

Unveiling the Hazards of an Unregulated Beauty Industry

by Nia Goins
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Executive Summary:

For 84 years, the cosmetic industry went largely unregulated. It was not until 2022 that substantial updates to cosmetic regulations were made into law in the form of the Modernization of Cosmetics Regulation Act. Mounting concerns about the ingredients that make up cosmetic products safety has led to more conversations about what we put onto our faces and bodies.

Data on this issue is largely unavailable. The information regarding the safety of personal care product ingredients is sparse. While everyone is affected by this issue, as everyone uses cosmetics at some point in their day to day lives, certain demographics face more of an impact than others. Black women in particular face the consequences of an unregulated cosmetic industry as the demographic with the largest number of purchases within it.

The cosmetic industry has had the potential to have negatively impact people's health for years, not just in America but those who purchase American manufactured cosmetics worldwide. Research must be conducted to determine how to make these products safer for consumers and remedy harm that they may have caused in the most economically feasible way possible.

Policy Context:

The first piece of legislation for cosmetics was called the Food, Drug and Cosmetics Act of 1938. Of this 1,000-page document, the section covering cosmetics was short and broad. The FDCA prohibited misbranding products as well as selling cosmetic products that could be contaminated. It **did not** mandate recalls if cosmetics were contaminated or regulate the ingredients that could be used within cosmetics for their safety. *For 84 years*, the cosmetic industry largely went unregulated.

Before MOCRA, policymakers attempted to address the lack of regulations over the years with limited success.

FDA DEFINITION

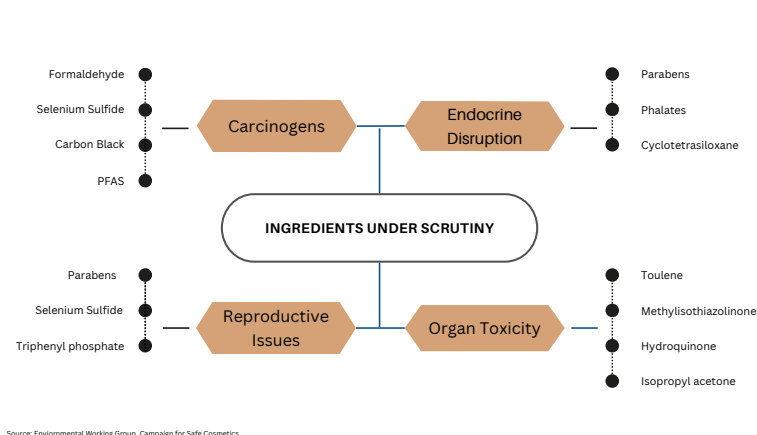
articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body...for cleansing, beautifying, promoting attractiveness, or altering the appearance

In 2016, many consumers of WREN haircare products experienced hair loss,

leading to stakeholders representing the industry, small businesses, and think tanks providing testimony to Congress about the safety of cosmetics and what the market can do to ensure that people do not come in harm's way again.ⁱ While conversations and

planning with stakeholders on draft legislation continued after this testimony, little was done on the federal level.

Cosmetics have never been assessed for their safety, but the evidence says something is wrong. Throughout the years, cosmetic manufactures have faced class action lawsuits where customers claim that the products harmed them in some way. For example, Johnson & Johnson awarded plaintiffs \$2.1 billion after being accused in a lawsuit that talc was its baby powder and possibly caused users cancer.ⁱⁱ OGX, a haircare company owned by Johnson and Johnson, is facing a class action lawsuit alleging the products cause hair loss.ⁱⁱⁱ



Not only are there a number of lawsuits, but researchers have categorized a number of cosmetic ingredients base don toxicity and danger to human health. Formaldehyde, an ingredient used in keratin hair treatments and Brazilian blowouts, has been linked to cancer.^{iv} So has carbon black, an ingredient commonly used in products like eyeliner.^v

Parabens and phthalates can cause reproductive health issues and endocrine system disruption.^{vi} The harm is cumulative. The more products you use, the more likely you are to be exposed to harmful chemicals.

Black women may face a disproportionate amount of harm from the beauty industry.

Black women make up a large percentage of beauty industry purchases. The Environmental Working Group of Washington D.C. states that Black people in America purchase 22% of the \$42 billion personal care product market.^{vii} Researchers are concerned that because Black women purchase more personal care products, they are more exposed to the dangerous chemicals used as ingredients in the products. According to a study conducted by Dr. Tamarra James-Todd, **“About 50 percent of products advertised to Black women contain these types of chemicals, compared to maybe only 7 percent that are advertised to white women”** (2020).^{viii}

For Black women, participating in the personal care product market is the norm at an early age. Historically, Black women bought personal care products and conducted beauty rituals to be taken seriously in White dominated spaces, particularly after moving to highly populated urban areas after the Great Migration.

Black women make up a large percentage of beauty industry purchases due to the pressure to conform to the European beauty standard. Without this conformity, we could face job loss, educational disruption, and social isolation. To put this into

perspective, “Black women with coily hair are 2x as likely to experience microaggressions in the workplace than Black women with straight hair.”^{ix}

Analysis:

The main questions guiding this research include the following:

1. What chemicals are unsafe, and why do cosmetic manufacturers continue to use them?
2. My data collection focused on the impact of cosmetics on health, with a particular focus on marginalized communities.
3. What do other countries do?
4. How does industry perpetuate harmful beauty standards?

We Don't Know Enough.

There is a notable lack of public research in this area. While think tanks like the Campaign for Safe Cosmetics and the Environmental Working Group have begun to conduct research on chemicals and ingredients that can be harmful, data is lacking. We simply have very little information on the impact of cosmetics on our health. Datasets relating to cosmetic ingredients, their uses, and the dangers related to using them are available, but quantitative analysis on how cosmetics have affected the population are difficult to find. Research acknowledging the issue is sparse and recent.

Black Women Are At Risk:

Studies show that Black women do indeed have more exposure to ingredients proven to be harmful. A study conducted in New York found that Black women had the most exposure to products with parabens in them, with 69% of the haircare products used having endocrine disrupting chemicals in them.^x Another study found that Black girls use haircare products at an earlier age, and that this usage can be linked to earlier menstruation. Researchers are concerned that earlier periods can contribute to an increased likelihood of breast cancer.^{xi}

There is no researched consensus on why manufactures put more harmful ingredients in products sold to Black women than other demographics.

Regulatory Comparisons:

After gaining an understanding of the regulations of South Korea and the European Union, the comparisons make it clear that US regulations are lacking. While all three operate in both similar and dissimilar ways due to the frameworks that determine the goals of each industry, South Korea and the European Union have become world leaders of cosmetic market safety while the US is still catching up. Methods to be proactive in protecting consumers and remedying harm as it relates to cosmetics are available, the United States has simply lagged in implementing these measures.

The Korean beauty industry is regulated by the Ministry of Food and Drug Safety, which follows the Cosmetics Act. South Korean beauty products, often called K-Beauty, are increasingly popular around the world since the early 2010's. K-Beauty products are known around the world for quality, innovation, and affordable prices.

Like the United States, the South Korean government's cosmetic industry is led by the industry. At one point, the South Korean government decided to work with successful entrepreneurs to stimulate the economy. This led to the creation of *chaebols*, families with economic and political power because they owned the most influential businesses in the country.^{xii} Although K-Beauty regulations defer to industry professionals, there are more mechanisms in place within South Korean regulation to ensure that cosmetics are safe once they hit the market. There are two classifications of cosmetics under the law, functional and regular. Functional cosmetics, products that in some way change the wearer such as lightening creams and sunscreens, must be examined prior to entering the market. Cosmetic ingredients in the US cannot be examined by the FDA before being sold to consumers.

The US lacks mainly on its remedies for harm. Both the European Union and South Korean authorities have the power to inspect manufactures, speak with responsible persons, and monitor the market for any danger to consumers. If a firm is found to be in noncompliance, they can be forced to pay fines, cease production, and/or correct the product. Criminal legal action can be taken against firms that are not compliant with the regulations set forth by regulatory authorities.

Figure 2: Comparison of the cosmetic regulations of the United States, South Korea, European Union, and South Korea

Features	US	EU	SK
Government vs. Industry Led	Industry	Government	Industry
Market Approval	None	Post	Pre
GMP	Yes*	Yes	Yes
Regulatory Body	CIR	EC	MFDS/KPTA
Responsible Person	Yes, 2024	Yes	Yes
Remedies for Harm	Correct product, FDA could sue*	Correct product, pay fines, legal action	Correct product, pay fines, legal action

The FDA's lack of power to hold companies accountable is in stark contrast to these other regulatory bodies. The FDA can only *request* that a manufacturer recall a product that could be dangerous, not mandate it. If the company does not comply, the FDA can act in the form of suing the company, but only if a substantial amount of evidence is available to prove the companies lack compliance is dangerous to consumers.

Beauty Standards and Consumerism

My last key finding is that each country promotes an ideal beauty standard that is difficult for the average person to achieve, and the only way to attempt to emulate it, is through consumerism. One must purchase more and more products to follow ever changing beauty trends. The beauty standard includes a lighter skin tone and straight hair. To achieve this, one might use a skin lightening cream that may have mercury in it, or chemically straighten hair with a relaxer that contains lye. As previously mentioned, the harm with cosmetic products is cumulative. The more you use, the more likely you are to be exposed to harmful chemicals. Beauty is capital, and attempting to attain that capital through consumerism may cost more than the product itself.

Recommendations:

MODE 1: Research

By increasing the capacity of the FDA to research cosmetic ingredients without industry interference, information can be gathered to better inform regulations. Cosmetic regulation could be moving to the Office of the Chief Scientist, and with the proposed increased funding of 8 million dollars in 2025, could begin replicating studies throughout the EU and in the US to determine the safety of the ingredients we're putting in our bodies every day.^{xiii}

MODE 2: Regulations

The FDA has partnered with stakeholders to establish good manufacturing practices for cosmetics at the federal level that align with international standards.^{xiv} To be effective, the FDA must post them on the FDA website to provide the information to small and large businesses. Businesses can be incentivized to comply with these new findings and regulations as demand for American cosmetic products internationally could be lowered if there are findings that products are unsafe with no changes. Businesses making under \$100,000 may find it difficult to comply with these new standards, and under the discretion of the FDA may be excluded.

Regulations must be in collaboration with OSHA and NIOSH collaboration to ensure that regulations are cohesive. Salon workers who come in close contact with these chemicals will be particularly impacted by new regulations as we gather more information. Regulations must keep these occupations in mind and not contradict each other.

MODE 3: Remedy

FDA recall power on products likely to cause serious harm when company refuses to stop distributing or recalling the product. The economic impact of recall power is currently being studied. If a product faced a recall, customers could be compensated in similar ways to recalled food – a refund, a replacement item, etc.

Evidence may arise that cosmetics have been the source of many kinds of harm, in which case people will look for compensation. A collaboration with the Consumer Product Safety Commission to determine what can be done for products that cause enough harm to warrant medical bills, lost time at work, etc. is recommended.

Conclusion:

If the United States recognizes that the food and drugs that we put into and onto our bodies needs to be safe, cosmetics should be no exception. A cosmetic industry that protects its least protected demographic is safe for all, and reform to the regulations that perpetuate this harm is an ideal first step to ensuring that cosmetics are safe for everyone.

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- i <https://www.govinfo.gov/content/pkg/CHRG-114shrg21905/pdf/CHRG-114shrg21905.pdf>
 - ii <https://www.reuters.com/article/us-johnson-johnson-cancer-lawsuit/jury-orders-jj-to-pay-4-7-billion-in-missouri-asbestos-cancer-case-idUSKBN1K234U>
 - iii <https://www.lawsuit-information-center.com/lawsuits-claim-johnson-johnson-ogx-shampoo-causes-hair-loss.html>
 - iv <https://www.ewg.org/news-insights/news/brazilian-style-blowouts-still-poisonous-still-salons>
 - v <https://www.ewg.org/sites/default/files/u352/Toxic%2020%20List.pdf>
 - vi <https://www.ewg.org/what-are-parabens>
 - vii <https://www.ewg.org/research/big-market-black-cosmetics-less-hazardous-choices-limited>
 - viii <https://www.hsph.harvard.edu/news/hsph-in-the-news/some-black-hair-products-may-harm-users-health/>
 - ix <https://www.thecrownact.com/>
 - x <https://www.nature.com/articles/s41370-021-00404-7>
 - xi <https://pubmed.ncbi.nlm.nih.gov/21421329/>
 - xii <https://oxfordre.com/asianhistory/display/10.1093/acrefore/9780190277727.001.0001/acrefore-9780190277727-e-271#acrefore-9780190277727-e-271-div1-2>
 - xiii <https://www.fda.gov/media/176923/download?attachment>
 - xiv <https://www.fda.gov/cosmetics/cosmetics-news-events/public-meeting-good-manufacturing-practices-cosmetic-products-06012023>