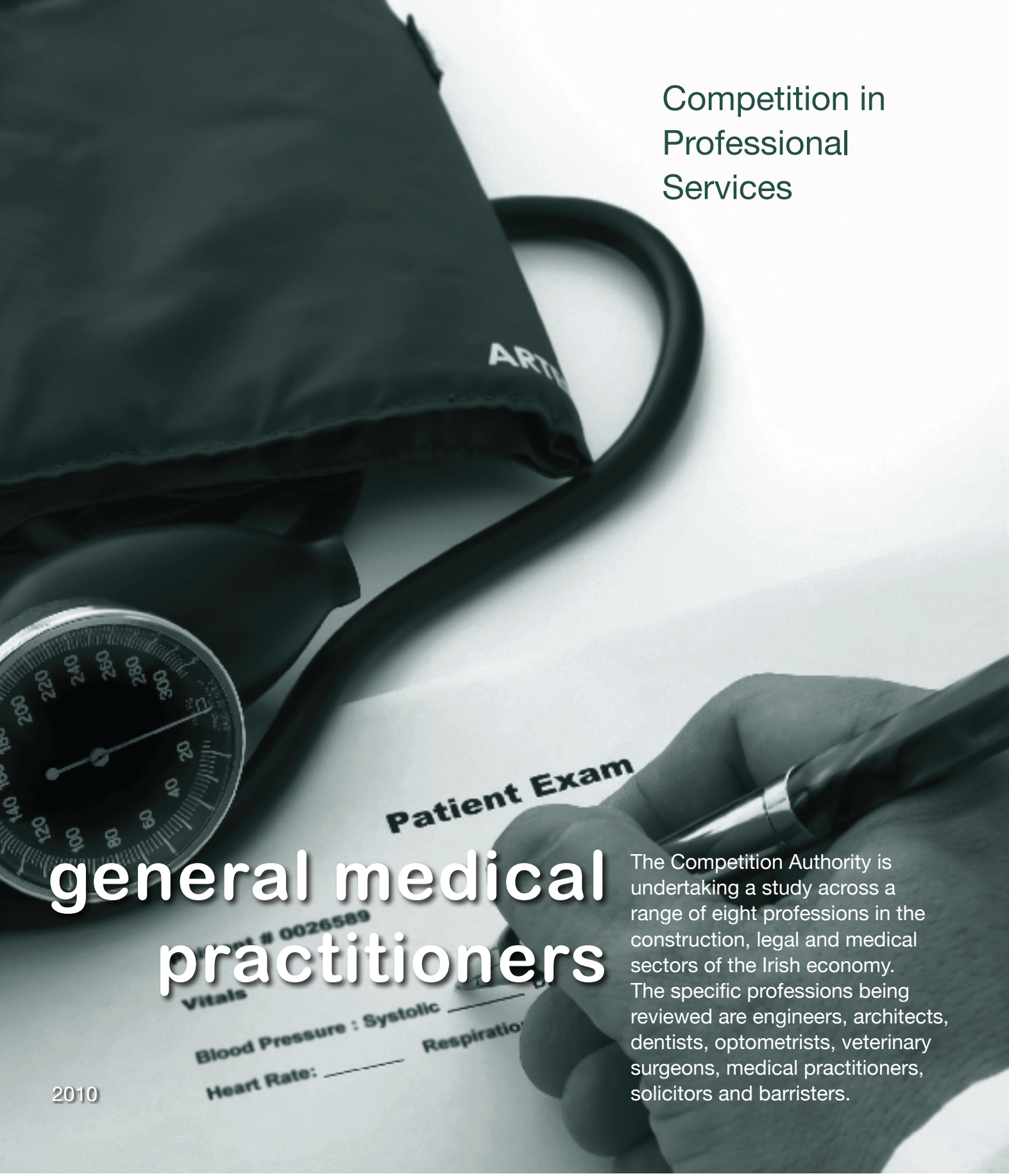


Competition in Professional Services

# general medical practitioners

2010

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.

The Competition Authority
An tÚdarás Iomaíochta

Parts I and II of this Report were first published in December 2009. Part III of the Report was first published in July 2010.
This printed version of the Report was published in December 2010.

# EXECUTIVE SUMMARY

## Key findings

The Competition Authority has identified three factors that are having an impact on competition in GP services in Ireland:

1. Restrictions on the number of qualifying GPs;
2. Restrictions on advertising by GPs; and,
3. Restrictions on GPs wishing to treat public patients.

These restrictions are contributing to difficulties being experienced by patients - in terms of accessing regular GP services in certain "blackspot" areas of the country and rising prices for private patients.

The cost of visiting a GP has risen rapidly in recent years, significantly outpacing the general rate of inflation in the economy. There are indications that a substantial number of private patients are delaying GP visits due to cost factors and are "shopping around" for cheaper consultation fees. The State paid an average of €65 for every GP visit made by a public patient in 2008.

In examining these issues, and engaging with those with the power to make reforms, the Competition Authority has identified solutions to improve the supply of qualified GPs and facilitate informative advertising by GPs, and their implementation has already been progressed. Training more GPs and allowing them to advertise will have a limited impact on competition however, unless those GPs are able to get a General Medical Services ("GMS") contract.

A GMS contract is very valuable to a GP practice; very few GP practices operate without one. The current GMS system favours existing GP practices and protects them from competition from newly qualified GPs.

The restrictions on competition arising out of the GMS system affect both private patients and public patients.

- Both public and private patients have fewer GP practices to choose from, and
- There is less pressure on GP practices to compete on price for private patients and to be innovative in the service they provide.

The impact of the GMS on private patients is often overlooked. It is assumed that "the market" will take care of them. This ignores the fact that the market for private patients is itself significantly affected by the operation of the GMS. The GMS system impacts directly on the commercial behaviour of almost every GP practice in the State, affecting decisions on where GPs locate, the number of GP practices established, the nature of such practices and the profitability of individual practices. This in turn affects the provision of services for private patients and indirectly influences the price GPs charge private patients.

## An adequate number of GPs for Ireland

There are an estimated 2,800 doctors working as GPs in Ireland. This number is relatively low by international standards. Ireland has only 60% of the number of GPs per thousand population compared to Germany or the US, and only about two-thirds the number of most continental European countries.

The increased feminisation of the GP profession in recent decades has been accompanied by a rise in part-time working, among both male and female GPs, and a movement towards earlier retirement. As a result, an increased number of GPs will be required in the future simply to maintain existing levels of service provision.

These factors, as well as rising demand, raise concerns about the adequacy of the supply of GPs in Ireland now and into the future. These concerns are particularly significant given that Government health policy aims to increase the focus of healthcare on primary care, moving treatment away from hospitals into the community. An adequate supply of GPs is essential to such a strategy and also to competition in GP services.

The path to becoming a GP in Ireland is much more structured than in the past. Doctors must now undertake four years of specialist training in general practice before qualifying as a GP. As a result, the number of new GPs qualifying in Ireland is dependent on the number of specialist GP training posts available, in a way that was not the case in the past. The number of doctors being trained as GPs will need to rise substantially in the years ahead as a result of all these changes in the GP profession and to cater for predicted population growth.

In examining the training of GPs in Ireland, the Competition Authority identified an issue that has historically impeded the number of GPs qualifying in Ireland each year. Currently all training programmes for GPs require that all trainees complete four years of training: 2 years of hospital–based training with some off-site training ("Phase 1") and 2 years of GP practice-based training ("Phase 2"). GP trainees receive a salary from the Health Service Executive ("HSE") during each year of their training. No recognition or flexibility is granted where a trainee has previously obtained equivalent relevant hospital-based training. Doctors with previous training who obtain a place on a GP training course must often repeat training they have already completed.

The Competition Authority met the Irish College of General Practitioners ("ICGP") in 2008 and argued that the requirement to repeat training was costly, inefficient and ultimately was limiting the number of new GPs available to treat patients in Ireland. We proposed that an alternative intensive course – a "*Phase 2 Orientation Programme*" - could be introduced as a fast-track option for doctors who have completed relevant hospital-based training. It would allow doctors with prior relevant hospital-based training to proceed directly to the in-practice phase of GP training. This Programme would be equivalent to the off-site component of Phase 1 of GP training and provide doctors with appropriate knowledge and orientation for general practice. This proposal was deemed to be a workable solution by the ICGP.

There is general agreement that the recognition of prior relevant training would remove a bottleneck in the number of qualified GPs Ireland can produce each year. Implementing the Competition Authority's fast-track system for training GPs would help alleviate predicted shortages in the number of GPs in Ireland, in an efficient and cost-effective manner. The issue of the funding of additional Phase 2 GP trainee places is a matter under discussion between the HSE and the ICGP.

## Restrictions on advertising

In 2007, the Competition Authority identified significant unnecessary restrictions on advertising by GPs and the supply of information to patients. For example, medical practitioners who were setting up practice could only announce their presence by way of newspaper notices. Local radio announcements, flyers and other normal methods of creating awareness of a new business were not allowed. Advertising of prices was actively discouraged. These restrictions were contained within the Medical Council's *Guide to Professional Conduct and Ethics for Registered Medical Professionals*.

When the Medical Council started a review of the Guide in 2007, the Competition Authority made a detailed submission to the Council. The submission highlighted that the restrictions went beyond what was required to protect the public from misleading advertising, and instead had a number of negative effects such as discouraging price competition and limiting the knowledge consumers had about GP services in their area. We recommended that restrictions on the content, place and size of practice signs and advertisements be removed, along with the restrictions on distributing price information.

The Medical Council subsequently removed the restrictions from the Council's updated ethical guidelines *Guide to Professional Conduct and Ethics for Registered Medical Professionals* (7th Edition) published in November 2009.

The removal of the restrictions on advertising will make it easier for consumers to obtain information about the availability and price of GP services in their area. It will also bring benefits to newly established GPs who want to advertise their new practices and should encourage GPs to offer new and innovative ways of delivering their service now that they can fully inform the public of their services.

## GMS system restricts competition between GP practices

Competition between GP practices is restricted by certain features of the GMS system[1].

The GMS system favours existing GP practices and protects them from competition from newly-qualified GPs. It reduces the number of GP practices available to patients, by creating unnecessary barriers to entry.

Changes in the GMS contract cannot take place without the agreement of the Irish Medical Organisation ("IMO"), a representative body for GPs. This includes agreement on payments made to GPs under the GMS. Such collective negotiations by "undertakings"[2] on fees are prohibited by Section 4 of the Competition Act 2002 ("the Act") and by Article 101 of the Treaty on the Functioning of the European Union ("TFEU").

The prohibition on collective negotiations is there to protect consumers and the State from concerted practices by independent businesses which could result in them (ie. consumers and/or the State) paying higher prices than necessary for their purchases. In the current instance, its purpose is to protect the State from paying excess prices for GP services purchased by the HSE.

1 The GMS system ensures GP services are provided free-of-charge to 1.6 million "public patients" e.g. medical card holders throughout the State.

2 An "undertaking" is defined in section 3 of the Act as meaning "*a person being an individual, a body corporate or an unincorporated body of persons engaged for gain in the supply of goods or the provision of a service*".

## Recommended changes to the GMS

The Competition Authority is recommending a number of changes to the GMS system so that patients (public and private) and the State reap the full benefits of competition between GP practices. The recommendations are addressed to the Minister for Health and Children, the HSE and the IMO.

First, all qualified GPs should be entitled to obtain a GMS contract, subject only to meeting general suitability criteria. Currently, GMS contracts are only awarded in circumstances where a list of public patients becomes available through the death, resignation or retirement of an existing contract-holder, or where the HSE (following consultation with the IMO) identifies a need for a new GMS post.

Second, the GMS contract should not be tied to a specific location. Contracted GPs should be entitled to set up in practice in, or move to, the location of their choice.

Third, decisions by the HSE to award new GMS contracts and decisions on the allocation of public patient lists following the death, retirement or resignation of an existing contract-holder should not favour GPs who already hold a GMS contract. At the moment it does this in two ways: (i) by failing to award a contract in cases where the HSE (after consulting the IMO) feels that the "viability" of existing GP practices in an area would be threatened by a new entrant; and (ii) by treating GPs who hold a GMS contract more favourably in the interview marking scheme for GMS posts.

Fourth, decisions about the fees and allowances to be paid to GPs under the GMS contract should be made unilaterally by the Minister for Health and Children, following (if desired) consultation with GPs and/or the IMO.

Implementation of these recommendations is complicated by the fact that the GMS contract (which is between the HSE and individual GPs) is contingent upon an agreement (or series of agreements) between the Minister for Health and Children and the IMO. Any change in the GMS contract requires first that the IMO agreement be amended; this amendment must then be reflected in the GMS contract. What this means in practice is that, in order for our recommendations to be implemented, the IMO must agree to their implementation. The existence of this contractual relationship has been one of the key impediments to reform of the GMS. It may ultimately prove easier and more effective to terminate the existing contract and start afresh with a clean slate rather than seek to amend the existing contract.

## Recommendations

This report makes seven recommendations for change. Five of these relate to changes in the GMS system; the remaining recommendations relate to GP training programmes and advertising by GPs.

### A. The removal of practices which protect established GMS-contracted GP practices from competition from newly-qualified GPs.

**Recommendation 1:** Access to GMS Contracts should be opened up to all qualified and vocationally trained GPs, who meet general suitability criteria.

**Recommendation 2:** GPs in possession of a GMS contract should be free to set up in, or move to, the location of their choice.

**Recommendation 3:** Decisions to award a GMS contract in a particular area should not be required to take account of the "viability" of existing GP practices in that area.

**Recommendation 4:** The marking system for awarding GMS contracts should be amended to ensure that applicants with similar levels of GP experience are awarded equal points and that applicants already in possession of a GMS contract are not treated more favourably.

### B. Changes in the process for determining payments to GPs under the GMS.

**Recommendation 5:** Payments to GPs under the GMS should be decided, not on the basis of agreement with the IMO, but unilaterally by the Minister for Health and Children, following (if desired) consultation with GPs and/or the IMO.

### C. Changes relating to the training of GPs.

**Recommendation 6:** A fast-track GP training programme ("*Phase 2 Orientation Programme*") should be introduced for doctors who have completed relevant hospital-based training.

### D. Changes relating to advertising by GPs.

**Recommendation 7:** Unnecessary restrictions on advertising by GPs should be removed. **(Implemented 2009)**

The Authority's recommendations on advertising by GPs were incorporated in new guidelines for medical practitioners issued by the Medical Council in 2009. GPs are now allowed to advertise their services (including the prices charged), as long as the information provided is "*factually accurate, evidence-based and not misleading*".[3] This opens the way for more informed patient choice and may help to promote more price competition for private patients.

Our recommendation to introduce a fast-track GP training system for doctors who have already completed relevant hospital training and experience, thus preventing them from having to repeat certain elements of their training, has not yet been implemented. The number of places on GP training programmes was increased from 120 to 157 in 2010, in order to boost the supply of GPs. However none of the additional training places have been allocated to "Phase 2" trainees.[4] We will continue to seek the implementation of our recommendations in this area.

3 Medical Council, 2009, *A Guide to Professional Conduct and Ethics for Registered Medical Practitioners* (7th Edition), page 49.

4 "Phase 2" trainees are doctors who have already acquired relevant hospital training and experience. If these doctors subsequently enrol on a GP training programme, current regulations oblige them to repeat elements of their hospital-based training.