



VETERINARY IRELAND

SUBMISSION TO

THE COMPETITION AUTHORITY

4 January 2008



INTRODUCTION

A study of selected professions is being carried out by the Competition Authority following an OECD Report in 2001 which suggested that competition in the professional services sector in Ireland could be stronger. The purpose of the Competition Authority study is to:

*Identify any regulations or practices that may restrict competition within particular professions;
Evaluate any consumer benefits claimed to exist from any of these restrictions; and
Consider whether the restrictions are proportionate to any benefits.*

In March 2003, a report commissioned by the Competition Authority identified a number of restrictions on competition across a range of eight professions in the construction, legal and medical sectors of the Irish economy. The specific professions reviewed were engineers, architects, dentists, optometrists, medical practitioners, solicitors, barristers and veterinary surgeons. The work for that report was carried out by Indecon Economic Consultants and was used as the starting point by the Competition Authority to carry out a series of in-depth reports into each of the eight professions.

An Assessment of Restrictions in the Supply of Professional Services was published on 20th March 2003 and is referred to as the Indecon Report. Following completion of the Indecon Report, the Competition Authority proceeded to produce reports on individual professions. Each report involves three stages:

Stage 1: The Competition Authority produces a preliminary report based on Indecon's work and the Authority's own research;

Stage 2: Responses are invited, covering corrections of facts, correction of presentation arguments, new arguments or proposals for change. The Competition Authority considers the responses received.

Stage 3: The Competition Authority publishes a final report for each profession.

The following schedule is taken from the Authority's website.

Publication	Preliminary Report	Final Report	Recommendations
Engineers	August 2003	December 2004	2
Architects	November 2003	March 2006	11
Optometrists	December 2005	June 2006	5
Dentists	December 2005	October 2007	12
Solicitors & Barristers	February 2005	December 2006	29
Veterinary Surgeons	Expected 2008	Expected 2008	-
Medical Practitioners	Expected 2007	Expected 2008	-



Indecon Report

Reverting to the Indecon Report of March 2003 it is interesting to note its “Summary of Main Conclusions re Key Restrictions in the Veterinary Surgeons’ Profession”, which was as follows:

Entry Restrictions

- 1. The position of one institution as the sole provider of Veterinary Education in Ireland amounts to a monopoly situation, which has the potential to act as a barrier to entry to the Veterinary profession and adversely affect potential competition in the marketplace.*
- 2. The restriction in place in relation to the number of study places available each year at the faculty of Veterinary Medicine points to a significant constraint on entry to the profession, which we believe is likely to act as a barrier to potential competition.*
- 3. The absence of recognition of non EU/EEA trained Veterinary Surgeons wishing to practise in Ireland results in a barrier to entry to foreign practitioners and may constrain potential competition in the profession.*

Restrictions on Conduct

- 4. The restrictions placed on advertising by Veterinary surgeons are likely to be harmful to normal competitive behaviour and constrain the entry of new and more innovative veterinary practices into the market.*

Restrictions on Demarcation

- 5. The limitation on the scope of practice of veterinary nurses constrains entry into the market of a new independent branch of the profession and therefore limits potential competition in the profession.*

Restrictions on Organisational Form

- 6. The prohibition on the formation of limited liability practices by veterinary surgeons is likely to constrain the growth of veterinary practices and the entry of new and possibly more efficient practices into the market.*

It should be noted that these “Key Restrictions” are not imposed by the profession, but rather by legislative or statutory requirements which have been implemented – not in the interests of the profession – but in the best interests of the public. Looked at solely in terms of “competition” they can be seen as “restrictions” but the broader “common good” of protecting both animal and public health frequently requires some “restrictions”, or more correctly, “protections”.



In one particular case cited by Indecon, the registration of Veterinary Nurses – as called for in that report – has been implemented by the Veterinary Council on the basis of subsequent enabling legislation (Veterinary Practice Act, 2005). This new Act also introduced other significant changes which further strengthen protections for animals and for the public in general. These are dealt with more fully later in this submission.

At this point in the process as described earlier and in responding to the Competition Authority's request for further input from Veterinary Ireland it is assumed that their further study will focus principally on any remaining "Key Restrictions" as identified by their consultants, Indecon.

As the representative body for veterinary surgeons in Ireland, Veterinary Ireland has been identified by the Competition Authority as playing "a central role in the development of the profession". Accordingly the Authority indicated that they "would be particularly interested to hear the views of Veterinary Ireland on the following matters as they impact on competition in veterinary services:"

1. *Demand for veterinary medicine, veterinary nursing and specialist veterinary training places in Ireland*
2. *Developments in the veterinary profession in recent years which have changed the nature of the veterinary services market*
3. *The veterinary services market is it national, regional or local in scope?*
4. *Supply of general and specialist veterinary services in Ireland*
5. *Veterinary medicine education and recognition of qualifications*
6. *Restrictions on behaviour and business structure imposed under the VCI Guide to Professional Behaviour*
7. *Any other recent developments of note*
8. *Any other issue relating to competition in the market for veterinary services.*

This submission has been drafted in a format which responds directly to the Authority's request for views on each of these eight queries. This necessitates some repetition or overlap of certain points but the answers are provided in this way for ease of reference and in the interests of completeness.



1. Demand for veterinary medicine, veterinary nursing and specialist veterinary training places in Ireland

The Indecon Report's "Main Conclusions" in relation to these matters were cited as "Entry Restrictions" and were listed as follows:

- 1. The position of one institution as the sole provider of Veterinary Education in Ireland amounts to a monopoly situation, which has the potential to act as a barrier to entry to the Veterinary profession and adversely affect potential competition in the marketplace.*
- 2. The restriction in place in relation to the number of study places available each year at the faculty of Veterinary Medicine points to a significant constraint on entry to the profession, which we believe is likely to act as a barrier to potential competition.*
- 3. The absence of recognition of non EU/EEA trained Veterinary Surgeons wishing to practise in Ireland results in a barrier to entry to foreign practitioners and may constrain potential competition in the profession.*

The statutory position – as enacted by the Oireachtas in 2005 – is that the Veterinary Council of Ireland is required to "specify and keep under review standards and approve programmes of education and further education necessary for the purposes of registration and continued registration" of Veterinary Practitioners and Veterinary Nurses.

The principal function of the Veterinary Council of Ireland is to regulate the practice of veterinary medicine in the State. It consists of 19 members appointed by the Minister for Agriculture, Fisheries and Food, of which 9 are elected by the profession. The other nominees include representatives of various bodies in the areas of education, animal welfare, food safety, consumer affairs and so on. All members of the Council are required to act in the best interest of the public at all times.

Veterinary Medicine courses are available at the Faculty of Veterinary Medicine, University College Dublin, Ballsbridge, Dublin 4. The Indecon Report acknowledges that the Veterinary profession does not have an involvement in the determination of study places. The report considered the Council's role and states crucially: "While this does not preclude the possibility that the Council may indirectly influence the number of places through raising required educational standards and the cost of education, we do not believe that the current training requirements are excessive."

The Report also states that the annual number of study places available is decided upon by the Faculty, The Higher Education Authority and the Department of Education and Science. The level of CAO points required for entry is then determined by the level of demand for places versus the number of places available. It also acknowledges the high costs involved and that the number of study places "is therefore constrained by exchequer and university funding considerations."



It further goes on to state that: “we accept the need to balance the objectives of competition with the subsequent financial costs of developing other providers”.

Apart from the Veterinary Practitioners who graduate from UCD, others who meet the qualification requirements of Directive 36/2005/EC can be registered and can work in Ireland. This includes all EU citizens with qualifications which meet the conditions of the Directive – including those with qualifications from non-EU countries. Thus it is possible, particularly in the light of the recent further expansion in EU membership that tens of thousands of suitably qualified Veterinary Practitioners could potentially register to work in Ireland.

Perhaps the most important figures in these regards are the numbers who have actually registered each year. The total has increased steadily, growing from 1,823 in 1993 to 2,406 in 2007 – an increase of 32%. These figures clearly do not support the notion that the number of study places at the Faculty in UCD, or the fact that there is only one provider of veterinary education in Ireland, or that the non-recognition of non-EU/EAA trained veterinarians represent significant barriers to potential competition.

Since the publication of the Indecon Report, and perhaps because of its conclusion in relation to Veterinary Nurses, there have been significant legislative changes in legislation on the matter. Veterinary nursing has become a regulated profession in the State under the Veterinary Practice Act 2005. The Veterinary Council has been designated by the new legislation as the “competent authority” in the State for registering Veterinary Nurses Those with recognised qualifications can apply for registration from January 1, 2008.

Qualifications in veterinary nursing are broadly of two types, (a) those provided by education providers in the State which the Council has validated as registrable qualifications and (b) those qualifications obtained from colleges outside the State.

Three course providers in the State – UCD, Athlone Institute of Technology and St John’s College, Cork – have applied to have their relevant courses validated. The UCD Diploma in Veterinary Nursing has been validated by the Council and all graduates from this course are eligible for registration in the Register of Veterinary Nurses. The courses at Athlone and Cork are going through the validation process currently.

EU citizens with veterinary nursing qualifications from recognised EU educational institutions or with a veterinary nursing qualification which has not been obtained within the EU but whose qualifications have been recognised by another EU state can also apply for registration, and these applications will be considered under the EU directive on mutual recognition. In general terms, this means that the qualification on which the registration is based must be recognised by the relevant competent authority in the EU State in which it was obtained and this must be attested to by that competent authority.

Veterinary Nurses with a qualification from a non-EU country which has not been recognised by another EU State can apply for registration and each such application will be considered on a case-by-case basis.



The Veterinary Practice Act 2005 recognises that there are Veterinary Nurses working in Ireland who for whatever reason have not obtained a formal qualification in veterinary nursing. To acknowledge these valuable Veterinary Nurses and allow time for them to obtain formal registrable qualifications, a special category of “provisional registration” is allowed for.



2. Developments in the Veterinary profession in recent years which have changed the nature of the veterinary services market.

Perhaps the most significant change in the veterinary profession in Ireland in recent years is the one just referred to in **1** above – the growth in total numbers on the Irish Register. These figures in the following table are taken directly from the current register as published by the Veterinary Council of Ireland.

Numbers of Veterinary Practitioners on the Register

Date/Year	Male	%	Female	%	Total
1/1/93	1650	90	173	10	1823
1/1/94	1678	89	195	11	1873
1/1/95	1678	88	227	12	1905
1/1/96	1702	87	242	13	1944
1/1/97	1720	86	271	14	1991
1/1/98	1709	84	315	16	2024
1/1/99	1745	84	333	16	2078
1/1/00	1773	83	367	17	2140
1/1/01	1804	82	401	18	2205
1/1/02	1806	82	422	19	2228
1/1/03	1818	80	464	20	2282
1/1/04	1836	80	486	20	2322
1/1/05	1846	78	524	22	2370
30/06/2007	1762	74	644	26	2406

Total numbers registered have grown by about one third. An interesting trend and one that seems set to continue is the growing percentage of females joining the profession - up from 10% to 26% in the period.



Another important change has been the growing recognition of the role of veterinary practitioners in the protection of public health. The major outbreak of foot and mouth disease (FMD) in Britain in 2001 with one related occurrence here in the Cooley Peninsula, brought to mind the importance of the veterinary surveillance role for animal health. This has massive implications for the economy of such an outbreak – particularly in a country such as ours which exports 90% of all the food we produce. 2007 saw the spectre of FMD raise its ugly head again in Britain, and incidences and threats of other diseases such as Equine Infectious Anaemia (EIA), Avian Influenza and Bluetongue, all serve to remind us of the need for continuing vigilance at all times.

This is not just a matter of animal health – and the health of the economy however. Human health has to be protected also, as the close relationship between human and animal health comes more into focus. Increases in animal trade and transport of animals and food of animal origin are contributing to the risk of spreading diseases which can become global problems (e.g. Avian Influenza). The World Health Organisation (WHO) states that about 75% of the new diseases that have affected humans over the past 10 years have been caused by pathogens originating from animals or from products of animal origin. More than 200 zoonotic diseases are known so far and emerging or re-emerging diseases show the need for inter-disciplinary cooperation between veterinarians, physicians and also biologists.

The following extracts from FSAI News (Nov-Dec 2007) published by the Food Safety Authority of Ireland underscore the importance of zoonoses- diseases or infections transmissible from animals to humans that can be acquired directly from animals, or through ingestion of contaminated foodstuffs.

“The zoonoses of major concern are those transmitted through food and water and are responsible for the majority of reported and unreported foodborne illnesses. The modern methods of food production and the huge distribution networks for food products mean that large numbers of people can be potentially exposed to pathogens from a single source. The most common zoonoses include campylobacteriosis, salmonellosis, verotoxigenic producing Escherichia coli (VTEC) infection and more recently cryptosporidiosis”.

“While it is possible for anybody to become infected with a zoonotic agent, certain sub-populations such as the very young or elderly and immune-compromised people are particularly vulnerable with potentially more serious consequences. While the eradication of zoonoses in humans and animals is a desirable goal, in practice it is difficult if not impossible to achieve. However, the impact of zoonoses on the health of humans and animals can be limited by monitoring the reservoirs of infectious zoonotic agents with a view to understanding and controlling their modes of transfer, while simultaneously educating the public about the risk of infection and how it can best be avoided or at least restricted.”

The members of the veterinary profession with their core knowledge and skills are at the “coalface” in dealing with these growing threats and care must be taken not to lose sight of this key aspect of a veterinary practitioners work. Increased involvement at the interface of human and animal health is needed and good training of VPH (Veterinary Public Health) staff in broad areas of public health and preventative medicine, as well as good integration of those specialists into the public health teams are most important.



3. The veterinary services market is it national, regional or local in scope.

It is with some concern that we approach the concept of the veterinary services “market”. We are aware for example of matters such as the European Commission’s definition of “Relevant Geographical Markets” in its enforcement of Community competition law which reads:

“The relevant geographical market comprises the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogenous and which can be distinguished from neighbouring areas because the conditions of competition are especially different in these areas.

While we understand the purely economic aspects of these approaches, care must be taken not to lose sight of the overriding objectives of the veterinary profession, which are the maintenance of the health and welfare of animals and the protection of public health.

With these caveats stated however and in order to be of assistance we can attempt to deal with the query in the following terms. We can look at the Irish veterinary services market in three ways:

- a. Characteristics of clients served
- b. Different nature of service
- c. Geographical area

Characteristics of clients served

Basic elements include type of animal treated by veterinary practitioners; Food Animal (beef/milk producing cattle, sheep, pigs, poultry, some horses, etc), Companion Animal (pets-dogs, cats, hamsters, etc), Equine (sports/leisure horses), Education, Research and Industry (Faculties and companies), State and Local Authority work.

Nature of Service:

There is a distinct variation between the services provided by those “in practice” and those “not in practice”. The former are mainly self employed doing mainly private, but with some State paid, work involving the treatment of animals, and the latter mostly are working for a salary and undertaking research work, lecturing or administrative/advisory roles for an employer.

Geographical Area:

In some areas of Ireland the animals treated by a veterinary practitioner are predominantly of one kind – for example, within cities, the majority to almost exclusion of all others would be Companion Animal (pets). In the more rural areas the emphasis would be on Food Animal (cows, sheep etc), (or in Kildare for example – Equine) with a smaller percentage of Companion Animal treatments, whereas in rural areas bordering on to conurbations there would be a more even split between Food Animal, Companion Animal or Equine in “mixed” practices.



A key consideration in all of the above is the close link required between veterinary practitioners and the animals they deal with.

The importance of disease surveillance has already been referred to. The vital importance of the ready availability of veterinary practitioners with “sufficient knowledge of the animal, herd or flock to form an opinion of the condition of the animal” is enshrined in Irish legislation. It goes on to state that “for this purpose he or she (or another member of the group veterinary practice), shall have visited the farm or other premises on which the animal, herd or flock is kept (or otherwise examined the animal) sufficiently often and, in any event, at least once in a 12 month period, to have acquired an accurate picture of the current health, welfare and disease status of the animals on that farm or premises”. It also requires that “the registered veterinary practitioner (or other member of the group veterinary practice) is available to respond to requests to provide services of veterinary medicine and surgery and clinical procedures on the animal or in the herd or flock in accordance with ethical veterinary practice”. This includes 24/7 availability for emergency cases.

Thus it could be argued that for indisputable animal and public health reasons that the “market” is “local” in scope, but again we would stress our unease at dealing with these matters purely in economic terms. There are other vitally important aspects of public health and animal health and welfare to be kept in mind.



4. Supply of general and specialist veterinary services in Ireland.

The Veterinary Council of Ireland is established by statute for the purpose of regulating the practice of veterinary medicine in the State. In order to practice veterinary medicine a person has first to register with the Council.

The total numbers registered at present is of the order of 2,400 and as shown in an earlier section of this submission, this number has grown significantly. It has also been demonstrated that through existing mechanisms it is potentially possible for thousands more to register if they so desire.

Having registered, it is a matter of personal initiative for veterinary practitioners to specialise in any aspect of veterinary medicine. There is no official title of specialist, although some veterinary practitioners have undertaken specialist training in areas of veterinary medicine such as equine medicine or ophthalmology in felines and this is reflected in their certificated qualifications.

Another way of looking at the supply of veterinary services is to split veterinary practitioners (the legal term for all those practicing veterinary medicine) into two groups – those “in practice” and those “not in practice”.

The veterinarian “in practice” runs, or is a member of, a veterinary practice, which provides a veterinary service. The practitioner may also undertake work on behalf of the Department of Agriculture, Fisheries and Food (DAFF) by way of Disease Eradication Testing for Bovine Tuberculosis and Brucellosis (part of which is payable by Government), or ante-and post mortem inspection of animals and carcasses at meat plants under the heading of Temporary Veterinary Inspector (TVI) work.

Those “not in practice” are veterinary surgeons who do not work privately as part of a practice. In Ireland this includes veterinary surgeons employed in education and research by either the Faculty of Veterinary Medicine at UCD or the various laboratories and animal health companies throughout the country; and those veterinary surgeons employed by DAFF or the local authorities. In the case of Local Authority and DAFF employees, work may involve research, administration of veterinary projects, testing of specific animals who may have shown reactions to the Disease Eradication Tests for Bovine Tuberculosis and Brucellosis, testing of fallen animals for BSE, disposal of fallen animals, or any other duties performed under the umbrella of animal health, animal welfare or public health.

Of the active veterinary surgeons registered broad estimates would suggest that of the order of 75% are working “in practice”, about 20% are employed by central and local government and 5% work in education, research and industry.



5. Veterinary Medicine education and recognition of qualifications.

These matters have been dealt with comprehensively in responses to queries number 1 and 4 above.

6. Restrictions on behaviour and business structure imposed under the VCI guide to Professional behaviour.

The relevant “key restrictions” in this regards as identified in the Indecon Report were:

“Restrictions on Conduct

The restrictions placed on advertising by Veterinary surgeons are likely to be harmful to normal competitive behaviour and constrain the entry of new and more innovative veterinary practices into the market.”

“Restrictions on Organisational Form

The prohibition on the formation of limited liability practices by veterinary surgeons is likely to constrain the growth of veterinary practices and the entry of new and possibly more efficient practices into the market.”

We will deal firstly with the question of advertising.

The Veterinary Practice Act 2005 lays down the functions of the Veterinary Council of Ireland and one of the requirements it places on it is “to establish, publish, maintain and review codes of professional conduct for persons registered”. The Council has done this and has established the “Code of Professional Conduct”. Chapter 6 deals with “Advertising and promoting practices”.

The practical objectives of the code in relation to advertising are to ensure that the public receive appropriate information as to veterinary services in order to inform their clients of such services. The code recognises that “veterinary practitioners occupy a trusted, privileged position in society because of unique knowledge and training”. The code “is intended to ensure that the position is maintained by the veterinary practitioners registered with the Veterinary Council, acting in a manner consistent with the following principles:

- a. the primary concern of the profession is for the welfare of animals;
- b. all work performed by veterinary practitioners is to a standard of competence acceptable to their peers; and,
- c. that veterinary practitioners, individually, act to promote cohesion within the profession, and the trust of the profession by the general public.”



It should be noted that this new “Code of Professional Conduct” has recently replaced the previous “Guide to Professional Behaviour” which was extant at the time of the writing of the 2003 Indecon Report. In developing the new code the VCI would therefore have taken into account both the findings of that Report and the legislative imperative of the new Veterinary Practice Act 2005 for the Veterinary Council to act in the public’s interest. Accordingly, we would suggest that no further changes should be proposed in these regards on the basis of purely “competition” considerations, given the importance of the other “protections” which are required in the interests of public health and animal health and welfare.

In relation to “business structure” the 2003 Indecon Report suggested that “the prohibition on the formation of limited liability practices by veterinary surgeons is likely to constrain the growth of veterinary practices and the entry of new and possibly more efficient practices into the market”.

An immediate riposte to this assertion has to be the continued growth in numbers in the profession – up by a third in the past 13 years as detailed earlier in this submission.

This prohibition was introduced in Section 47 of the Veterinary Surgeons Act 1931, and the new Veterinary Practice Act 2005 at section 54 (2) states that:

“A body corporate shall not

- a. do or perform any act, matter of thing the doing or performance of which forms part of the practice of veterinary medicine,*
- b. represent itself as registered on the Register, or*
- c. represent itself as prepared to do or perform any act matter or thing the doing or performance of which constitutes part of the practice of veterinary medicine”.*

The legislators in their wisdom, and in the full knowledge of the “competition” point raised by Indecon, decided to maintain the prohibition which has been seen to have a very real value for almost 80 years. Perhaps they accepted the view that having limited liability practices could compromise the independence of veterinary practitioners and could result in conflicts of interest between the commercial interests and legal positions of limited liability practices and the professional and ethical requirement of the profession. In other words, as the veterinary practitioners must take final responsibility for the care of their clients’ animals, the operation of limited liability would contravene this requirement and would mean that the interests of the animal and the owner might not be fully protected.

This is another clear example where the purest of competition principles need to be ameliorated to take account of overriding health and welfare issues – as is recognised in the new legislation.



7. Any other development of note (and)

8. Any other issue relating to competition in the market for veterinary services.

References have been made earlier to the introduction of the new Veterinary Practice Act 2005 and how the legislation has dealt with the points made in the Indecon Report – the starting point for the Competition Authority process of studying the professions.

In addition to the specific aspects raised already, the new Act has also introduced a number of other additional obligations on the veterinary profession. These include requirements for accreditation of premises and programmes of further education – all designed to ensure that the interests of the public, and their animals are protected to the greatest possible extent. Specific provisions are now included also for the recognition and registration of Veterinary Nurses as mentioned in **1** above.

Conclusion

Veterinary Ireland, as the representative body for the profession, welcomes this opportunity to contribute its views in relation to this important study of our profession.

We fully acknowledge that there are “restrictions” in place which can be termed as such when viewed from a solely “competition” viewpoint. When other overriding considerations such as public health and animal health and welfare are taken into account however it becomes clear that such “restrictions” are in fact vital “protections” imposed by legislative and ethical requirements with which the profession has to comply. These “protections” are imposed mainly by Irish and EU legislation for the benefit of veterinary clients and their animals and in the best interests of the population as a whole. They are not designed for the competitive benefit of the veterinary profession.

Very often “the professions” are lumped together in a generic way – particularly when studies such as this one are reported on in the media. The veterinary profession is proud of its work on behalf of the public and with their animals. We believe that the profession’s commitment and contribution are recognised. We value the vital support we receive from our clients, and from the community at large. We would not want to see this hard-won relationship damaged or diminished – even inadvertently. We would ask therefore that the Competition Authority take cognisance of and acknowledge this in its deliberations, and also particularly in its publication of its further reports of its study of the professions.

Finally, we would stress that we are available for clarification, or for further information if required, on these or any other issues which the Authority wishes to raise.