



The Pharmacy
Guild of Australia

SUBMISSION

Pharmacy Guild of Australia submission to ACCC Supermarket Review consultation

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National Secretariat

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Introduction

The Pharmacy Guild of Australia (the Guild) is the national peak organisation representing community pharmacy. It supports community pharmacy in its role of delivering quality health outcomes for all Australians. The network of approximately 6,000 equitably distributed community pharmacies plays a pivotal role in the delivery of the National Medicines Policy, including by ensuring timely access to safe, effective, and affordable medicines under the Pharmaceutical Benefits Scheme (PBS) for all Australians. The Guild welcomes the opportunity to respond to the Supermarkets Inquiry conducted by the Australian Competition & Consumer Commission (ACCC). Our comments are from the perspective of community pharmacy and regarding the sale of products in common from both supermarkets and community pharmacies.

Community Pharmacy

Community pharmacies have long been and continue to be an essential service provider within Australian communities. In addition to dispensing and providing health-related services, community pharmacies also sell a wide range of health and personal care products. While Federal and state/territory laws restrict the sale of some items to pharmacy (in particular scheduled medicines), there has been increasing competition between community pharmacy and supermarkets for the sale of non-restricted products (referred to in this submission as 'open-sellers'). This includes items such as:

- non-scheduled medicines (e.g. small packs of paracetamol, ibuprofen, aspirin, non-sedating antihistamines, reflux medicines, anti-diarrhoeals as well as laxatives and lozenges)
- complementary medicines (e.g. vitamins, minerals and herbal remedies)
- sun care
- baby care
- dental care
- hair and scalp care (e.g. dandruff and head lice treatments as well as shampoos, conditioners and hair treatments)
- skin care (e.g. antifungals, acne treatment and moisturisers)
- personal care (e.g. personal hygiene such as soaps and hand washes, sanitary items, pregnancy tests, family planning products)
- first aid (e.g. dressings, bandages and antiseptics)
- cosmetics

The most recent IBISWorld report on community pharmacy indicated demand for these products from supermarkets and grocery stores was expected to grow by 2.1% in 2022-23¹, driven by 'increasing consumer desire for convenience is expected to drive sales growth for rival supermarkets selling general medicines'.

Not only is there competition for these categories from supermarkets, but also from their allied department stores such as Big W, Kmart and Target. The IBISWorld report highlighted that 'in addition to stocking various unscheduled medicines, non-pharmacy stores have been expanding their range of health and beauty products' and that 'this trend has heightened competition for pharmacies front-of-stores sales'.

¹ IBISWorld Pharmacies in Australia; March 2023

Topic 1: Market structure and impact on level of competition

Please provide feedback on:

- Whether there is effective competition in the supply of groceries in Australia, and particularly between supermarkets.
- Market structures for the retail supply of groceries in Australia.

Guild response

It is common knowledge that the supermarkets continue to look at pharmacy markets as an opportunity for growth and increasing shareholder profits. This has been seen with other small community businesses that also sell products available from supermarkets such as butchers, bakers, fruit and vegetable outlets and newsagents. As these categories have expanded in supermarkets, the number of private operators in local communities has reduced. The evidence for this is with the shift in retail tenancy from product retailers to service providers that are not in direct competition with the mega corporates. Food and beverage outlets led the change for five to ten years and we are now seeing service retailers such as health and medical centres, nail bars, masseurs and gyms moving into shopping strips and centres.²

We've also seen supermarkets expanding into other regulated industries as part of their corporate business or as partnership arrangements, such as liquor shops and service stations. In metro areas, supermarkets are increasingly opening smaller, branded convenience stores e.g. Woolworths Metro, Coles Central (formerly Coles Express) and Aldi Corner Store³.

Pharmacy laws and obligations

Strict medicines and poisons regulations at state and territory level limit the extent of medical products that can be sold in a supermarket, with higher risk (scheduled) medicines restricted to access from a pharmacy. Additional laws also regulate pharmacy ownership, requiring them to be owned primarily by a pharmacist, as well as restricting any direct physical connection between a pharmacy and a supermarket. They also limit the number of pharmacies that can be owned by any one pharmacist within a particular jurisdiction (see table below), primarily from a public safety perspective but also facilitating competition within the pharmacy sector.

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Limitation on the number of pharmacies that a pharmacist can have an ownership interest in	No limit	5	No limit	5	6	4	5	4

These laws are complemented by Federal location rules⁴ for pharmacies for an approval to dispense pharmaceutical benefits, which regulate the location in which a new 'PBS-approved' pharmacy can open or an existing 'PBS-approved' pharmacy can relocate.

These laws are in place in the interest of public care and safety. They recognise that medicines are not typical retail items but come with significant risks if not used correctly. They also recognise, irrespective of location, the Australian public requires convenient and reliable access to subsidised medicines and health items and related-support services through publicly funded schemes such as the PBS, Repatriation Pharmaceutical Benefits Scheme (RPBS) and National Diabetes Services Scheme (NDSS).

Additionally, these laws recognise that as health clinicians, pharmacists have professional obligations which prioritise the care and well-being of their patients over corporate profits. As a pharmacist, pharmacy owners are responsible for the decisions and operations of their pharmacy and must adhere to strict professional obligations, regulated by the Australian health practitioner regulation agency (Ahpra) and the Pharmacy Board of Australia, including a shared Code of Conduct^{5,6} and a Pharmacist Code of Ethics⁶. These responsibilities cannot be delegated and should not be influenced by corporate entities or

² [Why health clinics, gyms and nail bars are taking over Australia's shopping strips \(commercialrealestate.com.au\)](http://commercialrealestate.com.au)

³ [New Aldi store signals change in Australian shopping habits \(thenewdaily.com.au\)](http://thenewdaily.com.au)

⁴ [Department of Health and Aged Care | Guides and Forms](#); Pharmacy Location Rules

⁵ [Australian Health Practitioner Regulation Agency - Shared Code of conduct \(ahpra.gov.au\)](http://ahpra.gov.au)

⁶ [Pharmacy Board of Australia - Codes, Guidelines and Policies](#); Guidelines for proprietor pharmacists

shareholders. There is also an equality within a community pharmacy between a pharmacist owner and employee pharmacist as both are professionally equal and must each meet strict professional obligations. This equality better enables employee pharmacists to challenge a pharmacy colleague and/or owner on pharmacy business or practice matters in the interests of patient care and professional health care.

Pharmacy operations

The Federal Government's location rules promote patient access to pharmacy care through a more even distribution of PBS-approved community pharmacies that prioritise communities that lack adequate pharmacy services. As a result, there are approximately 6,000 PBS-approved community pharmacies around Australia, ensuring most communities are serviced by at least one pharmacy. Geospatial research undertaken by the Guild shows that in capital cities, 97% of people have access to at least one pharmacy within a 2.5km radius, while in the rest of Australia, 66% of people are within 2.5km of a pharmacy.

The PBS means that the cost to patients for government-subsidised medicines is largely consistent, irrespective of location. This also applies to a number of pharmacy services, such as those subsidised under the Seventh Community Pharmacy Agreement⁷.

Pharmacy ownership laws means that all community pharmacies operate as individually owned businesses, encouraging competition within the pharmacy sector compared to the supermarket oligopoly. The costs for non-subsidised pharmacy goods and services is largely left to market forces to determine costs. There are many factors that affect the fees and charges within a pharmacy, but one of the most significant is the volume. As with any commercial entity, pharmacies that order larger quantities benefit from more substantial trading terms such as discounts, rebates and extended payment periods. A difficulty faced by pharmacy with regards the open-seller products in common with the supermarkets is the number of brands and pack sizes available. While pharmacies may be able to stock and sell larger pack-sizes of scheduled medicines, they often still have to carry smaller, more costly pack sizes to cater to what their customers demand and/or can afford at the time.

Trading terms typically apply for larger quantity orders, including minimum ordering of individual items in shelf packs or carton quantities for even better trading terms. One logical explanation for this is the reduced packaging and handling required by the supply chain to fill the order.

The pharmacies that are most able to have the custom to order in these quantities are larger pharmacies. Those who are part of a buying group, such as a banner, can capitalise on the custom base and buying capacity of the group. The larger the banner the better the trading terms that can be negotiated.

Independent pharmacies or those from smaller banner groups have less buying capacity and are less able to negotiate stronger trading terms. This becomes problematic when the smaller and/or independent pharmacies are competing with other pharmacy groups as well as non-pharmacy retail stores for the open-selling lines. There have been anecdotal reports over many years from Guild members stating that the pharmacy wholesale price for some open-seller items is more than the supermarket retail price. For this reason, some pharmacies elect to carry limited or even no product ranges for categories that were previously strong in pharmacy. An example of this is with baby care products such as infant formula and nappies which are now readily available in supermarkets and their counterpart department stores. A reduction or removal of such lines from a community pharmacy is also associated with reduced access to professional advice if it is needed.

The increasing use of online shopping, including through large pharmacy banners as well as supermarkets now means their market reach extends well beyond their local community. All of these factors play into the business operations of a small and/or independent pharmacy and as they lose custom to bigger providers, either locally or online, they become less competitive and the problem becomes cyclical.

Regional Pharmacy

While the issues above apply to a pharmacy in any location, pharmacies in regional and rural areas must contend with other issues. In smaller communities, the pharmacy is a critical part of the community's infrastructure. It is not only a health service centre, but a local employer, sponsor for local events and essential service provider during or after a catastrophe, such as floods, fires, cyclones or pandemics.

⁷ [Programs - Pharmacy Programs Administrator \(ppaonline.com.au\)](http://ppaonline.com.au)

Regional and rural pharmacies can face larger costs to operate the business, including:

- transport costs, especially for non-PBS items and urgent, unanticipated orders
- staffing, including training and leave coverage as well as costs to attract and retain professional staff

Regional and rural pharmacies are more sensitive to the impacts of online competitors, including large pharmacy groups and supermarkets for the open-seller items. Any reduction in the profitability of the pharmacy has the potential to result in reduced pharmacy services, such as availability of products or services and/or reduced trading hours. This can reduce public access to these goods and services for the local community, which is more problematic when there is unanticipated urgent demand that cannot be addressed by an online supplier.

Topic 8: Competition in grocery supply chains

Please provide feedback on:

- The nature and extent of competition at each level of the grocery supply chain(s) in which you operate (other than at the retail level, which is discussed in section 2 above).
- How vertical integration across retail and wholesale levels of the supply chain(s) by the major supermarkets affects competition.
- How these market dynamics have changed over the past 5 to 10 years (please indicate the time period your response covers).

Guild response

While the laws and professional obligations for pharmacists provide a system of checks and balances to prioritise patient care, the Guild is concerned that this is being eroded with the ongoing evolution and influence of corporate pharmacy banners and the vertical integration of community pharmacy into corporate entities. Our concern has increased as the mega grocery corporates continue to infiltrate community pharmacy, such as:

- **Wesfarmers acquisition of the Australian Pharmaceutical Industries (API) pharmaceutical wholesaler in March 2022**

Through API, Wesfarmers services 2,500 first-line pharmacy customers. The company's main retail presence is its Priceline and Priceline Pharmacy network with 466 Priceline stores of which 390 are Priceline Pharmacy franchises. Priceline is one of Australia's largest specialty retailers with total network sales of \$2.0 billion.⁸ Priceline also operates one of the biggest loyalty programs in Australia with 8 million members.⁹ There has been a recent announcement that Priceline Pharmacy is the latest Wesfarmers-owned brand to join the retail conglomerate's subscription-based OnePass membership program. The expansion of the program will enable Priceline Sister Club members to add, or link to an existing OnePass account to access free delivery for online purchases with no minimum spend, and 365-day change of mind returns on eligible items. The link to other retail brands owned by the group, including Bunnings, Officeworks, InstantScripts, Catch.com.au and Kmart, would help Priceline stores attract new customers.¹⁰

Also through API, Wesfarmers services the Soul Pattinson and Pharmacist Advice banner groups and a membership program, Club Premium, with a combined total of 1,300 members across its retail pharmacy programs.¹¹

- **Woolworths Healthylife business including the Healthylife Pharmacy banner.** Woolworths is operating a Healthylife banner accessible through the 'healthylife' website and the Woolworths website¹². Healthylife customers participate in the Everyday Rewards loyalty program. The Healthylife Pharmacy website notes that 'all scheduled and prescription medicines on the HealthyLife website are sold and supplied by HealthyLife Pharmacy, an independently owned and operated pharmacy business'. It also advises Everyday Rewards

⁸ IbisWorld Pharmaceuticals Wholesaling in Australia Dec 2023

⁹ [Loyalty program statistics in Australia | finder.com.au](#) (accessed 19 Mar 2024)

¹⁰ Priceline joins Wesfarmers Onepass Program; www.ajp.com.au; 22/03/2024

¹¹ Op cit; IbisWorld wholesaling

¹² [healthylife, a Woolworths Group brand](#)

points are not collected on 'Prescription Medicines, Pharmacist Only Medicines (Schedule 3), Pharmacy Medicines (Schedule 2), consultations (booking and appointment fees) or any in-store purchases'.¹³

With both these examples, the Guild is concerned with the potential influence from these mega corporates. While laws exist preventing any physical access between a supermarket and a pharmacy, these laws were implemented at a time when online shopping was less significant. These laws are no longer contemporary, for while the principle of restricting access remains, we see websites such as Woolworths providing direct access to a pharmacy website (i.e. the Healthylife Pharmacy).

The Guild is also concerned with the lack of transparency in the banner arrangements, exemplified by the Woolworths Healthylife arrangement but also applicable to banners such as Priceline and other pharmacy banners. While there is justification for commercial arrangements within banners to remain confidential, there should be greater transparency in all banner and/or partnership arrangements to ensure that a pharmacist owner is protected from influence by any corporate and/or banner management. This includes any partnership arrangements with the corporate supermarket chains. Pharmacy owners must remain independent of any financial or shareholder influence to ensure the operations and practice within their pharmacy remains consistent with their professional and ethical obligations and the expectations of the public.

Topic 11: Buyer power

The ACCC would appreciate feedback on:

- How any buyer power is or might be exercised and the consequences (for example, lower prices received, transfer of risk or costs, decreased incentive for investment and innovation along the grocery supply chain).
- Any evidence or examples of buyer power (please specify which market participants and grocery products or product categories your answers relate to).
- The extent to which larger supermarkets and wholesalers are able to acquire grocery products from suppliers for lower prices or on better terms than smaller grocery retailers and wholesalers, and how this has changed over the past 5 to 10 years (please indicate the time period and products or product categories your response covers).
- Any evidence or examples of buyer power being exercised in a manner which impedes or may impede the efficient supply of grocery products and how this has changed over the past 5 to 10 years. In particular, whether (and, if so, how) lower prices or unfavourable terms have:
 - a. reduced the viability of suppliers' businesses
 - b. prevented suppliers from undertaking investment necessary to support their business (for example, capital expenditure to support the improvement or expansion of the business)
 - c. resulted in exit by suppliers or other reductions in the extent or quality of supplier output.
- The extent and impact of any countervailing negotiating power, including:
 - a. at the retail level, the value consumers place on your specific brand and how they might react if their desired brand were not available
 - b. the effectiveness of collective bargaining arrangements in negotiating trading arrangements with major processors, wholesalers or retailers
 - c. how this has changed over the past 5 to 10 years (please indicate the time period your response covers).

Guild response

Large corporates such as the supermarkets have greater buying power. They have the capacity to purchase in quantities for optimal trading terms and volumes that allow them to operate at much lower margins. Their foot traffic also gives other advantages such as:

- preferential location in shopping centres
- more favourable rates and privileges in shopping centres
- preferential loading bays and storage

¹³

As low service operators without specialist care, they can also minimise staffing costs in both staffing numbers in attendance during operating hours as well as staff training and leave coverage.

By contrast, community pharmacies have some of the highest rents in a shopping centre. After cost of goods sold and wages/salaries, rent is the largest expense for many pharmacies.¹⁴ Some larger pharmacy banner groups have buying power that approaches the supermarkets and are able to negotiate additional trading terms with suppliers for preferential location within the pharmacy for merchandising or online display. Some discount pharmacy groups operate with lower service levels that can reduce staffing costs, but this can come with professional risks in a community pharmacy¹⁵. For the most part, community pharmacies do not have the customer numbers, stock turns, volumes or foot traffic to give them anything comparable to the buying power of the supermarkets. Community pharmacies also are a high service business requiring high levels of staffing including the attendance at all times of one or more pharmacists. A pharmacy must ensure that the number of pharmacists on duty is proportional to the professional workload within the pharmacy, including prescription numbers as well as the sale of Pharmacist Only Medicines, provision of vaccinations or leave certificates as well as any other clinical service provided by the pharmacy. As a guide, the Pharmacy Board of Australia recommends an additional pharmacist or dispensary technician if the dispensing workload exceeds 200 items per day.¹⁶

These operational costs means it is very difficult for the average community pharmacy to compete with the supermarkets with regards trading terms and pricing for open-seller items.

Topic 13: Other factors impeding or supporting efficient supply or pricing

Please provide feedback on:

- Your ability to respond to shocks or changes in the operating environment.
- Any impediments to undertaking investment necessary to support your business, for example capital expenditure to support the improvement or expansion of your business.
- Any other impediments to the efficient operation of your business.
- Any factors that have improved the efficiency of your business operations.
- How the extent, and types, of impediments to efficient supply or improve to the efficacy of business operations have changed over the past 5 to 10 years (please indicate the time period your response covers).

Guild response

Scheduling Anomaly

We have highlighted how all pharmacists, including pharmacy owners, must abide by the laws regulating the sector as well as the professional obligations. By contrast, supermarkets do not have such obligations. An example of this is the anomaly with the availability of non-scheduled medicines.

Medicines such as aspirin, ibuprofen and paracetamol as well as non-sedating antihistamines such as fexofenadine or loratadine are available as open-sellers in supermarkets and other non-pharmacy retailers in small pack sizes. Larger packs are scheduled and hence restricted to sale from a pharmacy. For pharmacy sales, the Pharmacy Board of Australia expects pharmacists to demonstrate professional discretion in the sale of multiple packs of larger quantities of non-prescription medicines – *‘Only one proprietary pack of Pharmacy Medicines and Pharmacist Only Medicines is to be supplied at a time, unless there are exceptional circumstances clearly demonstrable by the customer, additional documentation of which should be kept.’*¹⁷

By contrast, a supermarket can legally sell multiple quantities of the small packs of such medicines without any consideration of professional obligations. The total quantity for multiple packs sold in one transaction would mean the item would be a scheduled medicine if sold as a single pack and would not

¹⁴ Pharmacy Guild of Australia; 2024 Pharmacy Rental Report

¹⁵ Sigma Healthcare Ltd, Barrenjoey, 5 Mar 2024

¹⁶ [Pharmacy Board of Australia - Codes, Guidelines and Policies](#); Guidelines on practice-specific issues

¹⁷ [Pharmacy Board of Australia - Codes, Guidelines and Policies](#); Guidelines on practice-specific issues

be available from a supermarket. While supermarkets have the discretion to apply limits in the number of packs sold in one transaction, it is our understanding that this is typically applied to manage supply issues rather than safety concerns. We believe there should be a regulated limit of one pack in any single transaction consistent with the intent of the medicine scheduling laws.

COVID Response

During COVID, both supermarkets and community pharmacies were categorised as essential services and allowed to operate with restrictions in place (e.g. controlling the number of people entering the store at one time, use of masks and hand washes, surface cleansing after use). Both did a remarkable job for the country and their communities at a time when facing increased supply disruptions as well as increased incidences of abuse from the public.

Community pharmacy demonstrated how it was able to promptly respond to potential medicine shortages or inappropriate use of medicines with its representative bodies such as the Guild working with the Therapeutic Goods Administration (TGA) and other regulatory bodies to implement controls.¹⁸ The Guild and other groups coordinated communication with the sector which immediately responded to restrict supplies within store, and relocate stock so it was not accessible to the public. In extreme cases, community pharmacists were managing supply disruptions of essential prescription medicines by incremental supply to optimise the number of patients who could continue their therapy. As a service, such arrangements are time consuming and repetitive from a workflow perspective and costly from a business perspective, with no additional remuneration for the pharmacy. However, it was a common occurrence out of necessity and highlights how community pharmacy prioritises patient care.

Pharmacy Agreements

Community Pharmacy Agreements (CPAs)¹⁹ are generally five year agreements signed by the Federal Government of the day and the Guild as the representative body for community pharmacy. The CPAs provide the community pharmacy sector with the certainty for pharmacy owners to invest in their community pharmacy business. CPAs also cover PBS wholesaling arrangements, including a Community Service Obligation (CSO) as a means to ensure the efficient and effective distribution of pharmaceutical benefits to any PBS-approved pharmacy in Australia within a reasonable time²⁰. Without the CSO, it would be unlikely that pharmacy wholesalers would absorb the costs to deliver low-volume PBS items or small order quantities.

Community Services

Community pharmacy has long provided services to their local community for little or no remuneration. For example, the NDSS was not recompensed prior to the Sixth CPA which commenced in July 2015. And even now, remuneration pharmacies receive for NDSS supply is only \$1 per item, well below the costs involved in managing the logistics for the service, dedicating space in a highly valuable retail environment to hold and display NDSS products, training staff and maintaining their competency regarding the service and its administration, and maintaining the necessary infrastructure and utilities to provide the service.

Other examples of low or unremunerated community services include:

- **Opioid Dependence Treatment** – while Federal Government remuneration commenced in July 2023, the amount remains low compared to actual service costs.
- **Vaccine services** – while Federal Government remuneration for National Immunisation Program vaccines commenced in January 2024, the amount remains lower than GP remuneration for the same service.²¹
- **Common ailments** – community pharmacy remains a frequently visited health centre to assess and manage a range of common ailments such as coughs and colds, hayfever, acne, head lice, thrush, acute pain, sprains and strains, reflux, skin, dental, eye and ear complaints and many more. Pharmacists assess and triage patients and recommend treatment or refer to another clinician as appropriate. While this service saves Federal and state/territory health budgets

¹⁸ [Limits on dispensing and sales of prescription and over-the-counter medicines | Therapeutic Goods Administration \(TGA\)](#)

¹⁹ [Pharmaceutical Benefits Scheme \(PBS\) | Community Pharmacy Agreements](#)

²⁰ [Pharmaceutical Benefits Scheme \(PBS\) | Community Service Obligation](#)

²¹ GPs can claim a bulk billing incentive for eligible patients or apply additional fees if not bulk billing. Pharmacy cannot charge any additional fees.

significant amounts, the only remuneration a pharmacy receives is with a product sale which may or may not happen with each interaction.

- **ePrescriptions** – community pharmacies have been required to adapt their clinical and business workflows to integrate ePrescriptions into the operations of the pharmacy. They have been largely responsible for supporting patients and prescribers transitioning to ePrescriptions, investing their own capital into the necessary change management processes.
- **Return of unwanted medicines** – While the Federal Government provides funding for the Return of unwanted medicines (RUM) program²² to cover the supply, delivery, collection and destruction of RUM bins, it is community pharmacy that is the collection point. Individual pharmacies manage the RUM program for their local community, including ordering and storing the bins in the pharmacy, promoting the program locally with the public and other health professionals, receiving, assessing and separating (e.g. Controlled Drugs must be returned through the pharmacy's drug register) the unwanted medicines for collection and destruction. This is done as a community service with no remuneration.

²² [Return of Unwanted Medicine \(returnmed.com.au\)](http://returnmed.com.au)