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Mr Ronnie Fraser  
Primary Care Division  
St Andrew's House  
Regent Road  
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**OFT Report: Control of Entry Regulations and Retail Pharmacy Services**

Dear Mr Fraser,

I am writing to express my deep concern at the findings of the above report and the implications of their being implemented by the Scottish Executive.

As you will be aware, the OFT does not believe that the best interests of consumers are served by the current restrictions on entry by new pharmacy contractors. I would fundamentally disagree with this conclusion, and firmly believe that implementation of this radical recommendation could put at risk the current pharmacy network and frustrate the Executive's healthcare planning and policy – in particular, the innovative Pharmacy Strategy 'The Right Medicine'.

1. It is not clear what problem the OFT is trying to fix, and I am unaware of any consumer lobby for change. In fact, a survey published by the Scottish Consumer Council in November 2002 shows wide support for the existing community pharmacy network in Scotland, with 90% of those interviewed saying pharmacies are conveniently located. This figure is increased amongst socially disadvantaged groups, particularly the elderly and those on low incomes. Ironically, these are two of the main groups of people who will be most affected by the removal of the control of entry regulations.
2. 85% of the typical pharmacy's turnover comes from the provision of NHS services, in particular the dispensing of NHS prescriptions. (In my case the figure is closer to 92%). The fundamental flaw in the report is that it completely 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 – as envisaged by 'The Right Medicine'. 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. Whilst the OFT has stated that in formulating its recommendation it has 'remained mindful of the public policy objectives of health departments in the UK', and acknowledges: that pharmacy plays a primary role in the UK's healthcare system; that there is an extensive network providing convenient access to services; and that pharmacies will continue to grow in their importance, beyond these general and bland statements the OFT has failed to assess whether the free market is the best approach to enhancing pharmacy's current and future healthcare contribution.

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3. Whilst fully in favour of competition, I do not believe that community pharmacy is an environment where a market 'free for all' will provide pharmacy's 'consumers' – be they patients or government – with the best deal. Healthcare provision has to be planned and managed; the free market cannot be relied upon to ensure equitable access to those in need.

There is a fundamental incompatibility between the free market approach proposed by the OFT and the benefits associated with a managed network of pharmacies. The current regulations provide Primary Care Trusts with a tried and trusted mechanism for delivering a rationally distributed, easily accessible NHS pharmacy service. Whilst the OFT argue that 'local monopolies' may lead to a reduced standard of service, the current network provides a secure platform from which to launch the many services envisaged by 'The Right Medicine', and an anticipated new pharmacy contract will provide the impetus and incentive for all contractors to provide these services to their local community.

Under the present system, 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 in areas of high customer footfall (e.g. supermarkets) and close to GP surgeries. This increase in number would not add any significant value or benefit to patients. It may – in the short term – increase choice, but because the market can only support a limited number of outlets this initial flurry of activity will be followed by a subsequent contraction of the market in favour of the larger, better resourced players – in particular the supermarkets, and the vertically-integrated multiples (owned by national wholesalers and seen by them as little more than a guaranteed outlet for their products).

This will put many smaller pharmacies who provide a much needed service to local communities at risk. Closures, or reduced services, in these areas will disadvantage the elderly, mothers with young children and socially deprived people and will cut across the Executive's agenda for tackling health inequalities.

With regard to the above, it is worth pointing out that my pharmacy in Gourock was awarded a contract in 2001. Although Gourock was then served by two existing contractors, I successfully argued that 'upper Gourock' lacked an adequate service. The current network is not stagnant – where a need is identified there exists the mechanism to fill that need. In a free market, no-one would even consider opening a pharmacy in upper Gourock. The prescription 'honeypot' – Gourock Health Centre – would attract all new openings, and the increased competition would inevitably lead to the relocation of my business to this 'hotspot' in order to survive.

4. The OFT's main findings are equivocal. The report states that the regulations have impeded entry by pharmacies offering lower prices or innovative services and have restricted competition between pharmacies. In undertaking this enquiry, 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."*

On the contrary, I would state that the pharmacy market is most certainly an exception. Whilst I agree that, in general terms, unregulated markets work best due to the

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benefits of competition in terms of low prices and incentives for cost reduction and innovation, 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. Thus the key component of competition, and thus the primary justification for deregulation, is absent.

Furthermore, pharmacy differs from other retail markets in another key aspect. The vast majority of prescriptions are brought by the customer straight from a GP surgery or Health Centre. In a normal retail model, this is analogous to everyone living in the same house, and thus exact location takes on a huge significance which is absent in other retail markets.

**In a free market, the driving force for pharmacy businesses will not be increased service and competitive prices. It will be the need to locate as close to GP practices as is possible, leading to instability; lack of investment; and a contraction of the current well established network.**

5. The OFT suggest that because 'some' of the national pharmacy supermarket chains offer up to 30% discount on a narrow range of OTC medicines, consumers could save an estimated £25 to £30 million per year. Add this to the £10 million saved by the NHS in removing the administration of the regulations, and you get a total annual saving of around £1 per head of population. That isn't even enough to buy a bag of chips! But even if these savings were realised, they are completely insignificant when compared with the overall size of the market and total NHS spend. In fact, such a saving would represent only around 0.3% of the total market.

Furthermore, I would dispute that increased market penetration by the supermarkets will actually lead to reduced prices of medicines. The OFT comparison 'basket' was made up of well-known, heavily promoted brands. (In fact, one of them was an antihistamine (hay-fever) tablet – and the survey was conducted in December!) It is well known that supermarkets heavily discount the price of high profile products in order to give the impression of good value. However, as healthcare professionals, most independent pharmacists do not treat medicines as ordinary items of commerce. Personally, I always recommend generic alternatives to popular brands, and only where I consider a purchase to be in the patients interest. The savings thus obtained by the customer dwarf those achieved in the supermarkets – where cheap generic alternatives are rarely available.

It is my view that to base a recommendation to deregulate, with all its attendant risks to service provision, on a highly dubious estimate of such relative insignificance is complete insanity.

There is one other important point to be made here. The OFT have recognised that it is rarely cost-effective to retail 'pharmacy-only' OTC medicines without a subsidy from the NHS – i.e. a NHS dispensing contract. It has to be remembered that there is no control of entry over pharmacies per se, only over the granting of NHS dispensing contracts.

**There is currently no regulation which prevents a supermarket opening an instore pharmacy, employing a pharmacist, and selling as many cut-price OTC medicines as they wish.**

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In effect, the large retail organisations who have been pushing for the removal of the control of entry regulations are simply asking the NHS to subsidise their retail operation.

6. The OFT have stated that they do not believe the 'prophesies of doom' about widespread closures of high street pharmacies in the face of competition from supermarkets. In this respect, I wholeheartedly agree. Those patients who are unable to access supermarkets are the very ones who are the main users of pharmacy services.

However, the OFT have missed one crucial fact. It is not a simple 'network' of community pharmacies that is important for the development of a modern, NHS led pharmacy service. It is a *stable* network.

In an unstable market, where existing contractors are at constant risk of losing large amounts of turnover to new entrants located nearer to GP surgeries there is a huge disincentive to invest in premises, staff training and innovative healthcare services. It must be remembered that pharmacy contractors invest in NHS services with their own money.

In a deregulated market, contractors will return to the days when they concentrated on tried and trusted money generating activities – specifically the retail of non-medical items.

This will inevitably slow down or even halt progress in a number of key areas of pharmacy role development. The Scottish Executive's Pharmacy Strategy, 'The Right Medicine', would be a 'dead duck'.

This cannot be in the best interests of the Executive, the profession, healthcare commissioners and most importantly of all, patients.

The current arrangements are by no means perfect, but the important point is that they ensure a rationally distributed stable pharmacy network. Where services are currently lacking, a new contract will provide the impetus to provide them. Deregulation is therefore not needed to enable pharmacy to play its part in helping the Executive meet its health objectives. On the contrary, deregulation will frustrate the Executive's health policy objectives for pharmacy at a critical time.

In summary, the recommendation to remove controls on entry:

- Is unnecessary to provide a rational network
- Is based on an analysis of a very small part of a pharmacy activity
- Will cause a geographic contraction of the community pharmacy network towards GP surgeries, supermarkets and town centres
- Bases its conclusions on a confusion between normal retail market forces and the very different market forces which affect NHS pharmacy provision
- Makes dubious conclusions about the actual savings to consumers on the cost of OTC medicines
- Will cause a destabilisation of the pharmacy market which will stifle investment in future

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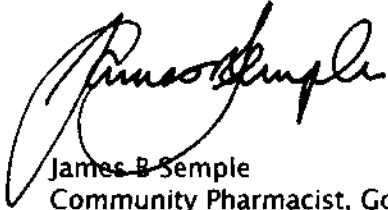
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enhanced roles

- Will put local community pharmacy services at risk, and widen healthcare inequalities

In conclusion, I would urge you to reject the OFT's proposals.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James B Semple', written in a cursive style.

James B Semple  
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