

**The Management of Illegal Advertisement of Drugs and Health Products
On Community Radio, Cable TV, Satellite TV, and the Internet**

Definitions

“**Health product**” refers to any medicinal and health product which the Ministry of Public Health has the duty and authority to control and regulate in accordance with the law, and includes other products that are alleged to have medicinal benefits for or effects on health.

“**Community radio**” is a small size radio station designed to engage in commercial operations or to seek profits from radio advertisements.

Cable TV is a television system which broadcasts its signals through coaxial cables.

Satellite TV is a television system which sends its signal to an orbiting satellite that, in turn, sends the signals back to earth.

The Internet is a large network of computers that links computers together using telecommunication networks, and also includes websites, online social networks, e-mails, and the use of the internet on mobile phones.

The situation surrounding the problem

1. The value of the advertisement of drugs and health products has a trend to double its current value. The advertisement of drugs among consumers during the period from 2006 to 2009 was more than 2.5 billion baht per year. Food advertisements, in particular, the value of the advertisement of food supplements, went up to 17 billion baht, which is 12 times¹ higher than in 1996. The information from just one media production company in 2002 shows that the value of the advertisement of food supplements was as high as 821 million baht², and it continues to expand in order to reach more consumers through several categories of media, especially, community radio, cable TV, satellite TV, and the Internet. In 2010, there were more than 7,700 community radio stations throughout the country; and it was estimated that more than 12 million households, or about 60 percent of all households in Thailand, had access to cable TV and satellite TV. It was estimated that at that time the amount of money derived from advertisement on cable TV and satellite TV was about 2,000-3,000 million baht^{3,4}.
2. Food supplements are the most advertised products on community radio stations³, which uses a strategy of providing incentives and frequent reinforcement. According to

the information provided by the Consumers Protection Center of Khon Kaen Province's Consumer Association, it was found that advertisements on community radio stations and cable TVs were repeated at least four times throughout the day, and at times went up to a high of 11 times per day⁵; and in Chiangmai Province, it was found that many community radio frequencies of several stations were wholly bought up by one business entrepreneur for an all-day⁶ advertisement blitz; this is in line with the results of a lawsuit against food products under the brand name of Jeni Food, which were advertised on cable TV and satellite TV periodically throughout the day, and the same advertisement being on 11 channels⁷. In addition, several other strategies have been used so that consumers have been victimized as a result of numerous types of advertisement. For example, live broadcasts guaranteeing the benefits of food supplements by well-known and well recognized talk show hosts; advertisement in regional dialects; using conversations between a talk show host and consumers who claimed that they have had the experience of using the products as promotion; talk show hosts reading letters from listeners who wrote to them to talk about the benefits of the products; and a form of disguised advertisement in which authoritative health personnel were used as speakers providing "knowledge" to the audience. All of these, in the final analysis, are a form of propaganda to advertise products and persuade consumers to believe in them and purchase the products for their own use eventually^{6,8}. Most of the consumers believed that the products that were advertised in the media were safe and approved by the government⁶.

3. Based on the advertisements of drugs and health products on local radio stations in the provinces of Khon Kaen, Roi Et, Sri Saket, Chaiyaphum, Chiangmai, and Songkhla^{6,9-10}, it was found that illegal advertisements that were in violation of the Drug Act of B.E. 2510 (1967) amounted to 64 percent, while those in violation of the Food Act B.E.2522 amounted to 95.2 percent. After reviewing the contents of the advertisements that could be misleading for consumers, it was found that drug advertisements constituted 55.9 percent and food advertisements 74.5 percent.
4. Food supplements are another group of products which were most advertised on the internet. About 52.5 percent of the advertisements said that the efficacy and safety of the products were guaranteed by the Food and Drug Administration (FDA).¹³ And the monitoring of advertisements of health products on the internet, conducted by the Center for Monitoring and Accepting Complaints on Health Products of the FDA, from October 2010 to September 2011, indicated that there were 1,461 complaints on advertisements of health products that were either illegal or not appropriate. Among these, 556 were complaints about food products, 335 complaints about drugs, 319 complaints about cosmetics, 208 complaints about medical devices, and 73 complaints about hazardous materials. Moreover, the number of arrests involving advertisements on the internet that exaggerated the benefits of food supplements went up from 160 cases in 2008 to 237 cases in 2011. And from January 2009 to July 2010, the FDA

closed down 62 web sites with 719 URLs and also closed down the web boards of 155 web sites for reason of exaggeration of benefits—which brought a total to 349 URLs⁴.

Impact

5. Although there have been no studies of the economic impact resulting from the problems caused by these advertisements, the report on the health of the Thai people in 2011 indicated that these advertisements were worth at least 10,000 million baht⁴. This demonstrates that the Thai people waste a lot of money on drugs and health products that are inappropriate or unnecessary.
6. There are also increased risks or harm to the consumer. For instance, there was a case where liquid obtained from a biological fermentation, which was advertised on cable TV, was used as eye drop and resulted in a consumer's loss of eyesight.¹¹ The consumption of “enzyme” for therapeutic purposes was also seriously dangerous for one consumer so that he had to be hospitalized; another example was a case where a consumer drank a certain brand of herbal wine that led to high blood pressure and infection, and had to be hospitalized.¹² Examples also included high school and university students who died prematurely because they ordered and took weight reduction drugs from web sites.⁴

Relevant Policies and Measures

7. Under the current control of advertisements in accordance with the Drug Act B.E. 2510 (1967) and the Food Act B.E. 2522 (1979), advertisements must be granted permission by the Food and Drug Administration before they can be aired, and they must not exaggerate the benefits of the products, nor be untruthful; and they must comply with other requirements set forth. In particular, the advertisement of food must not contain preventive and healing effect messages of the product.
8. Under the supervision of the media regulations in accordance with the Radio and Television Broadcasting Business Act B.E. 2551 (2008), operators of radio and television broadcasting business are required to apply for a permit from the National Radio and Television Broadcasting Business Board and to comply with the criteria regarding the proportion of advertising content compared to substance, nature and length of the advertisements, as well as a prohibition against a program with the type of content that would have serious danger on the people's health. But more importantly, the Board has the power to terminate the airing of a program, suspend or cancel a permit.
9. The supervision of web sites in accordance with the Computer Crime Act B.E. 2550 (2007) specifies a penalty for any person who imports false computer data to a computer system in a manner that is likely to be damaging to others or to the public, and the authorities are legally able to stop the dissemination of data that affects the

national security of the Kingdom, or is likely to go against the order and peace or the good morals of the people.

10. Consumers who suffer from damage as a result of consuming products the benefits of which have been exaggerated or misleading may sue for damages in accordance with the “Liability for Damages Arising from Unsafe Products Act B.E.2551.”
11. Consumer empowerment through the adaptation of their values, attitudes and behaviors, the creation of their conscientiousness to be aware of how to protect themselves and how to understand and be on par with the media, as well as to be vigilant about the problems and the management of such problems at the local level—all these are measures which several agencies are implementing, i.e. the Office of Food and Drug Board, the Office of the Consumer Protection Board, the Office of the Thai Health Promotion Foundation, non-governmental organizations for consumer protection, etc. And it is expected that local administration organizations would join in with the implementation of these measures.
12. The development of ethical requirements for mass media operators, show hosts, and advertisement media producers has been initiated by mass media professional organizations.

Current Operational Problems

13. Although the food and drug law requires that permission be granted by the Food and Drug Administration first before an advertisement can be aired, there are widespread violations of the law due to the numerous steps involved in the legal procedure should a case be taken to court, and in general the legal process is cumbersome and not dynamic; guidelines are unclear; consumers are not well aware of the seller’s guiles and tricks, they lack access to product databases, and there are numerous categories of media through which information can be quickly disseminated. As a result, authorities are not able to deal with the problems on a timely basis. Moreover, the penalties are not severe compared to the amount of revenue gained for the business by ignoring the law. Also, the drug law is still not competent enough to cope affectively with advertisements on the internet.
14. Although there is a penalty for the person who imports false computer data to a computer system in a manner that is likely to cause injuries to others or to the public in accordance with Section 14 (1) of the Computer Crime Act of B.E. 2550 (2007), it is difficult to find the owner of the web site (who sometimes might be overseas), whereas opening a web site is very easy as there are no mechanisms from which a person has to apply for permission before being able to open a web site. On the other hand, the process of stopping the dissemination of inappropriate and illegal data on the web site in accordance with Section 20 of the Act is time consuming; it is time consuming to collect evidence to prove to the court that such a web site is having an effect on the

national security of the Kingdom or is contradictory to the peace and good morals of the people.

15. The surveillance of advertisements is not yet comprehensive enough to cover all areas of the country, and has not been able to catch up with technology. The relevant social sectors and communities do not participate in solving the problem, and relevant agencies lack unified efforts.
16. There is a government agency which is currently charged with the supervision of the media, namely, the National Telecommunications Commission (NTC); however, it is still in its initial phase of operation. The Commission is still at the stage of developing notifications and regulations or criteria for supervision, as well as for the issuance of permits, all this so that it can supervise the businesses of broadcasting, television, and telecommunication properly in accordance with the Broadcasting, Television and Telecommunication Businesses Act. In other words, the Commission still lacks the tools to supervise the said businesses.
17. There is a lack of mechanisms to strengthen consumers, so that they understand and can see through what is presented by the media, and have appropriate values in relation to the consumption of drugs and health products, able to reasonably make a selection as to what to consume, and to do so with consciousness; also, consumers should be aware of their rights, and have access to health product databases that are necessary for their decision making.
18. There is a lack of effective mechanisms to supervise and regulate compliance with proper ethics for different groups of media business operators, including health professionals, public health officials, teachers, lawyers, etc, who identify themselves as certifiers of the benefits of drugs and health products that are illegal.
19. There is a lack of an all-round strategic plan that can solve problems in a manner that is efficient, continuous, sustainable, and be able to be up to speed to new channels of communication that will occur in the future.

Guidelines on Problem Solving

20. Improving the laws on health products and computer crime, making them up-to-date and able to deal with the situation surrounding the problem, increase the penalties appropriately, and set norms and standards for the businesses of broadcasting, television and telecommunication involving advertisements of drugs and health products.
21. Developing mechanisms for surveillance of the advertisement of drugs and health products in such a manner that is inclusive of all sectors, this to be done by forming committees, and ask local administration organizations, or local governments, to provide budgetary support for the operations of local community organizations,

networks of the people's sector, professional health organizations, the mass media, educational institutions and the business sector.

22. Developing systems of litigation so that laws can be enforced quickly and strictly, by setting standardized guidelines that can be used by all the legal authorities, as well as making arrangements for comprehensive dissemination of timely information from databases of illegal products which competent authorities and consumers alike can access.
23. Ask organizations of professionals, i.e. teachers, public health officials, lawyers, etc., to control their members and not to allow them to advertise or certify the benefits of drugs and health products that are illegal, and ask media professional organizations to oversee the compliance with such ethics on the part of mass media business operators.
24. Support and encourage members of the public to have the knowledge and understanding of the media comparable to the knowledge of the members of the media themselves; to have appropriate values in consumption of drugs and health products; to be able to make a reasonable selection, with consciousness, of what to consume; to be aware of the exercise of the rights of a consumer, as well as to have the ability to access databases of information on health products that that are necessary for their decision making. Also, effort should be made to encourage educational institutions, academic organizations, and professional organizations to provide appropriate, all-round, comprehensive and up-to-date knowledge on health products to members of the public. These data and information should also be easily accessible to them.
25. Developing a strategic plan to deal with advertisement of illegal drugs and health products on community radio stations, cable TV, satellite TV, and the internet, which cover also new communication channels that will grow and pose problems in the future.
26. There should be evaluation of the impact of the advertisement of illegal drugs and health products in a systematic and on-going way.

Issues for Consideration by the National Health Assembly

The National Health Assembly is requested to review the document: The National Health Assembly 4/Draft Resolution 1.

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