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eISSN 2811-3462

THE FINE PRINT MATTERS:

THE GAPS IN MALAYSIA'S COSMETIC LABELLING REGULATIONS AND WHAT CONSUMERS NEED TO KNOW

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The Control of Drugs and Cosmetics Regulations (CDCR) 1984 under Regulation 2 defines a "cosmetic" as any substance or preparation intended to clean, perfume, change appearance, correct body odours, protect, or preserve the epidermis, hair system, nails, lips, and external genital organs, or the teeth and oral cavity. Cosmetics differ from drugs in that they neither change physiological processes nor have a therapeutic impact.

The CDCR 1984, overseen by the Ministry of Health through the National Pharmaceutical Regulatory Agency (NPRA), establishes the requirements for cosmetic labelling in Malaysia. With these regulations, consumers have the confidence to get information that is both accurate and transparent on cosmetic products, thereby avoiding fraudulent claims and ensuring that products can be traceable.

Labels must include essential details such as the product name and function, full ingredient list, name and address of the Cosmetic Notification Holder (CNH), manufacturing batch number, and necessary warnings or precautions as required by CDCR 1984. In Malaysia, a CNH is the formally liable person or business for a cosmetic product. They thus guarantee that the product satisfies all the necessary safety, quality, and legal criteria before it is sold and have informed the authorities about it. They basically answer for the product's compliance to local regulations.

Regulation 18A(1)(e) mandates that a cosmetic product must be labelled only with the name approved by the Director of Pharmaceutical Services (DPS), preventing misleading branding that could suggest medicinal or therapeutic properties. Regulation 18A(1)(f) reinforces transparency in ingredient labelling by requiring compliance with directives or guidelines issued by the DPS, which typically mandate the use of the International Nomenclature of Cosmetic Ingredients (INCI) to ensure consistency in ingredient disclosure. Simply put, this means that cosmetic items supplied in Malaysia indicate their components under standardised labels that are accepted internationally.

To enhance traceability, Regulation 18A(1)(b) stipulates that only the notified cosmetic's responsible person or an authorized entity may place the product on the market. Additionally, NPRA guidelines require the CNH to include their name and address on the product label, ensuring consumer protection in cases of adverse reactions or recalls. Furthermore, Regulation 18A(1)(h) prohibits false or misleading symbols, marks, or figures, reinforcing the necessity of including manufacturing batch numbers for effective product tracking and quality control.

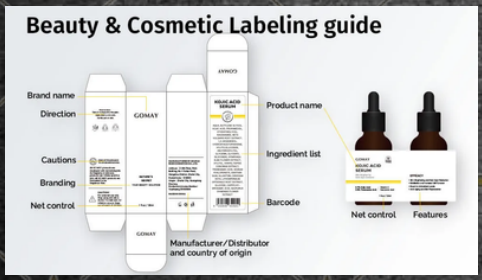
Failure to comply with these labelling requirements constitutes an offence under Regulation 30 of the CDCR 1984, which is punishable under Section 12(1) of the Sale of Drugs Act 1952. A first-time offender may face a fine not exceeding RM25,000, imprisonment for up to three years, or both. For a second or subsequent offence, the penalty increases to a fine not exceeding RM50,000, imprisonment for up to five years, or both. These stringent measures deter misleading labelling practices that could compromise consumer safety.

In 2023, the NPRA conducted 130 inspections of domestic cosmetic manufacturers to assess compliance with Good Manufacturing Practice (GMP) standards. Among these, 125 manufacturers met the required standards, while 5 were found to be non-compliant. Hence, regulatory measures have been taken against two non-compliant producers, reflecting NPRA's dedication to safeguarding the safety and quality of cosmetic products in Malaysia.

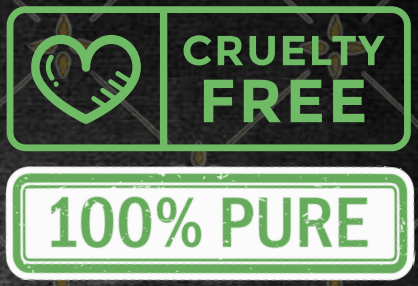
Despite these regulations, Malaysia's cosmetic labelling framework has notable gaps compared to international standards. Key flaws include the absence of mandatory allergen disclosure, nanomaterial identification, sustainability labelling, universal expiry date requirements, digital traceability systems, and stricter controls on misleading "free-from" claims. These shortcomings limit consumer access to critical product information that could influence purchasing decisions and personal safety.

For example, under the European Union (EU) Cosmetic Regulation (EC) No. 1223/2009, all nanomaterials in cosmetics must be clearly identified in ingredient lists, with "[nano]" indicated beside the relevant substance. This requirement addresses concerns about the long-term health effects of nanoparticles, particularly their ability to penetrate the skin barrier. Malaysia's CDCR 1984 does not include nanomaterial labelling provisions, preventing consumers from making informed decisions about products that may contain such substances.

Moreover, Malaysian cosmetics lack sustainability labelling, a growing legislative trend. Manufacturers in France must declare package recyclability, biodegradability, and carbon footprint. The AGEC Law, effective 2022, requires cosmetics to have the Triman logo and sorting instructions to promote responsible waste disposal. Malaysia's CDCR 1984 does not require sustainability labelling, falling behind global efforts to promote eco-friendly consumer choices.

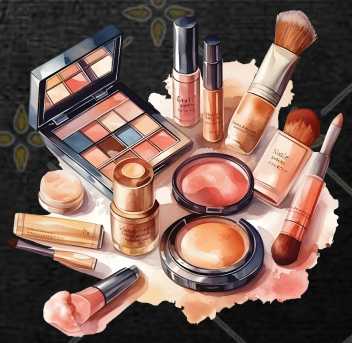


Another aspect of Malaysian cosmetics that appears to be lacking is manufacturing or expiration dates. South Korea requires all cosmetics to have a manufacturing or expiration date to alert consumers about their freshness and usability. This is distinct from Malaysia, where only sunscreens and cosmetics with active chemicals and a shelf life of less than 30 months are required to have expiration dates. For cosmetics that will last longer, the manufacturing date will be used. This approach causes anomalies; thus, lipstick and eyeshadow purchasers may be unaware of product longevity and degeneration.



Digital traceability is an increasingly significant element in international cosmetic regulations. The National Medical Products Administration (NMPA) of China has established a system enabling consumers to scan product QR codes to obtain verified information on manufacturers, safety data, and ingredient origins. This system improves openness and fosters consumer trust. Conversely, Malaysia's CDCR 1984 currently lacks requirements for digital traceability methods, consequently limiting consumer access to verified product safety information.

Malaysia's regulations do not prohibit misleading 'free-from' claims such as 'paraben-free'. The FDA and the EU have regulations prohibiting deceptive 'free-from' marketing claims, particularly when similar preservatives are used. These claims may suggest that specific components are harmful, while products free of them are considerably safer. The lack of such regulations in Malaysia allows firms to adopt marketing strategies that mislead consumers about product safety and efficacy.



Malaysia's CDCR 1984 does offer a fundamental framework for cosmetic labelling; nevertheless, its regulations do not meet those standards that have been established as best practices in leading worldwide markets. The lack of required allergen disclosure, labelling of nanomaterials, sustainability regulations, uniform expiration dates, digital traceability, and tougher supervision over misleading advertisements all contribute to an impairment in consumer safety.

In order to enhance transparency, bolster consumer confidence, and ensure industry accountability, regulatory authorities should consider revising the CDCR 1984 to incorporate more rigorous labelling requirements. Aligning Malaysia's regulations with global standards would not only strengthen consumer rights but also enhance the country's competitiveness in the evolving international cosmetics market.

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