



# ICPA Public Hearing Submission

## **Competition Commission Inquiry into the Private Healthcare Market**

# Introduction

- ▶ Who is ICPA and what is its role as a participant in the private healthcare inquiry
- ▶ The private healthcare market in the pharmacy sector and the role of pharmacies
  - ▶ Different types of pharmacies
  - ▶ Relationship between relevant players:
    - ▶ Manufacturers
    - ▶ Distributors
    - ▶ Retailers (pharmacies)
    - ▶ Medical Aid Schemes (massive influence over pharmacies)
    - ▶ Consumers

# ICPA submission points:

- ▶ ICPA's presentation is intended to bring to the panel's attention certain practices within the pharmaceutical sector which causes harm to not only competition amongst pharmacies, but also to consumers by restricting access to affordable healthcare.
- ▶ Key issues to be discussed:
  - ▶ 1. The appointment of designated service providers by schemes and levying of penalty co-payments.
  - ▶ 2. The ownership of pharmaceutical manufacturing companies by retail pharmacy (unlawful vertical integration).
  - ▶ 3. The reimbursement models at which pharmacies are remunerated by schemes.
  - ▶ 4. The opening of ownership of pharmacy.
  - ▶ 5. The discounting of medicines.
  - ▶ 6. The relationship between general practitioners and courier pharmacy.
  - ▶ 7. The collusion between corporate pharmacies and shopping centre landlords.

# DSP and Co-payments

- ▶ Regulations to the Medical Schemes Act allows Medical Schemes to appoint Designated Service Providers in certain instances to the exclusion of Independent Community Pharmacy (ICP). Consumers are further channelled to DSP's by medical aid schemes levying penalty co-payments should a consumer visit a non-DSP.
- ▶ ICPA does not dispute the DSP or co-payment mechanisms allowed in law and recognises that it is necessary to curb healthcare costs imposed on schemes as a result of PMB (Prescribed Minimum Benefit) legislation. At issue is the MANNER in which DSP's are appointed and the MANNER in which the penalty co-payments are calculated by schemes. The practices of schemes in unilaterally appointing DSP's and calculating the quantum of the co-payment exclude ICP's from competing with selected DSP's.
- ▶ ICPA will shortly explain the mechanisms implemented by medical aid schemes in this regard followed by a calculation explaining how the mechanisms affect the pharmacy and consumers. **ANNEXURE A.**
- ▶ Conclusion:
  - ▶ The consumer's choice is removed with regards to the selection of his/her service provider of choice.
  - ▶ Scheme are allowed to appoint DSP's only for PMB related conditions (chronic medicines). A fragmented medicine supply where consumers obtain their chronic medicines from one service provider but their acute from another is dangerous to the consumer.
  - ▶ The argument has been raised by schemes that the majority of the population do not belong to a medical aid scheme, therefore ICP's can service this portion of the population if it is not appointed as a DSP. This is not possible since such persons will not necessarily be willing to pay in cash for pharmaceutical services and will most likely visit a public healthcare facility. The majority of ICP's business derives from medical aid members.
  - ▶ ICP's therefore do not have an equitable opportunity to participate in the market and is excluded from competing with corporate pharmacies (corporate pharmacies mostly appointed as DSP's).
  - ▶ These practices also affect accessibility and affordability of private healthcare beneficiaries.

# Re-imbusement Models-Dispensing Fee

- ▶ Legislation prescribes a maximum dispensing fee rate which pharmacists may charge for dispensing medicines, however, medical aid schemes reimburse at a fraction of the dispensing fee tariff rate.
- ▶ In 2005 the Constitutional Court held that a dispensing fee rate of 26%/ R26 was “inappropriate”, however, medical aid schemes still reimburse pharmacies at not much more than this rate (since the dispensing fee rate is set as a maximum).

## ANNEXURE B3

- ▶ ICPA will explain by way of a zero based costing model that the majority of dispensing fee reimbursements offered by schemes are not viable in that the levels of profitability are not consistent with a competitive and sustainable pharmacy sector.

## ANNEXURE B1 AND B2.

### ▶ Conclusion:

- ▶ ICP's do not have an equitable opportunity to participate in the market and is excluded from competing with corporate pharmacies (corporate pharmacies mostly appointed as DSP's). Corporate pharmacy may be able to absorb the dispensary loss in lieu of cross subsidization with other revenue streams. ICP's depend more on their dispensary income.
- ▶ The dispensing fee is further calculated, and dependant on, the Single Exit Price (SEP) of the medicines dispensed. Pharmacy is the only healthcare profession that depend on the SEP to determine the professional fee it may charge while other healthcare professionals charge “consultation fees”. The reimbursement models in this regard should be re-evaluated.

# Ownership of pharmaceutical manufacturing companies by retail pharmacy

- ▶ It is unlawful for community pharmacies to have a direct or indirect beneficial interest in a manufacturing pharmacy in terms of the Pharmacy Act.
- ▶ Certain corporates vertically integrate their supply chain and own the manufacturer, distributor / wholesaler, and retail component.
- ▶ ICPA will produce a copy of a manufacturing licence to show that Clicks Pharmacy has an indirect interest in a manufacturing pharmacy (Unicorn Pharmaceuticals). **ANNEXURE C1 AND C2**
- ▶ Conclusion:
  - ▶ The result is that the corporate pharmacy has access to profit at different levels (manufacturer's mark up, distribution fees, logistic fees and dispensing fees), which allows them to accept lower dispensing fee rates from medical aid schemes.
  - ▶ In addition, the corporate pharmacy pushes its own brand at the dispensary, thereby distorting the consumer's choice.

# Opening of Ownership of Pharmacy

- ▶ In 2003 the Pharmacy Act was amended to allow lay persons to own a pharmacy.
- ▶ This resulted in corporate pharmacy chain stores opening and being able to purchase in bulk thereby selling consumables at lower prices, however Independent Pharmacies cannot use their collective buying power to purchase in bulk as this is indirectly seen as price fixing.
- ▶ This also paved the way for Courier Pharmacy, which is able to operate at a much lower dispensing fee rate, being reliant on chronic volume through DSP arrangements.

# Discounting of Medicines

- ▶ Corporate pharmacies offer discounts or rebates on regulated medicines which is unlawful in terms of the Medicines and Related Substances Act
- ▶ Certain corporates even charge below the single exit price which is also an unlawful practice.
- ▶ Operating unlawfully thereby having an uncompetitive advantage
- ▶ ICPA will present a brochure which shows a certain medical aid scheme, in partnership with corporate pharmacy, offering discounted medicines to the public. **ANNEXURE D1 AND D2**



# Relationship between GP and Courier Pharmacy

- ▶ Certain perversities occur in the industry which are unlawful - for example third party logistic companies touting doctor practices for prescriptions which they then pass on to courier pharmacies, thereby excluding independent community pharmacies.
- ▶ ICPA will produce documentary proof that MediPost / Medilogistics engage in such practices. **ANNEXURE E**
- ▶ Conclusion:
  - ▶ General practitioners (GPs) are the “gatekeepers” in that they could direct patients through the healthcare pathway. The affect of the GP’s decision to direct patients to courier pharmacies is that the consumer’s choice of healthcare provider is manipulated and courier pharmacies are allowed to operate at an unfair advantage.

# Collusion between Corporate Pharmacy and Shopping Centre Landlords

- ▶ There have been cases where corporate pharmacies have exploited their position as large leasers of space in shopping malls to insist that the leases of smaller pharmacies already in the malls are terminated. If the volume of mall customer justifies the presence of more than one pharmacy, the eviction of an existing pharmacy is counterproductive and is an abuse of competitive principles.
- ▶ ICPA will provide the panel with an extract of a pharmacy's lease agreement in which it specifies that the pharmacy must vacate the premises should a Clicks obtain a licence to operate a dispensary. This extract is confidential in nature and will not be displayed during the presentation, but the panel will be provided with a copy. **ANNEXURE F**

# Conclusion

- ▶ The interaction between medical aid schemes, corporate pharmacy and independent community pharmacy and its impact on consumer choice (incentives and actions of the players involved affect the consumer's choice)
- ▶ Regulatory framework - impact thereof on competition amongst pharmacies (legislated dispensing fees).
- ▶ Power of medical aid schemes over pharmacy in general.
- ▶ As a result of the points discussed during the presentation, access to affordable and high quality private healthcare services has been affected.