

Competition in
Professional
Services

optometrists

The Competition Authority is undertaking a study across a range of eight professions in the construction, legal and medical sectors of the Irish economy. The specific professions being reviewed are engineers, architects, dentists, optometrists, veterinary surgeons, medical practitioners, solicitors and barristers

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The Competition Authority
An tÚdarás Iomaíochta

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GLOSSARY OF TERMS

Association of Optometrists Ireland

The Association of Optometrists Ireland is the professional representative body for optometrists in Ireland and has about 500 members.

Central Statistics Office

The Central Statistics Office was established in 1949 and has a mandate for *“the collection, compilation, extraction and dissemination for statistical purposes of information relating to economic, social and general activities and conditions in the State”*.

Community Ophthalmic Physicians

Community Ophthalmic Physicians are ophthalmologists employed in the Health Service. Community Ophthalmic Physicians operate Health Service Eye Clinics and treat adults and children referred to them by General Practitioners or following screening programmes.

Community Ophthalmic Services Scheme

The Community Ophthalmic Services Scheme is operated by the Health Service Executive and provides eye examinations and standard prescription spectacles free of charge to medical card holders and their dependents.

Consumer Price Index

The Consumer Price Index is a monthly survey conducted by the Central Statistics Office designed to measure the change in the level of prices of consumer goods and services.

Dispensing Opticians

Dispensing opticians dispense spectacles and contact lenses as prescribed by optometrists, or less frequently, ophthalmologists.

Health Service Executive (HSE)

The Health Service Executive took over full operational responsibility for running the State's health and personal social services on January 1, 2005. The HSE's objective is to improve the patient healthcare experience and provide a better working environment for healthcare staff.

Higher Education Authority (HEA)

The Higher Education Authority is the statutory planning and development body for higher education and research in Ireland. The HEA has wide advisory powers throughout the whole of the third-level education sector. In addition, it is the funding authority for the universities and a number of designated higher education institutions.

Irish Association of Dispensing Opticians

The Irish Association of Dispensing Opticians is the representative body for dispensing opticians in Ireland.

Irish College of Ophthalmologists

The Irish College of Ophthalmologists represents the interests of both medical and surgical ophthalmologists in Ireland and Europe. It is the recognised body responsible for ophthalmic training and education in the Republic of Ireland.

Ophthalmologists

Ophthalmologists are specialist medical practitioners who treat diseases and conditions of the eye and may also carry out eye examinations and prescribe spectacles and contact lenses. A number of ophthalmologists are employed in the Health Service as Community Ophthalmic Physicians.

Optical Treatment Benefit Scheme

The Optical Treatment Benefit Scheme is operated by the Department of Social and Family Affairs and provides free and subsidised optical services to people with the required Pay Related Social Insurance (PRSI) contributions.

Opticians Acts 1956 and 2003

The Opticians Acts 1956 and 2003 provide for the regulation of the optometry profession in Ireland, including the establishment of the Opticians Board.

Opticians Board

The Opticians Board, or Bord na Radharcmhastóirí, is the regulatory body for the optometry profession in Ireland. The Board was established under the Opticians Act 1956 and has 11 members, 6 of whom are elected by registered optometrists and dispensing opticians.

Optometrists

Optometrists carry out eye examinations and prescribe and dispense optical appliances.

Orthoptists

Orthoptists are health professionals involved in the assessment, diagnosis and management of disorders of the eyes, extra ocular muscles and vision. Orthoptists work in close association with ophthalmologists, usually in a hospital-based setting.

Regulating Better

Regulating Better is the Government White Paper designed to improve national competitiveness and policy implementation by ensuring that new regulations and legislation are more rigorously assessed in terms of their impacts, more accessible to all and better understood.

EXECUTIVE SUMMARY

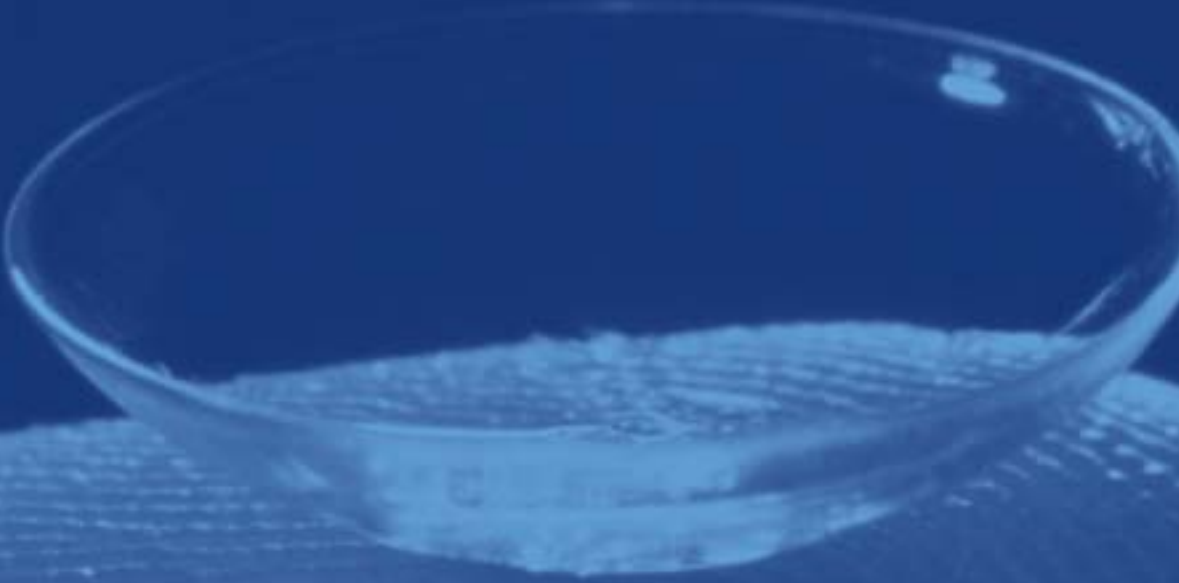
1. The optometry profession in Ireland is an example of a profession where competition is generally working well. Many of the unnecessary restrictions the Competition Authority has found in other professions are not present in the optometry profession. Irish consumers benefit from having a choice in how to avail of quality optometry services. Consumers also benefit from freely available information about the range, location and price of those services.
2. The Competition Authority has found no evidence that restrictions on competition have contributed to increasing prices for optical examinations, spectacles and contact lenses. However, the Competition Authority has a number of minor concerns relating to rules and practices which may inhibit competition in the supply of optometry services. Accordingly, the Competition Authority makes five recommendations in this report designed to enhance and protect competition in optometry services. Implementation of these recommendations will:
 - Reduce waiting times for certain school children who require eye examinations;
 - Make it easier for new optometry practices to offer services to consumers;
 - Make it easier for consumers to compare the price and range of optometry services on offer;
 - Bring the composition of the Opticians Board into line with other regulators of health professions and the principles of better regulation; and
 - Ensure a sufficient supply of optometrists to meet long-term demand for optometry services.
3. There are four eye-care professions in Ireland - optometrists, dispensing opticians, orthoptists and ophthalmologists. This report concentrates on the services offered to consumers by optometrists and dispensing opticians. Many consumers refer to these two professions collectively as opticians. Ophthalmologists and orthoptists are outside the scope of this report and are referred to only where their functions overlap with some of the functions of optometrists.
4. The main functions of the eye-care professionals are as follows:
 - Optometrists carry out eye examinations and dispense spectacles and contact lenses;
 - Dispensing opticians dispense spectacles and contact lenses as prescribed by optometrists or, less frequently, ophthalmologists;
 - Orthoptists are involved in the assessment, diagnosis and management of disorders of the eyes, extra ocular muscles and vision; and
 - Ophthalmologists are medical practitioners who treat diseases and conditions of the eye.
5. The optometry profession in Ireland is regulated by the Opticians Board, established under the Opticians Act 1956. Under the Opticians Act it is unlawful for a person to use the title of optometrist or to practise as an optometrist without being registered by the Opticians Board.
6. The vast majority of the 612 optometrists in Ireland operate in the private sector. Between 75% and 80% operate as sole traders or in small practices while others are employees of larger companies. The State is the largest single purchaser of optometry services and subsidises optometry services through a variety of schemes. In 2005, the State paid €27.5 million in respect of optometry services provided by optometrists and dispensing opticians.

7. The regulation of the optometry profession ensures that all appropriately qualified persons are allowed to offer their services to consumers, regardless of their nationality or where they trained. This has ensured an expanding supply of optometrists and prevented significant problems developing as a result of the limited number of training places in Ireland as well as the growing demand for spectacles and contact lenses.
8. The Competition Authority has found only one area where optometrists are prevented from providing services that they are qualified to provide. The State provides free eye examinations to children but it does not reimburse optometrists if they provide these services. Parents must instead take their children to State-employed specialist medical practitioners (ophthalmologists), unless they choose to pay privately for an optometrist to provide an eye examination. Reimbursing optometrists who offer this service would be a more efficient and effective way of delivering eye care services to children through reduced waiting times and reduced costs to the State.
9. The Competition Authority has also identified some unnecessary advertising restrictions which impede competition between optometrists. The rules of the Opticians Board and the Association of Optometrists Ireland forbid canvassing and comparative price advertising by optometrists. Current consumer law protects the public from untruthful and inaccurate advertising. However the restrictions placed on optometrists by banning canvassing for business and comparative advertising go beyond what is necessary to protect the public from untruthful and inaccurate advertising. These restrictions should be removed as they unnecessarily obstruct new optometry practices trying to establish themselves and offer their services to consumers. These restrictions also unreasonably hinder consumers trying to compare the prices and services on offer. The functions of the Opticians Board should be set out in legislation to include the objective of protecting consumers from harm, with regulations that are proportionate and do not unnecessarily hinder competition between optometrists.
10. Potential conflicts of interest arise from the membership structure of the Opticians Board. Under the Opticians Act 1956, the Opticians Board is almost entirely composed of members of the optometry and medical professions. In principle it is not necessary, proportionate or transparent for a regulatory body to be run mainly by the profession being regulated. The Competition Authority therefore recommends that the composition of the Opticians Board should be changed to ensure that a majority of the Board are neither optometrists nor dispensing opticians but lay people. Implementing these recommendations will ensure that the composition of the Opticians Board is consistent with best practice for regulators of professionals in general and specifically with recent developments in other health professions.
11. In conclusion the optometry profession in Ireland delivers a consumer focused service. Consumers are always treated by qualified professionals and all services can be traced back to the optometrist who provided them. Irish consumers can choose from a variety of optometry service providers. The more traditional sole trader practice competes side by side with franchise-type outlets. Optometrists compete with one another through strategic location, range of products and price competition, to the benefit of their customers. They engage in informative advertising of the price and range of optometry services on offer. Optometrists offer their services in a way that empowers consumers to make informed choices about the care of their eyes from the provider that suits them best. These benefits to consumers are due in part to the lack of serious restrictions on competition.

Recommendations

Recommendation 1:	Allow optometrists to provide State-funded eye examinations to children identified at national school exit screening
Details of Recommendation	Action By
The Health Service Executive should allow optometrists to provide State-funded eye examinations for qualifying children identified at national school exit screening examinations.	Health Service Executive December 2006
Recommendation 2:	Review the number of training places for optometrists
Details of Recommendation	Action By
The Higher Education Authority should undertake a detailed review of the number of optometry training places to assess whether the current number of places is sufficient to meet future demand for optometry services in Ireland.	Higher Education Authority December 2007
Recommendation 3:	Remove unnecessary restrictions on advertising
Details of Recommendation	Action By
(a) The Opticians Board should remove all its restrictions on advertising with the exception of prohibiting advertising which is false or misleading.	Opticians Board December 2006
(b) Following amendment of the rules of the Opticians Board in relation to advertising, the Association of Optometrists Ireland should amend its Code of Ethics accordingly.	Association of Optometrists Ireland Within six months of the Opticians Board amendment of its advertising rules
(c) If the Opticians Board does not remove its restrictions on advertising, the Minister for Health and Children should bring forward legislation to amend the Opticians Act 1956 to limit the powers of the Opticians Board in relation to advertising. The powers of the Board should be limited to ensuring that advertising by those regulated by the Board is not false or misleading.	Minister for Health and Children June 2007

Recommendation 4:	Set out the functions of the Opticians Board in legislation
Details of Recommendation	Action By
The Minister for Health and Children should bring forward legislation to amend the Opticians Act 1956 to: (a) Set out the functions of the Opticians Board; (b) Provide that the Board shall be obliged to publish an Annual Report within four months of the end of every calendar year; and (c) Specify that one of the functions of the Board shall be the protection of consumers, and any rules put in place by the Board should be proportionate and should not unnecessarily hinder competition among those regulated by the Board.	Minister for Health and Children June 2007
Recommendation 5:	Change the composition of the Opticians Board
Details of Recommendation	Action By
The Minister for Health and Children should bring forward legislation to amend the composition of the Opticians Board, as set out in the Opticians Act 1956. The revised legislation should provide for an Opticians Board that is representative of a large number of stakeholders, none of whom should be in a majority.	Minister for Health and Children June 2007



section 1

1. INTRODUCTION

- 1.1 Ireland has, in general, a regulatory environment supportive of a competitive market for optometry services.
- 1.2 This report contains five recommendations designed to maximise the benefits of competition for consumers of optometry services.

Background to the Report on Optometrists

- 1.3 The purpose of this report is to identify any regulations or practices that may restrict competition within the optometrist's profession; to evaluate any consumer benefits claimed to exist from any such restrictions; and to consider whether the restrictions are proportionate to any benefits.
- 1.4 The Competition Authority aims to ensure that competition works well for consumers. One of the Competition Authority's functions under section 30 of the Competition Act 2002 is to "*study and analyse any practice or method of competition affecting the supply and distribution of goods or the provision of services or any other matter relating to competition*".
- 1.5 This report is part of a wider study of a number of professions. Following an OECD report¹ in 2001, which suggested that competition in the professional services sector in Ireland could be stronger, the Competition Authority commenced a study of selected professions. The professions chosen were: engineers, architects, dentists, optometrists, veterinary surgeons, medical practitioners, solicitors and barristers.
- 1.6 The initial process of the study involved a research phase and report by Indecon International Economic Consultants. Their report "*Indecon's Assessment of Restrictions in the Supply of Professional Services*" was published in March 2003.²
- 1.7 The Competition Authority published a preliminary report on the engineering profession in August 2003 and a final report in December 2004. A preliminary report on the architects' profession was published in November 2003 and a final report in March 2006. Preliminary reports have been published on the solicitors' and barristers' professions (February 2005) and the dental profession (December 2005).

The Consultation Process

- 1.8 The Competition Authority published its preliminary report on the optometry profession in December 2005. The document presented preliminary analysis and recommendations designed to enhance competition to the benefit of buyers of optometry services. The Competition Authority sought submissions on the facts, analysis and preliminary recommendations in the report from all interested parties, including:
 - Optometrists and dispensing opticians;
 - Professional representative bodies;
 - Buyers of optometry services, such as Government Departments, State agencies, private companies and members of the public; and
 - Any other members of the public or organisations that have contact with, or an interest in, the optometry profession.

¹ *Regulatory Reform in Ireland*, OECD, 2001

² See www.tca.ie/professions.html

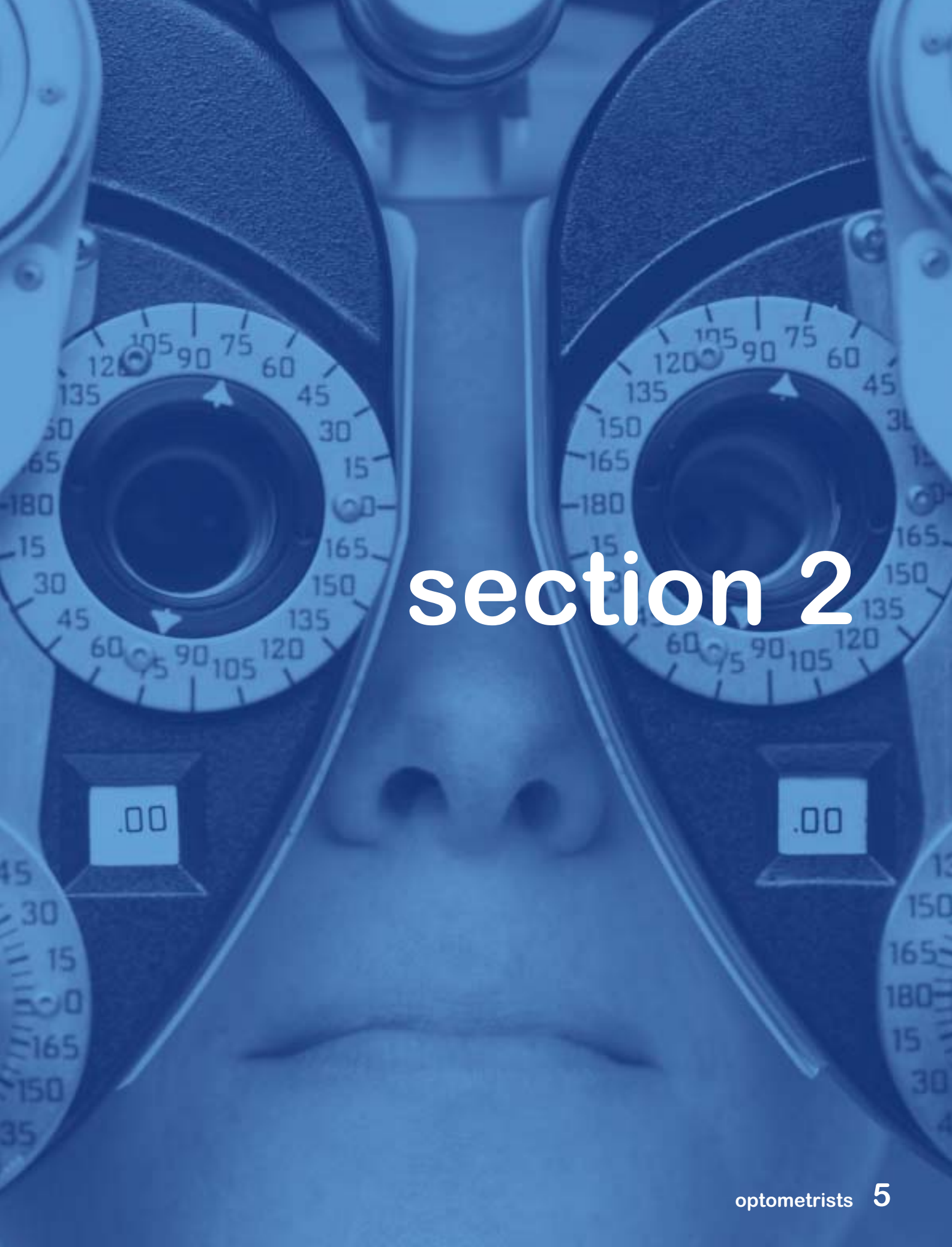
- 1.9 The consultation was carried out publicly in the interests of fairness, consistency and transparency. The Competition Authority sought responses to the preliminary report in general and to its preliminary recommendations in particular. Respondents, in compiling their submissions, were asked to give consideration to the general questions below and, as far as possible, structure their submissions accordingly.
- Is the report's analysis at any stage based on erroneous or incomplete factual information? If so, how does this affect the recommendations?
 - Are there any major obstacles to the timely implementation of the recommendations?
 - Could the recommendations have any unintended negative consequences for competition?
 - Are the recommendations addressed in each case to the appropriate party?
 - Are the recommendations fit-for-purpose? Will they solve the problems they address?
 - Will the recommendations facilitate adherence to the precepts of the Government's White Paper "*Regulating Better*"³ - transparency, consistency, accountability, proportionality, effectiveness and necessity?
 - Have any obvious recommendations which would benefit competition been omitted?
- 1.10 Ten parties provided responses and were consulted by the Competition Authority in the preparation of this final report.⁴

Structure of this Report

- 1.11 The report contains a general overview of the optometry profession followed by a detailed examination of the restrictions which limit competition in the market for optometry services and features of the profession which promote competition. The remainder of the report is structured as follows:
- Chapter 2 describes the optometry profession in Ireland, including a description of what optometrists do, the demand for and supply of optometry services and an outline of the regulatory environment in which optometrists operate;
 - Chapter 3 analyses restrictions on offering optometry services such as the lack of flexibility in education and training and restrictions on who can provide eye examinations to children;
 - Chapter 4 deals with issues relating to restrictions on rivalry in the profession, including restrictions on advertising. Chapter 4 also examines the different business models used in the operation of optometry practices;
 - Chapter 5 deals with regulatory reform, specifically with the composition and functions of the Opticians Board; and
 - Chapter 6 provides an overall conclusion on competition in optometry services.

³ "*Regulating Better - A Government White Paper setting out six principles of Better Regulation*", Department of An Taoiseach. See <http://www.betterregulation.ie/index.asp>

⁴ A list of submissions received is attached at Appendix 1.



section 2

2. AN OVERVIEW OF THE OPTOMETRY PROFESSION

Summary

- 2.1 This chapter outlines the services provided by optometrists and related eye care professionals and describes the regulatory and commercial environment in which they operate.
- 2.2 Optometrists offer a number of services directly to the general public such as:
- Carrying out eye examinations;
 - Prescribing spectacles and contact lenses; and
 - Dispensing spectacles and contact lenses.
- 2.3 Most optometrists operate in the private sector, as sole traders or co-owners of practices, or as employees of larger companies. A small number are employed in the public sector to train optometry students.
- 2.4 The conduct and standards of optometrists are regulated under statute by the Opticians Board. It is unlawful for a person to use the title “optometrist” or to practise as an optometrist without being registered by the Opticians Board.⁵
- 2.5 The State subsidises optometry services through a variety of schemes. Most of these schemes provide for a free eye test and basic spectacles (or a contribution towards contact lenses or more expensive spectacles). In 2005, the State spent €27.5 million on optometry services provided by optometrists and dispensing opticians. It is likely that between 750,000 and one million people in Ireland are not entitled to subsidised optometry services under the State schemes and thus are liable to pay the full cost of optometry services.

The Role and Functions of Optometrists

- 2.6 Optometry is one of four eye care professions in Ireland: ophthalmologists, orthoptists, optometrists and dispensing opticians. The main functions of these professions are set out in Table 1 below.

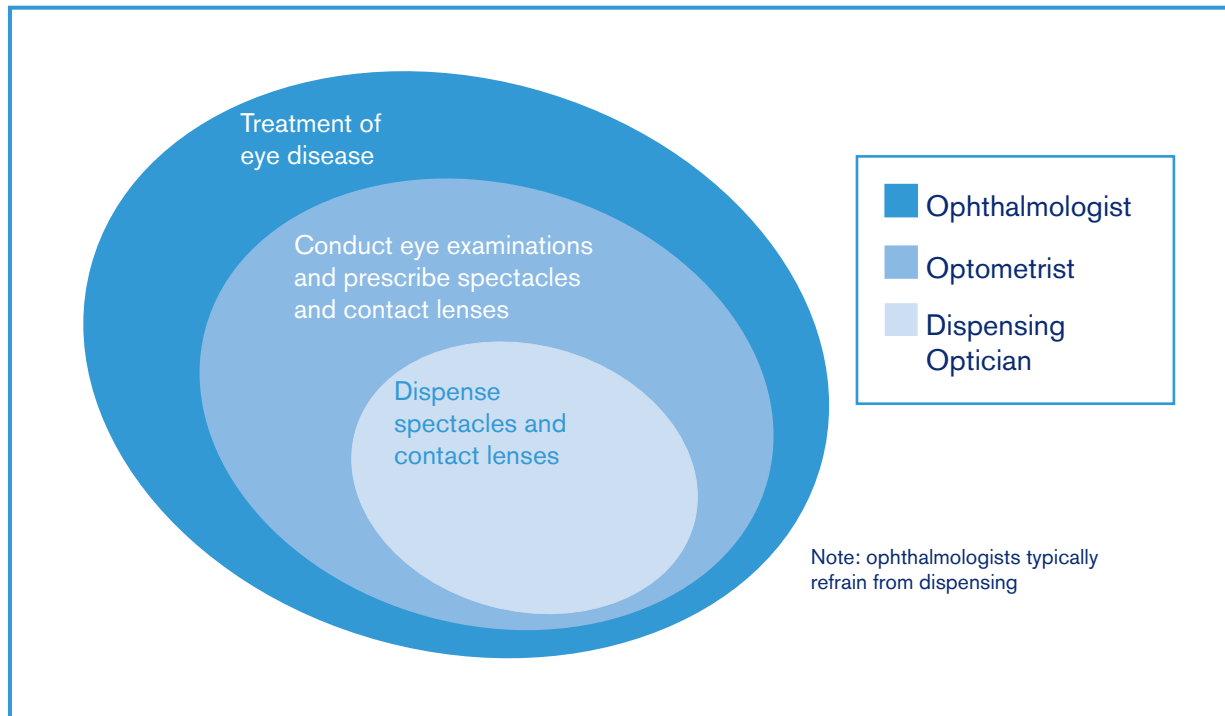
Table 1: Eye care professionals in Ireland at end 2005

Profession	Number
Optometrists carry out eye examinations and prescribe and dispense spectacles and contact lenses.	612
Dispensing opticians dispense spectacles and contact lenses as prescribed by optometrists or, less frequently, ophthalmologists.	149
Ophthalmologists are medical practitioners who primarily treat diseases and conditions of the eye. They may also carry out eye examinations and prescribe spectacles and contact lenses.	125
Orthoptists are health professionals involved in the assessment, diagnosis and management of disorders of the eyes, extra ocular muscles and vision.	35

Sources: Irish Association of Orthoptists, Medical Council, Register of Optometrists, Register of Dispensing Opticians.

⁵ Section 47 Opticians Act 1956.

Figure 1: Who can provide different optometry services in Ireland



- 2.7 Optometrists are involved in the prescription and sale of spectacles and contact lenses while dispensing opticians are involved in the sale of spectacles and contact lenses. For the purpose of this report both optometrists and dispensing opticians will be regarded as providers of optometry services.
- 2.8 Ophthalmologists and orthoptists are involved in the treatment of eye disorders and, as such, are outside the scope of this report. They are referred to only where their functions overlap with some of the functions of optometrists.
- 2.9 The structure of eye-care professions in Ireland is very similar to that of the UK, Canada and the USA. In most of continental Europe there are typically two eye care professions, ophthalmologists and dispensing opticians, with no equivalent to optometrists although this is beginning to change with a move to standardise optometry qualifications in Europe.⁶
- 2.10 Until the enactment of the Opticians (Amendment) Act 2003, optometrists were known as ophthalmic opticians.⁷ Optometrists identify visual defects and prescribe and dispense optical appliances where appropriate. Optometrists are not permitted to treat any abnormal conditions which they detect during eye examinations but must refer such cases to a medical practitioner.
- 2.11 The vast majority of optometrists practising in Ireland are in private practice, either as sole traders or co-owners of practices or as employees of a body corporate. A small number are employed in industry. None are employed in the public sector other than those employed by the Dublin Institute of Technology to train optometry students. Starting salaries in the private sector for optometrists with one or two years experience range from around €45,000 to €55,000.⁸

⁶ According to industry sources consulted by the Competition Authority in the preparation of this report.

⁷ Ophthalmic opticians should not be confused with ophthalmologists (see Table 1 above).

⁸ Source: www.jobs.ie Optometrists' salaries in the UK are in the range £28,000-£50,000. Source: www.jobsite.co.uk.

- 2.12 Industry sources consulted by the Competition Authority referred to the evolution of the services provided by optometrists in the last fifteen years. The dispensing element of the business has developed significantly, driven by advances in technology and the availability of a greater choice of spectacle frames, lenses and coatings. Spectacles and contact lenses are now increasingly seen as a fashion accessory and consumers do not necessarily wait for a change in their prescription to change their spectacles.
- 2.13 Although optometrists supply spectacles and contact lenses, customers are free to take an optometrist's prescription elsewhere to get their spectacles and contact lenses if they wish.

Related and Overlapping Service Providers

- 2.14 The services provided by optometrists may also be provided by registered medical practitioners (GPs) but the Competition Authority found no evidence of significant provision of optometry services by medical practitioners.
- 2.15 Dispensing opticians fill prescriptions issued by optometrists by supplying and fitting spectacles or contact lenses.⁹ Dispensing opticians can operate independently of optometrists but generally work as part of the same practice.

Regulation of Optometrists and Dispensing Opticians in Ireland

- 2.16 The optometry profession in Ireland is regulated by the Opticians Board. The Board was established under the Opticians Act 1956 as a body corporate and is staffed by a Registrar, with part time secretarial assistance.
- 2.17 Under the Opticians Acts¹⁰ it is unlawful for a person to use the title of optometrist or to practise as an optometrist without being registered by the Opticians Board.¹¹
- 2.18 The Opticians Board has a membership of eleven persons. The composition of the Board is dictated by the Opticians Act 1956 and is set out in Table 2 below.

Table 2: Composition of the Opticians Board		
Number of Members	Nominating Party	Occupation
5	Elected by registered Optometrists and Dispensing Opticians	Optometrists
1	Elected by registered Optometrists and Dispensing Opticians	Dispensing Optician
4	Appointed by the Minister for Health and Children	Registered Medical Practitioners
1	Appointed by the Minister for Health and Children	None specified

Source: The Opticians Acts 1956 and 2003

⁹ Dispensing opticians must undergo additional training before being approved to fit contact lenses. See Appendix 2 for a detailed description of the functions of Optometrists and Dispensing Opticians.

¹⁰ The Opticians Act 1956 and the Opticians (Amendment) Act 2003.

¹¹ With the exception of registered medical practitioners who may practise as optometrists without being registered by the Opticians Board.

- 2.19 The role of the Opticians Board is to operate and enforce the provisions laid down in the Opticians Acts 1956 and 2003 for the registration of optometrists and dispensing opticians, the regulation of their training and for controlling the practice of optometry in accordance with the Acts and in the interests of the general public.
- 2.20 Under the Opticians Acts the Opticians Board has the power to make rules in relation to any matter referred to in the Acts or generally for carrying the Acts into effect. The rules are subject to approval by the Minister for Health and Children and, once approved, have statutory force. The rules may be updated from time to time. The rules currently in force are the Opticians Act 1956, Rules 1977, as amended.
- 2.21 The Board is self-financing through income generated from registration and annual retention fees charged to optometrists and dispensing opticians.¹²

Registration of Optometrists

- 2.22 Under the Opticians Acts, the Opticians Board decides on the qualifications required for registration. The current requirements for registration by the Board are:
- Successful completion of a four year optometry degree course at the Dublin Institute of Technology or a course recognised by the Opticians Board as being of similar standard, and
 - Successful completion of an examination in clinical practice approved by the Board.¹³

Registration of Dispensing Opticians

- 2.23 Registration on the Register of Dispensing Opticians is contingent on successful completion of either:
- A two year full-time course of training followed by three months practical training with a registered optician approved by the Board, or
 - A three year in-service course of training under the supervision of a registered optician together with attendance at a course of training on a two day per week or equivalent basis.¹⁴
- 2.24 The syllabus for both of the above courses is set from time to time by the Dublin Institute of Technology with the approval of the Opticians Board. Neither of the two recognised dispensing opticians training courses has been run in recent years. Consequently, any Irish student wishing to qualify as a dispensing optician must do so abroad.

Registration of Foreign-Trained Optometrists and Dispensing Opticians

Irish Nationals trained in another EU Member State

- 2.25 The overwhelming majority of Irish nationals who travel abroad to study optometry go to the UK. Training courses for optometrists and dispensing opticians in the UK are automatically recognised as being of a similar standard to the Dublin Institute of Technology courses and such applicants are treated in the same way as applicants qualified in Ireland.¹⁵

¹² The current (2006) fees for optometrists are: Registration Fee €260, Annual Retention Fee €230, Restoration Fee €230. The 2006 fees for dispensing opticians are: Registration Fee €210, Annual Retention Fee €180, Restoration Fee €180.

¹³ The only clinical examination currently approved by the Board is that run by the Association of Optometrists Ireland.

¹⁴ Source: Rules of the Opticians Board.

¹⁵ Source: Opticians Board.

EU Nationals

- 2.26 The Opticians Board must register a person who applies for registration and who
- (a) is a national of a Member State; and
 - (b) is authorised by virtue of the European Communities (General System for the Recognition of Higher Education Diplomas) Regulations 1991 to take up and pursue the profession of optometrist or dispensing optician.¹⁶

Non-EU Nationals

- 2.27 The Opticians Board must register a person who has
- (a) undergone a relevant course of training and passed the examinations specified by the Board¹⁷,
 - (b) is of good character and repute and has not been declared bankrupt, and
 - (c) is not prohibited or suspended from practising in the profession by reason of a conviction for an offence or serious misconduct in connection with the carrying out of professional duties.¹⁸
- 2.28 Table 3 gives a breakdown of newly-registered optometrists for the years 2002-2005 inclusive. On average, foreign-qualified optometrists made up over 50% of new registrations over this period.

Table 3: Additions to the Register of Optometrists 2002-2005				
Country of Qualification	2002	2003	2004	2005
Ireland	25	25	21	15
UK	15	18	15	26
Other	8	7	2	1
Total	48	50	38	42

Source: Register of Optometrists

Complaints

- 2.29 The Opticians Board is responsible for the investigation of complaints relating to alleged breaches of the Opticians Acts and of Rules made under the Acts. Complaints must be made in writing. Complaints relating to dissatisfaction with the quality of services provided by an optometrist are referred to the relevant professional association, the Association of Optometrists Ireland.
- 2.30 Serious complaints against optometrists relating to alleged breaches of the Rules or the Act are investigated by the Opticians Board and if they are found to be factually true, the Board is empowered to take action. The Opticians Act 1956 gave the Board powers to remove the name of a person from the Register of Opticians, but a legal opinion given shortly after the Act was passed advised that these provisions in the Act were unconstitutional.¹⁹ Accordingly, no rules were introduced by the Opticians Board to give effect to these provisions.²⁰ Consequently, if the Board wishes to discipline a registered optometrist for breach of the rules it must rely on taking a court prosecution against the particular individual. Given the cumbersome nature of a court action as a form of discipline, such actions have only been taken in cases of serious breaches of regulations.

¹⁶ Sections 24A and 33A Opticians Act 1956 (as amended by the Opticians (Amendment) Act 2003).

¹⁷ Candidates for registration must submit details of their qualifications for consideration by a committee of the Opticians Board. If the qualifications are considered to be equivalent to Irish qualifications, candidates are invited to take a competence examination run by the Board which consists of both oral and clinical assessment. Competence in the English language is also required.

¹⁸ Sections 25(1) and 34(1) Opticians Act 1956 (as amended by the Opticians (Amendment) Act 2003).

¹⁹ Source: Opticians Board.

²⁰ Source: Opticians Board.

- 2.31 Complaints relating to breaches of the advertising rules are accepted orally or in writing and, if found to be justified, the optometrist concerned is requested to amend his/her advertising so as to conform to the rules.
- 2.32 Contraventions of the Opticians Board's Rule 31²¹ may be prosecuted under Section 52(2) of the Opticians Act 1956. The fines that may be imposed for an offence under that section were increased by the Opticians (Amendment) Act 2003 to €1,000 for a first offence and €3,000 for second or subsequent offences.
- 2.33 No information is available as to the number of complaints received by the Opticians Board.²² Although the Board produces an Annual Review of its activities no statistics are included on the number and nature of complaints received.²³

Representative Bodies

- 2.34 The Association of Optometrists Ireland (AOI) is the professional representative body representing the majority of optometrists in Ireland with about 500 members.²⁴
- 2.35 Dispensing Opticians are represented by the Irish Association of Dispensing Opticians.

Relevant Markets for Optometry Services

- 2.36 Optometrists provide two distinct sets of services:

Examination/assessment

The provision of eye examinations, visual assessments and the prescription of spectacles and contact lenses - which are also provided by ophthalmologists and medical practitioners, but to a much lesser extent; and

Supply of optical appliances

The sale and fitting of prescription spectacles and contact lenses - both optometrists and dispensing opticians, and to a lesser extent internet mail order companies, provide these services. It may be the case that there are a number of relevant markets within this set of services, but for the purposes of this report it is not necessary to make a final determination on this issue.

- 2.37 This report refers to these two sets of services collectively as "optometry services". In the case of both types of services, the geographic market is likely to be local.
- 2.38 The demand for, and supply of, optometry goods and services is growing and evolving.²⁵ Contributory factors include the ageing of the population, increasing use of contact lenses, the trend towards designer frames and the availability of specialised lens coatings. The introduction of legal obligations on employers under EU legislation²⁶ in 1993 has led to a growth in corporate eye testing, with employers funding eye examinations for employees who regularly use VDU screens at work.

²¹ Rule 31 sets out the rules in relation to advertising by optometrists and dispensing opticians.

²² The Opticians Board informed the Competition Authority that it does not keep statistics on the number of complaints received.

²³ Historically the Annual Review has not been published but circulated to those on the Registers of optometrists and dispensing opticians. The Board is not required by law to submit an Annual Report to the Minister for Health and Children.

²⁴ Source: Association of Optometrists Ireland website www.optometrists.ie

²⁵ Source: Ophthalmic Goods & Services Market Report 2000 www.researchandmarkets.com

²⁶ Directive 90/270/EEC on the minimum health and safety requirements for work with display screen equipment.

Demand for Optometry Services

- 2.39 Demand for optometry services comes from individual consumers, some of whom may have entitlements to free or subsidised optical services under the State schemes.
- 2.40 There are a number of State-funded schemes operated by the Department of Social and Family Affairs and the Health Service Executive.
- 2.41 The cost to the State of optometry services supplied by optometrists and dispensing opticians under all the State funded schemes was €27,524,023 in 2005.
- 2.42 While a significant proportion of the population is entitled to some degree of free or subsidised optometry services, many potential customers do not qualify for treatment under any of the State schemes. While it is not possible to quantify exactly the number of people who are not entitled to eye-care services under any of the State schemes it is likely to be in the region of 750,000 to 1 million. Even for those who are entitled to free or subsidised services, the provision of free spectacles is limited to certain types of frames only. Customers who choose more expensive frames must pay the difference between the cost of the frames they choose and the cost allowed by the relevant scheme.

Table 4: State-funded eye care schemes

Scheme	Operated by	Who is covered ²⁷	Numbers covered ²⁸
Optical Treatment Benefit Scheme	Department of Social and Family Affairs	Eligible PRSI contributors ²⁹	1.66 million
Community Ophthalmic Services Scheme	Health Service Executive	Medical card holders and their dependents	1.18 million ³⁰
Child health schemes	Health Service Executive	Children referred from (a) child health service examinations, and (b) school health service examinations	0.89 million ³¹
Other schemes	Health Service Executive	Holders of a Health (Amendment) Act Card	1,700 ³²

²⁵ Source: Ophthalmic Goods & Services Market Report 2000 www.researchandmarkets.com

²⁶ Directive 90/270/EEC on the minimum health and safety requirements for work with display screen equipment.

²⁷ Some people have entitlements under more than one scheme. For example, it is estimated that around 400,000 people are eligible under both the Optical Treatment Benefit Scheme and the Community Ophthalmic Services Scheme.

²⁸ The number of people who are not entitled to free or subsidised eye-care services under any of the State schemes is likely to be in the region of 750,000 to 1 million.

²⁹ PRSI (Pay Related Social Insurance) classes A, E, P and H who fulfil the qualifying conditions, and their dependent spouses. The following groups are not entitled to benefits under the Optical Treatment Benefit Scheme: Employees who pay PRSI Class B (Civil Servants recruited before April 1995) and PRSI Class D (Public Service Employees recruited before April 1995) and employees who have not built up the required number of PRSI contributions which varies by age.

³⁰ As at 1st May 2006. Source: Department of Health and Children.

³¹ Number of children aged 15 and under, Census 2002.

³² Source: Department of Health and Children

The Optical Treatment Benefit Scheme

2.43 The Optical Treatment Benefit Scheme is the largest State scheme in terms of the number of people covered. It provides the following benefits for qualifying PRSI contributors:

- A free sight test every two years³³;
- A fixed contribution towards the cost of an eye examination for contact lenses³⁴;
- Free spectacles³⁵;
- Replacement lenses for existing frames; and
- Up to half the cost of contact lenses needed on medical grounds.

2.44 The fee schedule for treatments under the scheme is set through annual negotiations between the Association of Optometrists Ireland, the Irish Association of Dispensing Opticians and the Department of Social and Family Affairs.

Schemes operated by the Health Service Executive

2.45 The Health Service Executive provides eye examinations and standard prescription spectacles free of charge to medical card holders and their dependents and to holders of a Health (Amendment) Act Card. Standard prescription spectacles and follow up eye examinations are also provided free of charge to children identified at child health service and school health examinations as needing follow up eye examinations.

2.46 The Primary Care Reimbursement Service, formerly the General Medical Services (Payments) Board, makes payments to optometrists and dispensing opticians on behalf of the Health Service Executive in respect of the above schemes.

Table 5: Payments to optometrists and dispensing opticians under the State funded schemes in 2005

Scheme	Total amount paid	Average payment to eye care professional
Optical Treatment Benefit Scheme (1)	€11,268,991	€28,674
Health Service Executive Schemes (2)	€16,255,032	€33,241
Total	€27,524,023	—

Sources: (1) Department of Social and Family Affairs, (2) The Primary Care Reimbursement Service

³³ Excluding sight tests for Visual Display Units and driving licences.

³⁴ The current contribution is €21.57 (Department of Social and Family Affairs).

³⁵ Certain frames only. Where other frames are chosen the Department of Social and Family Affairs pays a fixed contribution towards the cost with the individual paying the balance.

Supply of Optometry Services

- 2.47 There were 612 optometrists on the Register of Optometrists in Ireland at the end of 2005.³⁶ About 500 are engaged in private practice, as sole traders, in private partnerships or employed by practice owners. A number of Irish registered optometrists practise abroad.³⁷
- 2.48 Optometrists are spread all over Ireland, with a number providing services in more than one location.³⁸
- 2.49 A feature of the supply of optometry services in Ireland has been the arrival and emergence of chains since the early 1990s. These can be either franchise operations or multiple retail stores under the same ownership. The largest of these companies operating in Ireland is Specsavers, which operates on a franchise basis. Specsavers entered the Irish market in the early 1990s and now has 30 outlets in the Republic. A number of Irish multiples such as Insight Opticians, Donal McNally Opticians and Specs Xpress have also been established. Chains compete through advertising, convenient locations and price discounting and have achieved a substantial share of the Irish market. Approximately 20% of optometrists in Ireland are employed by chains.

Table 6: Chains of optometry outlets

Chain	Number of outlets	Number of optometrists employed
Specsavers	30	76
Vision Express	5	15
McNally Opticians	5	8
Insight	4	5
SpecsXpress	3	3
Total	47	107

Source: Register of Optometrists as at end 2005

- 2.50 The internet is a growing source of supply for disposable contact lenses. Irish consumers can order disposable contact lenses from suppliers based abroad as well as in Ireland. Suppliers of disposable contact lenses on the internet or by mail order who are based in Ireland are required by the Opticians Board to seek a prescription from the consumer before supplying lenses. The quantity of lenses sold must allow for use within the validity of the prescription.³⁹

Optometrists' Incomes

- 2.51 Approximately 540 optometrists are engaged in private practice in Ireland either as sole traders, as co-owners of practices or as employees. The average income for optometrists in 2002 was approximately €73,500.⁴⁰ It should be noted that owners of optometry practices may receive profits in addition to salary income.

³⁶ Source: Opticians Board.

³⁷ At the end of 2005, 68 Irish registered optometrists were practising abroad or living overseas (Source: Register of Optometrists).

³⁸ See Appendix 3 for a table illustrating the distribution of optometrists across the country.

³⁹ The prescription must bear the name and signature of the prescriber and be dated within 12 months of the date of sale. Opticians Act 1956 Rules 1977 (Amendment) Rules 2002: Rule 30 (e).

⁴⁰ Source: Revenue Commissioners. Income figures used in this report were derived from survey data obtained from the Revenue Commissioners. A random sample of optometrists was used.

2.52 Table 7 provides more detail regarding the incomes of optometrists in 2002, based on the number of years in practice. The table also shows the proportion of optometrists who earned over twice the average industrial wage for that year (€52,000)⁴¹.

Table 7: Incomes of optometrists by years of experience 2002				
Experience (Years)	Average income	Median Income	Proportion with income over €52,000	Proportion with income over €100,000
0-3 years	€10,918	€9,464	0%	0%
4-6 years	€43,027	€40,713	13%	6%
7-9 years	€43,974	€46,745	40%	0%
10-12 years	€52,429	€43,565	28%	5%
13-33 years	€97,314	€76,087	64%	35%
33+ years	€82,527	€61,081	54%	27%
All	€73,493	€50,792	47%	22%

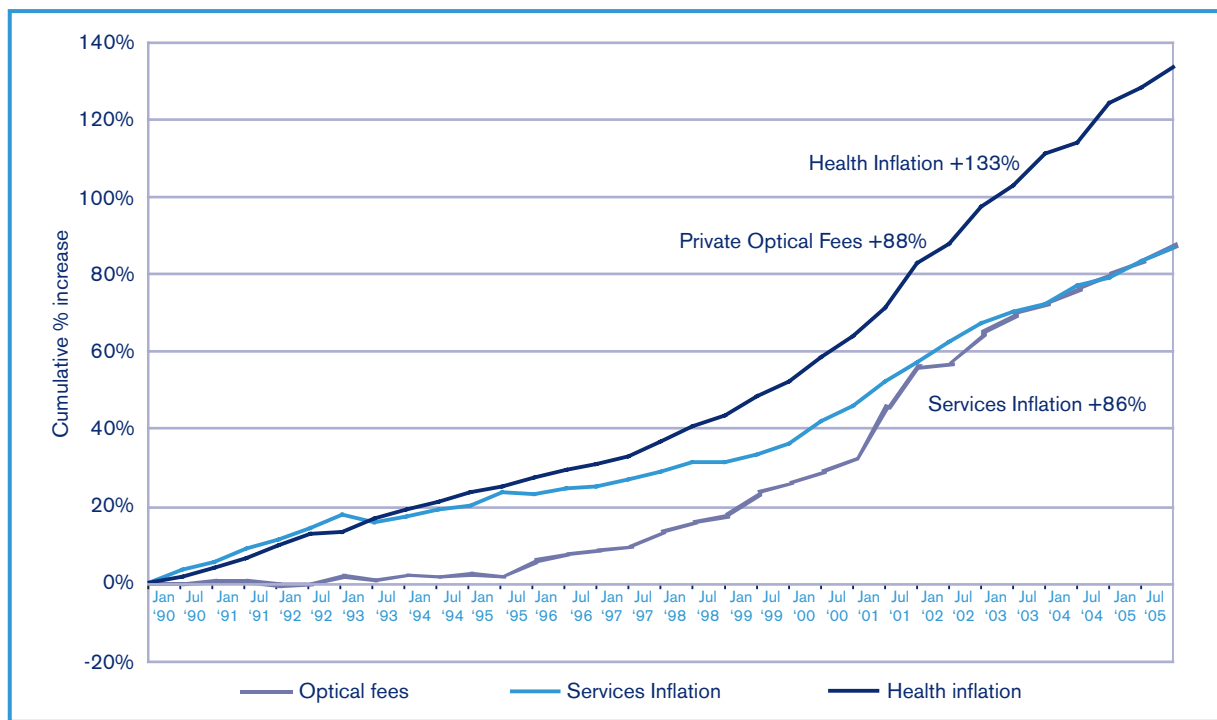
Source: Revenue Commissioners as at end 2005

Prices of Optometry Services

2.53 Between 1990 and 2006 the price of eye examinations provided by optometrists to private consumers increased by 88%. Health inflation increased by 133% in the period while inflation in services was 86%, based on data from the Central Statistics Office. The price of private optometry services has been increasing more or less in line with the rate of inflation for services, but the rate of increase is significantly less than the rate for health services inflation generally as illustrated in the graph below.

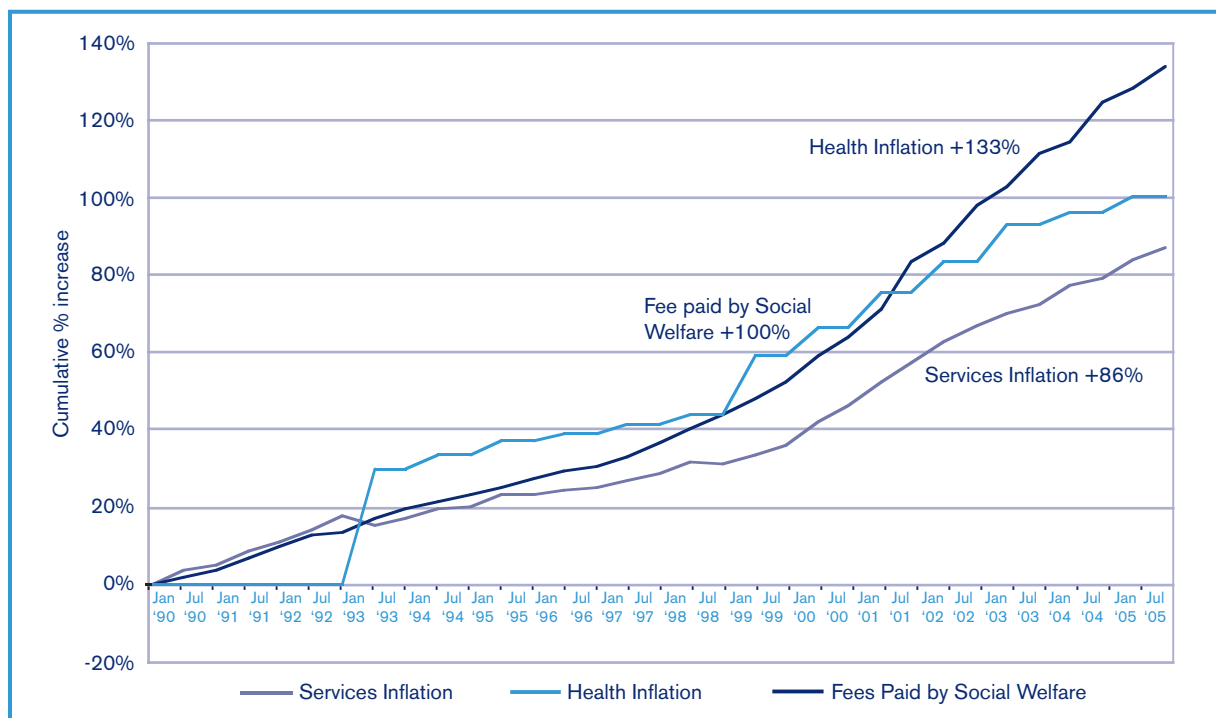
⁴¹ Source: Central Statistics Office.

Graph 1: Quarterly increase in prices (January 1990 - January 2006) Inflation in prices for private eye examinations, health inflation and services inflation.



2.54 The graph below compares the increase in the contribution paid by the Department of Social and Family Affairs with inflation in health services and for services generally.

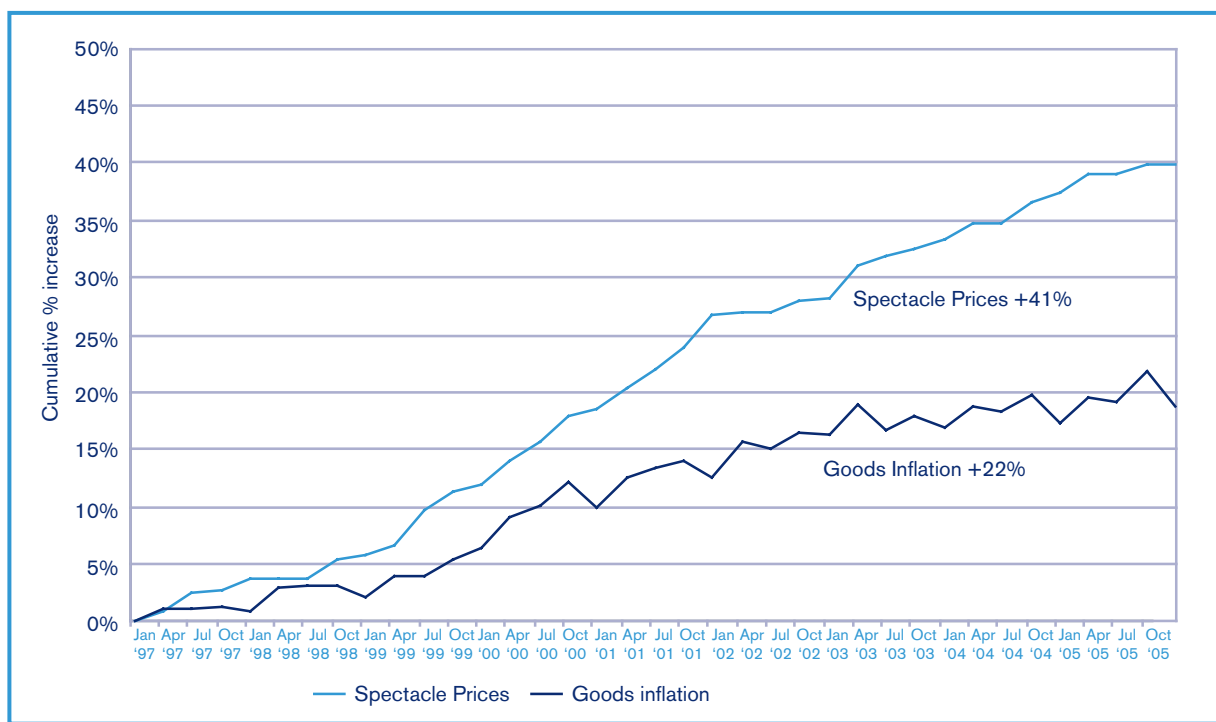
Graph 2: Quarterly increase in prices (January 1990 - January 2006) Inflation in contribution to the cost of eye examinations paid by Department of Social and Family Affairs, health inflation and services inflation.



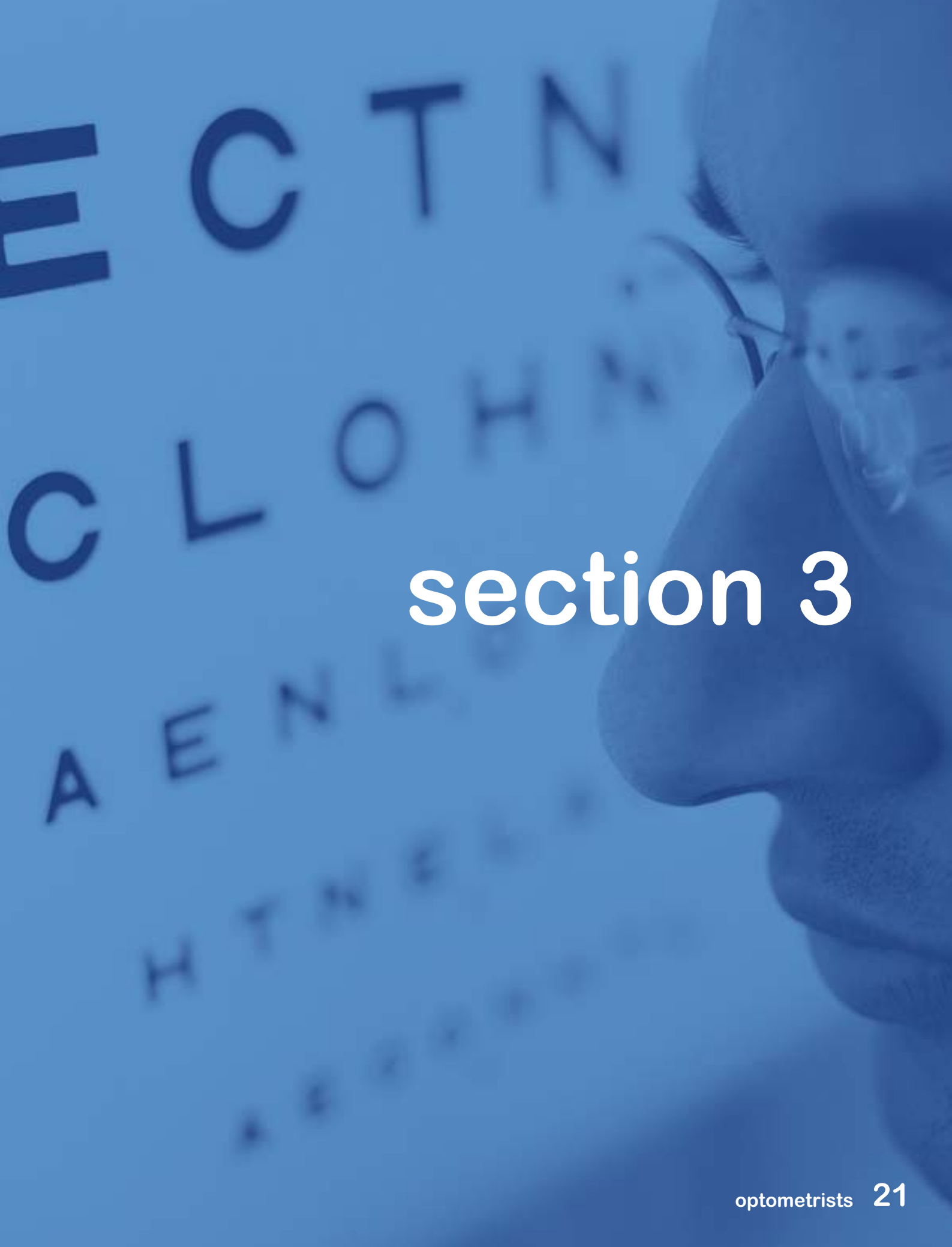
2.55 The price of spectacles increased by 41% in the last nine years⁴², compared to an increase of 22% in the price of goods generally over the same period.

⁴² Source: Consumer Price Index. Spectacle prices were not listed separately in the CPI before November 1996.

Graph 3: Quarterly increase in prices (January 1997- April 2006) Inflation in spectacle prices and inflation in the cost of goods.







section 3

3. RESTRICTIONS ON OFFERING OPTOMETRY SERVICES

Summary

- 3.1 The Competition Authority has identified only one area where optometrists are prevented from offering services that they are qualified to provide - State-funded children's eye examinations. More generally, the regulatory rules for recognising appropriately qualified optometrists are clear and proportionate and have ensured an increase in the number of optometrists in Ireland. Despite the flow of qualified optometrists into Ireland, the limit on training places here could lead to a shortage of optometrists in the future and this situation should be reviewed by the Higher Education Authority.
- 3.2 There is only one area where optometrists are prevented from offering services that they are qualified to provide. Optometrists are excluded from providing eye examinations to pre-school and national school children referred under the State schemes for free health screening, even though they have the qualifications to do so. Instead, these children are referred to specialist medical practitioners (ophthalmologists) for standard eye examinations. This restriction has resulted in unnecessary waiting times for these children and consequent delays in prescribing and fitting spectacles if that is found to be necessary. Using optometrists to supply this service would be a more efficient and effective way of delivering eye-care to children.
- 3.3 All appropriately qualified persons are allowed to use the title "optometrist" and offer optometry services in Ireland, regardless of their nationality or where they were trained. This has ensured that the supply of optometrists in Ireland has increased to meet the growing demand for spectacles and contact lenses. However, the limited number of optometry training places in Ireland impacts on the supply of optometry services and could lead to a shortage of optometrists in the future, this situation should be reviewed.

Restriction on Providing Eye Examinations to Children

Summary

- 3.4 The State provides free follow-up eye testing for children identified at child health and school health examinations. However, optometrists, although they supply spectacles where these are found to be necessary, are excluded from providing these services. Instead a small number of specialist medical practitioners (ophthalmologists) carry out children's eye examinations. Where, following an eye examination, it is considered that spectacles are necessary, standard prescription spectacles are provided free of charge from optometrists or dispensing opticians. If parents decide to avoid the waiting time for an appointment with an ophthalmologist, by having their children tested by an optometrist, they must pay the full cost of the examination.
- 3.5 Using optometrists to supply this service where appropriate would be a more efficient and effective way of delivering eye-care to children. Children would be seen more quickly, the service would be free of charge (as opposed to parents paying privately) and the State would make better use of the skills and expertise of ophthalmologists.

Nature of Restraint

- 3.6 Children identified at child health and school health examinations as requiring eye examinations are entitled to receive such examinations free of charge from the State. These eye examinations are provided by specialist medical practitioners called ophthalmologists, and not by optometrists. Other State funded eye examinations, for example examinations under the Community Ophthalmic Services Scheme which provides eye examinations to medical card holders, are provided by optometrists.

Effects of Restraint

3.7 The exclusion of optometrists from providing services that they are qualified to offer has had the following effects:

- Children must generally wait for an appointment with an ophthalmologist, instead of getting their standard eye examination straightaway from an optometrist;
- To avoid such delays many parents opt for private testing by an optometrist, thereby paying for a service that their child is entitled to receive free of charge; and
- The resources of the State are going to pay specialist medical practitioners to provide standard eye examinations, which could be provided by appropriately qualified optometrists.

Views of interested parties

3.8 A number of the submissions received in response to the preliminary report focused on this issue. The main aspects covered in submissions were whether eye examinations carried out by optometrists are of the same standard as those carried out by community ophthalmic physicians, the relative costs of using community ophthalmic physicians or optometrists to carry out such examinations and the different underlying reasons for visual problems identified in younger and older children. There was general agreement that waiting lists for medical eye clinics are too long and that the Competition Authority's preliminary recommendation was appropriate in regard to children identified at national school exit screening but not for those identified at pre-school or national school entry stage.

3.9 A number of submissions stated that examinations carried out by optometrists are not of the same standard as those carried out in medical eye clinics where an ophthalmologist will carry out a full medical eye examination and where a child may also be seen by an orthoptist. On the other hand, changes brought about by the Opticians (Amendment) Act 2003 permitting optometrists to use cycloplegic⁴³ drugs were seen as facilitating the assessment of children's vision by optometrists. In its submission, Dublin Institute of Technology pointed out that a number of Irish-trained optometrists working in the UK provide this service and referred to research showing community-based models involving optometrists to be highly effective.⁴⁴ The Opticians Board confirmed that there is no restriction in the Opticians Acts or in the Board's rules on optometrists carrying out eye examinations on children.

3.10 Most submissions noted a distinction between the causes of visual problems identified in children at pre-school and school entry stage and those about to leave national school. Submissions suggested that in very young children a significant percentage (85-90%)⁴⁵ of problems identified at screening are caused by medical eye disorders which cannot be treated by optometrists. In the case of the older age group i.e. 11-12 year olds, 70% of problems identified at screening are caused by refractive errors which can be treated by the provision of optical appliances such as spectacles.

3.11 All submissions agreed that it is appropriate for children in the 11-12 year old age group to be referred to optometrists directly from school screening. Optometrists would treat those who could be treated with optical appliances and refer those with problems caused by medical eye disorders to the ophthalmic services. Children below that age would continue to be seen by ophthalmologists in the first instance.

⁴³ Cycloplegic drugs are commonly used to dilate the pupil for an eye examination, particularly in small children.

⁴⁴ Adams et al. (2002) *Paediatric community vision screening with combined optometric and orthoptic care: a 64 month review*. Ophthalmic Physiol Opt. 22(1):26-31 and Karas et al (1999) *Paediatric community vision screening - a new model*. Ophthalmic Physiol Opt. 19(4):295-9

⁴⁵ Source: The Irish College of Ophthalmologists and Dr Martin Treacy: Submissions to the Competition Authority February 2006.

Analysis of the Competition Authority

- 3.12 Evidence from the submissions received showed that medical eye disorders are the cause of reduced vision in the vast majority of children referred for eye examinations at pre-school and school entry stage. It is appropriate therefore that this group continues to be referred to medical eye clinics in the first instance.
- 3.13 While it may be the case that the examination provided by a community ophthalmic physician includes a medical eye examination, there is general agreement that such a comprehensive examination is not necessary in the case of most 11-12 year olds. Excluding optometrists from providing eye examinations to this group has led to a situation where these children are referred for an examination by an ophthalmologist when, in 70% of cases, the problem could be identified and corrected by an optometrist with virtually no waiting time. The inclusion of these children on medical eye clinic waiting lists also means that younger children, the majority of whom have a medical eye disorder, must wait longer to see an ophthalmologist because community ophthalmic physicians are spending some of their time seeing older children who could be examined by an optometrist.
- 3.14 There are ten full time community ophthalmic physicians employed by the Health Service Executive with 30 more employed on a sessional basis⁴⁷. Typically, optometrists will allow 30 minutes per eye examination. The Department of Social and Family Affairs pays €21.57 to optometrists for each eye examination, thus, on the basis of two consultations per hour, the hourly cost of using optometrists to provide this service would be €43.14. Community ophthalmic physicians on the other hand are paid €55.50 per hour⁴⁸. Community ophthalmic physicians may also attract other costs such as travelling expenses, pension costs and the cost of providing facilities and support staff which would not arise if optometrists were used to provide this service.
- 3.15 Allowing private sector optometrists to provide State-funded eye examinations to children leaving national school would improve the service to them and allow more expensive ophthalmologists to focus on those services which only they can provide i.e. the treatment of diseases of the eye. Where optometrists detect a disease of the eye in the course of an eye examination they are obliged in any event to refer the client to a medical practitioner.

Solution

- 3.16 In its preliminary report, the Competition Authority recommended that optometrists should be allowed to provide State-funded eye examinations to qualifying children. The Competition Authority notes the distinction between the causes of visual problems in children at different ages and agrees that it is appropriate that younger children should continue to be referred to medical eye clinics at pre-school and school entry age.
- 3.17 However, it is clear from the evidence presented in the submissions that it is appropriate for children being examined on leaving national school to be examined by optometrists as the majority of visual problems at this age are due to refractive errors. Allowing optometrists to offer free eye examinations to children at national school exit stage (11-12 year olds) would:
- Eliminate waiting times for eye examinations for these children and reduce waiting times for younger children who need to be seen by an ophthalmologist thereby ensuring earlier identification and treatment of problems for both age groups; and
 - Enable ophthalmologists to focus on the services which only they are qualified to provide resulting in more efficient use of State resources.

⁴⁸ Full-time community ophthalmic physicians are paid between €83,000 and €87,000 per annum. Those employed on a sessional basis are paid €166.50 for each three hour session. Source: Department of Health and Children.

Recommendation 1:	Allow optometrists to provide State-funded eye examinations to children identified at national school exit screening
Details of Recommendation	Action By
The Health Service Executive should allow optometrists to provide State-funded eye examinations for qualifying children identified as requiring such examinations at national school exit screening examinations.	Health Service Executive December 2006

Restriction on the Number of Optometry Training Places

Summary

- 3.18 The limited number of optometry training places in Ireland has led to a reliance on immigration and foreign training of Irish residents to meet the demands for optometry services in Ireland. The regulatory rules for recognising appropriate foreign optometry qualifications have ensured a supply of foreign-qualified optometrists in Ireland with half of the additions to the optometrists register in recent years trained outside the State (see Table 3, Chapter 2). This has prevented a serious shortage of optometrists emerging in the face of growing demand for spectacles and contact lenses and a limited number of training places in Ireland. Despite this flow of qualified optometrists into Ireland the limit on training places here could be putting upward pressure on prices and lead to a serious shortage of optometrists in the future. This situation should be reviewed by the Higher Education Authority.
- 3.19 To protect the health and welfare of the general population, the State often puts in place rules and regulations governing who can supply certain services. Sometimes the rules go beyond what is necessary to protect the public and prevent qualified people from providing their services. When this happens, consumers have a smaller pool of suppliers to choose from and frequently pay higher prices as a result.
- 3.20 In Ireland it is unlawful under the Opticians Acts for a person to use the title "optometrist" or to practise as an optometrist without being registered by the Opticians Board. This law is designed to ensure that members of the public are always treated by properly qualified persons. It is a proportionate restriction on the supply of optometry services. Ordinary consumers are not likely to be able to evaluate the services on offer, either before or after they have bought them, and there is an immediate danger to the health of their eyes if they receive inappropriate optometry services.
- 3.21 The Opticians Board operates open and transparent criteria for inclusion on the Register of Optometrists, set out in its Rules. Applicants for registration must have passed an optometry degree course approved by the Board, or one recognised as being of a similar standard, and must pass an approved clinical examination. Applicants who have met these requirements are eligible for registration.
- 3.22 Similarly, the criteria for the registration of foreign trained optometrists are straightforward. EU nationals are entitled to registration if they are authorised under the *European Communities (General System for the Recognition of Higher Education Diplomas) Regulations 1991*. Non EU nationals whose qualifications are considered to be equivalent to Irish qualifications must undertake an oral and clinical assessment. If the candidate is successful in the assessment and has the required competence in English, he or she is eligible for registration.

Nature of Restraint

- 3.23 The only course for the education of optometrists currently provided and approved in Ireland is the four year optometry degree course in the Dublin Institute of Technology.⁴⁷ There are 25 places per year on the course with an annual average pass rate of 80%.
- 3.24 There are no restrictions on the number of third level institutions which can offer optometry courses. Any Irish third level institution which wished to offer an optometry course would have to be recognised by the Opticians Board in order for its graduates to be eligible for registration on the Register of Optometrists.

Effects of Restraint

- 3.25 The limited number of training places in Ireland results in:
- Irish residents going abroad to study optometry;
 - Difficulties in recruiting optometrists; and
 - A dependence on foreign-trained optometrists to meet the demand for optometrists in Ireland.
- 3.26 In response to the limitation of 25 training places in Ireland,⁴⁸ a significant number of Irish nationals qualify as optometrists by studying outside Ireland, principally in the United Kingdom. Table 8 shows the number of Irish residents who applied for and took up places on optometry courses in the UK in the period 2000-2005 inclusive.

Table 8: Optometry courses in the UK - Applications and acceptances by Irish residents

Year	Applicants	Acceptances
2000	68	7
2001	43	9
2002	43	6
2003	51	10
2004	45	5
2005	57	12

Source: Universities and Colleges Admissions Service, UK

⁴⁷ The Opticians Board is responsible for approving optometry courses.

⁴⁸ According to data provided by the Central Applications Office, in 2005 there were 471 applicants for the 25 places on the course, 101 of whom put optometry as their first choice. The small number of places available coupled with high demand means that very high points are needed to gain a place on the course, well above the minimum requirements. The CAO points requirement for the course averaged 510 over the period 1998 to 2004. The minimum entry requirements for 2005 were: a pass in at least 6 subjects in the Leaving Certificate including a minimum of grade B3 at Ordinary Level in Mathematics and either English or Irish; a minimum of two subjects must be passed with grade C3 or higher on Higher Level papers, at least one of which must be Physics, Chemistry, Physics and Chemistry combined or Biology.

- 3.27 In a survey, 48.6% of optometrists stated that they had found it difficult to recruit optometrists in the previous three years, while 28.6% stated that they had found recruitment of optometrists either “very difficult” or “extremely difficult”.⁴⁹
- 3.28 The limited number of optometrists trained in Ireland each year means that the Irish market needs to attract foreign trained optometrists, Irish or otherwise, to meet demand. There were 154 foreign-qualified optometrists on the Register of Optometrists at the end of 2005, just over 25% of the total.⁵⁰

Rationale offered for the Restraint

- 3.29 According to the Opticians Board the number of places on the Optometry Degree course is determined by the Dublin Institute of Technology (DIT) in the context of the demand for places and the availability of teaching resources. The DIT has indicated that it is not possible to take in additional students as the existing staff and physical resources are being used at maximum capacity.

Views of Interested Parties

- 3.30 A number of submissions addressed the issue of training places for optometrists in Ireland. There was general agreement that there are grounds for concern regarding the number of optometry places currently available.
- 3.31 In considering the issue of additional places, submissions referred to the high costs of optometry training, due to the need for clinical facilities and the high staff-student ratio. While it is primarily at the discretion of the educational institutions whether or not course places are increased, in the case of resource intensive courses such as optometry, that discretion is unlikely to be exercised without an increase in resources to the institution concerned.
- 3.32 Demand for optometrists in Ireland has increased substantially in recent years. Submissions suggested that this is due to a combination of factors such as the introduction of the Community Ophthalmic Services Scheme which made optometry services available to medical card holders for the first time and the extension of the medical card to over 70s. Some submissions expressed the view that as these factors will not reoccur the increase in demand will taper off to a more sustainable level.
- 3.33 As an illustration of the possible extent of the shortfall in domestic supply the Higher Education Authority referred in its submission to a recent Fás report.⁵¹ This assessed the projected supply of optometrists in 2015 as 551 with projected demand as 581 assuming that the demand for optometrists is determined solely by population growth between 2004 and 2015. The report estimated that were the demand for optometrists to grow in line with past growth in demand experienced in Ireland, just under 830 optometrists would be required in Ireland in 2015, well above the projected supply.

Analysis of the Competition Authority

- 3.34 The number of courses and places available in Ireland to study optometry determines, to a significant extent, the number of qualified optometrists offering their services in Ireland. This in turn affects competition in optometry services, including price competition. The number of places available to study optometry in Ireland has remained unchanged over the last ten years despite growing demand from consumers for optometry services. A number of factors indicate that this could lead to a shortage of optometrists in Ireland. A formal review of the number of places to study optometry in Ireland is needed to ensure that a sufficient number of optometrists are trained to meet the demand for optometry services.

⁴⁹ Survey of Optometrists for Indecon's *Assessment of Restrictions in the Supply of Professional Services* available at www.tca.ie/professions.html

⁵⁰ Opticians Board.

⁵¹ Healthcare Skills Monitoring Report, Fás, August 2005.

- 3.35 In Ireland, third level education is funded by the State. In a free market, the demand for optometry services and optometry training and the supply of optometry training places would balance themselves at the level of fees students were willing to pay for optometry training. To ensure an appropriate supply of optometrists, the State must estimate what would happen if market forces applied to the education sector. Limiting the supply of optometrists beyond this level constrains competition in the market, raising the price of optometry services, and these costs are borne by both the State and by consumers. Training optometrists is an investment which in the long-term will reduce the cost to the State of delivering optometry services by ensuring that there is a sufficient supply of qualified optometrists to meet the demand for optometry services. This is supported by the Report of the Commission on the Points System (1999) which stated:

*"The Commission accepts that in the case of some professional courses, especially those where the unit cost to the State is very high, there is a need to ensure that there are not too many students taking courses relative to the employment opportunities available. However, at the same time, **output from publicly funded third-level courses should not be less than the need for graduates from such courses.**"*⁵²

- 3.36 The number of places available to study optometry in Ireland has remained unchanged over the last ten years. A formal review of the number of places to study optometry in Ireland, to ensure that a sufficient number of optometrists are trained to meet the demand for optometry services, has never been conducted. Reviews of this kind have been undertaken for other health-related courses such as medicine, pharmacy and health therapy courses and, in each case, it was concluded that the current number of places was inadequate.⁵³ Excess demand for third level places in Ireland generally has led to calls for the reintroduction of third level fees.⁵⁴
- 3.37 In 1999, the Commission on the Points System recommended that there should be a regular review of places on healthcare-related courses with highly restricted availability, but to date no such review has been undertaken in the case of optometry.

*"While the Commission recognises that manpower planning is an inexact science and that it can be very difficult to project, with any degree of accuracy, the long term or even the medium term needs of a specific profession, it nevertheless **considers that there should be a regular review of places on courses with capped numbers. The findings of such reviews should be in the public domain and the basis on which decisions are taken should be open and transparent. In undertaking such reviews, it will be important to ensure that no single interest group should have an overriding voice in fixing intake quotas.**"*⁵⁵

- 3.38 A number of sources indicate that there is a danger of an under-supply of optometry in Ireland which would imply that an expansion in the number of training places for optometrists may be required:
- i) Demand for optical appliances in Ireland has been increasing while the number of training places for optometrists has remained static.
 - ii) The undersupply of domestically-trained optometrists is being met by the entry of foreign-trained optometrists into the Irish market. The number of registered optometrists continues to increase with 612 on the register at the end of 2005 compared to 344 on the register in 1994, an increase of almost 80%. Although foreign-trained optometrists can currently counteract the shortage of domestically-trained optometrists this may not always be sufficient in the longer term. Forfás and the Expert Group on Future Skills Needs considered this

⁵² Report of the Commission on the Points System (1999), Competition Authority's emphasis.

⁵³ See Current and Future Supply and Demand Conditions in the Labour Market for Certain Professional Therapists (2001) and Assessing Supply in Relation to Prospective Demand for Pharmacists in Ireland (1999), both commissioned by the Higher Education Authority.

⁵⁴ Review of Higher Education Policy in Ireland, OECD and Education at a Glance, OECD, 2005. The Competitiveness Challenge 2005, National Competitiveness Council 2005.

⁵⁵ Report of the Commission on the Points System (1999), Emphasis in original.

issue in their submission to the Minister for Enterprise, Trade and Employment in October 2005 entitled *"Skills Needs in the Irish Economy: the role of migration"*⁵⁶ and listed a number of reasons why immigration is not an ideal solution to skills shortages in the healthcare professions:

- Rates of retention for immigrants are lower than those for their Irish-born colleagues, and some immigrants will wish to return home after a period of working in Ireland; and
 - The demand for many healthcare professionals throughout Europe is much greater than the supply from the resident labour force and competition for healthcare professionals will intensify as the European labour force ages. Consequently, there is no guarantee that Ireland will continue to attract healthcare professionals in the same volume as recent years.
- iii) Indecon's survey of optometrists found that the majority of optometrists surveyed had experienced difficulties in recent years when recruiting qualified optometrists for their practices.
- iv) The recent *Healthcare Skills Monitoring Report*⁵⁷ predicted that demand in 2015 for optometrists in Ireland would range from 581 to 830 while the projected supply would be 551 (for more detail see paragraph 3.33 of this chapter).

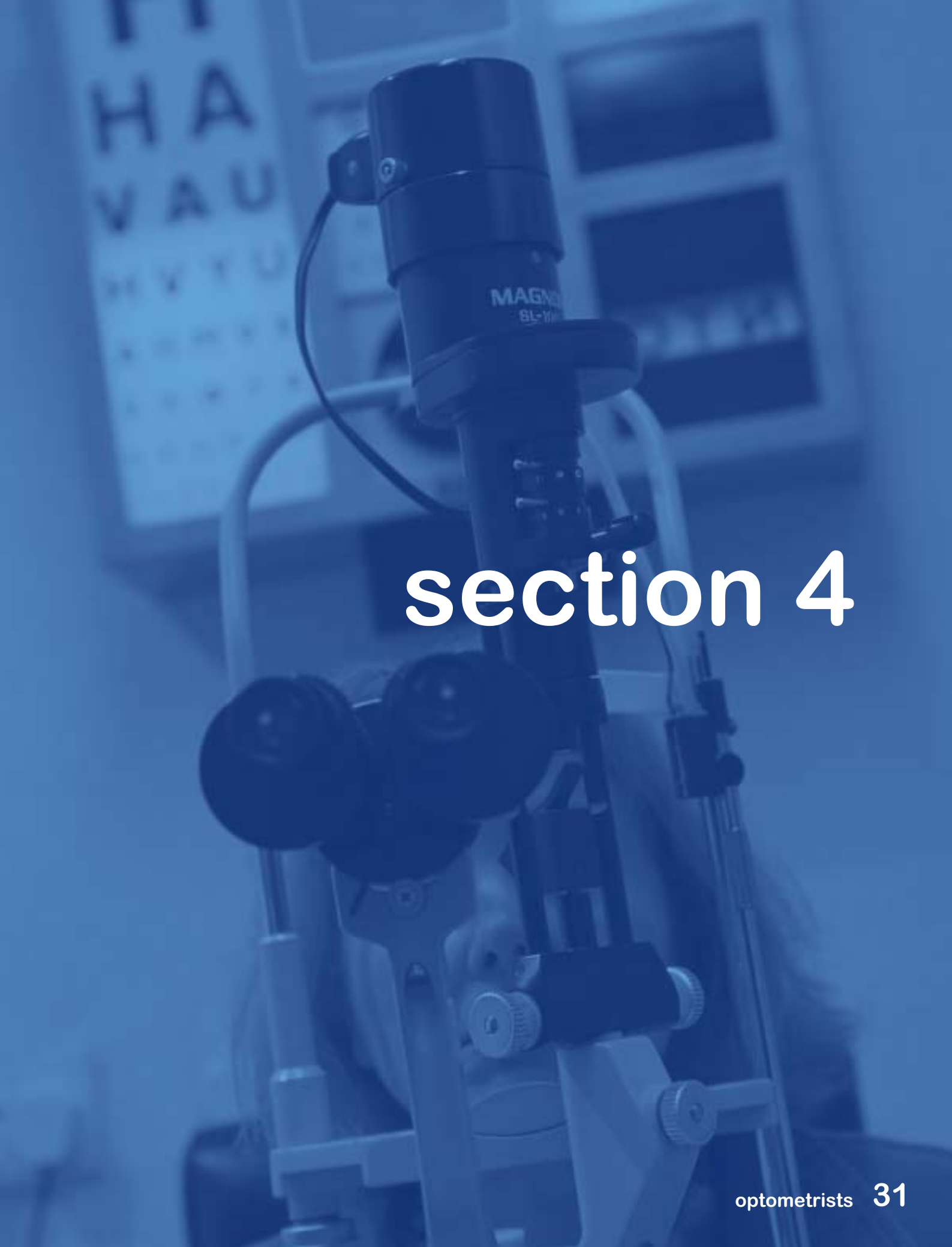
Solution

- 3.39 While the entry of foreign-trained optometrists is driving the increase in the numbers on the register and helping to meet the demand for optometry services in Ireland, it would be desirable, for the reasons set out in the Report of the Expert Group on Future Skills Needs, for Ireland to have sufficient training places to meet its own needs.
- 3.40 The Higher Education Authority, which is the statutory body with responsibility for furthering the development of higher education, should conduct a review of the number of training places for optometrists under section 6 of the Higher Education Authority Act, 1971 which requires the Higher Education Authority to "*maintain a continuous review of the demand and need for higher education*".
- 3.41 A comprehensive review of the number of optometry training places by the Higher Education Authority would quantify the extent to which training shortages exist and indicate how many extra places are needed, if any.
- 3.42 The implementation of the results of the review will ensure a sufficient supply of optometrists to meet the demand for optometry services in Ireland in the long term.

Recommendation 2:	Review the number of training places for optometrists
Details of Recommendation	Action By
The Higher Education Authority should undertake a detailed review of the number of optometry training places to assess whether the current number of places is sufficient to meet future demand for optometry services in Ireland.	Higher Education Authority December 2007

⁵⁶ Available at www.skillsireland.ie

⁵⁷ Fás, August 2005



section 4

4. RESTRICTIONS ON RIVALRY AND COMPETITION BETWEEN OPTOMETRISTS

Summary

- 4.1 Many aspects of how the optometry profession is organised and competes work very well for consumers. Consumers are informed by optometrists' advertising of the location and price of optometry services in their area and the range of services on offer. This enables consumers to make informed choices about the care of their eyes and encourages optometrists to offer the best service they can at the lowest price. Consumers also have the choice of going to different types of practices such as a franchise-type outlet, where a number of optometrists and dispensing opticians work together, or a more traditional sole trader type practice.
- 4.2 The Competition Authority has identified only minor unnecessary restrictions on competition between optometrists in relation to advertising. The rules of the Opticians Board forbid canvassing and comparative price advertising by optometrists. These restrictions do not protect the public from harm. They should be removed as they unnecessarily hinder new optometry practices trying to establish themselves, as well as consumers trying to compare prices and the services on offer.

Restrictions on Advertising

Summary

- 4.3 Optometrists may advertise relatively freely and this informs consumers of the availability of optometry services in their area, the choice of services and products open to them and the prices charged for such services and products. This is an important aspect of delivering high quality healthcare.
- 4.4 However, the Opticians Board imposes some unnecessary restrictions on canvassing and corporate advertising. These restrictions are also reflected in the Code of Ethics of the Association of Optometrists Ireland. These restrictions should be removed so as to allow consumers to shop around more easily and to allow optometry practices to target their advertising.
- 4.5 Restrictions on advertising which go beyond ensuring that advertising is not false or misleading generally serve to prevent new service providers from becoming established, making it difficult for them to publicise their arrival. Lack of awareness by consumers of the existence of alternative providers of professional services protects existing providers from competition.

Nature of Restraint

- 4.6 The Opticians Board has the power under the Opticians Acts to make rules governing the professional conduct of registered optometrists. The rules currently in force⁵⁸ provide that:
- *"Optometrists may not canvass⁵⁹ for business on their own behalf or on behalf of any other person or body corporate";* and
 - *"Any publicity engaged in by optometrists may not seek to make comparisons with other optical practices or reflect unfavourably on other optical practices or businesses".*

⁵⁸ Rule 31 of the Opticians Act 1956, Rules 1977 (Amendment) Rules, 1993.

⁵⁹ Canvassing is defined as *"touting or soliciting for business by way of direct personalised approach"*. Opticians Board Guidelines, 1992.

4.7 The Code of Ethics of the Association of Optometrists Ireland states the following in relation to optometrists:

- *"Canvassing for the purpose of obtaining new patients or clients is unethical and is expressly forbidden by law";* and
- *"Comparisons or claims of superiority over other practices are unethical and in breach of the Rules of the Opticians Board".*

Effects of Restraint

4.8 Three distinct effects arise from these restrictions on advertising:

- They create unnecessary difficulties for optometry practices to advertise direct to households and businesses in their area and to advertise prices or discounts;
- They make it difficult for consumers to be fully aware of all their options; and
- They make it harder for consumers to compare prices when shopping around.

4.9 The ban on canvassing for new clients makes it more difficult for optometrists to offer their services to consumers. For example, they are unable to carry out direct advertising aimed at people living or working in their immediate vicinity. This is a particular hindrance to new optometry practices.

4.10 The ban on comparative advertising creates an unnecessary difficulty for customers in comparing prices when they shop around for optometry services. Customers are not required to purchase spectacles or contact lenses from the optometrist who carried out their eye examination. Similarly, frames and lenses do not need to be purchased together. However, if customers cannot compare prices easily, their ability to shop around is curtailed.

Rationale offered for the Restraint

4.11 The Opticians Board considers that advertising controls enable the public to be more clearly informed of the availability of optical services and the nature of the service provided by optometrists and to ensure that advertising by optometrists is in the general interest of public health.⁶⁰ Canvassing is specifically referred to in Section 52 of the Opticians Act 1956, which gives the Board the power to control advertising by optometrists.⁶¹

Views of Interested Parties

4.12 The majority of submissions which commented on this recommendation were supportive.

4.13 The Opticians Board indicated that it has commenced a review of its advertising rules and in the context of that review will consider whether the rules need to be updated in the public interest.

4.14 The Association of Optometrists Ireland noted that its Code of Ethics as it related to advertising merely advises its members to stay within the law as contained in the rules of the Opticians Board. It has further indicated, in discussions with the Competition Authority, that it will review the provisions of its Code of Ethics in the context of any change to the Rules of the Opticians Board.

⁶⁰ Source: Submission to the Competition Authority as part of the Indecon Study (February 2002).

⁶¹ Section 52 (1) gives the Board the power to *"make provision for the control of advertising (including advertising by way of canvassing)"*

International Experience

- 4.15 The Competition Authority found no evidence of rules prohibiting comparative advertising or canvassing in other countries.
- The optometrist profession in the UK is regulated by the General Optical Council. The UK's General Optical Council revoked its rules on publicity for optometrists in June 2005 following the updating of the Opticians Act. The effect of this is that UK optometrists are now bound only by the same rules on advertising as apply to any other business.
 - In the US the optometry profession is regulated on a state-by-state basis. State rules in relation to advertising generally focus on prohibiting false or misleading information in advertisements by optometrists.⁶²

Analysis of the Competition Authority

- 4.16 Research carried out in the USA has shown that informative advertising of the services provided by healthcare professionals lowers prices. Evidence in support of the pro-competitive effects of advertising in markets for professional services dates back to studies in the 1970s.⁶³
- 4.17 Advertising of professional healthcare services does not have a negative impact on the quality of care provided. A study by the US Federal Trade Commission, before the removal of restrictions on advertising in all states⁶⁴, examined the market for optometry services in different cities in the USA and found that restrictions on advertising raised prices without affecting quality. This study provided compelling evidence that advertising posed no danger to the quality of healthcare services provided. Eye examinations were just as accurate and thorough, while the workmanship of glasses was of the same quality, whether advertising restrictions were in place or not.
- 4.18 The prohibition on comparative advertising and canvassing for business prevents the public from being fully informed of the availability of optical services. On the contrary, comparative advertising creates an awareness among customers of the various services available and the prices charged, allowing them a meaningful choice of supplier. Similarly, canvassing for business is one of the means by which new optometry practices can make their presence known to customers.
- 4.19 The Competition Authority's concerns in this context are aimed at empowering consumers to make price comparisons. In the case of optometrists for example, comparative advertising could involve one optometry practice advertising its prices through comparison with those charged by another practice. The Authority is not advocating comparative advertising by which optometrists would compare themselves with each other on quality grounds.
- 4.20 While there is a need to ensure that advertising engaged in by optometrists is not false or misleading, the current restrictions on advertising go beyond what is required to protect consumers.

⁶² Colorado State Board of Optometric Examiners: 4 CCR728-1 Optometric Rules and Regulations 2005, para 6.00. The Board of Registration of Optometrists Massachusetts Rules and Regulations: Practice of Optometry para 3.11

⁶³ Benham, Lee, "The Effects of Advertising on the price of Eyeglasses", *Journal of Law and Economics*, Vol.15, No. 2, October 1972. Benham, Lee and Benham, "Regulating Through the Professions: A Perspective on Information Control," *Journal of Law and Economics*, Vol. 18, No. 2, October 1975. Both studies examined optometry which was at the time one of the few professions in the US with significant state to state variation in permissible advertising. Using data from a national survey of consumers it was found that where advertising was permitted it resulted in significantly lower prices. Other studies of the time had similar findings.

⁶⁴ Bond, Ronald S., et al, "Staff Report on Effects of Restrictions on Advertising and Commercial Practice in the Professions: The Case of Optometry", Federal Trade Commission Bureau of Economics, September 1980.

Solution

- 4.21 Removal of the restrictions on advertising would make it easier for optometrists to inform potential customers in their areas of their existence and the services they provide and would allow customers to be better informed when it comes to shopping around for optometry services.

Recommendation 3:	Remove unnecessary restrictions on advertising
Details of Recommendation	Action By
(a) The Opticians Board should remove all its restrictions on advertising with the exception of prohibiting advertising which is false or misleading.	Opticians Board December 2006
(b) Following amendment of the rules of the Opticians Board in relation to advertising, the Association of Optometrists Ireland should amend its Code of Ethics accordingly.	Association of Optometrists Ireland Within six months of the Opticians Board's amendment of its advertising rules
(c) If the Opticians Board does not remove its restrictions on advertising, the Minister for Health and Children should bring forward legislation to amend the Opticians Act 1956 to limit the powers of the Opticians Board in relation to advertising. The powers of the Board should be limited to ensuring that advertising by those regulated by the Board is not false or misleading.	Minister for Health and Children June 2007

Restrictions on Business Models

- 4.22 Optometrists are not burdened by unnecessary structural restrictions on how they can operate, which are a feature of many other professions. For example, in relation to organisational form, optometrists are allowed to practice as sole traders, in partnerships, as franchise holders, as employees or as corporate bodies.
- 4.23 Optometry practices may be owned by optometrists, by corporate bodies or by individuals who are not optometrists. Regulation in this area is confined to ensuring that
- (a) the person actually offering the optometry services is qualified to do so and
 - (b) that patient records are kept so that all treatments can be traced back to the optometrist who provided them.
- 4.24 There are no limits on the numbers of optometrists who can contract with the Department of Social and Family Affairs or the Health Service Executive to supply optometry services through the State-funded schemes.
- 4.25 The absence of unnecessary restrictions has allowed optometrists the freedom to choose the most suitable practice model for their individual circumstances. For example, a newly qualified optometrist may choose to work as an employee in an optometry practice before opening his/her own practice or becoming a partner or a franchise holder. This freedom sits alongside an image of optometrists as health professionals providing a high quality of service. While no figures are available as to the numbers of complaints made to the Opticians Board or referred to the Association of Optometrists Ireland, it is understood that complaints are very unusual. The Competition Authority has itself only received one complaint relating to the provision of optometry services, the lowest number for any of the professions studied as part of the Authority's Professions Study.



section 5

5. REFORM OF REGULATORY STRUCTURES

Summary

- 5.1 While the optometry profession is in general well regulated, from the point of view of competition, it is not necessary, proportionate or transparent for a regulatory body to be run mainly by the profession being regulated.
- 5.2 The Opticians Board is almost entirely composed of members of the optometry and medical professions. In other health professions, the composition of the regulatory bodies has been amended or set up so as to represent a broader range of interests than the profession being regulated. Indeed, an emerging trend is for a *majority* of the governing body of a statutory regulatory body for a profession to be composed of non-representatives of the profession being regulated.⁶⁵
- 5.3 To be consistent with this development, the composition of the Opticians Board should be broadened. This will ensure that the profession continues to be regulated in the interests of protecting consumers from harm with regulations that are proportionate and do not unnecessarily hinder competition between optometrists.

Principles of Better Regulation

- 5.4 The Government White Paper “*Regulating Better*” sets out six principles of good regulation:
- Necessity
 - Effectiveness
 - Proportionality
 - Transparency
 - Accountability
 - Consistency.
- 5.5 These principles should be borne in mind both in the context of new regulations and in reviewing existing regulations.

Composition and Functions of the Opticians Board

- 5.6 The Opticians Board is almost entirely composed of members of the optometry and medical professions (see Chapter 2, Table 2). None of the eleven members of the Board are required to represent consumer interests. The Competition Authority is concerned that the current composition of the Opticians Board creates the potential for conflicts of interest.
- 5.7 While it is important for a regulatory body to have access to expert professional advice on its Board, the need for such advice is not so great that the majority of members must come from the profession being regulated. In line with emerging best practice in the regulation of professions in Ireland, the Competition Authority would urge an approach similar to that envisaged for the Health and Social Care Professionals Council and its associated Registration Boards,⁶⁶ which provides for a majority of the members to be outside the professions being regulated. Board members should broadly reflect the interests of consumers and of competition while also availing of the knowledge of experts in the sector.

⁶⁵ For example, the Health and Social Care Professionals Council

⁶⁶ Health and Care Social Professionals Act 2005 at www.oireachtas.ie

- 5.8 Regulatory bodies should have clear objectives, including the protection of consumers and ensuring that any regulations put in place are proportionate and do not hinder competition in the profession or market they regulate.
- 5.9 In the interests of transparency, the Opticians Board should publish its Annual Review rather than simply circulating it to those on the register as is the case at present. The review should include information on complaints received by the Board for the year in question.
- 5.10 The reconstitution of the Opticians Board to make it more broadly representative would ensure more independent regulation of the profession. Enshrining the functions of the Opticians Board in legislation would create a clear focus on consumer protection for the work of the Board. The publication of the Board's Annual Review would improve transparency in the regulation of optometrists and dispensing opticians.
- 5.11 The submissions received by the Competition Authority which considered the issue of regulatory reform were generally supportive of these proposed changes, although the Opticians Board stated in its submission that it did not consider the promotion of competition to be an appropriate function for a regulatory body in the health sector. The Board also noted the benefits of having a high level of expert content on the Board when complex issues arose.

Recommendation 4:	Set out the functions of the Opticians Board in legislation
Details of Recommendation	Action By
The Minister for Health and Children should bring forward legislation to amend the Opticians Act 1956 to: (a) Set out the functions of the Opticians Board, (b) Provide that the Board shall be obliged to publish an Annual Report within four months of the end of every calendar year; and (c) Specify that one of the functions of the Board shall be the protection of consumers, and any regulations put in place by the Board should be proportionate and should not unnecessarily hinder competition among those regulated by the Board.	Minister for Health and Children June 2007

Recommendation 5:	Change the composition of the Opticians Board
Details of Recommendation	Action By
The Minister for Health and Children should bring forward legislation to amend the composition of the Opticians Board, as set out in the Opticians Act 1956. The revised legislation should provide for an Opticians Board that is representative of a large number of interests, none of whom should be in a majority.	Minister for Health and Children June 2007



section 6

6. CONCLUSIONS

- 6.1 Overall, there are few unnecessary restrictions on competition in optometry services in Ireland. The Competition Authority has found no evidence that restrictions on competition have contributed to increasing prices for eye examinations, spectacles and contact lenses. Rather, the profession exhibits a number of pro-competitive features.
- 6.2 All appropriately qualified persons are allowed to offer optometry services, regardless of their nationality or where they were trained. This has ensured an expanding supply of optometrists in Ireland, despite a growing demand for spectacles and a limited number of training places in Ireland.
- 6.3 Informative advertising by optometrists ensures that consumers are informed of the range of optometry services available to them, where they can avail of them and at what price. This enables them to make informed choices about the care of their eyes and encourages optometrists to offer the best service they can at the lowest price.
- 6.4 Consumers can also choose the type of optometry service provider that best suits their needs from a wide range of outlet types, from a franchise-type outlet - where a number of optometrists and dispensing opticians work together, typically in a high street location - to a traditional sole trader type practice. Optometrists working in each type of business are regulated in the same way, so that consumers are assured that they are always treated by qualified professionals, and that all services can be traced back to the optometrist who provided them.
- 6.5 The Competition Authority has thus identified only a few areas where competition in optometry services is unnecessarily restricted:
 - Eye examinations for children referred from national school screening;
 - The limited number of training places for optometrists; and
 - Restrictions on canvassing and comparative advertising.
- 6.6 Optometrists are excluded from providing eye examinations to children under 16 identified as a result of health screening examinations, even though optometrists are perfectly qualified to provide these services. Medical eye disease is the cause of vision defects in the majority of younger children and this group should continue to be referred to ophthalmologists. However, in the case of older children (typically identified at school screening when leaving national school) the Competition Authority recommends that they should be referred to optometrists for eye examinations in the first instance. Allowing these children to get their State-funded eye examination from a qualified optometrist would allow for earlier detection and treatment of problems in 70% of cases, reduce the current waiting lists to see an ophthalmologist and reduce the cost of these eye examinations to the State.
- 6.7 Despite the flow of qualified optometrists into Ireland from abroad, the limited number of training places here could lead to a shortage of optometrists in the future. One report has already predicted such a shortage.⁶⁷ This situation should be reviewed by the Higher Education Authority.
- 6.8 The rules of the Opticians Board and the Association of Optometrists Ireland that forbid canvassing and comparative advertising by optometrists do not protect the public from harm. They should be removed as they unnecessarily hinder both new optometry practices trying to establish themselves and consumers trying to compare prices and the services on offer.

⁶⁷ *Healthcare Skills Monitoring Report*, Fás, August 2005.

- 6.9 Finally, the Competition Authority recommends changing the composition of the Opticians Board to include other stakeholders, and giving it the statutory function of promoting competition and consumer-focused regulation in the profession. This will bring the regulatory body into line with the principles of better regulation promoted in the Government's White Paper *Regulating Better*⁶⁸ and ensure that the profession continues to be regulated in the interests of protecting consumers from harm with regulations that are proportionate and do not hinder competition between optometrists.

⁶⁸ *Regulating Better - A Government White Paper setting out six principles of Better Regulation*, Department of an Taoiseach. See <http://www.betterregulation.ie/index.asp>

A blue-tinted photograph showing an optometrist in the foreground, partially visible from the side, using a retinoscope to examine a patient's eye. The patient is a man looking slightly upwards and to the side. The background is a solid blue color.

section 7

7. APPENDICES

Appendix 1: Submissions received in response to Preliminary Report

Association of Optometrists Ireland

Department of Health and Children

Dr Martin G Treacy

Dublin Institute of Technology

Health Service Executive

Higher Education Authority

Irish Association of Orthoptists

Irish College of Ophthalmologists

McLeish Optometrists

Opticians Board

Appendix 2: Functions of Optometrists and Dispensing Opticians

Function	Optometrists	Dispensing Opticians
Measurement and analysis of the visual function	Yes	No
Prescribing optical appliances	Yes	No
Referral of abnormal ocular conditions for medical treatment	Yes	No
Performing screening tests	Yes	No
Interpretation of prescriptions	Yes	Yes
Dispensing of optical appliances	Yes	Yes
Repair cleaning and adjustment of visual appliances	Yes	Yes
Fitting and aftercare in relation to contact lenses	Yes	Yes⁵⁹

Appendix 3: Distribution of Optometrists in Ireland at end 2005

County	Number of Optometrists
Carlow	6
Cavan	7
Clare	9
Cork	44
Donegal	19
Dublin	177
Galway	34
Kerry	19
Kildare	25
Kilkenny	10
Laois	9
Leitrim	4
Limerick	21
Longford	3
Louth	18
Mayo	22
Meath	13
Monaghan	5
Offaly	8
Roscommon	2
Sligo	16
Tipperary	17
Waterford	15
Westmeath	12
Wexford	16
Wicklow	13

Source: Competition Authority analysis of Register of Optometrists

Appendix 4: Explanatory Notes

Explanatory Note 1: Barriers to entry

Barriers to entry are direct or indirect restrictions on the ability of potential suppliers to offer their goods or services in a particular market. In professional services markets, such restrictions prevent efficient new professionals from offering further choice to buyers. Barriers to entry often serve to protect the established members of the profession from competition and the threat of competition. The resulting lack of competitive pressure can lead to serious adverse effects on consumers, as established service providers may be able to charge higher prices, offer lower quality services and offer less choice. This protection may also mean less incentive for established members of the profession to innovate and to respond to the needs of their customers with new services and new ways of delivering professional services.

Entry barriers may arise naturally, because of the peculiar aspects of a market that make it difficult to successfully offer services such as difficulties in establishing a reputation. Entry barriers may also arise directly from actions taken by existing suppliers. For example, established members of the profession may make it difficult for their customers to switch to a new provider. Regulations limiting who may offer particular professional services create direct barriers to entry.

Markets for professional services tend to have regulatory barriers to entry. It is usually claimed that these barriers prevent a potential market failure arising from a perceived inability of buyers to evaluate the professional services. It is defended as necessary to ensure that practitioners offer a high quality service due to the potential inability of buyers to distinguish between a high quality service and a low quality service.

However, such regulatory barriers can operate to deny buyers choice and protect existing suppliers from any threat of competition without correcting any market failure. In particular, quantitative entry restrictions (where there are direct limits on the number of professionals who may supply a service) are likely to limit competition severely and hurt buyers without ensuring a high-quality service is provided. Quantitative limits can occur, for example, directly through regulations limiting the number of those who can practice, or indirectly through limitations on the educational opportunities for training in the area.

Explanatory Note 2: Rivalry

To ensure that buyers benefit fully from competition regulatory rules and practices should enable suppliers to compete freely. Activities that reduce buyers' ability to make informed decisions regarding the price, quality and specifications of the service that best suits their needs hinder the competitive process. Thus, any barriers to buyers' ability to gain this type of information, such as advertising restrictions, are undesirable barriers to rivalry. Advertising that is factual and accurate informs consumers of choices available to them, reduces search costs and facilitates competition in the marketplace. In addition, advertising reduces the information asymmetry between clients and service providers i.e. advertising builds up awareness of the options available. Advertising of prices allows buyers to make meaningful comparisons between service providers.

Professionals should always be free to organise the delivery of their services in different ways and to join and establish other professional organisations that compete with existing organisations in representing their interests or administering any self-regulation required within a profession.

Another type of barrier to rivalry is high switching costs, which prevent buyers from switching easily between different service providers. For example, a buyer may be locked into a long-term contract with a certain provider which includes a penalty for opting out of the contract early.

Appendix 4: Explanatory Notes

Explanatory Note 3: Advertising and Professional Services

Advertising provides consumers with information regarding both the availability and quality of services and, therefore, helps to reduce the costs incurred by consumers in the process of selecting the appropriate professional service provider (search costs). Any increase in search costs can lead consumers to reduce the extent to which they “shop around”, thus reducing the intensity of competition in the marketplace. Therefore, so long as it is truthful and not designed to deceive, advertising plays an important role in facilitating the competitive process and benefiting consumers.

Furthermore, advertising restrictions can also work as barriers to the establishment of a new practice by a professional. For example, a professional who is setting up a new practice may be prevented from pursuing both ongoing and one-off consumers. This acts in the interests of those who are established in the profession, and have built up a reputation based on word-of-mouth, to curb the effectiveness of new entrants' promotional efforts. Thus, advertising restrictions make it unnecessarily difficult for professionals who wish to open a new practice to establish themselves and also limit innovation in the delivery of professional services. Thus, any restrictions on advertising except those preventing untruthful or misleading advertisements are likely to limit competition.

Explanatory Note 4: Rules of professional bodies

The existence of professional organisations can benefit buyers of professional services as membership of these organisations can convey useful signals regarding the quality of the service from different service providers. However, to ensure that rivalry between professionals is not diminished, especially between members of professional organisations, the rules of these organisations should meet certain criteria.

The membership criteria of professional organisations should be objective and transparent, particularly if membership provides a competitive advantage (for example, by allowing suppliers to use a reputation for high quality or by providing access to reduced rates of professional indemnity insurance). In the absence of such criteria, non-members providing equivalent services and having identical characteristics as members may be placed at a competitive disadvantage and any signal of quality that membership conveys may not be accurate.

Furthermore, the rules of any professional body should not have either the object or effect of diminishing the level of rivalry between members. Notable examples of such rules are those that attempt to specify prices, limit price competition in other ways, or prevent members from competing against each other for work. The use of broad and subjective terms, such as “unfair competition”, should also be avoided as these have the potential to be used in an anti-competitive manner.



