necessary evidence. The majority of these advertisements originated in Hungary and Italy with 20 advertisements each (10% and 7% respectively).

3. Type of Breaches

As mentioned above, 119 advertisements were found to be potentially in breach of the national advertising codes and laws. In these 119 advertisements, the experts identified 127 features which were not compliant.

The vast majority of breaches identified by the experts (121 breaches) concerned misleading⁸ advertising. An analysis of the misleading issues can be found in the next page.

Three advertisements breached social responsibility rules. Two of these advertisements originated in Poland and the claims made in the advertisements were considered to exploit the lack of knowledge or inexperience of the consumers. The third advertisement originated in Italy and was considered irresponsible because it claimed that certain cosmetic products contain dangerous and illegal ingredients, which could raise unfounded concerns among the consumers.

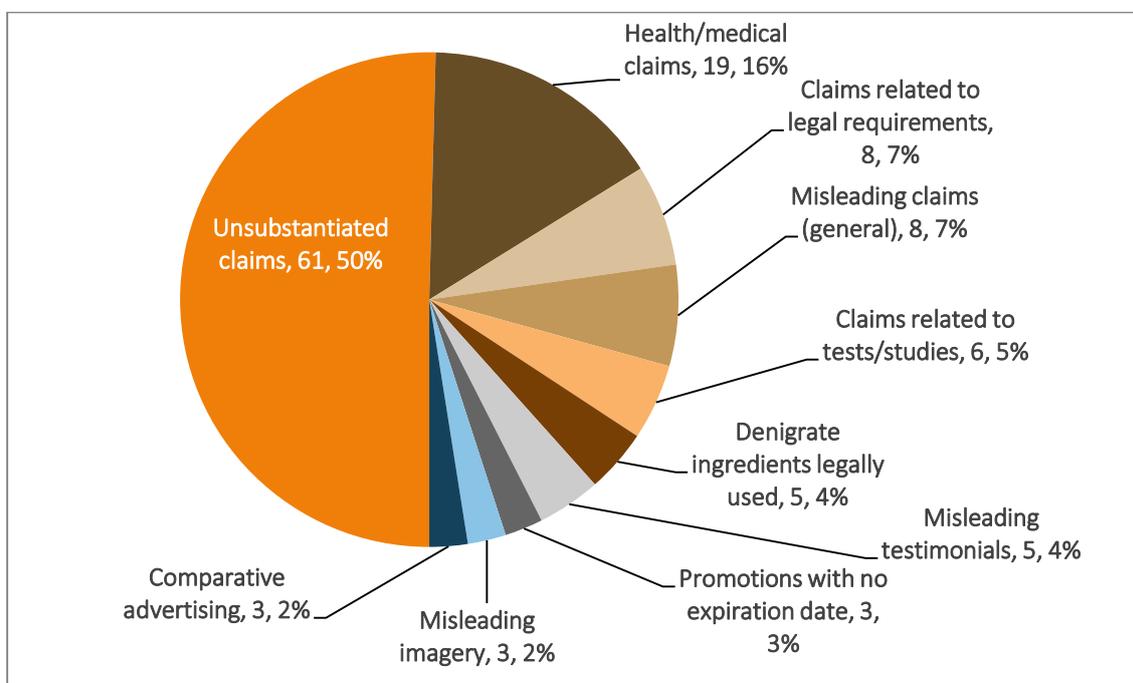
Issues of health and safety were found in two Italian advertisements. Both advertisements promoted sunscreen and used claims that created the impression that the products could provide complete protection from UV radiations.

Finally, one Italian advertisement was deemed indecent as it objectified the woman featured in the advertisement.

⁸ Misleading advertising refers to any claim, whether made expressly, by implication or omission, likely to lead members of the general public to suppose that the advertised goods or services, or the conditions (including price) under which they are offered, are materially different from what is in fact the case. A marketing communication should not contain any statement, or audio or visual treatment which, directly or by implication, omission, ambiguity or exaggeration, is likely to mislead a member of the general public.

The chart below shows the breakdown of the issues identified as misleading by the SROs.

Figure 3: Breakdown of misleading issues (N=121)



Of the 121 issues identified by the SROs as misleading, half concerned **unsubstantiated claims** (61 breaches, 50%). For these claims, the SROs requested from the advertisers the relevant evidence such as clinical studies or tests that would substantiate the claims made in these advertisements but the material provided by the companies was not sufficient to substantiate the claims. The majority of unsubstantiated claims were flagged by the UK SRO.

The second issue that was identified by the SROs related to **health or medical claims**, which were made in 19 advertisements originating mostly in France. These claims implied that the use of the product had effects not only on the appearance but also on the health of the user. Medical claims which go beyond the scope of a cosmetic product were therefore considered to be breaching the national advertising codes.

Eight advertisements included statements such as “not tested on animals”, “safe for babies” or “dioxane tested”. Such claims convey the idea that a product has a specific benefit other products might not have, but are in fact mere compliance with minimum **legal requirements** all cosmetic products must meet. All the advertisements including this type of claims originated in Italy.

Eight advertisements included **general hyperbole claims**, which, according to the SROs, were likely to mislead consumers.

Six French advertisements included references to **tests or studies** that substantiate the claims made in the advertisements. However, the references did not make any clear distinction between satisfaction studies and scientific results and therefore were considered to be misleading.

Five Swedish advertisements used claims such as “parabens free” that implied that the use of parabens is problematic. As the use of parabens in cosmetic products is legal in Europe, the claims were found to be **denigrating** with regard to those cosmetic products that do use parabens.

Five advertisements included **testimonials** from celebrities or private persons. These testimonials were not presented as a personal assessment or impression of the product. Therefore, they were considered as potentially in breach of national self-regulatory codes/laws. These advertisements originated in Hungary and Italy.

Three Italian advertisements did not provide clear information of the **duration of the promotional** offers and were therefore considered likely to mislead consumers.

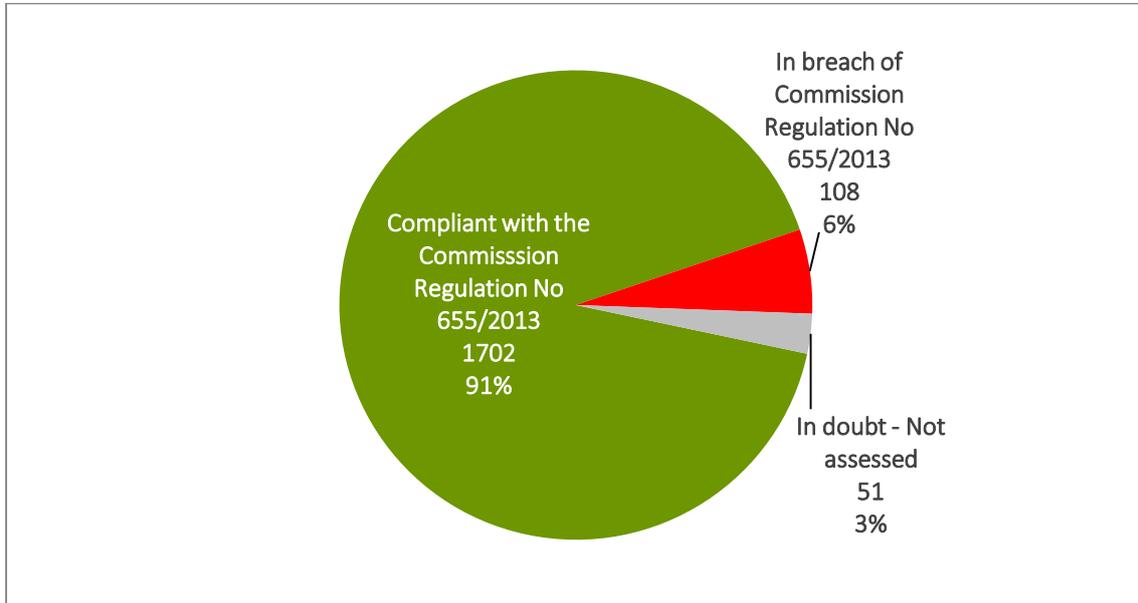
Three UK advertisements featured “**before and after**” images which were considered to be misleading.

Three advertisements included **comparative claims** giving the impression that the competitor’s product included illegal ingredients. These advertisements were therefore found to be potentially in breach.

3.1 Analysis of breaches of Commission Regulation (EU) No 655/2013

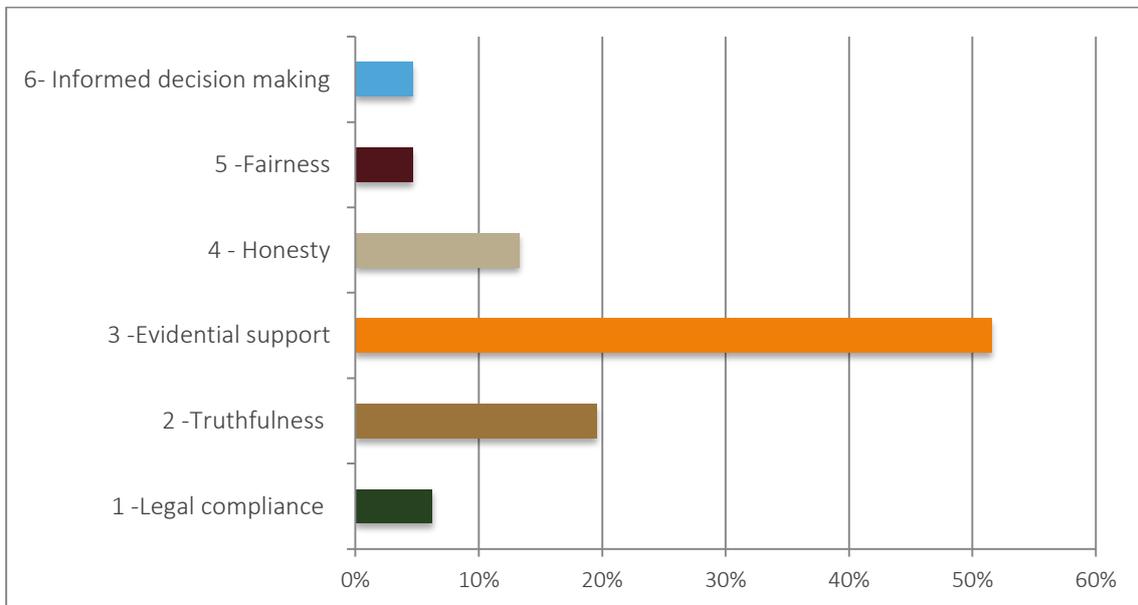
Out of the 1,861 reviewed advertisements, 108 were considered to be potentially breaching the provisions of the Commission Regulation No 655/2013.

Figure 4: Compliance with Commission Regulation No 655/2013 (N=1,861)



In these 108 advertisements the SROs identified 128 features that were likely in breach with the Regulation. The graph below shows the breakdown of the breaches into the common criteria laid down in the Commission Regulation No 655/2013.

Figure 5: Type of breaches of Commission Regulation (EU) No 655/2013 (N=128)



More than half of the total number of breaches identified in 66 advertisements related to the lack of **evidential support**.

Issues about the **truthfulness** of the general presentation of the cosmetic product were flagged in 25 advertisements and represented 20% of all the breaches of the Commission Regulation No 655/2013.

13% of the breaches identified in 17 advertisements related to the issue of **honesty**. The claims and presentation of the product's performance went beyond the available supporting evidence.

6% of the breaches identified in eight advertisements related to **legal compliance**. The experts flagged those claims which conveyed the idea that a product has a specific benefit when this benefit is mere compliance with minimum legal requirements.

5% of the breaches related to **fairness** and more specifically to claims for cosmetic products that denigrate ingredients that are legal to use.

Another 5% of the breaches concerned claims that were considered unclear and not understandable to the average consumer; they were thus in breach of the requirement of **informed decision making**.

Compliance Results per Media

1. Television Advertisements

1.1 Information on the sample of reviewed television advertisements

A total of 592 television advertisements were reviewed by the participating SROs. This represents 31% of the total sample of reviewed advertisements. The table below provides an overview of the number of television advertisements reviewed per country and the share these represent in relation to the total.

Table 3: Total number of television advertisements reviewed per country

Country	Total number of television advertisements reviewed	% of total number of television advertisements reviewed
France	96	16%
Hungary	104	18%
Italy	65	11%
Poland	226	38%
Sweden	33	6%
United Kingdom	68	11%
Total	592	100%

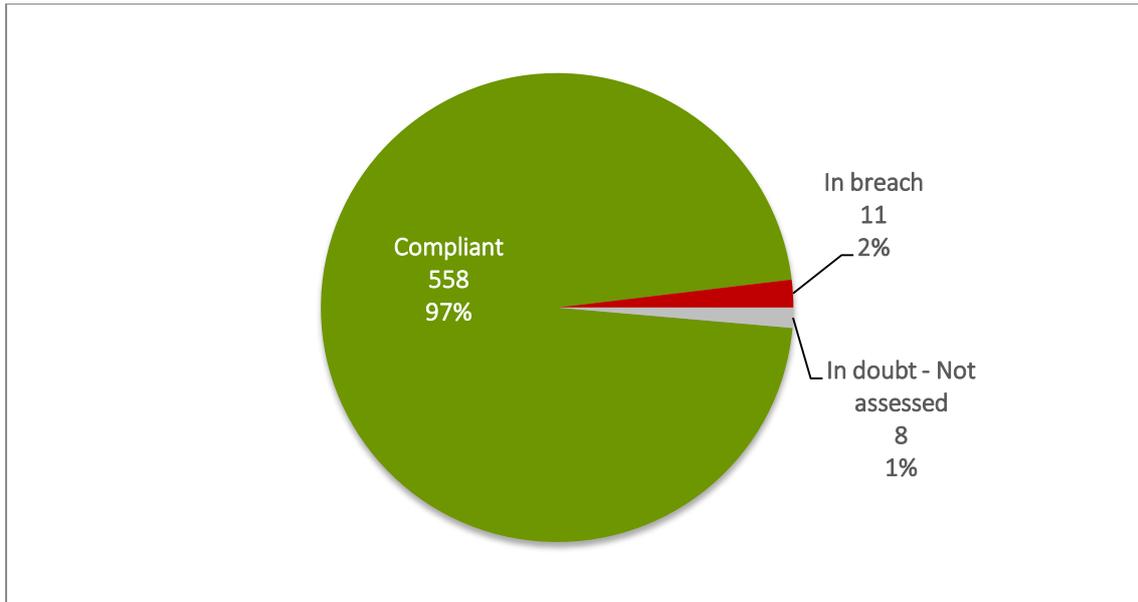
Out of the 592 reviewed television advertisements, 577 were further analysed while 15 advertisements had to be excluded from the sample as eight featured technical problems and seven were considered to be out of the remit of the national advertising codes.

1.2 Compliance Results of Television Advertisements

Out of the 577 television advertisements that were further analysed, 558 advertisements (97%) were considered as compliant with all relevant advertising codes and laws while 11 advertisements (2%) were found to be potentially in breach.

Eight television advertisements (1%) could not be assessed because the experts did not receive the requested evidence that would help them assess the compliance of the claims and thus the compliance of the advertisements.

Figure 6: Compliance results on television advertisements (N=577)



1.2.a Type of Breaches

11 television advertisements were found by the experts to be potentially in breach of advertising codes and laws, as they were considered misleading. Two of the advertisements included hyperbole claims in terms of the effects of the product. One advertisement included health/medical claims while four advertisements included misleading testimonials. The remaining four advertisements included claims that the advertisers could not sufficiently substantiate.

2. Print Advertisements

2.1 Information on the sample of reviewed print advertisements

A total of 1,305 print advertisements were reviewed by the participating SROs. This represents 69% of the total sample of reviewed advertisements. The table below provides an overview of the number of print advertisements reviewed per country and the share these represent in relation to the total.

Table 4: Total number of print advertisements reviewed per country

Country	Total number of print advertisements reviewed	% of total number of print advertisements reviewed
France	198	15%
Hungary	92	7%
Italy	237	18%
Poland	363	28%
Sweden	117	9%
United Kingdom	298	23%
Total	1,305	100%

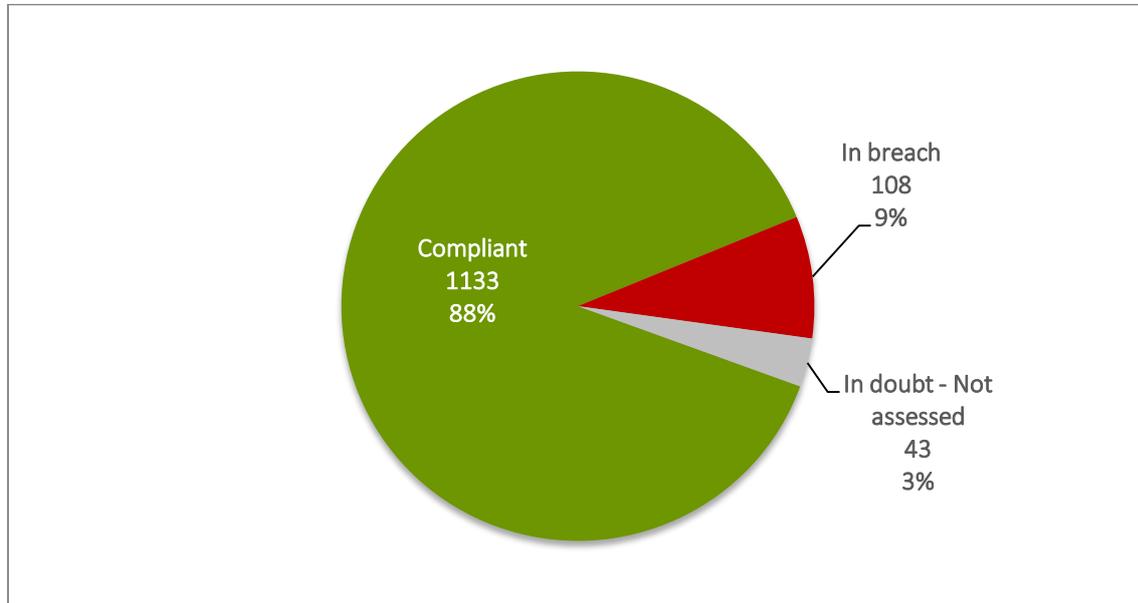
Out of the 1,305 reviewed print advertisements, 1,284 advertisements were further analysed while 21 advertisements had to be excluded from the sample owing to technical difficulties.

2.2 Compliance Results of Print Advertisements

Out of the 1,284 print advertisements that were further analysed, 1,133 advertisements (88%) were considered as compliant with all relevant advertising codes and laws while 108 advertisements (9%) were found to be in breach.

43 print advertisements (3%) could not be assessed because the experts did not receive the requested evidence that would help them assess the compliance of the claims and to evaluate compliance with the advertising codes and laws.

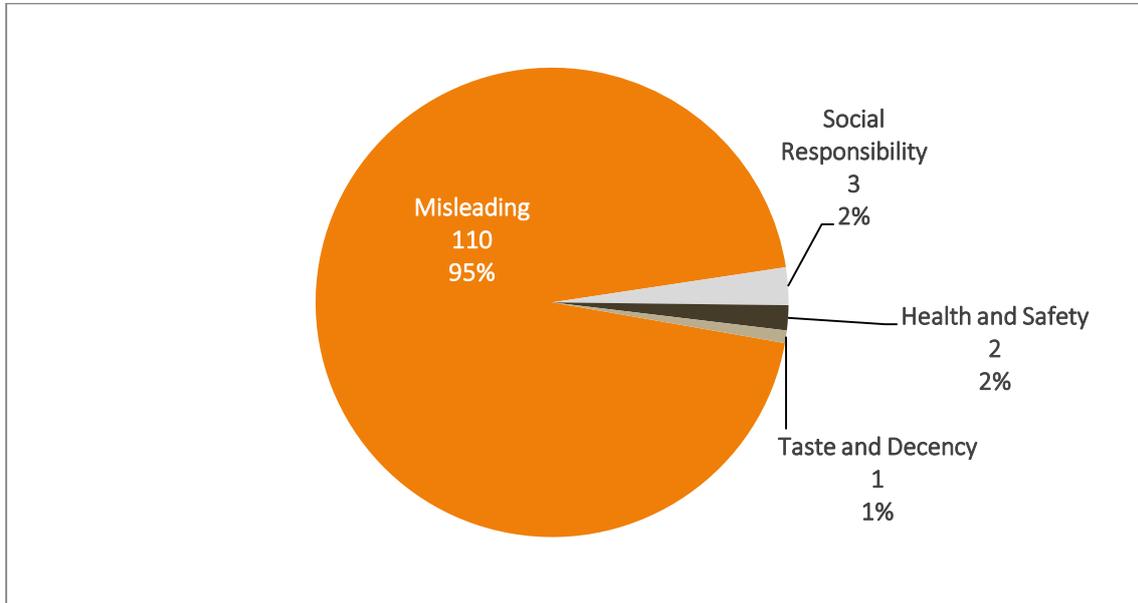
Figure 7: Compliance results of print advertisements (N=1,284)



2.2.a Type of Breaches

108 print advertisements were found to be potentially in breach of the national advertising codes and laws. A total of 116 single breaches of the code were identified as seven advertisements included more than one problematic item. The following chart shows the breakdown of the 116 breaches into the different issues identified.

Figure 8: Types of breaches flagged in print advertisements (N=116)



Conclusion

The aim of the 2015 cosmetics advertising monitoring exercise was to check the compliance of television and print advertisements against the current national self-regulatory advertising codes and laws with a specific focus on the Commission Regulation (EU) No 655/2013 on the common criteria for cosmetic claims and its guidelines.

This was a large and robust survey whose results give a reliable indication of the situation pertaining to cosmetics advertising in the period prior to the full implementation of the Commission Regulation No 655/2013 but following the publication of the Cosmetics Europe Charter and Guiding Principles for Responsible Advertising and Marketing Communication.

EASA and its members have welcomed the commitment of the cosmetics sector towards responsible commercial communications for cosmetic products by setting up the Cosmetics Europe Charter and Guiding Principles as well as the ongoing effort to implement this Charter at local level through the network of self-regulatory organisations, which are independently enforcing the principles through their advertising codes. The monitoring exercise conducted this year has furthermore shown the commitment of the sector to monitor the compliance of cosmetic advertisements currently available on the market and check if they live up to the Charter and its principles. The involvement of the national cosmetics associations during the second phase of this exercise also showed the good level of collaboration between the national self-regulatory bodies in the participating countries and the cosmetics associations.

The compliance rate across all participating countries was on average around 90%. In terms of the breaches of advertising codes and laws, the main issue identified was related to misleading advertising and in particular the presence of unsubstantiated claims and health or medical claims going beyond that which is appropriate for cosmetic products. Other misleading issues flagged by the SROs were related to: claims regarding legal requirements, claims related to studies/tests, denigration of ingredients that are legal to use, testimonials, promotions with no expiration date, misleading imagery and comparative advertising. In terms of the breaches of the Commission Regulation (EU) No 655/2013, the criterion that was mainly breached related to the lack of evidential support.

The results of the monitoring exercise are helpful for both the Cosmetics sector and the self-regulatory organisations to proactively tackle the identified issues. It is also a benchmark for any further monitoring exercise to demonstrate the progress and commitment towards accountable self-regulatory standards.

Annex A: How an Advertising Self-Regulatory System Works

Advertising self-regulatory organisations around the world operate within different regulatory, cultural and societal contexts, as a result it is only possible to provide a general overview of how a self-regulatory system works.

Basic Elements of a Self-Regulatory System

A self-regulatory system consists of two basic elements:

- A code of standards or set of guiding principles governing the content of advertisements;
- A system for the adoption, review and application of the code or principles.

Self-Regulatory Organisations (SROs)

SROs, sometimes known as advertising watchdogs, are responsible for the application, enforcement as well as any revisions of national self-regulatory codes.

SROs handle complaints, usually free of charge, issue sanctions when advertisements are found in breach, provide advice to the advertising industry to ensure that advertisements are not in breach of the code and monitor published advertisements (usually in specific sectors) to check whether any breach the code.

The Self-Regulatory Code or Principles

Self-regulatory code or principles govern the content of advertisements. Whilst national self-regulatory codes may be adapted to suit the national context, most are based on the International Chamber of Commerce's Consolidated Code of Advertising and Marketing Communications Practice of the (the Consolidated ICC Code) and incorporate its basic principles. The ICC code stipulates that all advertising to be legal, decent, honest and truthful, prepared with a due sense of social responsibility and conforming to the principles of fair competition.

National codes or principles apply to all forms of advertising. Additionally, many SROs also ensure that advertising for products in a particular sector complies with a code which relates specifically to that sector. For example, specific codes may apply to marketing communications for alcohol beverages, food and cars. These codes are drawn up by the sectors concerned, often with under the guidance of the SRO; their implementation and enforcement is negotiated with the SRO.

Applying and Interpreting the Code

Practical application of the code to individual advertisements may occur either before or after publication. Where it occurs before publication, either in the form of copy advice or, less frequently, pre-clearance, this is often the responsibility of the permanent secretariat of the SRO. Alternatively, it may be carried out by a specially constituted committee or by the complaints committee.

The Complaints Committee or Jury

Enforcement of the code after publication usually results from a complaint which may come from either a competitor, an organisation or from a member of the general public. The SRO may also initiate a case against an advertisement as a result of an apparent breach identified during monitoring activities.

Complaints are usually adjudicated by a complaints committee, typically after initial assessment by the secretariat to ensure that the basis of the complaint falls within the scope of the code.

The complaints committee or, as it is sometimes called, the jury, is responsible for authoritative interpretations of the code. It considers cases referred to it by the secretariat where a breach of the code is alleged. In some systems all complaints are referred to the complaints committee, while in others straightforward or non-contentious cases are dealt with by the secretariat and only disputed or uncertain cases are referred to the committee.

A complaints committee usually includes in its membership senior representatives of the three different parts of the advertising industry: the advertisers, the agencies and the media. In Europe, the majority of the complaints committee's members tend to be academics, consumer representatives and professionals from outside the advertising industry rather than advertising practitioners. The complaints committee's chairman is, in most cases, independent from the advertising industry and might, for example, be a retired judge, an eminent lawyer or a retired public servant.

If the complaints committee concludes that a complaint is justified, the committee must then decide upon appropriate action, e.g. the immediate withdrawal or amendment of the advertisement.

Sanctions

Because a self-regulatory system involves more than just self-restraint on the part of individual companies, it must have sanctions at its disposal, i.e. ways and means of enforcing

compliance on those who breach the advertising codes. A complaints committee will normally require an advertisement found to be in breach of the code to be amended or withdrawn within a specific period of time. Moreover, the decisions of the complaint committee are usually published. This adverse publicity, as well as being an embarrassment for the advertiser concerned, can also be instructive for other advertisers.

Self-regulation has the support of the advertising industry; advertisers will usually comply with the decision of the complaints committee, even if they do not necessarily agree with it. If an advertiser does not withdraw the offending advertisement voluntarily, the SRO will ask the media to take action to effect withdrawal. In the unusual case of an advertiser who repeatedly refuses to amend or withdraw advertisements found to breach the code, other sanctions may be employed. They range from the imposition of compulsory pre-clearance of future advertisements to encouraging the withdrawal of trading privileges or expulsion from membership of the SRO itself or other trade associations.

On those rare occasions where all other measures fail, advertisers who have repeatedly and knowingly breached the code may be referred to the statutory authorities, who may bring legal proceedings against them.

Appeals

To ensure fairness, most self-regulatory systems include an appeals procedure in case either the complainant or the advertiser whose advertisement has been complained about wishes to challenge the complaint committee's decision, for example on the basis of new evidence. Appeals are normally considered by a different body from the jury which reached the original decision.

The Importance of Impartiality

To be credible and retain public confidence, self-regulation must be impartial. The very fact that it is likely to be suspected of bias makes rigorous impartiality all the more essential. Certainly self-regulation helps to safeguard the long-term interests of the advertising industry, but it does so by ensuring high standards and protecting consumers. SROs are independent: their purpose is not to protect the interests of individual advertisers, agencies or media, but to uphold advertising standards, for the benefit of the whole industry. Although the codes are largely written by the advertising industry, the stance of these advertising codes is impartial and the procedures of the complaints committees which apply them are designed to be impartial and unbiased. Furthermore, many SROs consult external

Top line report



stakeholders as part of the process of drafting or revising their codes, as well as including non-industry representatives in their complaints committee.