



Response to the 2014 competition policy review
Issues paper

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Purpose

The purpose of this paper is to outline the views of the Pharmaceutical Society of Australia (PSA) with respect to the current regulatory environment underpinning the community pharmacy sector in Australia.

About PSA

The PSA is the peak national professional pharmacy organisation representing Australia's pharmacists working in all sectors and locations. There are approximately 28,000¹ registered pharmacists, of whom approximately 80 per cent work in the community sector.

PSA's core functions include: providing high quality continuing professional development, education and practice support to pharmacists; developing and advocating standards and guidelines to inform and enhance pharmacists' practice; and representing pharmacists' role as frontline health professionals.



Community Pharmacy in Australia

Australia is widely regarded as having one of best community pharmacy systems in the world.

The community pharmacy network is critical to the achievement of the objectives of Australia's National Medicines Policy², namely:

- timely access to the medicines that Australians need, at a cost individuals and the community can afford;
- medicines meeting appropriate standards of quality, safety and efficacy;
- quality use of medicines (QUM); and
- maintaining a responsible and viable medicines industry.

The community pharmacy network is underpinned by a range of regulatory arrangements at both Commonwealth and State and Territory level.

As part of the previous Review of National Competition Policy in 1993, a framework for the review and assessment of all legislation that restricted competition was established. The review of pharmacy regulation undertaken in 2000 (the 'Wilkinson Review') found that the laws regulating and supporting the community pharmacy sector were justified on public interest grounds.

The value of community pharmacy

Pharmacists are among the most trusted and accessible professionals in Australia. The 2014 annual Roy Morgan Image of Professions Survey³ found that 86 per cent of respondents rate pharmacists highly on ethics and honesty. This was a two per cent increase from the 2013 result and saw pharmacists ranked second overall behind nurses on 91 per cent.

The community pharmacy sector in Australia, encompassing more than 5,350 pharmacies across the country, is multifaceted and challenging, particularly as the health care needs of the Australian population are changing with an ageing population and advances in medical sciences and technology. The vital service that pharmacists play in dispensing and supplying essential medicines for the community, particularly consumers with chronic diseases, is a well-established part of the fabric of our society. Indeed, this has been the key role of pharmacists under the Pharmaceutical Benefits Scheme (PBS) since its inception in 1948.

The provision of medicines remains a core activity of pharmacists. This is not simply a supply function but is performed in the context of having the highest regard for patient safety and promoting judicious use of medicines. That is, whether they are prescribed, recommended or self-selected, medicines should only be used when appropriate, with non-medicinal alternatives considered as needed. Pharmacists are also expanding and consolidating their role in promoting public health and safety, educating consumers and health professionals about QUM, and assisting consumers through health promotion activities and prevention of ill health.

Community pharmacies are uniquely placed within Australian communities, and are increasingly being recognised as a hub for preventive health activities. The value of the community pharmacy network to patients and the health system is well documented. Optimising the management of long-term conditions through QUM has been shown to reduce or delay the incidence of hospitalisation in patients with chronic diseases⁴ and to reduce the need for and spending on expensive hospital admissions and medical services.⁵

In addition, over the past two years, PricewaterhouseCoopers (PwC) has been

undertaking research with the aim of measuring community pharmacy's impact on consumer health outcomes.⁶ As part of that research, PwC found that 98.5 per cent of consumers[†] reported having no issues accessing community pharmacy. Similarly, convenience was identified as the most important factor for consumers when they were asked about factors influencing their choice of pharmacy. A 2012 Australian Health Survey⁷ also found that together with general practitioners (GPs), pharmacies were the most highly used health care services in Australia. The study also found that pharmacists had the highest rating of services as good to excellent and consumers "were most satisfied with their recent visit to a pharmacy".

Community pharmacy location arrangements

The ease of access identified by PwC reflects, in part, the impact of the pharmacy location arrangements (the 'location rules'). The objectives⁸ of the location rules are to ensure:

- all Australians have access to PBS medicines;
- a commercially viable and sustainable network of community pharmacies dispensing PBS medicines;
- improved efficiency through increased competition between pharmacies;
- improved flexibility to respond to the community need for pharmacy services;
- increased local access to community pharmacies for persons in rural and remote regions of Australia; and
- continued development of an effective efficient and well-distributed community pharmacy network in Australia.

The location provisions facilitate access to pharmacies by all segments of the population. This is of inestimable value in terms of delivering safe and reliable health care services. Moreover, as Australia's population ages, a broad geographic spread of pharmacies will prove invaluable in meeting the needs of older consumers.

Accessibility of pharmacies is also determined by such factors as mobility, the age structure of a community, and the incidence vehicle ownership. Accessibility is therefore likely to be worse in areas with low incomes, and/or a high proportion of disabled or infirm people. In these areas, members of the community place considerable importance on the retention of their community pharmacy.



[†]The project surveyed 3,000 consumers in the community.



An essential part of the health infrastructure

PSA is strongly committed to the existing community pharmacy network which serves the needs of Australians well. PSA believes the ongoing viability and infrastructure of the existing community pharmacy network should not be compromised as it is fundamental to providing all Australians with equitable access to cost effective medicines made available through the PBS.

As well as being a crucial part of the health care infrastructure, pharmacies constitute an important element in the business structure of thousands of towns and cities across Australia. It is not clear whether large corporations would be interested in owning pharmacies in smaller towns, having forced the closure of a significant number of small businesses in these areas. The loss of a pharmacy is a considerable blow to the fabric of any small town.

An accessible pharmacy network ensures that the benefits of medicines are available to everyone in the community, and helps to avoid the higher costs associated with other forms of treatment such as surgery or hospitalisation. By supporting an accessible community pharmacy network, the provisions also help ensure that all Australians have access to the range of public health programs offered by pharmacies, such as needle exchange, and diabetes and asthma and other chronic disease management, as well as access to health advice and treatment for minor ailments.

The PwC study outlined above, found that nearly 40 per cent of people who visited community pharmacies received health advice, with a further 20 per cent wanting to discuss a reaction to a medication. Anecdotally, it has been estimated that the average person visits a pharmacy 14 times a year. This equates to several hundred million intervention opportunities per year that may otherwise require doctors' attention.

In rural areas, the health advice provided by community pharmacists reduces the burden on GPs, allowing them to focus on more serious health conditions. The location provisions support this, by underpinning the viability of the pharmacies in these areas. In this way the current regulations

surrounding the location of community pharmacies are a critical part of the Government's economic and social policy armoury to enhance services to rural Australia and to ensure cost-effective access to community health services.

Many European countries have similar regulatory arrangements regarding pharmacy ownership and location to that of Australia. This regulatory system was recently supported in a ruling by the European Court of Justice⁹ in response to challenges to ownership legislation in Italy and Germany, both of which have legislation specifying that only a pharmacist can own and operate a pharmacy.

The ruling by the Court concluded that the limitations on the ownership and establishment of community pharmacies was justified to ensure that the provision of medicinal products to the public is reliable and of good quality.

Similarly, a 2012 Report on the European experience¹⁰ found that while deregulation of the community pharmacy sector is often linked to an expectation of improved patient access and cheap medicines, in practice these expectations have not been met. The Report found that deregulation can actually result in impaired outcomes for patients, including an uneven distribution of community pharmacies, the dominance of some market participants (e.g. wholesalers) and commercial considerations leading to pressure to increase sales of over-the-counter (OTC) medicines and non-pharmaceutical products.

For a country with as many regional and remote communities as Australia, the potential for deregulation leading to clustering of pharmacies in metropolitan areas at the expense of pharmacies in rural areas is of particular and significant concern.

Professional environment

A community pharmacy should be regarded as a place where consumers can confidently establish an ongoing therapeutic relationship with the pharmacy health care team.

Pharmacists and pharmacy staff operate with a strong health care philosophy and a desire to assist people who are ill and those who wish to maintain good health or improve their health status. A large proportion of consumers have a 'regular' pharmacy and this enhances the health care relationship.

Health care interactions within a pharmacy should occur as a partnership between the consumer and the pharmacist or pharmacy staff. Such interactions would not be optimal from a QUM perspective unless the environment is conducive for, and the consumer's mindset is receptive to, the provision of health care advice and discussion which may complement the supply of therapeutic goods.

The physical setting and atmosphere of supermarkets are, by and large, not regarded as places where consumers would seek health care advice. Supermarkets, in particular larger outlets, operate in a setting which generally promotes features such as unrestricted access, one-stop shop for the purchase of groceries and other ordinary items of commerce, cheaper prices, additional savings through multiple purchases, convenience and anonymity of consumers.

PSA does not believe supermarkets provide an environment conducive to patient-centred care, promotion of patient understanding, interdisciplinary collaboration, opportunistic interventions, or effective operation of the health care team. Surrounded by an environment which highlights price and convenience, if a pharmacy is located in a supermarket, consumers would also approach or initiate their health care interaction with a high priority on these factors. PSA believes this would impede the health care interaction and potentially impact negatively on public safety and QUM.

Having a pharmacy located in a supermarket also has the potential for consumers to develop the

perception that potent, scheduled medicines are allowed to be located within an unregulated environment and therefore able to be self-selected in the absence of professional advice. PSA believes it is undesirable to portray this type of message as it can dilute and possibly undermine the rigour underpinning the extensive regulatory processes that therapeutic goods are subjected to for the safety and benefit of consumers.

PSA's Code of Ethics for Pharmacists¹¹ states that pharmacists must consider their duty of care to the consumer first and foremost and "prevent the supply of products likely to constitute an unacceptable hazard to health". The sale of tobacco products by pharmacists is also inconsistent with professional behaviour expected of pharmacists. Supermarkets (including co-located outlets owned by them) are big sellers of tobacco products and alcoholic beverages. PSA believes a pharmacy located in a supermarket is regarded as being part of the same business premises. Therefore, even though pharmacists may not be directly involved in the sale of these goods, the environment is inconsistent with the pharmacists being able to meet their professional obligations.

PSA is also concerned that, given the degree of the concentration in Australia's supermarket sector (approximately 80 per cent of supermarkets are owned by Coles and Woolworths¹²), if the ownership of pharmacies was opened up to corporations, then the supermarkets could gain and wield substantial power in the pharmacy market to the detriment of health consumers. Furthermore, it is unlikely that the large supermarkets, intent on driving supply chain efficiencies, would choose to stock medicines that are low volume specialist medicines. However, timely and reliable supply of medicines, regardless of where a patient lives or how often they need it, is one of the key tenets of Australia's health system, and must be maintained.



Professional supervision

The PSA unequivocally supports retention of the current provisions relating to ownership of pharmacies.¹³

The main policy rationale and justification for the pharmacy ownership restrictions is that limiting the controlling interest in the ownership of pharmacy businesses to pharmacists promotes patient safety and competent provision of high quality pharmacy services and helps maintain public confidence in those services; and limiting the number of pharmacy businesses that may be owned by a person or entity helps protect the public from market dominance or inappropriate market conduct.

This policy intent is enshrined in State and Territory pharmacy legislation which requires that pharmacies be owned only by registered pharmacists. The existing system of pharmacy ownership provides for:

- responsibility and accountability by pharmacist owners – through the State and Territory Pharmacy Acts;
- quality use of medicines;
- value-added primary health care services such as:
 - asthma and diabetes management;
 - wound care management;
 - medication management;
 - distribution of public health education and information material; and
 - methadone and needle exchange programs.

This reflects the willingness of pharmacy owners to give priority to important community health activities over the commercial viability of the activity. The public benefit of this legislation was recognised in the Wilkinson Review:

'A pharmacist who owns or has a proprietary interest in a pharmacy has a professional, as well as a commercial, interest in the safe and competent provision of pharmacy services and products by his or her business

...

As a pharmacist as well as a proprietor, the business owner is accountable directly to a regulatory authority for the safe and competent provision of those services, while non-pharmacist proprietors would not be able to be made readily accountable without a major and potentially costly readjustment of the regulatory infrastructure.'¹⁴



Professional independence

Professional autonomy, objectivity and independence are critical to the practice of pharmacy.

PSA strongly believes that a pharmacist must freely exercise professional judgement when carrying out the duties of a pharmacist and should not accept employment in which this freedom may be compromised. It is not unexpected that business practices of supermarkets, or other large corporate owner, would be geared towards achieving market share, sales and profits.

However, in PSA's view it is not desirable that pharmacists practice in an environment where they could be expected to meet certain operational policies or requirements which may not be in the best interests of professional pharmacy practice even if they may be regarded as accepted commercial business practices.

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