ABSTRACT. The regulation of pharmacists in Belgium and the Netherlands is analysed in order to test the rent-seeking hypothesis put forward in the private interest literature. Both the self-regulation issued by the professional bodies and public regulations are examined. It appears that many regulations in both countries either restrict the entry into the profession or restrict competition within the profession. A qualitative comparative analysis of these regulations in both countries is presented as well as some empirical findings. The economic analysis and the empirical data seem to give some support to the rent-seeking hypothesis.

Many professions such as lawyers, architects, and doctors are subject to self-regulation by public professional bodies. This self-regulation may on the one hand restrict entry into the profession and limit competition within the profession, while on the other hand it may improve the quality of professional services. It merits a careful analysis whether the regulations by and of the professions can be considered to be “in the public interest” or predominantly serve private goals.

In this paper we select as a case study the market for (community) pharmacists. We present the first results from a comparative law and economics analysis of the regulation of pharmacists in two countries, viz., the Netherlands and Belgium. The central question in our research is the following: To what extent can the regulation of the pharmaceutical market in these countries be explained as a result of rent-seeking behaviour by pharmacists or other interest groups? In addition we are interested in the success of the rent seeking (if any). Therefore we would like to investigate whether differences in regulation between the two countries might – to some extent – explain the effectiveness of the rent seeking by pharmacists. Hence our paper fits both into the public choice tradition and into the (rather recent) comparative law and economics approach (for an extensive discussion of the public interest and private interest theories within this litera-
The reason we have chosen Belgium and the Netherlands for our analysis is that, although it concerns two neighbouring countries, the regulation and the number of pharmacists are very different. Hence, it is particularly interesting to compare these two regimes within a comparative law and economics approach. It will allow us to examine whether the difference in the market structure of pharmacies in the two countries is related to the varying scope of the regulation. Moreover, it is interesting to focus on these two – rather different – legal regimes since similar approaches towards the regulation of pharmacies can be found in other European legal systems as well. Hence, we expect that the findings have some relevance also outside the Belgian-Dutch context.

We should make it clear from the outset that the analysis in this paper is limited to certain aspects of the regulation of pharmacies. We do not examine price levels of pharmaceuticals in Belgium and the Netherlands, for example, and the influence of health insurers is only briefly addressed. These elements can be included in subsequent research.

The paper is structured as follows. First we provide an overview of the regulation of the pharmaceutical market in the Netherlands and Belgium. Both the self-regulation and the rules issued by public authorities that restrict (or may restrict) entry into or competition within the profession will be considered. Specifically, we look at the following potential restrictions of competition: professional ethics and rules of conduct issued by the professional body of pharmacists; registration and title protection; regulation of the establishment of new pharmacies; and rules on advertising and tariffs. To keep the paper within reasonable limits we will obviously have to focus on the most important features of these very extensive regulations. In the second part of the paper we will present the results from a qualitative comparative analysis of the regulation of pharmacists in the two countries, in the light of the economic approaches of the public and the private interest. We also give the first results from an empirical analysis of the number of pharmacists and the income of pharmacists in the Netherlands and Belgium. In the final section some concluding remarks and suggestions for further research are presented.