

Dear Sirs

I am writing in response to the above consultation on the draft guidance document (the Document), representing the views of Nuffield Health. Nuffield Health is a private hospital operator which provides privately-funded healthcare and is subject to Part 2 of Private Healthcare Market Investigation Order 2014 (the Order) relating to Private Patient Unit (PPU) arrangements.

Nuffield Health's comments on the Document (with reference to the numbering set out in the Document) are as follows:

Paragraph 3.3: as per the terms of the Order (e.g. at 5.1(b)), the aim of the PPU process is to identify a substantial lessening of competition (SLC) in a "local area". The Document refers to the Market Investigation Report and merger control guidance for how an SLC would be assessed and presumably these sources would apply to the critical issue of how local areas are defined. We would propose, for clarity and certainty, that the Document states that geographic markets should be no narrower than those sources or other clear legal precedent.

Paragraph 3.5: we note a preliminary decision on whether to investigate a PPU will be taken by "a senior member of staff of the CMA". It seems important to ensure that, as with merger control or Competition Act investigations, there is a "checks and balances" mechanism in any decision-making process.

Paragraph 4.3: in our view, a five-page limit on submissions is not realistic. Some scenarios will involve complex analysis and submitting parties should be allowed to explain their full views.

Paragraph 4.13: we consider that even though there is no statutory deadline, there should be guideline time periods for clearance to allow some kind of procedural certainty. Parties themselves would wish to avoid demanding deadlines for information provision, but there should be no risk of a protracted delay in the ultimate decisions.

General comment: the Document does not provide a procedural framework – i.e. it does not say in what stages the CMA will actually assess a PPU. It would be useful have further clarity on the procedural aspects, for example whether there will be an issues meeting as with merger control.

Yours faithfully