



## **Introducing Competition and Informed User Choice into Human Services: Identifying Sectors to Reform**

*October 2016*

By email: [humanservices@pc.gov.au](mailto:humanservices@pc.gov.au)

**Financial Counselling Australia (FCA)** is  
the peak body for financial counsellors  
in Australia.

[info@financialcounsellingaustralia.org.au](mailto:info@financialcounsellingaustralia.org.au) | [www.financialcounsellingaustralia.org.au](http://www.financialcounsellingaustralia.org.au)

## **About Financial Counselling**

Financial counsellors assist consumers in financial difficulty. They provide information, support and advocacy to help consumers deal with their immediate financial situation and minimise the risk of future financial problems. The majority of financial counsellors work in community organisations, although some are employed by government. Their services are free, confidential and independent.

## **Financial Counselling Australia**

FCA is the peak body for financial counsellors in Australia. FCA's member groups are the eight State and Territory financial counselling associations.

## **Contact Person for This Submission**

Fiona Guthrie  
CEO

## TABLE OF CONTENTS

<b>ABOUT FINANCIAL COUNSELLING</b> .....	<b>1</b>
<b>FINANCIAL COUNSELLING AUSTRALIA</b> .....	<b>2</b>
<b>CONTACT PERSON FOR THIS SUBMISSION</b> .....	<b>2</b>
<b>INTRODUCTION</b> .....	<b>4</b>
<b>8.2 SCOPE TO IMPROVE OUTCOMES</b> .....	<b>6</b>
<b>8.3 FACTORS INFLUENCING THE POTENTIAL BENEFITS OF REFORM</b> .....	<b>6</b>
<b>8.4 INCREASING THE BENEFITS OF CONTESTABILITY</b> .....	<b>6</b>

## INTRODUCTION

Financial Counselling Australia (FCA) welcomes the opportunity to comment on the preliminary findings of the Productivity Commission's investigation into competition in the human services sector.

As FCA is a community organisation, we will be giving feedback on Section 8.

Before we respond to this part of the report however, we would like to address an issue not specifically raised in the inquiry but an important issue nonetheless: the issue of for-profit services tendering to provide community services in the human services area.

In financial counselling, we often see for-profit services alleging they provide services like financial counselling – but what they are actually providing is sales for their own financial products which are typically high-cost debts or high-cost products which further damage individuals and families' financial positions. These products do not typically assist people in financial hardship at all, and *real* financial counsellors often find themselves spending casework time trying to fix problems caused by for-profit 'debt advice' providers.

The ASIC report, '[Paying to get out of debt or clear your record: The promise of debt management firms](#)'<sup>1</sup> describes the concerning practices of the four types of 'debt help' firms: credit repairers, debt negotiators, Part IX Debt Agreement brokers and budgeting services, identifying the key issues with each.

Credit repairer businesses promise to 'clean' a consumer's credit file—usually for a fee starting at around \$1,000 per default. Furthermore, many consumers have correct defaults and therefore the listing cannot be removed. Often credit repair agencies clog up external dispute resolution schemes like the Financial Ombudsman Service with spurious complaints – the tactic is force the creditor to remove the listing because of the cost of the ongoing dispute to the creditor<sup>2</sup>.

Debt negotiators claim to help consumers by trying to negotiate with creditors to 'write off' all or part of their debts. They typically employ high-risk strategies (such as advising consumers to simply stop paying the debt to manufacture pressure in

---

<sup>1</sup> ASIC (2016) REP 465 Paying to get out of debt or clear your record: The promise of debt management firms, Available at: <http://asic.gov.au/regulatory-resources/find-a-document/reports/rep-465-paying-to-get-out-of-debt-or-clear-your-record-the-promise-of-debt-management-firms/> (Accessed: 31st October 2016).

<sup>2</sup> Consumer Action Law Centre (2016) Debt Management Firms: Regulatory Reform, Available at: <http://consumeraction.org.au/wp-content/uploads/2016/03/Debt-Management-Communique.pdf> (Accessed: 31st October 2016).

the negotiations), and risk of doing this is typically not properly explained to consumers. Hefty fees are often payable, even if the service is not successful.

Part IX Debt Agreement brokers sometimes give the impression through their advertising that they are 'government backed' services. They typically do not inform consumers that a debt agreement is an act of bankruptcy or that there may be better options, such as direct negotiations with creditors for hardship arrangements. The standard of their advice is usually poor<sup>3</sup>.

Finally, budgeting services offer an attractive solution to consumers who believe the reason they are unable to afford their debts is due to a personal inability to budget. Typically, this is not the case—there is often not enough money coming in to afford bills. Budgeting firms exacerbate this issue by charging high up front set up fees and then weekly maintenance fees for their services. They operate by having the consumer pay all of their income to the budgeting service, negotiating to pay bills with creditors, and paying consumers the remainder of their money as a 'living expense' into their personal bank account<sup>4</sup>. Budgeting services may not pass the money on to creditors in a timely fashion, exposing clients to credit listings or legal action, the arrangements may not be affordable or sustainable, and the clients may not understand the nature of the service they are agreeing to.

What all of these services have in common is an opaque fee structure which makes it difficult for customers to determine how much will be charged for a service, and they often rely on high-pressure sales tactics or the 'sunk cost bias' to secure and retain customers.

We are very keen to protect vulnerable service users, who have been correctly identified as not always able to exercise judgment in times of crisis, from for-profit debt-provider services and as such are pleased the focus of the inquiry has been on not-for-profit providers and how to improve service provision by them. However, we feel it's very important to warn the Commission about how for profit financial difficulty businesses exploit consumers in this area and therefore are a poor replacement for genuine financial counselling.

---

<sup>3</sup> Financial Conduct Authority Thematic Review Quality of Debt Management advice June 2015 TRI 15/8: found quality of advice by fee charging debt management firms were of poor quality

<sup>4</sup>

## **8.2 SCOPE TO IMPROVE OUTCOMES**

The broad finding in the report that competitive tendering processes and encouraging competition between similar service providers impedes services cooperation and collaboration is welcome. The community sector has been expressing concern about this approach for some time and we are pleased it is being noted as a factor that impacts service provision and outcomes.

## **8.3 FACTORS INFLUENCING THE POTENTIAL BENEFITS OF REFORM**

We welcome the finding that users of community services have diverse needs and capabilities, and this may reduce their ability to exercise informed consumer choice in the larger market economy. People in financial hardship often experience this as a 'crisis' situation and their judgment is often compromised making them especially vulnerable. This is a critical reason why for-profit 'debt advice' services *must* be excluded from this space.

In principle, the idea of user-directed funding (where users have a case manager who helps them choose services) has merit and warrants further investigation. However, the users of financial counselling services are typically very diverse, so caution must be afforded to the fact that many service users of financial counselling do not need a formal case manager. In fact, requiring them to engage in case management as part of a triage process would be unnecessarily bureaucratic and create barriers to service provision.

We suggest a flexible and responsive approach that takes into account the fact that service users *are* diverse: while many are able to access the services without much assistance, many others may benefit from intensive case management.

## **8.4 INCREASING THE BENEFITS OF CONTESTABILITY**

In principle, we support the suggestion that government 'commissioning' of services rather than an open tender process is a more appropriate approach. Our note of caution is that direct commissioning is typically undertaken with large community organisations and this could mean that smaller local organisations, with years of expertise and local knowledge, could lose out.

Many small organisations operating financial counselling services have decades of experience and very experienced staff and will already have some suggestions

about how to improve programs and services. Directly engaging with these organisations could lead to the innovation the inquiry would like to foster.

A possible approach to retaining the diversity of service providers could be commissioning a consortium of service providers to help 'co-design' suite of services in an area.

The short time frames for tenders causes enormous problems in our sector. These include that:

- for financial counsellors themselves, short-term contracts leads to difficulty in planning their own personal lives. When funding is not renewed at short notice or tenders are changed, many financial counsellors may fall into financial hardship themselves;
- financial counselling agencies are often not told whether funding will be renewed or not, until very close to the expiry of a current contract. This means they will have had to issue redundancy notices to staff;
- agencies need to stop taking on new clients about two months before a contract finishes as if the contract is not renewed, they may be unable to finalise the client's matter;
- A lot of time and expense goes into training financial counsellors. We continually lose good staff because of the job insecurity.

We support the suggestion that tenders should be for longer periods. We note the Commission's concern that longer tenders might lead to service stagnation. In our experience however, it is the current shorter funding cycles that stop agencies innovating. A better approach would be for funders to share performance data and new practices so that agencies "benchmark" themselves. It is also important to note that the community sector is client-driven and intrinsically looking for better ways to operate.