



**Community Pharmacy Wales**  
**Response to the Office of Fair Trading Market Investigation:**  
**The Control of Entry Regulations and Retail Pharmacy Services in**  
**the UK**  
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## **Introduction**

Community Pharmacy Wales is recognised by the Welsh Assembly Government as the representative body for all 706 community pharmacy contractors in Wales. Its constitution and composition represents a balance of views ranging from single proprietor independent pharmacies through medium sized chains to the large national pharmacy chains. The Wales representatives of the National Pharmaceutical Association support this response.

Our aims are to further develop even better access and new high quality services for patients, and the people of Wales as a whole. Community Pharmacy Wales is looking forward to more contact with the Welsh Assembly Government to develop the community pharmacy contract against these principles

Community Pharmacy Wales is seriously concerned that the Office of Fair Trading (OFT) feels able to recommend deregulation as a result of a report whose descriptions; evidence and subsequent developed arguments are so badly flawed. We are disappointed that given the 18 month gestation, a robust investigation of the issues regarding the regulation of pharmacy contracts was not presented.

## **Community Pharmacy – The Healthcare Context,**

Nearly 90 % of work for community pharmacies is focussed on delivering healthcare to the people of Wales. The OFT remit does not extend to investigating or making recommendations in the area of healthcare. The OFT's locus is competition. It should, perhaps, not be surprising that they have focussed on competition relating to the sale of medicines over the counter, and on service competition – principally opening hours. All of which accounts for less than 20% of pharmacy activity.

The OFT appears to be prepared to put at risk the development of patient healthcare already begun by community pharmacists in Wales. These new roles have been thoroughly piloted here and in other parts of the United Kingdom. The Welsh Assembly Government's strategy for pharmacy in Wales 'Remedies for Success' seeks to build on our highly valued services using the evidence from these pilots. For patients this will mean improvement in terms of access, range, quality and integration. For the NHS this will mean reducing pressure on the system – particularly for overworked GPs.

The OFT is strangely at odds with Government encouragement of public-private partnerships – of which community pharmacy has a long history. Their recommendation appears cavalier in the context of patients need for a diverse, sustainable and equitable service, which are key objectives for health policy and planning in Wales. The recommendation is dismissive of the enthusiasm and investment made by community pharmacists in our network of pharmacy businesses.

## **Concentration and Access**

We do not share the OFT's optimism that their recommendation would result in greater competition and maintain access. The report's major flaw is that it does not discuss or consider the increased and very real potential for GPs to own pharmacies under the recommendation. It is inevitable that the proposal will create a polarised duopoly of pharmacy services – those with a contract next to or within GP surgeries, who will account for far more than the 50% of the work stated in the report, and supermarket pharmacies who will benefit from most of the remainder.

The effect of this will be that pharmacies - even a small distance from surgeries - will lose viability and either close or be financially unable to invest and participate in new service developments. This paints a very different picture to that described by the OFT.

There are places in Wales where community pharmacy is the only healthcare profession available to patients in their community, providing an important resource for the elderly, infirm and less well off who tend not to be as mobile. The OFT's assertion that need would sustain a pharmacy misses the point that it is actually volume of business that sustains a pharmacy. Their proposal that the Essential Small Pharmacy Scheme (ESPS) could be extended to ensure this type of access, firstly misunderstands that ESPS is a temporary lifeline to pharmacies with reducing volume, secondly misunderstands the basis on which it is currently funded out of the Global Sum for pharmacy, thirdly would require significant extra funding to extend it and, last but not least, would introduce a new bias to the marketplace.

## **Concentration and Quality**

A further effect would be that neither of the pharmacy types in the future polarised service would be seeking new roles. The surgery-based pharmacies will be sustained by the near monopoly of prescription volume. The supermarket pharmacies are opened simply to increase overall store footfall by 1% and they have little interest in new services – indeed they positively do not get involved in services that bear any sort of stigma. Examples are supply of Emergency Hormonal Contraception for fear of pro-life activists. Services for substance misusers are not widely supported by supermarkets.

## **Concentration and Price**

The second major flaw in the report is the evidence regarding the pricing of medicines for sale over the counter. The implication is that increasing supermarket entry into the market would stimulate lower pricing to the benefit of consumers at checkouts.

The evidence is flawed in that the basket is not representative. It does not include own brand / generic medicines which gives the results a pro supermarket bias. The study appears to have been conducted over the period when Resale Price Maintenance was abolished. The results show the main protagonist Asda in a positive light with apparent lack of reaction from other pharmacies. This is hardly a surprising result and cannot safely infer the true position as time has passed.

Also, when questioned, the OFT have admitted that they have not monitored general goods prices in supermarkets over this period, or since, to determine whether consumers are actually benefiting from savings. When pressed further they stated that they had undertaken competition enquiries into supermarket pricing and did not believe supermarkets would adjust prices on other goods to maintain intended margins on over the counter medicines. This is not a credible position.

## **Manpower**

The OFT does not have concerns for manpower implications. Their view is that manpower problems are patchy and localised. In this respect we must suppose they view Wales as a local patch – if the OFT have addressed manpower in Wales at all.

If the recommendation is accepted there will be an increase in the number of pharmacies, certainly in the short to medium term, which will exacerbate the current shortage of pharmacists and support staff. Supermarkets require two or more pharmacists per opening day in order to satisfy their extended opening hours. The more supermarkets that open pharmacies, the more salaries will increase.

The situation in hospital pharmacy is already acute due partly to the salaries being offered. Avoiding a crisis in hospital pharmacies will mean increasing salaries there to retain staff. In principle the NHS will need to increase expenditure on salaries to provide cheaper medicines for consumers at checkouts – which as we have shown above is a doubtful outcome.

It is interesting that we are increasingly receiving reports that pharmacies are experiencing difficulty in securing staff and are having to close temporarily. In addition, one of the supermarket companies has applied to all of the Health Authorities in Wales seeking to reduce their hours of opening. The OFT did not predict this outcome.

## **Cost to Businesses and to Health Authorities**

The figures presented in the OFT report under this section are of concern as it is implied that the large sums involved might be put into patient care instead of administration.

However, on close examination of the calculation it is clear that the sums are based on assumptions of time taken to deal with applications both by applicants and others

affected. The times assumed at 300 hours (38 days!) per application and the cost of resources used bear no resemblance to reality – and are overstated many times.

Similarly, for Health Authorities, the assumptions made are for a staffing of 2 whole time equivalents. The reality is that pharmaceutical applications occupy a small fraction of the workload of those 2 wte staff members.

The cost arguments made are so far removed from reality they do not bear examination. Suffice to say that the planned distribution of pharmacies is well worth the cost of achieving this.

### **Welsh Assembly Government Policy: Community Support and Regeneration**

Since the current regulations were introduced in 1987 there has been a reasonable distribution of pharmacies in Wales. The Welsh pharmacy network is recognised in key strategy documents, including ‘Remedies for Success’ which identifies the community pharmacy as one of three core businesses required to sustain and grow viable small business communities – communities allowing access by the public to a range of services which develop health and well being.

In 2001, the First Minister, Rhodri Morgan, launched “The Plan for Wales”. The role and integrated approach of professionals in the NHS was a central theme of the document. Other sections are important in relation to the OFT’s recommendation:

"A Modern Economy", deals with the importance of small businesses to the structure of the Welsh Economy based on the need for diversity.

"Creating Strong Communities", looks to regenerate communities in decline and maintain stability of others. This section also speaks of safer communities which community pharmacies are well placed to support.

"Supporting Rural Wales", lists, among "our commitments":

- "- Help rural post offices, shops, and other small business"

- "- All policies to be rural-proofed to ensure that they contribute to the reduction in social exclusion in rural areas"

The Welsh Assembly Government’s Communities First Program seeks to develop services in 100 communities in Wales with the highest deprivation. These communities are those most likely to appreciate the presence of community pharmacies. In response to a question from Mr Alun Pugh AM, the OFT officials admitted that they were not aware of the initiative

All of the above point to the importance of maintaining a network of pharmacies. The polarisation, and subsequent loss of pharmacies serving communities, cuts across the Welsh Assembly Government’s overall plans and priorities.

The OFT has not provided any evidence that it has considered any of the above Welsh Assembly Government policies. Indeed, it is difficult to detect consideration of, or any reference to, the specific needs of the people of Wales anywhere in its report. This may be why Community Pharmacy Wales was not one of the bodies consulted prior to the report being released.

## **Conclusion**

**We have set out in general terms above, and specifically in the Appendix which follows, our conviction that the OFT Report is seriously flawed and that the OFT recommendation to deregulate pharmacy is a very high-risk strategy for the Welsh Assembly Government to adopt.**

**Community Pharmacy Wales is concerned that if the report is accepted in full, the resultant removal of the section of the primary legislation which enables contract limitation will deny the Welsh Assembly Government the ability to make secondary legislation to develop planned pharmaceutical services.**

**This would reduce flexibility on the part of the Welsh Assembly Government and on the part of Community Pharmacy Wales to negotiate such developments - which cuts across the purpose of Devolution.**

**Rather than acceptance or outright rejection, we would urge the Welsh Assembly Government to respond to the Department of Trade and Industry indicating that the report is flawed and that, in this case, competition issues cannot be taken in isolation of healthcare needs and planning: nor in isolation of the strategies for small businesses and community regeneration.**

**We ask that the Welsh Assembly Government accept that the likely effect of deregulation is, perversely, less competition than under the current arrangements as pharmacies become concentrated at GP surgeries and within supermarkets. We urge the Welsh Assembly Government to be forceful in making this case to the Department of Trade and Industry.**

**We would further ask that the Welsh Assembly Government's preferred response, on behalf of the people of Wales, be to resist the abolition of the primary legislation and to enter into discussion with Community Pharmacy Wales to address, as part of the community pharmacy contract, any real issues arising within the OFT report.**

**The Welsh Assembly Government can be assured that we are already supportive of the Strategy for Pharmacy in Wales, "Remedies for Success", which has addressed the issues of major importance. Community Pharmacy Wales is ready to take responsibility for developing the new service and quality framework for community pharmacy in Wales.**