

## **PRIVATE HEALTHCARE REMITTAL**

### **Invitation to comment and submit further evidence**

Following the Competition and Markets Authority's (CMA) initial invitation to parties to provide their views on the remittal dated 25 February 2015, we are now inviting further views and evidence from interested parties to aid the CMA's re-consideration of the insured Adverse Effect on Competition (AEC) decision and the divestment decision for central London.

Since launching the remittal, the CMA has been re-considering the Insured Pricing Analysis and we intend to consult on a working paper on this in due course.

The CMA's starting point in relation to the other aspects and evidence in relation to the central London insured AEC decision is the position set out in the final report. However, the CMA welcomes any submissions and evidence that are relevant to our re-consideration of the insured AEC decision and the divestment decision, including any new submissions and/or new evidence on how the provision of private healthcare services in central London may have changed in the period since the publication of the final report. The CMA will also keep the self-pay AEC under review.

With regard to the position outside central London, the CMA concluded in its final report that there was no AEC for insured patients outside central London. That decision has not been appealed and the statutory time limit for appealing the CMA's original market investigation has expired. As such, the CMA, contrary to what some of the parties have suggested, does not have the necessary vires to re-open the analysis outside central London and cannot take into account any submissions or evidence relating to such matters.

Any submissions should be supported, so far as possible, by appropriate evidence. The CMA would particularly like your views on the **issues set out below**, although this is not an exhaustive list and we would welcome submissions on any other relevant matters.

Submission should be made no later than **4 May 2015**. Please submit these to [Private-Healthcare@cma.gsi.gov.uk](mailto:Private-Healthcare@cma.gsi.gov.uk) or write to the CMA (see below).

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## **Issues the CMA is seeking further views on:**

### ***Market definition***

1. Has there been any change in demand and supply side characteristics in the relevant market?
  - For example, on the demand side relevant changes could include changes in the ability of private medical insurers (PMIs) to steer patients towards NHS or non-central London private hospital providers.
  - On the supply side, a relevant change may include any strengthening of the competitive constraint that private hospital providers outside central London exert on central London private hospital providers, or any increase in the competitive constraint exerted by NHS providers.

### ***Barriers to entry and expansion/competitive constraints***

2. Has there been any entry/expansion or exit of private hospital providers or private patient units (PPUs) in the period since the final report was published in April 2014?
3. Have there been any changes in the above which affect particular specialisms that we should take into account? For example, have any providers broadened the range of services that they provide in central London, or have changes in any non-central London providers impacted on the competitive conditions in central London in relation to a specific specialty?
4. Have there been any changes in the market as a consequence of planned (as opposed to actual) entry, expansion or exit (as covered in Question 2 above)?
5. More generally, we would also be interested in any evidence suggesting that there have been changes in:
  - costs of entry/expansion, for example, cost of acquiring a suitable site;
  - time taken for entry/expansion;

- healthcare regulation;
- site availability;
- planning regulations; and/or
- strategic barriers, for example, PMI recognition for new providers or facilities.

If so, are any of these particularly relevant to specific specialties?

### ***Bargaining power***

6. Is there any evidence to suggest that there have been any changes in the bargaining power of the relevant parties in the period since the final report was published in April 2014? For example, have relevant changes occurred in relation to:

- managed care pathways;
- open referral products sold by PMIs;
- changes in PMIs' abilities to control recognition for new hospital facilities;
- policy networks;
- PMIs' abilities to 'steer' patients;
- changes in the competitive landscape; and/or
- prevalence of PPU's in central London.

If so, how have these impacted on the relative bargaining power of hospital providers in central London and PMIs? If so, does this differ across specialties?

7. Have any changes in bargaining power resulted in changes in the level of prices that PMIs pay to providers, for example, as a result of any contract negotiations in the past two years?

### ***Quality***

8. Is there any evidence that the quality of provision in central London has changed since the CMA published the final report in April 2014 or that the relative quality of different providers has changed in this period? For example, have there been relevant changes in relation to:

- clinical quality, for example, patient outcomes;
- patient experience; and
- quality of processes, for example, data collection.