

### Consultant 33

4 February 2014

Dear Mr. Witcomb et al.

I was rather disappointed to find no mention of anti-competitive behaviour by BUPA and AXA-PPP in last month's second provisional report by the CC into private healthcare.

I am a consultant orthopaedic surgeon

I would like to ask the CC to look at/reconsider two specific issues:

Firstly, there is now a two tier system being operated by BUPA and AXA for reimbursing consultants for their work which is, in my view, not just anti-competitive but also discriminatory. A consultant who was appointed post 2010 now has to sign a contract with BUPA and AXA if he wishes to see patients from these two insurance companies. To be eligible to sign such contracts, these post-2010-consultants have to agree to consultation fees substantially lower than the current market averages by as much as 40%. If one of these post-2010-consultants refuses to sign such a contract, because he wishes to charge a market rate for his service, then he is not recognized by BUPA and AXA and thus has no access to 60% (the current combined market share of BUPA and AXA in the UK) of privately insured patients. In effect such consultants are shut out of the market for wishing to practice according to market principles.

On the other hand, consultants who were appointed pre-2010 are allowed to charge what they feel is a fair market rate for their services and still see patients insured with BUPA or AXA. There is a third group of pre-2010-consultants who have signed contracts with BUPA to see patients at agreed rates but these individual contracts are at rates that substantially exceed the rates of remuneration to the post-2010-consultants.

So I am failing to understand why the CC does not view this behaviour by BUPA and AXA as anti-competitive. Furthermore this behaviour appears to be discriminatory toward the post-2010 consultants and may well be open to a legal challenge on the grounds of discrimination.

Secondly, I am concerned that the CC has not addressed the important issue regarding the lack of flexibility for patients wishing to transfer from one insurance company to another. Private healthcare insurance differs from most other insurance because if a patient decides to change companies then any pre-existing conditions they suffer from will automatically be excluded by their new company. There are few exceptions to this. Hence patients are somewhat trapped by the first company they sign up with. This creates what seems to be an obvious barrier to competition for new or smaller insurance companies to enter the market and allows the major players to rest assured that however poorly they deal with their clients, many of these clients are locked in due to pre-existing health conditions.

There seems to be no mention of this barrier to competition in the first two CC provisional reports which I find rather startling.

I would be grateful if these two issues would be given due consideration by the CC.