13 July 2012

Miss Julie Hoares
Enquiry Coordinator
Competition Commission

Dear Miss Hoares

Thank you for your letter of 22 June inviting comments from ENT UK regarding your planned investigation of the private healthcare market.

I am responding on behalf of ENT UK, which is the National Specialty Association for ENT Surgeons in this country. The issues have been discussed quite extensively by our Independent Practice Committee.

We have had the opportunity to read your full issue statement and are very pleased to see that you appear to have identified most of the key issues. Some of them do not impact on ENT Surgeons directly and I am sure you will have comment on these areas from other appropriate agencies. I therefore propose to restrict our response to those areas which are a particular concern to us.

Perhaps our area of greatest concern is that of "recognition" by private medical insurers. As I am sure you are well aware, trainee Surgeons in this country are well and thoroughly scrutinised by appropriate agencies. They have to run through a highly specified program of training with appropriate exit exams to allow for recognition of their specialist status. This is then something that is recognised by the GMC, our Statutory Regulator.

The GMC is obviously concerned with professional and clinical standards. We at ENT UK are very keen to maintain clinical standards and are very much involved with standard-setting for clinical practice under the auspices of the Royal College of Surgeons.

As regards who should undertake treatments and how these treatments should be undertaken, we feel this is a role for the already well-established statutory regulators.

We are fully aware of the current financial situation and the need to control costs, not only in the NHS, but also in the private sector. We further understand the need for private insurance companies to control their costs and understand that they may well have to set maximum levels of reimbursement. However, we do not feel that it is any way within their remit to dictate clinical standards or clinical practice. They may clearly suggest that their patients should be subject to best practice and this is something we would completely endorse.

However, an insurer taking on the role of Statutory Regulator does not seem either appropriate or proper.

We are also concerned that the insurer seems to suggest to their customer that specialists are "recognised" on the basis of quality measures.

As a specialty organisation trying to introduce quality measures across the NHS, and independent practice, we are unaware of any nationally agreed quality measures that are easily available to the public at this point in time. We therefore believe that the insurers use the term (the) recognition (is in fact) based on cost. We believe this misrepresents the position and is disingenuous. It limits access for patients to the appropriate Specialist with the appropriate subspecialist skills and, as suggested in your Statement of Issues, potentially impacts (ultimately) on the quality of care.

Our second main area of concern surrounds issues of information.

Unfortunately, in the UK, the vast majority of patients do not understand the process by which they might access specialist secondary care. Both in the NHS, and private sectors, this is generally done through an approach to the GP. I think most patients understand this first step in proceedings. Clearly, if the GP feels unable or unhappy to manage the problem, then they will refer on for a specialist opinion, and possibly treatment.

The whole process of medical care is very much one of human interaction. Issues around communication and relationships have a significant bearing on the quality and success of treatment offered. Most General Practitioners tend to become familiar with their local secondary care providers and the character nuances of their patient. Therefore, it is likely that the best package in terms of quality of care is achieved by allowing the General Practitioner to refer to the most appropriate Specialist in secondary care, both from the point of view of the clinical problem and the personality match for the patient.

By the same token, it is also important that the patients have access to information about the Specialist and are able to exercise their choice to see the Specialist whom they feel will most appropriately address their needs. The key issue here is that of patient choice.

We have significant concerns that insurers are significantly impeding the patient's ability to choose. They are insisting, in many cases, that General Practitioners refer to a hospital or organisation in which "appropriate" Specialists are available to see the patient. These "appropriate" Specialists are not chosen for their clinical expertise or experience, but merely their agreement to conform to a pre-set fee structure. Furthermore, the script that many of the insurance companies' telephone operators are following suggest that Consultants who do not adhere to a certain fee structure are somehow less skilled, less able or less "appropriate", than

"fee-assured" Consultants. The use of these "open referals" is therefore also dictated, not by clinical appropriateness, but by cost.

With regard to information, there is another aspect to this: that is the information provided to the customer, by the private insurer, as to the comprehensiveness, or not, of their insurance coverage. Clearly, it is an insurance product and most people are familiar with the concepts of excess and maximum reimbursement. It seems to us that many insurers are slightly disingenuous in suggesting that their insurance product will provide comprehensive coverage when this is not always the case.

We believe that the customer/patient should be able to make a personal choice with regard to the Specialist they see and the coverage of their insurance product. Most people are able to make the choice as to whether they wish to have no excess spending and will accept the limitation and choice to see a fee assured Consultant, who may, of course, be the most appropriate for the condition anyway. It seems that the corollary should also apply and that the patient should be able to choose the Consultant of their choice, or choose with the aid of their GP, even if this means that they may have to pay an insurance excess to cover the totality of the bill.

On a separate note, we at ENT UK remind all our members that it is most important to make the customer/patient aware of all charges and costs before the consultation. This clearly helps to allow the patient to make a considered decision. We feel quite strongly that the insurers have been disingenuous in this regard and are distorting the market by not providing full information on the nature and limitations of the products they sell.

Finally, for what it is worth, we would just like to make the point that we, as a National Specialty Association, have made frequent offers to the various private medical insurers to discuss issues around clinical coding for operative procedures and quality standards around patient care, to try and address some of these frequently contentious issues. It is most disappointing to us how frequently these offers and invitations are declined, despite the fact that they are a frequent source of conflict between insurers and clinicians.

Once again, we would like to express our gratitude for having the opportunity to respond to this enquiry. We do hope you find these comments helpful and would be delighted to provide further clarification or detail on them should this be required.

Best wishes.

Yours sincerely

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Mr Andrew McCombe MD FRCS (ORL)
Honorary Secretary ENT UK / Chairman of Independent Practice Committee