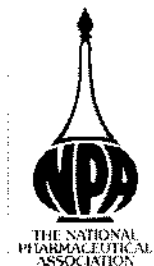


**ASSURING AN ACCESSIBLE COMMUNITY
PHARMACY SERVICE: DEREGULATION
IS NOT THE ANSWER**



**Office of Fair Trading Report
on the Control of Entry Regulations
and Retail Pharmacy Services in the UK**

Response by:



**The National Pharmaceutical Association
February 2003**

Executive summary

1. The Office of Fair Trading does not believe that the best interests of consumers are served by Control of Entry. We do not agree, and believe that implementing the OFT's stark and radical recommendation could put at serious risk the current pharmacy network and frustrate Government healthcare planning and policy.
2. It is not clear what problem the OFT is trying to fix. Nor is it clear why pharmacy was selected for this investigation. Despite purporting to do so, the Report does not tell us! We are not aware of any strong consumer lobby for change. On the contrary, consumers like and value current pharmacy services. The Report acknowledges that there is currently an extensive network of pharmacy outlets and refers to surveys which show that consumers enjoy ready and easy access to pharmacy services from where they live or work or from their doctors' surgeries. And, through a diversity of pharmacy ownership, there is a high level of competition and consumer choice.
3. 80% of the typical pharmacy's turnover comes from the provision of NHS services, in particular the dispensing of NHS prescriptions. The fundamental flaw in this Report is that it misses the point by disregarding pharmacy's principal focus as a provider of NHS services. It also fails to take account of pharmacy's future enhanced role as a key player in primary healthcare delivery. But this is hardly surprising. The OFT is a body with expertise in competition and as it has itself acknowledged, has no expertise in healthcare. Lip service is paid in the Report to pharmacy's healthcare role. The OFT tells us that in formulating its recommendation, it has remained mindful of the public policy objectives of health departments in the UK for community pharmacy. It acknowledges that pharmacy plays a primary role in the UK's healthcare system; that there is an extensive pharmacy network providing convenient access to services; and that pharmacies will continue to grow in importance. But beyond these general statements, the OFT has not assessed whether the free market is the best approach to enhancing pharmacy's current and future healthcare contribution.
4. Whilst fully in favour of competition, we do not believe that community pharmacy is an environment where a market "free for all" will provide pharmacy's "consumers" – patients or Government – with the best deal. Healthcare provision has to be planned and managed; the free market cannot be relied upon to ensure that care is conveniently available to those in need. As part of overall healthcare provision, NHS pharmacy services also have to be planned and managed. This will be particularly important as PCTs and equivalents throughout the UK become increasingly responsible for localised healthcare planning.

5. There is, therefore, a fundamental incompatibility between the free market approach proposed by the OFT and the benefits associated with a managed network of pharmacies. In underpinning the pharmacy network, the regulations provide the Government with a tried and trusted mechanism for delivering a rationally distributed, easily accessible NHS pharmacy service. This network also provides a secure platform from which to launch many of the services listed in the pharmacy strategies throughout the UK. The OFT recommendation thus flies in the face of the Government's plans for pharmacy.
6. The OFT's main findings are equivocal. The Report states that the regulations have prevented the opening of pharmacies offering lower prices or innovative services and have restricted competition between pharmacies. In undertaking this inquiry, the OFT has adopted the general presumption that deregulation will benefit consumers. Indeed paragraph 5.5 of the Report states:

"Typically, markets without entry controls are more dynamic, exhibit greater innovation and focus more directly on what consumers want in the way of access to outlets and services. In our view the pharmacy market is no exception."

But, in our view, the pharmacy market is an exception. We agree that, in general, unregulated markets work best due to the benefits of competition in terms of low prices and incentives for cost reduction and innovation. However, a key feature of the pharmacy market is that the product to which Control of Entry relates – the dispensing of NHS prescriptions – has no scope for price competition. Most prescriptions are dispensed free of charge to patients and for those who pay, there is a standardised levy. Therefore, the key component of competition, and thus the primary justification for deregulation, is absent. Accordingly, pharmacies are not typical of the retail sector at least in this key respect

7. To find price savings, the Report focuses on a narrow part of pharmacy business – the sale of non-prescription medicines. The Report is less than convincing about any of the financial savings which it suggests could result from its implementation.
8. The OFT suggests that because "some" of the national pharmacy supermarket chains offer up to 30% discount on a narrow range of OTC medicines an estimated saving of between £25-30 million could accrue. The OFT further suggests that the total cost associated with administering the regulations is around £10 million to the NHS and £16 million to business. Thus the total estimated saving to the consumer is around £51-56 million, or about £1 per head of population! Let us be clear; these figures are estimates – no more! But even if the savings in the Report are realised, these are insignificant when compared with the overall size of the market and total NHS Spend. Such savings, if realised, would represent only around 0.3% of the total market.
9. It is our view that to base a recommendation of deregulation, with all its attendant risk to service provision, on an estimate of such relative insignificance is disproportionate.

10. It is difficult to imagine a more inappropriate time for the publication of this Report!

- Government has announced that it wants to make better use of pharmacists in delivering its health policy objectives. Pharmacists have a key role to play in helping patients get the best from their medicines and to ensure that this expensive component of healthcare is used safely, appropriately and cost-effectively. If strategies towards making this happen are to be successful, there needs to be some stability in the market that will give stakeholders – particularly individual pharmacists – the confidence to invest in developing services. The regulations underpin this stability.
- The Pharmacy in the Future document highlighted the need for a new pharmacy contract and remuneration system. Negotiations have started with the Department of Health on this. Control of Entry, along with the outcome of the generics inquiry and, to a lesser extent, pharmacy workforce arrangements, are fundamental issues affecting the new contract and remuneration. Control of Entry should thus be considered in parallel with discussions on a new contract and decisions on the effectiveness or need for control, should not be taken in isolation.
- PCTs are getting to grips with their new structures, roles and responsibilities and will be “finding their feet” for a little while yet. Community pharmacy will be a key part of local health strategies. The instability and uncertainty associated with deregulation will not make planning of pharmacy services an easy job.
- There is a shortage of pharmacists. The OFT suggests that this will limit the number of new entrants into the de-regulated market. This will not stop new pharmacies opening; it will merely create widespread variation in service provision according to pharmacist availability.
- We are trying to test alternative models of pharmacy service – and thus are introducing new areas of competition – through Local Pharmaceutical Services.

11. Deregulation will create widespread instability in the marketplace, put a blight on pharmacy investment in premises and service development and will lead to reduced access to community-based, local pharmacy services.

12. At present, pharmacy contracts are awarded on the basis of need. Without the regulations, openings of pharmacies would no longer be based on need, but on a commercial imperative. Pharmacies will open close to GP surgeries and in areas of high customer footfall. This increase in number would not add any significant value or benefit to consumers; it will, in the short term, increase choice but do little else. And because the market will only support a limited number of pharmacies, after a flurry of early activity, there will be subsequent contraction in favour of the larger, better resourced players. This will put many smaller pharmacies that are providing a much needed service to local communities at risk. Closures, or reduced services, in these areas will disadvantage particularly the elderly, mothers with young children and socially deprived people and will cut across the Government’s agenda for tackling health inequalities.

13. As the market adjusts to deregulation, there will be huge uncertainty and instability. Without the relative stability of the regulations, pharmacists will quite naturally feel less inclined to invest in improving patient care just when we have gained commitment from both the Government and the profession to an enhanced, professional role. This will inevitably slow down or even halt progress in a number of key areas of role development for pharmacists. This cannot be in the best interests of Government, the profession, healthcare commissioners and, most importantly of all, patients.

