

**BOARD of
HEALTHCARE
FUNDERS**
of SOUTHERN AFRICA

(Association Incorporated
under Section 21
Registration number
2001/003387/08)

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25 June 2013

The Competition Commissioner (CC)
Private Bag x23
Lynwood Ridge
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By email: health@compcom.co.za

To whom it may concern,

Re: CALL FOR PUBLIC COMMENT: Market enquiry in private healthcare

Section 27 of the constitution makes provision for the state to promote access to healthcare service. It does not distinguish between private and public sectors; it is intended for all South Africans. Furthermore, the constitutional right to access healthcare service make healthcare service a public good rather than a commodity. The state therefore has an obligation to promote access to healthcare in the private sector at prices that are and remain affordable. To this end, in the absence of action from health regulators, the effort and actions of the CC is commendable.

BHF hopes the cost drivers that hinder affordability will be exposed and unpacked so that we may find sustainable solutions for all stakeholders involved.

Yours faithfully,

Dr. RH Patel

Head: Benefits and Risk

BHF

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BHF's additional comments on the "Draft terms of reference for market enquiry: private healthcare sector"

The document published by the CC is an extensive review of the private healthcare environment and identifies many of the issues involved. BHF's comments will make reference to specific omissions or suggested amendments.

1. The purpose of the inquiry should include the state of regulatory framework required to:
 - a. Protect public from opportunistic price behaviour
 - b. Make access to healthcare affordable.
2. We suggest specifically to add 3.3.4 to look at the device industry to unpack issues of pricing manipulation and prevailing allegations of coercion. In this regard, the CC may recall the BHF's exposure and subsequent media investigations of "rebate" practice in 2007.
3. The addition of 3.3.5 Regulatory framework review to
 - a. Specifically to identify healthcare cost drivers
 - b. Regulatory deficiencies
 - c. Possible areas of regulatory strength that is not utilised by the state.
4. While there is balance billing practice allowed by some funders, split billing is illegal and appears to be a growing problem amongst medical practitioners.
5. BHF recognises that medicines pricing is regulated, however BHF would like to see pricing methodology by pharma companies to be reviewed. The regulated pricing framework does not look at its impact on general affordability of healthcare access. The impact that new interventions like biologicals have and will have may significantly impair access and affordability in the future. Furthermore the payments made by pharma to medical practitioners for research activity is a concern as it raises general expectations of what services are worth. The latter point is relevant for 3.3.1 in the draft TOR.