



# MEDIA RELEASE

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## **Sigma and Chemist Warehouse proposed merger not opposed, subject to undertaking**

The ACCC will not oppose the Sigma Healthcare Limited (ASX: SIG) and CW Group Holdings Limited (Chemist Warehouse) merger after accepting a court-enforceable undertaking from Sigma.

Sigma is a pharmacy wholesaler of prescription medicines, over the counter and front of store products. Sigma is also a franchisor of pharmacies under banners including 'Amcal +' and 'Discount Drug Store'.

Chemist Warehouse is a pharmacy franchisor and distributor to its own pharmacies and retail stores under the brands 'Chemist Warehouse', 'MyChemist', 'Ultra Beauty', 'My Beauty Spot' and 'Optometrist Warehouse'.

"The ACCC found that, with the undertaking, the proposed merger is unlikely to substantially lessen competition. There is and will continue to be effective competition at all levels of the pharmacy supply chain, capable of constraining a combined Sigma Chemist Warehouse," ACCC Chair Gina Cass-Gottlieb said.

"The ACCC's analysis found that the proposed merger is unlikely to substantially lessen competition nationally or locally because other pharmacies and non-pharmacy retailers will continue to compete to the same extent they compete now."

"Consumers value different aspects of Sigma's and Chemist Warehouse's banner pharmacies' offerings. Importantly, consumers will continue to have choice between smaller format stores offering personalised services to consumers and the Chemist Warehouse offering, focussed on larger format discount stores and front-of-store offerings," Ms Cass-Gottlieb said.

For reasons including changes to the pharmacy regulatory environment, the ACCC also found that a combined Sigma Chemist Warehouse is unlikely able to influence Sigma banner pharmacies to the same extent Chemist Warehouse influences its current franchisees. Sigma franchisees are expected to continue to make their own individual commercial decisions.

"Critical to our conclusion that a substantial lessening of competition is unlikely is the competitive constraint provided by competing wholesalers including API, EBOS, and CH2," Ms Cass-Gottlieb said.

EBOS and API are large national wholesalers supplying full product lines, and CH2 is a smaller wholesaler that supplies both community pharmacies and the hospital sector. Each of these wholesalers has agreements with the Commonwealth Government to distribute PBS medicines as well as spare capacity to supply new retail pharmacy customers.

The ACCC's investigation found that these wholesalers have actively competed for new pharmacy customers and retail pharmacies have switched between wholesalers. The undertaking given by Sigma will ensure that pharmacies currently engaged in longer term contracts with Sigma will also be able to readily switch wholesalers should they choose to do so, strengthening the competitive constraint of these alternative wholesale supply options.

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The ACCC therefore formed the view that a combined Sigma Chemist Warehouse will be unable to foreclose downstream pharmacies that compete with Chemist Warehouse franchisees.

“We also gave careful focus to the question of overall competition in pharmacy retailing and concluded that the transaction is unlikely to result in a substantial lessening of competition in any market,” Ms Cass-Gottlieb said.

“There are numerous pharmacy retailers that will continue to provide meaningful and ongoing competition to Chemist Warehouse and Sigma’s banner pharmacies as well as non-pharmacy retailers that sell front-of-store products and some over-the-counter products. The leading supermarkets are key providers of such products and will continue to provide strong competition.”

For prescription medicines, pricing will also continue to be regulated by the Australian Government’s Pharmaceutical Benefits Scheme.

As part of its review, the ACCC also considered whether the acquisition would impact the supply of pharmacy retail products, including generic medicines.

The ACCC found that there were multiple channels available to suppliers and manufacturers of these products to reach consumers, including through alternative wholesalers and direct to pharmacy arrangements. For products other than PBS medicines, non-pharmacy retailers were also key alternatives.

“We received many submissions from pharmacists and other market participants expressing concerns about this transaction,” Ms Cass-Gottlieb said.

“We reviewed the transaction very closely to test these concerns and conducted detailed analysis of Chemist Warehouse and Sigma’s internal documents.”

“The evidence gathered, augmented by the undertaking given by Sigma, led us to conclude that a substantial lessening of competition is unlikely,” Ms Cass-Gottlieb said.

Evidence shows that retail pharmacies do not face significant barriers to switching and pharmacy customers do switch wholesalers, although concerns remained for pharmacy customers in longer term wholesale and/or franchise agreements with Sigma.

“To help ensure those pharmacies in longer term contracts are able to switch easily to a new wholesaler or banner group, we accepted an undertaking that requires Sigma not to enforce contractual restrictions on exit and ensures payments under contracts do not make it costly for a pharmacy to switch,” Ms Cass-Gottlieb said.

The enforceable undertaking also requires Sigma to safeguard and delete the data of those pharmacies that choose to switch and to require the merged Sigma Chemist Warehouse to continue as a pharmaceutical wholesaler under the Commonwealth Government’s Community Service Obligation (CSO) arrangements for five years.

“The ability of pharmacies to readily exit their existing agreements with Sigma will maintain and enhance the ability of alternative wholesalers to constrain the merged entity,” Ms Cass-Gottlieb said.

More information, including the undertaking can be found on the ACCC’s public register here: [Sigma Healthcare - Chemist Warehouse Group](#)

#### **Notes to editors**

In considering the proposed merger, the ACCC applies the legal test set out in section 50 of the Competition and Consumer Act.

In general terms, section 50 prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in any market.

## Background

On 11 December 2023, Sigma and Chemist Warehouse entered into a merger implementation agreement under which Sigma would acquire all 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%. The transaction is in effect a reverse acquisition of Sigma by Chemist Warehouse.

## Sigma

Sigma is an ASX-listed wholesaler and distributor of prescription medicines (including Pharmaceutical Benefits Scheme (PBS) prescriptions), over the counter (OTC) and front of store (FOS) products to over 4,000 community pharmacies nationally.

Sigma's core business activities include:

1. full-line wholesale and distribution of prescription medicines, OTC products and FOS products to both its franchisees and independent pharmacies
2. providing brand and support services to almost 400 community pharmacies operating as franchisees under Sigma banners:
3. operating a buying group – the PriceSave program – for approximately 445 independent pharmacies
4. supplying private label products under the brands 'Pharmacy Care', 'Beauty Theory' and 'Amcal Plus'.

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

## Chemist Warehouse

Chemist Warehouse is an unlisted Australian public company. It is a franchisor to approximately 600 pharmacies and retail stores under the following banners: Chemist Warehouse, MyChemist, Ultra Beauty, My Beauty Spot, and Optometrist Warehouse. Approximately 550 of these are Chemist Warehouse and MyChemist pharmacies.

Chemist Warehouse executives also have direct ownership interests in a large number of Chemist Warehouse pharmacy stores.

Chemist Warehouse provides brand and support services to its franchisee pharmacies, including but not limited to:

1. media, advertising, marketing, licensing and financial support services
2. supply of FOS and OTC products including Chemist Warehouse Group owned, private label and exclusive consumer brands
3. support services such as negotiating supply terms on behalf of franchisees with suppliers and manufacturers to distribute FOS and OTC products.

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.

Chemist Warehouse operates six distribution centres to support the distribution of FOS and OTC products to its franchisees. Chemist Warehouse currently obtains wholesale supply of certain FOS products from Sigma.

## Commonwealth Government's Community Service Obligations (CSO)

Some pharmaceutical wholesalers have entered into agreements with the Commonwealth Government to distribute PBS medicines. To receive funding under these agreements,

wholesalers must meet a set of obligations including service standards and compliance requirements. These obligations are directed to ensuring that Australians have timely access to PBS medicines regardless of where they live. They include requiring wholesalers to ensure PBS listed medicines are supplied to any pharmacy nationally generally within 24 hours (including rural and remote communities) and guarantee supply of low volume PBS listed medicines.

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