



The Competition Authority

An tÚdarás Iomaíochta

Retail Pharmacy in Ireland

Monday 21st November 2005

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Two Possible Approaches

- What are the classic analytical processes associated with considering reform in the professions ?
- More practically, how do you actually achieve reform ?

Two very different questions !



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Professions reform in Ireland

➤ Competition Authority Study - 8 professions

- | | |
|--------------|--------------|
| ■ Architects | Engineers |
| ■ Solicitors | Barristers |
| ■ Dentists | Doctors |
| ■ Vets | Optometrists |

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- | | |
|---------------|---------------|
| ■ Pharmacists | Auctioneers |
| ■ Accountants | many others ! |



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The Analysis Process

- **Classic market analysis of competition in any profession is based around three issues –**
 - Access/barriers to entry
 - Restrictions on behaviour
 - Structural restrictions



➤ **In each case -**

- Indicate the problem / restriction on competition
- Record the effects
- Give the claimed rationale
- Give the competition analysis, e.g. is the restriction proportionate, necessary, are there alternatives etc.



A question of perspective



- Pharmacy sector is heavily-regulated in Ireland
- But EU Commission says it is lightly-regulated !

[Everything is relative]



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Irish Pharmacy Regulation

- Current basic law dates from 1875
- Education monopoly until 2002
- Overseas-trained graduates barred from opening new outlets
- Location restrictions until 2002
- Restrictions on sale and supply
- Government-Industry Upstream Price Regulation
- Retail margins regulated



Case 1 - Education

- Legal agreement between the statutory regulatory body and a Dublin University gave that college a monopoly on Pharmacy education from 1977 to 2002
- So few Degree places available (50), almost impossible to enter
- Those who couldn't get in to college in Ireland had to go to the UK for their Degree.....thousands did so over 15 years



- CA threatened legal action under competition legislation
- A Government-commissioned Report on supply of pharmacy graduates recommended an increase
- **Result** : monopoly dismantled, extra places now provided in two other colleges (although still not enough)



Case 2 – the 3-year rule

- Graduates from other EU States banned from ever opening their own pharmacy outlet (1987 Regulations)
- Includes Irish graduates of overseas colleges
- Ban resulted from derogation from an EU Pharmacy Directive.
- **Effect:** restriction on entry with no consumer benefit; also raises the value of existing outlets to the benefit of those already in the market. Clear barrier to entry.



- CA has consistently called for restriction to be lifted
- Many complaints from returned UK graduates
- Strong support from OECD
- A Government-sponsored Review Group concluded in 2003 that the restriction should be removed within two years
- **Result** : Government announced in mid-2005 that legislation would be introduced to remove the restriction by 2007



Lesson One

No one single analytical process leads to reform

- Government Departments
- External consultants or other Government-appointed bodies
- Competition Authority
- External analysts – OECD, academics, media etc.



Case 3 – Location Restrictions

- 1976 Regulations put geographical limits on the proximity of new pharmacies to existing ones
- New entrants had to prove no adverse effect on existing pharmacies
- Several other EU countries have similar restrictions
- **Effect:** a blatant barrier to entry



- Competition Authority constantly advocated for the removal of the restrictions.
- So did OECD
- Again, the Government commissioned a Review Group to examine the issue
- Before Review Group could report, Regulations were challenged in the Courts
- **Basis?** : Alleged that Minister didn't have the power to enact the Regulations in the first place. Minister's legal advice concurred with this
- **Upshot** : the Regulations were revoked in 2002, and have not been re-enacted.



Lesson Two

**Reform sometimes comes from
unexpected sources**



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Lesson Three

**Reform is gradual and incremental
– no big bang**



Much more to it than that !

- Good analysis is only part of the story.....
-political economy accounts for the rest



- “The process of reform is not neat and pretty, or straight out of a textbook. If it were that straightforward, reform would be easy, and all professions would have been reformed decades ago. No – it’s much more complex and subtle. You can produce the most wonderful analysis in the world, which shows that the need for reform is undeniable – but then nothing happens. Why ? The answer lies in the subtle art of political economy – the intersection of politics and economics. For brilliant analysis needs more than just brilliance to lead to real action.”



Who are the reform 'players' ?

- The responsible Ministry
- The National Competition Authority
- Any existing regulatory body
- External Agencies, e.g. the EU and OECD
- Representative bodies representing professionals in the field.
- The media
- Consumers



What other analysis ?

- **As well as good sound analysis, need a focus on, and analysis of –**
 - Political processes
 - Political economy
 - Media relations
 - Public awareness
 - The power of pressure groups



- Lobby Groups generally fight hard to retain the status quo.
- This is clear right across the services sector, particularly regarding professions.



Lesson Four

**There's a lot more to reform than
just getting the basic analysis
right**



A final thought...

From a competition perspective, professions aren't special !

- Someone's buying something
- Someone's selling something
- Money is involved

Therefore, professions operate in markets, like any other enterprises !





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