

## CHAPTER 13 COSMETICS

### OVERVIEW

The EuroCham Cosmetics Sector Committee is an organisation of company members who operate in manufacturing and trading of products in fields related to Cosmetics. Key activities of the Cosmetics Sector Committee focus on policy advocacy and collaboration with key stakeholders such as the Government in Vietnam in order to build efficient legal frameworks and implementation platforms. Besides, the Cosmetics Sector Committee was also established to raise awareness of consumers on cosmetics use; training consumers on the use of cosmetics, sharing scientific knowledge, etc.

In 2018, the global cosmetic market grew by an estimated of 5.5 per cent in comparison to the previous year, in which Asia Pacific has become the industry leader with around 40 per cent of the global market.<sup>1</sup> Today, the beauty industry has been proven to grow faster than ever before with an estimated value of US\$ 532 billion.<sup>2</sup> Vietnam's cosmetic market is estimated to reach US\$ 2.3 billion, with an estimated annual growth of 5.3 per cent between 2020 and 2023.<sup>3</sup> Many cosmetic companies have been in the top 10 of advertising players and this sector is estimated to maintain double-digit growth in the coming years.

Additionally, the rise of beauty vloggers sharing YouTube tutorials and posting about their favourite cosmetics on social media continues to change the way consumers discover new products and engage with brands. This has a significant impact on the growth of E-commerce and social commerce in Vietnam. The beauty industry continues to set the beauty trends year after year. This helps the industry continue to grow, creating thousands of jobs and contributing significantly to the achievement of socio-economic targets of the country.

To sustain this growth, the cosmetic industry has been at the forefront of providing sustainable innovation, production and development. EuroCham Cosmetics Sector Committee members are carrying out country-wide programs<sup>4</sup> which represent their long-term commitments to Vietnam's sustainable development goals. The cosmetics companies have, furthermore, been involved in many scientific research projects with internationally-recognised awards.

A typical example is the program carried out with UNESCO "For Women in Science"<sup>5</sup> which, for the first time, empowers more female Vietnamese scientists to connect to the global scientific community. Three female Vietnamese scientists have been internationally recognised under this scheme between 2016 and 2019. Moreover, another member of Cosmetics Sector Committee, with 35 million products consumed a day in Vietnam, not only helps to improve the living conditions, health and sanitation of all Vietnamese but also supports the creation of over 15,000 jobs throughout the country. This company also has strongly committed to investing in social and community programs and is highly recognised for its contribution to the social development of Vietnam by launching a sustainable living plan<sup>6</sup> which has helped over 21 million people improve their health, well-being and livelihoods through long-term strategic partnership projects with governmental partners and NGOs.

The cosmetics industry is becoming increasingly dominated by millennials who are willing to spend more than US \$4.0/person on good quality products with target price points. However, the management of counterfeit and smuggled cosmetics from relevant organisations remains a challenge. Fake and smuggled cosmetics have been widely and uncontrollably brought into Vietnam through air routes and by road; and sold out on social and E-commerce platforms. The grey area of no tax being levied on individual shops on social, commercial and

1 "Cosmetics Market-The world of beauty in 2018", *L'Oreal Finance*. Available at: <<https://www.loreal-finance.com/en/annual-report-2018/cosmetics-market-2-1/>> last accessed on 20 January 2020.

2 Pamela N. Danziger, "6 Trends Shaping the Future of The \$532B Beauty Business", *Forbes*, 1 September 2019. Available at: <<https://www.forbes.com/sites/pamdanziger/2019/09/01/6-trends-shaping-the-future-of-the-532b-beauty-business/#772b75588d79>> last accessed on 20 January 2020.

3 "Lotus Group, Matsumoto Kiyoshi shake hands to expand business in Vietnam", *The Saigon Times*, 18 December 2019. Available at: <<https://english.thesaigontimes.vn/73594/lotus-group-matsumoto-kiyoshi-shake-hands-to-expand-business-in-vietnam-.html>> last accessed on 20 January 2020.

4 "Sharing Beauty with All" *L'Oreal*, available at: <<https://www.loreal.com/loreal-sharing-beauty-with-all>> last accessed on 20 January 2020; "Sustainable Living Plan" Unilever, available at: <<https://www.unilever.com/sustainable-living/our-strategy/>> last accessed on 20 January 2020; "Bayer Societal Engagement" (BASE) Bayer, available at: <<https://www.bayer.com/en/societal-engagement.aspx>> last accessed on 20 January 2020.

5 "For Women in Science" *L'Oreal*, available at <<https://www.forwomeninscience.com/en/home/>> last accessed on 20 January 2020.

6 "Unilever Sustainable Living Plan" *Unilever*, available at: <<https://www.unilever.com/sustainable-living/our-strategy/>> last accessed on 20 January 2020>

E-commerce platforms like Lazada and Shopee has facilitated an unfair business environment for cosmetic players in the market. Additionally, the requirement of Certificate of Free Sale (CFS) applied to all imported cosmetic companies has made this sector more vulnerable and the market has been distorted by cosmetics smugglers and fake cosmetics dealers, who are able to fill the demand of the market due to the prolonged administrative process of importation on genuine cosmetics and a rigorous advertising pre-approval requirement as an administrative barrier for official cosmetic companies.

After being established in 2019, Cosmetic Sector Committee members have worked with relevant authorities both to raise the challenges faced by its members and to find actionable solutions. Typical activities include participating in high-level meetings and dialogues between Eurocham and relevant Government authorities, contributing into EuroCham position letter for 2019 Annual Vietnam Business Forum, Advisory Council for Administrative Procedures Reform (ACAPR) dialogue with the European business community.

Although the cosmetics Sector has been working with relevant authorities to seek solutions, as described above, it needs more facilitation from relevant State organisation to gain a higher market share in the beauty industry of Vietnam, which can significantly contribute to Vietnam's ambitious growth strategy and socio-economic goals.

Some of the most pressing issues for our members are described in detail below, along with our specific recommendations.

## I. CERTIFICATE OF FREE SALE (CFS) REQUIREMENT FROM EXPORTING COUNTRIES FOR IMPORTING COSMETICS INTO VIETNAM

Relevant authorities: Ministry of Health (MOH)

### Issue description

Article 4 of Circular 06/2011/TT-BYT dated 21 June, 2016 of the Ministry of Health (Circular 06)<sup>7</sup> regulates that, for imported cosmetics, the Cosmetic Notification Process requires submission of a CFS issued by the relevant authority of exporting countries.

The CFS is only an administrative document from exporting countries or manufacturing countries to confirm that this product can be sold in the exporting countries. CFS does not certify the product's quality or safety. In many cases, the product with such a document, might not actually be distributed in such countries. Therefore, in practice, the requirement of submission of a CFS in the Cosmetic Notification Process does not actually help to ensure the product's quality or safety, but instead sets an unnecessary administrative burden.

### Potential benefits/concerns for Vietnam

In many cases, the exporting countries cannot provide a CFS to Vietnam since they cannot meet Vietnam's requirement on CFS content and the cosmetics industry loses the opportunity to bring these products to Vietnam.

Removing CFS for all importing cosmetics will fully align with the Government's Administrative Transformation Program.

### Recommendations

The industry highly supports and would propose to manage cosmetics with a post-market surveillance approach and remove the requirement on CFS for imported cosmetics from all countries. At the Dialogue with ACAPR on the 12<sup>th</sup> of December 2019, EuroCham received feedback from the Ministry of Health that the removal will be applied to 11 signatories of the CPTPP first, while there will be a further detailed plan for products from other countries, which is to be submitted to MOH for approval. We would like to suggest that MOH extends the removal to all countries, particularly to EU Member States, in view of the imminent entry into force of the EVFTA.

<sup>7</sup> Circular 06/2011/TT-BYT dated 21 June, 2016 of the Ministry of Health regulating on cosmetics management.

## II. MANAGEMENT IN E-COMMERCE PLATFORMS INVOLVING UNREGISTERED PLAYERS

Relevant authorities: Office of Government (OOG), Vietnam E-Commerce and Digital Economy Agency (VEDEA), Vietnam Competition Authority (VCA)

### Issue description

The Government has made certain progress on managing “Malls”, to ensure that only genuine products are sold, and on E-platforms under Decree 52/2013/ND-CP on E-commerce.<sup>8</sup> However, private online shops are totally free to operate without complying with any regulations on tax, business licenses or registration for conditional business.

Especially in the cosmetics industry, as a result of E-commerce development, everyone, including those who are not products’ owners or registered distributors, can sell cosmetics online. They do not need to register their trading products and are not requested to comply with the requests of notification from the Ministry of Health, and bear no tax duties on e-commerce platforms.

### Potential benefits/concerns for Vietnam

- › From the business perspective, this creates unfair competition in the business environment for foreign investors, registered brand owners and their distributors; unbalancing competitive advantages for all players in the beauty industry;
- › It could result in a loss of tax for the Government; and
- › From the consumers’ perspective, as E-platforms anonymise the selling units, it is very difficult for customers to claim recourse for products which are of poor quality and bought through E-commerce.

### Recommendations

We would like to suggest the Vietnam E-Commerce and Digital Economy Agency outline clear solutions to increase the efficiency of management of E-commerce platforms to create a fairer and healthier business environment for all stakeholders within the cosmetics industry who are complying with the law and regulations.

## III. VALUE-ADDED TAX (VAT) FOR GOODS DONATED TO NON-GOVERNMENTAL ORGANISATIONS (NGOS)

Relevant authorities: General Department of Customs (GDC); Customs authorities

### Issue description

According to Article 4.19.b of Circular 219/2013/TT-BTC<sup>9</sup> regarding goods and services that are not subject to VAT including all imported products which are given to socio-political organisations as a gift prescribed by the law on gifts. However, if the products are imported for the purpose of trade and these goods are later given to socio-political organisations, this Article shall not be applied and the goods will be subject to VAT.

<sup>8</sup> Decree 52/2013/ND-CP dated 16 May 2016 of the Government on E-Commerce.

<sup>9</sup> Circular 219/2013/TT-BTC dated 31 December, 2013 of the Ministry of Finance guidance on the implementation of the Law on Value-added Tax and the Government’s Decree 209/2013/ND-CP dated 18 December, 2013 providing guidance on a number of articles of the Law on Value-added Tax.

**Potential benefits/concerns for Vietnam**

This practice leads to the situation that enterprises prefer to burn the products (if the products are close to the expired date) to avoid VAT instead of donating them to various organisations who are in need. This goes against the Government's efforts in terms of sustainability development and environmental protection.

**Recommendation**

We suggest applying a VAT exemption for goods which are donated to all political-social organisations regardless of the original purpose of the imported products.

**ACKNOWLEDGEMENTS**

EuroCham Cosmetics Sector Committee