

**Consumer Council Submission to the  
LegCo Bills Committee on Undesirable Medical Advertisements  
(Amendment) (No.2) Bill 2004**

**Introduction**

1. The Consumer Council is pleased to provide views on the No.2 Amendment Bill ("the Bill").
2. In our submission to the Department of Health in 2003, we noted that after the SARS outbreak many consumers seek to strengthen their immune system by taking more health food products. This year, the Council observes that, owing to the celebrity effect exploited by advertisements widely published in various media and on television in particular, there is now a wave of slimming and body-shaping. Consumers are trying various products to reduce body weight, including those claiming to serve slimming, detoxification, or simply health purpose.

**Rationale for Support of Regulation of Product Claims**

3. Irresponsible claims of these products raise health concerns:
  - Timeliness of treatment:  
For example, it would be dangerous if a cancer patient is misled by exaggerated advertisements into taking and relying only on certain health products that claim to improve immune system against cancers and consequently does not seek proper treatment.
  - Improper weight reduction may be detrimental to health as reported in recent cases (paragraph 6 refers). Irresponsible claims of such products usually promote improper ways of weight control and the idea of relying on laxatives for egestion. Serious side effects can flow from consumption of such products.
4. Moreover, there are social costs to damaged health. Treatment of side effects arising from consumption of such products adds to the burden on the healthcare system. Furthermore, there will also be loss of working days in addition to the suffering of the sick and the burden on carers.
5. The situation is aggravated by the proliferation of claims in wide circulation. Unlike the taking of conventional medications which are prescribed by health care professionals, the choices of health food are mostly based on the claims shown on the packaging or advertisements. It is not uncommon to find that some suppliers of such

products, in order to capture consumers' attention, put up forceful advertisements with health claims which may not be backed by scientific research. The easy accessibility of a wide array of such products to consumers who are vulnerable to misleading advertisements calls for more stringent regulation over the claims of orally-administered health food products to safeguard consumer health and welfare.

### **Public Concern over the Labeling and Safety of Health Food Products**

6. The Council has been looking into the issue of exaggerated claims of health food products over the years. From time to time, there are cases of intoxication in people taking health food products reported in medical journals and in newspapers. Many of these cases present the danger of "self-medication" by people who believe in the relative harmlessness of products available over the counter. Just a few examples:

- In the Volume 19 No.7 issue of the medical journal Nephrology Dialysis Transplantation, it was reported that a patient in Hong Kong was found to suffer from acute renal failure after taking, for a few weeks, anthraquinone-containing slimming health food products concurrently with NSAID prescribed by a physician.
- In early September 2004, a woman, who was a hepatitis B virus carrier, was found to suffer from liver failure after consuming for about one month a health food product she believed to be safe and made only of "natural" substances. In fact, the product was later found by the Department of Health to contain a liver toxic chemical called N-nitroso-fenfluramine.
- In early November 2004, the State Administration of Industry and Commerce issued a warning that many Lingzhi products had been using misleading or exaggerated claims in their advertisements. The problems found include using scientifically unfounded claims, alleging Lingzhi products to have curative effects, using medical experts or patients' testimonials, and mimicking the advertisements in the form of news reports.

### **Coverage of the Bill**

7. The Council therefore supports regulation of the 6 categories of health claims as set out in Schedule 4 of the Bill.

8. The Council notes that in the Paper numbered CB(2)524/03-04(06) discussed by the LegCo Panel on Health Services on 8 December 2003, the following three types of claims were included in the Proposed Schedule of Prohibited Claims :

- Claims relating to slimming or fat reduction of the body including fat burning, eliminating fat, controlling appetite, absorbing fat and eliminating fluid retention.
- Regulation of body immune system against diseases including cancers, chronic diseases and infection; or alteration of the effects of treatment e.g. chemotherapy and radiotherapy, etc.
- Promotion of detoxification.

9. The Council is disappointed to find that the above-mentioned three types of claims are absent from Schedule 4 of the present Bill.

10. The Council is not seeking to over-regulate, but sees that products making these three types of claims would also cause equally important health concerns, and likewise should be treated in the same way as the other 6 categories now remaining in Schedule 4 of the Bill. This is especially due to the fact that products with claims of improving immune system and slimming have flooded the market in recent years. Excluding these types of claims from regulation will reduce protection afforded to consumers and may jeopardize consumer health.

11. Complaints related to health food products lodged with by the Council have been on the rise. There were 69 such cases in 2001, 94 in 2002, 98 in 2003, and 93 already in the first 10 months this year.

12. Under the complaint category of medicine and health food, there were 35 complaint cases against slimming and detoxification products. There was a significant rise compared to 17 such cases for 2001 and 23 for 2002. The Council has received 28 complaint cases against such products in the first 10 months this year. The Council believes that there is the need for the Government to give regard to potential health issues caused by the relevant products.

13. The Council urges the Government and law makers to take a pragmatic approach and attribute importance to the protection of public health and welfare by including these three types of claims in Schedule 4 of the Bill.

14. The Council understands that some products with slimming or detoxification claims may fall within the purview of the Pharmacy and Poisons Board or the Chinese

Medicines Board. The Council suggests that only claims of products that are not required to be evaluated by these two Boards before marketing should be regulated.

### **Implementation Time of the Proposed Regulation**

15. In view of the large number of health food products on the market and their advertisements in various media, the Council has reservation about the proposed grace period of at least 18 months. The Council urges for expedition in the implementation process so that advertisements in newspapers, magazines, television and radio contravening the new requirements can be brought under scrutiny soon after the enactment of the Bill.

16. The Council understands that stakeholders may be concerned about the impact of the Bill on their business. The Council believes that a balance ought to be struck between marketing of products without sufficient evidence on efficacy on one hand and abatement of potential public health hazards on the other. The Council trusts that given clear explanation by the Administration, responsible stakeholders would take necessary steps to co-operate.

### **Register / Listing of Suppliers**

17. The Council would like to suggest that a register / list be set up to keep record of the suppliers and their products to enhance traceability. The register / list will provide not only a convenient tool for regulating health product suppliers by the Administration, but also a guide for the public to find the suppliers if they have enquiries about the products. It will also facilitate speedy recall or withdrawal of products when necessary.

18. The Council suggests that necessary steps be taken to prevent the possible misuse in advertisements by some suppliers of the state of being registered or listed to mislead consumers into believing that their products are approved or endorsed by the Administration. The Council notes that many suppliers make use of the documents of overseas authorities, such as the US Food and Drug Administration and Japan's Ministry of Health, Labour and Welfare, to promote their products by claiming that they are "approved" or "sanctioned" by such authorities. In fact, the official documents may be simply acknowledgement of an application or registration.

## **Conclusions and Recommendations**

19. The Consumer Council supports the Bill in principle.
  
20. Considering the health concerns and the social costs of leaving unchecked the proliferation of claims which could be exaggerated and without proof, the Council urges that claims related to slimming/fat reduction, regulation of body immune system and promotion of detoxification be included in Schedule 4 of the Bill.
  
21. The Council suggests setting up a list or register to keep record of the suppliers and their products, but care must be exercised to prevent the possible misuse by some suppliers of the state of being registered or listed.
  
22. The Council would like to see the Bill enacted and implemented as soon as practicable.

Consumer Council  
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