

Introduction

The Competition Authority welcomes the opportunity to make a submission to the public consultation on new legislation to replace the Dentists Act, 1985 ("1985 Act"). The Authority published a report on *Competition in Professional Services: Dentists* in October 2007 ("Dentists Report 2007"). In the Dentists Report 2007, the Authority stated that

"Competition in dental services is restricted and discouraged by an outdated system of regulation for dentists and related professions.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 competition between dentists and a range of other qualified oral health professions that exists in other countries".

The Authority made 12 recommendations in its Dentists Report 2007, addressed mainly to the Dental Council and the then Minister for Health and Children. These recommendations reflect the competition problems identified by the Authority in the dental profession.

We welcome the fact that some of the recommendations outlined in our Dentists Report 2007 have, over time, been implemented by the Dental Council. To date, a new profession of Clinical Dental Technician has been introduced and the restrictions on advertising by dentists considerably relaxed, for example, dentists are now free to advertise their prices. These actions have brought benefits for consumers, for example, consumers are more aware of their options and the prices for dental services.

The Authority also appreciates that the implementation of recommendations made in the Dentists Report 2007 to the Minister for Health and Children, is to be considered and examined through this public consultation process. We acknowledge that competition policy is one of many social policies that the proposed legislation needs to address. We accept that patient's safety and care is the most important goal of the proposed new legislation. However, we believe that implementing our recommendations will lead to a modern system of regulation in the dental profession which ensures patient safety and care at a competitive price for the Government and general consumer.

Our response to the public consultation is focused on competition related issues. In preparing this response we have imported only the relevant sections of *the questionnaire on new legislation to replace the dentists Act, 1985* into the next section of this document. In each case, the original question is reproduced followed by our response. We would be happy to meet with the Department of Health to discuss our submission in greater detail.

Section 4.1 The Dental Council

4.1.3 Membership of the Dental Council – Non-Dental Majority

Consideration is being given to amending the composition of the Dental Council to provide that the majority of Council members are not dentists.

Of the 19 members of the Dental Council, the majority are dentists. However, there is no legislative requirement for a professional or non-dental majority. The Dentists Act, 1985 provides for a minimum of 7 dentist members.

Do you agree that provision should be made for a non-dental majority on the Dental Council?

- ☒ **Strongly Agree**
- ☐ Agree
- ☐ Neither Agree Nor Disagree
- ☐ Disagree
- ☐ Strongly Disagree

The Competition Authority strongly agrees that provision should be made for a non-dental majority on the Dental Council. This is one of the recommendations made by the Competition Authority to the then Minister for Health and Children in our Dentists Report 2007.

Currently the Dental Council is almost entirely composed of members of the dental profession and individuals involved in the education of dentists. Only two of the 19 members are appointed to represent the interests of consumers. As highlighted in our Dentists Report 2007, it is not necessary, proportionate or transparent for a regulatory body to be run mainly by the profession being regulated. The Competition Authority is concerned that the current composition creates the potential for a conflict of interest.

While it is important for a regulatory body to have access to expert professional advice on its governing Council, the sources for such advice are not so narrow that the majority of members must come from the profession being regulated. A situation such as pertains in the Dental Council, where the vast majority of the members of the Council are practising dentists, raises issues regarding conflicts of interest between regulating for the protection of consumers on one hand and furthering the interests of the profession on the other.

As noted in the consultation document, in other health professions the composition of regulatory bodies has been amended or set so as to represent a broader range of interests than the profession being regulated. These include the Medical Practitioners Act, 2007, the Nurses and Midwives Act, 2011 and the Health and Social Care Professionals Act, 2005 (as amended). In each case the legislation provided for a majority of members of the governing

Council to come from outside the profession being regulated, as well as representatives of the profession being regulated. We recommend a similar approach be adopted for the Dental Council. This change would promote consumer-focused regulation, in line with the principles of better regulation and with the best practice in this area, and would counter any perception that the profession was not being regulated primarily in the interests of consumers.

4.1.4 Wider Representation

Consideration is being given to amending the composition of the Dental Council to provide for representation from other specific groups such as auxiliary dental professionals, HIQA, the public health dental area, other regulatory bodies and public interest groups.

Auxiliary Dental Professionals

The Dentists Act, 1985 does not provide for membership of the Dental Council to specifically include members of auxiliary dental professions. Auxiliary dental professionals are represented on the Auxiliary Dental Workers Committee of the Dental Council.

Other representation

Unlike the Nurses and Midwives Act, 2011 and the Medical Practitioners Act, 2007, the Dentists Act, 1985 does not provide for representation on the Dental Council to specifically include HIQA, the public health dental area, or other regulatory bodies (other than the Medical Council).

Do you think the composition of the Dental Council should be amended to have wider representation?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

Should groups other than auxiliary dental professionals, HIQA, the public health dental area, and other regulatory bodies be included?



Yes (if yes, please indicate which groups)



No

As discussed in the Competition Authority's Dentists Report 2007, membership of the Dental Council should include representatives of each of the professions regulated by the Council as well as other groups with an interest in the dental profession such as those involved in dental education and layperson consumers. The majority of the membership should also come from outside the professions being regulated.

The reconstitution of the Dental Council along these lines would ensure that regulation of the profession was not dominated by representatives of the professions being regulated and would promote consumer-focused regulation, in line with the principles of better regulation. This would ensure that regulations are proportionate and do not unnecessarily hinder competition between dentists and auxiliary dental professionals.

4.1.6 Functions of the Council

Consideration is being given to the new dental legislation specifying the functions of the Dental Council in a manner similar to the Medical Practitioners Act, 2007 and the Nurses and Midwives Act, 2011.

This would mean that in addition to the legislation providing that the Council will do all things necessary to further its object and perform in the public interest, it will also identify specific functions of the Council, including maintaining the registers, approving education programmes, specifying standards for professional competence, providing guidance, inquiring into complaints and advising the public. The legislation might also include functions in relation to dental practices if it is decided to regulate practices.

Do you agree with functions being specified?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

The functions of the Dental Council should be clearly set out in legislation. This will allow for increased openness and transparency and ensure that both the public and practitioners are aware of the Council's duties. It would also ensure that the Dental Council will be accountable in a fair way if questions were to arise about its performance. The proposed new legislation should make sure that the Council's functions are relevant and in line with the principles of better regulation, and can adjust and respond to emerging challenges.

4.1.7 Education and Training

Consideration is being given to the new legislation updating the education and training provisions contained in the existing Act to provide that the Dental Council approve courses and the institutions delivering those courses.

Currently the Council is required to satisfy itself as to the suitability of the dental education and training provided by bodies specified under the Act.

Do you agree that the new legislation should provide for the Dental Council to approve courses and the institutions delivering those courses?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

The Competition Authority agrees with the proposed updating provisions regarding education and training which is in line with the relevant provisions in the Medical Practitioners Act, 2007 and the Nurses and Midwives Act, 2001. It would be a more proactive system compared to the existing arrangement, if interested bodies can actively apply to be recognised by the Council to deliver approved programmes. It provides certainty to applicants who want to provide the programmes and clarity for applicants who are already providing the programmes.

For the proposed system to work effectively, the Council should be required to publish a set of criteria and the procedure for interested institutions to become approved bodies delivering the programmes. It is crucial that these requirements are fair, reasonable, transparent and non-discriminatory.

4.1.8 Fees

Consideration is being given to the new legislation updating the fees provision contained in the existing Act to provide for the Dental Council to continue to charge fees for registration and associated functions and also to charge fees for the approval of education and training bodies and retention of such approval, and to charge fees for the registration of dental practices (if this is included in the new legislation).

Under the Dentists Act, 1985 the Dental Council can charge fees for registration and services associated with registration only.

Do you agree with updating the fees provision?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

The Competition Authority has no specific views on the proposed provision. It is reasonable to expect that the new legislation enables the Dental Council to recover the costs of efficient services provisions without creating unnecessary barriers and burdens to entry. In general, any fees charged by the Dental Council outlined in the new Legislation should be in line with the principle of better regulation and should be on a fair, transparent and non-discriminatory basis.

Section 4.2 Dentists

4.2.1 Fitness to Practise

Consideration is being given to updating the current fitness to practise (FTP) process under the Dentists Act, 1985 to align it with the regimes provided for in the Medical Practitioners Act, 2007 and the Nurses and Midwives Act, 2011.

The Medical Practitioners Act, 2007 and the Nurses and Midwives Act, 2011 provide for a different committee structure than exists in the current Dentists Act, 1985, whereby a Preliminary Proceedings Committee establishes if a prima facie case exists before referring the case to the FTP Committee for inquiry. They also provide for an increased number of grounds for complaint and additional sanctions.

Do you agree with updating the FTP provisions?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

The Competition Authority agrees that the current fitness to practise provisions are in need of updating. As highlighted in the consultation document the current grounds for complaint against a dentist include:

- alleged professional misconduct; and
- alleged unfitness to practise because of physical or mental disability.

The first of these provisions is very vague, and is not defined in the legislation. This allows for broad interpretation by the FTP Committee, and could lead to anti-competitive practices.

The new Legislation should make it clear that “professional misconduct” is associated with the quality of the care patients receive from dentists, rather than the commercial aspect of the services. For example, bans on advertising, either generally or as regards fees, bans on accepting clients of a fellow-professional without the latter’s “permission”, and fee discounting may be interpreted by the statutory body as professional misconduct.

Currently there are two types of sanctions for upheld complaints:

- Erasure of the dentist’s name from the register; or
- That during a period of specified duration, the registration of the dentist’s name should not have effect.

The range of sanctions outlined in the 1985 Act is limited. There are a variety of sanctions for the relevant council to employ in the Medical Practitioners Act, 2007. It is inappropriate for the Competition Authority to comment on what type of sanctions should be provided to the Dental Council, however, the sanctions under the new Act should be necessary, proportionate and transparent.

4.2.3 Registration of Dentists (for registration of auxiliary dental professionals, please refer to Q 4.3.1)

Consideration is being given to the new legislation providing for one dentist register for all qualified dentists with divisions and sub-divisions for specialists.

The Dental Council currently has a Register of Dentists and a Register of Dental Specialists.

Do you agree with one register for all dentists?

- ☐ Strongly Agree
- ☐ Agree
- ☒ **Neither Agree Nor Disagree**
- ☐ Disagree
- ☐ Strongly Disagree

In general, the Authority supports a registration system for professional services. This is because it affords protection to consumers who are infrequent purchasers of professional services, by providing some indication of the competence, experience and qualification of the service provider. This proposal seems to be in line with the relevant provision in the Medical Practitioner Act, 2007 and the Nurses and Midwives Act, 2011.

It is important that the process for registration of dentist should be transparent, clear and objective, and in line with the principles of better regulation. Applicants should be able to quickly see whether they meet the required standards and, if not, should be able to see what steps they need to take to meet the requirements.

4.2.4 Temporary Registration

Consideration is being given as to whether the legislation should continue to provide for temporary registration of non-EEA dentists, and the duration of this registration. Consideration is also being to as to whether access to the Temporary Registrant's Division be limited to just registrants practising under the supervision of a named consultant in a clinic or institution approved by the Dental Council.

The purpose of temporary registration is to accommodate non Irish or non-EEA dentists working in a hospital setting, including those participating in post-graduate exchange programmes, typically of 2-3 month duration, with links to training programmes in other jurisdictions.

The Dentists Act, 1985 provides that the Dental Council may grant temporary registration to a person not otherwise entitled to registration for up to a maximum of 5 years. This provision has been used successfully to allow people who do not have an EU/EEA qualification to receive clinical training and experience in Ireland, generally in a hospital setting and under the supervision of a consultant.

Do you agree that provision should continue for temporary registration of non-EEA dentists?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

If so, for what duration should this registration period extend?



Less than 1 year



1 year



2 years



3 years



4 years



5 years



more than 5 years

Do you agree that dentists with temporary registration should work under strict supervision?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

In general, the Competition Authority supports retaining the provision on the temporary registration of non-EEA dentists **if** the objective of the provision is to ensure certain standards of patient safety and care. However, the Authority would be concerned if the registration system is designed as so to limit the number of registered non-EEA dentists working in a hospital setting or those participating in post-graduate exchange programmes. Registration of the non-EEA dentists practice should be proportionate to protection of patient safety and should not act as an undue barrier to entry, where a practitioner proves their ability.

4.2.5 Continuing Professional Development (CPD) for Dentists

Consideration is being given to:

- (a) the new legislation providing that dentists will have to maintain their own professional competence;
- (b) the new legislation providing that the Council may require a registered dentist to demonstrate competence to the satisfaction of the Council in accordance with a professional competence scheme; and
- (c) the new legislation providing that the Dental Council may require a dentist who fails to demonstrate competence attend a course(s) of further education or training or do anything, which in the opinion of the Council, is necessary to satisfy it as to the competence of that dentist.

There are no provisions for Continuing Professional Development under the current Dentists Act. However, according to the Dental Council's Code of Ethics pertaining to Professional Behaviour and Dental Ethics, all dentists should maintain and update their knowledge and skills.

Do you agree that dentists should have to maintain their own professional competence?

- ☐ Strongly Agree
- ☒ **Agree**
- ☐ Neither Agree Nor Disagree
- ☐ Disagree
- ☐ Strongly Disagree

Do you agree that dentists should be required to demonstrate competence to the satisfaction of the Council in accordance with a professional competence scheme?

- ☐ Strongly Agree
- ☒ **Agree**
- ☐ Neither Agree Nor Disagree
- ☐ Disagree
- ☐ Strongly Disagree

Do you agree that the Dental Council should require a dentist who fails to demonstrate competence to attend a course(s) of further education or training or do anything, which in the opinion of the Council, is necessary to satisfy it as to the competence of that dentist?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

The issue of continuing professional development for dentists was not addressed in the Dentists Report 2007. Nevertheless, the Authority appreciates that as a general principle, professionals may be required to maintain and update their knowledge and skills over time for the sake of patient safety and healthcare.

In general, continuing professional development may be an effective way to ensure that consumers receive the most appropriate and up-to-date care at a high standard. Any changes to legislative provisions should be in line with the principles of better regulation and should be necessary and proportionate.

Section 4.3 Auxiliary Dental Professionals

4.3.1 Registration

Consideration is being given to the mandatory registration of all auxiliary dental professionals, including fitness to practise. The level of risk to the public associated with different auxiliaries will be a factor in determining the need in this regard.

Auxiliary dental professions in Ireland include: Dental nurses; dental hygienists; dental technicians; clinical dental technicians; and orthodontic therapists. Currently dental hygienists, clinical dental technicians and orthodontic therapists are obliged to register with the Dental Council. In addition, dental nurses who are trained to undertake radiographs are also required to register, while other dental nurses register on a voluntary basis. There are currently four separate registers of auxiliary dental professionals, one for each class established.

The Competition Authority does not wish to respond to the individual questions outlined in section 4.3.1, however we would like to make the following general comment.

The 1985 Act permits auxiliary dental professionals to work independently of dentists. In principle, there may be a need for some regulation in the context of ensuring patient safety and welfare. The Department's consultation document notes that in the UK, auxiliary dental professionals must be registered with the General Dental Council and are subject to fitness to practise.

However, it is difficult for the Competition Authority to express a view on which type of dental auxiliary should be subject to mandatory registration and which should not. As a general matter, it is important that any regulatory requirements should be necessary, effective, proportionate, and transparent and not create unnecessary burden on auxiliary dental professionals.

4.3.2 Continuing Professional Development (CPD)

Consideration is being given to the new legislation providing for continuing professional development for all registered auxiliary dental professionals, including those who register on a voluntary basis.

The Dentists Act, 1985 does not provide for the continuous professional development of auxiliary dental professionals.

Do you agree that auxiliary dental professionals should be subject to CPD?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

The issue of continuing professional development for auxiliary dental professionals was not addressed in the Competition Authority's Dentists Report 2007. The Authority appreciates that as a general principle, auxiliary dental professionals may be required to maintain and update their knowledge and skills over time for the sake of patient safety and healthcare. However, if the requirements for continuing professional development were to restrain new auxiliary dental professionals in their practice, this could give rise to competition concerns.

In general, continuing professional development for auxiliary dental professionals may be necessary to ensure that consumers receive the most appropriate and updated care at a high standard. Any changes to legislative provisions should be in line with the principles of better regulations and should be necessary and proportionate.

4.3.3 Independent Practice for Auxiliary Dental Professionals

Consideration is being given to the new legislation providing for the Dental Council to introduce regulations to allow the public to directly access some classes of auxiliary dental professionals, for example a person could go directly to a dental hygienist to have their teeth cleaned.

The Dentists Act, 1985 does not provide for independent practice for auxiliary dental professionals, with the exception of Clinical Dental Technicians. It is suggested that independent access to dental hygienists, or even possibly dental therapists could have a significant positive impact on the public dental services, and would allow for oral hygiene treatment to both the elderly and special needs patients in long-stay centres and the community.

Do you agree that the public should have independent access to some classes of auxiliary dental professionals?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

Which classes of auxiliary dental professional should have independent practise? (Please note that more then one checkbox can be ticked)



Dental nurses



Dental hygienists



Dental technicians



Clinical dental technicians (included for completeness with regard to referencing auxiliary dental professions)



Orthodontic therapists

One of the recommendations in the Competition Authority Dentists Report 2007 was that auxiliary dental professionals, such as clinical dental technicians and dental hygienists, should be able to have independent practices. We have no views on the other three auxiliary dental professionals as we have not examined those in detail.

In general, the regulatory system should be as fluid and responsive as possible to ensure that the right numbers of the different types of dental professional are in place to meet the demand for dental services and unnecessary restrictions are not applied to competent professionals.

As outlined by the Competition Authority Dentists Report 2007, in Ireland, consumers wishing to avail of dental services must either be treated by a dentist or visit a dentist for a referral for treatment by another oral healthcare provider. In other countries, consumers can access dental services directly from a range of qualified oral healthcare providers – dentists, dental hygienists and clinical dental technicians. The current regulatory system has not facilitated the emergence of these options in Ireland.

In Ireland, it is unlawful under the Dentists Act 1985 for a person to use the title “dentist” or to practise dentistry without being registered by the Dental Council. This is a proportionate restriction on the supply of dental services and is designed to protect the health and welfare of the general population. Given the high costs of training dentists, it is important that suitably qualified para-professionals are permitted to provide treatment for which they are appropriately trained, so that dentists can concentrate on providing the services that only they are qualified to provide.

The Competition Authority Dentists Report 2007 recommends the creation of two new oral healthcare professions. Ireland should have suitably qualified advanced dental hygienists and clinical dental technicians providing their services – dental hygiene services and dentures, respectively - directly to the public. This will improve consumers’ access to quality dental services, and lead to improved oral healthcare in Ireland. It will also encourage competition in dental services, in terms of price and quality.

4.3.4 Auxiliary Dental Professionals Committee

It is being considered that the new legislation provide that there be a statutory committee for auxiliary dental professionals. This statutory committee would deal with specific issues arising in relation to auxiliary dental professionals.

Currently there is an Auxiliary Workers Committee of the Dental Council

Do you agree that there should be a statutory committee for auxiliary dental professionals?

- ☐ Strongly Agree
- ☐ Agree
- ☐ Neither Agree Nor Disagree
- ☒ **Disagree**
- ☐ Strongly Disagree

In its Dentists Report 2007, the Competition Authority recommended that the Minister for Health and Children amend the 1985 Act to 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 clearly set out the functions of the Dental Council.

If the Dental Council composition is changed as discussed in sections 4.1.3 and 4.1.4 so that it is more independent of the profession there may not be a

need to establish a new separate statutory committee for auxiliary dental professions.

However, if the new legislation creates a statutory committee for auxiliary dental professions, the composition of the committee should have independent representatives and not to be dominated by dentists or any other oral healthcare professionals to avoid any perceived conflict.

4.4 DENTAL PRACTICES

4.4.1 Registration/Regulation of dental practices

Consideration is being given to the registration/regulation of dental practices/premises, who should regulate them, and who should hold powers of inspection.

Under the current Dentists Act, the Dental Council does not have the power to regulate dental practices. It is argued that this gives rise to significant patient safety issues.

However if dentists use radioactive sources and/or irradiating apparatus (such as an X-ray unit), by law, these practices must hold a valid licence from the Radiological Protection Institute of Ireland who also conduct random inspections of radioactive equipment.

The Competition Authority does not wish to respond to the individual questions outlined in section 4.4.1. However, we would note that if the decision is taken to regulate dental practices/premises, regulation should be necessary and proportionate to its objectives. Furthermore, there are a number of agencies in the State with existing remit and competence in the inspection of premises to ensure that they meet regulatory standards. Such an agency might be better placed than the Dental Council to adopt the inspection role.

4.4.2 Legislative prohibition on the Incorporation of dental practices

Consideration is being given to removing the prohibition on the Incorporation of Dental Practices.

Under the Dentists Act, 1985, corporate bodies which engage in the practice of dentistry are committing an offence and can be fined. Where a body corporate is convicted of an offence every director, manager and secretary is guilty of an offence, unless proof is provided that the offence was committed without their knowledge.

Should the legislation remove the prohibition on the incorporation of dental practices?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

The Competition Authority strongly agrees that the new Legislation should remove the prohibition on the incorporation of dental practices. This is one of the recommendations made by the Competition Authority to the then Minister for Health and Children following its Dentists Report 2007.

Section 52(1) of the 1985 Act states that: "It shall not be lawful for any body corporate to engage in the practice of dentistry (other than the performance of the dental work referred to in section 51(2) (b) of this Act)."

The Competition Authority is aware of differing legal interpretations of the relevant section of the Dentists Act. This uncertainty should be removed, to make it clear that dentists in Ireland are allowed to operate in a variety of business forms.

The Competition Authority identified the following ways in which consumers would benefit from the emergence of corporate dental groups:

- They will have an opportunity to choose between a corporate dental group or a traditional dental practice, depending on which they consider is best suited to their needs;
- Dental services will become available in more convenient locations and for more hours of the day;
- The establishment of corporate dental groups is likely to lead to efficiency gains. In a competitive market, these gains will be passed on to consumers in the form of lower prices and access to better quality or state-of-the-art equipment.

Corporate dental groups will also be able to benefit from the economies and efficiencies deriving from shared costs and greater buying power. For example, a corporate dental group employing a number of dentists will be able to use its buying power to get a better deal on dental supplies than an

individual dentist can. Similarly, corporate dental groups will be in a better position than dentists operating as sole traders to deal directly with insurance companies who may wish to provide dental insurance.

Corporate dental bodies will offer benefits to dentists by giving them more flexibility to choose between establishing their own practice or working on a full or part-time basis as an employee. The employment of non-dentists to oversee the administration of the business and seek value from new suppliers will allow dentists to concentrate on their clinical work.

Corporate dental bodies are likely to be successful in attracting patients who did not previously attend a dentist, as has occurred in the UK, thereby expanding the size of the market and contributing to the better oral health of the population.

4.4.3 Appointment of Principal Dentists and Registered Owner Representatives in a Practice

With a view to regulating dental practices, including corporate dentistry, consideration is being given to regulating both the individual dental practice and the entity which owns the practice (e.g. a corporate entity which may have multiple practices) by:

a) Registering and assigning responsibility for the regulatory compliance of a practice to a 'principal dentist' who would ensure the registration of all practitioners in the practice; be responsible for establishing appropriate structures to allow registrants comply with codes of practice such as infection prevention and control, pricing display etc; and ensure staff receive essential training.

b) Registering and assigning responsibility for the regulatory compliance of a practice/number of practices to a person who represents the owner of a practice(s). This person would be the Registered Owner Representative of a practice(s) and would have responsibility for compliance with legislation across all dental practices owned by the person/company. It is suggested that this person should be a registered dentist, which means that the owner does not have to be a dentist but the person registered as representative of the owner would have to be a dentist.

There are advantages and disadvantages to this approach. The main advantage is that this ensures that there is a person responsible for the individual practice and a person responsible for overall ownership issues, in particular in relation to companies which own multiple practices. The main disadvantage to this approach is that currently all dentists are responsible for their own practice and there is an onus on all dentists to ensure that they comply with legislation/regulations and codes of practice. It could be argued that by giving responsibility for these issues to a Principal Dentist or a Registered Owner Representative, that this abdicates the individual dentist's responsibilities.

There is currently no provision under the Dentists Act, 1985 in relation to the appointment of Principal Dentists or Registered Owner Representatives. Under the Pharmacy Act, each registered pharmacy must have a superintendent pharmacist and a supervising pharmacist, each of whom should possess at least three year's appropriate experience.

The Competition Authority does not wish to respond to the individual questions outlined in section 4.4.3, however we would like to make a general comment.

The issue of appointment of principal dentists and registered owner representatives in a practice was not addressed in the Competition Authority's consultation process for its Dentists Report 2007. However, the Authority would be concerned if appointment of principal dentists and registered owner representatives in a practice creates unnecessary barriers to opening a new dental practice or expanding an existing dental practice. Therefore, were the proposed legislation to introduce a system to appoint principal dentists and registered owner representatives in a practice, it should be proportionate to protection of patient safety and should not act as an undue barrier to entry and expansion.

4.4.4 Advertising

Consideration is being giving to removing the restrictions on dentists engaging in advertising their practices, subject to appropriate guidelines set by the Dental Council.

Under the Dental Council's Code of Conduct Pertaining to Public Relations and Communications, Dentists are discouraged from promoting their personal practice through press, radio, television or other media, where such publicity could result in the dentist gaining professional advantage.

Should the restrictions placed on dentists regarding advertising be lifted?

- ☐ Strongly Agree
- ☒ **Agree**
- ☐ Neither Agree Nor Disagree
- ☐ Disagree
- ☐ Strongly Disagree

Should the Dental Council be given the power to make rules regarding advertising?

- ☐ Strongly Agree
- ☒ **Agree**
- ☐ Neither Agree Nor Disagree
- ☐ Disagree
- ☐ Strongly Disagree

The Competition Authority welcomes the changes in the area of advertising that have been made since its Dentists Report 2007. We support the proposal to give power to the Dental Council to make rules regarding advertising within reasonable and limited circumstance.

The Competition Authority Dentists Report 2007 recommended that the Dental Council limit its restrictions on advertising to prohibiting advertising which is false or misleading. Following our recommendation, in August 2008, the Dental Council produced a new Code of Practice on Public Relations and Communications which allows dentists to advertise their services to consumers in a truthful manner.

As outlined by the Competition Authority Dentists Report 2007, informative advertising of the services provided by healthcare professionals helps to lower prices. Evidence in support of the pro-competitive effects of advertising in markets for professional healthcare services dates back to studies in the 1970s. However, rules regarding advertising should be limited to ensuring that advertising is truthful, accurate, not misleading and complies with any relevant regulations.

4.5 DENTAL STUDENTS/AUXILIARY DENTAL PROFESSIONAL STUDENTS

4.5.1 Registration

Consideration is being given to having a separate register for dental students.

Dental students are currently not registered. It is envisaged that student registration would provide a means of introducing students to the regulatory framework and increase their awareness of the need to act in accordance with appropriate professionals standards prior to becoming registered dental professionals.

Do you agree with establishing a separate register for dental students?



Strongly Agree



Agree



Neither Agree Nor Disagree



Disagree



Strongly Disagree

The rationale for the proposal to introduce a register for dental students is unclear. The Authority has a general concern regarding the danger of over-regulation in an environment where, as we understand it, dental students do not have unsupervised access to patients. Any changes of the 1985 Act should be in line with the principles of better regulation and should be necessary and proportionate in the interests of protection of patient safety.

4.5.2 Supervision/Training Following First Time Registration

Should consideration be given to the new legislation providing for supervision and/or a training period following first time registration that builds upon achievements in the undergraduate curriculum. It could be considered that supervision/training is not necessary given that the education and training programme undertaken by students prepare graduates for autonomous practise. Also, if such a scheme applied only to Irish graduates, these graduates could be disadvantaged if first time registrants from other countries were not required to be supervised.

Currently when an individual qualifies as a dentist, they can practise without supervision immediately on registration.

Do you think the legislation should provide for supervision and for a training period following first time registration?

- ☐ Strongly Agree
- ☐ Agree
- ☒ **Neither Agree Nor Disagree**
- ☐ Disagree
- ☐ Strongly Disagree

Should such a scheme of supervision/training apply to all first time registrants, including those from other countries?

- ☐ Yes
- ☐ No

How long should the supervision period be?

Should the scheme provide for supervision only or training only or both?

- ☐ Supervision
- ☐ Training
- ☐ Both

The rationale for the proposal for supervision and/or a training period following first time registration is unclear. Any changes of the 1985 Act should be in line with the principles of better regulation and should be necessary and proportionate in the interests of protection of patient safety.