



**AUSTRALIAN FRIENDLY SOCIETIES
PHARMACIES ASSOCIATION ^(inc)**

ABN 76 147 873 151

www.afspa.org.au

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Mr Dan Harvey
Services and Workforce Planning Branch
Department of Human Services
GPO Box 4057
Melbourne VIC 3001

Dear Mr Harvey

On behalf of the Australian Friendly Societies Pharmacies Association (AFSPA) I am writing to advise that AFSPA fully supports the submission of the Victoria Friendly Society Pharmacy Association (VFSPA) to the review of the present growth cap on friendly society pharmacy ownership that you are conducting.

Specifically, AFSPA very strongly supports the recommendation of VFSPA that Section 174 (4) of the *Health Professionals Registration Act 2005* should be allowed to expire at its specified sunset time of 16 November 2008.

In conducting this Review the Terms of Reference state that the aim of the Review is *to identify and assess the costs and benefits of the cap on the growth of friendly society pharmacy ownership in Victoria*. Recommendations to the Minister for Health resulting from this review are to take into account the following:

- The regulatory principles and framework set out in the *Victorian Guide to Regulation*,
- The views of stakeholders; and
- Relevant COAG decisions.

In order to explain, and justify, AFSPA's strong support of VFSPA's recommendation that the friendly society growth cap restriction should be allowed to sunset, some brief background is required.

Prior to the commencement of a cap on the growth of friendly society pharmacy ownership on 16 November 2004, there was no restriction on the number of pharmacies permitted to be owned by a friendly society in Victoria.

However, during the long drawn out process of the National Review of Pharmacy (the Wilkinson Review) conducted under the Competition Principles, a number of claims against friendly society ownership of pharmacy were persistently made by the Pharmacy Guild of Australia (the Guild).

All these claims were considered, measured and tested against the then National Competition Principles and this testing included a formal Review by the Australian Consumer and Competition Commission (ACCC).

Consequently, COAG agreed that no new restrictions should be placed on friendly society ownership of pharmacy and that any existing restrictions should be repealed. COAG also recommended that the number of pharmacies able to be owned by a pharmacist in the various jurisdictions should also be repealed.

NSW was the first jurisdiction to table a Bill on pharmacy ownership to provide for the repeal of its' restrictions against friendly society pharmacy ownership and its long standing restriction of restricting pharmacists to the ownership of 3 pharmacies. This was required in order to qualify for payments under the Competition Principles.

The Guild mounted a very significant and ultimately successful campaign against these provisions.

The then Prime Minister, the Hon. Mr John Howard intervened in the process and wrote to each Premier/Chief Minister advising of a formula tailored to each jurisdiction's of their then existing regulations relating to pharmacy ownership and number of pharmacies permitted to be owned by both friendly societies and pharmacists. Those jurisdictions which implemented the Prime Minister's formula on the number of pharmacies permitted to be owned by approved entities (pharmacists and friendly societies) were guaranteed their competition payments.

Measured against the provisions of the Competition Principles this produced a range of perverse outcomes:

- In Victoria it resulted in new restrictive growth provisions against friendly societies' pharmacy ownership without any reference to its (then) own detailed regulatory framework; and pharmacists had their "quota" increased from 3 to 5
- In the ACT where friendly societies are not permitted to own pharmacy, but where pharmacists have no restrictions on the number of pharmacies they are permitted to own, no change to its legislation was required
- In the NT, similar to the ACT, but where friendly societies can own pharmacy under special conditions with Ministerial permission, no change to its legislation was required.
- In NSW where only two friendly societies owned pharmacy but where historical restrictive relocation rules and onerous Ministerial approval rules for new pharmacies owned by friendly society applied, thus effectively limiting numbers, one received no relief because it already owned 6 pharmacies and the second was restricted to a new ceiling of 6 pharmacies, where no such ceiling had previously applied.

That is the background. In short, in Victoria there is currently a cap on the growth of friendly society ownership of pharmacy for no other reason then for political expediency.

Despite the recommendations of COAG, the National and subsequent State Reviews and a ACCC Inquiry, all held in accordance with the criteria of the National Competition Principles, it all came down to sheer political lobbying power.

No evidence was then required for a costs benefits analysis to justify the introduction of restrictive legislation against the growth of ownership of pharmacy by friendly societies. But in order to meet the Terms of Reference for this Review, friendly societies which own pharmacies are now being asked to analyse the costs and benefits of the current restrictions against them in order to justify their recommendation that the sunset clause should expire.

AFSPA is confident that the VFSPA submission has done that and it emphatically supports the evidence for this as set out in that submission.


Friendly society owned pharmacies provide an alternative choice for community pharmacy services. Choice of service provider is a fundamental principle of competition principles and is a principle that resonates throughout the Victorian Guide to Regulation.

Finally, it should be recalled and noted, that the restriction on the number of pharmacies permitted to be owned by a pharmacists is a total Guild construct, conceived a number of decades ago. It was first introduced into Australian Parliaments during the 1940's to head off the then planned expansion of the English Boots pharmacy empire into Australia.

All of this is well documented and AFSPA refers you to its earlier submissions.

In conclusion, AFSPA emphasises its view that the present growth cap on friendly society pharmacy ownership is anti-competitive and fails the "competition test" as set out in Step 5 of the Victorian Guide to Regulation.

Yours sincerely



Jim Howard
President
AFSPA