

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

Opening Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Hearing on “Examining the Current State of Cosmetics”
Subcommittee on Health
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We are all very familiar with cosmetic products. In fact, most Americans use cosmetic products multiple times every day. We apply lotions to our skin, we wash our hair using shampoos, we brush our teeth using toothpaste.

But most Americans probably do not realize just how little oversight the FDA, which is charged with ensuring the safety of these products, actually has over them.

Cosmetics companies are not required to register their facilities or let FDA know they even exist. Cosmetics companies are not required to report cosmetic-related injuries to FDA or to let FDA know what ingredients are in their products. FDA doesn't even have the ability to recall these products if they are found to be unsafe. To illustrate just how small FDA's role in cosmetics oversight truly is, it is worth noting that FDA's cosmetics program is staffed by just 53 people—only 14 of whom focus primarily on cosmetics— compared to the well over 3,000 staff that make up FDA's drug review program.

When it comes to cosmetics, we are essentially in a “buyer-beware” mode.

Many argue that there is no need for comprehensive regulation of cosmetics because cosmetics are not ingested like foods or drugs or implanted like medical devices.

Yet we know there are cosmetics that contain harmful ingredients. Some lipsticks were found to contain lead, a known reproductive toxin. Certain hair products have been shown to contain formaldehyde, a known carcinogen. Even some baby shampoos were found to have carcinogens in them.

There can be a distinction between ingesting a carcinogen and applying it to our skin. But what we do not know is what effect repeated, long-term exposure to these chemicals on our skin might have. We know that some toxins, such as the mercury recently found in a number of face creams, are readily absorbed through the skin.

We should all be united in a goal of ensuring that the cosmetics we use, often on a daily basis, are safe. The difficulty will be in coming to an agreement on how to do this.

Although there are many issues we need to resolve, I would hope we could all agree that some basic concepts should be embodied in any cosmetics program. Cosmetics companies should be required to register with FDA, comply with good cosmetics manufacturing practices, demonstrate the safety of their products, provide adequate information to consumers about the ingredients in their products, and report cosmetics-related injuries to FDA. FDA should have the authority to recall unsafe cosmetics. And FDA should have adequate resources to oversee the cosmetics marketplace—which, in this budget climate, means industry should be required to chip in by paying fees.

Most important, states should be free to supplement whatever federal program we put in place so that they can protect their own citizens from unsafe cosmetics. California, for example, has a safe cosmetics law that requires manufacturers to notify the state public health authorities if their products are known to contain ingredients that could cause cancer, birth defects, or reproductive harm. This is a very reasonable and balanced law that explicitly protects from public disclosure protected trade secret information. It is the kind of state initiative that should be protected and promoted.

As with many of the other proposals we have considered in the context of the user fee reauthorizations, the issue of cosmetics reform is an important one that we need to address on a bipartisan basis. If we can't do this in time to add cosmetic provisions to the fast-moving user fee bill, we should consider cosmetic reform separately. I would strongly oppose the addition of a cosmetics bill to the user fee package if we are not able to come to full agreement on its parameters.

I am very glad we have Dr. Michael DiBartolemeis here today to talk about the success of the California program and what we can learn from it.