

AVIVA'S RESPONSE TO THE ANNOTATED ISSUES STATEMENT

HCA's observations

1. Introduction

- 1.1 HCA comments briefly on various assertions which Aviva Plc ("Aviva") makes in its response to the Annotated Issues Statement ("AIS") concerning HCA and the London market.
- 1.2 The discussion about PMI bargaining power in this inquiry has largely focused on BUPA and AXA PPP. However, Aviva, the UK's third largest health insurer, also enjoys a strong negotiating position over hospital operators and has aggressively pursued a network strategy and has grown PMI revenue in recent years. Aviva's assertions about HCA's pricing power do not stand up to scrutiny.

2. Aviva

- 2.1 Aviva is a major, global insurer with substantial financial scale and resources, and experience across a broad range of insurance markets:

- Aviva has total sales revenue of £34 billion.
- It has 34 million customers globally.
- It is also the largest insurance company in the UK¹.

- 2.2 Aviva has successfully grown its PMI business in recent years:

Aviva PMI revenue

<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>£ (million)</u>
281	309	348	394	377	402	

Source: Laing's Healthcare Market Review 2011-2012

Aviva vaunts its continued success in growing its health insurance business in its 2012 annual report and accounts:

"The market for general insurance, health insurance and protection continues to grow ..."

"Our health business performed strongly, with net written premiums up 12% at £528m (2011: £473m)."

- 2.3 Aviva is a significant source of revenue for HCA, accounting for [X] of HCA's PMI revenue.
- 2.4 Aviva enjoys a strong, well-known brand in both the individual and corporate PMI sectors. While it does not account for the same volume of business as BUPA or AXA PPP, there

¹ Source: Aviva plc Report and Accounts, 2012.

would be significant reputational issues if Aviva failed to recognise or delisted a hospital operator. In addition, the "consultant drag effect" would make it more difficult for the hospital to recruit and retain consultants since they prefer to avoid splitting patient lists between different hospitals. There is therefore a powerful incentive for hospitals to ensure that they are recognised by Aviva and can treat Aviva patients on one or more of Aviva's network products.

2.5 Aviva is building an increasingly strong position with London corporate subscribers, and major corporate customers include [REDACTED]:

- [REDACTED]
- [REDACTED]

[REDACTED]

2.6 Aviva also boasts a strong retail distribution strategy involving partnering with intermediaries including retailers to distribute a wide range of insurance products (life, critical illness, income protection, motor, home, etc.), as a result of which it has created strong brand awareness in retail markets.

3. Aviva's network strategy

3.1 As HCA has previously explained, Aviva operates a restricted network strategy with three main network products:

- A lower cost Key Hospitals List product (which excludes HCA)
- The Extended Hospitals List which include access to all hospitals in the UK
- A Trust Care List which is restricted to NHS PPUs

3.2 A copy of Aviva's Hospitals List in London, showing which London hospitals are on which network is attached (**Annex 1**). This indicates as follows:

- HCA is only on Aviva's highest premium policy, the Extended Hospitals List.
- The Key Hospital list excludes HCA but includes most other independent London providers, including King Edward VII, St. Elizabeth and St. John's, Parkside, London Clinic, BMI Weymouth and BUPA Cromwell, as well as numerous London PPUs (including Royal Marsden, Royal Brompton, Hammersmith, St. Mary's, etc.).
- The Trust Care network includes a number of London-based NHS PPUs, but not the two PPUs managed by HCA (UCLH in London, and the Harley Street at Queens in Romford).

3.3 It is worth noting that, on Aviva's website², the Key Hospitals List is offered as the standard, default option for new subscribers i.e. a new subscriber obtains a standard quote based on the Key Hospitals List, and has to specifically elect to subscribe to the Extended Hospitals List at a higher premium. Aviva's promotion and marketing of PMI is geared towards its lower cost, Key List product.

² www.aviva.co.uk

- 3.4 As far as HCA is aware (from information previously supplied by Aviva), the Key List product accounts for a large, and not simply a marginal, proportion of its customers. HCA attaches (**Annex 2**) internal notes of its negotiations with Aviva in 2009 which indicated that the Key List at that time accounted for [redacted] of Aviva's customers, i.e. only [redacted] of Aviva's customers were capable of accessing HCA on the Extended Hospitals List. In addition, Aviva recently confirmed to HCA that there are [redacted] lives covered on its Key List in London, with a treatment value of [redacted]. This is a very significant level of business from which HCA is excluded. This signals the bargaining strength of Aviva over HCA and that this PMI does not consider it necessary to include HCA's facilities on all its networks.
- 3.5 There is a significant pricing differential between the Key List and Extended Hospitals List products. The quotations derived from Aviva's own website indicate that there is a built-in discount of 30%. However, it is clear that Aviva are negotiating even higher discounts with individual subscribers. [redacted]. It is therefore apparent that Aviva are offering substantial financial incentives to promote its Key List product which excludes HCA hospitals in London.
- 3.6 Aviva refers to the fact that its nine largest corporate clients have elected to take out the Extended List product. However, it is worth bearing in mind that the CC's own survey of employers' private healthcare schemes (Appendix F of the AIS) does not support the view that London corporates require access to HCA hospitals. The CC notes that the responses to the survey were very varied, and that while some investment banks wanted HCA hospitals on the PMI product, many organisations, including investment banks, major High Street banks and large corporations did not consider that it was important to provide their staff with access to HCA hospitals and were more interested in securing lower priced PMI products. On the whole, the CC's own survey evidence strongly suggests that London corporates do not regard HCA hospitals as "must have" facilities within their chosen PMI products.
- 3.7 Aviva's growth and success with its Key Hospitals List in London provides Aviva with a strong bargaining position in its negotiations with HCA. This is, in effect, an example of a "delisting" of HCA on a mainstream PMI product. Likewise, the Trust Care product delists the HCA-operated PPUs. It undermines Aviva's claim that HCA enjoys market power since HCA has been unsuccessful in securing terms for admission to this restricted network, whereas nearly all its major competitors have been admitted to the network. The Key List has enabled Aviva to contain premium costs – as evidenced by the fact that it charges its subscribers a premium of 30%-40% for the Extended List.
- 3.8 HCA has tried on numerous occasions to be listed on Aviva's Key List product, but has failed. Aviva is seeking very substantial discounts which HCA, given the nature of its facilities and higher costs of operation, cannot offer. [redacted]:
- [redacted]
- [redacted]
- A PMI provider who can delist HCA unless it achieves a [redacted] price reduction is, self-evidently, in a very strong negotiating position. The consequence is that HCA is excluded from a substantial volume of Aviva's business in London, and regularly faces consultant complaints that they cannot treat patients at HCA hospitals.
- 3.9 Aviva has also shown through these networks that it regards PPUs in London as directly competing alternatives. A large number of London PPUs are included in the Key List. Aviva's Trust Care product demonstrates how an insurer may develop lower cost product offerings

based exclusively on PPUs. According to Aviva's website, this product is sold at a further 25% discount from its Key List products.

- 3.10 The PMIs spuriously claim that HCA has "must have" hospitals and Aviva also claims it has "little alternative" to HCA, but the success of Aviva's restricted networks conclusively demonstrates that this is not the case.

4. Re-direction of patients

- 4.1 There is also evidence that Aviva is re-directing patients away from HCA consultants and hospitals in order to contain costs, which again demonstrates its power over hospitals.

- 4.2 There are two recent examples, but others can also be provided:

(i) [redacted]:

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

(ii) [redacted]

- 4.3 Both cases provide evidence of Aviva's redirection of patients on grounds of cost and attest to Aviva's ability to constrain the hospitals pricing notwithstanding the potential detriment to the PMI's own subscribers.

5. Aviva spend

- 5.1 Aviva states: "*HCA accounts for over 70% of Aviva health spend in central London....*". HCA queries this, since it is inconsistent with the figures which Aviva has previously provided to HCA.

- 5.2 HCA's data shows as follows:

- Aviva spend with HCA in 2012 was approximately [redacted].
- In 2012, Aviva confirmed to HCA that there are [redacted] lives covered on Aviva's Key List in London with a treatment value of [redacted].
- This would indicate that Aviva's spend in London must be at the very least [redacted].
- However, this does not include Aviva's spend with other London operators on the Extended List and its spend with PPUs on the Trust Care List.

- 5.3 Taking all this into account, HCA would estimate that it represents less than 50% of Aviva's total spend in London if the data Aviva has previously provided is accurate. The CC may wish to take this up with Aviva.

6. HCA pricing

- 6.1 The Aviva submission alleges that Aviva is "*charged significantly higher prices for treatments at HCA compared with other private London facilities*". Similar points are made in other PMI submissions. However, there is in fact no concrete evidence that, on a "like-for-like" basis, reflecting the nature of the treatments provided, HCA is significantly more expensive than other London hospitals.
- 6.2 Aviva compares HCA's accommodation and theatre charges with those of other providers in Appendix A to its submission. However, this is an extremely simplistic comparison which does not take into account the many other cost components which make up hospital fees and is therefore misleading.
- 6.3 Fee comparisons are very difficult to make because they do not account for critical cost/value factors including patient case mix or complexity of care which drives resource utilisation such as episode length of stay, diagnostics, therapies, medical consumables, drugs and prostheses utilisation, the theatre input and time, and other such critical inputs.
- 6.4 HCA is a high-quality provider which regularly invests in new, innovative equipment and treatment techniques. It tends, on the whole, to have a higher proportion of more complex, high acuity cases which will significantly impact on any fee comparisons. HCA has yet to see any tariff comparisons which are genuinely on a "like-for-like" basis and take into account the higher costs of treating more complex, acute conditions than other, comparable London providers.³
- 6.5 A price index which compares value for money relative to quality across different providers has proved to be an elusive "Holy Grail" for insurers and providers. HCA has explored with insurers (including Aviva) the possibility of carrying out tariff comparisons using independent third party benchmarking data, however these have not proved to be meaningful in the past:
- There are invariably outlier, complex admissions which distort a straight comparison of fees per episode.
 - Comparisons in the past using third party benchmarking data have indicated that there are significant differences in the breakdown of spend (e.g. in terms of length of stay, theatre time or pathology charges) indicating that there is often little comparability in the type of treatment being provided to different patients with different clinical needs.
 - In Aviva's case, a straight fee per episode comparison does not take into account that [X].
 - In addition, as HCA explained in its response to the AIS (para 5.147) there are other factors explaining pricing differentials, including product differentiation, in terms of treatments/services and quality, investment in new and innovative treatments and the cost base, and these factors also inhibit the ability to make price comparisons on a like-for-like basis.

³ BUPA has a "provider scorecard" which refers to the fact that on its London index HCA is at [X]. BUPA has not however indicated how it is comprising fee rates or whether factors such as patient case mix are taken into account. (Source: BUPA's "HCA International Quarterly Review", 22 February 2012).

- 6.6 When these factors are taken into account, and fees are genuinely compared on a "like-for-like" basis (to the extent that this is possible) reflecting the different case mixes and clinical requirements of patients, HCA believes that it is not, in fact, significantly more expensive than other, comparable London providers. [3<]
- 6.7 As previously submitted, the other complicating factor in comparing different PMI fees for particular treatments is that HCA/PMI fees are not negotiated on a "treatment-by-treatment" basis but by reference to "the total pricing envelope" i.e. the aggregate price. As a result, prices may be lower than average on some treatments and higher than average on others. [3<]. It is therefore difficult to isolate individual treatments and compare them without reference to the agreed pricing for the contract as a whole.
- 6.8 HCA would also reiterate that a simple comparison of fees per episode fails to take into account that HCA is competing with other providers which have a very different cost base:
- The PPU's enjoy significant competitive advantages and indirect subsidies by being part of the NHS "family". They therefore have a significant cost advantage which enables them to compete more effectively on prices. Monitor's latest review ("A fair playing-field for the benefit of NHS patients", March 2013) re-affirms that tax benefits are creating market distortions in favour of the NHS.
 - Competitors such as the London Clinic and the King Edward VII are charities which have substantial tax advantages which, again, give them a significantly lower cost base.
 - The BUPA Cromwell is vertically integrated with BUPA and it is open to question to what extent it is indirectly subsidised by the insurer.
- 6.9 Aviva's comment that "*We are forced to pass along HCA's higher prices and annual, above-inflation price increases to our customers in the form of higher premiums*" is plainly untrue. It is perfectly capable of offering its subscribers a choice between the higher priced Extended List product and the lower cost Key List and Trust Care product, and many of its subscribers have elected for the restricted network product.
- 6.10 In any event, Aviva's claim that HCA's pricing leads to "higher premiums" is groundless. There are numerous components other than hospital costs to the benefit spend on a PMI product. HCA is firmly of the view that it is the lack of competitiveness within the PMI market which makes PMI pricing uncompetitive. It is for this reason that the CC needs to consider more closely the highly concentrated nature of PMI in this inquiry.
- 6.11 In addition, Aviva – like other insurers – offers a variety of alternative options to individual and corporate subscribers to limit premium costs:
- Aviva has recently launched a new Corporate Excess option⁴, offering companies a new way of funding PMI healthcare which creates cost efficiencies and limits insurance premium tax.
 - "Six week" policies which restrict cover if NHS treatment within six weeks is available.

⁴ Aviva press release "Aviva offers more companies a cost efficient way to fund PMI", 25 April 2012, www.aviva.co.uk

- Reduced outpatient cover.
- Choice of excess limits.
- Limitation of cover.

7. Clinical outcomes

- 7.1 HCA rejects the assertion that it has put forward "*No evidence that investments it has made in its hospitals have resulted in better outcomes for patients.*"
- 7.2 HCA has provided in previous submissions⁵ an extensive list of new, innovative equipment and treatments in its hospitals. It has often led the way in bringing new technology, stimulating other providers, both private and NHS, to invest in these technologies in order to remain competitive. The list of investments, delivering major clinical benefits speaks for itself and includes CyberKnife, Nanoknife, the da Vinci robotic surgery system, IMRT radiotherapy systems, robotic liver surgery and new CT imaging systems. In many cases (for example CyberKnife and Gammaknife) HCA's lead in introducing new technology has been followed by the NHS, making new treatments available to all NHS patients (see page 27 of HCA's response to the CC's Issues Statement for specific examples).
- 7.3 By way of example, HCA was the first independent hospital to introduce the da Vinci robot surgery system, and this has now been adopted by other NHS and private providers. The Royal Marsden, the NHS' leading cancer centre, became the first NHS hospital to adopt this technology in 2009. The Royal Marsden clearly has no doubts about the da Vinci's clinical benefits, and describes this technology as having "*revolutionised prostate cancer treatment by making it possible for surgeons to make microscopic incisions with greater accuracy and control than ever before ... By using da Vinci S surgical system we have dramatically improved functional and oncological outcomes for patients undergoing radical prostatectomy at the Royal Marsden*"⁶. (emphasis added) The Royal Marsden's endorsement of this technology could not be clearer and it is unfortunate that insurers such as Aviva are seeking to deny to private patients on cost grounds what is becoming increasingly available to NHS patients.
- 7.4 HCA can also point to independent accreditations of its quality-led service approach leading to better clinical outcomes for patients:
- The ICNARC study of survival rates in ICUs found HCA hospitals to be in the top 10% of hospital operators.
 - HCA has achieved 100% compliance with all CQC outcomes of care.
 - HCA itself leads the way in providing quality metrics and information about its facilities and clinical outcomes with its regularly updated quality report. For example, HCA's cardiac centres demonstrate some of the best cardiac survival rates in the UK; HCA was the first private operator to submit its cardiac intervention outcomes to the National Institute for Cardiovascular Outcomes Research; many private operators still do not submit their cardiac outcomes data.

⁵ See in particular Sections 3 and 4 of HCA's response to the Issues Statement.

⁶ See www.royalmarsden.nhs.uk/diagnosis-treatment/cancer/prostate/robotic-prostate-surgery.

- HCA is the only private operator to offer a seamless pathway of high quality, innovative, holistic, multi-disciplinary Cancer Care (covering clinical, medical and surgical oncology). The documented evidence is unequivocal about the benefits of such a holistic and technological led approach to improving outcomes and survival rates.⁷
- As a direct result of HCA's quality led approach, four out of five of HCA's NHS PPU joint ventures are with prestigious UK Academic Health Science Centres ("AHSC"). There are only five AHSCs in the UK which represent a government led approach to concentrate clinical, research, training and educational expertise in national/international centres of excellence designed to deliver direct clinical benefits for patients.⁸
- It has won more quality awards and nominations than any other private hospital group attesting to its record in quality and treatment outcomes.
- HCA's independently-run patient satisfaction surveys show that over 99% of patients rated HCA hospitals for overall quality of care.

7.5 An internal HCA presentation (**Annex 4**) looks in more detail at HCA's investments in cancer care and explains how these investments in clinicians and services improve quality of care and lead to better clinical outcomes for patients.

7.6 As HCA has already submitted, it fully supports greater transparency so that insurers and patients can make more informed choices about the hospital's clinical record and reputation. HCA is delighted to sponsor and support industry initiatives which move in this direction. In particular, HCA fully supports the recent initiatives developed by the Private Healthcare Information Network, in discussion with the CC, to publish clinical data of participating hospitals to allow users to make better comparisons of quality.

8. Vertical integration

8.1 HCA also rejects Aviva's comments on vertical integration. Section 8 of HCA's response to the AIS fully addresses the issues raised about HCA's primary care facilities.

8.2 As HCA states in its submission:

- There are no referral obligations or incentives which are distorting referral pathways.
- HCA accounts for an insignificant proportion of the total number of GPs making referrals to London hospitals.
- The ownership of primary care facilities has not resulted in any material changes to referral patterns.
- There are potential synergies and benefits to patients where hospitals provide GP services.

⁷ "How to improve cancer survival: explaining England's relatively poor rates" (Kings Fund / CRUK Report, 2011) and Mayles W., "Survey of the availability and use of advanced radiotherapy technology in the UK" (Clin Oncol 2010; 22:629-635)

⁸ "The role of academic health science systems in the transformation of medicine", The Lancet, 13 March 2010.

- The primary care market is in any event extremely competitive and there are leading insurers, BUPA and AXA PPP, who have extensive interests in this market.

8.3 Aviva was itself until very recently vertically-integrated in primary care. It was a significant provider of occupational health services to over 500 businesses, until the sale of its occupational health arm in 2012 to Capita⁹. As Laing & Buisson noted:¹⁰ *"In each case, occupational health providers have been seen as a means of enabling acquirers to develop relationships with clients to whom other core business services might be sold, or simply be able to make the full service offering that their clients might expect."* It is therefore difficult to see how Aviva can credibly criticise other vertically-integrated providers of primary care services.

8.4 Aviva's submission, in fact, is the first time that Aviva has raised any concerns about HCA's involvement in primary care activities. HCA has previously invited Aviva to visit the Rood Lane occupational healthcare facility to see whether these services can be provided more effectively for Aviva subscribers. HCA has also invited Aviva to discuss HCA's primary care businesses to consider ways in which these can be used to deliver better healthcare at lower cost to their customers. Aviva has never previously raised any issues regarding HCA's ownership of its three GP practices.

29 April 2013

⁹ See article "Aviva to sell occupational health business to Capita", Hi-mag, 2 February 2012.

¹⁰ Laing & Buisson, "Primary Care and Out of Hospital Services", 2011/2012. This report puts Aviva in the "top dozen" of occupational health providers in 2011/2012.