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## AMA submission to inquiry into promoting economic dynamism, competition and business formation

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The AMA is supportive of positive reform to the Australian health care system that improves patient access while ensuring safe, high-quality care. Reforms to how clinical care is delivered and who is responsible for patient care must always be led by the practitioners delivering that care, and we expect that they be made collaboratively, putting patient safety first.

This inquiry can deliver significant benefits by improving access to medicines in competitive retail environments, specifically community pharmacy. The AMA strongly supports the many reports and inquiries which have called for Australia's archaic and anticompetitive pharmacy regulations to be removed or reformed. These reforms do not pose any risk to patient safety as they will not change the role of the prescribing doctor or the dispensing pharmacist. Rather, they will increase patient access to medicines and drive down costs through improved competition, potentially improving medication adherence.

A selection of reports dating back almost 25 years calling for the removal of pharmacy ownership and location rules is listed below:

- 2023 Productivity Commission 5-year Productivity Inquiry: Advancing Prosperity Inquiry report – volume 1;<sup>1</sup>
- 2022 Productivity Commission 5-year Productivity Review 'A competitive, dynamic and sustainable future' Interim Report;<sup>2</sup>
- 2018 Queensland Productivity Commission 'Cost-benefit analysis of establishing a pharmacy council' Report;<sup>3</sup>
- 2017 Commonwealth Government Review of Pharmacy Remuneration and Regulation Final Report (King Review);<sup>4</sup>
- 2017 Productivity Commission 'Shifting the Dial' 5 Year Productivity Review Inquiry Report;<sup>5</sup>
- 2017 Grattan Institute submission 'The effect of red tape on pharmacy rules';<sup>6</sup>

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<sup>1</sup> Productivity Commission (2023), [5-year Productivity Inquiry: Advancing Prosperity Inquiry report – volume 1](#).

<sup>2</sup> Productivity Commission (2022), [5-year Productivity Review 'A competitive, dynamic and sustainable future' Interim Report](#).

<sup>3</sup> Queensland Productivity Commission (2018), ['Cost-benefit analysis of establishing a pharmacy council' Report](#).

<sup>4</sup> Stephen King, W.J. Scott and Jo Watson (2017), [Review of Pharmacy Remuneration and Regulation Final Report](#).

<sup>5</sup> Productivity Commission (2017), ['Shifting the Dial' 5 Year Productivity Review Inquiry Report](#).

<sup>6</sup> Grattan Institute (2017), [The effect of red tape on pharmacy rules - Grattan Institute submission to the Senate Select Committee on Red Tape](#).

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- 2015 Productivity Commission ‘Efficiency in Health’ Research Paper;<sup>7</sup>
- 2015 Commonwealth Government Competition Policy Review Final Report (Harper Review);<sup>8</sup>
- 2014 National Commission of Audit Report;<sup>9</sup>
- 2005 Productivity Commission Review of National Competition Policy Reforms;<sup>10</sup>
- 2000 National Competition Policy Review of Pharmacy (Wilkinson Review);<sup>11</sup> and
- 1999 Productivity Commission Submission to the National Review of Pharmacy.<sup>12</sup>

Such reviews have clearly stated the restrictions on pharmacy ownership and location are anticompetitive and undermine patients’ access to medicines. The AMA again calls for the recommendations of these reports to be implemented. We also call for increased competition by allowing pharmacies to discount PBS discounted medicines by as much as they want, not the current limit of \$1.

There are three main areas for reform we strongly encourage this inquiry to focus on:

- Pharmacy location rules
- Pharmacy Ownership rules
- Discounting PBS medicines

### Pharmacy location and ownership rules

This inquiry must make a strong statement calling for action on the persistent reports and inquiries calling for pharmacy ownership and location rules to be removed to improve competition, driving down costs of medicines for patients. The most recent PC report has again called for them to be scrapped:

“Regulations on location and ownership of Australia’s pharmacies have reduced competition in local markets — there are now fewer pharmacies per head of population than when the regulations were introduced — and have facilitated the establishment of local monopolies — four pharmacy operators control 73% of the market share (through franchising and the like). Australian governments should follow the lead of the United Kingdom and the United States where pharmacy colocation — for example, pharmacies located in supermarkets — is allowed.”<sup>13</sup>

This is by our counting the sixth time the Productivity Commission has called for the ownership and location rules to be removed, yet they remain.

The 1999 Productivity Commission Submission to the National Review of Pharmacy noted that “the main impact of the ownership restrictions on the price/cost of pharmacy services is likely to be to inflate the cost base.”<sup>14</sup>

The 2005 Productivity Commission Review of National Competition Policy Reforms argues that Australia’s pharmacy ownership and location rules are much stricter than pharmacy regulations in

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<sup>7</sup> Productivity Commission (2015), [‘Efficiency in Health’ Research Paper](#).

<sup>8</sup> Ian Harper, Peter Anderson, Su McCluskey and Michael O’Byrne (2015), [Competition Policy Review Final Report](#).

<sup>9</sup> Australian National Audit Office (2014), [Administration of the Fifth Community Pharmacy Agreement](#). ANAO Report No.25 2014–15 Performance Audit.

<sup>10</sup> Productivity Commission (2005), [Review of National Competition Policy Reforms](#).

<sup>11</sup> Warwick Williamson (2000), [National Competition Policy Review of Pharmacy](#).

<sup>12</sup> Productivity Commission (1999) [Productivity Commission Submission to the National Review of Pharmacy](#).

<sup>13</sup> Productivity Commission (2023), [5-year Productivity Inquiry: Advancing Prosperity Inquiry report – volume 1](#), page 33.

<sup>14</sup> Productivity Commission (1999) [Productivity Commission Submission to the National Review of Pharmacy](#).

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other countries and in comparison to the rest of the health sector. The example of Europe shows us that the increased competition from relaxing ownership and location rules of pharmacies benefits consumers.<sup>15</sup>

The 2014 National Commission of Audit Report supported relaxing ownership and location rules:

“Allowing a wide range of new competitors to enter the market would provide greater access and choice for consumers and, over time, place greater downward pressure on pharmaceutical prices. This could involve non-pharmacists owning pharmacies and relaxing location rules allowing pharmacies to collocate in other retail outlets such as supermarkets.”<sup>16</sup>

The 2015 Productivity Commission ‘Efficiency in Health’ Research Paper noted that not only are the ownership and location rules continue at the expense of the consumer:

“Restrictions on retail pharmacy location and ownership are clearly more about protecting the vested interests of incumbent pharmacists than about promoting consumers’ interests and maximising benefits for society as a whole. These rules limit competition in the sector and can make it harder for some consumers to access pharmacy services. There is much to gain from removing these regulations while targeting safety and access objectives more directly.”<sup>17</sup>

The Harper Review, also in 2015, reinforced that these restrictions are not about safety and efficacy, rather they exist to limit competition:

“The Panel considers that current restrictions on ownership and location of pharmacies are not needed to ensure the quality of advice and care provided to patients. Such restrictions limit the ability of consumers to choose where to obtain pharmacy products and services, and the ability of providers to meet consumers’ preferences. The Panel considers that the pharmacy ownership and location rules should be removed in the long-term interests of consumers. They should be replaced with regulations to ensure access to medicines and quality of advice regarding their use that do not unduly restrict competition.”<sup>18</sup>

One of the significant disadvantages of the ownership rules is that they prevent pharmacies from being owned by health services seeking to serve their communities. In particular, the AMA is supportive of recommendation 3-2 of the King Review, which states: “The Australian Government should remove any restrictions on the ability of an Aboriginal Health Service to own and operate a pharmacy located at that Aboriginal Health Service.”<sup>19</sup>

The 2022 Productivity Commission Interim Report again stated:

“current regulations that have the stated aim of reducing market concentration are likely to instead reduce competition and establish local monopolies, with little countervailing benefit. These impediments to competition are purely due to the regulatory framework and could be changed by governments immediately.”<sup>20</sup>

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<sup>15</sup> Productivity Commission (2005), [Review of National Competition Policy Reforms](#).

<sup>16</sup> Australian National Audit Office (2014), [Administration of the Fifth Community Pharmacy Agreement](#).

<sup>17</sup> Productivity Commission (2015), [‘Efficiency in Health’ Research Paper](#).

<sup>18</sup> Ian Harper, Peter Anderson, Su McCluskey and Michael O’Bryan (2015), [Competition Policy Review Final Report](#).

<sup>19</sup> Productivity Commission (2017), [‘Shifting the Dial’ 5 Year Productivity Review Inquiry Report](#).

<sup>20</sup> Productivity Commission (2022), [5-year Productivity Review ‘A competitive, dynamic and sustainable future’ Interim Report](#).

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All of these inquiries and reports make the same simple, compelling argument: the current pharmacy ownership and location rules are anticompetitive, they mean Australians pay more for medicines than they need to, and they do not guarantee supply or safety for Australian patients.

The AMA is also open to further exploration of innovative models of medicines dispensing. In [the Future of Dispensing Discussion Paper](#), the AMA explored online dispensing, as well as through supermarkets and with vending machines. While online pharmacies are now part of our healthcare system, Australia can and should explore the options of dispensing at supermarkets and with vending machines.

Supermarket pharmacies could operate with a supermarket owning a chain of pharmacies and employing pharmacists to run them, or through a strategic alliance, where a pharmacy chain has smaller versions of its stores inside a supermarket. Supermarket pharmacies in the UK have been demonstrated to lower prices of medicines while providing higher-quality advice to patients receiving their medicine than is provided in community pharmacies.<sup>21</sup>

This was supported by the King Review which concluded:

“The current restriction on the accessibility by the public to a community pharmacy from within a supermarket should be discontinued, provided that any pharmacy located within a supermarket is required to operate in accord with all relevant practice requirements for an Approved Pharmacy.”<sup>22</sup>

### **Discounting PBS medicines**

While there is overwhelming support for the abolition of pharmacy ownership and location restrictions, there has been less discussion of other means through which competition could be increased in the pharmacy sector.

A simple change to increase competition and drive down medicine costs for patients would be to allow pharmacies to apply greater discounts to PBS medicines. Currently, pharmacies may only discount the PBS co-payment by up to \$1 and this amount has not been indexed since the measure was introduced in 2016. The AMA recommends that the \$1 limit on discounts which pharmacies can apply to the PBS patient co-payment is removed.

We know that parts of the pharmacy sector have demonstrated the capacity to provide significant discounts for patients and there is no apparent policy reason why this should not be further encouraged. This would be a cost-neutral policy for Government as the discount would come from the community pharmacy. The incentive to the pharmacy is to lower the cost of their medicine to entice patients to fill their scripts at that specific outlet. This policy is supported by Chemist Warehouse.<sup>23</sup>

Noting the current location rules limit the number of pharmacies in one location, there is a risk that this reform alone would not lead to a decrease as there is not enough competition in some locations, however there is no loss as this would not lead to an increase in any instances. To ensure the greatest impact of this reform, we would strongly encourage removal of the ownership and location rules.

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<sup>21</sup> Department of Health (2014), Post-Implementation Review: Amendments to the National Health Act 1953 to Extend the Pharmacy Location Rules to 30 June 2015.

<sup>22</sup> Stephen King, W.J. Scott and Jo Watson (2017), [Review of Pharmacy Remuneration and Regulation Final Report](#).

<sup>23</sup> Megan Haggan (2023), [“Discounting copay ‘just makes sense’: CWH”](#), AJP.

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The Government made a positive contribution to lowering the costs of medicines earlier this year by lowering the PBS copayment from \$42.50 to \$30. However, this was an expensive policy at \$787 million and is only impacting a small portion of medicines, with only 3.2 million of the roughly 48 million PBS scripts dispensed in January and February in this category. We expect there will be over 213 million PBS scripts dispensed this year – we would like to see discounts applied to a far greater number of them.

### General comments

Australians can benefit from improved innovation in the community pharmacy sector. Unfortunately in Australia, pharmacies have “innovated” by increasing sales of “complementary” medicines and non-therapeutic products. As noted by the Productivity Commission’s *Shifting the Dial* report:

“the availability of unproven and sometimes harmful medical products and confectionary at the front of the pharmacy is not reconcilable with an evidence based clinical function at the back. An Australian Government review into various natural remedies — widely available in pharmacies — suggests that most had no strong evidence of benefits to users.”<sup>24</sup>

The key point is that access to medicines in Australia can be significantly improved without undermining patient safety. This inquiry should take the opportunity to again reiterate the need to remove the ownership and location rules while supporting the need to allow pharmacies to genuinely compete on medicine prices by allowing further discounting of PBS medicines.

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<sup>24</sup> Productivity Commission (2017), [‘Shifting the Dial’ 5 Year Productivity Review Inquiry Report](#).