

For the attention of Darren Eade
Project Manager
Private Healthcare Remittal
Competition and Markets Authority
Victoria House
Southampton Row
London WC1B 4AD

cc. Lara Stoimenova, John Markham

9th March 2015

Dear Mr Eade

Private Healthcare Remittal – invitation to comment by 11 March 2015

I am writing in response to your notice of launch of the private healthcare remittal dated 25 February 2015, which includes an invitation to comment. Nuffield Health would like to comment on certain aspects of the insured pricing analysis (IPA) which will be part of the CMA's re-consideration of its decision on adverse effects on competition on insured patients in central London (the insured AEC decision).

Nuffield Health appreciates that the IPA will apply to an AEC in a geographical area (central London) in which Nuffield Health is not currently active. However, it is possible that the IPA or other parts of the CMA's review of the insured AEC decision will entail some consideration of the national pricing practices of the main hospital groups and/or their negotiations on a national basis with private medical insurers. To the extent that such general practices are considered, they are likely to involve reference to Nuffield Health practices or to have indirect relevance to Nuffield Health.

Nuffield Health has the following comments on any comparison of hospital groups' general commercial practices:

- Nuffield Health believes that the CMA case team and decision-makers should be mindful of key differences which set Nuffield Health's pricing and negotiation position apart from the practices of its main competitors.
- Typically, Nuffield Health's pricing is more competitive than its competitors, on a true "per episode" basis. Nuffield Health's "all-inclusive" pricing covers pre-operative assessments and post-operative outpatient services, each of which are charged for separately by competitors. This may result in activity not covered in the headline pricing of Nuffield Health's competitors being recorded as separate outpatient episodes by those competitors, which means Nuffield Health's procedural price points are not analogous to those of other large operators.

- Furthermore, length of stay adjustments made to hospital operator prices may mask the extent to which high per night fees are charged by certain of Nuffield Health's competitors, since these competitors keep patients admitted for average lengths of stay. Any adjustment will revise downward such competitor's prices, despite this reflecting relative inefficiency.
- These key differences make it impossible to compare insured prices on a like-for-like basis. As a result, a revised IPA which treated the pricing of all hospital groups on the same basis would not allow a representative, per treatment comparison.
- Furthermore, Nuffield Health believes that the market presence of its main competitors allows them to negotiate national deals from which Nuffield Health is excluded and to charge effectively higher rates on a per episode basis. Such practices reinforce the market power of these competitors, with arguable anti-competitive effect.



In conclusion, Nuffield Health makes the following requests to the CMA:

- Nuffield Health's commercial offering to insurers is predicated on being different from the offerings of its competitors. It could be highly detrimental to Nuffield Health if statements by the CMA about the practices of others in any way reflected on Nuffield Health.
- Nuffield Health requests that it be consulted in advance on any provisional findings concerning commercial practices which could be held directly or indirectly to apply to Nuffield Health or if it is proposed that other parties be granted access to information concerning Nuffield Health.
- Nuffield Health urges the CC to reach any conclusions on pricing comparisons only after full consideration of all relevant evidence.
- Nuffield Health would value the opportunity to explain to the CMA how its pricing works in comparison with marketplace practices in general and would be delighted to meet or otherwise engage with the CMA at any stage of its remitted investigation.

Please do not hesitate to contact me if you would find a meeting helpful to further discuss the above.

Yours sincerely

Andrew Whithorn
Hospital Director