



LC Paper No. CB(2)2664/05-06(01)

中華人民共和國香港特別行政區政府總部衛生福利及食物局
Health, Welfare and Food Bureau
Government Secretariat, Government of the Hong Kong Special Administrative Region
The People's Republic of China

Our ref.: HWF/H/4/30 Pt.10 01

By Fax 2509 9055

Tel.: 2973 8120

Fax: 2840 0467

3 July 2006

Dr Hon KWOK Ka-ki
Chairman of Panel on Health Services
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Dr Hon KWOK,

Panel on Health Services

At the Health Services Panel meeting on 20 March 2006, the Panel discussed claims made by slimming/fat reduction products and services provided by beauty parlours. The Administration undertook to provide the following information to Members.

Department of Health's enforcement and surveillance efforts

The Department of Health (DH) safeguards the health of the community mainly through its preventive and public education measures. It also carries regulatory responsibility in respect of issues and items that

- 2 -

pose potential health hazards like the use of drugs.

Members enquired about the number of inspections made by DH on slimming centres. In 2005, nine such inspections were conducted and DH plans to increase the number to at least 15 per year. More visits will be conducted if DH receives information on possible contravention of the relevant legislation.

DH also arranges laboratory testing of health food products/proprietary Chinese Medicines available in the local market on a regular basis to ensure they are not adulterated with western medicines and do not contain excessive heavy metals. A detail breakdown of the test results in relation to slimming products for the past three years is at **Annex 1**.

In January 2005, DH launched an Adverse Drug Reactions (ADR) Reporting and Monitoring System with a view to capturing effectively drug reaction incidents, and issue health alert to medical and health professionals as well as the public where necessary. Information received will also facilitate DH's regulatory functions stipulated above. The System has been widely promulgated to the medical and dental professions by letters and emails as well as through their respective professional organizations. Presentations on the ADR Reporting and Monitoring System were also arranged for medical students, doctors as well as Chinese Medicine Practitioners. Doctors, dentists and Chinese Medicine Practitioners who handle patients believed to have adverse drug reaction can submit reports to the ADR Monitoring Unit for DH's consolidation and analysis. DH will alert doctors and Chinese Medicine Practitioners of any potential drug misuse or contamination problems.

DH considers risk communication a major facet of public health protection, and therefore regularly publicizes its law enforcement efforts and issues appropriate health alert to the public through various channels including press conferences, uploading information on website, setting up enquiry hotlines, writing to targeted stakeholder groups etc. DH will keep its enforcement and risk communication efforts under review, and ensure that they are undertaken effectively, and coordinate such efforts with other departments/agencies where appropriate.

- 4 -

proposed sanction to be taken. If the BA's provisional finding is that there is likely to be a contravention, the licensee will then be invited to make representation on the provisional finding and the proposed sanction, and thereafter the BA will come to a final decision. The final decision on the complaint rests with the BA. DH stands ready to offer professional advice upon request by BA as appropriate.

If an advertisement is found in contravention of the Codes, the BA could impose a sanction, which includes issuing an advice/strong advice; warning/serious warning to a licensee; or imposing a financial penalty; directing the licensee concerned to issue a correction or apology; or suspension or revocation of the licence, depending on the seriousness of the breach.

The BA announces and publishes its decisions on complaints via press releases and its website. This would make known to the public any advertisement found to contain false or misleading claims or unable to provide adequate substantiation for the claims made.

Although the BA does not have the power to ban any broadcast, from past experience, the licensees take the decisions of the BA very seriously, and would withdraw the broadcast of an advertisement or amend the problematic claims if they are found in contravention of the Codes.

Advertisements shown on public transports are considered "film" under the Film Censorship Ordinance (FCO) and are subject to its control. The FCO does not have provisions governing advertising of specific products and services or their truthfulness. Nonetheless, medical advertisements shown on public transports are subject to the regulation of the Undesirable Medical Advertisements Ordinance (UMAO).

There is currently no legislation providing for the ban of sale of slimming products which have proven to be ineffective.

Pre-censoring of television advertisements

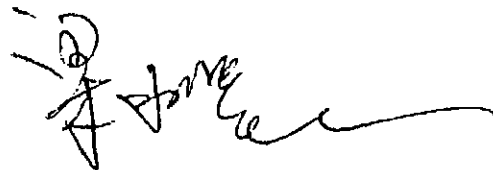
Prior to 1995, Regulation 6 of the then Commercial

- 5 -

Television (Advertising) Regulations of the Television Ordinance (Cap. 52)¹ stipulated that "No advertisement for any medical preparation shall be broadcast without the approval in writing of the Director of Health obtained in respect of the whole of the advertising material." In other words, television advertisements for medical preparations had to be pre-approved by Director of Health (DH) for broadcast.

D of H's power was then criticised as sweeping and undefined, and was considered an infringement of press freedom and freedom of expression. Also, since no similar restriction was imposed on sound broadcasters and the printed media, there was a disparity in treatment among different media. The provision was ultimately removed in July 1995 by way of an Amendment Regulation via a motion moved by the then Secretary for Recreation and Culture and approved by the Legislature. A copy of the relevant "Official Record of LegCo Proceedings" is enclosed at **Annex 2**. Consequential amendments were also made to the TV Code of Practices on Advertising Standards to have the relevant provision deleted.

Yours sincerely,



(Jeff LEUNG)

for Secretary for Health, Welfare and Food

¹ The Ordinance was repealed in 2000.

Annex 1

Analysis of Health Food and Proprietary Chinese Medicine Samples

	2003	2004	2005
Total number of proprietary Chinese medicines/health products tested	2418	2499	2221
Number of slimming products tested (out of the total number)	221	192	250
Number of samples found to contain western medicines	12	7	8
Type of western medicines found (no. of samples)	Sibutramine (10) Sibutramine & fenfluramine (1) Mazindol (1)	Sibutramine (5) N-nitrosofenfluramine (2)	Sibutramine (7) Bisacodyl (1)

TELEVISION ORDINANCE

THE SECRETARY FOR RECREATION AND CULTURE moved the following motion:

"That-

- (a) the Commercial Television (Advertising) (Amendment) Regulation 1995; and
- (b) the Television (Programmes) (Amendment) Regulation 1995,

made by the Governor in Council on 20 June 1995 and 27 June 1995 respectively, be approved."

He said: Mr President, I move the motion standing in my name in the Order Paper.

These two amending Regulations form part of the Administration's overall review to ensure that existing laws do not infringe press freedom and the right to freedom of expression.

The Commercial Television (Advertising) (Amendment) Regulation 1995 was made by the Governor in Council on 20 June 1995. It removes the power of the Director of Health to pre-censor advertisements for any medical preparations. The scope of the Director of Health's discretion has been criticized as sweeping and undefined. It also gives the Authority pre-censorship powers that have been removed elsewhere, and creates a disparity in treatment between different media, since no similar restriction is imposed on sound broadcasters and the printed media. There is little justification to retain this Regulation in the Television Ordinance. Following the repeal however, provisions will continue to be made, and be revised if necessary, in the codes of practice issued by the Broadcasting Authority, to guide broadcasters in respect of advertisements on medical preparations, and to protect the public against misleading and unacceptable advertisements in this regard.

The Television (Programmes) (Amendment) Regulation 1995 was made by the Governor in Council on 27 June 1995. It repeals the stipulation that programmes broadcast by the commercial and subscription television licensees shall exclude material which is likely to offend against good taste and decency, mislead or alarm, encourage and incite crime or social disorder, discredit the law or the social institutions or to serve the interest of any foreign political party. This provision is regarded as excessively restrictive and deemed to contain too vague a restriction on freedom of information. In any event, this provision has been superseded by section 33 of the Television Ordinance, introduced in April 1993, which makes it a requirement for the licensees to broadcast material that is likely to incite hatred against any group of persons by reason of race, nationality, sex or religion, or cause a general breakdown in law

