

Community pharmacies and the OFT report — the clock is still ticking

By Chris Grayling

The war in Iraq has dominated the headlines in recent weeks, leaving domestic issues on the sidelines. However, at Westminster, the future of the Office of Fair Trading report and of community pharmacies has remained highly visible; indeed, it has been one of only a handful of non-Iraq issues to surface at Prime Minister's questions.

Few issues have attracted even approaching the same level of interest during this Parliament. Night after night, members have been queuing to present petitions collected by their local pharmacists. The issue has been debated in Westminster Hall in an event called by the Conservative MP Anthony Steen and is being debated again at the end of April in the main chamber as part of a day-long Opposition debate on the challenges facing local community and town centres.

Hundreds of MPs have signed early day motions expressing support for their community pharmacists. Many have put pressure on Ministers through written and oral parliamentary questions. No one can doubt the strength of feeling on the green benches of the House of Commons.

Where to now for the report and the decision making? The Government has taken a distinct step back in the face of strong opposition to the proposals, has made placatory noises to pharmacists and has delayed its detailed response until the summer. So is the controversy in its dying days, or is this the eye of the storm?

One of the complications is that this will not be a straightforward decision. Three Government departments are involved, even though it is the Department of Trade and Industry which is the sponsor of the report and the OFT. The Treasury will want to have its say. Already the Chancellor, Gordon Brown, is reported to have thrown his weight behind the OFT recommendations because he is said to believe that it will help him curtail the burgeoning National Health Service drugs budget.

By contrast ministers at the Department of Health are clearly struggling with the issue. It should be their decision. The old regulations were DoH sponsored and shaped. But the Enterprise Act — which has only recently come into force and which shapes the powers of the OFT — may have changed that. It is the DTI's job to respond to the OFT — but it is not yet clear which department will have the lead over the detail that follows.

And if the DTI were to pursue a course

that undermined community pharmacy, then it would also undermine the NHS strategy to make greater use of the professional skills of community pharmacists. Privately, health ministers have been making upbeat noises about the future of community pharmacies — but the final verdict may not be theirs.

If the decision goes the wrong way, it could still pose major problems for local pharmacies. So the battle is far from over

It is almost certainly these conflicting pressures that led Patricia Hewitt to announce the delay to the Government response to the OFT report. If it had met the original timetable, the DTI would have taken decisions on whether to accept all or some of the report by mid-April. The delay is a certain sign that a prolonged Whitehall battle is under way.

She also chose her words extremely carefully when she made her first public statements about the report and her approach to it: "I welcome the OFT report, which is a useful analysis of the competition aspects of the control of entry regulations and of the benefits that greater competition can bring. I am also clear, however, that there are limits to markets, particularly in the delivery of health services. It is essential that pharmacists should be able to fulfil not only their present valued and trusted role but the wider role envisaged for them in the NHS plan: simply deregulating the market will not do that. We therefore need a balanced package of measures, and that is precisely what we will draw up, in consultation, as I have already indicated."

What was quite clear from that statement is that all the different elements of the OFT report remain on the table. It seems improbable that the Government would press ahead with total deregulation without any measures of support for local pharmacies — but this could be limited to an expansion of the support provided through the essential small pharmacies scheme. If the decision goes the wrong way, it could still pose major problems for local pharmacies. So the battle is far from over.

The critical unknown factor in this will be the role of the Treasury over the next three months. It has become something of a joke at Westminster that Tony Blair is the "overseas prime minister" and Gordon Brown the "home prime minister". The

Chancellor himself has let it be known in the past that he sees himself as chief executive to the Prime Minister's chairman of the board.

So it seems improbable that the Chancellor will not have a major influence over the final decision. His support for deregulation will be a powerful driver towards substantial implementation of the OFT recommendations. The Health Secretary Alan Milburn is already in a state of semi-perpetual conflict with the Chancellor over the future direction of the NHS. This may be a battle he does not want to fight.

The irony will be that, as a Scottish MP, the Chancellor may be spared the direct pressure that is coming from pharmacists in constituencies around the country. The Scottish Parliament and the Welsh Assembly have already rejected the OFT report. Whether they can actually do so is an entirely separate question.

Trade and industry and competition matters are still the province of the DTI — and it would make a mockery of the role of the Competition Commission if its recommendations were subject to different interpretation in different parts of the United Kingdom. More importantly, however, the question of which department will lead in shaping new regulations will also determine the powers of the devolved assemblies. If it is the Department of Health, the powers are indeed devolved; if it is the DTI, they are not. Experts at Westminster are not yet sure of the answer.

The outcome could also have the effect of creating market distortions and removing local services in border areas. It is possible to imagine a situation where in England the local pharmacy market is deregulated, and local services protected by the ESPS. Similar protection might not exist in Wales.

As a result, supermarkets opening pharmacies in and around, for example, Chester, would change the nature of the pharmacy market in North Wales as well as on the English side of the border. Key local pharmacies in England might enjoy special protection — but those in the Welsh market that continued to operate under the current market conditions might find themselves vulnerable to market pressures and possibly closure. Although, if a Labour Government is returned in Wales, the situation will be complicated by the fact that it has pledged to stop charging for all prescriptions. So it is far from clear that this is an area where devolution can possibly work.

What is certain is that the clock is ticking. Few at Westminster doubt that the Government is planning significant changes to community pharmacy. If it gets the decision wrong, the damage to both local communities and to our health service will be enormous. The pressure must be maintained, because by the time summer comes it may be too late.

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