

Is this deregulation by the back door?

The Government's proposals in response to the Office of Fair Trading report aim to introduce some exemptions to control of entry regulations. Is this a sensible compromise or will it lead inevitably to full deregulation? Jonathan Buisson gathers reactions



Bluewater in Kent covers around 150,000 sq m of retail space and has two pharmacies. Will other developments be allowed more pharmacies?

THE Government “does not believe that simple deregulation is the best way to achieve its aims” but it does intend “to move cautiously in the direction recommended by the Office of Fair Trading”, Patricia Hewitt, Secretary of State for Trade and Industry, announced on 17 July.

It proposes to instruct primary care trusts in England to take consumer choice and increased competition into account when assessing whether a new pharmacy is “necessary or desirable”. It also proposes to remove control of entry restrictions from large shopping developments (over 15,000 sq m gross floor space — considerably larger than any stand-alone supermarket), from pharmacies open over 100 hours a week (which would require opening for at least 16 hours a day Mondays to Saturdays plus six hours on Sundays), and from pharmacies in one-stop primary care centres.

However, these “cautious moves” have brought a host of questions about specific details to which, currently, no answers have yet been given (see Panel below).

The Government’s decision not to move to full deregulation, at least at present, has been welcomed by all the main bodies in pharmacy. The simultaneous publication of “A vision for pharmacy” (see p106), an update to the pharmacy plan, has also been welcomed, but the mixed message offered by the two announcements has been noted.

John D’Arcy, chief executive of the National Pharmaceutical Association, says: “It is good news that the Government has rejected deregulation; and that has been as a result of an effective lobbying campaign by pharmacists in their communities which has brought the Government back. It is also good news that this is being treated as a health issue rather than one of trade or competition. However, you either have regulations or you don’t. We are concerned to get a better understanding of the proposals to ensure that this is not deregulation by the back door.”

Mr D’Arcy adds that the proposals on control of entry have to be looked at in conjunction with all the other interconnected

documents, including the pharmacy vision and the new contract.

Barry Andrews, chairman of the Pharmaceutical Services Negotiating Committee, says that on the one hand the Department of Health has issued its pharmacy vision, full of glowing words, but on the other hand the Department of Trade and Industry has made potentially destabilising proposals regarding control of entry. “There is a wide gap between them,” he says. “If the Government believes in a future for pharmacy then it will have to come up with something better than this.”

The Royal Pharmaceutical Society says that it will be seeking reassurances that public access to pharmacies will not be reduced as a result of partial deregulation.

Dr Gillian Hawsworth, President of the Society, says: “The Government has rightly recognised that community pharmacies are key providers of NHS services and are not like other retailer outlets. We are pleased to see that the decision on pharmacy openings will remain with the local PCT. But we need to be reassured that the relaxation of control of entry will not result in some people, in less commercially attractive settings, having poorer access to a pharmacy and the expertise of a pharmacist.”

NOT FAR ENOUGH

The Government’s decision not to proceed to full deregulation has been criticised by the OFT and the Consumer Association.

John Vickers, who presided over the OFT investigation into control of entry as director-general of fair trading and who is now chairman of the OFT, says: “While some liberalisation is better than no liberali-

How big is large and is 100 hours possible?

The following are just some of the questions that have been raised in response to Patricia Hewitt’s announcement of changes to control of entry:

Shopping developments What counts as a large shopping development? Does the 15,000 sq m cover just the areas the public has access to or the total footprint? Is this new developments or existing ones? Are town centre developments included?

Opening hours Will a pharmacist have to be present for the entire period? Where will the staff come from to run the service outside normal working hours? What happens if a pharmacy cannot maintain its contracted hours?

Primary care centres Who defines what is a one-stop centre? Who will be able to take part in consortia? Will doctors be allowed to form consortia?

Cabinet split but MPs oppose deregulation

The OFT report has split the Cabinet since it was published in January (our Lobby correspondent reports). At the Treasury, Chancellor Gordon Brown was in favour of deregulation. Former Health Secretary Alan Milburn was opposed to it, believing that it would wreck the community pharmacy network. When Dr John Reid was appointed Health Secretary last month he took a fresh look at the OFT report and was "not impressed". Trade and Industry Secretary Patricia Hewitt acted as a broker between the parties and the final decision was in her hands.

Backbench members of Parliament have been bombarded with complaints and were almost universally against deregulation.

Speaking after Mrs Hewitt's announcement on 17 July, the day that Parliament rose for its summer recess, Joe Benton (Labour, Bootle) said: "I am very pleased that the Government has responded so positively to the massive objections right across the country to the OFT proposal. The Government has now underlined its faith in pharmacy and the vital part it plays in the NHS."

John McWilliam (Labour, Blyth), a deputy speaker, said: "This is one case, from right at the end of the Parliamentary term, where ministers have listened carefully to the concerns of the public and acted accordingly."

Stephen McCabe (Labour, Birmingham Hall Green) tabled an Early Day Motion, which was signed by 107 MPs, opposing the OFT recommendation. He said: "The whole saga demonstrates the need for two Government departments, Health and Trade and Industry, to work more closely together, to build on and to improve the community pharmacy network. The Government recognises pharmacists as health care professionals who are an integral part of the structure of primary care."

The Liberal Democrats gave only a cautious welcome to Mrs Hewitt's statement saying that until the small print was available it was "merely a reprieve for the community pharmacist and not the all-out victory that it may first appear".

sation, we see this as a missed opportunity. The pharmacy entry rules do not just impede competition and reduce benefits for consumers, they block new and better ways of delivering medicines to the public. Restrictive regulation should not stand between patients and pharmacists."

The Consumers' Association accuses the Government of "bottling it" over deregulation. Principal policy adviser Phil Evans says: "In opposing sensible reforms of the sector, the Government has today thrown its weight behind the vested interests in the pharmacy sector." He adds that control of entry has not helped pharmacy provision in poor or rural areas and that it has "frozen the sector to the benefit of a handful of big pharmacy multiples", which have now been backed over the interests of consumers.

PHARMACY REACTIONS

Community pharmacy group NuCare says that it is disappointed that the Government has not followed Scotland and Wales in dismissing the OFT recommendation. It criticises the Government's response for being short on detail and expresses concern about deregulation by stealth. It fears that independent community pharmacies will not have the financial resources to compete with supermarkets and multiples in any areas where control of entry is lifted.

Boots The Chemists says that it is confident that it can seize the opportunities presented by the Government's drive to offer a wider pharmacy service through improved access for patients.

AAH Pharmaceuticals group managing director Steve Dunn predicts that there will be an increase in the number of pharmacy contracts granted as a result of the Govern-

ment's proposals, particularly to supermarkets. "For wholesalers, this will mean more deliveries but not a bigger pharmacy market as a whole." He believes that the current lack of detail in the proposals could be "a field day for lawyers".

Independent community pharmacist Noel Baumber believes that the proposed changes are "a liberalisation of the contract for supermarkets". A large number of new pharmacy contracts will distort the payment structure for NHS dispensing and be "an inefficient use of the global sum". He feels let down by those bodies that are supposed to be responsible for community pharmacy.

Supermarket group Asda welcomes the package of measures. Superintendent pharmacist John Evans says that the announcements from the Government are a landmark

for pharmacy. He predicts an increase in the number of pharmacies and the services being provided, in contrast to what he calls "the past 16 years of stagnation".

Steve Duncan, managing director of Moss Pharmacy, is optimistic. He believes that the appearance together of the statement on control of entry, the pharmacy vision and backing for the proposed new contract puts pharmacy's negotiators in a strong position. He says that there is a need to build a secure position so that pharmacy owners can invest for a 10-year period. Reviewing control of entry again after three years might undermine this.

SCOTLAND AND WALES

The devolved administrations in Scotland and Wales have repeated that it is not their intention to deregulate.

In Wales, Health and Social Services Minister Jane Hutt confirmed on 17 July that deregulation was not on the cards in Wales. She added: "Our draft pharmacy strategy, 'Remedies for success', drew a great many responses which we have been analysing carefully. We shall produce an action plan for taking this forward. The plan will be compatible with the proposed new pharmacy contract for England and Wales which will improve terms and conditions for pharmacists while raising still further the quality of services for the public."

Scottish Pharmaceutical General Council chairman Frank Owens told *The Journal* that the Scottish Executive had announced in March that deregulation was not the way forward in Scotland. "That remains the case today," he says. "However, that decision was not a vote for the status quo." He added that discussions about access to pharmacies will form part of negotiations for a new community pharmacy contract in Scotland.

It is good that the Government has made a decision about control of entry in England, but the lack of detail shows that it has clearly been a last-minute compromise. More detail is urgently needed before pharmacists can be sure that deregulation has not slipped in through the back door.

Rural dispensing to be looked at again

The Department of Health has asked pharmacy and medical negotiators to take a fresh look at the issue of dispensing in rural areas following the Government's announcement on control of entry in England.

Alongside its announcements on the Office of Fair Trading report and the new pharmacy vision document, the Department of Health also issued its response to the Health Select Committee's report on control of entry regulations and pharmacy.

Although this response contains essentially the same views as expressed in the other announcements, it adds that rural dispensing needs to be looked at again. In 2001, the Pharmaceutical Services Negotiating Committee, the General Practitioners Committee of the British Medical Association and the Dispensing Doctors Association reached an agreement "intended to promote increased stability for rural communities in the provision of pharmaceutical services by dispensing doctors and by pharmacists". The details of the agreement were never made public and it was shelved after the OFT announced its intention to examine control of entry into pharmacy contracts.

Now the Department of Health wants the issue looked at again in the light of control of entry and changes to the GP contract. However, PSNC chairman Barry Andrews was dismissive of any such review taking place until more clarity is provided about the Government's intentions on control of entry for pharmacy.