

THE MINISTRY OF HEALTH

Circular No. 08/2013/TT-BYT of March 13, 2013, guiding the advertisement of food under the management of the Ministry of Health

Pursuant to June 21, 2012 Advertising Law No. 16/2012/QH13;

Pursuant to June 17, 2010 Law No. 55/2010/QH12 on Food Safety and the Government's Decree No. 38/2012/ND-CP of April 25, 2012, detailing a number of articles of the Law on Food Safety;

Pursuant to the Government's Decree No. 63/2012/ND-CP of August 31, 2012, defining the functions, tasks, powers and organizational structure of the Ministry of Health;

At the proposal of the director of the Vietnam Food Administration;

The Minister of Health promulgates the Circular guiding the advertisement of food under the management of the Ministry of Health.

Chapter I GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Circular provides conditions, competence, dossiers and procedures for certifying contents of advertisements of food under the management of the Ministry of Health.

2. This Circular applies to organizations and individuals engaged in the introduction and advertisement of food under the management of the Ministry Health in Vietnam's territory.

Article 2. Types of food subject to registration of advertisement contents

1. Functional food;
2. Micronutrient-fortified food;
3. Natural mineral water;
4. Bottled water;
5. Food additives, food processing aids;
6. Food packaging tools and food packages and containers used during food production, processing and trading;

Article 3. Prohibited acts in food advertising

1. Advertising food without written certifications of advertisement contents granted by competent health agencies.
2. Advertising counterfeit or poor-quality food.
3. Advertising food as having effects as medicines.
4. Advertising food not in conformity with the contents of the regulation conformity announcement or the announcement of conformity with food safety regulations or exaggerating the effects of food.

5. Advertising food in the form of articles written by physicians, pharmacists or health workers describing food as having effects of treating diseases.

6. Using images, reputation and mails of health units and health workers or letters of thanks of patients for food advertising.

7. Other prohibited acts as prescribed by the advertising law.

Chapter II CONDITIONS, COMPETENCE, DOSSIERS AND PROCEDURES FOR CERTIFYING CONTENTS OF FOOD ADVERTISEMENTS

Article 4. Conditions on contents of food advertisements

1. The advertisement contents of in the mass media, on leaflets, posters and bills must comply with announced information on the effects of products; other information, if any, must be proved with scientific documents, and the following details must be accurate and truthful:

- a/ Name of the product;
- b/ Origin of goods, names and addresses of the manufacturer and importer;
- c/ Effects of the product (if any);
- d/ Warnings (if any) for using the product;
- dd/ Instructions for use and preservation (for products having special usages and requiring special methods of preservation);
- e/ For functional food, the advertisements must read or say: "This product is not medicine and cannot substitute medicine." The advertisements must be written in Times New Roman font, size 14 pt, or must be audible in normal conditions.

2. Advertisements on signboards, billboards, panels, racks, shelves and other objects, aerial, underwater or moving objects do not necessarily contain all information on the product (usages, effects, preservation) but must be consistent with the content of the regulation conformity announcement or the announcement of conformity with food safety regulations.

Article 5. Competence to grant written certifications of contents of food advertisements, registration for organization of food introduction seminars and conferences

1. The Ministry of Health assigns the Vietnam Food Administration to grant written certifications of contents of advertisements of functional food and micronutrient fortified food.

2. Food Safety and Hygiene Departments shall grant written certifications of contents of advertisements of food under the management of the health sector, including bottled water, natural mineral water; food additives, food processing aids, food packaging tools and food packages and containers during food production, processing and trading; certify dossiers of registration for organization of seminars and conferences to introduce food under the management of Ministry of Health in their localities; and certify contents of advertisements of food under the management of other ministries or sectors stating health effects.

Article 6. Dossiers of registration for certification of food advertisement contents

Before advertising food, organizations and individuals shall send 1 set of dossier of registration of advertisement contents to a competent state agency.

A dossier set comprises:

1. A written registration for certification of contents of the advertisement (made according to Appendix 1 to this Circular);

2. The business registration certificate, for enterprises, or the establishment license, for representative offices of foreign traders (copy bearing the registering organization's or individual's seal);

3. The written certification of the announcement of conformity with food safety regulations (for products for which relevant technical regulations are not available) or receipt of the technical regulation conformity announcement issued by a competent state agency (copy bearing the registering organization's or individual's seal);

4. The product information sheet certified by a competent agency (copy bearing the registering organization's or individual's seal).

5. The food advertisement:

a/ One video, audio or computer disc recorded with the advertisement contents, enclosed with two copies of the script (bearing the registering organization's or individual's seal), for television, cinema or radio advertisements.

b/ Two copies of the advertisement layout (bearing the registering organization's or individual's seal) enclosed with an electronic file of the advertisement contents applied for registration, for advertisements on printed newspapers, leaflets, posters and bills or on other objects, advertisements on e-newspapers, e-portals of enterprises or advertising agencies and on the Internet.

6. Reference documents and scientific documents evidencing information not yet included in the certified product information sheet. In case these documents are written in

a foreign language, their Vietnamese versions are required.

These documents must bear the registering organization's or individual's seal affixed on every two adjoining pages.

7. The specimen label of the product approved by a competent health agency (copy bearing the registering organization's or individual's seal).

Article 7. Procedures for grant of written certifications of food advertisement contents

1. Within 10 working days after receiving a valid and complete dossier, a competent state agency shall grant a written certification of advertisement contents (made according to Appendix 2 to this Circular); in case of refusal, it shall issue a written reply clearly stating the reason.

2. Within 3 months after the dossier-receiving agency issues a written request for dossier supplementation and modification, if the registering agency, organization or individual fails to modify and supplement the dossier or reply in writing the dossier-receiving agency, it/he/she will be considered no longer wishing to advertise food as registered.

Article 8. Food introduction seminars and conferences

1. Seminars to introduce food with domestic sale permits or without domestic sale permits but having permits for sale in the country of manufacture may be organized as follows:

a/ Domestic organizations or individuals with relevant business registration certificates may organize food introduction seminars;

b/ Foreign organizations and individuals

wishing to organize a seminar on food products not yet permitted for sale in Vietnam but already permitted for sale in the country of manufacture shall coordinate with a domestic organization or individual possessing a relevant business registration certificate in organizing the seminar.

2. Speakers at a seminar must possess professional qualifications in medicine, pharmacy or nutrition or a university or higher-level degree in relevant disciplines and shall take responsibility before law for the truthfulness and accuracy of their speeches at the seminar or conference.

3. Contents of food introduction documents used at seminars and conferences must comply with the advertising law and other relevant laws.

4. Before organizing a food introduction seminar or conference, an organization or individual shall send a dossier of request for certification of contents of the seminar or conference to a competent state agency in the locality where the seminar or conference will be organized and may organize the seminar or conference only after obtaining the written certification of the dossier of registration of a food introduction seminar or conference.

5. Activities of introducing and advertising donors' products at seminars or conferences must comply with advertising regulations of this Circular and other relevant laws.

Article 9. Dossiers and procedures for certifying the registration for organization of food introduction seminars and conferences

1. A dossier of registration for organization of a food introduction seminar or conference comprises:

a/ The written registration of the agenda of the food introduction seminar or conference (made according to Appendix 3 to this Circular).

b/ A copy of the business registration certificate, for enterprises, or the establishment license, for representative offices (copy bearing the registering organization's or individual's seal);

c/ The certificate of the standard applicable to the product or the receipt of the registration of the regulation conformity announcement, certified by a health agency. For food not yet permitted for sale in Vietnam but having a certificate of free sale in the country of manufacture, such certificate is required (copy bearing the registering organization's or individual's seal);

d/ A copy of the product information sheet certified by a competent agency (copy bearing the registering organization's and individual's seal);

dd/ Specimen labels of the product (copies bearing the registering organization's and individual's seal);

e/ Two copies of the layout or script or a set of documents to be used in the seminar or conference bearing the registering organization's or individual's certification and seal on every two adjoining pages (enclosed with 1 video or audio disc or electronic file);

g/ A list of speakers (with information on their professional diplomas or academic titles);

h/ Reference or scientific documents proving advertising information not yet mentioned in the certified product information sheet. In case these documents are made in a foreign language, their Vietnamese versions are required. These documents must have the registering organization's or individual's seal

affixed on every two adjoining pages.

2. Procedures for certifying the contents of advertisements of food products at food introduction seminars or conferences

Before organizing a food introduction seminar or conference, an organization or individual shall send a registration dossier to the Food Safety and Hygiene Department of the locality where the seminar or conference will be organized.

Within 10 working days after receiving a complete and valid dossier, the Food Safety and Hygiene Department shall issue a written certification of the dossier of registration for a food introduction seminar or conference (made according to Appendix 4 to this Circular); in case of refusal, it shall issue a written reply clearly stating the reason.

Article 10. Method of numbering written certifications of food advertisement contents

1. Written certifications of advertisement contents granted by the Ministry of Health (the Vietnam Food Administration) shall be numbered in the following order: serial number/year of grant/XNQC-ATTP (for example: 123/2008/XNCQ-ATTP).

2. Written certifications of advertisement contents granted by provincial-level Food Safety and Hygiene Sub-Departments shall be numbered similarly as those granted by the Vietnam Food Administration, followed by the abbreviated name of the province or centrally run city after two capital letters YT. The abbreviated names of provinces and centrally run cities are provided in Appendix 5 to this Circular. For example: 123/2013/XNQC-YTHN.

Article 11. Validity of written certifications of food advertisement contents

A written certification of food advertisement contents will be invalidated in the following cases:

1. The receipt of the regulation conformity announcement or the written certification of the announcement of conformity with food safety regulations is no longer valid.

2. The enterprise has its certificate of satisfaction of food hygiene and safety conditions revoked.

3. There are changes in product compositions or uses.

the Ministry of Health (the Vietnam Food Administration) for study and settlement.-

Minister of Health
 NGUYEN THI KIM TIEN

** All appendices to this Circular are not translated.*

Chapter III

IMPLEMENTATION PROVISIONS

Article 12. Effect

This Circular takes effect on April 26, 2013.

Article 13. Transitional provisions

Agencies, organizations and individuals that have registered food advertisement dossiers and received the receipts of dossiers of registration for advertisement of food or food additives from a competent state agency before the effective date of this Circular may continue the advertisements until these advertising documents are no longer valid.

Article 14. Organization of implementation

The directors of the Vietnam Food Administration and provincial-level Health Departments shall organize the implementation of this Circular.

Any problems arising in the process of implementation should be reported to