Spire Healthcare

PO Box 62647
120 Holborn
London
EC1P 1JH

Tel 0800 169 1777
Fax 020 7421 9500

www.spirehealthcare.com

Ms Christiane Kent
Inquiry Manager
Competition Commission
Victoria House
Southampton Row
London,
WC1B 4AD

By email to: christiane.kent@cc.gsi.gov.uk

1st May 2012

Dear Ms Kent

We acknowledge the outline timetable of dates and events set out in the letter of the Competition Commission (CC) dated 4th April 2012. We now set out our Initial Submission, which purposefully covers only very key points. After receipt from the CC of the Issues Statement, we will expand our views in our First Written Submission.

1. INTRODUCTION

1. It is of vital importance that the UK private healthcare (PH) sector is permitted to grow and expand its services and offerings, not only (i) in order to continue to offer the UK population a genuine alternative to NHS-funded services but also (ii) at a time when recent increases in NHS funding are being curtailed, and significant cost savings in NHS service provisions are being sought by the UK Government.

2. All operators in the UK PH sector understand that their individual success, and that of the sector as a whole, depends on offering patients a balanced combination of (i) the widest possible range and choice of services, (ii) at as a high a quality level as possible, and (iii) at competitive prices.

3. For its part, Spire:

    a. aims to offer patients the best possible and most competitive PH provision. Spire therefore constantly seeks to outperform its private and NHS competitors in terms of the quality and range of the products and services it offers, and the competitive price at which it does so;

    b. welcomes the opportunity to review, transparently and co-operatively, how the sector can improve existing patient choice and quality, with a view to increasing significantly the number of people who through either PMI or self-pay use private healthcare in the UK; and

c. believes that the CC investigation can advance that process through recommendations that support:

i. patient access to the broadest possible range of PH provision; and

ii. the ability of PH providers to continue to compete freely for patients on the basis of quality, range, service and price.

2. THE UK PRIVATE HEALTHCARE SECTOR – CURRENT

1. Spire believes that the CC investigation will be able to establish the following characteristics of the UK PH sector in its current configuration.

2. *Competition*:

   a. There is an evolving and robust relationship among the various major participant groups of the UK PH sector. These groups are the PMI providers, the Consultants and the PH providers.

   b. This in turn manifests itself in dynamic and vigorous competition among the various individual participants in the PH provider sector, as evidenced by the level of investment by Spire to ensure our facilities meet the needs of patients.

   c. Notwithstanding earlier OFT and CC rulings to the contrary, the NHS is also a major (external) competitor to the PH sector both generally and via Private Patient Units (PPUs), operating with significant obvious and not-so-obvious advantages. This will increase further with the implementation of the Health and Social Care Act 2012 which will significantly raise the current cap on PPU revenues.

3. *Strength of bargaining power*:

   a. The balance of bargaining power between the PMI providers and the PH providers is decisively in favour of the PMI providers. Spire is dependent on recognition from the PMIs.

   b. The balance of bargaining power between the PMI providers and the Consultants (46,000 in the UK, of which 55% carry out private healthcare work) is also decisively in favour of the PMI providers.

   c. The decisive strength of PMI provider bargaining power is not in itself adverse to competition, provided that such bargaining power is used to promote competition between PH providers and support patient choice on both quality and price; and so long as it is clear that the savings in the cost of patient care that are achieved through the exercise of that

bargaining power are passed on to PMI customers. It is not clear that either of these things has happened in the past.

4. *Information*:

    a. Information for patients and GPs can be improved. At the point of purchase of PMI cover (either by corporates or individuals) there is:

        i. an over-elaboration of policy choices and a lack of clarity of explanation as to what is and is not covered (including the risk of potential shortfalls on policy coverage), and

        ii. a lack of understanding by policy holders as to their options in utilising that cover (for example, in understanding the extent of existing patient choice when it comes to selecting Consultants and facilities, and to paying "top-up fees").

    b. The currently available information on the quality and cost of the services provided by Consultants and PH providers aims to facilitate competition among PH providers at the point of facility selection, but this could be enhanced through provision of comparable, transparent and reliable information for GPs and patients. In fact, acting in co-operation to ensure an appropriate sector-wide approach, the PH providers have already spent significant time, effort and expense in developing a system (currently known as "Hellenic") to address this issue as far as it relates to the PH provider sector. This project, whose commencement pre-dates the OFT inquiry and which has suffered from teething issues to do with data provision and quality control, is being accelerated.

5. *Barriers to entry*:

    a. The fact that there has not been a plethora of significant new entrants (apart from PPUs) into the PH sector in the UK in the last ten years is not evidence that there are barriers to entry.

    b. A combination of factors outside the control of the PH providers, including (i) NHS competition (ii) generally flat PMI and self-pay revenues in the PH sector for that period, (iii) flat PMI penetration, (iv) PMI setting conditions for successful entry (v) the cost of construction and the general lack of availability of market funding therefor, have all combined to discourage extensive *de novo* entry, although it would be wrong to say there has been no *de novo* entry.

    c. This also has to be set against an extensive history of entry/expansion into new local markets and new services by existing PH providers, the NHS (including PPUs), Consultants and GPs.

d. That said, Spire does believe that certain practices within the PH sector – mainly to do with PMI and PH engagement with Consultants – may in some circumstances make entry more difficult.

3. THE UK PRIVATE HEALTHCARE SECTOR – FUTURE

1. Spire believes that the existing dynamism of the UK healthcare sector can be further enhanced and that additional competition in the sector can only work to the benefit of patients.

2. Spire has noted (above) ways in which it believes this can occur, but also considers that this process can be enhanced through the CC investigation, leading to:

   a) Recommendations supporting information flow to patients and GPs, for example:

      i) That more information be made available to GPs and patients by all participant groups, including PH providers, PMIs, and Consultants;

      ii) That information provided should allow comparison with the NHS;

      iii) That consultants should work with their respective Royal Colleges to develop methodologies and publication methods for their quality information;

   b) An emphasis on all PH providers being able to compete for all PMI business, supported by the information flows above, and an end to certain distortive practices, including:

      i) restrictions on "one-in, all-in" agreements and on network agreements;

      ii) a requirement for more flexible pricing models from PMI providers (such as "top-up" fees); and

      iii) increased clarity for patients on PMI coverage, protection and choice of PH provider/Consultant, at point of service;

   c) Clarity for the sector as a whole on the permissibility of certain types of arrangements between PH providers, PMI providers and Consultants. Spire believes that such clarity would deliver benefits by focusing attention on pro-competitive or competitively-neutral arrangements (such as new facility or service joint ventures, co-investments or provision of subsidised patient-focused facilities), and away from arrangements such as cash for volume-incentive deals;

d) Clarity that incentivising GPs for referrals into the secondary market should be entirely barred.

We trust that these initial comments are helpful. Spire is looking forward to working with the CC through the course of this inquiry, and hopes through this process to further enhance the UK healthcare sector.

Yours faithfully

Antony Mannion
Projects Director
For Spire Healthcare