



2 August 2007

**Mr Dave O'Connell
Case Officer
Advocacy Division
Competition Authority
Parnell House
14 Parnell Square
Dublin 1**

Re: Professions Study - Veterinary Practitioners

Dear Dave

I refer to your letter dated 11 June 2007 in relation to the Authority's examination of competition in the market for veterinary services in the context of its Professions Study. I would like to thank you for agreeing to extend the period allowed to reply to your letter.

As you are no doubt aware, new legislation, (the Veterinary Practice Act 2005) governing regulation of veterinary practice, which replaced earlier legislation originating from 1931, came into force on 1 January 2006. This legislation comprehensively revamped the basis for regulation of the veterinary profession in the public interest and in so doing addressed many of the concerns, identified in the 2003 Indecon Report, commissioned by the Competition Authority, which fall within the remit of this Department. I am referring in particular to the key concerns about the absence of legal status for veterinary nurses, the absence of recognition for non-EU/EEA trained veterinary practitioners, both of which were comprehensively addressed in the Veterinary Practice Act 2005 (refer to Section 44 and Part 8 of the Act). While not identified as a key concern, the Indecon Report also commented (paragraph 8.81) on the then composition of the Veterinary Council and speculated

“whether policy is likely to be reflective of consumer interests rather than the interests of the profession”. Again, the new Act has dealt comprehensively with this issue by providing for a broad range of interests to be represented while removing the in-built majority for elected members of the profession itself (refer to Section 16 of the Act).

In view of the importance of the changes introduced by the Veterinary Practice Act for the regulation of the veterinary profession and its development in the future, it may be useful for the Authority if I set out below its key aspects:

- A. A significant restructuring of the Veterinary Council of Ireland to reflect its responsibility to regulate the profession in the public interest – the in-built majority of elected members of the profession on Council is removed by inclusion of a broader range of interests on Council, such as nominees of the Director of Consumers Affairs, Food Safety of Ireland and representation of animal welfare and veterinary nursing interests. Representation from the education constituency is also reinforced.
- B. Establishment of the veterinary nursing profession on a statutory basis for the first time, with provision, at the appropriate time, for setting up its own independent regulatory body.
- C. Improved provisions for recognising entrants from 3rd Countries, in addition to mandatory recognition of qualifications from EU states deriving from EU obligations.
- D. Improved ‘fitness to practice’ provisions, through improved processes and the provision of a range of proportionate sanctions to be applied by Council and greater transparency in the operation of the regime, in particular, by the appointment of an external chair of the Fitness to Practice Committee drawn from the legal world.
- E. Definition for the first time of the concept of ‘practice of veterinary medicine’ enabling the Council to deal more effectively with inappropriate practices.
- F. Provision for mandatory continual professional development by members of the profession and recognition of specialisation.
- G. Provision for a statutorily based premises accreditation regime designed to bring premises up to a common standard and to ensure that the public are not

misled as to the standards and facilities available in different categories of premises (e.g. veterinary hospitals).

I will now comment on the headings set out in your letter of 11 June:

Developments in the veterinary profession in recent years, which have changed the nature of the veterinary services market

The Department recognises that the maintenance of the highest standards within the veterinary profession is a matter of great social and economic importance to this country and this will continue to be the case in the future. While veterinary practice has traditionally been focused on combating animal diseases, in more recent years, food safety and animal welfare have also become extremely important issues.

Veterinary practitioners now fulfil a pivotal role, including within the State veterinary service, in carrying out inspection and certification functions at various stages in the food chain in order to verify both the standard of animals entering the food chain and the standards of the processing operations. Given that farm numbers have decreased from 228,000 in 1975 to 135,000 in 2003, and are likely to decrease further, the roles played by veterinary practitioners in the more traditional areas of animal health have and are continuing to change. Companion Animal Medicine is developing out of a background of traditional mixed animal veterinary practice, rural farming culture and is responding to the needs coming from urbanisation and economic development and today approx 351 veterinary practitioners are in companion animal practice.

The veterinary services market –is it national, regional, or local in scope?

While, as a small country, Ireland does not have the distinct regional characteristics of larger states, nonetheless, some variations across the country can be seen. For example, as already referred to, growing urbanisation has led to the development of veterinary practices virtually entirely focussed on small animal practice. Indeed even in more traditionally farming areas, increased focus on caring for small animals is also

a feature. The growing importance of the equine industry has also led to increased focus and specialisation by some practices (for example those linked with training establishments) in terms of illnesses and injuries specific to horses. The particular needs of the intensive pig and poultry industries have also led some veterinary practices to focus on and specialise in this area. However, there remains, particularly in the southern part of the country, a focus on dealing with the needs of traditional dairying and mixed farming.

Supply of general and specialist veterinary services in Ireland

In general, the Department is not aware of significant problems in relation to the supply of either general or specialist veterinary services in Ireland. Where some isolated problems were identified some time ago in the West of Ireland, these were resolved by payment by Udaras na Gaeltachta of funding in consultation with local farming communities. With a general tendency for increased international mobility both in the case of professions and more generally, the Department attaches considerable importance to ensuring that there are no undue barriers placed in the way of those, who are appropriately qualified, wishing to come to Ireland to practice veterinary medicine either in general veterinary practice or a specialists.

We have, for example, given full effect in the Veterinary Practice Act to the requirements of EU law in relation to both temporary and permanent migration to Ireland (see Section 43 of the Act). In addition, new EU rules governing recognition of qualifications and free movement (Directive 2005/36) of various professions including veterinary practitioners must be incorporated into national law by October of 2007. Such rules are designed to make it easier for various professions including veterinary practitioners to move both permanently and on a temporary basis between Member States, and will no doubt make for improved availability of practitioners to meet shortfalls that may arise on the supply side and is likely to contribute to increased competition in relation to the practice of veterinary medicine. The Department (as well as the Department of Education and Science) is currently in the process of finalising the relevant national implementation rules to give effect to the EU legislation.

In relation to persons who qualified in Third Countries, the Indecon Report drew attention to the unsatisfactory situation which prevailed under the old legislation under which the Council was precluded from recognising a qualification unless there was in place a 'mutual recognition' agreement with that country. The Act addresses this problem by placing a responsibility on the Council (Section 44) to assess and recognise Third Country qualifications which reach the required standard and where the person meets the other specified requirements.

As regards specialisation, the Veterinary Practice Act recognises the need to provide a firm legal framework in this area. Section 46 of the Act provides for the establishment by the Veterinary Council of Ireland of a separate part of the Register to deal with specialists. That section also provides the Council with the appropriate powers to recognise particular specialities to define titles etc and to lay down the bodies whose awards it recognises. The Council is required to consult with its Education Committee and any other relevant authority when dealing with this area. These provisions are designed to provide clear and unambiguous information to clients where they wish to access a specialist veterinary service.

Veterinary medicine education, and recognition of qualifications

Responsibility for the standards of veterinary education in Ireland and the requisite infrastructure rests with the Department of Education and Science. However, the Veterinary Council of Ireland is charged under the Veterinary Practice Act 2005 (Section 13(2)(d)) with ensuring that any programmes of education or further education, which it recognises for the purposes of registration, are adequate for the practice of veterinary medicine. The Council is also required by the Act to establish an Education Committee (Section 62) with appropriate expertise to consider all matters related to veterinary education and further education. The Council (Section 66) is also empowered by the Act to specify programmes of further education which would be mandatory for the purpose of continued registration as a veterinary practitioner or a veterinary nurse. The Department believes that this provision for

mandatory continued professional development will play an important part in the development and improvement of the profession in the future.

Comments made under earlier headings in relation to recognition of qualifications from abroad and specialisation are relevant to this heading also.

Regulation of the Veterinary Profession

The Veterinary Practice Act 2005 provides for a number of very significant changes in the way the veterinary profession is regulated by the Veterinary Council. Firstly, provision is now made for a range of proportionate penalties (Sections 80 – 82 of the Act). The absence of such a framework in the previous legislation was seen as a particular barrier to the effective regulation of the profession by the Veterinary Council. The 2005 Act also brought about considerable improvement in the processes for dealing with disciplinary matters, reflecting current legal thinking in this area. Examples of this are the requirement that the Council's Fitness to Practice Committee must be chaired by a person (not a member of the Council) with an appropriate legal qualification and experience nominated either by the Law Society or the Bar Council and that members of the Committee from the veterinary profession may not outnumber those not belonging to that profession. The Act also enabled the Council, for the first time, to commence an investigation on its own initiative (as distinct from reacting to a complaint received). In addition the Act specifies timelines for each stage of the investigative process to ensure that issues of concern are dealt with on a timely basis and the Council is obliged to report annually on disciplinary cases.

In relation to regulation of the profession, in the broader sense, Section 13 of the Act specifies clearly what are the functions of the Council. I have elaborated on some of these earlier in this letter (recognition of qualifications, continual professional development) in their own right. I would also draw attention to the statutory function imposed on the Council (Section 13(2)(i)) to "*facilitate the exchange of information between those engaged in the practice of veterinary medicine or veterinary nursing and those who avail of veterinary services*". In other words, the Council is charged

under the legislation with ensuring that consumers of veterinary services are provided with appropriate information by veterinary practitioners.

Aspects of Animal Remedies legislation which impinge on Veterinary Practitioners.

The Authority will recall previous correspondence during 2005 and in early 2006 in relation to changes to Animal Remedies legislation arising, in particular, from transposition obligations under EU legislation. During the course of this correspondence, the Department outlined how, within the limits afforded by the EU legislation and having regard to the overall requirement to protect public health and animal health and welfare, it was making every effort to foster a competitive dynamic in the supply of veterinary medicines.

At that stage, one key aspect of the medicines legislation remained unresolved at EU level, viz. the decision on criteria under which some medicines for food producing animals could be excluded from a mandatory prescription requirement. I am glad now to be able to inform the Authority that, despite initial indications to the contrary, we secured a favourable outcome to this issue. The final shape of the exemption criteria is contained in Commission Directive 2006/130/EC published on 12 December 2006. At the competent authority for licensing veterinary medicines in Ireland, the Irish Medicines Board will give effect to these criteria in individual cases. However, the Board shares the Department's analysis that the criteria do not require any additional products to be brought under veterinary prescription control. Thus products such as wormers and vaccines will continue to be available from current outlets without the need for the farmer to consult and get a prescription from a veterinary practitioner. This positive outcome obviates the need to consider extending prescribing rights beyond veterinary practitioners and provides a better environment for continuing competition in the supply of veterinary medicines to farmers.

I hope the Competition Authority will find the forgoing useful in its deliberations. If the Department can be of further assistance during the course of your Study, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Richard Healy', with a long horizontal flourish extending to the right.

Richard Healy
Principal Officer
Erad Division (Veterinary Medicines)