

# How to Build a Sustainable 'Swissness' Advantage

by **Delia Fehr-Bosshard** and **Fiona Gao**

## 如何让符合“瑞士特色”的品牌价值历久弥坚

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**'S**wissness' refers to the combination of positive values immanent in Swiss products and services and the use of Swiss designations in marketing, e.g. through claims such as 'Made in Switzerland', 'Swiss quality' or the Swiss cross. Goods and services from Switzerland benefit nationally and internationally from a long-term reputational advantage with regard to taste (e.g. chocolate, cheese), manufacturing quality and precision (e.g. watches, machines) as well as service efficiency and reliability (e.g. financial services, research). The Swiss advantage is associated with attributes such as luxury, high-tech and innovation and may lead to a markup of about 20%-50%.

Notwithstanding the success of the Swiss brand, Swiss law did not provide clear guidance on what may be marketed as a Swiss product or service. This lack of statutory guidance led to the unsatisfactory situation that, on the one hand, companies with long-term investments in Swiss manufacturing facilities or service centres were confronted with high pressure from competing – usually lower priced – offers branded as 'Swiss', but entirely produced or provided abroad. On the other hand, the few legal guidelines on the definition of origin did not generally allow consideration of important Swiss-based cost drivers such as research and development (R&D). For innovative providers having their R&D centres in Switzerland, but manufacturing (parts of) their products abroad, it was often impossible to use Swiss designations in their marketing.

Since January of 2017, to prevent dilution of the Swiss brand and to foster the use of the Swiss advantage, including the Swiss cross, for real Swiss producers and providers, the so-called 'Swissness Bill' defines objective criteria for the determination of a Swiss product or service. Companies may use these guidelines for building up a long-term, sustainable Swissness strategy for the Swiss market and abroad.

### Statutory definitions of origin to prevent abuse

The Swissness Bill governs all designations of origin, whether Swiss, Chinese, German, US or others, for use in the Swiss market. Swiss designations are,

**‘瑞**士特色 (Swissness)”，专指瑞士产品和服务的内在优质价值与宣传瑞士来源的营销手段的结合，常用的营销手段包括标明“瑞士制造”、“瑞士品质”、或瑞士十字标识等。无论在瑞士境内亦或国际市场上，瑞士的产品和服务都得益于其在高档食品业（如巧克力、奶酪）、高品质和精确度的制造业（如手表、机械）、高效和可信赖的服务业（金融服务、科研）等领域长久积淀下来的极好声誉。瑞士的优势常常与奢华、高科技、创新等关键词紧密相连，而这些优势往往意味着20%至50%的净利润。

虽然瑞士品牌的成功效应有目共睹，但是过去瑞士在此领域的相关法律规定却不健全，进而在实践中存在着诸多不尽人意的地方。“搭便车”是最具代表性的例子，在瑞士制造设备或服务领域有着长期投资的公司却往往要面对来自同样打着“瑞士旗号”的“搭便车者”的低价竞争，这些“搭便车者”的低价优势全因产品和服务来自瑞士境外。另外，过去仅有的法律规定对于原产地的定义一般都忽略了在瑞士本土产生费用的因素，如研发费用。对于生产销售高科技产品的公司，虽然他们的研发中心设在瑞士，但因其产品全部或部分在瑞士境外生产，他们通常不能宣传他们的产品来源于瑞士。

### 《“瑞士特色”法案》

2017年元月伊始，《“瑞士特色”法案》正式生效。此法案旨在防止瑞士品牌的淡化，保护真正瑞士产品制造者和服务提供者得以利用包括瑞士十字在内的瑞士优势，并明确地定义了瑞士产品或服务的客观标准。公司可以根据相关规定为其瑞士及海外市场建立长期、可持续的“瑞士特色”战略。

however, at the core of the Swissness Bill. The new law defines objective criteria for various products and services. Some industries (e.g. watch manufacturers) have had defined even stricter requirements for Swiss designations to protect their traditional and highly valuable markup. For all other products and services, the most important statutory criteria to define the origin for marketing purposes are the following:

- For **natural products** (e.g. crops and mineral water) the place of harvest or extraction must be in Switzerland;

- For **processed natural products** (foodstuffs; e.g. chocolate and cheese) at least 80% of the raw material weight must come from Switzerland. Furthermore, the processing, which has given the foodstuff its essential characteristics must take place in Switzerland (e.g. the processing of milk into cheese). The law allows deduction of certain raw materials which, due to natural conditions or are temporarily not available in Switzerland (e.g. cacao for chocolate);

- For **industrial goods** (e.g. watches, jewelry, cloths, bags, purses, and skis) at least 60% of the manufacturing costs must occur in Switzerland. In addition to the core manufacturing, costs for R&D or standardized quality assurance and certification may be included in the calculation. No packaging, marketing and customer services costs may be considered. In addition to the cost criterion, the activity that gives a product its essential characteristics – e.g. the assembly of a watch, the manufacture of a fibre fabric, the underlying technological research or product development – as well as at least one essential manufacturing step, must have taken place in Switzerland;

- Swiss **services** (e.g. financial services, business or technical consulting, telecommunications, and medical treatment) must be offered by a company having its headquarters and an effective administration centre in Switzerland. Company subsidiaries and foreign branches of the (Swiss) parent company may use the indication of source as 'Swiss' under certain conditions.

Even if a product in its entirety does not qualify for a Swiss designation, it is possible to designate only a specific activity as being 'Swiss', if the referenced activity was conducted entirely in Switzerland, e.g. 'Swiss Design', 'Swiss Research', and 'Swiss Development'.

## Benefits of compliance with the Swissness rules in Switzerland and abroad

If a manufacturer or service provider follows these rules, a Swiss claim, including the Swiss cross (but not the Swiss coat of arms) may be used for marketing. Trademark registrations of signs including a Swiss cross, will provide legal protection for the reputation associated with a Swiss designation on the market. Swissness is not exclusive to traditional Switzerland-based providers: The Swiss advantage should be considered when deciding on venues for new manufacturing sites and R&D service centres. Even though Swiss law is not directly applicable abroad, many jurisdictions will consider the country of origin's rules on geographical indications when deciding on the lawfulness of a respective geographical claim or trademark. A compliant Swissness branding may therefore provide a valuable basis for a global and sustainable marketing strategy using the Swiss advantage. Chinese companies have plenty of possibilities to build the image of themselves and their products upon the idea of Swissness. ○

## 原产地已有法定标准，打击滥用行为有依有据

《“瑞士特色”法案》适用在瑞士市场范围内的所有原产地标识，无论原产地是瑞士、中国、德国或美国。此法的核心点是瑞士标识，并定义了多种产品和服务的客观标准，为保护传统及高利润空间，对某些行业（如手表制造行业）甚至施加了更严格的要求。一般来说，定义原产地最重要的法定标准如下：

- 对于**天然产品**而言，（如农作物和矿泉水），其采摘地或获取地必须是在瑞士；

- 对于**已加工的天然产品**而言，（食品；如巧克力和奶酪）至少该产品原料重量的80%必须是来自瑞士的。此外，赋予食品独有特征的加工环节必须发生在瑞士（如将牛奶加工成奶酪）。该法案对某些原材料做了例外规定，包括因自然条件或临时原因不能在瑞士获取的原材料（如生产巧克力所需的可可豆）；

- 对于**工业产品**而言，（如手表、首饰、布料、箱包、皮包和滑雪板）至少60%的生产成本必须发生在瑞士，研发、标准化质量保证和认证等的成本也可以计入其中，但与产品营销、货物包装或客户服务相关的成本不能计入其内。此外，赋予产品独有特征的生产环节，如手表装配、纤维织物的制造、基础技术研究或产品开发，必须至少有一个主要的生产环节发生在瑞士；

- 对于**瑞士服务**而言，（如金融服务、商业或技术咨询、疾病治疗）公司的总部和行政中心必须设在瑞士。甚至瑞士母公司的子公司和海外分支机构在一定条件下也可以使用“瑞士”来源的标识。

如果某个产品作为整体不符合瑞士标识的规定，但此产品的某个工艺步骤是完全在瑞士进行的，则此具体工艺步骤可以标注瑞士来源，如“瑞士设计”、“瑞士科研”、“瑞士开发”。

## “瑞士特色”在瑞士及海外市场所带来的商业利益

如果制造商或服务提供商遵守上述规则，则可以利用瑞士来源（包括瑞士十字）获得可观的商业利益。申请带有瑞士十字的商标也是一种保护自身品牌与瑞士来源商业价值的法律途径。“瑞士特色”并非只适用于传统的瑞士公司，他国公司在规划和选择其新的制造基地和研发中心时也应考虑“瑞士特色”能给其业务所带来的潜在优势。即使瑞士法不适用瑞士境外，但是许多司法管辖区在决定相应地理权利主张或商标的合法性时，通常考虑地理标志原产地规则。因此，符合“瑞士特色”的品牌能充分借助瑞士的优势为其全球性和可持续的营销战略提供坚实的基础。中国公司也应该充分评估如何利用“瑞士特色”来打造本公司及其品牌的高品质形象。 ○

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