

Consumer Council
Submission to the LegCo Panel on Health Services on the
Mode of Supply of Self-Financed Item Drugs in Public Hospitals
(23 January 2007)

1. The Consumer Council (CC) welcomes the opportunity to give views on the mode of supply of self-financed item (SFI) drugs in public hospitals, for consideration of the LegCo Panel on Health Services.
2. Whichever supply mode is to be adopted eventually by the Hospital Authority, CC considers it utmost important that the arrangement poses the least disruption to patients, in particularly in terms of stability of supply, quality, reasonable pricing and easy access.
3. With regard to the mode of supply of SFI drugs in public hospitals, CC has the following views:
 - (1) Drug price – Means to ensure SFI drugs are reasonably priced should be taken into account when considering which mode will work best for patients. For private pharmacies to supply the SFI drugs in public hospitals, even if the private sector agrees to set prices of the SFI drugs to be supplied against market prices, there will still be a lack of objective benchmark. This is because the market prices benchmarked against will in fact be the prices set by the other private pharmacies or those within the same group as the supplier of the SFI drugs. On the other hand, the Hospital Authority (HA) has access to the reference market prices which coupled with a non-profit motive, will enable it to set prices at reasonable levels. This can also serve to stabilize drug prices in the market.
 - (2) Profit from drug sales – Under the original proposal by HA, SFI drugs will be supplied by public hospitals and excess of the sales proceeds over costs and administration charges will be ploughed back to the health care system. If SFI drugs are to be supplied by private pharmacies, consideration must be given to whether the proceeds from contracting out to private pharmacies will likewise be ploughed back to the health care system. It should also be noted whether private pharmacies will lower their drug prices in view of reduced operating costs, thereby benefiting patients.
 - (3) Resources for monitoring – HA undertakes to conduct periodic surveys to compare drug prices charged by private pharmacies against market prices. This would incur additional administration work for HA and call for additional resources.
 - (4) Market competition – Some market participants are concerned that the supply of SFI drugs by private pharmacies will ultimately result in market dominance by one or a few major private

pharmacies. It is noted that HA has proposed to limit the percentage of market share that one single operator could take up, and to reserve the right whether to accept tenders. Bid losers may challenge that the number of operators are artificially set, or that tender assessment criteria are unfair and skewed towards particular operators.

- (5) Operation effectiveness – It is noted in HA's document to the LegCo dated 8 January 2007 the proposal that SFI drugs be supplied by private pharmacies in 5 public hospitals in the first phase. However, the document does not mention the criteria to be adopted by HA for assessing the effectiveness of operation of these private pharmacies. Nor is it mentioned whether consumer complaints against private pharmacies would be handled by HA. These are issues to be considered.

4. Opponents to the proposal of HA supplying SFI drugs in public hospitals raised two main points:

- (1) Conflict of interest posed by HA determining the list of SFI drugs on the one hand and supplying the SFI drugs on the other hand; and
- (2) The supply of SFI drugs by HA may render HA in unfair competition with private pharmacies.

5. As to point (1) above regarding conflict of interest, CC considers that the drug selection process of the SFI must be transparent and fair, and ensuring that measures can be taken to enhance public confidence in the mode of supply. Such measures include ensuring that any profit generated from the supply of SFI drugs would be fully ploughed back to the public health care system.

6. On the issue of fair competition, CC considers it important that the following principles be enshrined in the arrangement to lessen the impact on market competition:

- The supply of SFI drugs at HA pharmacies is to be confined to HA patients only and not to be open to patients from the private sector. But HA patients are free to obtain SFI drugs from private pharmacies.
- Prices of the SFI drugs available at HA's pharmacies are set with reference to market price and include the elements of cost and administration charge.

7. As mentioned in CC's previous submission, exemptions from the application of competition law can be given for anti-competitive conduct (if the circumstances of HA should qualify) on public benefit grounds. The delivery

by a dominant supplier in the marketplace of reasonably priced, safe and reliable drugs to the public is clearly a public benefit goal that would override the need to maximize competition in the marketplace.

8. In CC's view, in considering the appropriate mode of supply of SFI drugs in public hospitals, there should be adequate discussion and support from the public. It is also important that formulation of the SFI drugs should not reduce the range of drugs in the Drug Formulary for provision to public patients within the standard fees and charges.