

Christiane Kent  
Competition Commission  
By e-mail: [christiane.kent@cc.gsi.gov.uk](mailto:christiane.kent@cc.gsi.gov.uk)

14<sup>th</sup> May 2012

Dear Ms Kent

### **MARKET INVESTIGATION INTO PRIVATELY FUNDED HEALTHCARE SERVICES**

The Independent Doctors Federation (IDF) was founded in 1989, initially as the Independent Doctors Forum. We have close links with the Department of Health, Care Quality Commission, General Medical Council, British Medical Association, Federation of Independent Practitioner Organisations, and The Royal Colleges.

The IDF offers appraisal to its members modelled on the NHS system, which is recognised by the GMC and appointed a Responsible Officer on 1st January 2011. Membership of the IDF currently stands at just over 900. All members are GMC registered doctors in Independent Practice currently split into two-thirds Specialists and one-third General Practitioners. Many members work in both the NHS and the Independent Sector.

The IDF submitted evidence to the Office of Fair Trading regarding the market for privately funded healthcare services in the UK and were included in discussions at meetings. We would value the opportunity to provide further evidence to The Competition Commission with respect to the Market Investigation into Privately Funded Health Care Services. And to provide information on any aspect, which could be helpful, but in particular we have concerns about the following:

1. The Bupa "Open Referral" policy applies to a number of corporate and to some individual subscribers. The traditional pathway, endorsed by the General Medical Council for many years, is that when necessary, a patient will be referred to a relevant specialist by their general practitioner. With the Bupa Open Referral policy, the patient contacts their insurer, who then offers the name of a consultant. This referral is made without in depth knowledge of the patients' medical history or specific requirements. Bupa claim that their pathway is based on quality and value for money but we have evidence that patients are misdirected to inappropriate specialists eg a patient with an

ankle problem being referred to an orthopaedic surgeon who specialises in back surgery. We do not believe that this represents good practice, indeed paragraph 54 of the GMC's Good Medical Practice states that:

"54. Delegation involves asking a colleague to provide treatment or care on your behalf. Although you will not be accountable for the decisions and actions of those to whom you delegate, you will still be responsible for the overall management of the patient, and accountable for your decision to delegate. When you delegate care or treatment you must be satisfied that the person to whom you delegate has the qualifications, experience, knowledge and skills to provide the care or treatment involved. You must always pass on enough information about the patient and the treatment they need."

2. We believe that one or two major PMIs control the market in the following ways:

- i. Bupa's fee reimbursement schedule for many procedures has not increased for some 20 years. In addition this year we have seen reductions of up to 55% for some of the more commonly performed procedures. During this 20 year period doctors have faced huge increases in expenses, with increased costs not only for salaries, rents, rates, etc but also large increases in indemnity insurance with some specialties such as obstetricians paying over £100,000.00 per annum. Complying with the Care Quality Commission, Appraisal and Revalidation have imposed additional costs.
- ii. Some specialists are afraid that if they do not accept the PMIs' reimbursement fees, they will lose a large number of patients. Bupa, along with one or two other large PMIs dominate the market and doctors can feel pressurised into accepting their terms. The doctors who refuse to comply face "delisting" which in some cases may result in PMIs failing to pay the medical practitioner anything at all towards a patient's fee. The terms "delisting" or "not recognised by" can also be misleading resulting in patients being under the false impression that the doctor is no longer registered with the GMC.
- iii. When a patient is referred to a specialist, the contract is between the patient and the doctor and patients are ultimately responsible for their fees. Patients may have cover with different insurance companies and different benefits and indeed many patients now sign up to "an excess" whereby they are responsible for part of their fee. It makes no sense therefore for specialists to agree to being "fee assured" when there are so many

variations even within one PMI. It is fairer and more open for specialists to inform patients about their fees in advance in a transparent manner and to invoice patients directly. The patient can then apply to their PMI for reimbursement. Armed with this information, patients can decide whether to accept their General Practitioner's recommendation to see a specific specialist or request an alternative referral if they feel the specialist's fees are unacceptable. This would represent true, open and fair competition. We believe that delisting a doctor purely on the grounds of their fees is anti-competitive although we agree that patients should be informed in advance if it is likely that there may be a shortfall. The IDF considers the PMI policies to be anti-competitive and compromised because they represent an attempt to simultaneously be service provider and regulator. Moreover they have no jurisdiction to be regulators – which is the role of the GMC and the Colleges who set standards of qualification.

3. We also have concerns in relation to the Psychiatric sector where BUPA, as an insurer, also now offers patients counselling and related services through its own network of therapists, which might be seen as operating in competition with those offered in the private sector generally.

The IDF's mission statement is "Promoting Excellence in the Independent Medical Sector" and we operate a robust system for Appraisal and Revalidation. The IDF does not encourage unreasonable or excessive fees. We do promote high quality clinical work and the highest ethical standards and are prepared to consider ways in which Patient Reported Outcome Measurements (PROMS) can be developed. In our submission to the GMC on Appraisal, we were in favour of increasing Multi-Source Feedback from once every five years to at least twice. Measuring quality, however, does present difficulties. Outcome measurements for some specialties are easier than others. "Outcome" measurements are in reality often more to do with complication rates than success rates and both can depend on case mix with some specialists being referred more challenging cases than others.

The IDF is keen to continue to explore meaningful ways in which this data can be collected to demonstrate quality outcomes.

Yours sincerely

Ian S Mackay FRCS  
Chairman