

# OFT suggests a measured response to distribution changes — not a halt

There is nothing extraordinary within the long-awaited Office of Fair Trading report into UK medicines distribution. Rather, the OFT seeks to assure stakeholders that the Government has the power to minimise the impact of direct-to-pharmacy and other new supply models. **Matthew Wright** reports

Direct-to-pharmacy distribution (DTP) schemes that have cropped up over the past year appear to be here to stay. The Office of Fair Trading has not asked Pfizer and other manufacturers to unpick their DTP arrangements as many people have been hoping it would (see Panel). Instead the OFT has opted for a number of recommendations for the Government to consider — proposals that, it says, will ensure costs to the NHS and service to patients are not adversely affected by changes in the market.

Nevertheless, the OFT makes no bones about what detrimental impact DTP could have on the cost of drugs to the NHS, as well as on levels of service to both pharmacies and patients particularly with respect to Pfizer's exclusive distribution deal with UniChem. And, although Pfizer's DTP arrangement may remain in place, the OFT says it might have to intervene if other manufacturers go down the sole-distributor path, exacerbating competition concerns within the sector.

## Cost to contractors and the NHS

The OFT admits that DTP arrangements have the potential to cost the NHS hundreds of millions of pounds a year. It says:

- DTP gives manufacturers the ability to decrease discounts to pharmacies, which could lead to significant cost increases to the NHS
- DTP will reduce or remove the distribution cost cross-subsidy (where high volume/value products subsidise the distribution costs of low volume/value products) associated with the traditional wholesale model. Higher costs for manufacturers of low value/volume medicines could be passed on to the NHS
- Different DTP systems that require pharmacies to appoint different wholesalers are likely to result in some increase in pharmacy administration costs

It is not clear under the existing Pharmaceutical Price Regulation Scheme (PPRS) whether the Department of Health is able to require, monitor or enforce assurances that the adoption of DTP schemes by manufacturers will not result in increased cost to the NHS, says the OFT.

Even so, the OFT believes that the key to ensuring the NHS and pharmacists are not left out of pocket lies with the PPRS, changes to which are currently being negotiated by the Department of Health. Accordingly, the OFT recommends that the Government

## Options considered by the OFT

The Office of Fair Trading alluded to several possible outcomes when it launched its market study into UK medicines distribution earlier this year. These included:

- Giving the sector a clean bill of health
- Referral to the Competition Commission
- Initiating a Competition Act 1998 (CA98) investigation
- Making recommendations to the Government

The OFT has opted for the last option. It says: "We have chosen not to open an investigation under the CA98 at this point. While we have identified some concerns with DTP schemes and reductions in the number of wholesalers, these arise largely because current pricing arrangements under the PPRS are set up in the context of, and reflect, the traditional wholesale model. Our view is that the most appropriate way to deal with this is to enhance the PPRS so that it can accommodate different distribution methods."

Furthermore, the OFT does not believe that its concerns over Pfizer's exclusive distribution deal are sufficient to warrant action under CA98.

Pfizer UK commented: "Pfizer has always maintained that its model is in full compliance with all applicable EU and UK laws and is pleased to note that the OFT report contains no recommendations for further action or referrals on competition grounds."

The OFT adds: "We have also decided not to refer the market to the Competition Commission . . . because we consider that the concerns identified are best dealt with by recommendation to the Government."

makes changes to the PPRS that will ensure the discounts currently obtained by pharmacies are safeguarded.

The OFT proposes two possible options on this front. The first proposal would see the NHS list price of medicines reduced to reflect the removal of discounts offered by manufacturers to pharmacy. "Our proposal would effectively alter the level in the supply chain at which the transaction price of medicines is constrained," the report explains. This option would require changes to pharmacy reimbursement as the reimbursement price would not be expected to contribute to retained profit. The OFT says that the issue could be resolved by direct payment from primary care organisations to pharmacies based on pre-

scription volumes or some other adjustment to the current reimbursement mechanisms.

The second option would be for the NHS to seek an agreement from manufacturers to offer a minimum discount on sales to pharmacies, within the PPRS framework. The OFT considers this the simpler option, not requiring the same level of changes to PPRS or pharmacy reimbursement.

## Effect on service levels and competition

It is likely that DTP schemes will lead to reduced service levels to pharmacies and, potentially, patients, the OFT states. And while the OFT admits that DTP schemes could provide some benefits, for example, more targeted product and service support from manufacturers and reduced patient exposure to counterfeit medicines, it says that such benefits are difficult to quantify.

Furthermore, the report says: "We reach no view on whether the traditional wholesale model is the most efficient way of providing satisfactory service standards or whether current service standards are in any sense optimal."

And the OFT's solution is to expect greater clarity on what service level the NHS is paying for from a manufacturer when it negotiates product prices under the PPRS. It recommends that the Government seeks agreement from manufacturers on minimum service standards. "Any deterioration in service levels should be reflected in the prices paid for medicines by the NHS," the OFT suggests.

Exclusive distribution arrangements, the OFT says, may in the longer term lead to one wholesaler having significant market power. It warns manufacturers that reduced competition in the wholesale/distribution sector could ultimately affect their ability to obtain competitive bids for distributing their medicines.

The OFT concludes: "We believe our recommendations safeguard against increased costs to the NHS and ensure service standards to pharmacies and patients will be maintained, while allowing manufacturers the commercial freedom to choose the distribution arrangements they consider to be most efficient and best suited to their portfolio of medicines."

But, despite not calling a halt to the recent distribution changes, the OFT has highlighted enough issues around the new supply models, including Pfizer's sole-distributor arrangement, to suggest that it will not allow manufacturers free reign from here on in — indeed the OFT has said that it would take another look at the situation if other manufacturers follow Pfizer's lead or if competition is unduly affected.