

## Product markets

### Introduction

1. This appendix sets out our analysis and main results to date in relation to product markets for both hospital and consultant services. The Annex to this Appendix provides a detailed description of the methodology and results of our analyses to date. The results of this analysis provide a framework for the assessment of competitive constraints, in terms of the set of medical treatments and relevant competitors which our analysis has largely focused on to date.

### Aggregation of medical treatments

2. As set out in the *CC Draft Market Guidelines* (June 2012)<sup>1</sup> and in the *CC/OFT Merger Guidelines*,<sup>2</sup> we first look at evidence on demand-side substitution across medical treatments. We then consider whether medical treatments, which are not substituted on the demand side, may be aggregated together on the basis of supply-side substitution and the similarity of the set of competitors active across medical treatments. We consider, in particular, the following clusters of medical treatments: (a) inpatient, day-patient, outpatient care; and (b) specialties.
3. Our analysis to date shows that:
  - (a) Demand-side substitution by patients across different medical treatments, if any, appears to be very limited.
  - (b) In the provision of consultant services, there is little, if any, supply-side substitution across specialties, but there is some degree of supply-side substitution across treatments within the same specialty.
  - (c) In the provision of hospital services:
    - (i) There is a degree of supply-side substitution, especially for more routine treatments that do not require highly specialized equipment and staff, both within and across specialties. Supply-side substitution across inpatient, day-patient and outpatient care is feasible for hospitals with overnight capacity, but not for day-patient/outpatient-only clinics (ie asymmetric constraints appear to exist).
    - (ii) Focusing on the 215 general private hospitals and PPUs which provide inpatient care,<sup>3</sup> 16 specialties<sup>4</sup> are offered by 80 per cent or more of these hospitals and PPUs. These 16 specialties account for 86 per cent of all

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<sup>1</sup> See paragraphs 134 & 150:

[www.competition-commission.org.uk/assets/competitioncommission/docs/2012/consultations/market\\_guidelines\\_main\\_text.pdf](http://www.competition-commission.org.uk/assets/competitioncommission/docs/2012/consultations/market_guidelines_main_text.pdf).

<sup>2</sup> See paragraphs 5.2.7 & 5.2.17.

<sup>3</sup> Including: (a) all private general hospitals with inpatient care owned by BMI, HCA, Nuffield, Ramsay and Spire; (b) 19 of the largest other private general hospitals with inpatient care (including Aspen and Circle); (c) all general PPUs with inpatient care managed by BMI, HCA, Ramsay and East Kent Medical Services; and (d) the 40 largest general PPUs with inpatient care by revenue.

<sup>4</sup> These specialties are Obstetrics and gynaecology, General surgery, Trauma and orthopaedics, Anaesthetics, Urology, Gastroenterology, Ophthalmology, Otolaryngology, Dermatology, Plastic surgery, Cardiology, General medicine, Neurology, Oral and maxillofacial surgery, Rheumatology and Clinical radiology.

patient admissions<sup>5</sup> and for 75 per cent of total revenue<sup>6</sup> at the hospitals of the five largest hospital groups in 2011. For inpatient treatments within these 16 specialties, the set of relevant competitors is very similar.

- (iii) Oncology is the main specialty accounting for a relatively large share of patient admissions and revenue that is not among the specialties offered by more than 80 per cent of hospitals with inpatient care. In particular, oncology accounts for 9.6 per cent of patient admissions and 7.5 per cent of total revenue at the hospitals of the five largest hospital groups in 2011. Oncology is currently offered by 68.4 per cent of the 215 general private hospitals and PPU's which provide inpatient care.
4. On the basis of these results, the approach we have taken to date in the assessment of competitive constraints is the following:
- (a) In the provision of consultant services, each specialty is considered separately.
  - (b) In the provision of hospital services:
    - (i) Given the existence of asymmetric constraints among different competitors, inpatient, day-patient and outpatient care appear to be distinct product markets. Given the importance in terms of revenue and the relatively higher concentration, so far our analysis of competitive constraints has focused largely on the provision of inpatient care and, to a lesser extent, on day- and outpatient care.
    - (ii) On the basis of supply-side substitution considerations and a similar set of competitors for inpatient care, we have aggregated the 16 specialties together where we considered it appropriate. The set of competitors we have considered is the general private hospitals and PPU's providing inpatient care, active in (more than one of) these 16 specialties.
    - (iii) Given the narrower set of competitors active in oncology, we have looked at oncology separately where possible. The set of competitors we have considered is the private hospitals and PPU's providing inpatient care, active in oncology. This includes both general and specialized private hospitals/PPU's.
5. Following our further analysis of competitive constraints, we may look at individual specialties (ie not in aggregation), or at other specialties or at other clusters (eg high acuity/tertiary services, ICU).

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<sup>5</sup> Including inpatient and day-patient.

<sup>6</sup> Including inpatient, day-patient and outpatient care.