

EXPANDING YOUR COSMETIC BRAND TO THE GLOBAL MARKET

When it comes time to expand your brand internationally, there are many challenges to consider. **Jenny Allen** reveals the checklist.

AUSTRALIA HAS A vibrant and dynamic cosmetic industry, yet the local revenue for the Cosmetic and Personal Care sector is believed to be just \$5.687 billion (USD) – approximately 0.1% of the estimated \$537.7 billion (USD) global industry in 2019. By contrast the European Market was valued at \$94 billion (USD) in 2019, equating to 17% of the global industry. Other large markets include China (estimated \$43 billion (USD) in 2019), India (estimated \$8.5 billion (USD) in 2019), Japan (estimated \$25.3 billion (USD) in 2018) and North American (estimated \$82.5 billion (USD) in 2018). With a reputation for products that are built around healthy lifestyles, naturality and sustainability the lure of other major internal markets for Australian brands are obvious and, as countries such as China relax their requirements on animal testing, opportunities for growth may never have been so promising.

Taking advantage of such potential can, however, be a complex undertaking and there are numerous challenges that must be understood before a company considers expanding their global market reach. Different regions around the world come with different regulations that must be adhered to, and differing restrictions on product types, registrations, ingredients and labelling to name but a few. Some of those may be easy to obtain and understand, whereas others can have complex requirements scattered across multiple regulations, standards and interpretations. Yet understanding these key differences is vital to maintaining and protecting your brand's reputation. Here are some of the major questions to consider ahead of expansion into any new markets.

Are my products cosmetics?

Whilst this may initially seem like an obvious question, with an obvious answer, it is vital to acknowledge that different Regulatory Regions do have different definitions of what a cosmetic product is. Likewise, regions may divide cosmetic products into multiple categories with different requirements for each. This means that a product could be classified as a cosmetic in one part of the world, but the exact same item with the same

intended functions and claims could be classified as a Medicine, Drug or even Biocide in another. In turn the requirements for selling that item, along with where and how it can be sold, may then be significantly different between target markets.

Well-known examples of this include anti-perspirants, anti-dandruff shampoos and fluoride toothpastes that are widely sold as Cosmetics within Australia, New Zealand and the European Union (EU). However, within the United States of America (USA) such items must, in addition to meeting any Cosmetic requirements, also comply with the requirements of Over The Counter (OTC) Drugs. This is due to a consideration in the USA that such items may variously affect either the structure and/or function of the human body or work to prevent certain diseases.

Aside from such broad categorisations (Cosmetic vs Drug vs Biocide), some regulatory regions also classify Cosmetics themselves into multiple categories based of perceived risk. This includes regions such as the Mercosur/Mercosul countries and China, all of whom make a distinction between those Cosmetics considered to be relatively low risk and those which may present a higher risk to consumers. Here, again, the categorisation of a product into either low or high risk can have a significant impact on the requirements of bringing a product to market.

Finally, it should be noted that, as innovation continues to push the boundaries of product claims related to function and efficacy, case-by-case determinations may need to be made on some products. As this is done ad-hoc and region-by-region, discrepancies in interpretation are common. Some regions will require pre-market authorisations for Cosmetics prior to sale (such as those of Mercosur/Mercosul and members of the Gulf Co-operation Council), meaning that the relevant authorities may insist on notification under a certain mechanism (be that as a certain category of Cosmetic, or as a Drug). Others, like the USA and EU, with no such pre-market authorisation will leave the initial classification to the brand or organisation placing the product on the market – and it is only when post-market authority review becomes involved that a classification may be challenged.

Are my ingredients legally permitted?

The general requirement for a cosmetic to be safe for its intended use is common across all regions, yet the regulatory restrictions on specific ingredients can vary substantially from region to region. This creates a common 'trap' for companies looking to expand into a new market for the first time, particularly if they are not made aware of these potential differences. To put into context how extreme this difference may be, the EU Cosmetic Regulation (1223/2009) stipulates over 1,300 individual substances and chemical groups as being prohibited under its' Annex II. By contrast the USA FDA Legislation on Cosmetics (CFR 21) states only 8 prohibited substances and chemical groups.

Further to the outright prohibition of certain substances, numerous regions operate so-called 'positive lists' for certain ingredient functionalities. Most commonly this covers substances used as Colourants, UV Filters and

Preservatives – though again not every region regulates each group this way. Both the EU and USA have positive lists for Colourants, for example, but whilst the EU also has a positive list for Preservatives the USA do not regulate such materials this way and allow any substance to be used as a preservative so long as it is safe and not outright prohibited. Equally there can be differences in the positive lists of different regions, meaning that you may have to reformulate existing products to be able to sell in some target markets. Ensuring a new formulation will be legally acceptable for intended regions during the R&D Phase is equally essential, though not always easy.

Are Product Registrations required, and if so what data do I need to provide?

Many regulatory regions require some form of pre-market registration or authorisation for cosmetic products, however there can be differences in the legal entities allowed to undertake such registrations and the nature of the data they need to do this. Some regions use online formats where you can upload all documents via the web, whereas others still require you to submit hard copies of all information. Equally in some cases you may be able to do one registration to cover an entire region (such as the EU Cosmetic Product Notification Portal), whereas other regions require registration in each and every country of sale (ASEAN).

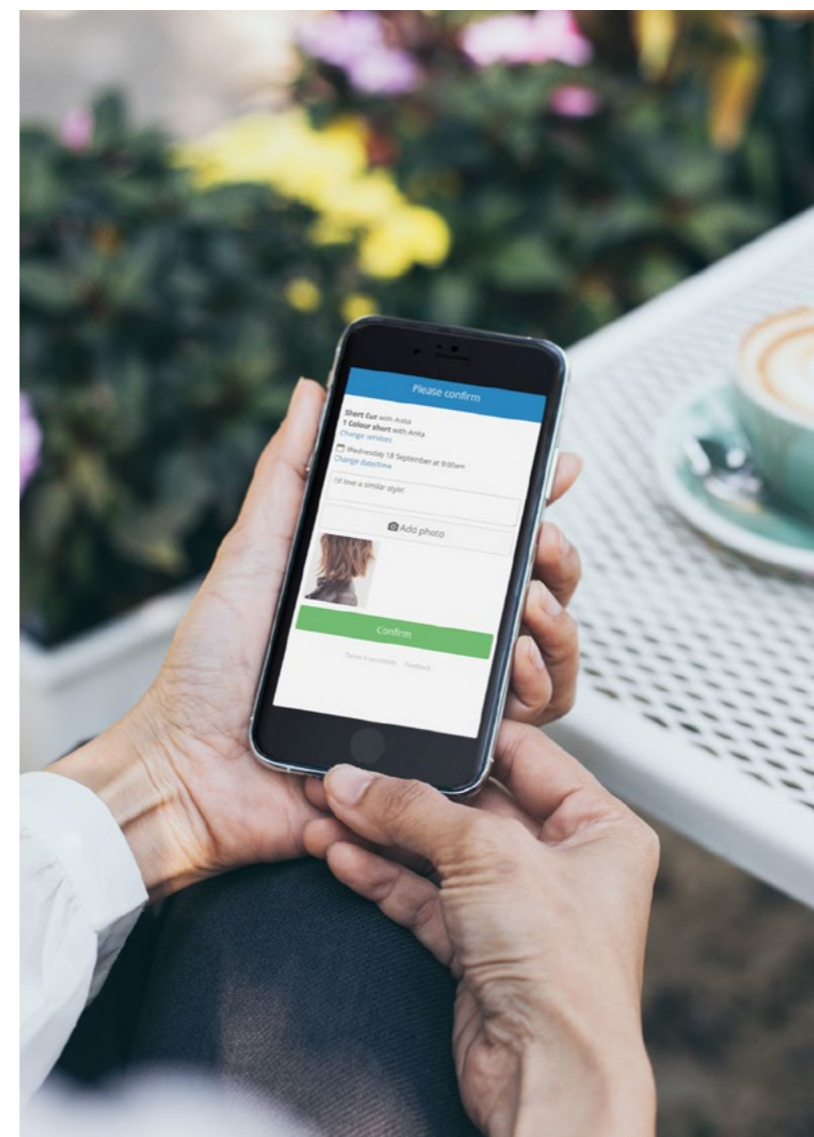
One thing that most of the regions do have in common is the need for a delegated natural or legal entity (the so-called "responsible person") who must undertake the registration and have access to a range of product data as stipulated by law. This means that you must be aware of the likely need

to share potentially significant amounts of data on your products with key organisations in your supply chains – including formulations, safety and efficacy data. Another important factor to take into account is global labelling you will need to consider the regulations in different countries and do your research thoroughly.

Whilst many of these aspects may seem initially daunting, many can be overcome with careful planning, thorough research and capable partners to support you where necessary. The key is to identify those regions of most interest, understand the obligations placed on you and your supply chain by the regulations and work to ensure you can meet them without compromising on your brand. Despite the challenges, the rewards for companies who are able to successfully expand their business onto the global stage can be significant – for your brand, your reputation and your consumers. ■



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