



UNLOCKING THE SECRETS OF K-BEAUTY: INDIA'S FAVOURABLE SKINCARE MARKET

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INTRODUCTION

As the world embraces the secrets of wellness and care in recent years, India has emerged as a thriving market for cosmetics, particularly skincare and haircare products. South Korean beauty products (K-Beauty, as it is often called), either manufactured for Indian businesses and sold under Indian brands or retailed directly under Korean brands, have shown a sharp uptrend, aligning well with the consumer preferences.

This article delves into the Indian cosmetics market exploring key trends and the intersection of global

influences, particularly from the booming K-Beauty industry. Additionally, it provides an overview of the regulatory framework governing cosmetics in India, emphasizing licensing, labelling standards, and ingredient regulations prescribed under Indian law. It provides a glimpse into investment conditions that investors in this space should take into account. The article aims to equip stakeholders with valuable insights into the Indian cosmetics market, facilitating informed decision-making in this dynamic and promising sector.



KEY TRENDS IN THE INDIAN COSMETICS MARKET

As health came into focus amid the pandemic, early 2020s saw three key trends in the Indian cosmetics industry: (i) the merging of beauty and healthcare; (ii) the move towards 'natural' and sustainable practices; and (iii) the shift towards online beauty shopping with the simultaneous rise of 'skinfluencers'.

The merging of beauty and healthcare

As expected, the onset of the pandemic led to a significant shift in global priorities. Health, which was always important, suddenly became the central focus for individuals, communities, and governments alike. From personal hygiene practices to healthcare infrastructure, every aspect was scrutinized and enhanced to combat the unprecedented crisis – fitness, nutrition, mindfulness, hygiene and sleep were a few areas which were emphasised upon. One key sector that witnessed this change was the cosmetics industry. There has been a noticeable shift from 'cosmetic' products, which primarily enhance the skin's appearance, to 'care' products that emphasize the wellness of the body beneath the skin and celebrate its natural characteristics. A recent study revealed that the spread of the pandemic positively influenced the skincare product market, while it had a negative impact on the sales of makeup products.¹

One reason for this could be that the pandemic induced lockdowns provided an opportunity for consumers to utilize more time they had to experiment with different skincare products, particularly those containing 'active ingredients'. Active ingredients are biologically active components in skincare products that have a direct effect on the skin. For instance, ingredients like salicylic acid, benzoyl peroxide, and retinol are often used in acne treatments. These ingredients can initially cause skin irritation or even exacerbate acne symptoms as the skin adjusts to the treatment (often referred to as a "purging" phase). However, with consistent use over time, these ingredients can significantly improve skin health and reduce acne. During the lockdown, people may have had the opportunity to go through this initial phase without the concern of social engagements. The active ingredients segment in the cosmetics space is one of the fastest growing segments in the industry.²

The move towards natural and sustainable practices

In consonance with the shift in the cosmetics industry towards 'care' products, there has also been a gradual

rise in the demand for natural and herbal alternatives to existing cosmetics products, often referred to as "clean beauty". These are characterised by several factors:

- i. **Absence of hazardous chemicals:** Clean beauty products are characterised with the absence of chemicals that are common but are now known to be hazardous for the skin. For example, parabens (which may have potential endocrine-disruptive effects), sulphates (which are aggressive surfactants that can strip away the natural skin oils) and formaldehyde (which may cause adverse skin reactions).
- ii. **Sustainable practices:** Clean beauty products tend to align with eco-conscious values by emphasising at sustainability at each stage of the process. The products are made with organic, plant-based ingredients that are sourced from fair trade ethical cooperatives, tested with cruelty-free testing methods (avoiding animal testing), and packaged in recyclable and refillable containers.
- iii. **Transparency to the customer:** In line with the overall objective of 'clean', clean beauty products champion transparency through clear ingredient lists including their quantity, potency and sourcing (for example, a conventional serum may advertise vitamin C as an ingredient, but a clean beauty serum may alternatively specify "10% vitamin C sourced from XYZ Inc., Germany").

The rise of 'skinfluencers' and online beauty shopping

As is true across consumer categories, brands and retailers are tapping into influencers as an entire marketing channel. Fashion and beauty influencers worldwide are the most popular, making up almost 20% of all influencers on Instagram.³ In the skincare space, audiences subscribe to influencers they relate with, through commonalities of skin tones, textures, pigments, as well as skin conditions they seek to remedy.

1. Choi Y-H, Kim SE and Lee K-H, 'Changes in Consumers' Awareness and Interest in Cosmetic Products during the Pandemic' (2022) 9 Fashion and Textiles <<https://fashionandtextiles.springeropen.com/articles/10.1186/s40691-021-00271-8>> accessed 11 March 2024.
2. Kumar R, 'New Concepts to Drive Demand for Active Ingredients in Asia' (Kline & Company, 5 May 2022) <<https://klinegroup.com/articles/new-concepts-to-drive-demand-for-active-ingredients-in-asia/>> accessed 11 March 2024.
3. Dencheva V, 'Global Instagram Influencer Share by Category 2022' (Statista, 18 December 2023) <<https://www.statista.com/statistics/1123051/instagram-influencers-share-world-category/>> accessed 11 March 2024.

This has allowed brands to push for higher e-commerce sales and start-ups to enter the industry without competing for retail shelf space, as consumers are now able to buy a skincare or cosmetic product based on the effect they see a product have on an influencer with similar skin, rather than going to the store and trying the product themselves.

With the demand for transparency, brands communicate through influencers using longer-form content on skincare routines, the science behind certain ingredients, interactions with the skin, as well as real-world progress

which audiences can follow. These would not be possible through conventional marketing avenues. Apart from established influencer marketing tactics such as discount codes, product reviews, sponsored hauls and giveaways, some brands are also collaborating with influencers and celebrities for a personalised line of products (for example, YouTuber Shreya Jain's collaboration with YBP Cosmetics and designer Sabyasachi Mukherjee's collaboration with L'Oreal), while some other celebrities such as Deepika Padukone and Katrina Kaif have started their own skincare brands, showcasing the growing trend of personal branding in the beauty industry.



THE RELATIONSHIP BETWEEN K-BEAUTY AND INDIAN DEMANDS

There has been a remarkable rise of South Korean pop-culture, fashion, gaming, cosmetics and food across the globe, hallmarked with the successes ranging from musical successes like BTS and Psy's Gangnam Style to TV sensations like Squid Game and even packaged foods like Nongshim (농심) ramen noodles – a phenomena often referred to as the Korean wave or the 'Hallyu' (한류).

Similarly, Korean cosmetics have grown across the world in a rapid wave, reflecting a complete shift in skincare for the global population with their natural and organic ingredients and recipes. While these characteristics are relatively newfound for Western audiences, the proclivity towards organic products has been around for centuries in India through alternative medicine such as Ayurveda, Unani and Siddha. Where skincare products in South Korea follow use ingredients such as snail mucin, fermented rice water, ginseng, liquorice roots and bamboo, Indian alternative medicine uses ingredients such as saffron, aloe vera, turmeric and sandalwood, to name a few. This key similarity – the openness to use

natural and organic ingredients and recipes - allows Korean cosmetic brands to flourish in India.

In addition, India and South Korea share a similar beauty standard of the allure of achieving a smooth, hydrated, reflective, "glass-like" skin. The appropriateness and unreasonableness of this beauty standard aside, this allows Korean brands to cater to Indian consumers without substantially rebranding or applying new marketing tactics.

According to some recent estimates, the beauty and personal care market in India is expected to grow at a compounded annual growth rate of 11%, of which the skincare and cosmetics segments are expected to grow at 12.1% and 15.3% respectively.⁴ These growth forecasts and key trends place Korean beauty businesses in a key position to take advantage of the emerging opportunities in the Indian market.

4. BEAUTY&YOU, 1Lattice and IDEX, 'Decoding the Indian Beauty Landscape' (BNY Research, 7 June 2023) <https://beautyandyouawards.com/2023/Beauty_Insights.pdf> accessed 11 March 2024.



AN OVERVIEW OF INDIAN LAW ON COSMETICS

Cosmetics in India are primarily governed through the Drugs and Cosmetics Act, 1940 (the “**D&C Act**”) and the rules framed thereunder by the Ministry of Health and Family Welfare (“**MoHFW**”), Government of India (“**Gol**”).

The D&C Act defines ‘cosmetic’ as any article intended to be rubbed, poured, sprinkled or sprayed on, or introduced into, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and includes any article intended for use as a component of cosmetic. Most skincare and make-up products would fall within the purview of the D&C Act. The Act governs import, manufacture, distribution and sale of cosmetics. Inter alia, the Act provides that such cosmetics are required to be:

- i. of a standardised quality;
- ii. properly branded and labelled without any false or misleading claims;
- iii. unadulterated; and
- iv. non-spurious.⁵

In addition to the Act, the Cosmetics Rules, 2020 (“**Cosmetics Rules**”) that recently came into force regulates manufacturing and import licensing, registration requirements, labelling, packing and standards for sale or distribution of cosmetic products, sampling and testing norms, amongst others. Some of these key requirements are highlighted below:

Licenses and registrations

Cosmetics sought to be imported or manufactured for sale or distribution in India are required to be registered prior to such import or manufacture. An application for registration of the cosmetic product along with requisite documents and fees may be made by the importer or the manufacturer at the [SUGAM online portal](#) of the Gol.⁶ After examination of documents, the Central Licensing Authority (for imports) or the State Licensing Authority (for manufacture for sale or distribution) may accept and grant a registration certificate.⁷ A license issued in this regard to the importer or manufacturer is valid in perpetuity, subject to payment of requisite fees.⁸

Labelling standards

The Cosmetics Rules prescribe several labelling standards that cosmetics must carry. These include:

- i. Name of the cosmetic, manufacturer and complete address of the premises where the cosmetic is manufactured;
- ii. Expiry or ‘use before’ date;
- iii. Manufacturing license number of the manufacturer (except for importers);
- iv. Net contents by weight, fluid measure and numerical count, depending upon the product;
- v. List of ingredients;
- vi. Adequate instructions for safe use, warnings, cautions and statement indicating the name and quantity of ingredients that are hazardous or poisonous, where a hazard exists.⁹

In addition to the labelling requirements specified under the Cosmetics Rules, manufacturers should also be aware of labelling requirements specified by the Bureau of Indian Standards, wherever applicable, and the Legal Metrology (Packaged Commodities) Rules, 2011.

Ingredients standards

The Cosmetics Rules clearly specify certain key standards regarding ingredients that cosmetics must adhere to. These include a prohibition on using certain ingredients in cosmetics such as antibiotics, chlorine, iodine, etc., as specified in the Indian Standard IS:4707. The Rules further prescribe maximum limits for certain substances such as arsenic, lead, heavy metals and mercury.¹⁰

Recently, the Gol has also released a draft for a new Drugs, Cosmetics and Medical Devices Bill, 2020 (the “**DMDC Bill**”) which seeks to overhaul the medical regime in India and repeal the existing Act. However, the DMDC Bill is yet to be implemented and does not contain significant changes in relation to the cosmetics regime.

5. Section 8-9D of the Drugs and Cosmetics Act, 1940.

6. Rule 12 of the Cosmetics Rules, 2020.

7. *Ibid*, rule 13.

8. *Ibid*, rule 14.

9. *Ibid*, rule 34.

10. *Ibid*, rule 39.

FOREIGN INVESTMENT IN THE COSMETICS INDUSTRY

India offers the largest market for cosmetics products in terms of population. As a result, several international brands such as Revlon, Avon, Burberry, Calvin Klein, Christian Dior, Estee Lauder, L'Oreal, Max Factor, and Maybelline have been present in India for a long time. As mentioned previously, Korean cosmetics have also found a recent boom due to the trends highlighted above, with the likes of Korean brands such as Laneige, Face Shop and Tony Moly gaining popularity rapidly.

Prior to investing in this space in India, it is crucial for investors to familiarise themselves with certain investment laws and regulations. This knowledge is essential to refine and streamline investments strategies.

India's foreign investment landscape is governed by the Foreign Exchange Management Act, 1999 and rules framed thereunder ("**FEMA**") along with the foreign direct investment policy released from time to time ("**FDI Policy**"). Foreign direct investment ("**FDI**") is generally permitted in all sectors, except the ones which have been specifically prohibited for receiving FDI.

Further, certain sectors have been categorically carved out in the extant FDI policy to define permissible limits for maximum investment, after which requirement for approval from regulators may be required (referred to as the 'government approval route'). Those permitted sectors that are not carved out specifically, are permitted to receive 100% FDI under the automatic route.¹¹ Thus, it is essential for any investor to identify the investee company's sector to ascertain the regulatory restrictions applicable on the investee company under the FDI Policy, if any.

While the extant FDI policy does not categorically carve out wellness or cosmetics as a specific sector, it should be noted that manufacturing and trading (retail and wholesale) are identified as sectors with certain conditions prescribed for receiving foreign investment into these sectors. Typically, companies engaged in the sale of cosmetics would either undertake manufacturing along with trading of its cosmetics products or undertake only wholesale or retail trading of its products. It is imperative, therefore, to abide by the investment conditions applicable to the relevant sector.

Manufacturing

Under the extant FDI Policy, foreign investment is permitted up to 100% in the 'manufacturing' sector through the automatic route. Companies in India having foreign investment may undertake production through self-manufacturing, i.e. through investment in production and capital assets such as a factory, the manufacturing machinery and development of infrastructural capabilities around the facility, or through contract manufacturing in India via a legally tenable contract.

Companies undertaking manufacturing in India are also provided the benefit of an exemption from the sectoral norms that apply to wholesale trading, retail trading and e-commerce (discussed further below), allowing for a relatively simpler regulatory landscape from a foreign investment perspective.¹²

In addition to these investment norms, manufacturing of cosmetics will also require compliance with sectoral laws such as the D&C Act (discussed above in section 3), certain industrial and labour statutes such as the Factories Act, 1948, the Industrial Disputes Act, 1947, the Payment of Wages Act, 1936, the Employees Provident Fund and Miscellaneous Provisions Act, 1952, as well as environment laws such as the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974.

Trading

Trading is divided into (i) cash and carry wholesale trading / wholesale trading; (ii) single-brand retail trading; and (iii) multi-brand retail trading in India, each involving distinct investment norms:

Wholesale trading

The extant FDI Policy defines wholesale trading as the sale of goods/merchandise to retailers, industrial, commercial, other professional business users or to other wholesalers and related subordinated service

11. Paragraph 3(b)(iii) of Schedule I to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019.

12. Entry 5.1 to the Table to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019.

providers. Investments into companies engaged in wholesale trading is permitted up to 100% under the automatic route subject to certain guidelines.¹³ Some key conditionalities include:

- i. Wholesale trading to group companies taken together shall not exceed 25% of the total turnover of the wholesale entity;
- ii. Entities undertaking wholesale as well as retail business are mandated to maintain separate books of accounts for these two arms of the business and duly audited by the statutory auditors;
- iii. Except when transacting with Government, sales made by a wholesale trader are seen as wholesale trading only when the trading is done with customer/retailers that hold (i) valid applicable tax registrations; or (ii) trade licenses issued by government bodies or local self-government bodies, as applicable authorising it to engage in a business involving commercial activity; or (iii) permits/license etc., for undertaking retail trade; or (iv) Col or registration as a society or registration as public trust for their self-consumption.

Single-brand retail trading (“SBRT”)

FEMA permits foreign investment in SBRT up to 100% through the automatic route.¹⁴ FEMA currently does not define the term ‘single brand’ and the law currently remains ambiguous on whether sale of products under one house brand but multiple ‘sub-brands’ falls under the ambit of a ‘single brand’. However, the Gol has given approvals to certain companies in the past which operate various sub-brands under its name. Some key conditions under FEMA for SBRT are set out below¹⁵:

- i. Products should be sold under the same brand in India as well as internationally (For instance, L’Oreal cannot sell its products in India under any other brand except ‘L’Oreal’ itself, as it sells in its international market.)
- ii. SBRT covers products that are branded during manufacturing.
- iii. If an SBRT entity has foreign investment above 51%, then such an entity is required to source 30% of the value of the goods purchased by it from India, preferably from micro small and medium enterprises (MSMEs) engaged in manufacturing and rendering of services, village and cotton industries, artisans and craftsmen, in all sectors.

- iv. Retail trading through e-commerce can also be undertaken prior to opening of brick and mortar stores, subject to the condition that the entity opens brick and mortar stores within 2 years from the date of start of online retail.

Multi-brand retail trading (“MBRT”)

Foreign investment in multi-brand retail trading is permitted up to 51% only through the government approval route.¹⁶ Other key conditions include¹⁷:

- i. A minimum investment of \$100 million is required to be brought in by foreign investors.
- ii. At least 50% of the total foreign investment brought in the first tranche of the above-mentioned \$100 million is required to be invested in ‘back-end infrastructure’ within 3 years such as towards processing, manufacturing, distribution, design improvement, quality control, amongst others.
- iii. Entities engaged in MBRT business are also obligated to source at least 30% of the value of procurement of manufactured or processed products purchased from Indian MSMEs, which have a total investment in plant and machinery not exceeding \$2 million (at the time of installation).
- iv. Retail trading in any form by means of e-commerce would not be permissible for companies with FDI engaged in the activity of MBRT.

13. Entry 15.1 to the Table to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019.

14. Entry 15.3 to the Table to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019.

15. Entry 15.3.1 to the Table to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019.

16. Entry 15.4 to the Table to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019.

17. Entry 15.4.1 to the Table to the Foreign Exchange Management (Non-debt Instruments) Rules, 2019

TAXATION AND IMPORT DUTIES

Given the rapidly growing market size, companies may also consider exporting cosmetics to India as a precursor to investments, in the event that they seek to undertake pilot studies or low-volume sales. In this regard, it may be noted that customs are levied on most cosmetic products at the rate of 20%.

That said, India has entered into free trade agreements (“FTAs”) with several countries which may entail benefits in terms of a relaxation or exemption to customs duties. India and South Korea too signed an FTA in 2009, which has reduced tariffs on several goods and allowed trade to flourish.

For cosmetics, the India-South Korea FTA allows for duty-free import of cosmetics falling under Harmonized System Code 3304 (beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or suntan preparations; manicure or pedicure preparations) and 3305 (preparations for use on the hair).

Domestically, goods are subject to the goods and services tax (“GST”). GST on most cosmetic products applies at the rate of 18%.

18. Paragraph 2 read with the table to Annex 2-A of the Comprehensive Economic Partnership Agreement signed by India and South Korea.



CONCLUSION

Given the Indian cosmetics market is experiencing a paradigm shift shaped by global health priorities and cultural influences, the industry's trajectory is marked by a convergence of beauty and healthcare, a preference for clean and sustainable practices, and a rise in online beauty influencers, reshaping the landscape for both established and emerging players.

As India emerges as a thriving cosmetics market with an anticipated annual growth rate of 11%,¹⁹ navigating the legal intricacies becomes paramount for industry stakeholders. The regulatory framework, encompassed by the Drugs and Cosmetics Act, 1940, and the Cosmetics

Rules, 2020, necessitates meticulous adherence to standards. Foreign investors, eyeing the vast potential, must navigate through the regulatory framework including the foreign exchange conditions, and consider taxation implications. In this dynamic sector, success hinges on a strategic blend of cultural resonance, regulatory acumen, and a commitment to meeting the wellness-driven aspirations of the Indian consumer.

19. BEAUTY&YOU, 1Lattice and IDEX, 'Decoding the Indian Beauty Landscape' (BNY Research, 7 June 2023) <https://beautyandyouawards.com/2023/Beauty_Insights.pdf> accessed 11 March 2024.



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