



# **A COSMETIC OR NOT A COSMETIC**

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THE BODY SHOP/L'ORÉAL**

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# AGENDA

- Regulation(s) introduction and overview
- What is a “cosmetic”?
- Additional legislation
- The hair loving public
- Can it go wrong?



# REGULATION OVERVIEW

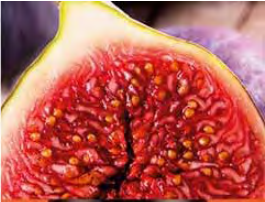
- A brief history of time...
- 76/768/EEC change to 1223/2009
- <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1223&from=EN>
- Implemented July 11, 2013 and directly applicable in all MS
- UK (currently)
  - Implementation is Department for Business, Innovation and Skills (BIS)
  - Enforcement is Trading Standards



# STRUCTURE

- **Recitals (the “Whereas” preambles)**
  - 1 to 71
- **Articles (the legal text)**
  - 1 to 40
- **Annexes (illustrative lists - allowed/prohibited/restricted)**
  - I to X





# COSMETIC DEFINITION

- "...substance or mixture intended to be placed in contact with the external parts of the human body
  - epidermis
  - *hair system*
  - nails
  - lips and
  - genital organs
  - with the teeth and the mucous membranes of the oral cavity
- with a view exclusively or mainly to cleaning them, perfuming them, changing their appearance, protecting them, keeping them in good condition or correcting body odours..."



# CLASSIFICATION

- A single product is *either* a Cosmetic *or* it is a Medicine
- When deciding which, the elements taken into account are:
  - Primary purpose
  - Claims made
  - Composition
  - Perception of the averagely well-informed consumer
- A cosmetic cannot claim to treat a disease state



# IN ESSENCE...SAFETY

- Products are to be "...safe when used under normal or reasonably foreseeable conditions of use..."
- Safety must be demonstrated/demonstrable
  - Presentation, Label, Claims etc...
- Appropriate and adequate information to be provided to the Competent Authorities and consumers as and when required/requested
- **NO CHANGE** between 76/768/EEC and 1223/2009





# WHY DO WE BOTHER?

- All of these nasty products.....

Hairstylist claims Pantene shampoo and conditioner made his client's hair SMOKE as he was bleaching it - because the products have so much c\*\*p in them!

Is your skin under chemical attack? The designer cosmetic brands that still contain danger ingredient TWO YEARS after doctors first raised the alarm

## Is Your Dry Shampoo Making You Go Bald?

**PRODUCTS THAT COULD GIVE YOU A NASTY RASH**

The huge list of bestselling high street products noticed by our mystery shopper that still include methylisothiazolinone, despite it being linked to rashes, swelling and eczema-like symptoms. Manufacturers have been accused of inertia for failing to take action to remove it.

<p><b>LEAVE-ON</b></p> <p><b>CLARINS</b>                  Extra Comfort Toning Lotion 200ml £21.00                  Toning Lotion with Iris 100ml £24.50                  Multi-Active Skin Renewal Serum 30ml £48.00                  INSTANT BROWN                  Gingerly Nourishing Body Lotion 500ml £21.00                  Black Peppercom Nourishing Lotion 500ml £21.00                  Black and Bergamot Nourishing Lotion 500ml £21.00                  Men's Body Hydrator 200ml £18.00</p> <p><b>SKINCARE</b>                  BB Hydrating 24h cream or Hydra Floral BB Cream 24h Moisture Activator 30ml £20.00                  Double radiance Cream 30ml £46.00                  Aroma Lipse Energizing Smoothing Cream 30ml £52.00                  BALANCE COCOA                  BUTTER FORMULA                  Fragrance Free Body Lotion 250ml £4.19                  Evening Body Milk 250ml £5.89                  Body Butter 170g £4.99                  NIVEA                  Sensitive Cleansing Wipes 22.5g Extolling Wipes 24.4g £3.25                  Rejuvenating Facial</p>	<p>Cleansing Wipes £2.59  <b>SANCTUARY SPA</b>                  Luxurious Body Butter 300ml £10.00                  AVISHA                  Miracle Recharge Take the Heat Leave-in Conditioning Spray 250ml £4.49                  VOIRINE                  KIDS Advanced Conditioning Spray (leave-in) 150ml £3.29</p> <p><b>WASH-OFF</b></p> <p><b>CLARINS</b>                  Gentle Foaming Cleanser 125ml £19.00                  One-Step Gentle Exfoliating Cleanser 125ml £20.50                  Gentle Refiner Exfoliating Cream 50ml £21.00                  Exfoliating Body Scrub 200ml £26.00                  Paris Bath and Shower Concentrate 200ml £19.00                  Shower Gel 150ml £19.00                  Bath and Shower Milk 150ml £19.00                  Men Shampoo 200ml £19.00                  Men Exfoliating Cleanser 125ml £21.50                  INSTANT BROWN                  Gingerly Body Wash 500ml £19.00                  Black Peppercom Body Wash 500ml £19.00                  Orange and Bergamot Body Wash</p>	<p>300ml £19.00 For Men Face Wash 100ml £19.00  <b>CLARINS</b>                  Exfoliating Scrub 100ml £19.00  <b>BAYLIS AND HARDING</b>                  Pepper Hand Wash 500ml £2.00                  Rhusarb Hand Wash 500ml £2.00                  Antibacterial Wash 500ml £2.00                  Mandarin and Gingerly Hand Wash 500ml £2.00                  Lavender Hand Wash 500ml £2.00  <b>ORLÉANS</b>                  Hand Wash 250ml £19.00  <b>SANCTUARY SPA</b>                  Spa Hand Wash 250ml £4.66                  White Lily and Damask Rose Body Wash 250ml £5.50                  Green Lemon and Orange Body Wash 250ml £5.50                  SANDY GLODY                  Clean, Girls Body Wash 200ml £19.00                  Pulp Fiction Scrub 250ml £9.00                  VALENTI                  Ph Balance Intimate Wash 250ml £9.00                  MELTPOGNA                  Vahly Clear Blackhead Scrub 100ml £3.69</p>	<p><b>PANTENE</b>                  Pro-V Lightweight Shampoo 400ml £3.99                  Pro-V Smooth and Sleek 400ml £4.19                  HERBAL ESSENCES                  Hello Hydration Shampoo 400ml £3.99                  Dazzling Shine Shampoo 400ml £3.99                  REVIVE                  Invigorating Apricot Scrub 150ml £4.19                  VEG                  My Shine shampoo 200ml £3.99  <b>BOOTS</b>                  Camomile and Lemon Bath Shampoo 200ml £3.99  <b>TREVOR SORBYE</b>                  Rejuvenate Strengthening Treatment 150ml £3.99                  JOHN FRIEDA                  FREEZE                  Forever Smooth Conditioner 200ml £7.99                  Flawlessly Straight Shampoo 200ml £5.99                  OLD SPICE                  Shower Gel 250ml £2.00                  COLGATE                  Sensitive Pro Relief Mouthwash 400ml £3.13</p>
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# PRODUCTS THAT COULD GIVE YOU A NASTY RASH

The huge list of bestselling high street products noticed by our mystery shopper that still include methylisothiazolinone, despite it being linked to rashes, swelling and eczema-like symptoms. Manufacturers have been accused of inertia for failing to take action to remove it.

## LEAVE-ON

### CLARINS

Extra Comfort Toning Lotion 200ml £20; Toning Lotion with Iris 400ml £24.50; Multi-Active Skin Renewal Serum 30ml £48

### MOLTON BROWN

Gingerlily Nourishing Body Lotion 500ml £29; Black Peppercorn Nourishing Lotion 500ml £25; Orange and Bergamot Nourishing Lotion 300ml £25; Men's Body Hydrator 200ml £18

### DECLÉOR

BB Hydrating 24h cream (or Hydra Floral BB Cream 24hr Moisture Activator) 40ml £29; Double radiance Cream 30ml £46; Aroma Lisse Energising Smoothing Cream 50ml £52

### PALMER'S COCOA BUTTER FORMULA

Fragrance Free Body Lotion 250ml £4.19; Eventone Body Milk 250ml £5.89; Body Butter 170g £4.99

### NIVEA

Sensitive Cleansing Wipes £2.59; Exfoliating Wipes 3-in-1 £3.25; Refreshing Facial

Cleansing Wipes £2.59

### SANCTUARY SPA

Luxurious Body Butter 300ml £10

### AUSSIE

Miracle Recharge Take the Heat Leave-in Conditioning Spray 250ml £4.49

### VOSENE

KIDS Advanced Conditioning Spray (leave-in) 150ml £3.29

## WASH-OFF

### CLARINS

Gentle Foaming Cleanser 125ml £19; One-Step Gentle Exfoliating Cleanser 125ml £20.50; Gentle Refiner Exfoliating Cream 50ml £25; Exfoliating Body Scrub 200ml £29; Relax Bath and Shower Concentrate 200ml £19; Shower Gel 150ml £19; Bath and Shower Milk 150ml £19; Men Shampoo 200ml £19.50; Men Exfoliating Cleanser 125ml £21.50

### MOLTON BROWN

Gingerlily Body Wash 300ml £18; Black Peppercorn Body Wash 300ml £18; Orange and Bergamot Body Wash

300ml £18; For Men Face

Wash 100ml £18

### CLINIQUE

Exfoliating Scrub 100ml £19

### BAYLISS AND HARDING

Pepper Hand Wash 500ml £2; Rhubarb Hand Wash 500ml £2; Antibacterial Wash 500ml £2; Mandarin and Grapefruit Hand Wash 500ml £2; Lavender Hand Wash 500ml £2

### ORLA KIELY

Hand Wash 250ml £10

### SANCTUARY

Spa Hand Wash 250ml £4.50; White Lily and Damask Rose Body Wash 250ml £5.50; Green Lemon and Orange Body Wash 250ml £5.50

### SOAP AND GLORY

Clean, Girls Body Wash 500ml £6.50; Pulp Friction Scrub 250ml £8

### YAGISIL

Ph Balance Intimate Wash 250ml £5.50

### NEUTROGENA

Visibly Clear Blackhead Scrub 100ml £3.69



**STAR BACKING:** Victoria Pendleton advertising Pantene

### DOVE

Intensive Repair Shampoo 250ml £2.69

### TRESEMME

Vibrant Naturals Conditioner 750ml £4.99

### AUSSIE MIRACLE

Luscious Long shampoo 300ml £4.69

### PANTENE

Pro-V Lightweight Shampoo 400ml £3.99; Pro-V Smooth and Sleek 400ml £4.19

### HERBAL ESSENCES

Hello Hydration Shampoo 400ml £3.99; Dazzling Shine Shampoo 400ml £3.99

### St. IVES

Invigorating Apricot Scrub 150ml £4.19

### VOS

My Shine shampoo 500ml £3.99

### BOOTS

Camomile and Lemon Balm Shampoo 300ml £1.39

### TREVOR SORBIE

Rejuvenate Strengthening Treatment 150ml £9.99

### JOHN FRIEDA

### FRIZZEASE

Forever Smooth Conditioner 250ml £7.99;

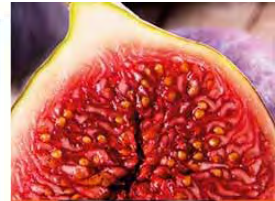
Flawlessly Straight Shampoo 250ml £5.89

### OLD SPICE

Shower Gel 250ml £2

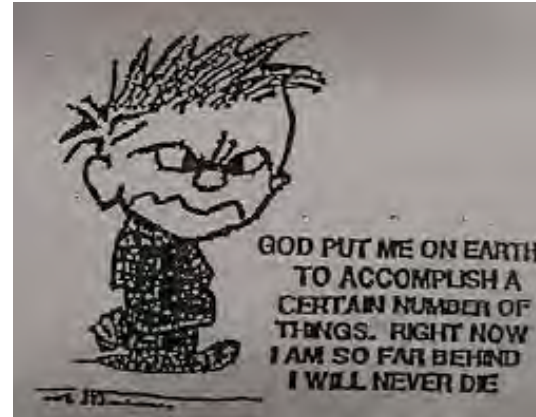
### COLGATE

Sensitive Pro Relief Mouthwash 400ml £3.13



# WIDER LEGISLATION

- 1223/2009 is NOT the ONLY piece of legislation...
  - Weights and Measures
  - General Product Safety
  - Trade Descriptions
  - Advertising Rules
  - Packaging Waste
  - REACH



# REACH

- Registration, Evaluation & Authorisation of Chemicals
- Agreed by European Parliament December 18<sup>th</sup> 2006, entered into force June 1<sup>st</sup> 2007

- 1<sup>st</sup> Deadline: December 1<sup>st</sup> 2010 - materials >1000 tonnes per year



- 2<sup>nd</sup> Deadline: June 1<sup>st</sup> 2013 - materials >100 tonnes per year



- 3<sup>rd</sup> Deadline: June 1<sup>st</sup> 2018 - materials >1 tonne per year



# CLAIMS

- Top two sales tactics to increase sales of cosmetic products:
  - Fear
  - Hope

*"In the factory we make cosmetics, in the store we sell hope"*

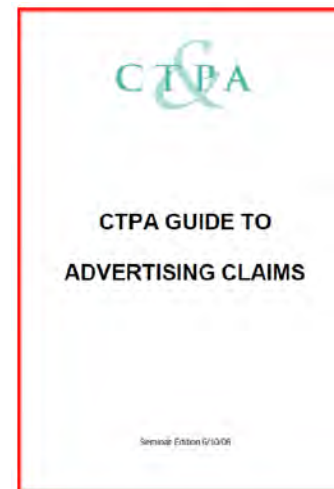
- X times shinier
- Y times stronger
- Z times thicker/more voluminous
- "New and Improved"



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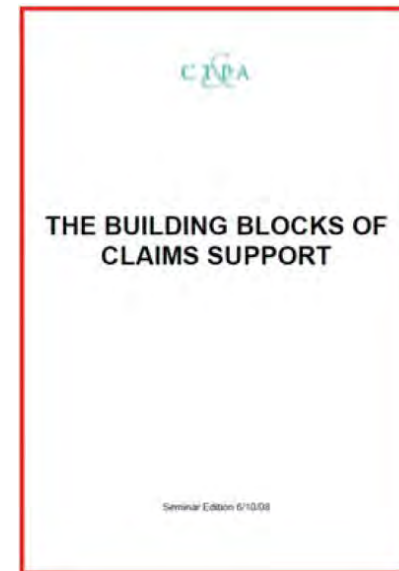
# CLAIMS MANAGEMENT

- **Proof of Effect**
  - **Claimed effects require sufficient support**
  - **Dependant on the nature of the product or the effect claimed**
  - **Over and above that which is 'obvious'**
  
- **Substantiation**
  - **A material in YOUR product**
  - **Supplier literature**
  - **Clinical/Lab studies**
  - **Consumer studies**
  - **"...Let's Wiki/Google it..."**
  - **"...Well 'they' claim it..."**
  - **Combination of all**

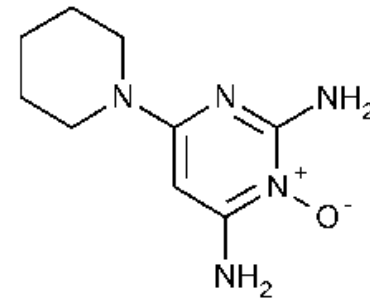


# COMMON CRITERIA OF CLAIMS

- Legal Compliance
  - Truthfulness
  - Evidential Support
  - Honesty
  - Fairness
  - Informed Decision Making
- 
- The Building Blocks Approach - Joint CTPA and ASA initiative



# REGAINE SCALP FOAM





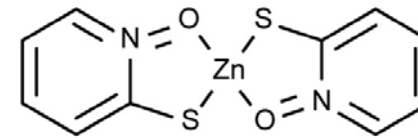
# REGAINE SCALP FOAM

- It's a hair foam/mousse, so it is a cosmetic...right?
- It helps to reverse the progression of hereditary hair loss
- API is Minoxidil - helps to increase blood flow to the hair follicles
- Minoxidil was discovered during clinical trials for high blood pressure treatment
  - Unexpected signs of hair growth during clinical trials



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# HEAD & SHOULDERS



# CAN WE GET IT WRONG?

- Natur Vital Distributors Ltd t/a NaturesWell website (Sep '13)
- Natur Vital Has developed a range treating Hair Loss, one of the most worrying problems for both men and women alike, each product contains 'specific plant extracts' for treating the special problems of each type of hair or scalp conditions
- Challenged whether the claims for preventing and treating hair loss were misleading and could be substantiated

**UPHELD**

[https://www.asa.org.uk/Rulings/Adjudications/2013/9/Natur-Vital-Distributors-Ltd/SHP\\_ADJ\\_207662.aspx](https://www.asa.org.uk/Rulings/Adjudications/2013/9/Natur-Vital-Distributors-Ltd/SHP_ADJ_207662.aspx)



# CAN WE GET IT WRONG?

- The website [t3haircare.co.uk](http://t3haircare.co.uk), which advertised hair styling products, featured product listings for two hairdryers (March '14)
- 73% Reduction in frizz
- 93% Increase in Body
- 21% Increase in Shine
- 36% Increase in Combability
- 52% Increase in Style Retention
- Challenged whether the claims were misleading and could be substantiated

**UPHELD**

[https://www.asa.org.uk/Rulings/Adjudications/2014/3/Glorious-Brands-Ltd/SHP\\_ADJ\\_249257.aspx](https://www.asa.org.uk/Rulings/Adjudications/2014/3/Glorious-Brands-Ltd/SHP_ADJ_249257.aspx)



# CAN WE GET IT WRONG?

- A TV ad for Boots included a scene in which a child dried a dog's fur with a hair dryer as she whispered "Let's make you into a unicorn." (Feb '13)
- Twenty-one viewers, who believed the ad might encourage children or adults to emulate behavior, which they believed was potentially unsafe for them and their dogs, objected that the ad was irresponsible.

**NOT UPHELD**

[https://www.asa.org.uk/Rulings/Adjudications/2013/2/Boots-UK-Ltd/SHP\\_ADJ\\_213797.aspx](https://www.asa.org.uk/Rulings/Adjudications/2013/2/Boots-UK-Ltd/SHP_ADJ_213797.aspx)

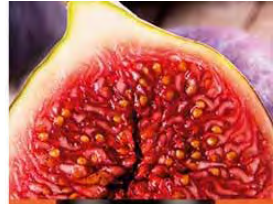


# IN SUMMARY

- Regulation(s) introduction and overview
- What is a “cosmetic”?
- Additional legislation
- The hair loving public
- Can it go wrong?



# QUESTIONS...?



# THANK YOU



Especially to the awesome CTPA team for background knowledge, over many years

[www.ctpa.org.uk](http://www.ctpa.org.uk)

[www.thefactsabout.co.uk](http://www.thefactsabout.co.uk)



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# ENRICH NOT EXPLOIT™ (It's in our hands)

<http://www.thebodyshop.co.uk/content/commitment.aspx>

