

For discussion on  
11 November 2002

## **LegCo Panel on Health Services**

### **Regulation of Health Claims**

#### **Introduction**

This paper sets out the Administration's detailed proposal on the regulation of health claims for Members' consideration.

#### **Background**

2. There has been an increasing number of food products claiming beneficial health effects in the local market. These products are generally described as "health food" for which there is no generally accepted definition. We have seen complaints from the consumers against misleading or exaggerated claims of the so-called health food products. There are calls from the public, Legislative Council and Consumer Council that we should tighten control of irresponsible health claims for the sake of public health.

3. At present, specific claims relating to prevention or treatment of diseases are already subject to stringent control. Products with such claims are considered pharmaceutical products and are required to be registered under the Pharmacy and Poisons Ordinance (PPO) (Cap. 138) or, where appropriate, the Chinese Medicine Ordinance (Cap. 549) when the relevant provisions of the latter Ordinance become effective<sup>(Note)</sup>. For general food products, the Public Health and Municipal Services Ordinance (Cap. 132) requires manufacturers and sellers to ensure their products are fit for human consumption. Furthermore, the Undesirable Medical Advertisements Ordinance (UMAO) (Cap. 231) prohibits advertisements claiming that a product has curative or preventive effects on any of the diseases listed in the schedule to the Ordinance.

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<sup>(Note)</sup> Subsidiary legislation relating to the registration system of Chinese medicine was tabled at the LegCo on 6 November 2002. Subject to Members' comments, the regulatory system will commence by phases next year, starting with the licensing system for Chinese medicine traders.

4. We have surveyed the health claims of orally consumed products currently available in the market. Some examples of claims which are considered misleading or exaggerated are shown at Appendix 1. These claims can be broadly grouped into the following two categories:

- (i) **Claims relating to body functions which may delay the public from seeking proper medical advice and management** - Examples include regulation of blood pressure, regulation of blood lipid or cholesterol, etc. As these claims usually do not mention prevention or treatment of specific diseases, they are outside the control of the existing legislation e.g. PPO and UMAO.
- (ii) **Exaggerated or misleading health-related claims** - Examples include misleading claims relating to slimming, weight reduction, breast enhancement, detoxification etc. Regulation of these claims requires consensus in the community. In regulating these claims, we appreciate that a balance has to be struck among protection of public health and freedom of choice by consumers.

### **The Proposal**

5. To better protect the public, we propose to work out a list of health claims to be regulated. We propose to amend the UMAO (Cap. 231) for the purpose of regulating health claims. The UMAO currently prohibits the advertising of medicines, surgical appliances and treatments for prevention or treatment of certain diseases or conditions in human beings. The purpose of the prohibition is to prevent improper self-medication by members of the public, thereby causing harm as a result of either the improper self-medication itself, or the delayed proper treatment they should receive. The UMAO has two schedules, i.e. Schedules 1 and 2. It is an offence for any person to publish, or cause to be published, any advertisement likely to lead to the use of any medicine, surgical appliance or treatment for treating or preventing any disease or condition specified in column 1 of Schedule 1, except for a purpose (if any) specified in column 2. Advertisements for the purposes specified in

Schedule 2 are also prohibited. A copy of the two schedules is at Appendix 2.

6. We propose to include in the UMAO a list of prohibited claims as a new schedule to address the misleading information and exaggerated claims of orally consumed products. We propose that the Director of Health (D of Health) should have the power to amend the new schedule and to extend its coverage to cover other products and services as and when necessary having regard to latest development and for the protection of public health. Views from experts and the community will be sought through consultation in finalizing/revising the list of prohibited claims. We also propose that the D of Health should be empowered to authorize public officers to be inspectors to enforce the relevant provisions of the UMAO.

### **Action Plan**

7. We will work out the proposed list of prohibited claims as soon as possible. The public and other stakeholders including the trade, the Consumer Council and medical professionals will be consulted on the proposal early next year. After collecting their views, we will consult Members again on the way forward.

### **Other Measures**

8. Apart from regulating health claims through legislative means, we believe that education plays an important role to enable consumers make informed choices. DH has launched programmes to educate the public on the concept of health and proper use of health products. Public education on this front will be continued and further stepped up when necessary.

9. In the meantime, DH and the Food and Environmental Hygiene Department (FEHD) continue to work closely in their surveillance programmes. For products carrying specific claims relating to prevention or treatment of diseases, inspectors of FEHD will refer them to DH to ensure that they have been properly registered and take follow-up actions if necessary.

## **Advice Sought**

10. Members are invited to comment on the proposal set out in this paper. After obtaining Members' views, we shall proceed to draw up the preliminary list of prohibited claims and prepare for public consultation.

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Health, Welfare and Food Bureau  
November 2002

**Examples of Misleading / Exaggerated Health Claims**誤導性／誇大的保健聲稱例子

<b>Health Claims</b>	<b>保健聲稱</b>
Regulate blood glucose of diabetic patients	調節糖尿病者的血糖水平
Suppress absorption of glucose	抑制糖份吸收
Stabilize blood glucose	穩定血糖
Stabilize blood pressure	穩定血壓
Regulate blood pressure	調節血壓
Reduce cholesterol	降膽固醇
Regulate cholesterol	調和膽固醇
Remove toxin in the blood	清理血毒
Regulate endocrine secretion	調節內分泌
Increase white blood cells count	提升白血球數量
Prevent nocturnal diuresis	預防夜尿
Frequent urination, urgent urination, dripping urination	尿頻，尿急，滴尿，小便無力
Enhance firmness of breast	改善胸部豐滿
Improve drooping breast	改善乳房下垂
Help eliminate fat during sleeping	幫助睡覺時消除脂肪細胞
Eliminate cellulite	減去橙皮脂肪
Decompose fat	分解脂肪
Slimming without going on diet or exercise	無需節食或運動而達到纖體效果

附表 1

[第 3 條]

禁止或限制發布的廣告所涉及的疾病  
或病症情況

第 1 欄 疾病或病症情況	第 2 欄 准予作廣告宣傳的目的
1. 任何良性或惡性腫瘤。	沒有。
2. 任何病毒、細菌、真菌或其他傳染性疾病，包括結核病、痢疾、肝炎及瘰癧。	以外用藥物施於身體外部，以治療或預防惡瘡的皮膚感染，包括使用製劑治療以減輕兒童感染引起的癢癢及紅疹。 減輕真菌性潰瘍症狀。 減輕感冒、喉痛等一般稱為流行性感冒及類似的上呼吸系統感染情況。 治療口腔前庭及咽喉的輕微急性發炎情況。
3. 任何寄生疾病。	治療疥瘡或蟻蟲、虱或蠅蟲等感染，但有關廣告只可刊登於盛載所供藥藥物、外科用具或藥法的附有標籤的容器或包裝上。
4. 任何性病，包括梅毒、淋病、軟下疳、性病性淋巴肉芽腫、生殖器疱疹、生殖器肉贅、尿道炎、陰道炎、尿道或陰道潰液、愛滋病及任何其他經由性接觸傳染的疾病。	沒有。
5. 任何呼吸系統疾病，包括哮喘、支氣管炎及肺炎。	暫時減輕花粉病、鼻炎或結膜炎症狀。 減輕鼻塞症狀。

SCHEDULE 1

[s. 3]

DISEASES AND CONDITIONS IN RESPECT OF WHICH ADVERTISEMENTS ARE  
PROHIBITED OR RESTRICTED

Column 1 Disease or condition	Column 2 Purposes for which advertising is permitted
1. Any benign or malignant tumour.	None.
2. Any viral, bacterial, fungal or other infectious disease, including tuberculosis, dysentery, hepatitis and leprosy.	Treatment or prevention of minor cutaneous infections where a medicinal product is to be administered to an external surface of the body, including treatment by means of preparations for the relief of pruritus or exanthematous rashes of childhood infection. Relief of symptoms of aphthous ulcer. Relief of symptoms of common colds, coughs, conditions commonly referred to as influenza and similar upper respiratory tract infections. Treatment of minor acute inflammatory conditions of the buccal cavity and pharynx.
3. Any parasitic disease.	Treatment of scabies or an infestation by threadworms, lice or roundworm, provided that the advertisement consists solely of a labelled container or package in which a medicine, surgical appliance or treatment is supplied.
4. Any venereal disease, including syphilis, gonorrhoea, soft chancre, lymphogranuloma venereum, genital herpes, genital warts, urethritis, vaginitis, urethral or vaginal discharge, acquired immunodeficiency syndrome (AIDS), and any other sexually transmitted disease.	None.
5. Any respiratory disease, including asthma, bronchitis, and pneumonia.	Temporary relief of symptoms of hay fever, rhinitis or catarrh. Relief of blocked-up sinuses.

第 1 欄 疾病或病理情況	第 2 欄 准予作廣告宣傳的目的
6. 任何心臟或心血管系統疾病，包括風濕性心臟病、動脈硬化、冠狀動脈病、心律失常、高血壓、腦血管病、先天性心臟病、血栓形成、末梢動脈病、水腫、視網膜血管變化及末梢靜脈病。	沒有。
7. 任何胃病，包括膽石、肝硬化、胃腸出血、腹瀉、疝、肛門瘻及痔。	減輕一般稱為不消化、胃灼熱、胃酸過多、消化不良、口臭或腸胃氣脹的症狀。 減輕腸絞痛、胃痛或惡心症狀。 減輕偶發性或非持續的腹瀉或便秘症狀。 預防旅行病或有關症狀。 以局部有效製劑或軟化糞便劑及潤滑劑治療痔及減輕症狀。
8. 任何神經系統疾病，包括羊癲、精神紊亂、精神變奇、癲癇及癲癇。	減輕頭痛。
9. 任何泌尿生殖系統疾病，包括腎石、腎炎、膀胱炎、任何前列腺炎及包莖炎。	沒有。
10. 任何血液或淋巴系統疾病，包括貧血、頭暈、流鼻血、白痢病及其他淋巴增生疾病。	給予藥物及維他命作為預防，以避免飲食不適或營養失調調節飲食的人士陷入缺乏狀態。
11. 任何肌肉骨骼系統疾病，包括關節病、關節炎及坐骨神經痛。	使用外用製劑以減輕肌肉疼痛、僵硬及痙攣症狀。
12. 任何內分泌疾病，包括糖尿病、甲狀腺毒症、甲狀腺腫以及與該系統活動減少或過多有關的任何器官或機能性病變情況。	食物補充品。
13. 任何影響視力、聽覺或平衡的器官病理情況。	局部使用眼製劑以減輕症狀。 局部使用耳垢溶劑以減輕症狀。

Column 1 Disease or condition	Column 2 Purposes for which advertising is permitted
6. Any disease of the heart or cardiovascular system, including rheumatic heart disease, arteriosclerosis, coronary artery disease, arrhythmias, hypertension, cerebrovascular disease, congenital heart disease, thrombosis, peripheral artery disease, oedema, retinal vascular change and peripheral venous disease.	None.
7. Any gastro-intestinal disease, including gallstone, cirrhosis, gastro-intestinal bleeding, diarrhoea, icterus, fistula-in-ano and haemorrhoids.	Relief of such symptoms as are commonly referred to as indigestion, heartburn, hyperacidity, dyspepsia, halitosis (bad breath) or flatulence.  Symptomatic relief of colicky pain, stomach ache or nausea.  Relief of occasional or non-persistent diarrhoea or constipation.  Prevention of travel sickness or related symptoms.
8. Any disease of the nervous system, including epilepsy, mental disorder, mental retardation and paralysis.	Treatment of haemorrhoids for relief of symptoms by means of locally effective preparations or stool-softening agents and lubricants.
9. Any disease of the genito-urinary system, including kidney stone, nephritis, cystitis, any prostatic disease and phimosis.	Symptomatic relief of headaches.
10. Any disease of the blood or lymphatic system, including anemia, neck glands, bleeding disorders, leukemia and other lympho-proliferative diseases.	None.
11. Any disease of the musculo-skeletal system, including rheumatism, arthritis and sciatica.	Prophylactic administration of minerals and vitamins to avoid deficiency states in persons with inadequate diet or with increased dietary requirements.
12. Any endocrine disease, including diabetes, thyrotoxicosis, goitre and any other organic or functional condition related to under or over activity of any part of the system.	External preparations for the relief of symptoms of muscular pain and stiffness and cramp.
13. Any organic condition affecting sight, hearing or balance.	Provision of dietary supplements.
13. Any organic condition affecting sight, hearing or balance.	Relief of symptoms by means of the local administration of eye preparations.
13. Any organic condition affecting sight, hearing or balance.	Relief of symptoms by means of local administration of preparations as a solvent for ear wax.

第 1 欄 疾病或病理情況	第 2 欄 准予作廣告宣傳的目的
14. 任何皮膚、頭髮或頭皮疾病。	<p>以外用劑預防或治療頭皮屑。</p> <p>以外用劑施於身體外部，以治療丘疹、濕疹、皮膚敏感及腳氣。</p> <p>以保護性外用劑預防和治療接觸性皮炎及曬傷。</p> <p>使用藥膏或溶劑以治療硬皮及雞眼。</p> <p>減輕或預防一般粗糙皮膚症狀，包括乾燥及皸裂皮膚、唇皸疹、癢癢、昆蟲咬傷、汗疹及尿布疹。</p> <p>(附表 1 由 1988 年第 65 號第 8 條增補)</p>

附表 2

[第 3 條]

禁止為以下目的而為任何藥物、外科用具或療法作廣告宣傳

1. 誘發、醫治經閉、遲遲或任何其他婦產科疾病。
2. 增進性能力、性慾或生殖能力，或恢復失去的青春。
3. 矯正畸形或外科整容手術。

(附表 2 由 1988 年第 65 號第 8 條增補)

附表 3

(由 1988 年第 65 號第 11 條廢除)

Column 1 Disease or condition	Column 2 Purposes for which advertising is permitted
14. Any disease of the skin, hair or scalp.	<p>Prevention or treatment of dandruff by means of external applications.</p> <p>Treatment, where applied to an external surface of the body, of pimples, eczema, skin allergies and athlete's foot.</p> <p>Prevention or treatment of contact dermatitis and sunburn by means of protective applications.</p> <p>Treatment of hard skin and corns by means of the application of corn plasters or solvents.</p> <p>Relief or prevention of common minor skin conditions including dry and chapped skin, cold sores, pruritus, insect bites, heat rash and napkin rash.</p> <p>(Schedule 1 added 65 of 1988 s. 8)</p>

## SCHEDULE 2

[s. 3]

PURPOSES FOR WHICH IT IS PROHIBITED TO ADVERTISE ANY  
MEDICINE, SURGICAL APPLIANCE OR TREATMENT

1. The induction of menstruation or relief of amenorrhoea or delayed menstruation or any other gynaecological or obstetrical disease.
  2. The promotion of sexual virility, desire or fertility, or the restoration of lost youth.
  3. The correction of deformity or the surgical alteration of a person's appearance.
- (Schedule 2 added 65 of 1988 s. 8)

## SCHEDULE 3

(Repealed 65 of 1988 s. 11)