



DEPARTMENT OF HEALTH & SOCIAL SECURITY

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From the Secretary of State for Social Services

The Rt Hon Norman Tebbit MP
 Secretary of State for Trade and Industry
 Department of Trade and Industry
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6 April 1984

Dear Secretary of State

COMPETITION POLICY

Thank you for your letter of 17 February. I am sorry that we have overshot your deadline for reply.

I welcome the exercise which you are coordinating and attach a note which sets out the scope and nature of my Department's involvement in it and the answers to your specific questions.

The emphasis of our note is on the areas of the private sector of which DHSS is a sponsor and on the main health professions. As the Prime Minister's minute puts privatisation outside this exercise, we have deliberately not dealt with the merits of the existing public/private sector balance, beyond detailing the substantial initiative taken on competitive tendering for NHS support services. Nor does the note deal with the scope for competition within the statutory services for which I am responsible. In the statutory social security field, the question is practically meaningless. In the statutory health and personal social services, the exercise of consumer choice is obviously desirable but many of the consumers are inherently unable to exercise this role and, except in large conurbations, the scope for shopping around between expensive facilities requiring a large catchment is necessarily limited. But that is not to say, of course, that those services cannot learn from the competitive commercial sector - you and colleagues know, for example, the steps we are taking to vitalise NHS management in this way.

For the purposes of the bilateral discussions you envisage, I suggest that Alex Fletcher get in touch with John Patten. At official level the coordination here is being done by Mr Jeremy Knight of the Department's central secretariat.

As with your letter, copies go to the Prime Minister, members of the Cabinet and Sir Robert Armstrong.

Yours sincerely
SA [Signature]

for NORMAN FOWLER

(Approved by the Secretary of State and signed in his absence)

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COMPETITION POLICY : DHSS RESPONSE TO DTI INITIATIVE

Introduction : The Scope and Nature of DHSS Involvement

1. As a Department chiefly concerned with the delivery of services for which it is more or less directly responsible (social security, health, personal social services), DHSS must be a supporter rather than a leader of efforts to promote competition. Even in relation to the health and social service professions, our approach to competition must acknowledge that the services for which we are responsible are the main and sometimes the only employer of a particular professional skill.

COMPLEMENTARY PRIVATE SECTOR PROVISION

2. To the extent, though, that DHSS services are not a monopoly, we could be said to have a sponsorship role towards the related private sector - notably the occupational pension industry, and private health care. Our close liaison with the former over the regulation of occupational pensions provisions does not extend to promoting competition between members of the industry; but the first steps we envisage in relation to "portable" pensions (see point IV 2.1 below) fit in well with competition policy by promoting the mobility of, and so competition for, labour in the economy. Government policy on private health care can have important consequences for the growth of that sector and for competition within it and the industry has certainly benefited in this way from the policies pursued since 1979.

SUPPLIER INDUSTRIES

3. The Department also has an important sponsorship role towards the pharmaceutical and health care equipment industries which in the UK are mainly geared to the support of the NHS (but have important export potential), and where considerable influence can therefore be exerted through public purchasing policies. This involves the Department (and the NHS Supply Council) in balancing - in part through regulatory activity - the needs of the NHS (for safe and effective equipment and medicines at the lowest possible prices) against the requirement for an efficient and prosperous home industry.

4. The NHS is also an important client of the construction industry. DHSS acts on behalf of the NHS in discussions with the industry and sets the policy framework for health authorities' works operations. Virtually all major building and engineering work and the major portion of maintenance work in the NHS is carried out by private sector contractors, who obtain it on the basis of competitive tenders.

THE PROFESSIONS

5. Finally, the Department is the guardian of the legislation governing the access to and activities of the main health care professions. Under this legislation the professions are predominantly self-regulating; but the Department can and does initiate statutory change where the existing situation is considered too restrictive.

REGULATION VERSUS COMPETITION

6. Traditionally, DHSS interest in particular commercial and professional activities has been directed not so much to their promotion as to their regulation for the purposes of public protection. The production and marketing of medicines, and the provision of private health care (eg particularly abortions, cosmetic surgery) are just two examples of activity in which there is a lively public interest, rightly demanding Government action which can sometimes constrain competition. Similarly, with private residential and nursing homes, it is necessary to regulate the operation of competition by overseeing very closely the standard of provision made by proprietors. In some fields of commercial activity, the Government has thought it right for reasons of public policy explicitly to inhibit the scope for competition eg the restraint on advertising by the tobacco industry which might encourage children and young people to smoke.

7. It would, however, be wrong automatically to equate regulatory activity with limitation on competition. In the pharmaceutical field, neither the Medicines Act nor the Pharmaceutical Price Regulation Scheme (PPRS) is concerned to limit competition. The PPRS provides a framework within which any company is at liberty to compete for NHS business - in effect, by persuading doctors to prescribe its products. Since price competition as such is weak, successive governments have taken the view that the PPRS is necessary to control companies' costs and profits. Within the Scheme there is keen competition between companies'

products. All the signs are that the PPRS has encouraged the UK industry to efficiency and competitiveness internationally : the UK has an excess of exports over imports of £600m pa. The Department's responsibilities for the safety of medicines and equipment used in the NHS involve regulation and inspection of manufacturing facilities and products. Much of this activity promotes Government policy (notably, as set out in the White Paper "Standards, Quality and International Competitiveness") for the improvement of design and quality based on standards, certification, etc, and stimulates firms to compete, in the home and international markets, through the quality of their product as well as their price levels.

I. "What actions have Government taken in your field since 1979 to promote competition?"

I.1. Private health care

I.1.1 Health Services Act 1980 abolished Health Services Board, which was charged with the reduction of facilities for private patients in the NHS.

I.1.2 1980 Act also relaxed controls over the construction of independent nursing homes and hospitals, exempting hospitals of up to 120 beds from authorisation by Secretary of State (previously 100 beds in London, 75 outside).

I.1.3 Allowing whole-time consultants - the largest single group - to undertake limited amounts of private practice in addition to their NHS duties (1979).

I.1.4 Increasing the pay of maximum part-time consultants from 9/11 of the whole-time salary to 10/11, thus making the maximum part-time option with its rights to unlimited private practice more attractive to consultants uncertain of their earning power in the private sector (1979).

I.1.5 All these changes have provided a better environment for the growth of private health care : the number of people covered by health insurance in the UK has grown from 2.4 million in 1978 to 4.5 million in 1983.

I.2 Contracting-out

I.2.1 Competitive tendering : in September 1983 all district health authorities were asked to draw up programmes to test the cost effectiveness of their domestic (cleaning), catering and laundry services by seeking competitive tenders, including in-house tenders. All authorities are expected to complete tendering for these services in all their hospitals and other premises by September 1986. The cost of these services in 1982/83 was about £950 million. The introduction of VAT refunds on service contracts in September 1983 has removed a major disincentive to health authorities using contractors.

I.2.2 NHS audit : beginning with the audit of accounts for the year ending 31 March 1983 six firms of accountants were appointed to audit the accounts of eight District Health Authorities for an experimental period of three to five years. The following year four firms were appointed to audit the accounts of a further six District Health Authorities. The purpose is to assess the advantage of involving commercial firms in the audit of the NHS, otherwise undertaken by officers of the Department's Audit Directorate.

I.3 Health care equipment

I.3.1 Establishment of the Supply Council (July 1980) with a responsibility inter alia, of helping the health care industry to become more competitive.

I.3.2 Introduction of Guides of Good Manufacturing Practice (GMP) for sterile medical products, cardiac pacemakers, orthopaedic implants and medical devices leading to the establishment of manufacturers' registration schemes for sterile medical products (1982) and cardiac pacemakers (1983). These schemes encourage competition on grounds of quality and provide users with information on which to base purchasing decisions.

I.3.3 Support for Government's Public Purchasing Initiative through the issue of procurement guidelines for the NHS (1981).

I.3.4 Establishment of the Health Care Export Partnership (DHSS/British Health Care Export Council) following a Rayner review of DHSS activities in support of exports. One of the aims of the Partnership is to foster the competitiveness of British industry in tendering for overseas contracts.

I.3.5 Rayner review of wheelchair procurement conducted as part of MPO's Whitehall-wide exercise. An action document is being prepared.

I.4 Pharmaceuticals

I.4.1 Review of the Pharmaceutical Price Regulation Scheme, rewarding efficiency and competitiveness.

II. "What actions are already in train in your field to promote competition?"

II.1. Private health care

II.1.1 Similar arrangements for community physicians as for whole-time consultants (I.1.3 above) to undertake limited amounts of private practice in addition to their NHS duties (agreed 1984; not yet implemented). There will then be no NHS doctors who may not undertake private practice to the extent consistent with their primary responsibilities to the NHS.

II.2 Contracting-out

II.2.1 Competitive tendering : health authorities are being encouraged to consider making greater use of specialist contractors for services other than cleaning, catering and laundry - eg transport, vehicle, building and equipment maintenance.

II.2.2 DHSS participation in inter-departmental consideration of scope for more contracting-out by local authorities.

II.3 Health Care Equipment

II.3.1 The Supply Council has promulgated the public purchasing guidelines to health authorities and has encouraged greater competitiveness by promotion of better customer/supplier links, full application of comprehensive "value for money" criteria and support for new products. It has also set a cost reduction target of some £60m over a wide range of NHS supplies which will sharpen competition among suppliers.

II.3.2 A recently completed Rayner scrutiny of NHS central stores policy will lead to more efficient purchasing and should provide, inter alia, increased competition among suppliers.

II.3.3 Extension of existing product approval schemes, increasing competition amongst approved suppliers, and extension of manufacturers' registration schemes based on GMP guides, aimed at improving product quality over a wider range of medical products.

II.3.4 The artificial limb service is to be reviewed. This is expected to include a review of artificial limb contracts and lead to greater competition between companies providing goods and services. In the meantime current contract negotiations with companies are encouraging more competition.

II.4. Health building

II.4.1 The current review of the NHS Works Function is considering ways in which alternative forms of building contract (eg turn-key, management, and design and build) might be introduced.

II.4.2 The Department is working in conjunction with the Inter-Departmental Committee on Professional Fees towards introducing fee competition during 1984 into procedures for the appointment of professional consultants engaged for building projects, eg Architects, Engineers and Surveyors. It is intended to phase in the new arrangements, starting with new construction projects in excess of £5 million, but eventually applying to all projects in excess of £500,000. Fees for smaller projects will in future be negotiated instead of taken from standard fee scales.

II.5. Professions

II.5.1 Opticians : Measures to break registered opticians' monopoly on the sale of spectacles and to remove restrictions on advertising are incorporated in the Health and Social Security Bill. These positive steps to promote competition and increase consumer choice will be taken later in the year.

II.5.2 Dentists : The Department has given the Office of Fair Trading information about the practice of the profession of dentistry and the development of NHS dental service. The OFT's interest was stimulated by the dental technicians, who seek to fit and provide dentures direct to patients and the OFT have also been taking a wider interest in the availability of NHS dental services.

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III. "What firm plans do you have to promote competition in your field in the next three years?"

III.1. HealthCare Equipment

III.1.1 Further extension of manufacturers' registration schemes.

III.1.2 Further action on limb and wheelchairs will emerge from the reviews mentioned at I.3.5 and II.3.3 above.

III.2 Professions

III.2.1 Opticians Following on from II.5.1 above, in April 1985 NHS supply of spectacles is to be removed from all but children and those on low income. NHS supply to these groups will later be replaced by a voucher system.

IV. "What further action could be taken to promote competition in your field in the next three years? Please specify the form of action required (eg legislative, administrative, voluntary, etc)."

IV.1 Health care equipment :

IV.1.1 The establishment of European GMP guides to complement the development of international standards, many of which derive from British standards. Exploratory moves have already been made and prospects are good for eventual administrative action leading to competitive advantages outlined in Cmnd 8621.

IV.2 Occupational pensions:

IV.2.1 DHSS is considering issuing a consultative document in the near future which would give employees leaving their employment and their pension scheme the right to request a transfer value and the right to have that value transferred to a pension plan of the employee's own choice. Not yet public knowledge. Legislative.

IV.3 Professions:

IV.3.1 Pharmacists: The Department has been reviewing the contractual arrangements under which retail pharmacists provide dispensing services. A working group of officials has identified competitive tendering as a possible means for deciding which pharmacists to enter into contract with.

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Because it is not clear whether this could produce greater competition and cost-effectiveness or could operate in the opposite direction and restrict competition and lead to the introduction of cartels, the matter has been referred to a firm of management accountants for independent advice. legislative.

IV.3.2 Dentists : Subject to what the OFT reports (II.5.2 above), there is one particular area where the General Dental Council's regulation of the profession seems, on the face of it, unduly restrictive and contrary to the interests of the patients. This is advertising. For example, GDC rules forbid signs at dentists' surgeries indicating participation in or abstention from NHS practice. This is an area where, without undermining the professional status of dentistry, there would seem to be scope for providing a better service to patients. This is, initially, a matter for the General Dental Council but if they were reluctant to take the necessary steps to implement public policy, statutory measures could be needed.

V. "What further action to promote competition in other fields would you like to see taken in the next three years?"

V.1. Health Care Equipment

Relaxation of the "rule", long enshrined in Government and public procurement practice, that a tender offer remains confidential to the parties to the offer. Disclosure of bids would be likely to sharpen competition in subsequent tendering exercises.

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