

Private Healthcare Remittal: Submission of AXA PPP 6 May 2015

Introduction

This submission provides further information in response to the questions posed by the CMA in its letter of 13 April 2015. As requested by the CMA, AXA PPP has not repeated points made in the original market investigation, but focuses below on recent developments in central London. This submission contains confidential information, the disclosure of which may adversely effect AXA PPP's legitimate commercial interests. A non-confidential version will be supplied separately as requested by the CMA.

In AXA PPP's view, the submissions it made throughout the investigation with respect to HCA's position in central London continue to hold true: HCA's facilities continue to occupy a "must have" status (this remains particularly the case for corporate customers and for certain specialties including oncology and cardiology), and its proportion of the market has remained consistently high, at [40-50]% of the spend for 2012, 2013 and 2014 and a [40-50]% share of all patients treated over the same period. Looking slightly below the macro level, HCA's share of oncology services has also remained stable over the three year period, and is set to increase as it continues to expand its offering for this specialty. Similarly HCA's share of cardiology services remains significant.

AXA PPP is not aware of any material entry or expansion (whether actual or planned) by other providers or any change in its bargaining power that is likely to have a material impact on the current market dynamics.

AXA PPP looks forward to continued engagement with the CMA on this topic and would be happy to discuss these issues further if useful.

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.**

Demand side

From AXA PPP's perspective there have been no material changes to the demand side characteristics in central London. The location at which patients are treated and the pathway the patient follows continue in the main to be controlled by the specialist. Furthermore, while the number of open referrals has increased (discussed further below), the majority of specialists continue to be appointed by the primary care doctor, over whom insurers commonly have little to no influence. As highlighted during the market investigation, HCA has grown its presence in the primary care sector, in particular via the acquisition of two key primary care services in London:

Rood Lane and Blossoms Inn. Both of these primary care providers are very active and successful in the corporate market and provide primary care and Occupational Health services to a very large number of blue chip companies in London, enabling HCA (as a result of its ownership) to control the referral patterns for these customers. AXA PPP has discussed the potential for developing alternative referral models with Rood Lane, and in particular the potential to refer patients to specialists working outside London in some instances, but this proposal was considered unacceptable by Rood Lane.

AXA PPP's previous submissions on patient perceptions and in particular the attraction of certain facilities in central London due to the "Harley Street effect" remain valid. Patients continue very often to choose to be treated in central London even if there is an opportunity to be treated outside London. The number of patients being treated in London increased by 1% in 2013 and by 6% in 2014. This compares to a decrease in the number of patients being treated outside London in 2013 of 2% followed by a commensurate increase in 2014 of just below 2%. HCA's facilities in central London therefore retain their "must have" status, particularly for corporate customers and as noted above HCA's market share both in terms of spend and admissions has remained stable.

The importance of HCA's facilities has not been materially impacted by the growth of open referrals. While the number of open referrals has increased in recent years, with the result that AXA PPP is able to exercise a degree of influence on the choice of specialist and provider for certain patients, this has not resulted in a significant change to overall referral patterns, given that (a) the majority of patients retain a choice of specialist / facility pursuant to their policy terms (the only policy that "requires" patients to accept an open referral is AXA PPP's Healthcare Pathway product which is available to corporate customers only. As discussed in response to question 6 below, take up of this policy has been limited); (b) it is not the case that all open referrals are diverted away from HCA facilities – in fact HCA remains the largest provider even among open referral patients. In central London, in 2014, AXA PPP recorded 96,000 referrals that resulted in hospital treatment, including 7,712 (8%) open referrals. Of these, [3<] were referred to HCA, which represented a larger proportion than any other provider.

AXA PPP has no initiatives to increase referrals towards NHS providers, and our policy offering in this respect has not altered since April 2014. The NHS' continued difficulty in providing timely services and treatments indicates that this is unlikely to change.

Supply side

From a supply side perspective, AXA PPP has not seen any evidence that private hospital providers outside central London have begun to exert a greater constraint on central London providers.

AXA PPP notes that a new hospital, the Kent Institute of Medicine and Surgery (KIMS), opened south of London in Maidstone in 2014, and was recognised by AXA PPP in July 2014. KIMS is a high end acuity hospital specialising in cardiology and heart surgery. It has 101 beds, 5 theatres, 2 endoscopy units and an intensive care unit. It is well equipped to carry out major procedures. It is too early to determine if KIMS will bring any contestability to central London. In AXA PPP's view it is unlikely that patients will travel out of London to be treated at KIMS; however, KIMS, if successful with consultant and patient engagement, will potentially attract referrals in the Maidstone area for patients who otherwise may have had to travel to central London for treatment.

AXA PPP also notes that St Anthony's hospital in Cheam (which is south of London in the Borough of Sutton) has been acquired by Spire since the publication of the Final Report, and that Spire has indicated its commitment to invest in this facility to increase services and capacity. This is a long term investment plan that will take some years to complete and implement, and which will also be

dependent on the extent to which Spire is successful in engaging specialists. In any event, in AXA PPP's view any future constraint on central London hospitals is likely to be marginal given the location of St Anthony's, which is more likely to compete closely with Aspen's facility in Wimbledon.

Similarly, there has been no material increase in the constraint provided by NHS facilities. While the continued development of PPUs by NHS Trusts in London could in the future bring some contestability to the central London market, the degree of any constraint will depend on the size of facility, the range of services to be offered and the identity of the operator. As the most recent PPU contracts have been awarded to HCA (see the response to question 2 below), these are not anticipated to provide an effective constraint to HCA's existing facilities.

Barriers to entry and expansion/competitive constraints

2. Has there been any entry/expansion or exit of private hospital providers or PPUs in the period since the Final Report was published in April 2014?

With the exception of HCA's continued growth, described in AXA PPP's letter of 9 March 2015 and discussed further below, there has been no material entry/expansion or exit of private hospital providers in central London since the Final Report.

As the CMA is aware, PPUs are planned at Guy's and St Thomas', where a full service oncology facility is planned (scheduled for completion next year), and St George's in Tooting. Guy's and St Thomas' PPU has been awarded to HCA for, we understand, a 25 year period and AXA PPP understands that St. George's has also been won by HCA. (Although HCA has not confirmed whether it has in fact been appointed as the preferred bidder, [redacted]).

As discussed in our letter of 9 March 2015 HCA has, since the Final Report, already begun to treat patients in accommodation leased from Guy's and St Thomas' which is being marketed under the name 'The London Radiotherapy Centre'. The London Radiotherapy Centre is marketed by HCA as a new purpose-built centre offering comprehensive radiotherapy treatment on one site. If the patient requires treatment for other conditions or admission to hospital, they are directed to the London Bridge Hospital, positioned as a 'sister site' to the London Radiotherapy Centre. AXA PPP began settling invoices from this centre in October 2014 and to date AXA PPP has received bills for the treatment of [redacted] patients at the centre totalling c. [redacted]. AXA PPP understands that HCA's offering will be expanded significantly with a full cancer centre opening next year. While it is currently unclear exactly how the London Radiotherapy Centre will work alongside the Guy's and St. Thomas' PPU when it is developed, it is evident that these new facilities will only serve to increase HCA's dominance in central London with respect to oncology services in particular.

To AXA PPP's knowledge the only other material development in central London since the Final Report is a further addition to HCA's footprint in the form of a large full service diagnostic suite in Devonshire Street (proximate to Harley Street), known as the Harley Street Diagnostic Centre, which includes primary GP services. HCA's website describes the centre as follows:

The Harley Street Clinic Diagnostic Centre forms part of the campus of The Harley Street Clinic.

Taking in all of 13 to 18 Devonshire Street in the heart of London's premier medical district, the six-floored building encompasses an array of diagnostic and consultation facilities ensuring that patient coming to see one of the 100+ consultants using the building have a true "one-stop shop" from consultation to diagnostic tests and then back to consultation – often on the same day.

The new Diagnostic Centre, entered at 16 Devonshire Street, also houses three private GP practices including London General Practice so a patient can go through primary, secondary and tertiary (consultant to consultant) care under one roof.

Facilities include:

Diagnostic imaging

- *Two MRIs*
- *High Definition CT*
- *Digital Mammography*
- *Digital X-Ray*
- *Ultrasound*
- *Bone Densitometry*
- *OPG (orthopantomogram) used for dental and jaw scans*
- *Lung function*

Cardiac Testing

- *Echocardiogram (ECG – 2D, 4D, contract, stress echo)*
- *Ambulatory ECG recording*
- *24 hour blood pressure recording*
- *Exercise test*
- *Tilt test*
- *Pacemaker check, ICD (Implantable Cardioverter Defibrillator) check*

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?

As noted in response to question 2, the opening of the London Radiotherapy Centre and the planned cancer centre at Guy's and St Thomas will further strengthen HCA's position with respect to oncology services. As discussed during the market investigation and most recently in AXA PPP's letter of 9 March 2015, oncology is of critical importance to PMI patients.

AXA PPP is not aware of other providers having broadened the range of services they provide in central London to any material extent. Outside central London, while KIMS in Maidstone may over time attract Cardiology and Heart Surgery patients away from London and contest the market in central London to a limited extent, it is too early to determine whether the existence of KIMS will actually impact the competitive conditions in central London overall or in particular specialties. In AXA PPP's view it is more likely that KIMS will benefit from treating patients who before its existence would have been treated in NHS facilities in and around Maidstone.

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)?

AXA PPP does not believe there have been any changes in the market dynamics as yet as a consequence of planned entry. However, a number of planned HCA developments are likely to further strengthen its position as follows:

- AXA PPP has already articulated above that it believes that the planned development of the PPU at Guy's and St Thomas' will increase HCA's position in the provision of oncology services – a specialism in which is it already dominant.
- AXA PPP also understands that HCA has won the contract to develop and manage the new PPU planned at St Georges, in Tooting. If the new unit provides the same range of services as the existing trust, this will be a general hospital covering all major specialities with particular focus on paediatrics, orthopaedics and trauma, cardiothoracic, obstetrics and neurology services. It is too early to judge the extent to which a facility in Tooting would be able to contest the central London market from a geographic perspective, but such considerations would be irrelevant in the event that HCA has been or will be awarded the contract
- AXA PPP has also been informed by HCA that it plans to expand The Portland Hospital which will significantly add to HCA's obstetrics and gynaecological footprint in London (another specialism in relation to which AXA PPP considers that HCA holds a dominant position). AXA PPP understands that HCA has acquired a site next to the existing Portland Hospital separated only by a narrow road/ally which it intends to connect to the main hospital by building a bridge between the two premises. AXA PPP further understands that despite previous planning permission applications by other owners/landlords in the area having been rejected, HCA has already been given permission to build the walkway. According to HCA this expansion will broadly double the capacity at the Portland Hospital.

A tender process is also underway for a PPU at St Bartholomew's. AXA PPP understands that Nuffield and HCA have both submitted bids for this contract.

For completeness, AXA PPP also notes that both [X] and [Y] have a stated strategy to acquire property and develop facilities in central London. Both of these remain speculative and AXA PPP does not believe that either party has acquired suitable accommodation as a result of significant problems with the previously articulated barriers to entry in central London.

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**
- **strategic barriers, for example, PMI recognition for new providers or facilities**

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

AXA PPP is not aware of any changes to these constraints to providers' abilities to develop facilities and services in central London.

As noted above, both [X] and [Y] have stated in discussions that they have a strong desire to develop facilities in London but both have indicated that they are finding the location of property in central London difficult, constraining their plans to develop services in this area. Most recently [X] has indicated that it may have to set aside its original plan, which was to develop a hospital of significant size and range of services in Central London to contest HCA's 'must have' facilities, in favour of a more modest facility, potentially in two locations.

As noted in our letter of 9 March 2015 barriers to entry remain particularly high for radiotherapy services.

In AXA PPP's view PMI recognition for new providers or facilities is not a significant barrier in central London. AXA PPP has informed providers that if there is development in London that increases capacity significantly, AXA PPP would aim to re-tender for services in London.

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**
- **Prevalence of PPUs 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?

AXA PPP contends that there have been no significant changes in any of the dimensions listed above that have materially affected the dynamic of the central London market. HCA continues to own the vast proportion of 'must have' hospitals in London to which customers, in particular large corporate customers, continue to require access. Therefore to remain competitive AXA PPP must continue to offer products which include these hospitals.

As described in response to question 1, treatment pathways for patients continue to be managed by the specialists in the main, and AXA PPP retains limited ability to 'steer' patients away from HCA facilities to any material extent. The take up of AXA PPP's Healthcare Pathway product (which, as indicated in response to question 1 above is available only for corporate customers) has been low, and open referral policy numbers remain static. AXA PPP currently has c. 110,000 members (out of a total population of c. 1 million UK PMI members as at 31 December 2014) on the Healthcare Pathway product and the product has not proved popular in the London market where corporate customers require an insurer's list of hospitals to include 'must have' providers, in particular HCA.

AXA PPP has made no changes to its list of providers in London [X].

AXA PPP notes HCA's submissions that the CMA must consider to what extent other remedies during the market investigation have had a material impact on the market for private health care, notably the increased transparency of data on quality and the new PPU remedy. While AXA PPP welcomes the implementation of both of these remedies, neither has yet had any impact on the market for private healthcare. With respect to the PPU remedy, the CMA has yet to open an investigation into the St George's PPU, and AXA PPP remains concerned that other types of arrangement such as agreements for lease may continue to escape scrutiny under either the mergers regime or the Order. With respect to data transparency, while HCA and other providers have begun to publish data in order to comply with the Order, AXA PPP is concerned that the information made available by HCA to date is not sufficiently transparent and clear to have any impact on the competitive dynamics of the relevant market. In particular, an initial review of the information disclosed indicates that:

- the information has been disclosed in such a way that it is difficult to access: it is not on the HCA site but on a separate site accessed via intermediary pages; the internet page names are numbers rather than structured names, making searches difficult; and the source code for the relevant pages contains instructions preventing the pages from being found or listed by search engines.
- HCA appear to have a very large number of paid advisers: while hourly rates are provided in some cases, total payments are not, and for some hospitals a general disclosure has been made that payments to advisers exist without providing names or payment information.

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?

AXA PPP does not believe that its bargaining power has changed in the past two years.

Most AXA PPP contracts with providers have a formula for annual increases linked to various published indices, and this approach has not changed.

The only exception to this is HCA who refused to continue accepting a formulaic increase in 2009. Since then, annual increases have typically been agreed for a period of time as a result of renewal discussions. With effect from October 2009 AXA PPP agreed increases for 2009, 2010 and 2011. In October 2011 AXA PPP agreed increases for 2011 and 2012. A one year agreement was reached in 2013, and in 2014 AXA PPP agreed a [%] uplift for each of 2014 and 2015. The level of uplift was contingent upon, amongst other terms:

- [%]
- [%]

AXA PPP felt compelled to agree to these terms to mitigate a higher than [%] increase which is already a higher increase than that accepted from any other provider, and an increase on prices which themselves were already higher than prices charged by other providers in the market. [%].

Overall, therefore, HCA continues to charge higher prices and command more significant increases than other providers, notwithstanding low levels of inflation and the regulatory scrutiny under which it is currently operating. This is clearly evidenced by the below table which indexes the charges of the central London providers against the national average for 2014.

Central London provider	Index of charges against national average
HCA	[%]
London Clinic	[%]
Bupa Cromwell	[%]
King Edward VII	[%]
St John's and St Elizabeth's	[%]

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**
- **Quality of processes, for example, data collection**

AXA PPP is not aware that the quality of provision in central London has changed since the publication of the Final Report, or that the relative quality of different providers has changed. AXA PPP has not received feedback from customers, positive or negative, that would suggest any material changes of this nature.

However, AXA PPP notes that some quality data previously published by HCA is no longer available. In particular AXA PPP notes HCA hospitals no longer publish mortality data on the society of cardiothoracic surgeons web site:

http://www.scts.org/patients/hospitals/centre.aspx?id=13&name=the_wellington_hospital

Instead, HCA now provides the following statement:

“As a private healthcare provider this hospital’s page is different from those of NHS hospitals featured on this site. The patient population of private hospitals is subtly different from NHS units and this makes direct comparison of outcomes more complex. This hospital’s mortality rate is displayed with the two other private hospitals that contribute to the National Adult Cardiac Surgery Audit. Surgeons who operate in this hospitals are not listed on this page and their details can be found on the hospital’s own website by following [this link](#).”

Furthermore, published data is now amalgamated across HCA’s hospitals rather than being published for each individual unit.

This positioning is in stark contrast to HCA’s previous position, whereby HCA claimed that its performance was superior when compared to the average London NHS unit, equating (in HCA’s view) to saving 6 lives per year. By removing individual unit data from the SCTS website it is no longer possible to make quality comparisons between HCA and other providers.