

Public Action Letter to eBay

November 15, 2018

Mr. Devin Newig, President and CEO
eBay Headquarters
2025 Hamilton Ave.
San Jose, California 95125

**RE: NGO Platform on Toxic Trade in Illegal Mercury-Laden
Cosmetics via the Internet**

Dear Mr. Newig:

We, the undersigned 51 advocacy organizations, call on eBay to stop marketing illegal mercury-laden cosmetics on the eBay.com website. Furthermore, we strongly urge eBay to police its website to ensure that cosmetics found to have mercury levels over 1 part per million (ppm) are no longer offered by eBay for sale worldwide.

Mercury in skin creams are known to many local, state, federal, and international agencies as toxic and a risk to human health. Regular application of creams containing mercury can lead to rashes, skin discoloration, and blotching, while long-term exposure to high levels of mercury in cosmetic products can cause serious health consequences, including damage to the skin, eyes, lungs, kidneys, digestive, immune, and nervous systems.¹

The Mercury Policy Project, Sierra Club and the European Environmental Bureau recently purchased skin lightening creams offered for sale on the eBay website that have been found by one or more regulatory agencies to have mercury levels over 1 part per million. We detected illegal mercury levels in 6 creams purchased from eBay. These include Goree Beauty Cream and Sillman's Skin Bleach Cream, among others found on government detention lists around the globe **(see Table 1 for test results.)**

The above products are listed in violation of the regulations by the European Commission RAPEX.² Cosmetic products are subject to the European Cosmetics Regulation: They shall not harm human health when used under "normal or reasonably foreseeable conditions." Hazardous cosmetic products are reported by the EU Member States to the EU Commission and are listed in the database of the European Rapid Alert System RAPEX. According to RAPEX, the product listed "...pose a chemical risk because it contains a mercury compound as a skin-lightening substance. The product(s) does not comply with the Cosmetics Directive 76/768/EEC."³

Several of these products were tested earlier by government agencies and targeted for regulatory action.⁴ These include the governments of New York City, the Republic of the Philippines and Singapore, who have made similar determinations, along with several U.S. states. In addition, the Minamata Convention on Mercury entered into force in August 2017 and bans the manufacture, import, or export of cosmetics after 2020 with mercury content above 1 ppm.⁵

In 2018 we purchased skin lightening products from eBay, and sent them to Enthalpy Analytical Laboratory in Berkeley, California. The mercury levels found in six products ranged from 1 to 20,000 ppm. Such levels of mercury and failure to disclose the presence of mercury make these products and others eligible to be classified under the federal U.S. Food, Drug and Cosmetic Act as “adulterated” and “misbranded” and therefore illegal.⁶

Since 1973, the U.S. Food and Drug Administration (FDA) has warned against using cosmetics containing over 1 ppm mercury and has detailed the risks:

It is well known that mercury compounds are readily absorbed through the unbroken skin as well as through the lungs by inhalation and by intestinal absorption after ingestion. Mercury is absorbed from topical application and is accumulated in the body, giving rise to numerous adverse effects...Cosmetic preparations containing mercury compounds are often applied with regularity and frequency for prolonged periods. Such chronic use of mercury-containing skin-bleach preparations has resulted in the accumulation of mercury in the body and the occurrence of severe reactions.⁷

The danger isn't just to people who use mercury-containing products but also to their families, says Arthur Simone, M.D., a senior medical advisor at FDA. “Your family might breathe mercury vapors released from these products. Your children might touch washcloths or towels that are contaminated with mercury. It could be as simple as touching someone's cheek or face,” Simone says.⁸

The severe toxic effects of mercury on reproductive health are well known:

Mercury's harmful effects that may be passed on from mother to the fetus include brain damage, mental retardation, incoordination, blindness, seizures, and inability to speak. Children poisoned by mercury may develop problems [with] their nervous and digestive systems, and kidney damage...Mercury has an effect

on the fetal nervous system at levels far below that considered toxic in adults, and background [levels] of mercury in mothers correlate significantly with incidence of birth defects and still births...⁹

In addition, FDA warns consumers that cosmetics with high mercury levels are still being sold. In a statement, the FDA says, “The products are usually marketed as skin lighteners and anti-aging treatments that remove age spots, freckles, blemishes, and wrinkles. Adolescents may use these products as acne treatments.”¹⁰ The FDA also notes that marketers of these products often target Asian, African, Latino, and Middle Eastern consumers.

Therefore, we call on eBay to:

(1) monitor government notifications and regulations worldwide and apply its restricted products policy to the listing of cosmetics found by regulatory agencies to be over 1 ppm mercury and pledge to update their restricted products list on a regular basis; and

(2) add skin lightening cream products to a list of categories requiring approval before sale and require that sellers provide documentation verifying that the products do not contain mercury and that the products are otherwise compliant with all applicable regulations.

We look forward to working with you to ensure these dangerous products are removed from your website.

Sincerely,

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Charles Brown
World Alliance for Mercury-Free
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Table 1 – Mercury-based skin lighteners purchased from eBay, 2018

Product Name	Hg Levels (ppm)	Origin	Product Photo	Similar product remains for sale in November 2018*
Goree Beauty Cream	20,000	Sri Lanka Seller		https://www.ebay.com/itm/GOREE-BEAUTY-CREAM-WHITENING-ANTI-AGEING-SPOTS-PIMPLES-REMOVING-ORIGINAL-100/172215851250
Kim Whitening Pearl & Snow Lotus Cream	1	Thailand		https://www.ebay.com/itm/5-x-20g-KIM-WHITENING-PEARL-SNOW-LOTUS-CREAM-Anti-Wrinkles-Pimple-Spot-Track/292371490616
Stillman's Skin Bleach Cream	20,000	Vietnam Seller		https://www.ebay.com/itm/STILLMANS-CREAM-ORIGINAL/192699734625?hash=item2cddc9a61:g:ZOAAAOSwm7RZn4Kj:rk:9:pf:0
Chandni Whitening Cream	16,000	Made in Pakistan, Sri Lanka Seller		https://www.ebay.com/itm/Chandni-Whitening-Cream-100-Genuine-from-LAHORE-PAKISTAN-100-Original/392121124895
Goree Day and Night Whitening Cream	15,000	Sri Lanka Seller, Also listed US Seller		https://www.ebay.com/itm/Goree-Day-and-Night-Cream-30g-Whitening-Beauty-Cream-FREE-SHIP-US-SELLER/152817794218

Face Fresh	11,000	Made in China, sold by UK seller		https://www.ebay.com/itm/Face-fresh-beauty-cream-100-original-From-Pakistan/232765150930
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* URLs are for products with the same name and packaging photo listed for sale on eBay on November 12th, 2018.

Mercury content analyzed by Enthalpy Analytical Laboratories (Berkeley, California) using Cold Vapor Atomic Absorption Spectroscopy.

References:

¹ Agency for Toxic Substances and Disease Registry, Public Health Statement for Mercury (March 1999)
<http://www.atsdr.cdc.gov/PHS/PHS.asp?id=112&tid=24>

² The European Commission Rapid Alert System for dangerous non-food products; RAPEX
https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=main.weeklyReport.Print&web_report_id=922&Category=Cosmetics
https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=main.weeklyOverview&web_report_id=517&Year=&Category=Cosmetics

³ According to [Directive 76/768/EEU \(and its amendments 2000/6/EU and 2000/11/EC\) relating to cosmetic products](#), mercury and its compounds may not be present as ingredients in cosmetics, including soaps, lotions, shampoos, skin bleaching products, etc. (except for phenyl mercuric salts as a preservative in eye make-up, and in products for removal of eye make-up, in concentrations not exceeding 0.007 percent by weight) that are marketed within the European Community.

Mercury in cosmetics is also covered through legislation relevant to [Trade of Dangerous Chemicals](#). The production (e.g. for export) in the EU of mercury containing cosmetics was also banned in 2003 under Annex 5 of the [EU Regulation 689/2008](#) implementing the Rotterdam Convention.

⁴ New York State <https://www1.nyc.gov/site/doh/about/press/pr2018/pr025-18.page>;

Euoprean RAPEX

https://ec.europa.eu/consumers/consumers_safety/safety_products/rapex/alerts/?event=viewProduct&reference=A12/0058/13;

FDA Advisory No. 2017-289, Public Health Warning Against the Use of Unnotified Cosmetic Products Found to Contain Toxic Mercury (Hg) Levels (Batch 2) <https://ww2.fda.gov/ph/index.php/advisories-2/cosmetic-2/472052-fda-advisory-no-2017-289>;

Singapore Government

https://www.hsa.gov.sg/content/hsa/en/News_Events/Press_Releases/2018/18cosmeticproducts.html

⁵ Minimata Convention

<http://www.mercuryconvention.org/Convention/Text/tabid/3426/language/en-US/Default.aspx>

⁶ 21 U.S.C. § 361-62; 21 U.S.C.C.F.R. §§ 700.13(d)(1), 701.2, 701.3.

⁷ 21 C.F.R. § 700.13(b).

⁸ Food and Drug Administration (FDA), Mercury Products Linked to Skin Products (July 16, 2016)

<https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm294849.htm>

⁹ Consumer Cause, Inc. v Smilecare, 91 Cal. App. 4th 454, 461 (2001) (internal citation omitted).

¹⁰ FDA, Mercury Poisoning Linked to Skin Products (July 26, 2016).

<https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm294849.htm>