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**Speech by the Hon Mrs Selina Chow Liang Shuk-ye,  
GBS, JP  
Motion Debate on Regulating Health Foods, 5  
November 2003**



Selina Chow:

Madam President, with the ever rising standard of living, people have become more and more concerned about health and ways to maintain it, thus leading to the incessant expansion of the health foods market. It is thus only natural that the public have come to attach importance to health foods information. It is admittedly important to protect the health of consumers, but it will certainly do no good to the public and the industry if attempts are made as suggested in original motion to demand the Government to devise a comprehensive regulatory mechanism for health foods in total disregard for consumer choice and vitality of the industry.

The Government has already put in place a number of ordinances to regulate health foods, the scope of which covers the safety of consuming such foods, label contents, the licensing of manufacturers and dealers as well as the existence of Chinese or Western medicine as ingredients. Under section 231 of the existing Undesirable Medical Advertisements Ordinance (UMAO) of Hong Kong, advertisements are forbidden to make any claim that a product or course of treatment can prevent or cure the diseases specified in the UMAO. The scope of regulation also covers the health claims made in product labels. As for health foods claimed to have curative effects or drug ingredients, the existing Pharmacy and Poisons Ordinance already imposes control over product safety, labelling and the licensing of manufacturers. And, products with ingredients of Chinese medicine are regulated by the Chinese Medicine Ordinance, which started in 2003 to take effect in phases. The consultation document recently published by the Government on the claims made by health foods proposes to impose regulation on two types of claims; the proposal has already aroused the grave concern of food importers, suppliers, wholesalers and retailers, and they have made requests for airing their views to the relevant authorities.

What we are discussing now is not the regulation of "drugs", but the regulation of "foods". To begin with, the various markets have yet to reach a consensus on the definition of health foods. What is more, generally speaking, health foods are not meant for curative purposes, not meant to be taken by a patient to cure his disease. Rather, they are meant to help the user improve his health. For this reason, even if health foods advertisements and publicity are a bit exaggerating, even if the health

foods concerned may not be very effective or may not be effective at all, they will do no harm to the health of the user. I think the premise for the Government's intervention in the market should be the protection of consumer safety and health. In this connection, the existing UMAO can basically serve the purpose, so even if there are any practical and strong needs for changes, there is already a basis. Any request for government regulation of all health foods under the pretext of consumer protection is no different from dragging the Government into the market to erect various hurdles for suppliers. If we follow the same logic, should we also regulate the "exaggerating" claims of other types of products, such as cosmetics, skin care products and household goods? Are our consumers really so stupid that they are totally unable to make any judgements of their own? This explains why I propose in the motion to encourage the supply of product information to assist consumers in making informed choices when buying health foods. This is of course a good thing, but we must still adhere to the principle that the burden on consumers must not be increased and their choices must not be reduced. This is the only true way to protect consumer interest.

The greatest problem with the regulation of health foods is that internationally, there is not yet any consensus on how health foods or their health claims should be regulated. As I have pointed out, there is not yet any common definition of "health foods". As such a small market which imports most of its products from the rest of the world, can Hong Kong possibly formulate any scheme that can regulate all the health foods imported from the rest of the world? Regulation of this kind will bring forth unbearable consequences, and society as a whole will also have to pay a high price. But there does not seem to be any advantage at all. According to the information provided by the Retail Management Association, if health foods are really brought under regulation, huge numbers of products in the market will be affected. For example, some products, such as oatmeals, Quaker Oatmeal, which are claimed to be "useful in regulating cholesterol", or those brands of canola oil claimed to be "useful in reducing the chances of contracting cardio-circulatory system diseases", or the British product, Horlick, which is claimed to be "essential to natural bodily resistance", and some pure natural chrysanthemum tea claimed to be able to "detoxify, sharpen up people's vision and help digestion", in brief, products posing no major health hazards, will all be subject to regulation. If all the above claims are brought under regulation, the products' packaging will have to be altered, and their suppliers will also have to produce proof that the claims concerned are not exaggerated. If the products concerned come from countries where there is no such regulation, their supply will gradually shrink and in the end, it may even be possible that no such products can be sold any longer. The industry has told us of its great worry that the regulation of health foods may endanger their survival and add to their costs; in the end, the increased costs will have to be transferred onto consumers. Owing to rising costs, the import of some products may cease, or they may fail to compete in the market. In that

case, the variety of products may shrink, and the choices of consumers may be reduced. What is most ironical is that if such supervision or regulation is really imposed, the industry will try to avoid breaking the law, and so they may stop making any claims at all. In that case, consumers will know nothing about the effectiveness of the products offered in the market. Although they can still buy these products, how can they make any informed choices in the absence of any information?

I have learnt from the Chinese medicine profession that the curative effects of many Chinese herbal medicines have been confirmed by various sources. For example, ginseng, Lingzhi and Cordyceps can enhance immunity. Korean ginseng is able to regulate blood pressure; Sanqi can reduce blood lipid, while Bezoar is good for detoxification. If curative claims are prohibited or regulated, the retail market and the development of the Chinese medicine trade will both be dealt a severe blow. What is more, with the phased implementation of the Chinese Medicine Ordinance in 2003, products with Chinese medicine ingredients are already regulated, thus serving the purpose of protecting consumer health. So, what point is there for the Government to tighten regulation to such an extent that the industry can hardly survive? Some Chinese medicine manufacturers have told me that over the past one year, there have been many drastic market changes, such as the Chinese Medicine Ordinance and the Chinese medicine registration system; if health claims are brought under regulation, it will be difficult for the industry to keep pace with all the changes. Consumers will also find it hard to follow. There will thus be severe negative impacts on consumer interest and the development of the health foods market.

In order that consumers can be better enabled in their choice of products, the Liberal Party maintains that the authorities should, while paying heed to consumers' freedom of choice, actively encourage manufacturers, traders, import/export agents, wholesalers and retailers to voluntarily provide correct product information to assist members of the public in making purchases.

The Liberal Party notices that in recent years, the Government, the Legislative Council and members of the public have all tended to regard enhanced regulation as the best solution to problems. Actually, upon close scrutiny, problems are often the results of inadequate enforcement or insufficient information. Hong Kong people are very wise. In many cases, if they can realize the rationale, they will naturally come up with their own rules. And, one must never underestimate market forces, so any over-emphasis on legislative control will achieve the opposite result of eroding market flexibility and creativity. If we even bring low-fat ice-cream, fat-reducing hawthorn slices and fruit gummy with Vitamin C under regulation, there will be no room for any creative advertisements. Can we imagine what kind of place Hong Kong will become?

Thank you, Madam President.