

# **Competition Commission**

## **Private healthcare market investigation**

Aviva Briefing, Spring 2013

In April 2012, the Office of Fair Trading referred the private healthcare market to the Competition Commission (CC).

The view was that some features of the market could be preventing, restricting or distorting competition to a point where customers may be at a disadvantage.

We welcome this investigation. We want to do the best we can for our customers and we're convinced the private healthcare market could be improved for the people and patients it serves.

As one of the UK's leading healthcare providers, we buy services from the market on behalf of your clients. This means we're well placed to offer insights that could help the CC examine the current situation and make recommendations as to how the healthcare landscape can be improved.

We hope this document will help you understand more about our role in the process: what we're doing and how we're involved with the CC's work, and what the outcomes could mean for you and your clients.

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# Key issues

The Competition Commission has identified seven 'theories of harm' that could be having a negative impact on the way the private healthcare market operates, the costs involved, and the quality of care being received by your clients.

It is not always clear to patients that a contract is directly with the specialist / hospital recommended for their treatment, and that they could influence where and when they are seen. If this information was more freely available, patients may take more interest in influencing those factors, and query the initial recommendations before accepting them.

The review is examining whether or not patients' outcomes are affected by those influences: the hospital operator market, consultants (including anaesthetists) and insurers; whether or not there are barriers to entering the market itself and getting access to the most appropriate care, and the amount of information that's available about the cost and quality of services being provided.

The review is also looking at vertical effects: the implications of facilities and services being closely linked to insurers, and hospitals owning Occupational Health or primary care services.

The seven theories of harm are:

- (1) the market power of hospital operators in local areas
- (2) the market power of individual consultants and/or consultant groups in local areas
- (3) the market power of hospital operators during national negotiations with insurers
- (4) the buying power of insurers in respect of individual consultants
- (5) the barriers to entry at different levels
- (6) limited information availability
- (7) and vertical effects.

These seven factors could all be having an effect on the services we deliver and the costs and levels of care received by your clients. In this document, we're summarising our views about them under four headings:

- A lack of information
- A restricted referral pathway
- Competition between providers
- Needs and expectations

# Key issues

## A restricted referral pathway

The referral pathway is the journey taken by patients as they're diagnosed and treated, and the choices made for them during that journey.

Typically, private healthcare patients access the referral pathway through a GP. Our concern is that GPs may be habitually making consultant recommendations that then dictate the patient's care pathway. This could be having a significant negative impact on costs - such as the procedure, consultants, anaesthetists and facilities being used.

No one directly involved in the referral pathway has an incentive to gauge the value or manage the costs involved in a treatment. On the contrary, there are financial incentives to increase levels of treatment as that may increase chargeable fees - and patients aren't usually in a position to query a referral or challenge the basis on which it is made. This can lead to fees being incurred over and above policy allowances, at a time when the focus should be on making the best possible recovery, not worrying about unexpected costs.

### **How is this affecting your clients?**

If the GP refers to a surgeon who favours a particular surgical technique, the patient won't necessarily be offered a broader range of options from which to make a choice. Patients aren't able to make informed decisions about the quality or cost of the referral pathway being proposed.

### **Our view**

With access to more information, the referral pathway could be more outcome-focused, and lead to higher quality services as a result of competitive influences. It would help us offer better guidance and a more supportive service to patients.

Theory of harm (2) and (5)

## A lack of information

In comparison with the NHS-funded sector, the private healthcare market is poorly served with information about the quality and costs of providers' services.

Patients cannot make informed decisions if standardised or comparable information about services and results doesn't exist. It is challenging to discern whether differences in pricing reflect a potentially superior outcome for the patient, and this lack of data also makes it harder for you to substantiate the value of private healthcare to your clients.

Because data isn't readily available, it means there's very little reason for hospital groups, consultants and anaesthetists to adopt a healthy, competitive approach to their pricing. This means that insurers (and patients) may find out the cost of treatment at a point in the referral pathway that leaves little room for negotiation or review.

### **How is this affecting your clients?**

We firmly believe this lack of information means your clients are seeing unnecessary increases in the price of care and private medical insurance. It also encourages hospitals to compete, by attracting consultants with a higher volume of referrals rather than better outcomes or value, and stifles innovation that could deliver tangible improvements to service.

### **Our view**

Although some service providers have been willing to engage with us and share information about costs and results, we think there's a need to formalise the need for more widely available, standardised data sets that everyone can access.

Theory of harm (6)

## Competition between providers

At national, regional and local levels, there is only a limited scope for competition in the supply of private healthcare products and services.

Providers come under great pressure to accept national pricing strategies, particularly when catering for the needs of large corporate customers with employees UK-wide. Large hospital groups take advantage of this and use ownership of 'must have' facilities (specialising in a particular condition or treatment) and 'solus' hospitals (with few geographic competitors), to influence the pricing negotiations. When an insurer proposes opting out of certain locations, it's not unusual to see significant price increases for the use of other facilities in the group.

There may also be implications surrounding the ownership of a hospital outright by an insurer. Vertical integration is not necessarily a negative thing (it can drive efficiencies and a more joined up clinical journey), but unless that integration is transparent, it doesn't allow informed choice. Clearly, some vertical relationships could work to your clients' advantage, such as the provision of rehabilitation or Occupational Health services, via an insurer, by independent providers.

### How is this affecting your clients?

This stronghold over the availability of services and nationally-negotiated pricing could be limiting care choices and increasing costs unnecessarily for your clients.

### Our view

Nationally-negotiated pricing could be masking inefficient healthcare at a local level, stifling competition and limiting effective choices. That cannot benefit patients or purchasers of private healthcare products in the long term.

Theory of harm (1), (3), (4), (5) and (7)

## Needs and expectations

Your clients, corporate and individual, expect providers to offer cost-effective, private healthcare that guarantees access to high quality treatment and services.

While they're responding to customers' needs, insurers do protect and promote the commercial qualities of their products.

However, businesses and individuals have come to expect that insurers will control prices, negotiating on their behalves. Patients' clinical needs vary, but your clients may have little or no interest, or incentive, to challenge the comparative quality of care, the nature of an expected outcome, or the costs associated with a specific referral pathway.

### How is this affecting your clients?

Without more awareness of choice, greater competition among service providers, and more readily available information and education for your clients, providers may have to further increase the price of private healthcare products.

### Our view

We believe that a healthy, competitive market would help us contain costs and be more beneficial for everyone. Many insurers have been working to improve patient welfare, which has had a positive influence on the industry's working practices in recent years - but better-informed decisions, more efficient care and reduced costs would be the ideal outcome for patients and policy purchasers.

Theory of harm (2) and (5)

# How the process works

All Competition Commission (CC) inquiries follow a similar process. After an initial investigation, the CC will explore ways in which any negative impacts on competition could be remedied and provide a report with recommendations for implementation.

This review began in April 2012. The process of engaging stakeholders and investigating market factors, exploring options and making recommendations should take two years.

The statutory deadline for completing this work is April 4th, 2014. We'll be offering insights throughout the process to help keep you informed of any potential impact for you and your clients. This timeline shows the milestones and pieces of activity that we, and other respondents, will be involved in.



## What are we doing?

As one of the UK's largest providers of health insurance, we're taking an active role in offering the CC access to our work: inviting the CC on site, and liaising with them throughout the process.

We're also drawing from our relationships with intermediaries and clients to inform the CC about the health care services we believe could best meet our customers' true needs.

## 2012

### [OFT recommends review](#)

The Office of Fair Trading referred the private healthcare supply market to the Competition Commission (CC) after a year-long inquiry into its working practices.

### [First Day Letter](#)

The main parties received a letter outlining what the CC perceived to be the key issues. We agreed with these, but offered an expanded opinion on other areas we felt were of interest.

### [Publication of Issues Statement](#)

For the supply market, the Competition Commission outlined seven theories of harm. Our response to this statement broadly agreed with these issues, and provided evidence and our own perspective on their influence. We also argued that the market was seeing harmful effects being driven by vertical integration (patient choices being limited to facilities connected with a provider).

### [Site visits](#)

The Competition Commission visited Aviva in July 2012. We introduced them to one of our largest corporate customers - a business offering private medical insurance to 100% of its employees. We also shared information about our BackUp service, spent time with our claims teams, and offered insights into the customer journey.

### [Questionnaires issued](#)

After an intense period of activity in a relatively short time frame, the key main parties were required to submit their responses to a questionnaire that will help the Competition Commission explore the impact of the seven theories of harm.

## 2013

### [Formal hearings / working papers](#)

Throughout February and March, the CC invited key stakeholders to formal hearings to discuss aspects of the investigation. We visited the Commission in early February, taking the opportunity to discuss elements of the investigation, face to face, at greater length.

### [Publication of Annotated Issues Statement](#)

The CC have recently published their Annotated Issues Statement which sets out their current thinking, based on the evidence they have received, and the analyses they have undertaken to date

### [Next Steps](#)

Over the next few months the CC will publish further working papers on key aspects of investigation, and provisional decisions on remedies. Participants in the enquiry are invited to respond.

By the end of the summer, we should understand what, if any, the adverse effects on competition are. In consultation with the parties likely to be affected, in Year 2 the CC will focus on the most appropriate mechanisms that could help reduce or remove those effects. The publication of the Final Report is anticipated before the end of the year.

Aviva will continue to work closely with the Commission on this process, and will provide updates to you at appropriate times. In Year 2 the CC will focus on the most appropriate mechanisms that could help reduce or remove those effects.

# Aviva's role in this review

We're taking an active role in contributing our information and insights not only to the Competition Commission but also to you. Our reputation depends on your clients' opinions of the services we provide. We will be champions of transparency.

Along with a number of professional bodies, associations (such as the British Medical Association and the Independent Doctors' Federation), third parties (such as consultants and anaesthetists) and voluntary members of the public, there are eight main parties actively contributing to the Competition Commission during the review. These include Aviva UK, AXA PPP, Bupa, BMI, HCA, Nuffield Health, Ramsay Health Care and Spire Healthcare.

It is true that insurers could reduce benefits to contain costs. But we believe this historical approach no longer meets our customers' true needs and would not address the underlying problems that are being reviewed by the Competition Commission.

We believe your clients' needs are changing, and we're committed to delivering more than is often expected of us in that regard: working closely with you, and your clients, to commission the health care services that truly meet their needs.

Aviva will be championing the case for comparable, standardised data being more accessible to all; for a healthier, more competitive market among consultants, anaesthetist and facility providers; and for more engagement and transparency during the referral pathway, with fewer commercial influences.

It is worth noting that the Competition Commission's options range from making recommendations regarding 'corrective' activity for providers' working practices, to more regulation or even the break up of companies. As the final outcome, we hope to see a far greater commitment to the prioritisation of patients' welfare and far more accessible, transparent value for your clients.

## When will you see changes?

Although the publication of remedies is scheduled for Q2 2014, in reality it will take much longer for any significant change to be made across the industry. When we see what the remedies (if any) are, we will make a firm commitment to them and let you know when this work is likely to be completed from our perspective.

# Your questions

## **Why is this review so important for my clients?**

Approximately 80% of private healthcare in the UK is funded by private medical insurance. The market's sustainability depends on your clients being able to access cover that offers value for money, effective risk management and desired clinical outcomes - all of which may be under threat from the current market's working practices.

## **Isn't this just a review of UK insurers?**

No, the Competition Commission is examining the provision of healthcare as a whole in the private sector. Fundamentally, this is about how hospitals and specialists compete.

## **You're championing more transparency, who would monitor the data's validity?**

As a result of the Competition Commission's work, we believe a suggestion could be made for an independent body that could manage comparable, standardised data covering many aspects of the referral pathway.

## **This sounds like an investigation into commercial working practices that affect patients. Aren't all insurers and service providers bound to work ethically by the FSA?**

We're working to make sure our customers - your clients - are treated fairly in every aspect of our work. The FSA's regulatory influence guides us in that work. But in addition to offering responsible products and selling them responsibly, that means responding to their individual needs and striving to deliver the best possible clinical outcomes under the cover provided by our private healthcare policies.

Currently, there is no 'commissioner' of healthcare within the UK private healthcare market (someone who acts as the guardian of cost, efficiency and effectiveness). We believe the Competition Commission's findings could promote greater awareness about the importance of ethical practice among key players in the private healthcare market.

## **Surely ethics and professional standards ensures that patients get the best service?**

Hospitals and specialists operate in a strictly controlled environment, which dictates how they supply their service. However, they consider each individual patient rather than the whole range of customers so decisions affecting value are separated from the purchaser of the insurance. We also see that there's a large variation in actual practice and the clinical journey of our customers: at present there is no explanation for this and no consideration if it achieves the desired outcomes, even the break up of companies.

## **If the recommendations are to open up the referral pathway, won't insurers simply be looking for the cheapest options?**

We have proved this need not be the case. By drawing on our clinical expertise we can deliver better outcomes to your clients with no detriment to customer experience, as our Back-Up proposition shows. The commitment we make to ensuring the right treatment at the right time means there are also instances in which we could recommend a more expensive treatment.

For example, in one case the fee for a breast reconstruction was first proposed at £1,608.00 – but our clinicians knew of an alternative method that had been seen to give far superior outcomes for the patients. The fee was significantly higher, at £2,556.00, because it reflected the complexity and duration of the operation. We recommended a prompt review of the proposed referral pathway and approved the higher claim. In the long term, we were confident this would provide a better clinical outcome for the employee and, in turn, lead to a greatly improved recovery journey. Our oncology team was there throughout the claims process to not only provide reassurance and support, but also offer insights to the options that hadn't been explored fully to that point.

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