

Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

Competition Policy Review

The Consumers Health Forum of Australia (CHF) welcomes the opportunity to provide input to the Australian Government's Competition Policy Review. CHF is the national peak body representing the interests of Australian healthcare consumers. CHF works to achieve safe, quality, timely healthcare for all Australians, supported by accessible health information and systems. CHF provides a strong national voice for health consumers and supports consumer participation in health policy and program decision making.

This submission is informed by our work in the health sector and consultations with our membership over an extended period, which includes a broad range of health consumer interests, such as organisations advocating for older consumers, disease specific groups and networks, state and territory peak consumer organisations, and individual consumers.

CHF's submission is focussed on the following issues raised through the Issues Paper, and provides input from a health and consumer perspective. These issues also highlight the concerns in the current policy settings and existing Government agreements that warrant assessment.

1. **Government-Provided Goods and Services and Competitive Neutrality :** CHF believes that *accelerating Price Disclosure Measures* can improve and enhance government-provided services through the Pharmaceutical Benefits Scheme.
2. **Regulatory Impediments to Competition:** CHF recommends an assessment of the community pharmacy agreements and a *Deregulation of Pharmacy Ownership and Location Rules*.
3. **Codes of conduct—setting behavioural standards and providing for dispute resolution:** CHF recommends *enhancing and strengthening the Codes of Conduct across Therapeutic Goods Industry*.
4. **Australian Competition and Consumer Commission:** CHF recommends linking ACCC *health relevant authorisations to demonstrated public benefit*.
5. **Secondary Boycotts:** CHF supports upholding the *consumers right to seek and communicate information*.

Overall, CHF is supportive of the Review's objective to make sure that Australia has a supportive and healthy competitive environment. However, it is important to recognise that health care cannot be managed as a purely economic or market-driven commodity. Any proposal to alter the competitive nature of health care service provision has to be weighed

against overarching social and community health benefit. For example, universal access is central to the Australian health care system and competition policy principles should not seek to undermine this fundamental principle.

As the Issues paper notes, the importance of sectors such as health and education cannot be delinked from the social benefit this investment achieves. Thus competition in the health sector may be affected by restrictions that are not designed for competition purposes but for broader public policy objectives and generally aim to promote the development and delivery of safe, quality and accessible healthcare for all Australians.

However, CHF also recognises that our universal health care system is facing increasing constraints in delivering on its core objectives. The growth in the incidence of long-term chronic illness, the increasing high cost of therapies and devices and an ageing population have contributed to increasing costs and inefficient management. While we acknowledge that health regulatory systems are for the most part designed to have clear benefits to ensure that standards are met in the delivery of vital services, there are areas of public health policy that warrant assessment through this review.

Addressing these issues as detailed below can help ensure that Australia continues to deliver high quality, universally accessible, cost-effective health care to everyone.

1. Government-Provided Goods and Services and Competitive Neutrality : *Accelerating Price Disclosure Measures*

CHF notes the Reviews terms of reference which requires the Panel to examine whether government business activities and service providers serve the public interest by promoting competition and productivity. In the health context, the Pharmaceutical Benefits Scheme (PBS) provides timely, reliable and affordable access to necessary medicines for Australians, and is funded by the Government.

PBS is the main funding mechanism for prescription medicines in Australia, and its ongoing sustainability is a critical concern for all consumers. Price disclosure measures, introduced in 2007, are policy measures which addressed a widespread trend for suppliers to discount the price of medicines to pharmacists. Recent modelling also suggests that further accelerating price disclosure could result in additional savings of up to half a billion dollars per year,¹ and CHF strongly support accelerating these measures.

While there has been obvious push back by pharmacy owners and pharmaceutical industry representatives against this policy, it continues to provide cost benefits to both consumers and tax-payers and improve health outcomes for Australia, and it is vital that it be accelerated and retained. CHF is also concerned that leaked versions of the ongoing trade

¹ <http://ourhealth.org.au/drugged-reality-losing-2000-a-minute-and-counting>

negotiation also suggest that new provisions could prevent the use of effective pricing mechanisms and increase the influence of the pharmaceutical industry over decision making. This would be an unacceptable measure and has the potential to undermine the fundamental principles of our health system.

2. Regulatory Impediments to Competition: *Deregulation of Pharmacy Ownership and Location Rules*

Community Pharmacy Agreements (CPA) are funding agreements between the Pharmacy Guild of Australia, the organisation representing the interests of Pharmacy Owners, and the Australian Government. The overarching objective of the CPA is to provide reliable, timely and affordable access to cost-effective, sustainable and high quality pharmaceutical services and medicines. However, CHF believes that further investigation of the CPA model is necessary to establish whether it is the most effective and efficient way to deliver pharmacy services compared to alternative models. Importantly, the Review should consider the impact of the current pharmacy location and ownership rules, and whether these serve the public interest and the interests of health consumers.

CHF also holds concerns about the exacerbation of conflicts of interest under the CPA between pharmacy wholesalers and retailers. Alphapharm, for example, is a drug manufacturer with links to API. API owns Priceline, Soul Pattinson, Chemworld, and Pharmacist Advice. Sigma Pharmaceuticals owns Amcal Chemists and Guardian Pharmacies, while Symbion owns Chemmarts. The pharmacy wholesale market thus operates in a duopolistic system, limiting competition and driving up consumer and taxpayer costs. These ownership arrangements mean that full-line distributors and drug manufacturers are receiving payments under the CPA to review the medication regimes of patients, and that consumers are unknowingly providing personal and clinical information to pharmaceutical companies.

Currently, the ownership of large pharmacy brands by Australia's major pharmaceutical distributors could be contributing to the high price of Australian medicines compared with overseas markets. Such ownership structures are akin to vertical integration and encourage profiteering at the expense of consumer outcomes. The CPA needs to ensure that the location and ownership rules work for Australia's public interest, including increased access to community pharmacies for consumers in rural and remote areas of Australia.

3. Codes of conduct—setting behavioural standards and providing for dispute resolution: *Enhancing Codes of Conduct across Therapeutic Goods Industry*

The Issues paper seeks responses to whether the existing code framework is leading to a better marketplace, having regard of both the aims of the rules and the regulatory burden codes could create. In the health context, Codes of Conduct are a critical and ongoing issue

which impact the transparency and accountability within the sector. Currently, codes of practice or conduct (Codes) for the medicines industry provide consumers with reassurance that there are standards that must be met, and penalties apply if these standards are breached. For example the ACCC-authorized Medicine Australia Code of Conduct sets the benchmark for accountability within the Australian medicines industry.

CHF and its members have a strong interest in the ethical promotion of therapeutic goods, and have advocated for the establishment of a single, rigorous code of conduct for all pharmaceutical and therapeutic goods industries, for all members and non-members of industry associations alike. Our primary concern is for the inclusion of individual level disclosure of payments and sponsorship by companies to healthcare professionals through these codes.

Establishing a single code of conduct for the promotion of therapeutic goods would provide the Australian community and health consumers reassurance that the promotion of medicines and other therapeutic goods is ethical, competitive, transparent and ultimately done for the public benefit.

4. Australian Competition and Consumer Commission: *Linking authorisations to demonstrated public benefit*

The Australian Competition and Consumer Commission (ACCC) has the ability to grant authorisation to certain representative bodies such as the Australian Medical Association (AMA) and the Australian Dental Association (ADA), which enables them to collectively negotiate with state and territory health departments the terms of contracts, including fees, for the provision of health practitioners and services. ACCC grants authorisation on the basis that there would be some public benefit in the form of transaction cost savings and enhancement of effective representation of rural doctors in negotiating service agreements with state and territory health departments, which would outweigh potential public detriment. However, in its recent decisions the ACCC has granted authorisation of these anti-competitive arrangements in the absence of any evidence to demonstrate they are in the public interest.

While we note that these authorisations may have a positive influence on the retention of rural health practitioner workforce and provide transaction cost savings for members of these organisations, the actual impact on rural and remote consumers is a critical metric in determining the public benefit claims that support any such authorisation and CHF would expect that there is a requirement to provide evidence to support a public benefit claim of such an authorisation.

5. Secondary Boycotts: Upholding the consumer's right to seek and communicate information

CHF is supportive of the current CCA exemptions, which allows boycotts in circumstances where the dominant purpose of a boycott relates to environmental or consumer protection issues. We would be very concerned if there was an intention to dilute these provisions.

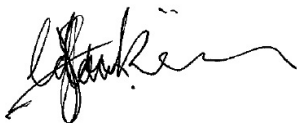
Consumer protection and welfare should be the paramount objective of Government regulation in this area, and consumers cannot be deprived of their freedom to seek and communicate information that guides their decision-making in the marketplace, including where it relates to consumer, ethical or environmental concerns.

Conclusion

Australians want a health system that is consumer-centred, navigable, affordable, accessible, transparent, safe, and of high quality. Our submission raises a range of issues that should be considered in assessing the competition policies that influence our current health system. CHF appreciates the opportunity to provide input to the Review and await the next round of consultation.

If you would like to discuss these comments in more detail, please contact CHF Project and Policy Officer, Priyanka Rai.

Yours sincerely



Adam Stankevicius
Chief Executive Officer
20 June 2014