

## **NOTICE TO STAKEHOLDERS**

### **DELAY IN PUBLICATION OF THE HEALTH MARKET INQUIRY (HMI) PROVISIONAL FINDINGS AND RECOMMENDATIONS REPORT AND AMENDMENTS TO THE ADMINISTRATIVE TIMETABLE**

---

Dear Stakeholder,

#### **1. BACKGROUND**

- 1.1 In November 2016, the Commission amended its Terms of Reference, extending the completion date of the HMI to 15 December 2017. Subsequently, on 1 December 2016, the HMI published a Revised Administrative table.
- 1.2 On 24 August 2017, the HMI published a Notice announcing changes to the Revised Administrative Timetable. In terms of the activities set out in the above Revised Administrative Timetable, the HMI's Provisional Report was due to be published on 1 September 2017.
- 1.3 In the 24 August 2017 Notice, stakeholders were advised that the Revised Administrative Timetable was withdrawn and that the HMI's Provisional Findings and Recommendations Report (the Provisional Report) would be published by 30 November 2017.

#### **2. OBJECTIONS AND CONCERNS RAISED BY CERTAIN STAKEHOLDERS**

- 2.1 Subsequent to the 24 August 2017 Notice, certain stakeholders, comprising primarily the three large hospital groups (Netcare Limited, Mediclinic SA and Life Healthcare) raised concerns regarding publishing of the Provisional Report on 30 November 2017.
- 2.2 These stakeholders are of the view that it would be procedurally unfair for the HMI to publish the Provisional Report without the relevant analysis reports and underlying confidential data and information, upon which the HMI has relied, being made available for scrutiny, prior to such publication.

- 2.3 At the end of 2016, the HMI published several preliminary analysis documents, including: Descriptive Statistics and Attribution Analysis of Medical Schemes Claims Data. Following the publication of these documents, the HMI received requests for access to underlying confidential data and information. Mediclinic SA, Netcare Limited and Life Healthcare were granted access.
- 2.4 From 22 May 2017 to 6 June 2017, the HMI opened the data access room in order for these stakeholders to comment and make representations on the approaches and reasonableness of the results contained in the various reports. Discovery Health also participated in the process as an observer.
- 2.5 However, all three stakeholders have expressed their dissatisfaction with the level of access granted by the HMI and have insisted on gaining more detailed access to all the HMI's confidential underlying data, information and analytical reports on which it will rely for purposes of the Provisional Report.
- 2.6 In addition to the above, some stakeholders have raised concerns regarding the work undertaken by KPMG for the HMI.
- 2.7 Certain stakeholders have further challenged KPMG's objectivity relating to work performed on the profitability analyses of the three largest hospital groups and medical scheme administrators.

### **3. STEPS TAKEN BY THE HMI**

#### ***Access to confidential information***

- 3.1 The HMI has sought external legal advice on the issues of access to confidential information and the concerns raised regarding KPMG.
- 3.2 The HMI has also consulted with its own experts contracted to manage and analyse confidential data and information, in order to understand the impact on timeframes and costs, should further access to confidential information be granted.
- 3.3 Furthermore, the HMI has held engagements with Netcare Limited, Mediclinic SA and Life Healthcare individually to understand their concerns, as well as exploring avenues for granting reasonable access to data and information, whilst also allowing the HMI to progress.

### ***Response to issues relating to the KPMG Profitability Analyses***

- 3.4 Meetings were held with KPMG on the concerns raised by stakeholders, during which the HMI received assurances that none of the KPMG employees and/or contractors implicated in the matters investigated by KPMG International were in any way, directly or indirectly, involved in the work undertaken for the HMI.
- 3.5 The HMI met with all stakeholders that were the subject of the profitability analyses undertaken by KPMG, in order to understand their individual concerns.

## **4. HMI DECISIONS AND WAY FORWARD**

- 4.1 The HMI Panel has considered the matter at length, taking into account the consultations with stakeholders and legal advice obtained. In the interests of progressing the inquiry and to avoid potential protracted litigation, the HMI has taken the following decisions:

### ***Response to data access issues***

- 4.1.1 The HMI will grant further access to the confidential data and underlying information to the stakeholders that have requested such access. This will require the re-opening of the data access room, under strict access rules in order for stakeholders to conduct further verification of the HMI's underlying data and information. An assessment conducted on the re-opening of the data access room for an extended period indicates that the costs will be significant to the HMI.

### ***Response to issues relating to the KPMG Profitability Analyses***

- 4.1.2 The HMI will provide affected stakeholders' experts access to KPMG in order for such experts to verify the information provided, ensure the accuracy thereof and understand the basis upon which KPMG made its conclusions. KPMG will engage with all six affected stakeholders individually in order to undertake the verification process.

### ***Publication of further analytical reports***

- 4.1.3 In order to progress the inquiry, the HMI will publish a series of analytical reports by 8 December 2017, for public comment. These reports will deal

with key areas of research and analysis undertaken by the HMI and are listed as follows:

- Descriptive statistics (updated version including stakeholder input)
- Attribution analysis (updated version including stakeholder input)
- Report on responses to issues raised in the data access room
- Technical report on data analysis methodology and approach
- Prescribed minimum benefits
- Funders analysis
- Facilities analysis
- Practitioners analysis

4.1.6 Stakeholders will be given the opportunity to consider the above reports and provide comments to the HMI by 31 January 2018.

### ***Publication of the Provisional Report***

4.1.4 The granting of further access to data and information will have an impact on the current timeframes and the HMI will, therefore, not be in a position to publish the Provisional Report on 30 November 2017.

## **5. AMENDMENT TO THE ADMINISTRATIVE TIMETABLE**

5.1 Taking the above factors into account, the Revised Administrative Timetable, as published on 24 August 2017, is hereby withdrawn and replaced with the following set out hereunder:

5.1.1 The HMI will consider formal applications for access to the data room from 8 December 2017.

5.1.2 Stakeholders will be required to make applications for such access, as set out in Supplementary Guidelines No.2, detailing the reasons why access is required and the key issues to be addressed through such access.

5.1.3 The HMI aims to publish its Provisional Report by 30 April 2018.

5.1.4 Apart from the matters related to data access, the HMI will continue to engage with stakeholders on various matters in preparation of the Provisional Report, where necessary.

5.1.5 A period for public comment on the Provisional Report will follow its publication.

5.1.6 The HMI intends publishing its Final Report by 31 August 2018. This new completion date will be published in the Government Gazette in due course.

## **6. CONCLUSION**

6.1 The HMI is aware of the public interest in the outcome of this Inquiry and regrets these further delays in the publication of its Provisional Report. The Panel have taken the steps set out above in order to reassure stakeholders as to the integrity of the process and to prevent any further delay that may result from legal disputes.

6.2 The Panel further wishes to thank all stakeholders who have constructively engaged with HMI and have contributed to the significant progress made to date.

Issued on: 21 November 2017

Clint Oellermann

Inquiry Director