

立法會
Legislative Council

LC Paper No. CB(2)522/04-05
(These minutes have been
seen by the Administration)

Ref : CB2/BC/2/04

**Bills Committee on Undesirable Medical Advertisements
(Amendment) (No.2) Bill 2004**

**Minutes of the third meeting
held on Thursday, 9 December 2004 at 2:30 pm
in Conference Room B of the Legislative Council Building**

Members present : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP (Chairman)
Dr Hon LUI Ming-wah, JP
Hon CHAN Yuen-han, JP
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH
Dr Hon KWOK Ka-ki
Hon WONG Ting-kwong, BBS

Members absent : Hon Fred LI Wah-ming, JP
Dr Hon Joseph LEE Kok-long

Public Officers attending : Miss Susie HO
Deputy Secretary for Health, Welfare and Food (Health)

Mr Jeff LEUNG
Principal Assistant Secretary for Health, Welfare and Food (Health)

Mr Tony CHAN
Assistant Secretary for Health, Welfare and Food (Health)

Dr T H LEUNG
Deputy Director of Health

Dr Mandy HO
Assistant Director (Special Health Services), (Acting)

Mrs Mary CHENG
Chief Pharmacist (Acting)

Ms Frances HUI
Senior Government Counsel, Department of Justice

Ms Grace LEUNG
Government Counsel, Department of Justice

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2) 4

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Miss Mary SO
Senior Council Secretary (2) 8

I. Meeting with the Administration

(LC Paper Nos. CB(2)301/04-05(01) to (02), CB(2)364/04-05(01) to (02) and CB(2)374/04-05(01))

The Bills Committee deliberated (Index of proceedings at **Annex**).

2. The Administration was requested to respond in writing to the following suggestions/question raised by members at the meeting -

- (a) to require manufacturers or traders of health food products to put on the packaging and in the advertisement a disclaimer that these products were not drugs and thus were not intended to diagnose, treat, cure or prevent any disease and that consumers should seek medical assistance if felt unwell;
- (b) to enlist representatives from the trade to sit on any advisory and/or monitoring bodies set up by the Administration after the Undesirable Medical Advertisements (Amendment) (No.2) Bill 2004 (the Bill) was enacted, if any;
- (c) to review the existing warning mechanism operated by the Department of Health (DH) on the publication of health claims, with a view to making the mechanism more open and transparent;

- (d) to re-consider providing for an appeal channel against the decision made by the Director of Health to prohibit/restrict an advertisement for an orally consumed product;
- (e) to re-consider establishing a pre-approval system for advertising claims made by health food products;
- (f) to henceforth collect statistics on the number of persons ended up with worsened conditions after the consumption of the so-called "health food" products; and
- (g) to explain why no defence was provided to persons, such as publishers and retailers, charged with advertising an orally consumed product with prohibited claim(s) under new section 3B of the Bill, having regard to the facts that defence was available to persons charged with advertising for sale of food or drug injurious to health under the Public Health and Municipal Services Ordinance (Cap. 132) and to persons charged with advertising for sale of drugs injurious to health under the Pharmacy and Poisons Ordinance (Cap. 138).

3. The Administration was also requested to provide specimens of the warning letters issued by DH on the publication/advertisement of health claims, and the following information requested by members at the meeting -

- (a) criteria used in classifying food which contained Chinese medicine and which were subject to the regulation of the Chinese Medicine Ordinance (Cap.549);
- (b) money spent by DH annually on monitoring publications/advertisements considered to be in violation of the Undesirable Medical Advertisements Ordinance (Cap.231) (the Ordinance); and
- (c) breakdown of the 60 persons convicted under the Ordinance from January 2001 to October 2004 by types such as manufacturers, wholesalers, retailers and advertisers etc.

II. Date of next meeting

4. Members agreed to re-schedule the next meeting to 11 January 2005 at 4:30 pm to allow more time for the Administration to prepare responses to the questions raised by members at the meeting. The two meetings previously scheduled for 16 December 2004 and 5 January 2005 were therefore cancelled.

5. There being no other business, the meeting ended at 4:25 pm.

Council Business Division 2
Legislative Council Secretariat
30 December 2004

**Proceedings of the third meeting of the
Bills Committee on Undesirable Medical Advertisements
(Amendment) (No.2) Bill 2004
on Thursday, 9 December 2004 at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 002026	Chairman Administration Dr LUI Ming-wah	Safeguarding public from the consumption of orally consumed products making claims relating to the regulation of immune system and the promotion of detoxification and slimming/fat reduction	
002027 - 012348	Mr Vincent FANG Chairman Administration Miss CHAN Yuen-han Dr LUI Ming-wah Mr WONG Ting-kwong Dr KWOK Ka-ki	Overseas practice on the regulation of health claims The Administration was requested to - (a) require manufacturers or traders of health food products to put on the packaging and in the advertisement a disclaimer that these products were not drugs and thus were not intended to diagnose, treat, cure or prevent any disease and that consumers should seek medical assistance if felt unwell; (b) enlist representatives from the trade to sit on any advisory and/or monitoring bodies set up by the Administration after the Undesirable Medical Advertisements (Amendment) (No.2) Bill 2004 (the Bill) was enacted, if any; and (c) provide information on the criteria used in classifying food which contained Chinese medicine and which were subject to the regulation of the Chinese Medicine Ordinance (Cap.549). The Administration was also requested to provide specimens of the warning letters issued by DH on the publication/advertisement of health claims, and information on money spent by DH annually on monitoring publications/advertisements considered to be in violation of the Undesirable Medical Advertisements Ordinance (Cap.231) (the Ordinance).	✓ (Admin to provide a written response) ✓ (Admin to provide a written response)
012349 - 014510	Chairman Administration Mr TAM Yiu-chung Dr KWOK Ka-ki Mr WONG Ting-kwong Mr Vincent FANG	The Administration was requested to - (a) review the existing warning mechanism operated by the Department of Health (DH) on the publication of health claims, with a view to making the mechanism more open and transparent; (b) re-consider providing for an appeal channel against the decision made by the Director of Health to prohibit/restrict an advertisement for an orally consumed product; and (c) re-consider establishing a pre-approval system for advertising claims made by health food products.	✓ (Admin to provide a written response)

Time Marker	Speaker	Subject(s)	Action Required
014511 - 014549	Chairman	The Administration was requested to provide a breakdown of the 60 persons convicted under the Ordinance from January 2001 to October 2004 by types such as manufacturers, wholesalers, retailers and advertisers etc.	✓ (Admin to provide a written response)
014550 - 014909	ALA2 Administration Chairman	The Administration was requested to provide a written response on why no defence was provided to persons, such as publishers and retailers, charged with advertising an orally consumed product with prohibited claim(s) under new section 3B of the Bill, having regard to the facts that defence was available to persons charged with advertising for sale of food or drug injurious to health under the Public Health and Municipal Services Ordinance (Cap. 132) and to persons charged with advertising for sale of drugs injurious to health under the Pharmacy and Poisons Ordinance (Cap. 138).	✓ (Admin to provide a written response)
014910 - 015028	Administration Dr KWOK Ka-ki	The Administration was requested to henceforth collect statistics on the number of persons ended up with worsened conditions after the consumption of the so-called "health food" products.	✓ (Admin to provide a written response)
015029 - 015701	Chairman and members	Date of next meeting	

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 30 December 2004