



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case Nos.: 1228/6/12/14  
1229/6/12/14

**BETWEEN**

**AXA PPP HEALTHCARE LIMITED**

Applicant /  
Intervener in Case No. 1229

**-v-**

**COMPETITION AND MARKETS AUTHORITY**

Respondent

**-and-**

**THE LONDON CLINIC**  
**BRITISH MEDICAL ASSOCIATION**  
**BUPA INSURANCE LIMITED**  
**ASSOCIATION OF ANAESTHETISTS OF GREAT BRITAIN AND IRELAND**  
**GUY'S AND ST THOMAS' NHS TRUST**

Interveners

**HCA INTERNATIONAL LIMITED**

Applicant /  
Intervener in Case No. 1228

**-v-**

**COMPETITION AND MARKETS AUTHORITY**

Respondent

**-and-**

**THE LONDON CLINIC**  
**BUPA INSURANCE LIMITED**

Interveners

---

**ORDER**

---

**UPON** considering HCA International Limited's ("HCA") Re-Amended Notice of Application dated 17 October 2014

**AND UPON** considering the Competition and Markets Authority's ("the CMA") Amended Defence dated 25 November 2014

**AND UPON** considering the third and fourth witness statements of Mr Roger Witcomb

**AND UPON** hearing Leading Counsel and counsel for HCA, the CMA, AXA PPP Healthcare Limited ("AXA PPP") and The London Clinic at a hearing on 15 December 2014

**AND UPON** considering the terms of a draft agreed order filed by the parties

**IT IS ORDERED THAT:**

1. The following decisions, as contained in the CMA's report entitled "*Private healthcare market investigation: Final report*" dated 2 April 2014 ("**the Final Report**"), shall be quashed:
  - (a) The CMA's finding of adverse effects on competition in the markets for the provision of hospital services in respect of insured patients in central London ("**the insured AEC decision**"), as described in the second sentence of paragraph 10.5 of the Final Report; and
  - (b) The CMA's divestiture remedy, by which HCA is required to divest itself of two of its hospitals in central London ("**the divestment decision**"), as described in paragraphs 11.132, 13.1(a) and 13.48 of the Final Report.
2. The insured AEC decision and the divestment decision are remitted to, and shall be reconsidered by, the CMA.
3. HCA's application insofar as it relates to the CMA's decision that there was an AEC in relation to self-pay patients shall be stayed pending the outcome of the reconsideration of the insured AEC decision and the divestment decision.
4. The CMA shall pay HCA's reasonable costs in respect of Ground 1 of its Re-Amended Notice of Application. Such costs if not agreed are to be assessed on the standard basis, and shall not include the costs of the data room review conducted by HCA's advisers as a result of the Tribunal's disclosure ruling dated 25 July 2014.

5. Costs shall be reserved in respect of Grounds 2 to 5 of HCA's Re-Amended Notice of Application pending the outcome of the reconsideration of the insured AEC decision and the divestment decision.
6. Grounds 1 and 2 of AXA PPP's Notice of Application dated 30 May 2014 shall be stayed, and the costs in respect of these grounds reserved, pending reconsideration of the insured AEC decision and the divestment decision.
7. There be liberty to apply.

**The Right Honourable Lord Justice Sales**  
Chairman of the Competition Appeal Tribunal

Made: 12 January 2015  
Drawn: 12 January 2015