

Public Announcement No. 2019-96 by the Ministry of Food and Drug Safety

**Standard for Determining Unfair Labeling and Advertising of
Foods**

October 28, 2019

Ministry of Food and Drug Safety (“MFDS”)

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Standard for Determining Unfair Labeling and Advertising of Foods

Article 1 (Purpose). This Announcement aims to ensure the objectivity and transparency of the enforcement of the law against unfair labeling and advertising by illustrating the details of unfair labeling or advertising under Article 3.2 of the *Act on Labeling and Advertising of Foods* and Article 3.2 of the Enforcement Decree of the same Act. It also aims to promote correct labeling and advertising to contribute to consumer protection.

Article 2 (Contents of Unfair Labeling or Advertising). Unfair labeling or advertising of foods, food additives, apparatus, containers, packaging, health functional foods, and livestock products (hereinafter referred to as “Foods and Others”) is as follows:

1. Labeling or advertising foods to mislead consumers into believing that the food is a drug:
 - A. Labeling or advertising using a name similar to the prescribed name of an oriental medicine or those listed in Attached Table 1;
2. Labeling or advertising foods to mislead consumers into believing that the food is a health functional food:
 - A. Labeling or advertising using an expression or mark describing that the product is a health functional food;
3. Labeling or advertising in a deceptive manner:
 - A. Labeling or advertising that the raw materials or food additives (excluding preservatives) prohibited to be used in foods under the MFDS Notifications, including the *Standards and Specifications for Foods*, *Standards and Specifications for Food Additives*, *Standards and Specifications for Apparatus, Containers, and Packaging*, and *Standards and Specifications for Health Functional Foods*, are not included or unused;

(Example) Labeling or advertising that no color is added in the food that must not use tar color, such as noodle, seasoned meat, sauce, paste, tea, coffee, and ginseng / red ginseng drinks

(Example) Labeling or advertising that no red pepper seeds are added to the red pepper powder

(Example) Labeling or advertising “DEHP-free” for food apparatus

- B. Labeling or advertising that the preservatives prohibited to be used in Foods and Others under the MFDS Notification on the *Standards and Specifications for Food Additives* are not included or unused. In this case, the preservatives defined under Article 1.2.9 of the *Standards and Specifications for Foods* are sodium dehydroacetate, sorbic acid and its salts (potassium, calcium), benzoic acid and its salts (sodium, potassium, calcium), p-hydroxybenzoic acid (methyl and ethyl), and propionic acid and its salts (sodium, calcium).

(Example) Labeling noodle, Kimchi, dumpling skin, seasoned meat or packed meat as “Preservatives not added” or “Free of preservatives”

- C. Labeling or advertising that there are no harmful substances to the human body using terms such as “environmental hormone” or “phthalate,” which cannot be explicitly scoped. However, for the purpose of providing consumer information, labeling, or advertising of “BPA-free,” “DBP-free,” or “BBP-free” on food apparatus (except for food apparatus for infants or children) may be accepted if no substances harmful to the human body are found in the final product;

- D. Labeling or advertising that the substance contained in the product or used in the manufacturing process is not present or used;

(Example) Labeling or advertising “No sodium nitrite (NsNO₂) added” for a product that uses celery powder and fermenting bacteria (NO₂ ions are produced in the product when it uses celery powder and fermenting bacteria.)

(Example) Labeling or advertising “No L-monosodium glutamate (amino acid) added” for a product that uses hydrolyzed vegetable protein containing amino acid

- E. Labeling or advertising with an emphasis on the content of nutritional components when the corresponding nutritional component content is not contained in the original food that did not go through a manufacturing or processing process to lower the content of the nutritional component;
- (Example) “Cholesterol-free” on tofu products
- F. Labeling or advertising with expressions such as “Free of sugar” or “No sugar added” for a product that used sugars (the total content of monosaccharide and disaccharide) or did not comply with the “no sugars” criteria under the standards for nutritional component content emphasis labeling defined in Item 1.I.5 of Attached Sheet No. 1 of the *Foods Labeling Standards* (MFDS Notification);
- G. Labeling or advertising with names other than those defined under the *Standards and Specifications for Food Additives* announced by the Minister of Foods and Drug Safety;
- (Example) Labeling or advertising with expressions such as “Free of MSG,” “No MSG added,” “Free of preservatives,” and “No preservatives added”
- H. Labeling or advertising with an emphasis that the product complies with the standards and specifications related to hazardous substances (such as agricultural chemicals, heavy metals, fungal toxin, and veterinary drugs and their analogues) announced by the Minister of Food and Drug Safety, such as the *Standards and Specifications for Foods*, the *Standards and Specifications for Food Additives*, the *Standards and Specifications for Apparatus, Containers, and Packaging*, and the *Standards and Specifications for Health Functional Foods* to mislead consumers to think that other products of the same type do not comply with the regulations;
- (Example) “Green tea that complies with the standards on agricultural chemicals,” “Kimchi that complies with the standards on heavy metals”
- I. Labeling or advertising with a picture or photo of the taste or scent of the product when the product uses synthetic flavors to produce that taste or scent;
- J. Labeling or advertising with expressions (including such expressions in other languages)

such as “natural” or “nature” for the following products, except for expressions used in (1) “natural” casings for processed meat products and (2) farm, forest, fish, and livestock products in the “natural” state under the *Standards and Specifications for Foods*:

- 1) Foods that contain synthetic flavors, color additives, preservatives, or other artificial or added synthetic components;
- 2) Food that went through a process other than the removal of inedible parts or the minimum physical process defined in Attached Table 2);
- 3) Natural state foods including farm, forest, livestock, and fish products, bottled water, genetically modified foods, and nano foods;

K. Labeling or advertising “100%” when the substances other than the labeled single raw material remain in the finished product. However, in the case of products where the concentration is diluted and reverted to the original state, and if the concentration of the reverted ingredient subject to labeling is above 100%, even if the product contains food additives (excluding mixed preparation food additives containing raw materials that are not subject to labeling), labeling of “100%” is permitted. In this case, the name or purpose of the food additives shall be labeled right next to or underneath “100%” in parenthesis in the same letter size;

(Example) 100% Orange Juice (including Citric Acid), 100% Orange Juice (including Acidity Regulator)

L. Labeling or advertising with trademarks or logos other than those of the food manufacturing or processing business or distribution-specialized sales business under Articles 21.1 and 21.5.b.3 of the *Enforcement Decree of the Food Sanitation Act*; the meat processing business, meat packaging business, and livestock product sales business under Article 21.3, 4 and 7 of the *Enforcement Decree of the Livestock Products Sanitary Control Act*; health functional food manufacturing business and distribution-specialized sales business of health functional foods under Articles 2.1 and 2.3.b of the *Enforcement Decree of the Health Functional Foods Act*; and

business entities that manufacture goods by original equipment manufacturing under Article 18 of the *Special Act on Imported Food Safety Control*, with the following exceptions:

- 1) Foods that are not sold to end consumers, and farm, forest, fish, and livestock products in the natural state;
 - 2) The trademark owner under the *Trademark Act* has provided not only the right of use of the trademark but also the information or technology related to the safety and quality of the corresponding product;
- M. Labeling or advertising that misleads or confuses consumers to think that the product is superior to other products, by using terms that do not have clear definitions or types (range) and that do not have sufficient objective and scientific grounds;
(Example) “Superfood,” “Glycemic index (GI),” or “Glycemic Load (GL)”
- N. Labeling or advertising with expressions such as “Non-genetically modified food,” “Free of genetically modified food,” “Non-GMO,” “GMO-free,” or other expressions similar thereto for (1) foods that are not subject to GMO labeling under Article 3.1 of the *Labeling Standards for Genetically Modified Foods* or (2) foods that have been manufactured or processed using genetically modified foods;
- O. Drinks with properties (no color, etc.) similar to drinking water shall not use a product name such as “00 Water” that might be mistaken or confused for drinking water, except for carbonated water and when a food type is labeled with a font over 14 pt on the principal display panel; or
- P. Labeling or advertising products that might be mistaken or confused for the food types defined under the *Food Sanitation Act*, the *Livestock Products Sanitary Control Act*, and the *Health Functional Foods Act*, except for instant-intake food, instant cooking food, and sauce if their food type and purposes are clearly labeled.
4. Labeling or advertising any company or its product in a slanderous manner:
- A. Labeling or advertising that is suspected of slandering or slandering products of other companies;

(Example) “Unlike other 00, this product is not added with 00000.” “Unlike other 00, this product uses 00000 only.”

B. Labeling or advertising a food, etc. using terms such as “superior” or “better” without objective evidence, to mislead consumers into believing that the food is superior or better than others;

(Example) “The product developed for the first time in Korea” or “Korea’s first exporter” despite the inability to prove the term, “first”

(Example) “Ranked first in customer satisfaction index” or “Ranked first in national sales” without providing information on the survey, such as the object, institution, period, etc. of the survey

5. Labeling or advertising in a manner that seriously disturbs public order or social morality using an expression that encourages speculation or is obscene:

A. Labeling or advertising of food containers or packaging with an image of the lottery ticket or gambling hwatu; or

B. Labeling or advertising with a picture, drawing, photo, phrase, etc. expressing sexual organs or naked body, which causes sexual curiosity.

(Example) “00 Candy that arouses you to kiss,” “00 Jelly that arouses you to touch”

Article 6 (Review Period) Pursuant to Article 8 of the *Framework Act on Administrative Regulations* and the *Regulation on the Issue and Management of Directives and Established Rules*, the Minister of Food and Drug Safety shall review this Standard for its reasonableness to take necessary measures, such as making improvement thereto, once every third anniversary (by December 31) starting from January 1, 2020.

Addenda <No. 2019-96, October 28, 2019>

This Notification shall enter into force on the date of its announcement, except for Subparagraphs C, D, H, L, and M of Article 2.3, which shall enter into force on March 14, 2021.

[Attached Table 1] Prescribed Names of Oriental Medicine and Similar Names Thereto

Prescribed Names of Oriental Medicine	Names Similar to Prescribed Names
Gongjin(shin)dan	Gongjinhwan, Gongjinwon, Gongsindan, Gongsinhwan, Gongsinwon, Gongsimhwan, Gongjinek, Gongbohwan, Gongjihwan, Gongchimhean, Gongbonhwan
Gyongokgo	Gyongokjeong, Gyongokbo, Gyongokhwan, Jeongokgo, Gyongokek, Gyongoksenggo, Gyongokjingo
Ilsuyoungjingo	Ilsuyoungjinyongokgochahwan
Sagunjatang	Sagunjajeon, Sagunjatanghwan, Sagunjahwan
Samultang	Samuljeon, Samultanghwan, Samulhwan, Samulek
Ssanghwatang	Ssanghwajeon, Hanbang Ssanghwa Tea, Ssanghwaek
Sipjeondaebotang	Sipjeondaebojeon, Sipjeondaekoek, Sipjeondaebowon, Sipjeondaebocho, Hwalyok Sipjeondaebowon, Daebocho
Nogyongdaebotang	Nogyongdaebojeon, Nogyongdaeboek, Nogyongdaebojeup, Nogyonggiryukdaebo, Nogyongdaebojinek, Nogyongdaebojeong, Daebocho, Nogyongdaebocho
(Gagam) Boatang	Boajeon
Chongmyongtang	Chongmyongjeon, Chongmyongcha, Chongmyonghwan, Chongmyongdaebojungtang, Chonggicah, Chongmyongek
Guibitang	Guibijeon, Guibicha, Guibiek
Yukmijihwangtang (Hwan)	Yukmijihwangjeon, Yukmijihwangwon, Yukmi Gold, Yukmijihwangek
Palmijihwangtang (Hwan)	Palwooljeonjeon, Palmijihwangjeon, Palmijihwangek
(Ginseng) Gobonhwan	Ginseng Gobonju, Gobonju, Gobonsul, Gobonek
(Yeonryong) Gobondan	Gobonju, Gobonsul
(Hyunto) Gobonhwan	Gobonju, Gobonsul
Gobongeonyangdan	Gobonju, Gobonsul
Gunguigyoaetang	Gunguigyoajeon, Gunguigyoaecho, Gunguicho
Sochehwan	Sokpyunhwan
Yukgunjatang	Yukgunjajeon
Ojeoksan	Ojeoksanjeon
Saengmeksan	Saengmeksanjeon, Saengmekcha
Ikmohwan	-
Jinhaego	-
(Chenggan) Myongmokhwan	-
(Woohwang) Cheongsimwon	Cheongsimhwan
Gyulpeetang	-
Mengmundongtang	-
Palwool (Jin) Tang	-
Yijungtang	Insamtang

Prescribed Names of Oriental Medicine	Names Similar to Prescribed Names
Yeonneoniksubulrodan	-
Ojawon	-
Ojajeonjonghwang	-
(Children) Guiryong (Yong) Tang	-
Others	Seongjanghwang, Sengchiwon, Jetongwon, Jenggisan, Hyulgiwon, Singiwon, Cheonbohwan, Cheongpaewonek, Cheongpae-ek, Cheongpaewon, Eungyosan, Seongjangek

[Attached Table 2] Minimum Physical Processes - Definition and Scope

Process	Definition	Exclusion
Washing	Using water (including washing liquid) to remove impurities	-
Peeling	Using a knife or mechanical friction to peel fruits or vegetables	Peeling by hot water, steam, flame, alkaline solution
Cutting	Severing or cutting off	-
Compression	Squeezing oil or juice out of seeds, nuts, or fruits by pressuring and flattening	-
Grinding	Making foods into small particles	Grinding into micro or nano units
Stirring	Stirring to mix	-
Drying	Dehydrating by evaporation (including freeze-drying)	Hot air drying at 60°C or above
Freezing	Preserving at temperatures of - 18°C or below	-
Refrigeration	Preserving at temperatures of 0°C - 10°C	-
Shaping	Shaping foods with molds	-
Extrusion	Pushing foods through a frame or narrow hole to extrude noodles, etc.	-
Filtration	Filtering out sediment in a liquid using a filter paper, sieve, net, etc.	Example: Filtration using ion exchange filter, micro filtration, ultrafiltration
Centrifugation	Separating solids from liquid or of two types of liquid of different specific gravity utilizing centrifugal force	Centrifugation at 10,000 rpm or above (to remove particular substances) Example: Ultracentrifugation
Mixing	Putting together by hand or blender	-
Aeration	Injecting of air	-
Maturing	Decomposition of the protein, fat, and carbohydrates in the food by the action of their enzymes, microbes, and salts resulting in the generation of a unique taste and scent of the food	-
Natural Fermentation	Breaking down of organic compounds to produce alcohol, organic acids, carbon dioxide, etc. out of the food	Forced injection of microbes
Dissolution	Melting in a liquid to make a solution	-