Competition Policy Review

Submission to the
Competition Policy Review Secretariat

for

Ventura Health Pty Ltd

Comprising the following
Community Pharmacy Franchisors:
Cincotta Discount Chemists
Mega Save and Max Value Chemists
You Save Chemists

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*See Appendix I, Peter Feros Brief CV

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By Peter Feros*

The ability of pharmacists to best serve the medication interests of their communities continues to be damaged by public pronouncements that are embraced as conventional wisdom and follow similar lines: that the community pharmacy market is uncompetitive and needs to be deregulated to minimise prices for medicines and maximise accessibility.

The foundation of this 'conventional wisdom' is that removing government regulations surrounding the operation of community pharmacies, and allowing market forces of supply and demand to prevail, will improve pharmacy market competitiveness and reduce waste.

1. The PBS Monopsony

The definitions of the community pharmacy market as uncompetitive because of the pharmacist only ownership and location rules is incorrect in relation to the dominant community pharmacy category of the Pharmaceutical Benefits Scheme(PBS).

The correct definition of the PBS is monopsony.

Also:

- other community categories are very price competitive as the follow micro analysis details and
- these pharmacy rules have not prevented the development of very competitive community pharmacy models that have gained significant market shares.

The dominant category in community pharmacy is prescription medicines – they comprise about 70% of all community pharmacy sales and prescription sales are dominated by Pharmaceutical Benefits Scheme (PBS) prescriptions.

PBS prescription product prices and pharmacist professional fees are determined by the Australian Government in negotiations with pharmaceutical suppliers and community pharmacists represented by the Pharmacy Guild of Australia.

A monopsony.

The monopsony power of the Australia Government is evident by a range of factors that prevail in the community pharmacy market:

a) Very few community pharmacies operate without a PBS Approval Number to dispense PBS medicines – doing so is mostly not viable. My own experience is a case in point. Operating a community pharmacy without a PBS number for a some years in the Sydney suburb of Brookvale, my partners and I incurred substantial losses until a PBS Approval number was obtained.

b) More telling evidence that the community pharmacy market operates as a monopsony was the introduction of the accelerated weighted average disclosed pricing program (WADP) by the Labour Government in the 2013 Budget and its continued application by the Coalition Government since its election.

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*Peter Feros' brief CV is in Appendix I.

2. Weighted Average Disclosed Pricing

The WADP program was introduced by Prime Minister Tony Abbott when he was Health Minister in the Howard Government. It was introduced to claw-back the generic rebates that were being received by community pharmacies. In the average pharmacy these rebates were estimated by the Pharmacy Guild of Australia to contribute $60,000 a year to the average pharmacy's net profit.

The claw-backs were to be introduced over a number of years with an 18-month cycle. The accelerated WADP reduced this cycle to 12 months. This 12-month cycle reduced the average community pharmacy's profits by a further $30,000 per annum.

The WADP program in its original form was agreed to by the Pharmacy Guild of Australia and was in place when the Fifth Community Pharmacy Agreement commenced in 2010.

3. Accelerated WADP Breached Agreement

Clause 31 of the Agreement required that before there were any major changes to the terms of the Agreement, and thus the PBS, there had to be:

a) Consultation between the parties; and

b) Agreement on any changes.

The accelerated WADP was introduced by the Labour Government without consultation the day before they announced the date for the 2013 Federal Election.

The Abbott Government has refused to adjust the 12-month cycle despite the Pharmacy Guild of Australia producing data that showed:

a) For the average community pharmacy, 70% of net profit came from generic and wholesaler rebates; and

b) Job losses across community pharmacy would exceed 10,000 as a consequence of the accelerated WAPD process.

c) Expectations based on data, including member surveys, that more than 300 pharmacy businesses would fail as a consequence of these significantly harsher commercial conditions.

4. Under Co-payment and Private Prescriptions

While the PBS prescription co-payments cannot be discounted, two categories of prescriptions can be discounted:

a) Under co-payment prescriptions (21.9% of all prescriptions)[**]; and

b) Private prescriptions not covered by the PBS (9.1% of all prescriptions)[**].

There is fierce competition in the market for both these types of prescriptions generated by discount pharmacy brands such as Chemist Warehouse, Priceline Pharmacy, Good Price Pharmacy Warehouse and Cincotta Discount Chemist.

Chemist Warehouse started in the Melbourne suburb of Footscray in 2000. Since then and just 14 years later, the Chemist Warehouse franchise brand has grown to in excess of 260 stores. Its

** Pharmacy Guild of Australia data, sourced 4 August 2014 associated brand, My Chemist, has more than 40 stores. Together, along with its online pharmacy businesses, the Chemist Warehouse franchise and its associated My Chemist franchise, has:

a) Annual sales across all outlets of $2.7b and staff totalling more than 10,000, making it the 13th largest retailer in Australia. This achievement in just 14 years is perhaps the fastest growth vector achieved by any company in any Australian market;

b) A cost base lower than Woolworths or Coles;

c) Aggressively promoted 50% off a range of prescriptions in all its outlets and followed up with advertising of prescription prices online, along with 3.5 million catalogues distributed monthly throughout Australia;

d) And, through the impact of its competitive pricing, **<u>restructured</u>** community pharmacy's cost base and retail prices.

Chemist Warehouse in the Sydney suburb of Turramurra

The 50% off prescriptions is part of the Chemist Warehouse external signage on their very prominent outlets across Australia.

The 50% off prescription sign is now seen on the external signage of many community pharmacies.

5. S2 and S3 Medicines

The other two categories restricted to community pharmacy distribution are:

a) S2 medicines (medicines only available in a pharmacy). These medicines can be advertised and price-promoted, which Chemist Warehouse and other pharmacy discount brands do via online and catalogue promotions – again offering substantial discounts off recommended retail prices.

b) S3 medicines (medicines that can only be sold by a pharmacist personally). These products cannot be advertised but are also heavily discounted by Chemist Warehouse and other discount community pharmacy franchises.

Thus, in those categories restricted to pharmacy-only ownership and distribution, the market structure is either:

a) a monopsony; or

b) highly competitive.

6. Competition Across Open Selling Categories

The competitive strength of Chemist Warehouse and other community pharmacy discount franchises can be seen in categories in which it openly competes with supermarkets and discount department stores.

1. Complementary medicines

These products are available in community pharmacies and supermarkets and this category is dominated by Chemist Warehouse which has a market-leading 30% share. Woolworths and Coles have only 15% market share each.

2. Fragrance

Chemist Warehouse also claims to be market leader in the fragrance category with a larger share of the market than department stores.

3. Cosmetics

Chemist Warehouse is number two in this market behind the other large pharmacy franchise, PriceLine. Excluding the 5% market share held by the department stores on prestige brands, PriceLine has 30% of the market.

These commercial performances by Chemist Warehouse and Priceline Pharmacy demonstrate that supermarkets and discount department stores do not compete successfully with these pharmacy franchises in these categories. Therefore, the proposition that the community pharmacy market is uncompetitive is clearly wrong.

The price competitiveness of Chemist Warehouse and other pharmacy discount franchises can also be compared with Woolworths and Coles via their respective online sites.

Appendix II offers a comparison of a sample list from the top 100 product prices for Chemist Warehouse, Cincotta Discount Chemist, Woolworths and Coles. This was accessed on 26 October 2014.

The comparison demonstrates that far from having uncompetitive pricing, retail prices in the pharmacy discount franchises are substantially lower than those in the supermarkets.

That all community pharmacies do not offer the same retail prices as the discount pharmacies is no reflection of an uncompetitive community pharmacy distribution channel structure. Just like pharmacies, supermarkets and convenience stores do not provide homogeneous Woolworths and Coles retail-styled ‘every-day low prices’. Even among Woolworths and Coles stores there is significant pricing variation depending on location demographics.

7. An Informed Market

Consumers are well informed of the prices available from the discount pharmacy franchises via

a) These pharmacies' external signage and bill boards,

b) Millions of regular catalogues delivered to households,

c) Newspaper, TV and radio advertising, and

d) Online discount pharmacy sites.

8. Community Pharmacy a Highly Competitive Low Retail Price Market

The above demonstrates that laws requiring pharmacist ownership of pharmacies have not created:

a) an uncompetitive market for prescriptions which, under the PBS, is a monopsony; and

b) an uncompetitive market as community pharmacy franchises are out-performing non-pharmacy competitors in a number of major categories; and have retail prices better than the major supermarkets.

The Competition Policy Review Interim Report on Community Pharmacy was a classic example of economic theory analysis without regard to any adequate research of community pharmacy's performance.

The competition policy review's final report should get its head out of text books and economic theories and observe what is happening in the real world of community pharmacy

Examples from the last 40 years of how
g**overnment enquiries,**
Canberra bureaucrats,
and the media
have not done adequate research when reporting on community pharmacy's performance will be provided in a supplementary submission. The supplementary submission will also provide details of how these parties have drawn biassed conclusions about community pharmacy performance.

9. The Elderly and Mothers with Young Children

The consumers with the greatest need for medicines, pharmaceutical advice and primary health care contact are the elderly and mothers with young children.

That is the least mobile members of the community.

To meet these consumers' needs it is essential that a network of community pharmacies be located within easy access to these consumers.

The Competition Policy final report has to address the issue of access equity for these least mobile members of the community.

Peter Feros, brief CV

Peter Feros is a pharmacist graduate from University of Sydney.

- He is in partnerships in 12 community pharmacies in NSW and the ACT from small medical centre pharmacies to the largest turnover community based pharmacy in Australia. Cincotta Discount Chemist Merrylands has annual sales of $29m and dispenses 387,000 prescriptions a year.
- This Cincotta Discount Chemist format since 2007 has been franchised to 22 pharmacy locations.
- Peters' dispensary design consultancy work, has been based on dispensary work flow time and motion studies.
- Peter was the first person to advocate the PBS safety net, AJP[*], May 1981, and has been actively involved in the PBS remuneration debate over many years through AJP articles.

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* AJP is the *Australian Journal of Pharmacy*

Outlet Online Retail Price Comparisons

26 and 27 October, 2014

Product	Chemist Warehouse	Cincotta		Woolworths		Coles	
	$		% of CWH	$	% of CWH	$	% of CWH
Rexona For Men Deodorant Spray 150g	$4.99	$4.99	100.0%	$7.06	141.5%	$7.23	144.9%
Tresemme Moisture Shampoo 900ml	$6.99	$7.99	114.3%	$10.49	150.1%	$10.99	157.2%
Colgate Total Toothpaste 110g	$2.99	$3.68	123.1%	$3.54	118.4%	$3.62	121.1%
Bio Oil 125ml	$17.69	$19.95	112.8%	$26.86	151.8%	$19.79	111.9%
Nivea Rich Nourishing Body Lotion 400ml	$4.99	$6.99	140.1%	$8.84	177.2%	$8.78	176.0%
Nivea Sun SPF 30+ Spray 200ml	$14.39	$13.99	97.2%	$20.04	139.3%	$19.36	134.5%
Band -Aid Plastic Strips 50	$4.99	$4.99	100.0%	$4.83	96.8%	$4.55	91.2%
Voltaren Emulgel 100g	$17.99	$21.99	122.2%	$22.58	125.5%	$21.99	122.2%
Panadol Mini Capsules 20	$3.99	$3.99	100.0%	$4.50	112.8%	$4.50	112.8%
Nurofen Tablets 24	$4.69	$4.99	106.4%	$5.90	125.8%	$6.04	128.8%
Oral B Toothbrush Fresh Clean Soft	$2.69	$3.00	111.5%	$3.23	120.1%	$3.29	122.3%
Listerine Fresh Burst 1 Litre	$9.99	$9.89	99.0%	$10.54	105.5%	$9.39	94.0%
Colgate Zigzag Toothbrush Soft	$2.69	$1.99	74.0%	$3.23	120.1%	$3.36	124.9%
Colgate Dental Floss 25m	$3.39	$2.99	88.2%	$3.87	114.2%	$3.87	114.2%
Johnson & Johnson Baby Shampoo 200ml	$5.39	$5.25	97.4%	$6.02	111.7%	$6.33	117.4%
S26 Gold Newborn Formula 900g	$21.99	$22.89	104.1%	$22.00	100.0%	$21.99	100.0%
Pantene Daily Moisture Renewal Conditioner 350m	$3.99	$6.79	170.2%	$8.48	212.5%	$8.68	217.5%
Carefree Regular Tampons 20 pack	$4.69	$4.99	106.4%	$5.53	117.9%	$5.48	116.8%
Libra Ultra Thin Pad Super Wings 12 pack	$4.99	$5.49	110.0%	$6.29	126.1%	$6.27	125.7%
Zantac Relief 14 Tablets	$7.39	$7.49	101.4%	$10.74	145.3%	$10.67	144.4%
Gaviscon 500ml	$8.39	$8.69	103.6%	$12.89	153.6%	$11.83	141.0%
Strepsils Honey and Lemon 16	$4.69	$6.00	127.9%	$6.76	144.1%	$6.92	147.5%
Nurofen PE Cold & Flu Tablets 24	$12.99	$12.99	100.0%	$16.65	128.2%	$16.82	129.5%
Lemsip Max 10 sachets	$9.99	$10.99	110.0%	$13.21	132.2%	$13.19	132.0%
Depend Real Fit Underwear Women Large	$13.99	$13.99	100.0%	$16.22	115.9%	$14.29	102.1%

Tena For Men Level 2	$8.69	$9.00	103.6%	$10.07	115.9%	$10.00	115.1%
Dettol Antiseptic 250ml	$7.99	$5.39	67.5%	$10.74	134.4%	$10.66	133.4%
Garnier Nutrisse Hair Colours	$10.99	$14.45	131.5%	$15.99	145.5%	$12.00	109.2%
Loreal Casting Crème Gloss	$14.99	$14.95	99.7%	$17.19	114.7%	$17.59	117.3%
Blackmores Bio C 62 tabs	$15.39	$14.95	97.1%	$19.80	128.7%	$19.77	128.5%
Blackmores Fish Oil 100mg 400 Capsules	$25.99	$22.95	88.3%	$31.16	119.9%	$31.89	122.7%
Cenovis Women's Once Daily Multi 125 Capsules	$18.69	$16.95	90.7%	$20.63	110.4%	$20.56	110.0%
Cenovis B Complex 110 Tablets	$5.99	$5.95	99.3%	$7.51	125.4%	$6.59	110.0%
Nature's Own Glucosamine 1500mg 120 Tablets	$26.39	$29.99	113.6%	$36.07	136.7%	$42.85	162.4%
Nature's Own Liver Tonic 50 Tablets	$11.99	$13.95	116.3%	$13.32	111.1%	$17.72	147.8%
Swisse Men's Ultivite 60 Tablets	$22.99	$24.95	108.5%	$27.54	119.8%	$27.11	117.9%
Swisse Ultiboost Iron 30 Tablets	$8.99	$10.50	116.8%	$10.74	119.5%	$10.66	118.6%
Nicabate 21mg Patch 7 pack	$30.99	$29.95	96.6%	$37.61	121.4%	$38.16	123.1%
Zovirax Cold Sore Cream 2g	$13.69	$12.49	91.2%	$16.11	117.7%	$16.49	120.5%
Chap Stick Lip Balm	$3.69	$3.99	108.1%	$4.84	131.2%	$4.82	130.6%
Gillette Mach 3 Turbo Razor Blades 4 pack	$13.99	$13.99	100.0%	$14.39	102.9%	$13.40	95.8%
Veet Warm Wax Hair Removal 375g	$11.69	$13.19	112.8%	$15.83	135.4%	$15.73	134.6%
Nair Sensitive Hair Remover Cream 75g	$5.69	$5.65	99.3%	$5.29	93.0%	$6.96	122.3%
Palmolive Softwash Antibacterial Pump 250ml	$2.69	$2.29	85.1%	$3.11	115.6%	$3.07	114.1%
Kleenex Aloe Vera Tissues 95 pack	$2.68	$2.74	102.2%	$2.39	89.2%	$2.09	78.0%
Faulding Shaving cream 75g	$2.39	$2.70	113.0%	$2.80	117.2%	$2.49	104.2%
Clearasil Wipes 65	$10.99	$13.79	125.5%	$16.10	146.5%	$15.99	145.5%
Optrex Refreshing Eye Drops 10ml	$6.69	$7.99	119.4%	$8.05	120.3%	$7.69	114.9%
Average of price comparisons	**$10.11**	**$10.62**	**105.1%**	**$12.66**	**125.2%**	**$12.57**	**124.4%**