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OFT REFERS PRIVATE HEALTHCARE MARKET TO COMPETITION COMMISSION

The OFT has today referred the market for privately funded healthcare services in the UK to the Competition Commission for further investigation.

This follows the OFT's provisional decision to make a market investigation reference when it published its private healthcare market study in December 2011. The OFT then undertook a public consultation on its findings which closed in January 2012.

Having considered the responses submitted during the consultation process, the OFT continues to hold the view that the private healthcare market could work better for patients, and that there are reasonable grounds for suspecting that there are features of the market that prevent, restrict or distort competition.

The features identified by the OFT are:

- A lack of easily comparable information available to patients and their GPs on the quality and costs of private healthcare services.

This may mean that competition between private healthcare providers and between consultants is not as effective as it could be. In addition, the full costs of treatment may not always be transparent for private patients.



- There are only a limited number of significant private healthcare providers and larger health insurance providers at a national level. There are pockets of particularly high concentration in some local areas where private patients have a limited choice of hospital. Given the desire for patients to be treated locally, this may mean that insurance providers will generally rely on these larger healthcare providers to provide this access to treatment for their policyholders.
- A number of the features of the private healthcare market combine to create significant barriers to new competitors entering the market and being able to offer private patients greater choice. For example, some larger private healthcare providers can impose price rises or set other conditions if an insurer proposes to recognise a new entrant on its network. There also appear to be certain incentives given by private healthcare providers to consultants, such as loyalty payments for treating private patients at a particular facility, which could raise those barriers further.

John Fingleton, OFT Chief Executive, said:

‘The private healthcare sector is likely to continue to be of growing importance to the nation’s population and economy and so it is important that the market works well. Yet private patients and their GPs face difficulties selecting private healthcare providers on the basis of

quality or value for money, and this may ultimately result in patients paying higher prices, or receiving lower quality care. Following extensive consultation, we have concluded that an in-depth investigation by the Competition Commission is the most appropriate means of investigating and potentially remedying the market problems we have identified.'

NOTES

1. The decision to make a Market Investigation Reference is available on the [OFT website](#).
2. On 8 December 2011, the OFT announced that it had provisionally decided to refer the market for privately funded healthcare services in the UK to the Competition Commission for further investigation. See the [press release](#) and the [market study report](#).
3. OFT market studies are carried out under section 5 of the Enterprise Act 2002 (EA02) which allows the OFT to obtain information and conduct research. Effectively, they allow a market-wide consideration of both competition and consumer issues. They take an overview of regulatory and other economic drivers in the market and consumer and business behaviour. Possible outcomes of market studies include: enforcement action by the OFT, a market investigation reference to the Competition Commission, recommendations for changes in laws and regulations, recommendations to regulators, self-regulatory bodies and others to consider changes to their rules, campaigns to promote consumer education and awareness, or a clean bill of health.
4. The focus of the market study was on the provision of private healthcare, which included the provision by privately funded public providers (for example, by Private Patient Units of NHS Trusts) as well as private providers.
5. In 2010, approximately 78 per cent of private healthcare funding from privately funded patients came from private medical insurers and 22 per cent from self pay patients, based on figures supplied by Laing and Buisson and adjusted by the OFT.

6. The OFT considers that the statutory test for reference in section 131 of the EA02 is met, namely that there are reasonable grounds for suspecting that there are features of this market that prevent, restrict or distort competition in the UK.

7. The OFT will only exercise its discretion to make a reference when particular criteria have been met, as set out in [Market Investigation References: Guidance about the making of references under Part 4 of the Enterprise Act \(March 2006\)](#).

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