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Our ref: IM-72476

Contact: SigmaCWG@acc.gov.au

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Dear Interested Party

Request for submissions: Proposed merger of Sigma and Chemist Warehouse

The Australian Competition and Consumer Commission (**ACCC**) is seeking your views on the proposed merger of Sigma Healthcare Limited (**Sigma**) and CW Group Holdings Limited (**Chemist Warehouse**) (the **proposed merger**).

Chemist Warehouse and Sigma both operate in the pharmacy supply chain, including as wholesalers, distributors and franchisors for a large number of community pharmacies. Further details are provided at **Attachment A**.

The ACCC's investigation is focused on the impact of the proposed merger on competition. In particular, we are seeking your views on:

- how closely Chemist Warehouse's and Sigma's franchised community pharmacies compete and the likely impact of the proposed merger on retail prices and service quality
- how closely Chemist Warehouse and Sigma compete to supply brand and support services to community pharmacies
- the likely impact of the proposed merger on the wholesaling and distribution of products from manufacturers and to community pharmacies.

Further issues you may wish to address are set out in **Attachment B**.

This matter is public and you can forward this letter to anybody who may be interested.

The legal test which the ACCC applies in considering the proposed acquisition is in section 50 of the *Competition and Consumer Act 2010*. Section 50 prohibits acquisitions that are likely to have the effect of substantially lessening competition in a market.

Please provide your response by no later than Thursday 28 March 2024. Responses may be emailed to SigmaCWG@acc.gov.au with the title: *Submission re: Sigma / Chemist Warehouse - attention Isobel Graham*.

If you would like to arrange a time to discuss the matter with ACCC officers, or have any questions about this letter, please email SigmaCWG@accc.gov.au with your contact details and an ACCC officer will be in touch.

Updates regarding the ACCC's investigation will be available on the ACCC's Public Mergers Register at ([ACCC mergers register](#)).

Consultation hub for community pharmacy operators

If you operate a community pharmacy you can also let us know your views through a survey, which will be available on our [consultation hub](#) shortly.

Confidentiality of submissions

The ACCC treats sensitive information it receives during a merger review as confidential, and will not publish your submission. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with s155AAA of the Competition and Consumer Act 2010. Where the ACCC is required to disclose confidential information, we will notify you in advance where possible so that you have an opportunity to be heard. Therefore please clearly indicate if any information you provide is confidential. Our [Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

Yours sincerely



Bruce Mikkelsen
General Manager (acting)
Merger Investigations

Attachment A

Industry overview

Sigma and Chemist Warehouse are both participants in the pharmacy industry. **Figure 1** below provides an overview of the supply chain of the retail pharmacy industry in which the parties operate (excluding pharmaceutical supply through Hospitals).

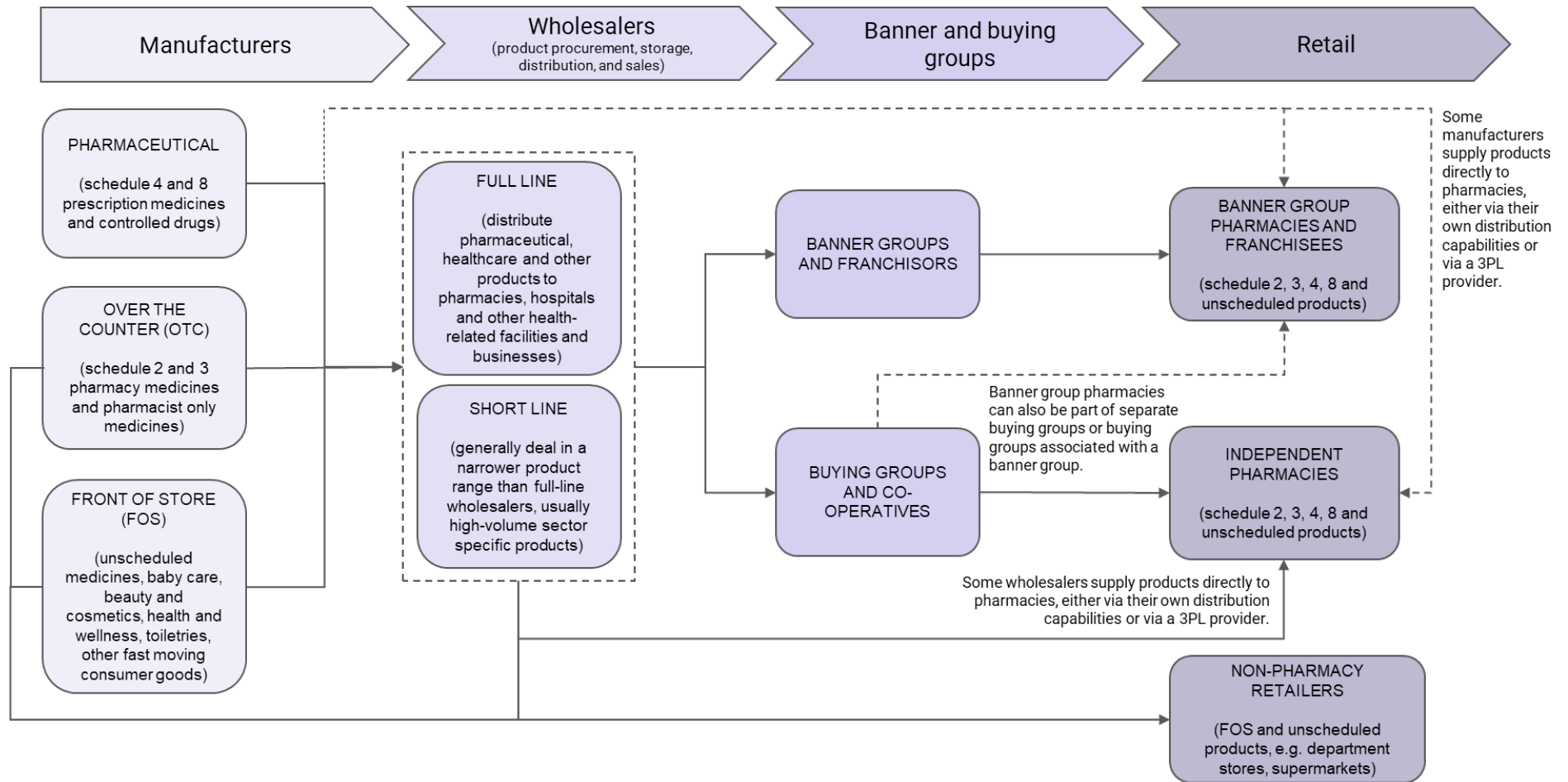


Figure 1: Diagrammatic overview of the pharmacy industry in Australia

Sigma

Sigma is a publicly listed Australian company with pharmacy wholesale, distribution and retail pharmacy franchisor operations. Figure 2 below illustrates Sigma's core operations.

Sigma is a 'full-line' wholesaler and distributor of prescription medicines, 'over the counter' (OTC) and 'front of store' (FOS) products to over 4,000 community pharmacies nationwide, including pharmacies within and outside its franchise network. Sigma's wholesale operations are supported by 9 distribution centres across Australia. Sigma also uses its wholesale distribution network to provide third party logistics services, primarily to pharmaceutical manufacturers.

Sigma also owns a number of pharmacy 'banner' group brands and is a franchisor of around 400 pharmacies under the brands Amcal, Discount Drug Store, PharmaSave, and Guardian.

Sigma supplies private label products (including prescription medicines, over the counter and front of shop products) to pharmacies, including independent pharmacies, primarily under the brands PharmacyCare and Beauty Theory, and to its Amcal franchisees under the brand Amcal Plus.

Sigma owns and operates MPS Connect Pty Ltd which offers medication packing services and management solutions to pharmacies and aged care providers. Sigma holds 51% of the shares in NostraData Pty Ltd which supplies technology and data analytics solutions to pharmacies, wholesalers and manufacturers.

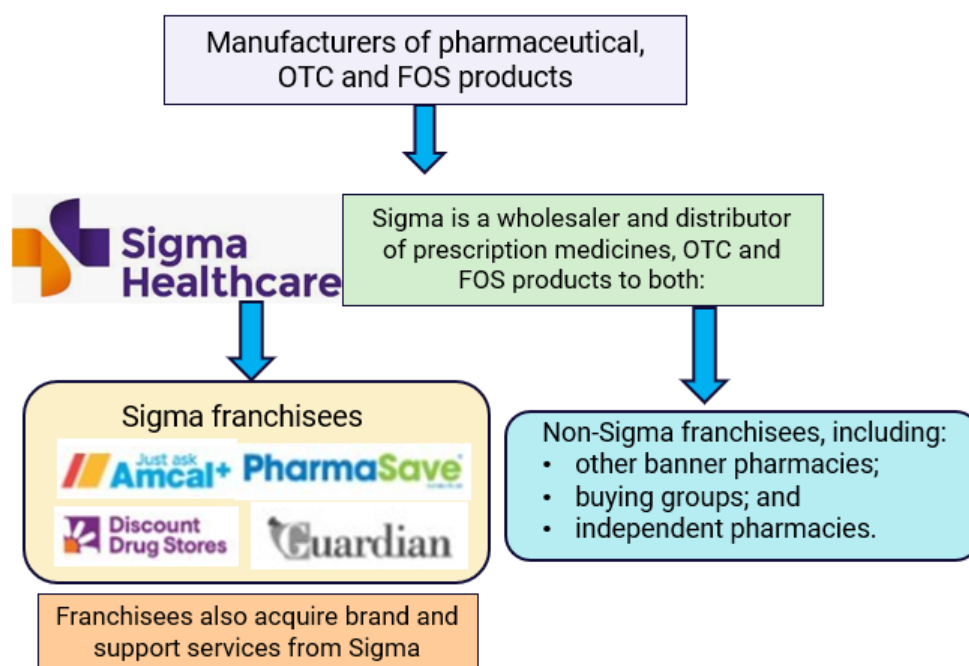


Figure 2: Overview of Sigma's core operations

Chemist Warehouse Group

Chemist Warehouse is an unlisted Australian public company. It is a franchisor of around 600 pharmacies operating under the Chemist Warehouse and My Chemist brands and has retail operations under the brands Chemist Warehouse, My Chemist, Ultra Beauty, My Beauty Spot, and Optometrist Warehouse and provides services to My Beauty Spot (a perfume kiosk located within major shopping centres). Figure 3 below illustrates Chemist Warehouse's operations.

Chemist Warehouse operates 6 distribution centres to support the distribution of front of store and over the counter products to its franchisees. Chemist Warehouse currently obtains wholesale supply of certain front of store products from Sigma and prescription medicines from EBOS. Chemist Warehouse has signed a contract with Sigma for the wholesale supply of prescription, over the counter and front of shop products for a 5-year period commencing 1 July 2024.

Chemist Warehouse also owns private label product brands which it sells online and supplies to its franchisees. These include Wagner, Bambi Mini, Barely, Bondi Protein Co, Inc, and Goat.

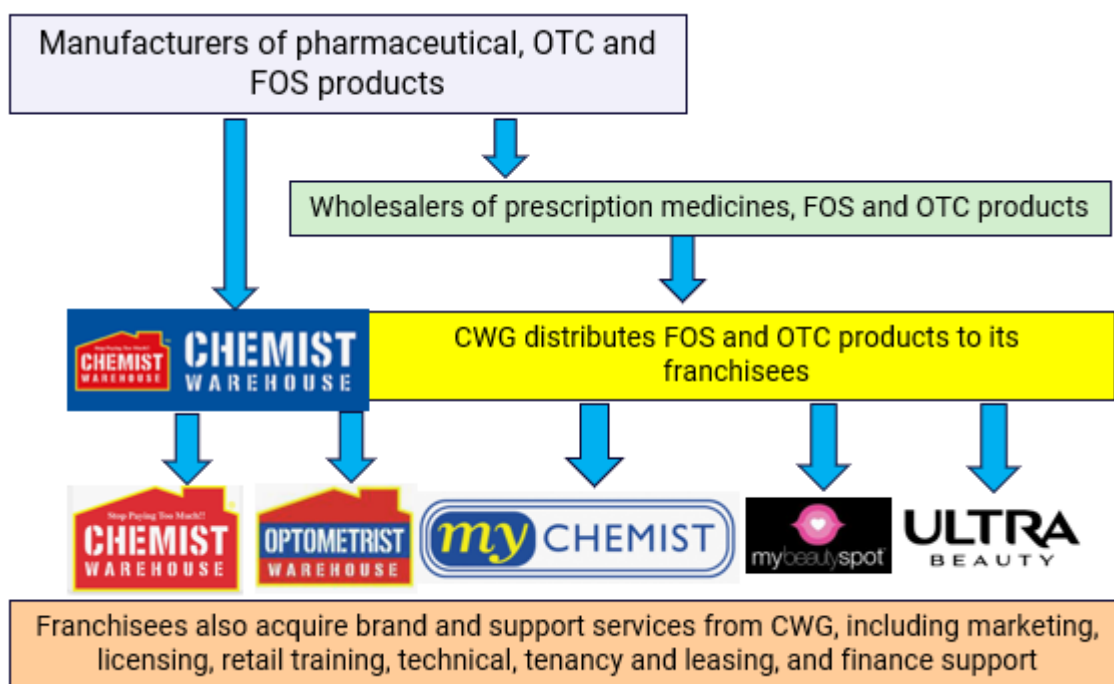


Figure 3: Overview of Chemist Warehouse's operations

The proposed merger

On 11 December 2023, Sigma and Chemist Warehouse entered into a merger implementation agreement under which Sigma would acquire all of the shares in Chemist Warehouse in exchange for Sigma shares and a \$700 million cash consideration.

Upon completion of the proposed merger, Chemist Warehouse shareholders will hold 85.75% of the ASX listed merged entity while Sigma shareholders will hold 14.25%.

Figure 4 below shows the operation and brands of the merger parties in the context of the pharmacy supply chain:

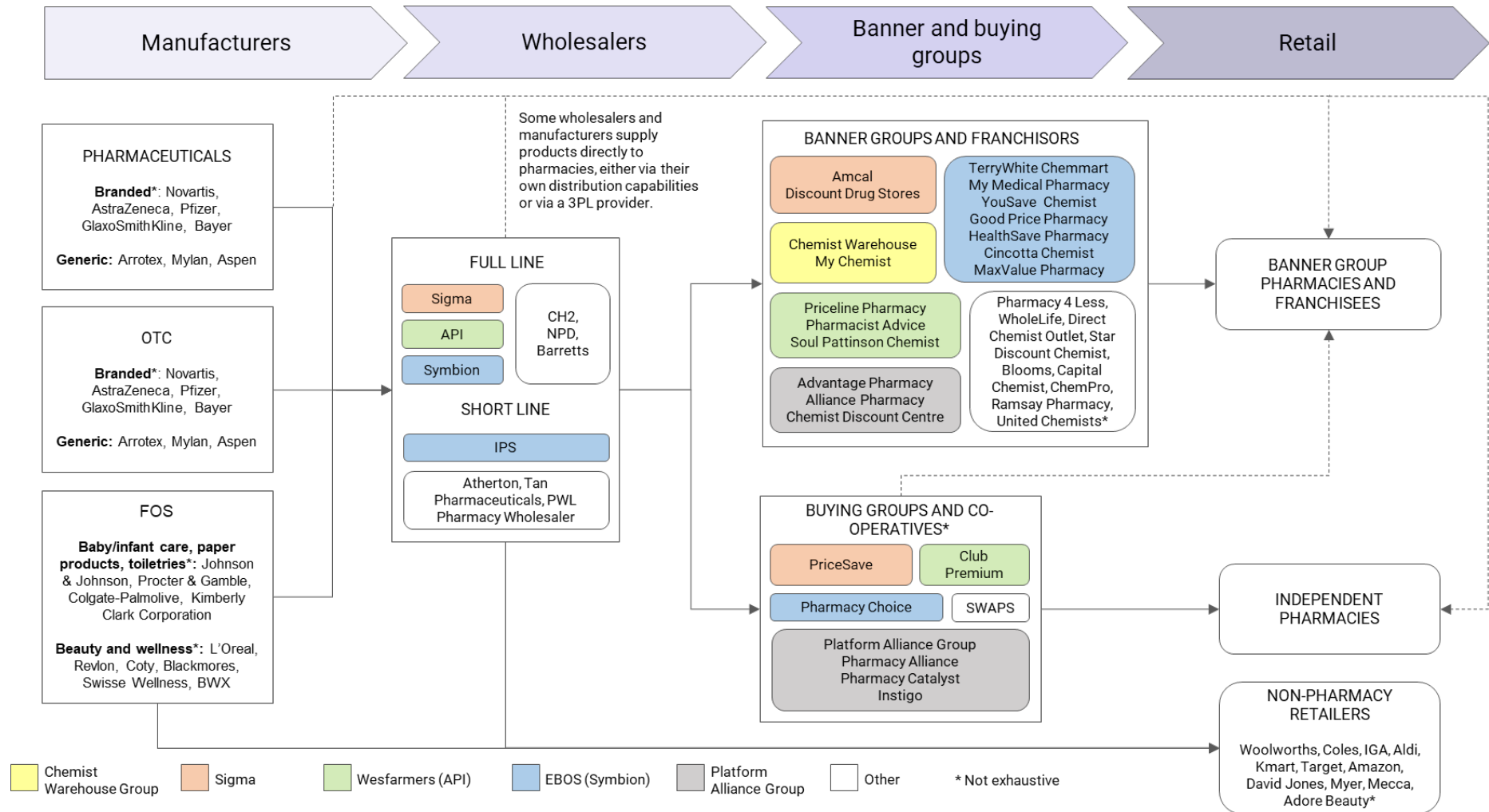


Figure 4 – the parties operations in the retail pharmacy supply chain

Attachment B

If you operate a community pharmacy you can also let us know your views through a survey, which will be available on our [consultation hub](#) soon.

1. Please provide a brief description of your organisation, and the reasons for your interest in the proposed merger, including any commercial relationship/s with Sigma and/or Chemist Warehouse. This will help us to better understand your views.

Community pharmacies

2. Who are your/the main competitors in the retail pharmacy market? Please estimate market shares where possible.
3. How closely do Sigma and Chemist Warehouse compete in the retail pharmacy market, particularly Chemist Warehouse and Amcal stores?
4. How do pharmacies attract customers, and how important are the following factors:
 - a. price
 - b. location
 - c. service quality
 - d. range of products (including stocks of cosmetics, perfumes, etc.)
 - e. advice
 - f. loyalty programs
 - g. opening hours
 - h. discounts / promotions
5. Do you consider the proposed merger is likely to affect retail pharmacy service standards and prices?
6. Will current regulations (e.g. pharmacy ownership rules, pharmacy location regulations) have an impact on competition between community pharmacies including barriers to entering the market (i.e. opening a new store)?
7. Describe how you acquire wholesale pharmacy products, including typical contractual arrangements (e.g. contract nature and duration), and how regularly you acquire from multiple wholesale supplier.
8. Do you acquire any products directly from manufacturers? What barriers are there to doing so?
9. What impact do you consider the proposed merger is likely to have on your arrangements with wholesalers and/or banner/buying groups? Why?

Banner, buying groups and franchise arrangements

10. Are you a franchisee or member of any banner and/or buying groups? If so, please describe this relationship, including:
 - a. how much you value your franchise, banner or buying group arrangement
 - b. how many options there are for these services
 - c. any incentives to purchase stock through the group
 - d. how common it is to purchase stock outside of the group
 - e. the extent to which pharmacies follow recommendations within the group in relation to product pricing, promotions, placement, marketing

- f. the extent to which pharmacies in the same group compete with each other.
11. Have you ever switched from one franchise, banner or buying group to another? Are there barriers to doing so?

Wholesale and distribution

12. How competitive is the wholesaling and distribution of the below in Australia:
- a. prescription medicines
 - b. OTC products and
 - c. FOS products
13. Who are the main competitors in the wholesale pharmacy market? Please estimate market shares where possible.
14. Describe how community pharmacies enter into supply arrangements with wholesalers, including typical contractual arrangements (e.g. contract nature and duration, and incentives and discounts offered). Describe any differences between arrangements with pharmacies that are and are not part of franchise, banner or buying groups.
15. Describe how retail pharmacies order products from wholesalers. Describe any differences between arrangements with pharmacies that are and are not part of franchise, banner or buying groups.
16. For wholesalers and manufacturers: Describe how wholesalers enter into supply arrangements with manufacturers, including typical contractual arrangements (e.g. contract nature and duration, and discounts offered). Does this differ for own label products?
17. For wholesalers: To what extent do you have wholesale and/or distribution capacity available to supply new pharmacy customers?
18. For wholesalers: What impact do relevant regulations including the Community Service Obligation have on your business and competition between suppliers? Does this differ for prescription medicines, OTC and FOS products?
19. Do you consider that the proposed merger will impact the incentives for Sigma and Chemist Warehouse to supply and distribute retail pharmaceutical products to retail pharmacies? Please explain how.
20. Would the proposed merger have any impact on the volume of products ordered by Sigma and/or Chemist Warehouse, or the prices Sigma and/or Chemist Warehouse would be willing to pay for your products?

Manufacturing

21. Do manufacturers usually supply any products directly to community pharmacies? Are there any barriers to doing so?
22. Do many manufacturers utilise third party distribution to supply products to community pharmacies? If so how easy are these distribution services to access?

23. Describe any differences in how manufacturers products tend to compete with wholesalers' and/or pharmacies' private label products and non-private label products.
24. Would the proposed merger result in any significant impact on the terms or conditions of your supply arrangements with Sigma and/or Chemist Warehouse for these kinds of products?

Other areas

25. Would the proposed merger affect medication packing services and medication management solutions?
26. Would the proposed merger affect the provision of optometrist services?
27. Would the proposed merger affect the provision of technology and data analytical solutions to pharmacies?

Other information or competition concerns

28. Provide any additional information or comments, or identify other competition issues, that you consider relevant to the ACCC's consideration of the proposed merger.