

**For Information
On 9 January 2012**

Legislative Council Panel on Health Services

**Commencement of the Undesirable Medical
Advertisements (Amendment) Ordinance**

PURPOSE

We plan to commence the provisions in the Undesirable Medical Advertisements (Amendment) Ordinance 2005 (UMA(A)O) related to the control of health claims of orally consumed products on 1 June 2012. This paper informs Members of details of the plan.

BACKGROUND

2. The Undesirable Medical Advertisements Ordinance (UMAO) (Cap. 231) prohibits advertisements claiming that a product or a treatment has curative or preventive effect on any diseases listed in the schedules to the Ordinance. The purpose is to protect the general public from being induced by advertisements to seek improper self-medication or treatment instead of consulting relevant healthcare professionals.

3. UMAO was amended in June 2005 to widen its scope to extend the prohibition / restriction on advertising to another six groups of claims specified in a new Schedule 4, and to apply the prohibition/restriction to all orally consumed products, except those customarily consumed as food or drink. The six groups of claims to be prohibited / restricted included in Schedule 4 are detailed in the table below.

Health claims	Restriction imposed
(i) Prevention, elimination or treatment of breast lumps	The advertising of these three claims is not allowed under any circumstances.
(ii) Regulation of function of	

genitourinary system	
(iii) Regulation of endocrine system	
(iv) Regulation of body sugar or glucose	The advertising of these three claims is allowed in the prescribed format (e.g. “The product is suitable for people concerned about blood sugar”). However, for products not registered under the Chinese Medicine Ordinance (Cap. 549) (CMO) or the Pharmacy and Poisons Ordinance (Cap. 138) (PPO), a disclaimer must be clearly put in the advertisement to inform consumers that they are not products registered under the CMO or the PPO.
(v) Regulation of blood pressure	
(vi) Regulation of blood lipids or cholesterol	

4. Other major amendments enacted in 2005 include:
- (a) increasing the penalty for contravention of UMAO from \$10,000 to level 5¹ and imprisonment for six months for a first offence; and from \$25,000 and imprisonment for one year to level 6¹ and imprisonment for one year for a second or subsequent offence (section 7 of UMA(A)O);
 - (b) empowering the Director of Health to appoint inspectors to enforce the UMAO (section 8 of UMA(A)O); and
 - (c) changes to Schedule 1 to add in new permitted claims and remove some restrictions on the permitted claims (section 9 of UMA(A)O).
5. A copy of the UMA(A)O enacted is at the **Annex**.

¹ The maximum penalties for level 5 and level 6 are \$50,000 and \$100,000 respectively.

Implementation plan

6. We commenced sections 1, 9 and 11 of UMA(A)O in January 2006. Other provisions of the UMA(A)O, including those relating to prohibition / restriction of advertising of the six groups of claims detailed in paragraph 3 above, are yet to be commenced. As these provisions provide that orally consumed products carrying health claims but not registered under PPO or CMO must carry an additional disclaimer indicating so, they can only be brought into operation after commencement of the mandatory registration and the requirements of label and package insert of proprietary Chinese medicine (pCm) under CMO. This has been implemented in two phases in December 2010 and December 2011 respectively.

7. We propose to commence the remaining provisions under the UMA(A)O on 1 June 2012. The Undesirable Medical Advertisements (Amendment) Ordinance 2005 (Commencement) Notice 2012 will be tabled at the Legislative Council on 18 January 2012 for negative vetting.

Publicity

8. To help the trade better understand the new regulations under UMA(A)O, the Department of Health (DH) has launched various publicity activities and maintained close communication with the trade since 2005.

9. DH has also prepared a set of guidelines in close consultation with the trade representatives and Members of the Panel on Health Services in 2006. The “Guidelines on the Undesirable Medical Advertisements (Amendment) Ordinance 2005” have been sent to the trade and made available on the website of the Drug Office under DH.

10. In addition, letters were sent to traders and publishers to brief them about the UMA(A)O. Seminars and briefing sessions were also conducted in 2006 for the trade and publishers to explain the UMAO and its Amendment Ordinance.

11. To prepare the trade for the full implementation of the UMA(A)O, DH has launched another round of publicity activities. Since January 2011, DH organized nine briefing sessions for traders of western medicine, Chinese

proprietary medicine and health food, as well as the publishing companies and other stakeholders. Representatives from over 500 companies / organizations attended. DH will continue to keep the trade informed and launch further publicity activities.

Advice Sought

12. Members are invited to note the proposal in this paper.

Food and Health Bureau
January 2012