



Centre for Environment
Justice and Development

REPORT ON THE STRATEGY WORKSHOP ON CURBING ONLINE SALE OF MERCURY SKIN LIGHTENING PRODUCTS (SLPS) IN KENYA HELD AT OLE SERENI HOTEL, NAIROBI



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1 Introduction

1.1 Background

This report documents the proceedings of a strategy workshop on curbing online sale of mercury skin lightening products in Kenya. The workshop was held at Ole Sereni Hotel, Nairobi on 15th May 2025. The workshop was organized by the Kenya Bureau of Standards (KEBS) in collaboration with Centre for Environment Justice and Development (CEJAD).

Mercury is a chemical of global concern due to its long-range transport in the atmosphere, its persistence in the environment, its ability to bio accumulate in ecosystems and its significant negative effect on human health and the environment. In 1998, Kenya through a gazette notice issued by Kenya Bureau of Standards (KEBS) banned/prohibited the use cosmetics containing mercury to protect unsuspecting consumers and discourage dumping of such products in the Kenyan Market.

The Centre for Environment Justice and Development (CEJAD) has been collaborating with the Zero Mercury Working Group (ZMWG) and the European Environmental Bureau (EEB) to support ratification and implementation of Minamata Convention to phase out mercury added products in Kenya. Through this collaboration, CEJAD has implemented various initiatives towards addressing illegal trade in mercury skin lightening products in Kenya. CEJAD and EEB have been monitoring illegal sale of mercury skin lightening creams through sampling of creams on the online platforms since 2017. These studies pointed to continued illegal online sale of mercury skin lightening creams as a growing challenge in Kenya.

In 2023, KEBS in collaboration CEJAD convened a national stakeholders conference to explore strategies for curbing online sale in mercury- added skin lightening products in Kenya. Among other things, regulation of the sale of skin lightening products via the online platforms was identified as a gap that requires urgent attention.

To follow up on this, KEBS in collaboration with CEJAD organized a strategy workshop for stakeholders in the sector to discuss strategies for curbing online sale mercury-added skin lightening products in Kenya.

1.2 Workshop objectives

The objectives of the workshop were to;

- > Disseminate and share key findings and recommendations arising from the Legal Analysis of the Regulation of Online Services and Consumer/Product Safety in E-commerce in Kenya .
- > Discuss the regulation of the illegal.

1.3 Workshop participants

A total of 26 participants attended the workshop. Participants were drawn from various government agencies:- Kenya Bureau of Standards (KEBS), the Ministry of Environment, Climate Change and Forestry, Ministry of Health, the National Environmental Management Authority (NEMA), the Pharmacy and Poisons Board (PPB), Anti- counterfeit Authority, , the Ministry of Information, Communications and the Digital Economy, Ministry of Health, Communication Authority of Kenya, Competition Authority of Kenya-, E-commerce platforms Kenya Association of Dermatologists and CEJAD. A complete list of the participants is given in Annex 1.

1.4 Workshop program

The agenda of the one-day workshop is presented in annex 2



Figure 1: Meshack Ledama Representative from Ministry of Environment, Forestry and Climate Change presenting

2 Workshop Proceedings

2.1 Day One Proceedings

2.1.1 Welcome remarks

The workshop was opened by Ms. Mary Ngotho, a Senior Standards Officer at KEBS who then proceeded and welcomed the participants to the workshop. The participants were thereafter taken through the program and objectives of the meeting by Mr. Ochieng, Program Coordinator CEJAD.

2.1.2 Keynote address

Kenya Bureau of Standards

The workshop was officially opened by Mr. Paul Mutisya, Marketing and Surveillance Directorate, KEBS. In his key note address, he recognized the participants and noted that the strategy workshop was a follow up to the national stakeholder workshop on prevention of illegal trade in skin lightening creams in Kenya held by KEBS and CEJAD in 2023. He highlighted that the mercury skin lightening cosmetics market continues to be a significant issue, especially in Africa due to the ‘fair’ beauty standards and mainly affects women.

He lamented the continued sale of the banned cosmetics in the market despite constant raids by KEBS and the police. He also pointed out online sale of cosmetic product as a growing problem. This is partly due to the large market of cosmetic products and inability to identify the majority of the traders. To address the problem, he underscored the need for all stakeholders to work together in identifying the real challenges and find possible solutions.

Ministry of Environment, Climate Change & Forestry (MECCF)

The key note address by MECCF was delivered by Mr. Meshack Ledama on behalf of the Principal Secretary for Environment and Climate Change. He noted that Kenya ratified the Minamata Convention in 2023 which prohibits the use of mercury in cosmetics, including skin lightening products among others. This means that Parties to the Convention must not allow the manufacture, import, or export of cosmetics with mercury levels exceeding 1 ppm which has further been revised to zero. The idolization of whiteness and its association with beauty, wealth, and power was highlighted as a key driver of demand and use of these products.

He further enumerated the health effects of Mercury in skin lightening products i.e. rashes, discoloration, scarring, and damage to the nervous, digestive, and immune systems.

He concluded by highlighting few ways of curbing online sale of illegal mercury in skin lightening products in Kenya including:

- > Enacting Laws and policies that prohibits production and use mercury skin lightening products in line with the Minamata Convention.
- > Enhancing infrastructure and capacity for monitoring the health effects of mercury skin lightening products as well as market surveillance including providing adequate field measurement instruments and training of custom officials, inspectors and police.
- > Raising awareness on the dangers of mercury-added skin lightening products among health care professionals, environmental and consumer enforcement agencies, academia and consumer awareness networks and targeted public.

2.2 Presentations

2.2.1 The Role of Standards in Consumer Protection, presentation by Kenya Bureau of Standards (KEBS).

This presentation was delivered by Ms. Mary Ngotho, Principal Standards Officer. The presentation highlighted the critical role of the international regulatory framework, Minamata Convention on Mercury, in harmonizing standards for mercury in cosmetics across countries. Relevant East African standards, KS EAS 786:2022, Skincare creams, lotions and gels and KS EAS 377-3:2022- Cosmetics and personal care products- Part 3: List of substances prohibited in cosmetic products were also presented.

The presentation further outlined dangers of mercury in cosmetics and noted that mercury is intentionally added in cosmetics to inhibit the production of melanin. However, the information on mercury content is never displayed on the label of cosmetic products containing mercury for informed decision making by consumers. The demand for skin lightening products was attributed to colorism and discrimination. Online sale of mercury added SLPs was noted to be a growing challenge due to the anonymity advantage that ecommerce platform provides. It is impossible to seize good sold online because the sellers easily evade import control and market restrictions.

The presentation was concluded by emphasizing the need for collaboration among regulators to curb online sale, need to develop collaborative frameworks, and a call to online platforms to conduct thorough vetting of their merchants.

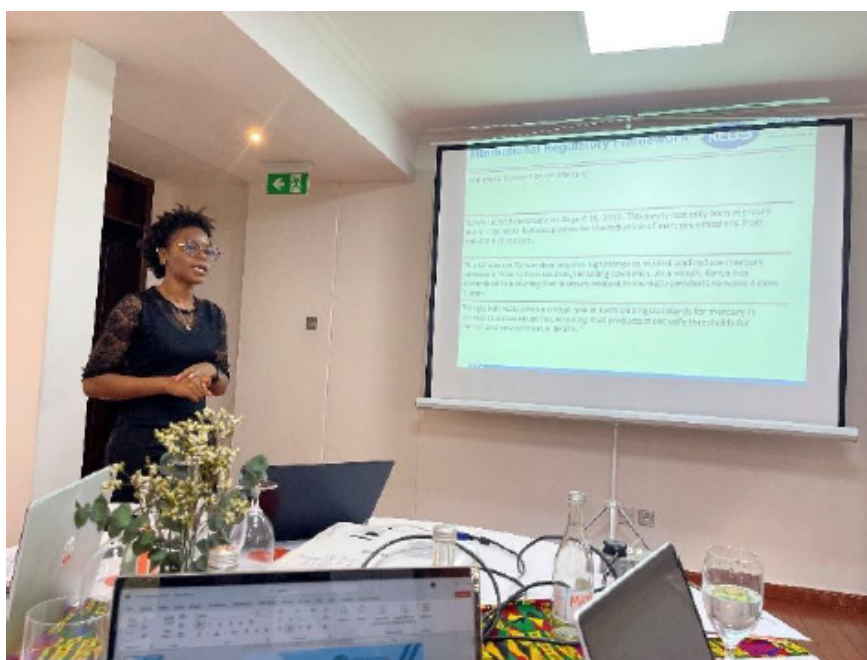


Figure 2: Ms. Ngotho, KEBS, highlighting the international regulation framework during her presentation

The key issues that emerged during the session included:

- > All products need to meet the Kenyan standards- manufactures need to ensure product safety before placing on the market.
- > Consumers were encouraged to counter check all products for standardization mark before purchase by sending the product code to KEBS free SMS platform 20023.
- > Most of the mercury- added skin lightening products

2.2.2 Cosmetics Regulation in Kenya presentation by Pharmacy and Poisons Board (PPB)

This presentation was delivered by Ms. Kauthar A. Bajaber, representative from PPB. It highlighted that the board is mandated to regulate health products, technologies and the profession of pharmacy with an objective of ensuring product quality, safety and efficacy of claimed benefits of cosmetic formulation. It also covered the framework for the placement of cosmetics which covers requirements that govern the placement of locally manufactured and imported cosmetics, related products, labeling as well as post-market surveillance. This framework places cosmetics into two categories namely; general cosmetics (regulated by KEBS) and special cosmetics (regulated by PPB).

It was also noted that cosmetic products are formulated based on scientific research and may be expected to provide measurable benefits. However, these products may have a high risk of adulteration with potent skin lightening products so that they can be deemed more effective such as mercury and high dose hydroquinone. The varying effects of mercury on the nervous, digestive and immune systems, as well as the lungs, kidneys, skin and eyes were also highlighted.

The presentation further highlighted challenges experienced by PPB in the regulation of cosmetics in the country including; underreporting of adverse reactions, limited resources, inadequate testing facilities and low consumer awareness. Lastly, the need for strengthened collaboration between KEBS and PPB in the implementation of the cosmetic regulation framework to enhance public safety was emphasized.

2.2.3 Building trust in the digital market place by regulatory intervention to enhance consumer confidence, a presentation by Communications Authority of Kenya (CAK)

This presentation was delivered by Ms. Caroline Muriangi, a representative of Communications Authority of Kenya (CAK). It highlighted the mandate of CAK, and covered aspects relating to facilitating the development of ecommerce, protection of consumer rights within the communications environment, licensing communication services, managing cyber security and type approval of equipment. It further highlighted all the legal and legislative framework that guides and governs the authority's mandate.

The presentation also elaborated the E-commerce ecosystem including the consumers lived experience in digital economy and the basic process of online shopping customer journey map. A few emerging consumer concerns across the online shopping were noted such as fraud and scams, issues of product quality and return policies, data privacy and confidentiality and misleading advertisements. Consumer empowerment was outlined as a key resolution to the challenges faced by consumers. These include creating awareness on online safety, digital literacy, implementation of consumer protection safeguards, responsible stakeholders to ensure regulatory compliance and enhancing redress mechanisms.

Lastly, the presentation highlighted a few strategies for enhancing consumer confidence and trust through multistakeholder approach including, leveraging consumer insights, providing education and resources, fostering transparency of ICT products and services in the market, enhancing consumer protection mechanisms, enhancing security and privacy provisions and promoting competition in the market.

2.2.4 Prevention of illegal trade in skin lightening creams in Kenya, presentation by Market Surveillance Directorate, KEBS.

The Market surveillance directorate presentation was done by Mr. Mutisya. It highlighted that the Market Surveillance Directorate is a department within KEBS responsible for monitoring products in the Kenyan market to ensure that they conform to relevant technical regulations (Kenya Standards or Approved Specifications) with respect to health, safety and environmental requirements, and to ensure that fair trade practices are promoted. It further highlighted all the legal frameworks that governs the departments mandates.

The presentation gave an overview of the Directorate's functions including, promoting standardization in industry and commerce and enforcement and monitoring the use of marks among others. It further explained what the department has been doing in the fight against banned cosmetics: carrying out scheduled surveillance activities and seizing and destroying banned cosmetics from the market, investigating complaints from consumers on banned and suspected substandard creams/lotions/gels and

prosecuting offenders. He concluded that the MS also carries out campaigns through media and workshops to raise awareness about the dangers of banned cosmetics.

The key issues that emerged after the presentations included:

- > It was noted that 98% of all the cosmetic products in Kenya are imported and most legally manufactured local cosmetics products have no mercury (Verified by KEBS)
- > Most mercury added SLPs are used west and central Africa and get smuggled into the country through porous borders.
- > Cosmetic product that are imported legally are normally accompanied by certificate of analysis hence allowed for sale in the country.
- > The need for a multi- agency approach was recommended to deal with the cosmetic industry.
- > Most big brands comply with standards and regulation on consumer safety however counterfeits products often imitate labels from the big brands hence misleading consumers.

2.2.5 Presentation by Jumia

The presentation by Jumia was done by their representative, Mr. Kennedy Ngugi. He stated that Jumia works through two departments, Know Your Supplier (KYS) department which mainly deals with

onboarding process and Quality Control department which identifies restricted products like prescription medicine and prohibited products such as fire arms. The quality control department ensures that all the products placed on their platform meet the relevant Kenya standards and have the requisite licenses. A key challenge faced by Jumia is inadequate specialized staff.

He concluded by emphasizing that effective control of illegal sale of mercury containing cosmetics via the ecommerce platform, close collaboration with the government agencies and the platforms is required. He recommended that a point of reference for ecommerce platforms to verify the authenticity of documents (certificates and licenses) submitted by entities that place product on e-commerce platforms.

2.2.6 Presentation of the findings of monitoring of illegal mercury skin lightening creams on the online platforms in Kenya by CEJAD

The presentation was delivered by Mr. Ochieng, Programs coordinator at CEJAD. It highlighted the initiatives undertaken by CEJAD, EEB and ZMWG in monitoring the illegal sale of mercury-added cosmetic products in the country since 2017. He informed the meeting that the monitoring was undertaken on the ground and online platforms- Jiji, Jumia and Kilimall.

CEJAD revealed that out of the 70 products sampled; 19 (27%) products exceeded the 1ppm threshold allowed under the Minamata Convention. In addition, the results showed continued illegal sale of SLP via the online platforms in Kenya.



Figure 3: Mr. Ochieng, CEJAD presenting the findings of the monitoring of illegal trade of mercury skin lightening creams on the online platforms in Kenya

The presentation concluded that use of mercury-added skin lightening products is a major public health concern. There is need to curtail the online sales, marketing and merchandising of mercury SLPs and spur interagency regional and global collaboration.

2.2.7 Presentation of the findings from the legal analysis of the regulation of online services and consumer/product safety in E-commerce in Kenya.

This presentation was delivered by Mr. Mark O. Odaga, a consultant commissioned by CEJAD to undertake the legal gap analysis. It highlighted the relevant policy, legal and institutional frameworks governing mercury-added products, online services and consumer/product safety.

The consultant highlighted the policy and legal frameworks that governs the use of mercury-added skin lightening products. These include; the constitution, the standards act, Food, Drugs and Chemical Substances Act and the Environmental Management and Coordination (Management of Toxic Hazardous Chemicals and Materials) Regulations, 2024.

He further highlighted the frameworks that regulate online services and consumer/product safety in e-commerce platforms in Kenya including Consumer Protection Act, the Competition Act and the Competition Authority Consumer Protection Guidelines.

He concluded by pointing out that Kenya has adequate laws to regulate e-commerce platforms. However, there is no proper framework for coordination by various state agencies in enforcing the laws. To ensure proper regulation of the commerce platforms, the following were recommended by the consultant:

- > There is need to review existing laws regulating mercury-added products to align with the internal frameworks.
- > Regular and consistent consumer awareness campaigns bringing together CSOs, business, medical/pharmacy professionals and other stakeholders are needed to highlight health hazards of mercury-added SLPs.
- > Make standards regulating cosmetics more accessible and publicize banned product lists.

3 Plenary Discussion and way forward

The plenary session was moderated by Mr. Ochieng and explored strategies for curbing illegal trade of mercury-added SLPs via online platforms. The discussion was guided by three main questions (see below). The outcomes of the discussion are presented below.

Plenary question 1: What are the challenges of regulating the sale of SLPs via the online platforms?

The challenges highlighted during the discussion included:

- > The online 'classified' platforms have no traceability and accountability for vendors who use their platforms to sell to consumers.
- > False product listing and sneak verification of products in the platforms was identified as a loophole in the controlling the illegal sale of SLPs.
- > Mislabeling of mercury containing cosmetics as herbal products perpetuates illegal trade of such product as the online platforms are not to identify them during verification.
- > Inadequate resources and infrastructure for regular monitoring and market surveillance.

Plenary question 2: What Opportunities exists for implementing voluntary agreements with e-commerce platforms to control illegal online trade of skin lightening products?

The following are opportunities identified by the stakeholders:

- > Conducting regular spot checks on the e-commerce platforms for the prohibited/banned products by KEBS and online platforms.
- > Improving the listing system by filtering words such as brightening, lightening to identify product that may contain mercury but not declared on the labels
- > Sensitization of the online platforms on relevant standards and regulations by responsible government agencies
- > Development of a central repository to facilitate verification of products by online platforms to reduce chances of listing mercury-added SLPs.
- > E-commerce platforms should contract dedicated licensed delivery agencies for their product delivery services to enhance traceability.

Plenary question 3: What practical steps are needed to curb illegal online sale of skin lightening creams in Kenya?

The practical steps identified include:

- > Implement media advisory programs for educating the public on dangers of using mercury added SLPs.
- > A multistakeholder taskforce is needed to curb online sale of illegal skin lightening products.
- > KEBS should regularly update the detention list and share the same with other relevant state agencies to publish on their website.
- > KEBS should share the detention list with ecommerce platforms.
- > Undertake collaborative consumer awareness/sensitization programs on the effects of mercury skin-lightening products.
- > E-commerce platforms should integrate relevant initiatives in existing voluntary frameworks to curb illegals sale of mercury-added SLPs.
- > There is need to review the school curriculum to integrate the colorism in the education system right from primary.
- > Strengthen the capacity for market surveillance for online platforms to curb the sale of mercury-added products and informal trade of skin-lightening products.

Way forward

1. KEBS to create a WhatsApp group to agree on the next agenda as a step towards forming a task force.
2. KEBS to reach out and invite the ecommerce platforms that did not attend the meeting to be part of the multistakeholder task force

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