

Competition in Professional Services

dentists

The Competition Authority is undertaking a study across a range of eight professions in the construction, legal and medical sectors of the Irish economy. The specific professions being reviewed are engineers, architects, dentists, optometrists, veterinary surgeons, medical practitioners, solicitors and barristers

October 2007



The Competition Authority
An tÚdarás Iomaíochta



executive
summary

EXECUTIVE SUMMARY

1. Competition in dental services is restricted and discouraged by an outdated system of regulation for dentists and related professions. The number of dentists and orthodontists being trained in Ireland has not kept pace with the growing demand for dental services. Consumers in Ireland do not have the benefits of the competition between dentists and a range of other qualified oral health professions that exists in other countries.
2. As a result, the prices consumers pay for dental services are not as competitive as they could be and consumers do not have the full range of information and options available to them to purchase appropriate dental services for their needs.
3. The price of private dental services in Ireland continues to rise at a rate above the general rate of health services inflation. Although 80% of the population of Ireland is entitled to a free examination and clean annually, only 44% of people in Ireland visit the dentist at least once a year.¹ Some consumers travel to other countries for certain dental services.²
4. The regulatory system governing the dental profession in Ireland urgently needs reform. This is because competition in dental services has been seriously undermined by inappropriate rules and regulations that promote an outdated model of delivering oral health services:
 - Consumers in Ireland have to visit a dentist for all their dental services (at least as an intermediary). In other countries, consumers can access basic dental services directly from other qualified oral health professionals - dental hygienists and clinical dental technicians;
 - Dentists are prevented from competing through normal methods of competition such as advertising prices and offering discounts;
 - The restrictions on advertising deny consumers access to basic information about the availability of dental services in their area which would help them to make informed decisions about their oral health;
 - Dentists are unable to promote awareness of their practices and their services and this discourages them from innovating. They are also at a competitive disadvantage vis-à-vis dentists in Northern Ireland and other countries who can advertise freely here;
 - Lack of transparency in prices reduces competitive pressure on dentists and discourages consumers from purchasing routine or preventive dental services;
 - Dentists traditionally work as sole practitioners, sometimes with other dentists as associates or as employees in their practices. Competition between corporate bodies of dentists would have many benefits for dentists and consumers, by improving their access to capital and business skills. These benefits include: cost savings, ability to afford locations that are more convenient for many consumers, flexible working arrangements, longer opening hours, and checks and balances on the quality of each dentist's services (put in place to maintain the corporate body's reputation).
5. The regulatory system also offers limited protection for consumers:
 - The Dental Council does not have strong powers to pursue those dental technicians practising dentistry illegally in Ireland;³

1 "Poor Prescriptions", Combat Poverty Agency, June 2007.

2 See "Irish are top dental tourists", Sunday Business Post, 12th August 2007.

3 Dental technicians make dentures for sale to dentists and repair dentures for dentists and for members of the public. However, a number of dental technicians fit and sell new dentures directly to the public, thus practising dentistry illegally.

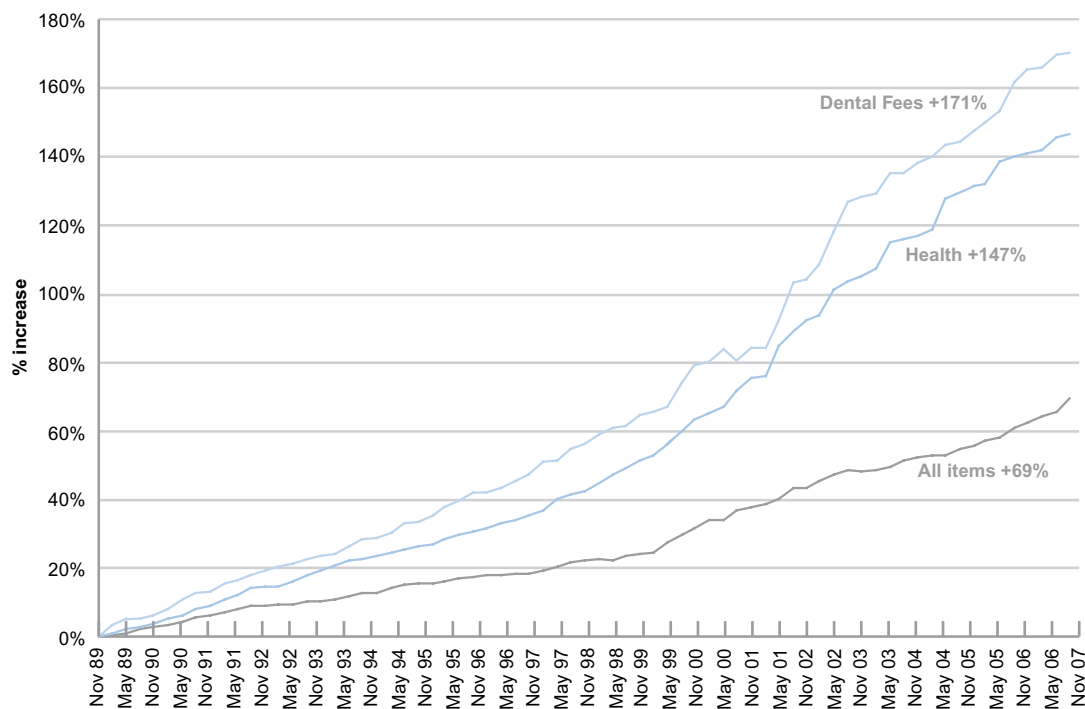
- The Council must wait until damage is done to a patient before it can act against a dentist. There are no regular checks on the standard of dental services provided by dentists.
6. Another problem is the lack of training of sufficient dentists and orthodontists to meet demand. In particular, the training of orthodontists in Ireland has been “stop-start” and this has led to a shortage of orthodontists in the public sector.
 7. In this report, the Competition Authority makes 12 recommendations to address the competition problems identified in the dental profession.⁴ Implementing these recommendations will lead to a modern system of regulation to ensure:
 - that the health and safety of the public is protected;
 - that consumers are more aware of their options and the prices for dental services;
 - more choice for consumers regarding when, where, and from whom, they get dental services;
 - better use of the skills and very expensive training of dentists and orthodontists;
 - a sufficient supply of dentists, orthodontists and related professionals;
 - value for money in dentists’ services;
 - more consumers availing of dental services and thus better oral health in the population.

Regulatory and Commercial Environment

8. Under the Dentists Act 1985, it is unlawful for a person to use the title “dentist” or “dental specialist”, or to provide dental services, without being registered by the Dental Council. The conduct and standards of dentists, and related oral healthcare professionals, are regulated by the Dental Council. Dentists often employ other qualified professionals, such as dental nurses and dental hygienists, to assist them and to provide basic dental services to their customers.
9. Most of the dentists working in Ireland practise in the private sector, offering their services direct to the public. However, the State subsidises dental services through a variety of schemes. In 2005, the State spent over €105 million on dentists’ services.
10. The price of private dental treatments has consistently increased above the general rate of inflation and above the rate of health inflation. Between 1990 and 2007, the Consumer Price Index (CPI) increased by 69%, health costs grew by 147% while dental services increased by 171%, according to data from the Central Statistics Office (CSO).

⁴ This report is not the only occasion that the Competition Authority has addressed competition issues in the dental profession. On 28th April 2005, the Competition Authority agreed settlement terms, without admission of liability, with the Irish Dental Association in a High Court action taken by the Competition Authority alleging a breach of the Competition Act 2002. The Competition Authority took this action following allegations of an attempt to frustrate price competition between dentists through a collective boycott of a private dental health insurance scheme being introduced in Ireland by Vhi DeCare.

Inflation in Dental Services, Health and CPI (All items) (January 1990-May 2007)



Source: Central Statistics Office

11. It is unclear if dentists are allowed to offer their services under a corporate business structure. This uncertainty should be removed so that corporate dental bodies can evolve in Ireland and consumers can reap the benefits.
12. Allowing dentists to develop new ways to offer their services will make it easier for them to invest in their businesses, become more efficient and offer greater choice to consumers in terms of the convenience of the location and longer opening hours. Corporate dental groups will also be able to benefit from the economies and efficiencies deriving from shared costs and greater buying power.

New Oral Healthcare Professions

13. Ireland is out of step with most other developed economies in not having a range of oral healthcare professions that can offer dental services directly to consumers.
14. In Ireland, only dentists can provide dentures directly to the public. *Clinical dental technicians* are permitted to fit and sell dentures to members of the public in many countries including the UK, Australia, Canada, Denmark, Finland, the Netherlands, New Zealand, Sweden and the USA.
15. There is provision in the Dentists Act 1985 for the establishment of a new oral healthcare profession that would be permitted to sell dentures in addition to dentists.⁵ This provision was made on foot of a recommendation in the Restrictive Practices Commission's 1982 "Report of Enquiry into the Statutory Restrictions on the Provision of Dental Protheses". However, the Minister for Health and Children has not, to date, approved any proposals made by the Dental Council in this area. The impasse was due to disagreement over how to deal with dental

⁵ See section 54(3) of the Dentists Act 1985.

technicians currently selling dentures illegally to the public. At the time of writing, the Dental Council was expected to shortly submit new “proposals” to the Minister. Giving legal recognition to suitably trained clinical dental technicians will ensure the protection of consumers and promote greater choice for consumers in terms of where they can get their dentures legally.

16. The current system of regulation requires that consumers must go through a dentist before they can benefit from the services of a dental hygienist. In many other countries dental hygienists can offer a specific set of largely routine, preventive, dental services independently of dentists. This is the case in Sweden, Finland, Denmark, Norway, the USA, Canada, the Netherlands and Switzerland. The quality of dental care is protected in these countries, as dental hygienists are obliged to refer their patients to a dentist if they identify a problem that is beyond their scope of practice.
17. Dental hygienists in Ireland are not trained sufficiently to operate independently of dentists. The Competition Authority recommends the creation of a new oral healthcare profession of *advanced dental hygienist*, trained to offer services directly to the public independently of dentists. The creation of this new profession would give consumers more options for accessing dental hygiene services and promote competition in these services.

Unnecessary Restrictions on Advertising

18. Competition between dentists is actively discouraged by the Dental Council's *Guidelines on Public Relations and Communications*. The restrictions placed on dentists go beyond what is necessary to protect the public from untruthful and inaccurate advertising. For example, it is forbidden to advertise even basic price lists, and new dental practices are limited to a maximum of six newspaper advertisements in their first year of practice advertising their existence. Allowing truthful, informative advertising will empower consumers to make more informed decisions about their oral health. It will also encourage dentists to compete on price, to offer new services and to deliver their services in new customer-focused ways.
19. The Dental Council's *Professional Behaviour and Dental Ethics* also limits competition by prohibiting price discounts and frustrates new dental practices by prohibiting the solicitation of patients by dentists.

The Supply of Dentists and Orthodontists

20. Demand for general dental services has grown substantially over the past ten to fifteen years. Over this period, the number of training places for dentists has remained static and there are no plans to increase them. The limit on training places in Irish universities could lead to a serious shortage of dentists in the future and put further upward pressure on prices. While the introduction of new oral healthcare professions proposed in this report should minimise the effects of the shortage of dentists, by making better use of their skills and expertise, the number of training places should be reviewed by the Department of Health and Children to ensure a sufficient supply of dentists and other oral healthcare professionals in the long-term, so that consumers and the State get value for money in dental services.
21. The training of orthodontists in Ireland has been “stop-start” and this has led to a shortage of orthodontists in the public sector. At the time of writing, the course operated by the Cork University Dental School and Hospital, which commenced in 2006, is the only orthodontists’ training course available in Ireland, although the Dublin Dental School and Hospital intends to recommence training for specialist orthodontists in 2007.
22. A new oral healthcare professional called an *orthodontic therapist* was approved by the Dental Council in 2004. Orthodontic therapists would be trained to assist the work of the orthodontist. They would enable orthodontists to treat a greater number of patients and thereby potentially reduce the cost of orthodontic services. At the time of writing a number of issues remain to be resolved in relation to orthodontic therapists.

Reform of Regulatory Structures

23. There is significant potential for conflicts of interest to arise from the current membership structure of the Dental Council. The Dental Council is almost entirely composed of members of the dental profession and those involved in the education of dentists. In principle, it is not necessary, proportionate or transparent for the governing body regulating a profession to be populated mainly by the profession being regulated.
24. The Competition Authority recommends that the composition of the Dental Council should be changed to include other groups. This will ensure that the composition of the Dental Council is consistent with best practice for regulators of professions in general and specifically with recent developments in other health professions. As the Dental Council will also have to regulate orthodontic therapists, clinical dental technicians and advanced dental hygienists, each of these oral healthcare professions should be represented on the Council. There should also be an appropriate number of consumer representatives, and a majority of the membership of the Council should come from outside the professions being regulated by the Council.
25. The Dental Council should be given powers to deal with fitness to practise issues relating to all groups of auxiliary dental workers regulated by it. The functions of the Dental Council should be clearly set out in the Dentists Act.

Consumer Information

26. Consumers should be able to access clear, impartial information on oral healthcare issues, including their entitlements under the State dental schemes, and the different types of treatment available.

Recommendations

Recommendation 1:	
Introduce a new oral healthcare profession of clinical dental technician	
Details of Recommendation	Action By
The Dental Council should, as a matter of urgency, finalise its draft Scheme for Clinical Dental Technicians and submit it to the Minister for Health and Children.	Dental Council
When the Scheme has been approved, the Dental Council should establish a Register of Clinical Dental Technicians. All eligible candidates should be registered without delay including clinical dental technicians who have appropriate qualifications from overseas.	December 2007
	June 2008

Recommendation 2:	
Allow clinical dental technicians to be directly reimbursed under the State dental schemes	
Details of Recommendation	Action By
The Health Service Executive and the Department of Social and Family Affairs should allow clinical dental technicians who are on the Register of Clinical Dental Technicians to be directly reimbursed under the Dental Treatment Services Scheme and the Dental Treatment Benefit Scheme, for the sale of dentures and for denture repairs.	Health Service Executive
	Department of Social and Family Affairs
	October 2008

Recommendation 3:	Engage with training providers to establish courses in Clinical Dental Technology
Details of Recommendation	Action By
The Dental Council should engage with training providers to establish courses in clinical dental technology in Ireland.	Dental Council October 2008

Recommendation 4:	Introduce a new oral healthcare profession of advanced dental hygienist who can operate independently of dentists
Details of Recommendation	Action By
The Dental Council should commit itself to the introduction of advanced dental hygienists within the shortest feasible timeframe. The Council should, in conjunction with the Dental Schools, identify any additional training necessary to enable advanced dental hygienists to operate on a stand-alone basis.	Dental Council October 2009
The Minister for Health and Children should bring forward proposals to amend the Dentists Act 1985 to allow for the establishment of a new profession of advanced dental hygienist, who can operate independently of dentists. The Dental Council should be given powers to investigate complaints against advanced dental hygienists and apply appropriate sanctions.	Minister for Health and Children October 2008
The Dental Council should submit a new Scheme for Advanced Dental Hygienists to the Minister for Health and Children. The Scheme should provide that hygienists are obliged to refer a patient to a dentist if they suspect that the patient requires treatment which they are unqualified to perform or which is beyond their scope of practice.	Dental Council October 2009

Recommendation 5:	Allow advanced dental hygienists to be directly reimbursed for treatments provided under the State schemes
Details of Recommendation	Action By
The Health Service Executive and the Department of Social and Family Affairs should allow advanced dental hygienists who are on the Register of Advanced Dental Hygienists to be directly reimbursed under the Dental Treatment Services Scheme and the Dental Treatment Benefit Scheme for eligible dental treatments they provide.	Health Service Executive Department of Social and Family Affairs At the same time as the Register of Advanced Dental Hygienists is established

Recommendation 6:		Review the number of training places for dentists and other oral healthcare professionals
Details of Recommendation	Action By	
<p>The Department of Health and Children should, in the context of the forthcoming National Oral Healthcare Policy:</p> <p>(a) assess the future manpower requirements for dentists and other oral healthcare professionals; and,</p> <p>(b) carry out a detailed review of the number of training places for dentists and other oral healthcare professionals, taking account of the effects of the other recommendations contained in this report, to determine whether the number of places for dentistry and other oral healthcare professionals needs to be increased and, if so, to what level.</p>	<p>Department of Health and Children</p> <p>October 2008</p>	

Recommendation 7:		Remove unnecessary restrictions on advertising
Details of Recommendation	Action By	
<p>The Dental Council should limit its restrictions on advertising to prohibiting advertising which is false or misleading.</p>	<p>Dental Council</p> <p>December 2007</p>	

Recommendation 8:		Remove the ban on discounts
Details of Recommendation	Action By	
<p>The Dental Council should amend its "<i>Professional Behaviour and Dental Ethics</i>" to remove the ban on discounting by dentists.</p>	<p>Dental Council</p> <p>December 2007</p>	

Recommendation 9:		Provide information to consumers on oral healthcare issues
Details of Recommendation	Action By	
<p>The Department of Health and Children should provide for the dissemination of information on oral healthcare issues to consumers as part of the National Oral Healthcare Strategy.</p>	<p>Department of Health and Children</p> <p>October 2008</p>	

Recommendation 10:		Explicitly permit corporate dental bodies
Details of Recommendation	Action By	
<p>The Minister for Health and Children should bring forward legislation amending the Dentists Act 1985 to:</p> <p>(a) explicitly allow corporate bodies to engage in the business of dentistry; and,</p> <p>(b) require that all treatment carried out on patients is delivered by registered dentists or other appropriate registered oral healthcare professionals.</p>	<p>Minister for Health and Children</p> <p>October 2008</p>	

Recommendation 11:		Amend the composition of the Dental Council
Details of Recommendation	Action By	
<p>The Minister for Health and Children should bring forward legislation to amend the composition of the Dental Council. The revised legislation should provide that:</p> <p>(a) a majority of the membership of the Council should come from outside the professions being regulated by the Council; and,</p> <p>(b) each of the professions regulated by the Council should be represented on the Council.</p>	<p>Minister for Health and Children</p> <p>October 2008</p>	

Recommendation 12:		Give the Dental Council power to deal with fitness to practise issues for all groups of dental workers regulated by it
Details of Recommendation	Action By	
<p>The Minister for Health and Children should bring forward legislation to amend the Dentists Act 1985 to:</p> <p>(a) give the Dental Council the power to deal with fitness to practise issues relating to all groups of auxiliary dental workers regulated by it; and,</p> <p>(b) clearly set out the functions of the Dental Council.</p>	<p>Minister for Health and Children</p> <p>October 2008</p>	



