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# OTC *bulletin*

THE BUSINESS NEWSLETTER FOR THE CONSUMER HEALTHCARE INDUSTRY

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## Dm welcomes Austrian liberalisation proposals

German drugstore chain Dm has welcomed a report by the Austrian competition authority, the BWB, which recommends expanding the distribution of OTC drugs and loosening rules around establishing bricks-and-mortar and online pharmacies in the country.

The report – which argues, among other things, that OTC medicines should be sold in drugstores as well as pharmacies – gave a “tailwind”, Dm said, to its campaign to open up the Austrian OTC market.

For years, Germany-based Dm has been campaigning to be able to sell OTC medicines in its 393 drugstores in Austria, bringing two unsuccessful cases to the country's constitutional court to overturn the pharmacy-only status of such medicines.

Dm announced recently that it intended to try again this summer. However, with the release of the BWB report, the firm pointed out that it might no longer need to.

“We assume that the federal government will take up these recommendations without the need for a decision of the constitutional judges,” commented Harald Bauer, Dm's managing director.

Authorised to conduct investigations into industries “where circumstances indicate that competition is restricted or distorted”, the BWB explained that “after receiving numerous complaints”, it launched an inquiry into the Austrian healthcare sector last year.

The BWB decided to look first at the country's pharmacy market, which was identified as “a part of the healthcare sector

that should be subject to closer scrutiny”.

The results of this first stage were published last month, in a report entitled ‘The Austrian Pharmacy Market’.

Because drugstores “already have certain overlaps in their product ranges [with pharmacies]” and could implement the required safety standards and access to expert advice “relatively easily”, the report concluded, the pharmacy-only restriction on OTC medicines should be relaxed to include these retail outlets.

However, full liberalisation – which would see OTC drugs also sold in supermarkets and service stations – was not recommended, with the report claiming that many OTC drugs were “not suitable” for such a “broad, unfiltered delivery”.

Partial liberalisation, on the other hand, was in the public interest, the BWB argued, as it would introduce competition into the OTC market by improving access to medicines, making retailers more price-focused, and driving up the quality of consultation services.

Austrian industry association, IGEPHA, told *OTC bulletin* that if liberalisation was to occur, maintaining in drugstores the same “high quality” of consulting services as that offered by trained pharmacy staff needed be a priority.

“With sales of non-prescription drugs, the option of professional consultation must be offered in order to answer questions regarding the correct application and use of the products,” commented IGEPHA's managing director, Christina Nageler.

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## Dm welcomes Austrian liberalisation

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Jürgen Rehak, president of the Austrian Chamber of Pharmacists, echoed Nageler's concerns, pointing out that medicines were not consumer goods.

"Every medicine has undesirable side-effects", he warned. "Only through competent advice can negative side-effects and interactions be kept at a low frequency."

"Pharmacists are legally obliged to offer this consulting service, even if medications are distributed online," he added, concluding that "in the interests of patient safety, commercial, unqualified sales channels for OTC products should be rejected".

In addition to extending distribution of OTC medicines, the BWB report also recommended the repeal or "significant redesign" of the 'needs test' applied to proposals for new pharmacies.

The Federal Office for Safety in Healthcare, the BASG, requires a new pharmacy to be at least 500 metres away from the nearest existing pharmacy, and that it should have the potential to serve a population of at least 5,500 people that cannot access an existing pharmacy.

These restrictions gave incumbent pharmacies a "monopolistic position" in the Austrian pharmaceuticals market, the BWB claimed, as they could "operate essentially free from competitive pressure".

Deregulation of market entry would increase the number of pharmacies, the BWB insisted, meaning that consumers would have "better access to medicines and shorter waiting times".

Although initially more pharmacies would be established in highly populated urban areas, the BWB predicted, as these areas promised "high rates of profit", once urban markets had become "saturated", pharmacies not needed by local populations would "leave the market again".

Furthermore, once such a "market shake-out" had taken place in "favourable regions", the BWB added, pharmacies would also be established in peripheral locations not associated with such high rates of profit, for example in rural areas.

Responding to this recommendation, IGEPHA said that whatever was decided, the "optimal supply" of medicines across all regions should be the main concern for policy makers.

"Sparsely populated rural areas need a focal point for advice and services regarding OTC products," argued Nageler, "as well as with everyday health issues."

By contrast, the Austrian Chamber of Pharmacists has been vocal in its opposition to the deregulation of the Austrian pharmacy market.

Last year, the association commissioned a study from the Institute for Advanced Studies in Vienna, which compared the effects of deregulation in 10 European countries, including Germany, France and the UK.

### Benefits failed to emerge

Commenting on the results of the study, the association said that it showed that the benefits of deregulation for consumers "did not materialise".

"It was found that pharmacies and other OTC outlets, after being liberalised, settled mainly in agglomerations," the Chamber explained, "while rural areas were negatively affected by emigration."

Over-regulation of the Austrian online pharmacy channel was also a target for BWB, which proposed in its report that Austrian online pharmacies should in future not be required to be linked to a bricks-and-mortar pharmacy in the country.

Before 2014, distance selling of OTC products by pharmacies based in Austria was prohibited, allowing online pharmacies based outside of Austria to take the initiative in the market.

Once the ban was overturned, Austrian pharmacists remained hamstrung by the requirement to be linked to a physical store.

"Abolishing [the requirement to be linked to a bricks-and-mortar pharmacy] while maintaining the necessary levels of safety would stimulate competition between Austrian pharmacies," the BWB argued, "leading to lower prices and better quality of service for consumers."

"Competition between Austrian and foreign mail-order pharmacies would also be promoted," it added, "further increasing the competitiveness of Austrian pharmacies."

Nageler said that IGEPHA had consistently demanded "full equality between Austrian and foreign mail-order pharmacies".

"Due to strict regulations on the pricing of medicines in Austria," she continued, "as well as a prohibition on the promotion of medicines through discounts, Austrian mail-order pharmacies suffer from a competitive disadvantage."

As long as online pharmacies met the "necessary safety and quality regulations related to procurement, storage and distribution", IGEPHA would welcome the proposals, Nageler confirmed. **OTC**

*Regulatory Affairs*

## PAGB defends OTC painkillers

The Proprietary Association of Great Britain (PAGB) has defended the use of OTC painkillers following media stories attacking the price of OTC branded pain relief and warning of the dangers of codeine addiction.

Defending the industry from accusations in the *Daily Express* newspaper that branded OTC manufacturers were charging too much for their pain-relief products when generic versions were much cheaper and offered the same relief, John Smith, the PAGB's chief executive pointed out that in the UK, there was a "wide range of OTC medicines, both branded and generic, available" to ensure people were able to choose a medicine, which suited "their needs and their budget".

The majority of branded medicines on the market in the UK were different to the generic equivalents, he insisted, offering benefits to people such as a "fast dissolving coating so the medicine works faster, a slow release formula so the symptom relief lasts longer, improved taste or easy to swallow formulations".

"Branded OTC medicines enjoy a long-standing heritage of trust and manufacturers invest heavily in years of research and new product development, often being the first to bring new medicines to market," Smith continued, "and while 20 years may be the standard length of patent for prescription medicines, this is not the case with OTC products, in fact it is exceedingly rare for new OTC medicines to have any form of protection on entry to the market."

"Other companies are then free to make their own versions," he explained, "and as they don't bear the original development costs they can sell it at a lower price."

Meanwhile, responding to a story in the *Daily Mail* newspaper featuring the story of a woman who became dependent on codeine-based medicines for over 15 years, the PAGB pointed out that OTC products containing codeine were "appropriately safe and effective, if used in accordance with the instructions on the pack and patient information leaflet inside".

"If people adhere to the warnings and instructions on the packs and do not take the product for more than three days," it insisted, "there is no risk of addiction." **OTC**