



Ministry of Health Labour and Welfare    Pharmaceuticals and Medical Devices Agency

6 July 2015

Dear Mr. Calleja,

The European Commission's Directorate General Internal Market, Industry, Entrepreneurship and SME's (DG GROWTH) on the one side and the Ministry of Health, Labour and Welfare (MHLW) and the Pharmaceuticals and Medical Devices Agency (PMDA) of Japan on the other side, (collectively "the Participants"), have recognised the need to further improve their working relationship in particular for increased cooperation in the field of regulation of cosmetic products including those Japanese quasi-drugs defined as cosmetics in the EU as a means to better protect health and safety and to reduce technical barriers to trade affecting these products.

There is already some degree of cooperation between the authorities, notably in the framework of the International Cooperation on Cosmetic Regulation" ("ICCR").

However there has been an expectation from the both sides of the Participants to complement this multilateral forum by bilateral policy and regulatory cooperation.

In this context, the Participants see value in exchanging letters in order to exchange more regulatory information including advanced drafts of legislation and/or regulatory guidance documents as well as information related to the supervision of cosmetic products. Because this type of information may include information of a non-public nature, both sides should, to the extent permitted by their respective national and regional laws and regulations, keep the information exchanged confidential.

The potential benefits of this exercise are expected to include aligned regulatory approaches to identical issues and improved in-market control. This cooperation shall not compromise each Participant's ability to carry out its responsibilities and should not create any kind of legal obligation on the both sides of the Participants.

Therefore, the MHLW and the PMDA are pleased to cooperate with DG GROWTH to facilitate the sharing of documents and/or information related to ensuring the safety of cosmetic products.

This cooperation activity will strengthen communication between public authorities involved in these activities and reinforce public health protection.

The language for the exchange of information will be English, and the type of information that may be shared includes, but is not limited to:

- Advanced drafts of pending laws, regulations, guidance documents, procedures and other technical documents available to the individual Participants related to cosmetics.

- As far as known to the Participants, post-marketing data and information that could have an impact on the public health, or information about impending regulatory actions.
- As far as known to the Participants, information on quality defect or product recalls of these products known by the MHLW and/or the PMDA to have been manufactured or distributed in the EU, and vice versa.

The Participants can limit the scope of the above information should its dissemination or exchange undermine specific interests, including commercial, industrial or professional secrecy, the protection of the individual and of privacy, the public interests of Japan or the MHLW's or the PMDA's interests in the confidentiality of their proceedings. In some cases, exchange of information based on this exchange of letters may be subject to prior authorisation from the companies concerned.

The Participants note that it is an essential element of this exchange of letters on regulatory cooperation that confidential information emanated from one Participant should be treated as such by the other Participant.

On each occasion where there is a request for disclosure to third parties of non-public information received from the MHLW and the PMDA, DG GROWTH should consult with the MHLW and the PMDA. Likewise, on each occasion where there is a request for disclosure of non-public information received from DG GROWTH, the MHLW and the PMDA should consult with DG GROWTH.

The MHLW and the PMDA affirm that they have the authority to maintain the confidentiality of non-public information, including confidential commercial information, provided to their officials or representatives by DG GROWTH, and will protect such information as information not to be disclosed under Article 5 of Act on Access to Information Held by Administrative Organs (Act No.42 of 1999), which protects non-public information from further disclosure. The MHLW and the PMDA recognise that DG GROWTH considers it crucial that this non-public information be protected from disclosure; otherwise, it could endanger the relations between the Participants. The MHLW and the PMDA recognise that "confidential commercial information" includes information referred to in Regulation (EC) No 1049/2001 and in the Japanese Act on Access to Information Held by Administrative Organs (Act No.42 of 1999).

Similarly, DG GROWTH should affirm that it has the authority to maintain the confidentiality of non-public information, including confidential commercial information, provided to its officials or representatives by the MHLW and the PMDA, and will protect such information as information not to be disclosed under Article 4 of Regulation (EC) No 1049/2001.

Each Participant will promptly inform the other of any changes to relevant laws, regulations, policies, or procedures that would affect the ability of the Participant to honour the recognitions in this exchange of letters.

This letter, together with your letter on behalf of DG GROWTH, will constitute mutual intent for cooperation between the Participants, and the cooperative relationships proposed and defined in this exchange of letters will commence on the date of this letter.

This arrangement is applicable for a period of five years with tacit renewal for subsequent periods five years.

We look forward to implementing this exchange of letters allowing for the sharing of non-public information in accordance with our respective national and regional laws and regulations, including Regulation (EC) No 1049/2001 and the Japanese Act on Access to Information Held by Administrative Organs (Act No.42 of 1999) and to continuing cooperative activities to further enhance the relationship between DG GROWTH and the MHLW and the PMDA, in the best interests of public health.

Sincerely,

Yuji Kanda  
Director General, Pharmaceutical and Food Safety  
Bureau, Ministry of Health Labour and Welfare

Tatsuya Kondō  
Chief Executive  
Pharmaceuticals and Medical Devices Agency

Mr. Daniel Calleja  
Director General  
Internal Market, Industry, Entrepreneurship and SME's  
European Commission