

**Government's Responses to Issues Raised
at the Meeting of the Bills Committee on Undesirable Medical Advertisements (Amendment) (No. 2) Bill 2004 ("Bill")
on 2 November 2004**

Corresponding paragraph(s) in the Minutes of Meeting on 2 Nov	Government's Responses
3(a)	The retail sales figure of health food products in relation to regulation of immune system, detoxification and slimming is estimated to be around \$1.4 billion in the past 12 months.
3(b)	The purpose of the Undesirable Medical Advertisements Ordinance (UMAO) is to prevent the adverse effects of improper self-medication by members of the public and the delayed proper treatment of diseases. In considering the health claims to be prohibited under the proposed Schedule 4, a risk-based approach was adopted. The first level of restriction applies to the most risky claims which relate to the treatment of diseases, i.e. treatment of breast lumps; regulation of function of the genitourinary system; and regulation of the endocrine system (Categories 1 to 3 in Schedule 4). The making of such claims will not be allowed. The next level of restriction applies to claims relating to the regulation of bodily conditions potentially symptomatic to diseases which may warrant proper medical consultation. Claims under this category are those relating to the regulation of blood sugar, blood pressure and blood lipid or cholesterol. As for detoxification and improvement of the immune system, they are considered more related to improvement and strengthening of health and bodily conditions for the purpose of disease prevention. The risk of delayed proper treatment of diseases due to orally consumed products with claims on 'raised immunity' and 'detoxification' is considered relatively low.
3(c)	The membership of the Expert Committee is as follows: <ol style="list-style-type: none"> 1. Dr Cindy Lai, Assistant Director (Special Health Services), Department of Health (DH) – Chairperson 2. Prof Lam Tai Pong, Associate Professor, Family Medicine Unit, University of Hong Kong

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	3. Ms Connie Lau, (then) Head of Research and Survey Division, Consumer Council 4. Prof Kenneth Lee, Professor, School of Pharmacy, Chinese University of Hong Kong 5. Prof Liu Liang, Dean, School of Chinese Medicine, Hong Kong Baptist University 6. Dr Susan Lui, Dietitian-in-charge, Haven of Hope Hospital 7. Dr Thomas Chung, (then) Principal Medical Officer (5), DH 8. Mr Anthony Chan, Chief Pharmacist, DH 9. Mrs Mary Cheng, Senior Pharmacist, DH – Secretary
3(d)	Please refer to the Appendix .
3(e)	Among the 313 health food products screened from July 2003 to June 2004, 25 products were confirmed to be adulterated with medicines and were recalled from the market.
4(a)	<p>Under the Food and Drugs (Composition and Labelling) Regulations (Cap. 132) (Sub. Leg. W), it is a statutory requirement for all pre-packaged food to have their ingredients shown in packaging. Section 4A and Schedule 3 of the Regulations stipulate that the following information be provided and displayed on the labels of prepackaged food:</p> <p>(a) name or designation of the food; (b) list of ingredients and additives; (c) indication of 'best before' or 'use by' date; (d) special condition for storage or instruction for use; (e) count, weight or volume; and (f) name and address of manufacturer or packer.</p> <p>Health food products which are considered as pre-packaged food would be subject to the same regulation.</p>

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4(b)	<p>For orally-consumed products under the second level of restriction which are attached with the specified claims relating to the regulation of blood glucose, blood pressure or blood lipids (i.e. claims belonging to the Categories 4, 5 and 6 in the proposed Schedule 4), and which are not registered under the Pharmacy and Poisons Ordinance or the Chinese Medicine Ordinance, we have proposed in the Bill that both the package label and the advertisement of every such product shall further include a disclaimer specified in that Schedule that the product is not registered under either of the two Ordinances. The suggestion of requiring health advice to be placed on the packaging of other 'health food' products would require further consultation with relevant stakeholders on its impact and practicability.</p>
4(c)	<p>Safety of the so-called "health food" products for human consumption is controlled through the following avenues: under the Public Health and Municipal Services Ordinance (Cap. 132), the sale, and possession for the purpose of sale, of any food or drug which is unfit for human consumption is prohibited; test purchase are regularly undertaken by DH to protect the public from health foods which might be adulterated with medicines. Both DH and FEHD would investigate and follow up cases regarding the non-compliance of food and drugs under the relevant provisions of Cap. 132.</p> <p>The making of claims for food and drugs which falsely describe the products, or which are calculated to mislead as to the nature, substance or quality of the products are also prohibited under Cap. 132. Moreover, false trade descriptions of goods in aspects like quantity, composition, strength and performance etc. are prohibited under the Trade Descriptions Ordinance (Cap 362), for which the Customs and Excise Department (C&ED) is the enforcement agency. Consumers aggrieved by the false or misleading claims about a particular product may lodge their complaints to the C&ED for appropriate follow-up actions.</p>
4(d)	<p>The inclusion of the three types of claims relating to the regulation of the immune system, the promotion of detoxification and slimming/fat reduction in the Bill is technically possible from the law drafting point of view,</p>

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	as long as they are within the remit of the legislation and the current legislative amendment exercise.

**Divided views on regulation of body immune system,
slimming or fat reduction of the body and promotion of detoxification**

Regulation of body immune system

Support

- Some are concerned about cancer patients on chemotherapy taking these products without proper advice from their doctors.
- Some Chinese medicines could improve immunity and increase white blood cells. These medicines might work for some cancer patients, depending on the different stages of cancer and should be used under medical supervision.

Against

- A large spectrum of products may be affected because many general claims relating to the ability to improve health and strengthen body resistance against disease e.g. 增強身體抵抗能力 might inadvertently be caught under this category.
- General claims without specific mentioning of the treatment of the diseases should be allowed.
- A wide implication on various trades. The industry will lose a lot of business and the media will lose a considerable amount of its advertisement income.
- The consumers are not given information and cannot make intelligent choice on products.
- Genuine claims cannot be made for herbs with proven clinical evidence to prevent disease.
- Over-regulation and inappropriate government intervention could suffocate the industrial development and modernization of Chinese medicines.

Slimming or weight reduction

Support

- Prolonged use of such products would lead to anemia, iron deficiency and malnutrition; other improper weight control measures could also result in serious side effects.
- There have been cases where patients developed anorexia and metabolic disorders after misuse of slimming products.

Against

- A wide implication on various trades. The industry will lose a lot of business and the media will lose a considerable amount of its advertisement income.
- Consumers would like to have some slimming products in the market.
- Not allowing any claims on slimming would deprive the customers' right to know about the products.

Promotion of detoxification

Support

- Under traditional Chinese Medicine theory, the term “排毒” is not used.
- Most of these products are stimulant laxatives and prolonged use of them may cause serious side effects including loss of gastrointestinal tone, dehydration, diarrhea and rebound constipation.

Against

- The term “detoxification” is difficult to define. It may be difficult to enforce if the definition is not clear.
- Products on slimming and detoxification are very popular in the local market, and the economic impact of the proposed regulation should be carefully assessed.
- The proposed approach will lead to over regulation and limit customer freedom of choice to products and information.