Attachment to the targeted Consultation on the Evaluation of the Cosmetic Products Regulation

09 January 2026

While the EEB's previous answers to the consultation have focused on mercury-added skin lightening products and on issues related to enforcement and the lack of consideration of the online sale of cosmetics, this input provides a wider perspective on the Evaluation of the Regulation.

The objectives of the Cosmetic Products Regulation (CPR) to protect human health and ensure the proper functioning of the EU single market remain highly relevant and, to some extent, have been achieved through the establishment of a harmonised regulatory framework. However, while the CPR addresses important issues, such as the regulation of carcinogenic, mutagenic, and reprotoxic (CMR) substances, and provides a basis for market harmonisation, its effectiveness remains limited. Some loopholes in its scope, procedural provisions, and enforcement mechanisms undermine both human health and environmental protection and somewhat weaken the integrity of the single market. Moreover, key elements of the Chemicals Sustainability Strategy should be integrated. This includes but is not limited to the fact that greater alignment with horizontal chemicals legislation is needed, including the adoption of a One Health approach, better consideration of mixture effects, the application of generic risk assessment, and a stronger use of the precautionary principle. In particular, the rapid expansion of online sales of cosmetic products presents a major challenge. E-commerce channels frequently operate beyond the reach of traditional market surveillance tools, leading to substantial enforcement deficits and increased risks for consumers. These considerations will be explored in more detail below.

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Measures related to online sales and enforcement

1) Address the loopholes allowing for online sales of illegal cosmetics by updating the regulatory framework and creating additional responsibilities for online marketplaces

What is illegal offline must be illegal online. Consumers increasingly purchase cosmetic products online, including through online marketplaces or web shops based outside the EU. This trend presents new safety risks, especially given the surge in non-compliant and often dangerous cosmetic products sold online and imported into the EU. Online marketplaces now play a crucial role in the supply chain, enabling economic operators to reach vast numbers of consumers; given this influence, they should bear appropriate responsibility when intermediating the sale of cosmetics.

In the CPR, the definitions of distributor" as *'any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a cosmetic product available on the Community market',* and of 'making available on the market' as *'any supply of a cosmetic product for distribution, consumption or use on the Community market in the course of a commercial activity, whether in return for payment or free of charge'* could be understood to also include online platforms and whoever makes available a product via internet, with all the relevant responsibilities and requirements that go along. Yet it does not seem to be read like that by the legislators and enforcement authorities. As a result, while rather strict measures apply on the ground with respect to cosmetics, the digital means of putting them on the market are not addressed sufficiently. The sale or offering of sale of mercury added cosmetics is not banned via the CPR nor the Mercury regulation although similar examples are available in several US states (e.g. New York, Minesota) and other countries (e.g. Gabon, Sri Lanka).

The EEB/ZMWG has gathered extensive evidence over the years at EU and global levels, related to the online sale of illegal mercury-added cosmetics. Searches of online platforms for suspect mercury-added skin-lightening products (SLPs) previously sold mainly in local informal markets and beauty stores, have shown that the availability and sales of these products have risen sharply worldwide, particularly online. From 2017–2024, 65 creams were purchased from Belgian local markets and online platforms (amazon.co.uk, befr.ebay.be, best.aliexpress.com, bol.com, amazon.com.be). Among these, 31 creams contained mercury levels above 1 ppm, with an average of 5,828 ppm. According to product labelling, most were manufactured in Pakistan, China, and Thailand.

There is a clear political willingness across all EU institutions to strengthen the regulation of the online sphere, as reflected in recent Commission Communication on safe and sustainable e-commerce and in the European Parliament's Own-Initiative Report and recent Resolution. Within these broader horizontal concerns, cosmetics deserve particular attention: they consistently rank as the top category of non-compliant products reported through the EU Safety Gate (the European system for quickly alerting dangerous non-food products sold in the EU). Also, cosmetics, in particular, can have direct and immediate harmful effects on health because they are applied to the body, which makes closing the online loophole especially urgent for these products, if not for all products. Given this prominence, stronger and more targeted regulatory measures for cosmetics sold online are fully justified. As

highlighted in the Chemicals Strategy for Sustainability, new enforcement tools are urgently needed to address online sales and imports, including a clear definition of the role and responsibilities of online marketplaces. The CPR revision must complement and reinforce compliance with the obligations for online marketplaces established under the Digital Services Act and the General Product Safety Regulation.

Advertisement through social media

The rise of promotion or advertising on social media platforms presents an additional regulatory challenge, making it harder to monitor and control illegal product distribution. In the online sphere, offers for mercury-added cosmetics are not only found on marketplaces, but they also appear on social media such as Facebook, Instagram or TikTok. Some accounts make the promotion of these products, but the sale is not directly concluded on the online platform, but privately. We consider that not only the sale, manufacture, import and export of mercury-added cosmetics should be prohibited, but also this kind of advertising and promotion. See also our latest report "Online Marketing of Toxic Skin Lighteners", published in October 2023. As with online marketplaces, the EEB considers that these social media platforms should be controlled, and have at the least, a more proactive role in preventing illegal cosmetics to appear, using notably AI tools.

Uneven level-playing field

The availability of non-compliant cosmetics not only puts customer's safety at risk but also creates an uneven level playing field between the companies that comply with the EU legislation, and the free riders that benefit from ignoring the EU legislation. This puts EU-based brands at a disadvantage while allowing unsafe products to persist in the market. EU legislation should ensure that all operators (on the ground and online) putting products on the EU market comply with EU standards, fostering a fair and competitive European market.

The need for the online platforms to have responsibility for the products they sell is a wider EU stakeholder request. The EEB signed a joint statement together with NGOs and European industry warning that online sellers could escape the EU's product sustainability and chemical safety requirements using the e-market loopholes.

The need to give responsibility to online platforms for the cosmetics they sell appears to also be a request from the European cosmetics industry when one looks as Cosmetics Europe comments submitted to the Digital Services Act (DSA) and the review of the General Product Safety Directive (GPSD) in 2020.

As a result, while progress has been made through current legislative and voluntary initiatives, the problem remains. Given however the direct health impacts of mercury-added SLPs, and the fact that online platforms have demonstrated their ability to take measures to proactively prevent, detect and remove flagged products, a sector-specific approach is therefore necessary to specifically address mercury added SLPs from online services and to ensure effective enforcement, as soon as possible.

Recommendations

Consequently, we recommend that a definition of 'online service providers/marketplaces' is introduced in CPR Article 2, along with a possibility to hold these actors liable for noncompliance where no other responsible economic operator can be identified. This should include an obligation on online marketplaces to verify the identity of the responsible person for products sold on their sites before the products are being placed on the market.

Measures could include:

- Banning the sale and offering of banned cosmetics online.
- Requiring e-commerce platforms and other online providers to request traders to provide information about the content of mercury (also following GPSR Art. 22.9,, and as relevant , test skin-lightening products, for mercury and other chemicals, if they want to place them on the platform – e.g. Amazon settlement[1] .
- Establish clearly that the EU safety gate is a prohibited products' list, at least for cosmetics products.
- Clearly requiring platforms to proactively and regularly search for cosmetic products flagged on the EU Safety Gate, or other Recall portals such as the OECD Recall portal, and remove them. Currently, the GPSR requires online platforms to remove products only once they are notified by authorities, hence putting the burden on authorities, instead of online platforms taking a proactive role.
- Other elements from the GPSR may need to be further explicitly added and reiterated in the CPR given the direct danger cosmetics may have to health.

2) Strengthen overall enforcement

The effectiveness of the CPR is constrained by enforcement challenges and gaps in market oversight:

High non-compliance rate

Our ZMWG sampling of mercury-added cosmetics show that those banned cosmetics are still widely available online. Also, according to the 2024 report from EU Safety Gate, there were 4,137 alerts, the highest number since the system's inception in 2003. The data reveals that cosmetics remain the most frequently reported category with 36% of all alerts. Alarmingly, 97% of the cosmetic alerts involved products containing BMHCA, a banned synthetic fragrance that can pose serious health risks. Also, a

[1] In January 2025, Amazon settled a U.S. lawsuit over the sale of skin brightening and lightening creams containing mercury. The case was brought by Larry Lee and As You Sow, with support from the California Attorney General. Tests had found that some creams sold on Amazon contained mercury levels tens of thousands of times above FDA limits, which can harm the nervous system, kidneys, and reproductive health. The settlement requires Amazon to block the sale of these toxic products in the U.S. through a "Suppression Control" rule. Third-party sellers must now test their products for mercury and other hazardous substances in Amazon-approved labs before listing them. They also have to verify labels, provide good manufacturing practice certificates, and register their manufacturing facilities.

recent enforcement pilot by ECHA examined around 4,500 cosmetic products between November 2023 and April 2024 in 13 European countries. Hazardous chemicals were detected in 6% of products, including 285 products containing substances prohibited under EU law.

Resources gaps

As a Belgian-based NGO, we have sought to establish contact with the Belgian Market Surveillance Authorities (MSAs) responsible for cosmetics. MSAs reportedly have very limited capacity to enforce cosmetic rules and conduct post-market surveillance, a problem that is even more acute for online sales. While Article 22 of the CPR assigns market surveillance responsibilities to Member States, enforcement activities are left to national discretion and are not harmonised across the EU. Consumer complaints do not appear to trigger systematic follow-up: in our experience, even when hazardous cosmetics are reported and requests are made for notification through Safety Gate, there has been no follow-up provided by the competent authorities, until now.

We had similar feedback from the UK Market surveillance authorities in the past, who also reported extremely low budgets to be able to effectively survey the market on skin lightening products.

In Belgium a structural enforcement gap seems to be present regarding skin-lightening products (SLPs) in particular: post-market surveillance of SLPs falls under the pharmaceutical authority only when products contain steroids and are reclassified as medicinal products. All other skin-lightening cosmetics, including those containing mercury, are handled by a cosmetics enforcement unit with fewer resources and very limited market checks. This fragmentation likely exists in other Member States as well.

The ECHA forum on enforcement pilot project examined around 4,500 cosmetic products between November 2023 and April 2024 in 13 European countries. Hazardous chemicals were detected in 6% of products, including 285 products containing substances prohibited under EU law. It was reported that authorities often issue only written advice or take no corrective action, with no penalties imposed (see page 11). Some enforcement limitations underlined in this pilot are the following: Enforcement of restricted substances is time-consuming and complicated by overlapping regulations (e.g., CPR vs REACH) and differences in definitions like "placing on the market": "In POP and REACH Regulations the restriction applies at all levels of the supply chain after the Regulation is implemented compared to the CPR where prohibited substances can be sold if the product was placed on the market before the ban came into place"[2]. Companies are sometimes unaware of restrictions, and guidance for identifying restricted substances (e.g., ECHA CHEM, ECHA's public chemicals database, is not always used). Market surveillance authorities require adequate staffing and resources, as well as more robust compliance and reporting mechanisms. The lack of information available to authorities hampers their ability to monitor and control non-compliant products effectively. In that regard, as highlighted by BEUC, there is a need to increase the information available to authorities to perform market surveillance, also by allowing the NGOs, Civil society and others, to report on dangerous products . Communication between public health authorities and market surveillance authorities and customs , would need to be

[2] ECHA enforcement report, p.13

strengthened. Finally, the rising number of cosmetics used in the EU and also coming to the EU from non-EU countries, makes it challenging for enforcement authorities to track them all.

Not deterrent enough

It was reported in the ECHA enforcement pilot that authorities often issue only written advice or take no corrective action, with no fines imposed. The current regulatory framework only requires that the Responsible Person (RP) guarantees compliance with the legislation and that the respective product is notified on the Cosmetic Products Notification Portal (CPNP) platform, which raises an issue: there is a margin for potentially health-damaging products to be sold indiscriminately without consumers or the authorities being aware of the threat, according to recent research. Penalties may be issued to the RP if the requirements are not properly met, but there is no guarantee that those are being identified.

Ingredients not disclosed on the packaging

The case of skin lightening cosmetics containing mercury is very specific, in such a sense that mercury (and maybe other forbidden chemicals) is never indicated on it. This makes the checking very hard for market surveillance authorities, and indicates the need for testing screening equipment, like X-ray fluorescence (XRF) analyzers, and for the training and empowerment of customs to conduct such checks directly on the spot.

Difficulty identifying the Responsible Person (RP)

In practice, authorities often face obstacles in identifying a Responsible Person within Europe, especially for products sold via online platforms. Also, our sampling of mercury-added cosmetics show that a RP is not consistently indicated on packaging, while this currently is mandatory. As suggested by BEUC, to improve traceability, Article 19 could be strengthened to require that the CPNP notification number be included directly on product labels. This would facilitate market surveillance and enable authorities to quickly identify the RP. Conversely, the absence of this number would serve as an indicator of broader non-compliance issues.

3) The CPR and the EU consumer safety framework

Horizontal legislation on product safety enters in interlinkage with the CPR. Enacted by the General Product Safety Regulation (GPSR), the EU safety gate system, as mentioned above, allows for information on measures taken against non-food dangerous products, including cosmetics, to be circulated quickly among the national authorities responsible for product safety in the Single Market countries. This system is contributing to the protection of the market against mercury containing products but puts the burden on the authorities.

Regarding product safety legislation, Horizontal regulatory frameworks, such as the GPSR, the Product Liability Directive, and the Digital Services Act (DSA), offer some level of protection. For instance, under the GPSR, online platforms must remove mercury-laden cosmetics notified by authorities within two days, among others. However, this framework does not put direct responsibility on the online marketplaces and platforms or other intermediaries, to prevent such products from being sold,

allowing for such products to still be available; as such they are not designed to tackle the persistent availability of these specifically harmful products.

To that end, the EU has further complemented this legislation with voluntary measures such as the adoption of the EU Product Safety Pledge (PSP) , and EU Product Safety Pledge +, a voluntary agreement between the Commission and the online platforms, pledging to detect and prevent the sale of unsafe products, co-operating with statutory authorities responsible for product safety, raising consumer product safety awareness amongst third party sellers and empowering consumers on product safety issues.

Promoted through the PSP and in general, the development of AI-powered tools has made it increasingly feasible for online platforms to scan and detect illegal products in their listings. Still however, sellers may find ways to escape such searches by changing slightly the product spelling, name or other, still allowing dangerous products to become available for consumers.

Measures related to hazardous substances

4) Address the mixture effect (priority for all NGOs)

Chemical safety assessments typically focus on single substances, neglecting the cumulative impact of exposure to multiple chemicals. This oversight leads to an underestimation of the risks associated with chemical exposure in both the REACH regulation and sectoral legislation, such as the CPR.

The Green Deal acknowledged the need to address the combined effects of pollutants, recognising that people and other living organisms are exposed daily to a wide array of chemicals from diverse sources. To tackle this, the Commission proposed addressing the cocktail effect of chemical mixtures in an integrated and more general way in risk assessments, a key action under the Chemicals Strategy for Sustainability (CSS). Exposure to numerous harmful chemicals from different sources daily is a well-known issue, with monitoring studies revealing the simultaneous presence of dozens to hundreds of chemicals in both human and environmental samples. Despite this recognition, the current EU framework for chemicals legislation, both at REACH and sectoral level, falls short in adequately addressing the combined exposure and effects of these chemicals.

We would like to emphasise that the size of Mixture Assessment Factor (MAF) should be high enough to achieve protection of people, wildlife and the further environment from daily exposure to hundreds of chemicals. The MAF should be protective against the unintentional, unknown mixtures that people and the environment are exposed to. Therefore, we strongly recommend that the combination effects from combined exposure to chemicals from different sources, including cosmetics, are fully taken into consideration in the safety assessment of cosmetic ingredients and in risk management decisions. This will reflect real-life situations, usually not considered by EU legislation, and better represent actual exposures from several products of daily use

It is long overdue to address the issues with combination effects of chemicals and the need for action was announced 15 years ago in Council Conclusions (17820/09) and in a message from the Commission to the Council and Parliament (COM(2012) 252 final).

5) Streamlining the Generic Risk Approach (GRA) by adding new categories in Article 15

The GRA is consistent with the CSS, in which the European Commission committed to ensuring that consumer products, including cosmetics, do not contain chemicals that cause cancer, gene mutations, reproductive or endocrine disruption, or that are persistent and bioaccumulative. The CSS also aims to phase out the most hazardous chemicals from consumer products for all non-essential uses.

To align with this, the GRA under the CPR should explicitly cover, CMRs in cosmetics:

- Endocrine disruptors (EDCs) for human health: both "known/presumed" (Category 1) and "suspected" (Category 2).
- Persistent, Bioaccumulative and Toxic (PBT) and very Persistent, very Bioaccumulative (vPvB) substances, which can bioaccumulate in humans as well as in the environment.
- PFAS, as they are widely used in cosmetic products (e.g., waterproof make-up, hair serums) and may persist in the environment and human body.

Protection from endocrine disruptors

It is essential to extend the current prohibition of CMR substances under Article 15 to include substances classified as endocrine disruptors (EDs) in categories 1 and 2. Endocrine disruption is now recognised as a distinct hazard class under the EU CLP Regulation, providing a harmonised basis for its identification and classification. Like CMRs, endocrine disruptors are associated with severe and often irreversible effects on human health and the environment, including impacts on future generations. Their ability to exert effects at extremely low doses challenges the applicability of traditional threshold-based risk assessment approaches.

Cosmetic ingredients with endocrine-disrupting properties represent a significant potential source of cumulative consumer exposure. Of particular concern are transient exposures during critical windows of development that depend on hormonal signalling, like pregnancy, mini-puberty, and puberty, which may result in adverse effects manifesting later in life. Despite these risks, cosmetic products currently on the market still contain substances with endocrine-disrupting properties.

Environmental EDs must also be taken into account. Substances identified as endocrine disruptors in other vertebrate species are likely to pose similar risks to human health and may be classified as such in the future. They should therefore be regulated as substances of equivalent concern to human health EDs or CMRs, unless it can be unequivocally demonstrated that their mode of action is not relevant to humans.

Against this background, it is imperative that ingredients with endocrine-disrupting properties are systematically identified and their use in cosmetic products prohibited without delay. Extending the scope of Article 15 to endocrine disruptors would constitute a straightforward and effective measure to close an important gap in the protection of human health.

More details are available in the position of the EDC-free coalition.

6) Applying the precautionary principle

The revision of the Cosmetics Products Regulation (CPR) should embed a preventive, health-protective approach to chemical safety. Across NGO stakeholders, there is consistent recognition that the current system does not adequately address situations where scientific evidence is insufficient, inconclusive, or uncertain. The regulatory management of substances with known safety concerns for which the Scientific Committee on Consumer Safety (SCCS) cannot reach a clear decision is insufficient and leads to the prolonged exposures of users. The CPR must therefore explicitly integrate the precautionary principle to ensure that lack of full scientific certainty does not delay regulatory action. In line with the CSS, we therefore recommend shifting towards a preventive approach. Similar to the General Food Law, or the current trilogue agreement of the Toys Safety Regulation, the CPR revision should notably enshrine the precautionary principle in the legal text as the basis for risk identification, assessment, and management. This would help guide the regulator in those specific circumstances where there are reasonable grounds for concern for consumer health, but scientific evidence is insufficient or uncertain.

In a report, the UN Special Rapporteur on the issue of human rights and the environment, also underlines the importance of the precautionary approach: "Knowledge about pollution and toxic substances will never be complete, necessitating recourse to the precautionary principle, which holds that where there are threats of harm to human health or the environment, lack of full scientific certainty must not be used as a reason for postponing preventive action" (A/HRC/49/53, para. 56). States and businesses should apply the precautionary principle throughout the lifecycle management of hazardous substances, e.g. in their production, licensing, use, trade and disposal. Furthermore, impact assessments should prioritize the most severe human rights risks and focus on impacts on individuals and groups at heightened risk of vulnerability and marginalization.

A lack of conclusive information about the safety of a substance must not lead to its unrestricted use with potentially negative consequences for exposed people. Therefore, we strongly recommend the uptake of the precautionary principle into the CPR.

7) Address the eye-area exemption for mercury preservatives

The CPR currently exempts the eye area products where mercury is used as a preservative. However, it appears that industry is not actively using these preservatives and there are effective and safe non-mercury preservatives. Therefore, a mercury exemption for eye products would not be necessary anymore. Cosmetics Europe indicates through COSMILE Europe, a consumer-facing cosmetic ingredient database, that Thimerosal, though still legally permitted at low concentrations in certain eye-area cosmetics, is now "practically no longer used" in cosmetic formulations. Safer alternatives are being used

In the US, several states have not included such exemptions since as early as 2007. For example, the Minnesota law enacted in 2007 does not include an exemption for eye-area cosmetics . The same holds for the Illinois law enacted in 2009, except of Public Act 095-1019/SB2860 .

More recently, the ASEAN Cosmetics Association reported that based on their industry survey with 68 respondents there are no products containing mercury as preservatives in the market. Following this, in November 2019, during their 31st meeting, the ASEAN consultative Committee for Standards and

Quality, the ASEAN Cosmetic Committee and the ASEAN Cosmetic Scientific Body agreed to remove thiomersal and phenylmercuric salts from ASEAN Cosmetics Directive Annex VI (exempted substances) and revise accordingly Annex II (prohibited substances - Ref. No. 221).

Pursuant to the ASEAN Cosmetic Directive, adopted by the Philippine Food and Drug Administration (PH FDA) in 2005 and as per the revision of 2019, Mercury and its compounds (CAS numbers: 7439-97-6, *54-64-8, 62-38-4, 94-43-9, 102-98-7, 1192-89-8, and 100-56-1) [thimerosal and phenylmercuric salts] are banned ingredients and included in the list of substances which must not form part of the composition of cosmetic products (Annex II Ref. No. 221).

To that end we would kindly request that the Commission look further at this matter towards also banning mercury use as preservative from eye products.

8) Align the CPR with the other chemicals legislation to ensure environmental protection

Differences in the Mercury regulation and the CPR on export of cosmetics

Under Article 5 of Regulation (EU) 2017/852 and Regulation (EU) 2024/1849 on mercury, the EU prohibits the export (as well as manufacture and import) of mercury and certain mercury-added products listed in Annex II of the Regulation. That list includes cosmetics containing mercury and mercury compounds, with very limited exceptions (e.g., special cases listed in entries to Annex V of the Cosmetics Regulation). In parallel, the CPR bans mercury and its compounds in cosmetics and restricts substances via its annexes (e.g., Annex II prohibits certain substances, including mercury, in products placed on the EU market). However, the CPR itself is not primarily an export control law, as it focuses on products being placed on the EU internal market, so the legal obligations apply to products sold into the EU market, not their export.

Align **the CPR with other legislation to streamline the "one health principle"**

The modernisation of the CPR should aim at aligning the regulation with provisions in adjacent chemical legislations, such as REACH ((EC) No 1907/2006), the Biocidal Products Regulation ((EU) No 528/2012) and the Detergents Regulation ((EC) No 648/2004), regarding the aim of ensuring a high level of environmental protection with a true One Health perspective.

While the above-mentioned chemical legislations aim at protecting the environment alongside human health, the CPR lacks a similar aim of environmental protection. This situation leads to unregulated environmental risks and to the diverging assessments of substances and thus contradicts the 'One Substance One Assessment' efforts that are currently being undertaken horizontally as well as the One Health approach. Two examples for this misalignment are the assessment and regulatory management of preservatives and surfactants in cosmetic products. More than half of the approved cosmetic preservatives are of environmental concern, which leads to situation that a substance that is hazardous for the environment can be approved as a preservative in cosmetics, but at the same time the same substance is not approved for use in biocidal products. Likewise, surfactants used in detergents have to meet biodegradation requirements to ensure a high level of protection for the aquatic environment,

while the environmental effects are not considered for surfactants used in cosmetic products. Apart from the regulatory mismatch, the lack of environmental risk assessment and risk management in the CPR is problematic as substances are being released to the environment for example via wastewater.

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