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Mr Andrew Taylor
Chief Executive
Co-operation and Competition Panel
1 Horseguards Road
LONDON SW1A 2HQ

8 July 2009

Dear Mr Taylor

RESTRICTIONS ON CONSULTANTS' USE OF THEIR NON-CONTRACTED HOURS

I take this opportunity to respond to your invitation to provide views on the suggested recommendations contained in your document: CCP Study: NHS Consultants' Non-Contracted Hours Notice of Possible Recommendations.

Understanding that the Panel's primary concern is to ensure best access to best quality and best value for consumers (patients) and purchasers (the tax payer) it is evident that any restraint on clinicians' freedom to work in any capacity and in any facility would restrict the benefit that an opening, plural and expanding range of providers will bring. The provisions listed under 7c (Exceptions To This Prohibition) seem inappropriate and unnecessary in this context since:

7ci & ii

There may be very good reasons for clinicians working in two separate organisations to be in a position to share information (for example, best practice) across both.

There is already adequate provision in employment contracts to prevent employees breaching their contractual duty of faith to their employing organisation. If a circumstance arose in which shared information might give rise to a conflict of interest that might work to the detriment of one organisation, it could easily and appropriately resolve the matter by relieving such a clinician of the relevant management duty.

- 7ciii Clinicians may work in and for organisations in which they have a financial interest, providing that financial interest is made explicit to patients and purchasers and does not compromise the clinician's primary duty of care to patients' best interests.

It is common in many countries for clinicians to have an ownership interest in the facilities from which they work, just as professionals and tradespersons in many other sectors in the UK have an ownership interest in their businesses. An ownership interest carries no manifest or conceivable risk of anti-competitive or collusive practice, and it would be perverse, and quite unnecessary, for the benefit of this arrangement to be denied to patients accessing medical care in the UK.

I hope these observations will contribute usefully to your Panel's deliberations.

With kind regards

Yours sincerely

N M Evans
Consultant Ophthalmic Surgeon