The Administration's responses to the enquiries raised by Members at the Bills Committee meeting on 17 January 2005

1. **To collect statistics on the number of people who suffered ill health as a result of consuming health food products making claims relating to the regulation of immune system and the promotion of detoxification and slimming/fat reduction and delaying proper treatment (Para. 2(a) of the minutes of meeting)**

   The Administration will consider how such information can be collected in a more systematic manner. One possible avenue is to adopt the approach along the lines of the new reporting system for Adverse Drug Reaction (ADR) which has just been introduced on 1 January 2005 for Chinese and western medicines.

2. **To separate the regulation of health claims of health food products from the regulation of health claims made by registered medicines, having regard to the fact that the latter's safety, quality and efficacy had to be vetted and approved by the relevant authorities before they could be sold in Hong Kong (Para. 2(b) of the minutes of meeting), and**

3. **To consider recasting the allowable claims in the Bill along the lines which would allow manufacturers of the registered pharmaceutical products and registered proprietary Chinese medicine to advertise the health claims of their products more explicitly but with the proviso that the products concerned might not be beneficial to every consumer (Para. 4(a) of the minutes of meeting)**

   The Administration considers that people with certain diseases or bodily conditions, which may warrant proper medical treatment, should seek proper medical consultation rather than relying on self-medication. The Undesirable Medical Advertisements Ordinance (Cap. 231)("UMAO") was enacted to promote this objective.

   The UMAO therefore prohibits or regulates the publication of certain advertisements that are likely to lead to the use of, inter alia, medicines for treating diseases or conditions specified in that Ordinance.

   To further promote the objective, we propose to widen the existing scope of the UMAO and impose restrictions on publishing advertisements which make certain types of claims for "registered drugs" (i.e. products which are registered under the Pharmacy and

Poisons Ordinance (Cap. 138) or the Chinese Medicine Ordinance (Cap. 549)) or "health food products".

It is intended that both advertisements for "registered drugs" and advertisements for "health food products" should be subject to the control stipulated in the proposed new section 3B and Schedule 4.

That said, in view of the fact that "health food products", unlike "registered drugs", are not evaluated by the authority, we consider it desirable to add a further requirement in relation to "health food products" and require that a disclaimer as specified in the Bill should be added on both the product label and the advertisement whenever the advertisement makes an "allowable claim" specified in the Bill.

We are also considering to amend the Bill to more clearly reflect the different requirements regarding the making of "allowable claims" in respect of "registered drugs" and "health food products".

In any case, the manufacturer of registered drugs can specify the registered status in their advertisements.

4. To provide a breakdown of the types of complaints relating to health food lodged with the Consumer Council from 2001 to 2004 (Para. 3 of the minutes of meeting)

We are awaiting input from the Consumer Council.

5. To consider making clear the meaning of "health food" or "customarily consumed food" in the Bill (Para. 4(b) of the minutes of meeting)

There is no universally accepted legal definition for "conventional food". In coming up with the proposed definition of "orally consumed product", we have made reference to the way "food" is described in the laws in Hong Kong and other jurisdictions. We consider that by excluding a product which is customarily consumed only as food or drink, and a product which is customarily consumed to satisfy a desire for taste, texture or flavour, from the definition of "orally consumed product", the Bill can already achieve its intended purposes effectively. Nonetheless, as our policy intent is to regulate advertisements for "registered drugs" as well as the "health food products" (the latter of which are mostly presented in dosage form of pills, tablets, capsules, powders, sachets, liquid, etc.), we are considering possible adjustments to the proposed definition in order to better reflect our policy intention. The exact wording will be submitted to Members at the clause-by-clause examination stage.