

Rt Hon Sajid Javid MP
Secretary of State for Health and Social Care
Department for Health and Social Care
39 Victoria Street
London
SW1H 0EU

From: Andrea Coscelli CBE
Chief Executive

Direct line:

8 September 2021

Dear Secretary of State,

COVID-19 – PCR Travel Tests

Thank you once again for your support and close interest in ensuring that the market for PCR travel tests is working effectively.

The attached report summarises the CMA's findings on this important issue. The advice and recommendations in our report build on the advice that we sent on 13 August in response to your letter of 6 August; and on the earlier advice that we shared with officials in April and May.

As well as providing advice to Government, the CMA is determined to use its own enforcement powers to protect consumers directly. Our open letter to PCR test providers on 25 August put them on notice that breaching consumer law risks enforcement action by the CMA or Trading Standards Services. On 3 September we commenced an enforcement case against *Expert Medicals* in respect of several possible consumer law breaches. At the same time, we issued letters to a further 19 test providers warning them to improve their pricing information or risk enforcement action.

Our review finds that competition alone will not deliver the right outcomes for consumers from the PCR testing market, even when backed by *ex post* enforcement of consumer law. A combination of *ex ante* regulation and ongoing monitoring and enforcement is also needed. The eight recommendations below advise on actions the Government could take to address the concerns we have identified.

- **Recommendation A:** DHSC should enhance the basic rules and requirements to which retail test providers must adhere, as a pre-condition to getting on and remaining on the GOV.UK list. Non-compliance with these

rules and regulations (which should include compliance with consumer law) should be grounds for DHSC to remove a test provider.

- **Recommendation B:** DHSC should ensure a comprehensive monitoring and enforcement programme for retail test providers is set up, with appropriate sanctions.
- **Recommendation C:** DHSC should ensure that it has robust quality monitoring procedures in place to assure the accuracy of test results.
- **Recommendation D:** DHSC should develop the NHS Test and Trace PCR travel test currently listed on GOV.UK and use it to establish a 'benchmark' product to drive better market outcomes.
- **Recommendation E:** We do not recommend that DHSC introduces a price cap at this stage. Instead, DHSC should monitor and gather evidence on price levels and costs on an ongoing basis. DHSC should be prepared to re-evaluate this position if other measures it decides to take do not improve market outcomes.
- **Recommendation F:** DHSC should improve the retail test provider listings on GOV.UK so that consumers can more easily search for, obtain and act on the information they need.
- **Recommendation G:** Subject to any legal restrictions, DHSC should make data on retail providers available, for example, through an open Application Programming Interface (API).
- **Recommendation H:** DHSC should work with HMRC to provide guidance to retail test providers on how VAT should be applied.

We stand ready to work with your officials, as we did during the course of this review, to help them produce advice and guidance for providers to ensure they understand their obligations under consumer law and the steps they need to take to avoid the risk of enforcement action. We are also ready to assist in taking forward the recommendations you choose to pursue, on issues where the CMA has relevant expertise.

Best regards,

Andrea Coscelli CBE
Chief Executive