

Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

Competition Policy Review Draft Report

The Consumers Health Forum of Australia (CHF) welcomes the opportunity to provide feedback on the *Competition Policy Review Draft Report* (the Draft Report). We previously provided input to the Australian Government's Competition Policy Review.

CHF is the national peak body representing the interests of Australian healthcare consumers. CHF works to achieve safe, quality, timely healthcare for all Australians, supported by accessible health information and systems. CHF provides a strong national voice for health consumers and supports consumer participation in health policy and program decision making.

Overall, we welcome most of the recommendations and findings of the Draft Report, as they relate to health. We highlighted a number of issues in our original submission focussed on ensuring that high quality, universally accessible, cost-effective health care is available to all Australians. We are pleased that our comments were considered by the Review Panel.

Our main concern with the Draft Report relates to the Competition Policy Review Panel's recommendations about private health insurance. We are concerned that the Panel has chosen to focus on two individual reforms over a more comprehensive examination of the issue. CHF believes that a comprehensive review of private health insurance (preferably by the Productivity Commission) is required to gain an accurate understanding of the impacts of competition reforms and deregulation on consumers, in addition to the expansion of coverage, as proposed by government.

Pharmacy

In our original submission, CHF recommended that the Review Panel consider the impact of current pharmacy location and ownership rules, and whether these serve the public interest and the interests of health consumers.

The Panel noted that CHF, National Seniors, Chemist Warehouse, and Professional Pharmacists Australia called for changes to the regulations. The Panel considered that current restrictions on ownership and location of pharmacies are unnecessary to ensure the quality of advice and care provided to patients.

CHF supports the Panel's assessment that these restrictions limit the ability of consumers to choose where to obtain pharmacy products and services, and the ability of providers to meet consumers' preferences. We believe that the future of pharmacy services will be in providing consumer-responsive services in places where consumers demand them, not in places arbitrarily determined by distance-specific location rules.

Trade Agreements

CHF raised concerns that previously leaked versions of the ongoing trade Trans-Pacific Partnership (TPP) negotiations suggest that new provisions could prevent the use of effective pricing mechanisms and increase the influence of the global pharmaceutical industry over Australian Government decision making. We argued that this would be an unacceptable measure that could undermine the fundamental principles of Australia's health system.

The Panel considered that trade negotiations should be informed by an independent and transparent analysis of the costs and benefits to Australia of any proposed intellectual property provisions. Moreover, analysis should be undertaken and published before negotiations are concluded.

Accordingly, CHF supports the Panel's recommendation for an overarching review of intellectual property to be undertaken by an independent body such as the Productivity Commission. While this recommendation does not directly address our concerns, nonetheless it is a step in the right direction towards increased transparency in trade negotiations, particularly those that are likely to have a significant (and potentially negative) impact on health consumers.

Codes of Conduct

In our previous submission, CHF called for the establishment of a single code of conduct for the promotion of therapeutic goods. Such a code would provide the Australian community and health consumers with assurance that the promotion of medicines and other therapeutic goods is ethical, competitive, transparent and ultimately done for the public benefit.

The Panel did not directly address our concerns, however it noted that codes of conduct, including those in the health sector, were perceived to be lacking in meaningful enforcement sanctions and the capacity for public enforcement. The Panel stated that the introduction of civil penalties and infringement notices for breaches of codes, which will apply from 1 January 2015, strengthens the *Competition and Consumer Act (CCA)* enforcement options.

Australian Competition and Consumer Commission

CHF raised concerns about the Australian Competition and Consumer Commission's (ACCC) decisions to grant authorisation to certain health representative bodies in the past. We argued that ACCC authorisation should only be granted on the basis of strong evidence to support a claim of public benefit. Furthermore, CHF considers that 'consumer impact' is a critical metric in determining public benefit claims. Applications for ACCC authorisation should present evidence on the impact on consumers, not just the impact to practitioners or to the health system.

The Panel noted that the ACCC is a well-regarded and effective body, but that governance of the ACCC would benefit from an 'outsider's view' of policy and decision-making. The Panel considered that incorporating a wider range of consumer, business and academic viewpoints would improve the governance of the ACCC.

CHF supports the Panel's assessment. We believe that the desired outcome would be best achieved by consumer involvement via a Board structure, with consumer members being granted decision-making powers. This will strengthen accountability of the ACCC to the broader community, and also help to ensure that the ACCC's work is guided by the values and principles that are important to consumers and the community.

Environmental and consumer protection exemption

As stated in our previous submission, CHF is supportive of the current CCA exemptions, which allows boycotts in circumstances where the dominant purpose of a boycott relates to environmental or consumer protection issues. We argued that these provisions should not be diluted. We note the position adopted by the Panel.

Private health insurance

CHF did not make specific comments about private health insurance in our original submission; however, we note the Panel's support for two measures previously recommended by the National Commission of Audit:

1. The replacement of price regulation of premiums with a price monitoring scheme

The National Commission of Audit found that current pricing arrangements where insurers apply to the Minister for Health to increase premiums remove the incentive for firms to become more efficient. It recommended that current arrangements be replaced with a system of price monitoring.

CHF notes that price monitoring is used in other markets where, like the private health insurance market, there are few large players. We are concerned that price monitoring may not work for a highly-complex product such as private health insurance, compared to fuel and airports. We believe there should be a more detailed analysis on the proposal, before considering the removal of a measure that has been successful in constraining price increases for consumers.

2. Expansion of health fund coverage to primary care settings

The National Commission of Audit recommended that insurers be allowed to cover care in primary care settings to assist members in managing chronic conditions.

CHF is concerned about the involvement of private health insurers in the provision of primary health care, and the potential for this, along with the Federal Government's proposed Medicare co-payment, to diminish the universality of Medicare and undermine equitable access to primary health care. We believe that the structural changes proposed to private health insurance have not received sufficient scrutiny, and that is why we have recommended that the private health

insurance sector be subject to analysis by the Productivity Commission, prior to any significant changes are implemented. CHF notes that neither the Panel, nor the National Commission of Audit, undertook an actual in-depth review of competition in the private health insurance market. The last comprehensive review was conducted by the Industry Commission (the predecessor of the Productivity Commission) in 1997.

CHF acknowledges the substantial burden of illness and injury due to chronic diseases. There is a need for more integrated services to ensure that health consumers are better able to understand, and fully benefit from, the healthcare system at an earlier stage and potentially avoid the need for more expensive tertiary-level care. However, there is no evidence to suggest that private insurance funding would be more cost-effective than Medicare in achieving this, particularly when private health insurance is subsidised by the Government through the Private Health Insurance Rebate.

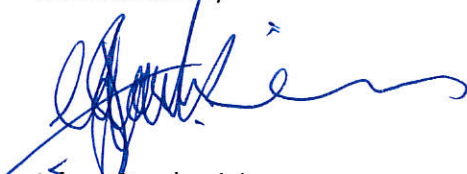
The Panel feels it is important that consumers have access to private health insurance products that meet their needs, and that some deregulation may be worth considering.

There are a number of government policy objectives in relation to private health insurance that are supported by an intricate balance of demand and supply side instruments. For example, the premium approval process is part of a suite of supply side instruments (e.g. community rating, risk equalisation) designed to spread cost risks and keep costs down for consumers, while there are demand side instruments (e.g. Lifetime Health Cover, Medicare Levy Surcharge) that are designed to keep demand for private health insurance artificially high. CHF does not believe that one or two individual reforms should be undertaken in the hope of improving competitive outcomes in the private health insurance market without a wider consideration of the overall benefits to consumers, taking into account all the factors at play.

Importantly, more work needs to be done to determine the impact of deregulation of private health insurance on Medicare. CHF believes that a Productivity Commission inquiry into private health insurance should consider at least the structure, subsidies, supervision and coverage of this sector, in addition to the public interest. Robust, evidence-based analysis must inform any decisions that will impact on the significant number of Australians with private health insurance, as well as people who do not hold private health cover.

CHF appreciates the opportunity to respond to the Draft Report. If you would like to discuss these comments in more detail, please contact CHF Policy Manager Jo Root on 02 6273 5444 or j.root@chf.org.au

Yours sincerely



Adam Stankevicius
Chief Executive Officer

19 November 2014