

January 18th, 2021

Hon. Pierre Fitzgibbon
Minister of Economy and Innovation
ministre@economie.gouv.qc.ca

Dear Minister,

RE: Objective Guidance for “Health” and/or “Hygiene” Products that can be Considered “Essential” by Retailers in Quebec

Purpose of the Letter – Our Ask

We are writing on behalf of the cosmetics and personal care products industry to seek your support in ensuring an objective and consistent approach in determining which products are for “health” and/or “hygiene” purposes and so are considered “essential”. This approach is important for assessing the ability of consumers to purchase certain products in stores that are allowed to remain open during this period of limited in-person retail.

Following a request from many of our member companies earlier in this current shut-down, we prepared a guide to assist in determining if a cosmetic or other personal care product is a “health” and/or “hygiene” product and so within the general categories allowed for sale as “essential”. To avoid subjective and inconsistent determinations, we based our guidance on the definitions provided in the legislation which governs these products – the Canadian *Food & Drugs Act* and its relevant regulations. We were complimented and encouraged in this approach by Claudia Loupret, Conseillère en communication, Cabinet du Ministre de l'Économie et de l'Innovation, Ministère de l'Économie et de l'Innovation, and we understand that the Government of Quebec has been encouraging of industry associations in providing such guidance given the approach of allowing retailer discretion.

A copy of our guide is attached.

We are now, however, in the process of further refining our guide including addressing the purpose of various products which are defined under the *Food & Drugs Act* as “altering the complexion, skin, hair or teeth”. From reports from several of our member companies, it appears that there is some confusion as to whether such products can be considered “health” and/or “hygiene” products. As you will note from the information we provide below, products meeting this statutory definition under the *Food & Drugs Act* do have a role within these categories.

We would therefore appreciate your review of our approach and any comments which you may offer. It would be most helpful to know that your Government is supportive of our approach of using statutory definitions under the federal *Food & Drugs Act* to provide an objective approach in accessing if these products are “health” and/or “hygiene” products under your categories of essential products. It will also be welcomed by retailers and help guide government

officials/inspectors. As I am sure you would agree, an objective and consistent approach would be beneficial.

Finding an Objective Approach to Identifying “Health” and/or “Hygiene” Products

To understand the scope of products that we are addressing, the range of “cosmetics” and other personal care products include:

- soap, skin cleansers, toners, exfoliants/scrubs, masks, makeup removers
- moisturizers, skin care treatments, sunscreens
- acne preparations, medicated skin creams, diaper rash creams, lip balms
- shampoo, anti-dandruff products, hair conditioners and treatments
- hair dyes/coulourants, hair relaxers, hair styling products (e.g. gel, mousse, sprays)
- toothpaste, mouthwash, tooth whitening products
- deodorants, antiperspirants, body powders
- shaving preparations (e.g. shaving cream, after-shave), hair removal creams
- colour cosmetics/makeup including foundation, powder, blush, eyeshadow, mascara, eye and lip liner, lipstick
- nail polish, nail polish removers, cuticle creams
- fragrances, body sprays

Although many of these categories can readily be identified as “health” and/or “hygiene” products, others may be less clear. The statutory definitions provided by the Canadian *Food & Drugs Act* and its regulations can provide an objective means of identifying the purpose of these products, and thus whether they are “health” or “hygiene” products.

Under the *Food & Drugs Act*, these products are currently defined and regulated under one of three regulations based on product claims and the source of any “active/medicinal” ingredients. Toothpastes, shampoos and even skin creams can be a “cosmetic”, “drug” or “natural health product” depending on product claims and the molecular source of any medicinal ingredients. The relevant regulations and their definitions are:

- (a) Drug Regulations (Non-Prescription Drugs)** – are for products which are defined as having a therapeutic/medicinal benefit and can be identified by a Drug Identification Number (DIN) on the package. These products are for health and/or hygiene purposes.
- (b) Natural Health Products Regulations** – are for products which by definition have a therapeutic benefit but differ from “drugs” in that their “active” or “medicinal” ingredient(s) can all be found in nature. They can be identified by a Natural Product Number (NPN) on the label and are as such a health and/or hygiene product.
- (c) Cosmetics Regulations** – are for products defined by the *Food & Drugs Act* for use in “cleansing, improving or altering the complexion, skin, hair or teeth”. Although there is not a specific identifier on the label, any such product that is for “cleansing” or “improving” the complexion, skin, hair or teeth are, by definition, a health and/or hygiene product.

Deodorants and antiperspirants are also regulated as “cosmetics” and are essential for personal hygiene.

Additional Clarity (For Revised Guidance)

Products which “alter the complexion, skin, hair or teeth” (e.g. make-up, hair colour, etc.) have been a point of discussion for some officials/inspectors for which further clarity may be required.

Although some may subjectively dismiss these products as not being for “health” and/or “hygiene”, we would suggest that they can and do fulfill an important role within these general categories. Very practically, they may be necessary for people who are suffering from various conditions which affect their appearance including skin conditions, scars, burns, or cancer and its treatment.

In the case of cancer, our industry has operated a national foundation – Look Good Feel Better (LGFB) - which for some 30 years has used our expertise and products to assist several hundred thousand women throughout Canada in addressing the appearance related effects of cancer and its treatment. Working with the Canadian Cancer Society, as well as many Quebec hospitals, LGFB provided free workshops in over 30 locations throughout the province prior to the pandemic. A list of the locations of LGFB workshops in Quebec is attached. Since last March, nearly 600 Quebec women experiencing cancer have registered for these beneficial on-line workshops.

As various studies attest, two of which are also attached for your reference, breast cancer patients, for example, who participated in such beauty workshops reported less symptoms of depression, higher quality of life, and higher self-esteem compared with baseline and patients who did not participate in the beauty workshop. Results indicate beneficial short-term and mid-term effects of beauty care on psychological outcomes and emphasize the utility of this type of brief, low-cost intervention in women undergoing medical cancer treatment in improving their well-being.

This, of course, should not come as a surprise. Current research suggests that activities involved in maintaining our personal care/beauty regimes positively influence our emotional and physical well-being. They create positive internal experiences that can result in decreased stress, as well as identifiable benefits to the body and brain. The use of these “altering” products such as make-up, hair dyes, etc. may be essential to a person’s well-being, self-confidence, stress management and general mental health (even if they are in quarantine at home).

Given the stress, anxiety and potential depression resulting from the effects of the lock-down and other restrictions of the pandemic, we would suggest that these products which by definition “alter complexion, skin, hair or teeth” do play a role in maintaining the general health and well being of those who use them and so fit within the category of “health” and/or “hygiene products”. Allowing consumers to purchase such products in retail establishments that are already open should not increase the risk of transmission of Covid-19.

Who is Cosmetics Alliance?

Cosmetics Alliance Canada is the lead trade association for cosmetics and other personal care products in Canada and represents over 150 companies, including many based in Quebec that manufacture, distribute, or sell cosmetics and personal care products as well as companies that provide goods and services to the industry.

As industry, we very much support the efforts of our provincial/territorial governments, and our federal government, to take the steps deemed necessary by our public health experts to manage and eventually eradicate the current covid-19 pandemic.

Final Comments

Given that we are now in the process of refining our guidance on this matter, we would very much appreciate your comments and thoughts on our proposal to use the statutory definitions in the Canadian *Food & Drugs Act* to determine what products are within the “health” and/or “hygiene” categories for “essential”. This includes your support for the additional clarification regarding products that “alter the complexion, skin, hair or teeth” (e.g. make-up, hair dyes, etc.)

Your input and support for this approach would ensure an objective and consistent means for retailers and officials/inspectors to address the products which we represent.

Should you have any questions or require further information, please feel free to contact me at dpraznik@cosmeticsalliance.ca or 647-298-1152. We look forward to your timely response as this matter is of urgent concern to our member companies and retailers.

With best regards,



Darren Praznik
President & CEO
Cosmetics Alliance Canada

Cc:

Claudia Loupret
Conseillère en communication
Cabinet du Ministre de l'Économie et de l'Innovation
Ministère de l'Économie et de l'Innovation