UEAPME[1] answer to the questionnaire of the European Commission concerning the IMPACT ASSESSMENT of the 2013 implementation date for the marketing ban of cosmetic products tested on animals

INTRODUCTION

UEAPME, the Voice of SMEs in Europe

The European Association of Craft, Small and Medium-sized Enterprises

UEAPME is the employer's organisation representing the interests of European crafts, trades and SMEs at EU level. UEAPME is a recognised European Social Partner and acts on behalf of crafts and SMEs in the European Social Dialogue and in discussions with the EU institutions. It is a non-profit seeking and non-partisan organisation.

As the European SME umbrella organisation, UEAPME incorporates 80 member organisations consisting of national cross-sectorial SME federations, European branch federations and other associate members, which support the SME family.

Across the whole of Europe, UEAPME represents over 12 million enterprises with nearly 55 million employees.

The Cosmetics Sector has its own Forum with representatives from the following sector:

Beauticians and Cosmeticians (CEPEC - Conféderation Européenne des Professionelles de l'Esthetique Cosmetique)

Hairdressers (Coiffure-EU - European Association of Employers' Organisations in Hairdressing)

Cosmetics Producers (COSMED – Association de la Filière Cosmétique)

UEAPME's answer to this questionnaire thus only and exclusively represents the opinion of SMEs and micro-enterprises.

[1] UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is 55820581197-35.

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Concerning the questions on the impacts of the marketing ban of cosmetic products tested on animals, a survey has been launched in 2010 to SMEs, but there was no feedback.
This lead us to two assumptions: either most of the SMEs don't do any animal tests anymore, the animals having been replaced by in vitro tests or tests on human beings, or the SMEs feel unable to give their opinion on such a topic.

Nevertheless, we think that most of the SMEs did not take into account that the raw materials do not have to be tested on animals anymore because of the contradictions that exists between REACH (allowing animal testing) and the European Cosmetics Directive (prohibiting animal tests).

It seems important to us that raw material suppliers (not mentioned in the Directive), take this point into account. We noticed that the majority of certificates delivered by suppliers mention "we certify that no tests on animals have been realized on this raw material". Firstly SMEs have no possibility of verifying this assertion and furthermore not enough weight to require it. Secondly, such certificates do not guarantee that the suppliers of the suppliers did not test on animals.

Moreover, SMEs can't afford to initiate further tests to those they already do for financial reasons and for reasons of the positioning of finished products on the market.

Concerning the tests that up to now have no alternative to animal testing for which the end is scheduled for 2013, SMEs do not initiate such tests to our knowledge.

The vast majority of SMEs sub-contract their tolerance or other tests through alternative methods to companies that are specialized but very often can't afford to participate in wider research programmes on alternative measures. Unfortunately most of SMEs can't participate in these research programmes due to a lack of financial means.

Question 3: Impact on the consumers

SMEs today do not realize tests on animals anymore, due amongst others to media pressure. Nevertheless, they do use certain raw materials that have been tested on animals (old surveys). Are there impacts on the consumer?

3.2.1. The importance of raw materials is capital for the marketing aspect of the products and the consumers' demand. It is however very difficult to estimate the number of new raw materials, maybe a hundred new raw materials (mix of substances) and substances (EFFCI and UNITIS could give more precise indications). The marketing policies of the companies vary from each other. The number of new raw materials or new finished products is variable. The average duration of a finished product is 3 years (whereas there will be the obligation to keep the information file for 10 years).

We believe that the number of raw materials on the market will not diminish in the coming years. Indeed there's a real demand from the companies who tend to develop new raw materials every year that participate in innovation.

However the substances registered in the annexes of the Directive, like filters, conservatives or dyes, will not be numerous (less than 10 per year), given the quantity of documents that suppliers of raw materials will have to prepare.

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3.2.23. Concerning the "animal testing free" label, few companies indicate this on their packaging because the products always contain raw materials in the formula that have been tested on animals formerly (old raw materials).

3.2.24. The use of a label may impact the consumer's choice but in our mind in a marginal way. Up to now there was no strong media pressure on this topic which might change.

3.2.25. Using an "animal tested" label seems in our mind to be nonsense and would not be understood by our profession who does no tests on animals anymore. In our mind, not putting any label on the packaging would be the wisest solution, because SMEs can't guarantee that certain raw materials they use were tested or not on animals.

3.3. Impacts on Costs and Price

3.3.1. It clearly appears today that the fact that the tests are not done on animals anymore has no impacts on the costs. However the security evaluation such as asked for today has a real incidence on the test costs: an average rise of 300%.

3.3.2. The consumer prices will have to be increased, linked to the complexity of the files which ask to provide more documents or tests, but linked also to the inflation of the raw materials. However as perverse effect, refusals to increase the prices did lead to loss of markets for certain companies which necessitated an intervention by the authorities. On the other hand there were possibilities to increase the price but then with equivalent rebates. In this field SMEs are losing.

4. Competitiveness of Cosmetics and Cosmetics Ingredients Manufacturers

As already mentioned, most of the SMEs do not test on animals anymore. The obligation to validate every allegation through tests made on the finished product will substantially disadvantage SMEs that up to now did only test raw materials for their marketing claims.

Concerning suppliers of raw materials, there's a twofold language: on the one hand there is the obligation to comply with REACH with the possibility to do animal testing, on the other hand the European Directive asks for the ban of animal testing. It will be difficult to comply with these contradictory requirements. A large number of raw material producers do not make tests on animals anymore.

Producers of finished products will have another difficulty to face: if they want to enter the Chinese market, animal testing is required. Costs for the cosmetics industry will above all come from the multiplication of requirements from different parts of the world.

The impact is difficult to evaluate, but the current tendency of SMEs closing is considerable (f. ex. 10 out of 50 companies in the Languedoc Roussillon had to close in 2010).

4.4. The turnover of the products on the market is important, but depends on the company. We estimate that there has been a renewal of 30% of products on the market in 2010.

4.5. As we already mentioned before, the European Industry is clearly in an uncomfortable position regarding the enormous markets of Asia and more precisely China. We shall have to ask the question of the pertinence of alternative tests.

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4.6. The cycle timing of a new cosmetic product varies from one company to another. It may differ rom some months to 9 months to 1 year according to the size and the objectives of the company.

The main phases of the product development cycle timing are:

- a brief marketing describing the main claims and objectives of the project
- a formulation phase which duration depends on the difficulty of the project
- a stability follow-up during a time frame defined by each company
- a pilote phase that should serve for checking
  - the stability follow-up
  - the follow-up of the compatibilities product/packaging
  - the microbiology control tests (challenge test)
- the studies of tolerance and the effectiveness tests
- the security evaluation report, very penalizing for SMEs
- the development of control and dosage methods
- the cosmetics file and the legal obligations.

N.B. Our submission does not contain any confidential data and may be published on the Commission website.

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