

## **PRIVATE HEALTHCARE MARKET INVESTIGATION**

### **Notice of the Competition and Markets Authority's intention to hold a disclosure room to allow a further review of the Insured Pricing Analysis following publication of the Provisional Findings**

As part of the private healthcare market investigation remittal (the 'Remittal'), the Competition and Markets Authority (CMA) is, in early November, intending to publish its Provisional Findings (PFs). Some of the information underlying the PFs is highly sensitive and confidential and, therefore, will be redacted from the published version of the PFs. This applies, in particular, to the CMA's Insured Pricing Analysis (IPA), which is based on 'specified information' within the meaning of section 238 of the Enterprise Act 2002 (the 'Act'), to which a general restriction on disclosure by the CMA in section 237 of the Act applies.

Pursuant to section 241 of the Act, the CMA may disclose specified information for the purpose of facilitating the exercise by it of its functions.

The CMA has decided to disclose the following material relevant to the IPA, by way of a disclosure room:

- (a) The raw data.
- (b) The cleaned data.
- (c) Full details of the methodology, analyses and various coding values used in the computer modelling to produce the IPA.
- (d) The means to reproduce the full set of results from each step of the analysis, including all standard outputs, together with all such results that were in the possession of the CMA.
- (e) The means to reproduce the full set of results from any sensitivity analysis or robustness checks which the CMA performed, together with all such results that were in the possession of the CMA.

Together the 'Disclosed Material'.

In light of the particularly sensitive and confidential nature of the Disclosed Material, the CMA considers it necessary to operate strict rules governing access to the Disclosure Room, which will only be open to external economic and/or legal advisers and not to parties' directly or their staff (eg parties' employees). The CMA will have to approve any external advisers, who will be required to sign undertakings before being granted access to the PFs Disclosure Room and, while in the PFs Disclosure Room, abide by a set of rules governing its use. Those undertakings will contain an Adviser Disqualification Clause.<sup>1</sup> The PFs Disclosure Room undertakings and rules will be sent in advance to those whom access will be granted by the CMA.

The PFs Disclosure Room will be open on each CMA Working Day<sup>2</sup> for the duration of the consultation period on the PFs<sup>3</sup> from 9:30am until 5:30pm on each day. Numbers of individuals allowed access to the PF Disclosure Room at any one time will be limited.

This notice invites parties to submit expressions of interest to access the PFs Disclosure Room together with an explanation of their interest and the reasons for requesting access, and details of the interested party's external legal and/or economic advisers (ie name, job title and employer) seeking entry to either the PFs Disclosure Room. Any expressions of interest must be sent **by 5:00pm on 21 October 2015** at the very latest to the private healthcare investigation team at [Private-Healthcare@cma.gsi.gov.uk](mailto:Private-Healthcare@cma.gsi.gov.uk).

The CMA will consider each expression of interest received before deciding whether to grant access to the interested party to the PFs Disclosure Room.

Further information about the CMA's private healthcare market investigation and details of the Remittal can be found on the case page.

14 October 2015

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<sup>1</sup> Pursuant to the Adviser Disqualification Clause, advisers given access to the Disclosure Room will be required to agree not to advise any party in relation to any pricing negotiations between any hospital operator and any private medical insurer (PMI) concerning the price and/or terms and conditions of services supplied to patients of the PMI for a specific period of time.

<sup>2</sup> CMA 'Working Day' means any day of the week, Monday to Friday, on which the CMA office is open, excluding public or bank holidays.

<sup>3</sup> The Disclosure Room may open a short time after publication of the PFs, in order to allow parties time to review the PFs prior to getting access to the Disclosure Room. Similarly, the Disclosure Room may close a short time before the end of the consultation period, in order to allow parties time to finalise their response to the PFs. The precise timings will be confirmed in due course.