



Information as to the ‘function’ of a cosmetic product which must appear on the product’s container and its packaging must inform consumers clearly as to that product’s purpose and method of use

Information concerning the particular precautions to be observed when using that product, its function and its ingredients may not appear in a company catalogue referred to by the symbol of a hand with an open book placed on the packaging or the container

In 2016 A.M., who, inter alia, owns a beauty salon in Poland, purchased creams, facial masks and powders from a manufacturer based in the United States via E.M., distributor of those products. The packaging of those products bore the name of the responsible entity, the original name of the cosmetic product, its composition, expiry date and serial number as well as the following symbol, representing a hand with an open book, referring to a catalogue containing all the information in Polish:



A.M. terminated the contract for the sale of those products, claiming that there was no Polish language information on the packaging regarding the product’s function, which made it impossible to identify what the product was and what its effects were, and that that information was not clear from the presentation. She also claimed that the information in Polish, required under Polish law and arising from EU law, appeared only in the catalogue, which is not enclosed with or attached to the product.

Since her action seeking reimbursement of the costs of purchasing those products was dismissed, A.M. brought an appeal before the Sąd Okręgowy w Warszawie XXIII Wydział Gospodarczy Odwoławczy (Regional Court, Warsaw, Commercial Appeals Division No 23, Poland). That court asked the Court of Justice to interpret the EU regulation on cosmetic products.¹

By today’s judgment, the Court recalls, first of all, that that regulation seeks to harmonise comprehensively the rules in the European Union in order to achieve an internal market for cosmetic products while ensuring a high level of protection of human health.

It points out in that regard that there is a close connection between, on the one hand, the safety of cosmetic products placed on the market and, on the other hand, the requirements concerning how they are presented and labelled. It follows that the requirement to provide information in indelible, easily legible and visible lettering on the container and on the packaging of cosmetic products concerning the function of the cosmetic product² cannot be confined to a requirement to provide

¹ Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ 2009 L 342, p. 59).

² Laid down in Article 19(1)(f) of the regulation.

information on the purposes of the product's use, namely to clean, to perfume, to change the appearance, to protect or to keep a part of the body in good condition or to correct body odours. Whilst those purposes make it possible to assess whether a particular product, depending on its use and its purpose, may be categorised as a cosmetic product and therefore, may be distinguished from other products falling outside the scope of the regulation, the 'function of the cosmetic product' concerns information relating to characteristics more specific to the product.

The Court concludes that the information as to the 'function of a cosmetic product' which must appear on such a product's container and packaging must be such as to inform consumers clearly as to the product's purpose and method of use, in order to ensure that consumers can use that product safely, without negatively affecting their health. It is for the national courts, in the light of the characteristics and properties of the product concerned as well as the expectations of the average consumer, who is reasonably well informed and reasonably observant and circumspect, to review the nature and extent of the information which must appear in that regard on the product's packaging and container so that it can be used without risk to human health.

Next, the Court considers whether the information concerning particular precautions for use of a cosmetic product, its function and its ingredients may appear in a company catalogue which also includes other products, where the symbol of a hand with an open book is placed on the cosmetic product's packaging or container.

It finds that, when a reference must be provided, only an 'enclosed or attached leaflet, label, tape, tag or card' may be used as supporting documentation for the cosmetic product. A company catalogue which is provided separately and contains a description of one or more cosmetic products at issue, but also describes other products from the manufacturer's range, is not enclosed or attached to a specific product. In addition, supporting documentation may be used only where it is impossible 'for practical reasons' to place that information on the label. Such impossibility refers to situations where it is impossible in practice, on account of the nature and the actual presentation of the product, to place certain information on the label.

In that regard, the fact that the cosmetic products concerned have been imported – which, in view of the requirement to place on the label the required information in the language determined by the law of the Member States in which the product is made available to end users, may give rise to organisational and financial issues stemming from the need to translate certain information and to relabel or even repackage the products – does not in itself establish that it is impossible in practice to place that information on the label. The cost of labelling those products in a different language in order to market them in other Member States cannot in any case be regarded as justifying incomplete labelling of the product on its container and its packaging. The Court finds that such a requirement ensures a high level of protection for consumers. Protection of health cannot in fact be fully guaranteed if consumers are not in a position to familiarise themselves fully with, and to understand, in particular, the information concerning the function of the cosmetic product concerned and the particular precautions to be observed when using it. The Court finds that the information which producers or distributors of cosmetics products covered by the regulation must mention on the product container and packaging, save where that information can be effectively conveyed by the use of pictogrammes or signs other than words, will be of no practical use unless it is given in a language which can be understood by the persons for whom it is intended.

Similarly, the fact that cosmetic product labelling is the responsibility of the manufacturer of those products, not their distributor, does not establish either that it is impossible for practical reasons to place the required information on the label of those products. In that regard, the Court points out that the intention on the part of the manufacturer or distributor of such products to facilitate their movement within the European Union is not in itself sufficient to justify reference to only some of the required information. Since 'impossibility' refers generally to a factual circumstance over which the person invoking it has no control, it cannot entitle a manufacturer or distributor of cosmetic products, because of the number of EU or other languages which it decides to use, to claim, for its own convenience, that full compliance is 'impossible for practical reasons' within the meaning of the regulation.

It follows that information concerning the particular precautions to be observed when using the cosmetic product, the product's function and its ingredients may not appear in a company catalogue referred to by the symbol of a hand with an open book placed on the product's packaging or container.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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