

**The Administration’s Explanations on the Proposed Committee Stage Amendments (CSA) to the
2004 Undesirable Medical Advertisement (Amendment)(No.2) Bill**

Clause No.	Gist of the CSA	Reasons for proposing the CSAs
4(b)	Definition of “orally consumed product” – definition of “orally consumed product” in the Bill is amended to cover products for human consumption which are intended to be taken orally, and presented in seven dosage forms (i.e. pills, capsules, tablets, granules, powders, semi-solid and liquid) as specified in the amended definition. The amended definition of the term “orally consumed product” also specifies that “orally consumed product” does not include customarily consumed food and drink which are consumed (to provide energy, nourishment or hydration) or to satisfy a desire for taste, texture or flavour.	In view of the concern expressed by some Members of the Bills Committee and the Legal Adviser of LegCo on the definition of “orally consumed product” in the Bill, the Administration proposes this amendment. There is no universal legal definition for conventional foods, and in coming up with the definition of “orally consumed product” in the Bill, we have made reference to the descriptions of “food” in the legislation of Hong Kong and other jurisdictions. Further, as our policy intention is to regulate the advertisements of so-called “health foods” that mostly appear in certain forms, we consider that specifying the forms of the product to be regulated will better reflect our policy intention.
5	(1) Minor amendment is made to new section 3B(1).	This is a technical amendment that we believe will spell out more clearly the relationship between the provisions in column 2 of new Schedule 4 and the Note in that Schedule.

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	(2) Subsection (1A) is added under new section 3B to specify that section 3B(1) does not apply to certain types of advertisements.	The purpose of adding this provision is to make it clear that where section 3(1) of the Undesirable Medical Advertisement Ordinance (“the Ordinance”) does not apply to an advertisement by virtue of section 3(2), if the advertisement in question is an advertisement of an orally consumed product, new section 3B(1) would not apply to the advertisement either.
	(3) Minor amendment is made to the Chinese text of new section 3B(2)(c), i.e. changing “相同效果” to “相同意思”.	The Administration agrees to the suggestion of the Bills Committee and proposes this amendment so that the Chinese text of the provision would reflect the Government’s policy more precisely.
8	(1) Minor amendment is made to new section 8(2)(b).	In view of the concern of the Legal Adviser of LegCo, the Administration proposes this amendment. Subsection (2)(c) of new section 8, after amendment, would be consistent, in terms of expression, with other provisions in that section.
	(2) Minor amendment is made to new section 8(2)(c).	The Administration considers that the definition of “advertisement” in the Ordinance already covers “packaging” and “labels”; hence, minor amendment is proposed to be made to new section 8(2)(c).

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10	<p>(1) For column 2 of item 4 of the new Schedule 4, the number of allowable claims is increased from two as originally proposed in the Bill to four (i.e. (1)“This product is suitable for people concerned about blood sugar. 此產品適合對血糖關注的人士服用。”; (2)“This product may assist in stabilizing blood sugar. 此產品或有助於穩定血糖。”; (3)“This product is intended for people concerned about blood sugar. 此產品以對血糖關注的人士為對象。”; 及 (4)“This product is for the consumption by people concerned about blood sugar. 此產品供對血糖關注的人士服用。”), and amendment is made to the disclaimer.</p> <p>(2) For column 2 of item 5 of the Schedule, the number of allowable claims is increased from two as originally proposed in the Bill to four (i.e. (1)“This product is suitable for people concerned about blood pressure. 此產品適合對血壓關注的人士服用。”; (2)“This product may assist in stabilizing blood pressure. 此產品或有助於穩定血壓。”; (3)“This product is intended for people concerned about blood</p>	<p>These three amendments provide more choices to the trade in respect of “allowable claims”, and enable the trade to choose the claims for the product it intends to promote based on the characteristics of the product and other related factors.</p> <p>The proposed amendment in relation to the disclaimer seeks to indicate more clearly that as the product is not registered under the Pharmacy and Poisons Ordinance (Cap.138) or the Chinese Medicine Ordinance (Cap.549), it has not been subject to evaluation for the purpose of such registration. The amended disclaimer further reminds consumers that the product is not intended to diagnose, treat or prevent any disease.</p>

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	(4) Minor amendment is made to the Note of the Schedule.	The amended Note stipulates that if an advertisement is wholly or mainly in the English or Chinese language, an “allowable claim” in the advertisement may be limited to that language, but where there is included in the advertisement any other “allowable claim” or disclaimer that is stated in column 2 of new Schedule 4, such other claim and disclaimer must also be limited to that language.