

EXECUTIVE SUMMARY

1. The dental profession in Ireland is hindered by numerous layers of unnecessary laws and regulations. Competition is not working well for consumers of dental services, i.e. individual patients and the State. The prices of dental services in Ireland have been consistently rising beyond the general rate of health inflation. Some consumers have even opted to travel to other countries for certain dental services. This is not surprising when competition is actively discouraged. For example the Dental Council bans dentists from offering discounts to consumers and it is illegal for suitably qualified professionals to offer basic dental services directly to consumers.
2. 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 accepted settlement terms offered by the Irish Dental Association in a High Court action taken by the Authority alleging a breach of the Competition Act 2002.¹ 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 insurance scheme being introduced in Ireland by Vhi DeCare.
3. The rules governing the dental profession in Ireland urgently need to be modernised. This is because competition in dental services has been seriously restricted by unnecessary laws and regulations that do not apply to dentists in most other countries. In particular, the Dentists Act 1985 and the rules imposed by the Dental Council prevent consumers from benefiting from active competition in the following ways:
 - Healthcare professionals, such as dental hygienists and clinical dental technicians, are prevented from offering basic dental services directly to consumers;
 - Dentists are discouraged from attracting customers through normal methods of competition including price discounting and advertising;
 - Restrictions on informative advertising prevent consumers from getting access to basic information which would help them to make more informed decisions about their health;
 - Consumers are unnecessarily limited in their choice of provider of dental services; and,
 - There are unnecessary obstacles put in the way of dentists trying to offer new services to consumers, or to deliver their services in new ways.
4. Another significant problem in the Irish dental profession is the shortage of trained orthodontists. In the face of growing demand, this shortage has led to long waiting lists for orthodontic treatment for public sector patients (averaging 3 years) and high prices for private patients.

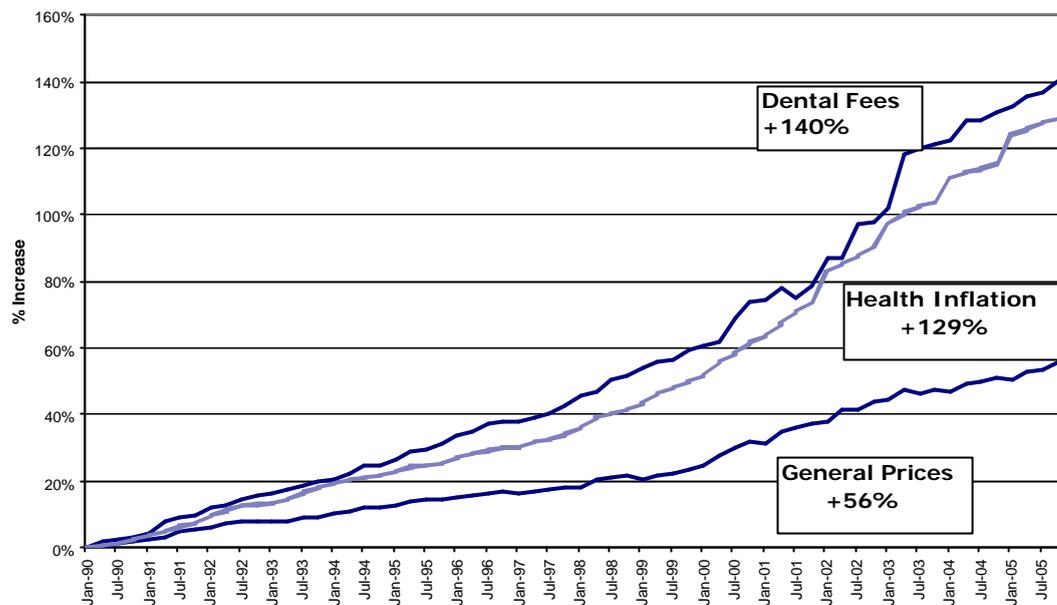
¹ 2005 521 P *The Competition Authority v. Irish Dental Association* (FH 2D). This settlement was agreed without an admission of liability by the Irish Dental Association. See www.tca.ie/press/132.pdf for full details of settlement terms.

5. The increase in the number of orthodontic training places in Ireland from 2006 should help alleviate some of the difficulties experienced by consumers of orthodontic services. However the impact of this change will not be felt until at least 2009, when the first group of new graduates start working. Recognition of a new dental profession of "orthodontic therapist" should also contribute to lowering the cost and increasing the availability of orthodontic treatment.
6. In this report, the Competition Authority makes 13 recommendations designed to address the competition problems identified in the dental profession. The implementation of these recommendations will lead to a modern system of regulation which ensures:
 - More choice for consumers on how, and from whom, they can access dental services;
 - Better use of dentists' skills and training;
 - Better access to dental care for consumers in Ireland; and,
 - Pressure to lower prices.

Regulatory and Commercial Environment

7. The conduct and standards of dentists, and related dental professions, are regulated by the Dental Council. Dentists often employ other qualified professionals, such as dental nurses and dental hygienists, to provide basic dental services to their customers. Under the Dentists Act 1985, it is unlawful for a person to use the title "dentist" or "orthodontist", or to provide dental services, without being registered by the Dental Council.
8. Most of the approximately 1,750 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 2004, the State spent over €100 million on dentists' services.
9. The price of dental treatments has consistently increased above the general rate of inflation and above the rate of health inflation. Between 1990 and 2004, the Consumer Price Index increased by 56%, health inflation grew by 129% while dental fees increased by 140%, according to data from the Central Statistics Office (CSO).

Inflation in Dental Prices, Health Inflation and General Inflation



Source: Central Statistics Office

Restrictions on Dental Services

10. Ireland is out of step with most other developed economies in preventing certain oral healthcare professions from offering services to consumers they are qualified to provide. The Dental Council's rules insist that consumers must go through a dentist before they can benefit from the services of a dental hygienist. Dental hygienists must also operate in the same premises as dentists. In many other countries dental hygienists can work independently of dentists to offer a specific set of routine dental services. 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. This Competition Authority proposes that dental hygienists be allowed to operate independently of dentists.

11. The Competition Authority proposes that legal recognition be given to two professions which already exist in practice, dental technicians and clinical dental technicians. These recommendations are similar to those originally made by the Restrictive Practices Commission more than 20 years ago in its 1982 "*Report of Enquiry into the Statutory Restrictions on the Provision of Dental Prostheses*". Current regulations make it illegal for anyone other than dentists to sell dentures to members of the public. Clinical dental technicians are permitted to fit and sell dentures to members of the public, independently of dentists, in many countries including Australia, Canada, Denmark, Finland, the Netherlands, New Zealand, Sweden and the USA. In 2006 clinical dental technicians will also be legally recognised in the UK. Giving legal recognition to suitably trained dental technicians and clinical dental technicians will ensure protection of consumers and promote greater choice for consumers in terms of where they can get their dentures.
12. 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 advertising their existence to a maximum of six newspaper advertisements in their first year of practice. 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.
13. Dentists are also unnecessarily limited in the type of business model they can use to deliver dental services. Irish dentists can only operate as sole traders or in partnership with other dentists and are not permitted to own or be employed in companies. This is in contrast with other healthcare professions in Ireland, such as optometrists and pharmacists, who can provide their services to consumers through a variety of business models. Irish dentists are also more restricted than in most other developed economies; for example, in 25 of the 29 members of the European Economic Area dentists have greater choice in how they offer their services to consumers. Also, recent changes to the UK Dentists Act 1984, supported by the UK's General Dental Council, have removed former restrictions on the number of corporate dental groups permitted to practise. The Irish restrictions are unnecessary to protect the public, as all dental services can be traced back to the dentist who provided them. Allowing dentists to develop new ways to offer their services would make it easier for them to invest in their businesses, become more efficient, and offer greater choice to consumers in terms of where and how they access dental services.

14. 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. It has presided over a number of serious and unnecessary restrictions on competition for decades. 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. The Competition Authority recommends that the composition of the Dental Council should be changed to include other stakeholders. 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.
15. In order to ensure that Ireland has an adequate long-term supply of qualified dentists, the Higher Education Authority should conduct a review of the number of dentist training places in Ireland. This review should take place once the other recommendations of the Competition Authority on the dental profession have been implemented. The impact of these recommendations will lead to a more efficient use of the skills and training of dentists, thereby influencing the number of qualified dentists required to meet the demand for dental services in Ireland.
16. The implementation of the Competition Authority's recommendations will lead to a modern system of regulation for the dental profession. This will ensure that the health and safety of the public is protected, while at the same time encouraging value for money and choice in dental services. The implementation of these recommendations will empower consumers to make informed choices about their oral health and to obtain dental services from a wider range of qualified professionals. Allowing competition between dentists and related professions will also maintain downward pressure on the price of dental services, saving money for both consumers and the State.

Preliminary Recommendations

Preliminary Recommendation 1: Allow dental hygienists to operate independently

Details of Recommendation	Action By
<p>The Dental Council should amend the Scheme for Dental Hygienists to:</p> <p>(a) Remove the requirement for hygienists to operate under the general supervision of a dentist; and</p> <p>(b) Include a provision 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.</p> <p>The amended Scheme should be submitted to the Minister for Health and Children for approval.</p>	<p>Dental Council</p> <p>December 2006</p>

Preliminary Recommendation 2: Allow dental hygienists to be directly reimbursed for treatments provided under the State schemes

Details of Recommendation	Action By
<p>The Health Service Executive and the Department of Social and Family Affairs should enable dental hygienists to be directly reimbursed for dental treatments provided under the State schemes.</p>	<p>Health Service Executive</p> <p>Department of Social and Family Affairs</p> <p>December 2006</p>

Preliminary Recommendation 3: Officially recognise the profession of Dental Technician

Details of Recommendation	Action By
<p>The Dental Council should amend the current proposed Scheme for the establishment of a Dental Technician grade and include a grandfather clause for experienced technicians currently working in the industry who do not have formal qualifications. The revised Scheme should be submitted to the Minister for Health and Children for approval.</p>	<p>Dental Council December 2006</p>

Preliminary Recommendation 4: Ensure that foreign qualified dental technicians can work in Ireland without unnecessary difficulty

Details of Recommendation	Action By
<p>The Dental Council should ensure that dental technicians who have obtained appropriate qualifications overseas are eligible for registration, without unnecessary difficulty, on the Register of Dental Technicians.</p>	<p>Dental Council December 2006</p>

Preliminary Recommendation 5: Allow dental technicians to be eligible for reimbursement under the State dental schemes

Details of Recommendation	Action By
<p>The Health Service Executive and the Department of Social and Family Affairs should enable dental technicians to be eligible for reimbursement under the Dental Treatment Services Scheme and the Dental Treatment Benefit Scheme, for denture repairs.</p>	<p>Health Service Executive Department of Social and Family Affairs December 2006</p>

Preliminary Recommendation 6: Officially recognise the profession of Clinical Dental Technician

Details of Recommendation	Action By
The Dental Council should amend the current proposed Scheme for the establishment of a Clinical Dental Technician grade and include an examination route for experienced dental technicians. The revised Scheme should be submitted to the Minister for Health and Children for approval.	Dental Council December 2006

Preliminary Recommendation 7: Ensure that foreign qualified clinical dental technicians can work in Ireland without unnecessary difficulty

Details of Recommendation	Action By
The Dental Council should ensure that clinical dental technicians who have obtained appropriate qualifications overseas are eligible for registration, without unnecessary difficulty, on the Register of Clinical Dental Technicians.	Dental Council December 2006

Preliminary Recommendation 8: Allow clinical dental technicians to be eligible for reimbursement under the State dental schemes

Details of Recommendation	Action By
The Health Service Executive and the Department of Social and Family Affairs should enable clinical dental technicians to be eligible for reimbursement 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 December 2006

Preliminary Recommendation 9: Review the number of training places for dentists

Details of Recommendation	Action By
<p>The Higher Education Authority should undertake a detailed review of the number of dentistry training places to determine whether the number of places for dentistry needs to be increased, and, if so, to what level.</p>	<p>Higher Education Authority December 2007</p>

Preliminary Recommendation 10: Remove unnecessary restrictions on advertising

Details of Recommendation	Action By
<p>(a) The Dental Council should remove its restrictions on advertising with the exception of prohibiting advertising which is false or misleading.</p> <p>(b) The Minister for Health and Children should bring forward legislation to amend the Dentists Act 1985 to limit the powers of the Dental Council in relation to advertising. The powers of the Council should be limited to ensuring that advertising by dentists is not false or misleading.</p>	<p>Dental Council December 2006</p> <p>Minister for Health and Children December 2006</p>

Preliminary Recommendation 11: Allow dentists to offer their services as limited companies

Details of Recommendation	Action By
<p>The Minister for Health and Children should bring forward legislation to amend Section 52 of the Dentists Act 1985 and remove the prohibition on corporate bodies in the delivery of dental services.</p>	<p>Minister for Health and Children December 2006</p>

Preliminary Recommendation 12: Change 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, as set out in the Dentists Act 1985. The revised legislation should provide for a Dental Council that is representative of a large number of stakeholders, none of whom should be in a majority.</p>	<p>Minister for Health and Children December 2006</p>

Preliminary Recommendation 13: Set out the functions of the Dental Council in legislation.

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) Set out the functions of the Dental Council, and</p> <p>(b) Specify that one of the functions of the Dental Council is the promotion of competition and consumer focused regulation in the dental profession.</p>	<p>Minister for Health and Children December 2006</p>

