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## News on Online Cosmetics Operation

Lately, NMPA (National Medical Products Administration) issued a new regulation on online cosmetics operation (*Measures for Supervision and Administration of Online Cosmetics Operation*[1]), which will be effective on September 1<sup>st</sup>, 2023.

### Definitions:

There's no precise definition for "E-commerce operators of cosmetic products" (化妆品电子商务经营者) in the new law. Although, we could understand this kind of actor as the following:

*natural persons, legal persons and unincorporated organizations that engage in the operation of cosmetics (including the sale of cosmetics or the provision of services related to the sale of cosmetics) through the Internet, or that provide services on cosmetic e-commerce platforms.*

The new law divides it into two categories:

1. **The Platform:** the cosmetic e-commerce platform operators. Such as Jingdong, Tmall, etc.
2. **The Operator:** the online cosmetic operator selling products on the Platform, or on the self-building web platform. Such as direct-sale store, flagship store, franchise store or exclusive store on the Platform (ex. MAOGEPING BEAUTY flagship store on Jingdong, MAOGEPING BEAUTY franchisee on Jingdong etc.) or on the official online shopping sites (ex. [MAOGEPING BEAUTY official site shop](#)).

### Summary:

1. It's the first regulation specifically for online cosmetics platform and operator, to ensure the quality of online cosmetics and services.
2. The Platform shall establish a corresponding profile of the Operator depending on the authentic information submitted by the Operator. Verification and update at least once every 6 months. Storage of profiles for not less than 3 years from the date of the Operator's withdrawal from the platform. Regular check is needed.
3. The Platform, as soon as the discovery of illegal operation, shall not only stop the operation, but also report it to regulatory authorities.
4. The Operator bears a disclosure obligation. The Operator should establish a record-checking system for its products, including the registration certificate of the direct supplier and other details on products as well. Especially for children's cosmetics, the Operator should check its authenticity on the official website of NMPA.
5. The Operator should immediately stop selling defective products and notify relevant products register after its discovery.

The new regulation contains 5 parts: generality, platform management, operator management, supervision management and bylaws. It's applicable to all cosmetics e-commerce platforms and online operators in PRC. Those engaged to cross-border e-commerce retail imports of cosmetics shall not be the subjects of the present Measures.

The present article focuses on the enumerated duties of the Platform and the Operator.

### A. Platform's obligations

#### a) *Filing*

The Platform should be equipped with a specific institution or staffs for the regulatory management on the Operator.[2]

The Platform should build a system recording and verifying the information about the Operator, including[3]:

#### Identity of the Operator

- Identity
- Address
- Contacts
- Registration; certification
- ...

The filing should be updated at least once every 6 months and conserved at least 3 years after the Operator's withdrawal from the platform.[4]

#### b) *Regular check*

The Platform should make a regular check plan and conserve the results for at least 2 years.[5]

The check shall include[6]:

#### Items should be checked

- Products' names
- Special cosmetic registration
- Labelling registration
- ...

#### Operation

- Authentic registration
- Conformity to NMPA
- Legality of labelling
- ...

The Platform shall follow the MPA's public announcements regularly on sampling and testing, suspension or cessation of operation of cosmetic products and other regulatory activities involving product quality and safety, and self-check the conformity in platform.[7]

#### c) *Stop illegal operation*[8]

By regular check or notification from MPA, as the Platform is aware of the existence of illegal operation, the Platform should take immediately necessary measures to stop the illegal operation on the platform according to the platform service contract.

Measures could be deleting, blocking or shutdown the service.

#### Circumstances for shutdown the service[9]:

- Sentenced by the People's Court for crimes related to the quality and safety of cosmetics;
- Detained by the public security authorities or given other public security management penalties for cosmetic quality and safety violations;
- License revoked, production and business suspended or other penalties by MPA;
- Other serious violations.

#### d) *Notification*

After having stopped the illegal operation, the Platform shall notify MPA under these circumstances within 10 days of discovery:

- the use of the products causes systemic damage to the human body, endangers life or causes death;
- the use of banned raw materials or illegal addition of substances that may be harmful to human health in the products;
- the products have other major quality and safety problems.[10]

#### e) *Report*

The Platform shall report the notification in d) and results to local MPA quarterly.[11]

#### f) *Technology support and law popularization*

The Platform shall facilitate the Operator's fulfillment of disclosure obligation and strengthen the publicity and training of the regulations on online cosmetics operation.

### B. Operator's obligations

#### a) *Inventory management*

The Operator shall build a system to manage inventory, containing all relevant information about the products. Besides, the Operator should verify and conserve the certification of the direct supplier and the products' recording as well as their quality certificate.

Especially for the children's cosmetics, the Operator should verify the label and compare it to the database of NMPA.[12]

#### b) *Disclosure*

The Operator shall disclose completely, precisely all the information on the label and from the administrative recording with conformity and in time.

The product name and standard number of the product implementation should be prominently displayed in text form on its product display page on the platform.[13]

#### c) *Cooperation*

The Operator shall provide the exact products information to the Platform and cooperate with the Platform if needed.

The Operator should stop immediately the operation of the product if any legal unconformity to quality has been found. For other batches of the same product, if the Operator continue to sell it, the legal unconformity should be prominently advertised at least 1 year for customers.[14]

#### d) *Notification*

The Operator shall notify the relevant product register to recall products when the product has any quality deficiency dangerous to human health.

In case of violation to this duty, MPA may order to recall or stop the operation.

[1] [http://mpa.gd.gov.cn/zwgk/zcfg/fvxzfg/content/post\\_4149963.html](http://mpa.gd.gov.cn/zwgk/zcfg/fvxzfg/content/post_4149963.html)

[2] Article 9.

[3] Article 10.

[4] Article 10.

[5] Article 11.

[6] Article 12 and 13.

[7] Article 14.

[8] Article 15.

[9] Article 15.

[10] Article 16.

[11] Article 17.

[12] Article 20.

[13] Article 21.

[14] Article 22.