



# Healthcare Update

## Competition Commission Proposes Changes for the Private Healthcare Sector

On 16 January 2014, the Competition Commission (CC) published its provisional decision on remedies in relation to its private healthcare market investigation. The proposed measures are based on its provisional report, published in August 2013, which found that many private hospitals face little competition in local areas across the UK and that there were high barriers to entry.

The proposed package of remedies includes measures which will not only affect private hospital operators but also consultants and private medical insurers. The proposals consist of the following five remedies:

1. Divestiture of 9 hospitals by two large hospital groups in England (HCA and BMI).
2. Review by the new Competition and Markets Authority of arrangements under which private hospital operators enter into agreements to operate private patient units in NHS hospitals. Such arrangements will be prohibited if they fail the competition test.
3. Prohibition of, or restrictions on, certain clinician incentive schemes that encourage patient referrals to particular facilities or for particular treatments or tests. This includes a prohibition of direct incentives to clinicians which encourage clinicians to treat patients at, or commission treatments or tests from, their hospitals. It also includes restrictions on equity sharing arrangements between private hospital operators and clinicians. The CC also proposes that private hospital operators disclose on their website the nature and market value of services provided to clinicians, any payments made to clinicians in return for services and details of any clinicians practising at their hospitals who own equity in any of their facilities including equipment.
4. Requiring the collection and publication of information on the performance of private hospitals and individual consultants. This would require private hospital operators and private medical insurers to jointly fund an information organisation to collect and publish information with prescribed content and format on the performance of hospitals and individual consultants.
5. Requirement on private hospital operators to include, as a condition of granting practising privileges, an obligation on consultants to provide fee information to patients using standard letter templates. Private hospital operators must ensure that consultants comply with the obligation. In the long run, consultants would be required to provide information to the information organisation on their fees for publication on its website.

Please access the following links to the CC press release and summary of the provisional decision for further information.

The press release can be found [here](#) and the summary of the provisional decision on remedies can be found [here](#).

The CC is now inviting responses to these proposed measures until 6 February 2014. The full provisional decision on remedies will be published shortly and the CC is required to publish its final report by 3 April 2014.

## Contact



Dorit McCann  
Associate

+44 (0)28 9034 8816  
[dorit.mccann@carson-mcdowell.com](mailto:dorit.mccann@carson-mcdowell.com)