

Submission to the Panel of the Review of Pharmacy Remuneration and Regulation – In relation to the Interim Report.

Dear Sirs and Madam,

1. Firstly, I have concerns regarding the Panels decision to selectively hold a meeting with the Chemist Warehouse (CWH) group after the release of the interim report. There are a lot of other significant pharmacy groups that have missed this opportunity. Another concern is the growing speculation in the industry that the CWH group may not be abiding by the true intentions of the current pharmacy ownership laws which restrict the total number of pharmacies in which an individual can have a pecuniary interest in (5 per person per state).

Commentators within the industry have often suggested that the owners of the CWH group are benefiting from the combined income of over 100 pharmacies. See article written by Tony Boyd in the Australian Financial Review which is attached to my submission.

2. Secondly, I believe it was a missed opportunity for the Panel **not** to meet with the Capital Chemist group after the release of the Interim Report. I have been invited into the sphere of pharmacy ownership through this very ethical group, and I believe they would have offered an accurate and current insight into the industry. Capital Chemist is an excellent example of a group who is very involved in providing the best possible professional services available and their standard of ethics is second to none. They have a proven track record of providing support in terms of donations to the community (e.g., The ACT/Eden Monaro Cancer Support Group, Cranleigh School, Menslink, Heart Foundation and until recently, the Snowy Hydro Rescue Helicopter). These are not insignificant donations either.

At the very least, I strongly feel that the Panel should **only** consider the opinions of independents/groups who are abiding by the true intentions of the current pharmacy ownership laws. Now that they panel has met with the CWH group, they have set a precedent, and I think they should invite all of the other pharmacy groups in the industry for a similar meeting.

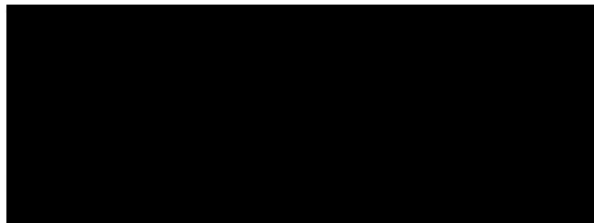
3. Lastly I would like to highlight section 5.7 of the review. I note that the Panel considers that there is no reasonable rationale for maintaining the current co-location restrictions in supermarkets even though 66% of the respondents to the Panels questionnaire opposed the idea of a pharmacy co-located in a supermarket. The Panels decision seems to be based **not** on respondents

answers, but on the finding that two out of 5,500 pharmacies in Australia have a small supermarket attached.

I challenge the Panel to think about the wider implications of the co-location of a pharmacy within Australia's two big Duopoly supermarkets and the implications of these big supermarkets seizing consumers confidential medicine information and using it to their advantage via their powerful loyalty card programs (e.g., FlyBuys and Woolworths Everyday Rewards). What level of Government Re-Regulation would be required to stop these Juggernauts from gaining unfettered access to peoples medicine profiles? Just imagine the misguidance that would be generated if ColesWorth sent out a mass email/advertising blitz to promote Rescue Remedy, or Remotiv to everyone who filled an Escitalopram, Alprazolam, Mirtazepine, Duloxetine or Doxepin script at their outlets??? Or if they were to send SMS messages to advertise Omeprazole and Esomeprazole to every FlyBuys customer who purchased quickeze, even though they may have Barrett's Oesophagitis.

Good luck to the Panel. I hope that you are "Putin the health of the Australian public first, it should Trump all else !!

Thanks for reading my submission.



Chemist Warehouse makes mockery of government regulation

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by **Tony Boyd**

If there is ever a prize for exploiting loopholes in restrictive government regulations then the family-owned Chemist Warehouse would easily make the shortlist and probably win first prize.

At a time when global technology platforms such as Uber, Google and Airbnb are accused of forcing governments to bend

to their way of doing business, Chemist Warehouse is using an innovative corporate structure to disrupt the \$13 billion retail pharmacy industry.

The law says no pharmacist in Australia is allowed to own more than five or six pharmacies in any one state or territory.

Chemist Warehouse "controls" about 300 pharmacies with annual revenue of \$2.7 billion.

That is an impressive achievement considering it was done in defiance of the country's most powerful small business lobby, the Pharmacy Guild of Australia. Also, it appears to make a mockery of government regulation designed to protect the thousands of small businesses run by individual pharmacists. The Pharmacy Guild showed its political strength last year when it obtained federal government approval for the Sixth Community Pharmacy Agreement just weeks before the release of the government's response to the Harper review.

Harper recommended deregulation of the retail pharmacy industry. But the Sixth Community Pharmacy Agreement locked in constraints on where pharmacies can be established until mid-2020.

There is one caveat to the latest five-year agreement. The government has commissioned an independent review of pharmacy remuneration and location rules. The review is chaired by new Productivity Commissioner Stephen King. The ownership structure of the Chemist Warehouse is not clear. But according to analysis by accountants KordaMentha, "it would appear two families – Gance and Verrocchi – control the group and run it as a web of partnerships that interconnect around members of these families".

The business model used by Chemist Warehouse appears to involve minimal equity investment by individual pharmacists who then agree to all the trading terms enforced across the group.

Individual pharmacists working under the Chemist Warehouse umbrella benefit from the bulk purchasing power that comes

with being part of a company with 20 per cent market share. Pharmacies are low-margin businesses. That suits the Chemist Warehouse model because it can take a cut on the procurement process and control the property leasing side of the operation.

However, there could be a long-term problem from building a mammoth pharmacy business that does not own each registered pharmacy licence. If the Gance and Verrocchi families want to unlock the value in the business, they will have to await the lifting of the restrictions on who can own pharmacies and removal of the location rules.

Chemist Warehouse made a submission to the Harper review describing the existing rules as archaic. It said "these constraints are creating financial instability that is more likely to threaten than secure the ability of the industry to continue to provide equitable access to medicine over the medium term". It argues that the rules have created a serious capital constraint for the pharmacy industry.

There has been plenty of discussion in the retail pharmacy industry about the desire of the families behind Chemist Warehouse to access capital markets in order to expand the business.

Disruptive business models in the technology sector often involve ignoring government restrictions and regulations in the interests of serving consumers.

This is what Uber did in Australia. It offered ride sharing services in defiance of state laws whilst avoiding the restrictive rules and regulations surrounding the taxi industry. Uber simultaneously lobbied governments to change the law. Its strategy is working.

In the retail pharmacy industry, the rules and regulations restricting ownership and location are aimed squarely at stopping the two large supermarket chains from getting into the industry.

It could well be the federal government will regard Chemist Warehouse as the happy halfway house between preserving

the small business traditions of the industry and not going as far as supermarket ownership.

In other words, successfully expanding in the face of regulatory restrictions becomes the most powerful argument in favour of deregulation.

The Pharmacy Guild argues the "ownership rules underpin the quality, professionalism and overwhelming public support for Australia's trusted and patient-focused community pharmacy model".

The guild last year commissioned a cost-benefit analysis led by Henry Ergas. Not surprisingly, he found that the pharmacy ownership and location rules are in the public interest and that dismantling them would result in a public detriment of more than \$700 million a year.

David Quilty, executive director of the guild, told Chanticleer:

"If there are allegations that any particular group is not abiding by the ownership rules in any way, then the state and territory regulatory authorities should take the requisite action to enforce the law. If there are any transgressors, it would be outrageous if they were to be rewarded for their misbehaviour."

Concerns about Chemist Warehouse lowering the standards of service in the industry carries weight given the censure of the company's advertising by the Australian Competition and Consumer Commission.

It is not just Chemist Warehouse that is seeking economies of scale. Terry White Chemists uses a franchise model which now has 230 stores under the Terry White and Chemplus brands.

Ramsay Health Care has about 40 pharmacies, the bulk of which are in hospitals. But it is pushing into the community pharmacy field and lobbying hard for the ending of location and ownership restrictions.

Read more: <http://www.afr.com/brand/chanticleer/chemist-warehouse-makes-mockery-of-government-regulation-20160107-gm1ecc#ixzz4n8YN5maU>

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