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Competition and Markets Authority
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Dear Tom

Private Healthcare Market Investigation Order - Article 22

In response to the CMA's recently issued Notice, Circle makes the following comments:

- The timing of when the Order comes into effect and the dates by which various requirements set out in the Order are confusing:
 - Para 22 and Para 29(c) of the Notice appear to be in conflict. Para 22 and Para 27 indicate that the requirements under Articles 22.2, 22.3, 22.4, and 22.7 shall be applied within two months of the Order bringing Article 22 into force is made, while Para 29(c) suggests that all of Article 22 comes into force two months after the Order is made and that the date by which compliance with the requirements under Articles 22.2, 22.3, 22.4, and 22.7 is a further two months from such date. Does this mean the date by which the requirements set forth in Articles 22.2, 22.3, 22.4, and 22.7 come into effect is 2 months after the Order is made or 4 months (2 months plus 2 months)?
- Depending on the answer to the question above and when the Order actually is made, there is a possibility that the requirements of Articles 22.2, 22.3, 22.4, and 22.7 may come into effect before the PHIN website is publicly available to patients. As a result, the reference to PHIN and/or its website in any template correspondence would be confusing and misleading. The CMA should consider proposing that the requirements set forth in Articles 22.2, 22.3, 22.4, and 22.7 should apply only after the functionality and accessibility of the PHIN website is confirmed.
- There appears to be a disconnect between Paragraph 18 and the requirements under Articles 22.3 and 22.4, which go beyond what is currently required under Regulation 19 of the CQC rules. Specifically, in relation to Article 22.1, Paragraph 18 of the Notice recognises the challenge of defining “procedures” and developing “standard procedure fee information appropriately” to ensure meaningful comparison, as it will require “extensive consultation with hospitals, consultants, and other expert bodies.” Given this, why are consultants expected to disclose this same detailed procedure and fee information to patients in accordance with Articles 22.3 and 22.4 earlier than when such information is required to be provided to PHIN under Article 22.1? In the interests of time and consistency, it makes more sense to align the implementation of the requirements of Articles 22.1, 22.3 and 22.4.

Yours-sincerely,

Shane Cobb
General Counsel