ctfa
COSMETIC TOILETRY & FRAGRANCE ASSOCIATION OF SOUTH AFRICA

21 December 2017

Speaker
New Assembly Building
Parliament Street
Cape Town

Attention: Ms Charyllyn Dudley MP

The cosmetic industry has developed comments to the gazetted bill relating to the Animal Protection Amendment Bill, 2017 and the Memorandum on the Objects of the Bill on the 30th of November 2017 in Government Notice 942.

The Cosmetic Toiletry and Fragrance Association (CTFA) is the local Cosmetic Industry Association, representing over 80% of cosmetic companies in South Africa, ranging from raw material suppliers, local SMMEs, retailers to multinationals. CTFA have been in existence for over 23 years and have been recognized as the custodians of self-regulation, promoting a responsible industry aligned to international best practices. The CTFA has links with international associations and regulators through their participation in various forums such as the International Co-operation Cosmetic Regulation (ICCR) and ISO committees. Along with the Department of Health the CTFA are therefore key in any discussions regarding cosmetics including matters of safety of cosmetics.

CTFA works with sister associations and believes that an international approach towards regulatory principles for restricting animal testing in relation to cosmetics safety assessments is desirable. This is on the basis that robust safety assessments are paramount to ensure a high level of consumer safety and are a prerequisite for regulatory compliance.

The membership of the CTFA welcomes the opportunity to comment on the proposal of the bill as a positive step towards international convergence of the local regulatory system for cosmetics as well as being a proponent of elevated considerations for animal welfare. Furthermore, the membership of the CTFA is committed to the continued development of safe, innovative and efficacious products as it has been in the past, with consideration to animal safety. As such, our comments highlight what as an industry we deem should be considered prior to the bill being

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accepted by the committee in an effort to support an industry that contributes positively to GDP.

Herewith are the moderated and consolidated comments as submitted by CTFA Member companies.

GENERAL COMMENTS AND INTRODUCTION

- It must be noted that references to existing legislation Act 101 of 1965 is no longer valid as Cosmetics have been removed from the scope of this Act.

- No recognition of the draft Cosmetic Regulations published by Department of Health has been taken into account. These were published for comment in August 2016 and publication of a new draft is imminent. There was no consultation with the Cosmetic Industry itself, nor Department of Health, the regulator of Cosmetics in South Africa during this process.

- The regulator has not specified the process that will follow the submission of comments. It is important for the cosmetic industry to understand the timelines it will be afforded to comment on the proposed amendments of the bill.

- In light of the fact that there are no animal testing facilities in South Africa, we do not envision the necessity for the amendment. Although we agree that the ethical concerns are commendable and we are totally in agreement with this, we question the motivation for the amendment to the bill.

- If the amendments are accepted by the committee, we propose that the Industry be given a further commentary opportunity to submit proposals on the intended amendments in terms of the clauses contained in the bill. Due consideration should be applied to the applicability of the amendments from a regulatory perspective.

- It is not clear from the amendments whether the proposal is for banning animal testing in the Republic of South Africa or whether this will encompass prohibition of sale of cosmetics that have been tested on animals outside of the borders of the Republic.

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In addition, the impact of this possible requirement on local cosmetic industry has to be considered so as to sustain and encourage the development of this industry, we thus request due consideration prior to the acceptance of the amendments.

- We anticipate that the timelines envisioned by the regulator in line with the legislative process will include a process where the cosmetic industry will be afforded an audience to explain and workshop with the regulator on these submitted comments through stakeholder consultation meetings. At these meetings, we anticipate that comments will be reviewed by the regulator together with the cosmetic industry stakeholders. It is further envisioned by the cosmetic industry that a key part of this process will include a socio-economic impact assessment.

SPECIFIC COMMENTS ON THE PROPOSED AMENDMENTS TO THE BILL

Comment 1.

The cosmetic industry already has a draft regulation addressing regulatory requirements for cosmetic products. Having another regulation from a different government entity imposing different requirements to the industry will create confusion and possible non-compliance.

Proposal 1 – Single Regulation

We propose that all requirements for the cosmetic industry pertaining to product regulation be addressed in a single regulation. The DoH responsible for regulating the cosmetic industry, should address the issue of animal testing ban in the impending redraft of the regulations or as an update.

Comment 2.

Depending on the jurisdictional reach of the ban placed on cosmetic products that have been animal tested, the ban will have a huge impact on the industry in terms of:

- Current raw ingredient stock holding and planning;
- Current finished product stock holding and planning;
- Current packaging stock holding and planning;

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- Alternate raw ingredient sourcing and substituting requires the full spectrum of product development process which requires time;
- Redesign of labelling to capture new ingredient names;
- Availability of alternate testing methods and resources in terms of testing facilities and skills set in South Africa;
- Barriers to international trading

Proposal 2 – Impact Study

We propose that an impact study be carried out to ascertain the implications that the new requirement will have on the industry. Furthermore, a transition period should be considered with a graded approach in mind so that industry stakeholders are given an opportunity to comply.

Comment 3.

The following should be clarified:

- How will a cosmetic ingredient be defined?
- What if an ingredient is tested on animals for another purpose e.g. for medical or food use. Will this ingredient then not be permitted for use in cosmetics?

Proposal 3 - Flexibility

Similar to how most countries have addressed this issue we propose that the ban should b triggered by testing “in South Africa for the purposes of complying with South African cosmetic regulations.”

Where there are not alternative approaches to animal testing methods the ban should allow for flexibility to use animal data. The use of existing validated data already generated including animal testing done for another industry (i.e. pharma) should be considered.

INTERNATIONAL INDUSTRY APPROACH

South Africa trades internationally, importing and exporting cosmetics and their ingredients throughout the world. It is therefore necessary to ensure alignment with the various regions and the international approach in this regard.

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We propose that the key approaches should be considered as follows:

- Bans should not be retrospective
- Regulatory clarity and acceptance of alternative methods/ strategies be a prerequisite
- Testing of cosmetic ingredients is not necessary for toxicological end-points where validated accepted alternatives exist
- For toxicological end points where there are no validated accepted alternatives, bans should enable appropriate consideration of all relevant data
- The ban should be limited to cosmetics legislation. Domestic and international mandatory testing for other regulatory regimes and by foreign jurisdictions should not trigger the ban
- The European Union has laid down animal testing and marketing bans through regulation (EC) n°1223/2009. This may be considered of interest to South Africa based on the fact that the draft South African Cosmetic Regulations are based on the EU regulation, and in terms of regulatory and economic alignment.

CONCLUSION

We extend our thanks to the Department of Agriculture, Fishery and Forestry for affording the cosmetic industry of South Africa the opportunity to comment on the proposed amendments of the bill. We would like to re-iterate that our comments are representative of the cosmetic industry concerns, and are accompanied by objective proposals where alternative approaches are available that are likely to cause the least amount of disruption. These proposals are based mainly on our experience as an industry that has self-regulated for the past 20 years as well as expert opinion on local and international cosmetic industry best practice. We anticipate that these comments will receive due consideration in the assessment of the desirability of the amendments.
The CTFA remains available to answer further questions and provide detailed interpretation of our comments.

Yours Sincerely

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