

# **The Problems and Alternatives: The Regulations of Functional and Organic Cosmetics Labeling and Advertising in S. Korea**

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## **Abstract**

*Recently, the violation cases of cosmetics labeling or advertising have been increasing along with the market growth in S. Korea. It is reviewed the regulations of cosmetics labeling or advertising focusing on functional and organic cosmetics to find the problems of the enforcement of the related regulations and suggest the alternatives. Cosmetics labeling or advertising regardless of general, functional or organic ones is reviewed preliminarily by self-regulation and managed ex post facto by the Ministry of Food and Drug Safety. It is suggested that the labeling or advertising of functional and organic cosmetics should be regulated by in-depth process and the guidelines on cosmetics labeling or advertising established by the Ministry should be improved in their clarity.*

**Keywords:** *Cosmetic labeling and advertising, advertising regulation, functional cosmetic regulation, organic cosmetic regulation*

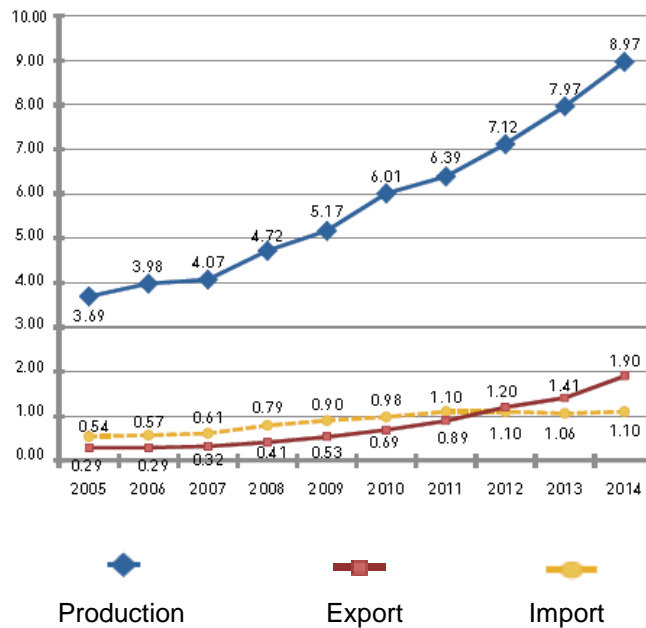
## **1. Introduction**

### **1.1. The Change of Cosmetics Market in S. Korea**

With the recent trends of pursuing well-being in S. Korea, consumers are especially pay attention on their looking younger than their ages. This has increased the size and categories of so-called “beauty industry”. The beauty industry means a part of service industry to provide the service for managing human body healthily and beautifully including beauty service business such as caring hair, skin, nail and so on, manufacturing business such as beauty devices, instruments or supplies and medical care service such as cosmetic surgery. As one of the businesses, cosmetics are the most popular part among ordinary consumers because they use them every day at least twice a day. "Cosmetics" are defined as goods used by applying, rubbing and spraying or in similar ways for the human body in order to increase attractiveness by cleaning and beautifying the human body, brightening appearance, or maintaining or improving the health of skin and hair, which have insignificant effects on the human body(subparagraph 1 of Article 2 of Cosmetics Act). The rapid change of cosmetics market says the degree of popularity.

The domestic actual output of cosmetics in 2014 was 8.97 trillion Korean won, which increased by 12.5% compared with 2013 [1]. The amount of production of cosmetics in 2011 was 6.4 trillion won with the increase of 6.1% over the previous year and its average annual increase rated from 2008 to 2011 was 10.6% [2]. Not only the export of cosmetics increased annually by average 29.5% in this period but also their import increased annually by average 11.2% [3].

Unit: trillion Korean won



(Source: Ministry of Food and Drug Safety, 2015 Food & Drug Industrial Statistics, p.63 [4])

**Figure 1. Annual Trends of Cosmetics Industry in S. Korea**

The change of the market has appeared not only in the quantitative increase but also the qualitative aspects such as the expansion of the user groups and the increase of the needs of high quality of products like functional or organic cosmetics. The age using cosmetics is getting younger nowadays even the teenage elementary school students are highly interested in buying their own cosmetics. Specially, the social atmosphere of consumers' wants looking younger regardless of gender or age is making the increase of functional cosmetics such as whitening, sunscreen and wrinkle improvement. The actual output of functional cosmetics in 2014 was 2.97 trillion won which was 33.2% of the total compared with 32.2% in 2013, and their output and market share have been on the steady rise [5]. In this context, organic cosmetics have been attracting consumers' attention and being more in demand every year. This may be brought by the diffusion of the value of well-being, and the invigoration of green industries and organic farming industry. The global market size of organic cosmetics was at approximately \$10 billion in 2010 and its growth in North America is about 20 percent annually. The domestic cosmetics market size was 8.9 trillion won in 2011 of which approximately 1% organic cosmetics were estimated at about 89 billion won. This is compared with the only 0.03% estimated at about 20 billion won of the domestic cosmetics market size of about 7.3 trillion in 2007 [6].

## 1.2. Problems

The growth of cosmetics market has given rise to the increase of the problems of cosmetics labeling or advertising. A survey in 2011 with 2,066 women consumers of 20 and over who experienced cosmetics said that more than 90% of the respondents used basic cosmetics, 80.5% used regularly functional cosmetics and 79.3% used makeup cosmetics. The result of the places where the respondents purchased their cosmetics showed that general sales store of 63.1%, door-to-door sales of 18.2%, e-commerce of 10.0% and telecommunications sales of 6.1% such as home shopping by television. The degree of the difficulties of purchasing cosmetics appeared in order of 'price' and

‘exaggerated advertising’. 74.7% of the respondents thought that cosmetics were expensive and 51% answered the quality of cosmetics was not good compared to their prices. The results showed that 80.8% of the respondents worried about the safety of the ingredients and 73.7% of consumer problems occurred in the process of dealing cosmetics. Also 75.5% of the respondents experienced side effects, 68.7% experienced false and exaggerated advertisements and the respondents’ own side effects were only 17.1% [7].

Similarly, the seriousness of false or exaggerated advertising problems appeared in that the Ministry of Food and Drug Safety exposed 21,347 cases of false or exaggerated cosmetics advertising in 2013, took administrative measures, blocked the sites and accused them [8].

**Table 1. Violations of Cosmetics by Year (Unit: Case)**

Classification	Total	Failure to Conduct Self-Quality Control	Detective Facilities for Quality Control	Unnoticed Relocation, Discontinuance or Closure of Business	No Engaged Manager Available	No Report of Production History Available	Labeling	Advertisement	Others
2009	100	26	2	-	-	-	29	25	18
2010	292	57	13	4	-	25	68	97	28
2011	289	65	17	4	-	21	47	99	36
2012	242	70	2	-	-	2	49	73	46
2013	616	50	5	-	-	223	84	181	73
2014	560	110	7	-	-	20	85	261	77

(Source: Ministry of Food and Drug Safety, “2015 Food & Drug Statistical Yearbook”, p. 403 [9])

(Note: ‘-’ means ‘None’)

**Table 2. Administrative Measures on Cosmetics by Year (Unit: Case)**

Classification	Total	Item Suspension	All Item Suspension	Penalty	Item Cancellation	Business Closure	Others
2012	198	167	7	-	-	22	2
2013	259	248	3	-	-	4	4
2014	511	479	22	-	-	6	4

(Source: Ministry of Food and Drug Safety, “2015 Food & Drug Statistical Yearbook”, p. 408 [10])

(Note: ‘-’ means ‘None’)

The problems of organic cosmetics labeling or advertising were reported in the investigation by the Korean Consumer Agency in 2013. According to the report, 35(70%) of the 50 organic cosmetics investigated, which were being sold on-line or off-line, violated the Cosmetics Act or the Guidelines of Organic Cosmetics Labeling and Advertising established by the Ministry of Food and Drug Safety [11].

**Table 3. The Regulation Violations of Organic Cosmetics in 2013**

No. of Regulations Violated	Domestic Cosmetics	Imported Cosmetics	No. of Cosmetics
None	13	2	15(30%)
1	7	8	<b>15</b>
2	3	11	<b>14</b>
3	1	4	<b>5</b>
6	0	1	<b>1</b>
Total	24	26	50(100%)

(Source: Korean Consumer Agency, "An Investigation of the Actual Safety Condition of Organic Cosmetics", p. 21. [12] )

In spite of this situation, that is the market growth and the increase of unfair labeling or advertising in cosmetics industry, there were few or no academic researches [13] about how cosmetics labeling or advertising was regulated and should be improved. Most of the recent researches of cosmetic products were approached by the perspectives marketing strategy, e.g. brand effects such as brand preference between domestic and imported cosmetics [14], comparison with the prestige and me-too cosmetic brands [15], art marketing of cosmetics [16] and so on; or cosmetic products' development such as the effect of oriental medicine in cosmetics [17-18] and so on. There were only a few reports by consumer related organizations with the consumer protection side from cosmetics themselves or cosmetics related marketing promotions [19-21]. In this context, it is valuable work to review the system of the regulation of the cosmetics labeling or advertising focusing on functional and organic cosmetics and find the problems and the improvements for the future anticipating the rapider growth of the industry due to the expansion of the users including not only women but men, teenagers, children and elders.

## 2. The Review System of Cosmetics Labeling or Advertising

### 2.1. Problems of the Review System of Cosmetics Labeling or Advertising

We are apt to overlook the importance of the cosmetics advertising review system or regulations because they are daily consumer products frequently used. But, cosmetics are directly applied to human body, so if they cause troubles, they could bring serious damages. Recently, the increase in demand for functional or organic cosmetics makes us be concerned about how they are regulated since the greater advertising is, the greater the unfair advertising could be.

All cosmetic labeling or advertising regardless of any kinds of cosmetics follow self-regulation system that is the Korea Cosmetic Association consisted of cosmetic company members [22] reviews preliminarily, before execution, and should comply with follow-up management by the Ministry of Food and Drug Safety [23]. All unfair cosmetics labeling or advertising are prohibited by the Cosmetics Act [24]. Besides the Act, the Fair Labeling and Advertising Act(hereinafter referred to as 'FLAA') [25] as a general law regulates them, which is applied to all unfair labeling and advertising regardless of any industrial classification or media. To the best of regulating unfair advertising, all the acts should follow FLAA. The application of FLAA falls under the jurisdiction of the Fair Trade Commission (FTC). FTC investigates unfair labeling or advertising by the recognition of themselves or receiving a report, proves its unfairness and issues an administrative punishment and reports it to the relevant organization.

It is questioned that how the system could regulate the unfair labeling or advertising of functional or organic cosmetics although they are very different from general cosmetics even by the Cosmetics Act. As mentioned above, cosmetics are managed by the Act and the Act was established for the purpose of contributing to improving national health and developing the cosmetics industry by prescribing matters concerning the manufacture, importation, sale, *etc.* of cosmetics (Article 1 of the Act). By the definition in this Act, the term "cosmetics", as mentioned earlier, means goods used by applying, rubbing and spraying or in similar ways for the human body in order to increase attractiveness by cleaning and beautifying the human body, brightening appearance, or maintaining or improving the health of skin and hair, which have insignificant effects on the human body: Provided, that goods constituting medicines as defined in subparagraph 4 of Article 2 of the Pharmaceutical Affairs Act shall be excluded (subparagraph 1 of Article 2 of the Act).

On the other hand, "functional cosmetics" means cosmetics prescribed by Ordinance of the Ministry of Health and Welfare, falling under any of the following subparagraphs: (a) Products aiding in the whitening of the skin; (b) Products aiding in improving wrinkles in the skin; (c) Products aiding in tanning skin gently or protecting skin from ultraviolet rays (subparagraph 2 of Article 2 of the Act). And "organic cosmetics" means cosmetics manufactured by organic materials, plants and animals, or materials, *etc.* derived therefrom, which comply with standards prescribed by the Commissioner of the Korea Food and Drug Safety. Thus, functional or organic cosmetics are the certified products with the standards by the Act, and their labeling or advertising are needed to be reviewed by some different processes from general cosmetics. Furthermore, consumers don't discern well which cosmetics are functional or organic, so they tend to take advertising at its word or be deceived easily.

## 2.2. Consumers' Perspective

The Act prohibits cosmetics labeling or advertising which are likely to mislead consumers into thinking the cosmetics are medicines; labeling or advertising exceeding the scope of the examination undergone on the safety and effectiveness of functional cosmetics, or labeling or advertising different from the outcomes of such examination; labeling or advertising likely to mislead consumers into thinking the cosmetics are functional cosmetics or organic cosmetics; and other labeling or advertising likely to deceive or mislead consumers, which are false (paragraph 1 of Article 13 of the Act).

However, the market is confused. According to the definition of the Act, functional cosmetics are assorted with just three kinds of products such as aiding in the whitening and improving wrinkles in the skin, and tanning skin gently or protecting skin from ultraviolet rays. But, although there are many cosmetics which are advertised as if they are certified functional, for example they can reduce cellulite or remove wrinkles in the skin and so on, most consumers don't realize the fact.

Similarly, organic cosmetics are not fully understood by consumers, so their damage cases occur frequently. When they purchase organic cosmetics, they firstly identify the organic certification mark to distinguish from general ones [26], but most of them are confused due to various types of certification marks. Organic certification marks of cosmetics reach dozens all over the world, but due to the lack of the relevant information, consumers' awareness is still low. In particular, there is no organic cosmetics certification authority yet in Korea, so manufacturers use various international certification bodies which have different certification marks and the confusion of consumers have been weighted [27]. And 74% of organic cosmetics distributed domestically are imported ones [28].




Hazard debates on cosmetics raw material have led to preference for eco-friendly raw material, and natural cosmetics organic cosmetics and eco-friendly cosmetics have been launched one after another. This intensifies the confusion of the market.

**Table 4. The Current Status of Foreign Certification for Organic Cosmetics Produced in S. Korea (on the basis of 2013)**

Certification Criteria (Country)	Product Qty.(%)
ECOCERT (France)	19(58%)
ECOCERT/COSME-BIO(France/France)	6(18%)
ACO/USDA(Australia/USA)	8(24%)
Total	33(100%)

(Note: Revised from p. 7 of Choi, S. C. and Sohn, S. M.(2015) [29] )

**Table 5. Regional Organic Products Regulatory Authority and Legal Basis**

	USA	EU	Japan	Australia	Korea	
Legal Basis	Organic Foods Production Act (OFPA) National Organic Program (NOP)	European Economic Community (EEC) NO.2092/91	Japanese Agricultural Standards (JAS)	National Regulations of Organic and Bio-Dynamic Products	Environment –Friendly Agriculture Fosterage Act/ Food Industry Promotion Act	Guidelines of Organic Cosmetics Labeling and Advertising
Compulsory	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory	Not Mandatory
Competent Authority	U.S. Department of Agriculture (USDA)	EC	Ministry of Agriculture, Forestry and Fisheries of Japan (MAFF)	Department of Agriculture and Water Resources (DAWR)	Ministry of Agriculture, Food and Rural Affairs (MAFRA)	Ministry of Food and Drug Safety (MFDS)
Accreditation Authority	USDA-AMS	EC	Food and Agricultural Materials Inspection Center	Australian Quarantine and Inspection Service (AQIS)	National Agricultural Products Quality Management Service (NAQS)	None
Certification Authority	State government / Private CB	EN 45011/ Private CB	Private CB	Private CB	NAQS/ Private CB	None
Application Range	Agricultural products/ Processed goods/ Cosmetics	Agricultural products/ Processed goods/ Cosmetics	Agricultural products/ Processed goods	Agricultural products/ Processed goods/ Cosmetics	Agricultural products/ Processed goods	Cosmetics
Certification Logo		Different from authorities		Different from authorities		None

(Note: Revised from p. 18 of Korean Consumer Agency (2013) [30] )

### 3. Alternatives

According to the paragraph 1 of Article 14 of the Guidelines of Organic Cosmetics Labeling and Advertising, it just stipulates that the cosmetics to label or advertise as “organic” should comply with the standards prescribed by the Commissioner of the Korea

Food and Drug Safety and have the empirical data to prove them, but the screening procedure to verify whether they are organic or not in advance is absent. Therefore, the claims to be organic, although they are not really organic, as examples, like natural or pure cosmetics, are flooded the market and intensify consumers' confusion.

On the other hand, functional cosmetics should be validated in the items of safety and effectiveness or reported to the Commissioner of the Korea Food and Drug Safety by the Article 4 of Cosmetics Act: A person who intends to manufacture or sell functional cosmetics by manufacturing or importing them shall undergo an examination by the Commissioner of the Korea Food and Drug Safety or report to the Commissioner safety and effectiveness of each products. The same shall apply to any revisions to the examined matters (paragraph 1 of Article 4 of the Act). No one shall sell, or manufacture, import, store or display the functional cosmetics for the purpose of sale that fail to undergo an examination or a report on which has not been submitted, as prescribed in Article 4 (subparagraph 1 of Article 15 of the Act). In violation of Article 15, the Commissioner may order manufacture-sellers, manufacturers, sellers or other persons handling cosmetics for their business to discard cosmetics sold, kept, displayed, manufactured or imported and the materials or ingredients thereof (paragraph 1 of Article 23 of the Act). Also, if a manufacture-seller or manufacturer falls under when he/she sells, upon manufacturing or importation, functional cosmetics which fail to undergo an examination or he/she fail to submit reports, in violation of Article 4, the Commissioner may revoke the registration thereof or order him/her to prohibit manufacturing, importing and selling products, or order him/her to suspend all or part of the business for a prescribed period up to one year (subparagraphs 5 of Article 24 (1) of the Act).

In this context, first of all, it is necessary to establish the specific regulations to manage organic cosmetics from manufacturing to selling including organic certification logo. As functional cosmetics, the procedures of preliminary examination(s) or submitting report(s) for organic cosmetics should be included in the regulations. And it is urgently necessary to establish a domestic certification authority for organic cosmetics since, as mentioned earlier, most domestic manufactures obtain overseas organic cosmetics logos due to the absence of any domestic authority. This causes considerable loss of time and cost and consumers' confusion.

Also, the regulations of clear labeling or advertising of organic cosmetics that consumers can easily identify should be established. The survey of Trend Monitor showed 53.2% of those questioned 380 consumers checked the word of "organic" in the labels or advertisements when they purchased organic products including cosmetics and 30% checked the certification logos [31].

#### **4. Conclusions**

The consumers' demand for high quality of cosmetics will increase more and the competitions of brands in the market will be fiercer. And the possibility that unfair labeling or advertising increases will be higher under the current regulation system of cosmetics, particularly organic and functional. It is necessary that organic and functional cosmetics should be reviewed under a different system from general ones. And the three types of functional cosmetics should be known to consumers more accurately. In the preliminary review, the guidelines on organic cosmetics labeling or advertising established by the Ministry are applied to cases, but due to their lack of clarity they need to be improved for more specific and realistic direction. In accordance with this, the ex post facto management by the Ministry of Food and Drug Safety should strengthen with more specific procedures.

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