

20 September 2013

Julia Hawes
Inquiry Coordinator
Competition Commission
Victoria House
Southampton Row
LONDON
WC1B 4AD

Dear Ms Hawes

Private Healthcare Market Investigation

The Private Patients' Forum (PPF) broadly welcomes the provisional findings of the Competition Commission's investigation into the Private healthcare market.

Whilst accepting that *'the market(s) for private medical insurance were not referred to the Commission for investigation'*¹, PPF continues to be concerned that the role of insurers in this market has not been reviewed by the Commission. PPF has always contended that insurers have a very significant and not always positive effect on patient benefit in the use of private healthcare. This should, in our view, have been a whole market investigation.

PPF does not have the capacity to discover whether there exists a similar dominance advantage to the fewer large PMIs that you report exists for the three/five larger hospital groups. However, we believe it does and that it causes patient detriment.

We therefore strongly urge the Commission to consider conducting "Part 2" of the investigation so that these reasonable concerns are addressed. PPF notes that almost all the complaints we have received through our website have involved patient problems with PMIs and that premiums rise inexorably whilst benefits are capped.

The Commission identified a number of detrimental effects in the market that it believes lead to patient disadvantage. These apparently give rise to adverse effects on competition which *"are likely to lead to higher prices for self-pay patients in certain local markets and to higher prices for insured patients for treatment by those hospital operators (HCA, BMI and Spire) that have market power in negotiations with insurers"*². PPF believes that the remedies set out by the Commission – though their

¹ Provisional findings report: footnote 2 on page 1

² Provisional findings report: para 72

choice in the hands of patients

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basis and practicality might be challenged – may lead to lower prices which will be a patient benefit. However, PPF is mindful that reductions in quality often follow large scale market disruption such as is contemplated in the proposed remedies. PPF is concerned about who will enter the market, whether patient benefit will accrue and whether the limited size of local markets will justify the high level of capital investment required. PPF is also concerned that in hospitals under threat there will be reduced investment with possible consequences for patients.

PPF's previous submissions to the Commission included specific concerns for patients arising from

- insurers directing the choice of hospital and consultant
- insurers restricting choice by de-listing, for non-clinical reasons, certain hospitals and consultants
- insurers restricting choice by refusing to pay any benefits relating to consultants and hospitals whose fees may exceed the insurer's rate.

The Commission's recommendation³ that insurers, particularly the market leader Bupa, ensure that patients receive clear and accurate information about the reasons for recommending or advising against the use of certain consultants goes some way toward PPF's transparency agenda. However, that simply explains the restriction in choice and does not remove it.

PPF supports the position of AAGBI (cited in the findings document) that "*Consultants set the fees that they charge their patients. Private Medical Insurers (PMIs) set benefit levels for their customers. There is no necessary correlation between fees and benefits.*" PPF contends that the patient may then choose – further informed through the improvements on outcome measures data, a subject which PPF raised with the Commission before the data was offered on the new PHIN website. PPF believe that there is more to do to achieve even equality with the NHS data. The Commission's remedies should support this.

PPF complained to the Commission about opacity on fees to be charged to patients. The Commission's response requiring transparency is also welcomed.

It is not clear to PPF that there is any incentive on insurers *'to promote competition among consultants and maintain innovation and quality to protect and indeed improve demand for PMI.'*⁴ Though PPF would welcome that were it to lead to patient benefit, we fear that the contrary is true.

³ Provisional findings report: para 53

⁴ Provisional findings report: para 52

PPF also raised with the Commission the issue of the incentivisation of consultants to use specific hospitals. The Commission has proposed a remedy that doctors should simply follow the GMC guidelines. PPF welcomes this but notes that transparency about what is supplied – such as the use of consulting rooms etc – will allow patients to exercise their own judgement. Incidentally, PPF also wonders about incentives offered by some insurers such as Bupa's consultant partnership scheme. Do these lead to patient detriment?

Yours sincerely

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