



Submission to the Productivity Commission
Human Services: Identifying Sectors for Reform

THE ELECTRICAL TRADES UNION OF AUSTRALIA

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The Electrical Trades Union (ETU) is the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). The ETU represents approximately 70,000 workers electrical and electronics workers around the country and the CEPU as a whole represents approximately 100,000 workers nationally, making us one of the largest trade unions in Australia.

The ETU welcomes the opportunity to make a submission to the Productivity Commission inquiry into human services and supports the submission provided by the ACTU. The ETU is committed to advancing and protecting the wages, conditions, rights and entitlements of our members and those issues beyond the usual scope of industrial relations. The ETU (and the union movement in general) also has a role in society to look beyond industrial relations and mobilise on issues that impact the quality of life and work of our members and the broader community as we seek to participate in the development and articulation of a vision for society that reflects progressive values.

We seek to be unequivocal in our opposition to plans to introduce increased contestability into the human services sectors. Regardless of stated aims of increased efficiencies, quality of service and user choice, it will inevitably lead to the exact opposite. There is a rich history of evidence in others sectors, from energy to education, that competition policy reform such as proposed in this review into the human services sector will simply see services in the sector go backwards.

Attempting to identify human services to inject further competition, contestability and user choice is a bad idea and needs to be totally abandoned immediately. It hasn't worked in the past at it will not work now. The proposition that certain human services is to be delivered by the private sector will be the panacea to solving social and economic problems is utterly misguided. This neo-liberal fantasy of choice with its market based solutions that are highly theoretical and lack evidence to support such assertions needs to be well evidenced.

The ETU accept that the origins of human services in Australia have been planned and delivered through a mix of government and non-government arrangements. Since the early 1980s the privatisation of Australia's human services has been a contentious issue.

The Productivity Commission's Issue Paper attempts to suggest to privatise aspects of human services. However, there is inadequate evidence that privatisation of public services leads to more efficient or effective outcomes and an emerging development of evidence that it is a miscarriage of the truth.¹

Fiscally speaking, if government grants increase, but overall government expenditure (including grants) increase at a roughly similar rate (or faster rate), then there has been no shift towards private service delivery. However, an exception to this logic would occur if governments cut grants to non-for-profit organisations requiring them to raise more income from user charges. It could be argued that, under these circumstances, cuts in government grants to private providers represent a form of privatisation.

The Competition Policy Review, chaired by Professor Ian Harper recommended that the Australian Government should adopt choice and competition principles in the domain of human services.² Stemming from this review, this inquiry is committed to review human services, focusing on these guiding principles of choice, competition and contestability.

Adherence to principles of 'competition and contestability' are already having an impact on how community non-for-profit and welfare providers are behaving. Competition and contestability are not benign persuasions. In fact, they counter to the traditional initial positions of 'for good', rather than 'for profit' services, where sharing and collaboration are counted amongst key performance indicators.

It is important that the Productivity Commission further considers the subsequent implications of these principles of choice, competition and contestability in regional areas of Australia. ETU does not suggest insignificance on the part of urban non-for-profits but in a rural or regional context, the implications of eliminating local options supplied by locals can have detrimental effects such as exploitation, job losses and limited accessibility .

¹ Christopher Stone, *False economies: Decoding Efficiency*, Centre for Policy Development, April 2013, <http://cpd.org.au/wpcontent/uploads/2013/04/CPD_Decoding_Efficiency_Chris_Stone.pdf>; P Hatch, *Privatisation has damaged the economy, says ACCC chief*, The Sydney Morning Herald, 27 July 2016 <<http://www.smh.com.au/business/privatisation-has-damaged-the-economy-says-accc-chief-20160726-gqe2c2.html>>

²The Competition Policy Review Final Report, p2
<http://competitionpolicyreview.gov.au/files/2015/03/Part2_final-report_online.pdf>

The aspect of injecting 'user choice' into human services is also a concern for our members and the greater community. Many of the people community providers do not have choices to exercise. Where choice exist, often the 'market' option available specifically target and sometimes aim to exploit the vulnerability or disadvantage. It is unclear what additional competitive reform will deliver in this space.

Under international human rights law, a number of legal obligations are imposed on governments to protect and promote human rights. Not least among these are obligations to pursue progressive improvement in economic and social rights through the provision of human services such as health and education.

The protection of civil and political rights is also an important responsibility of the government which needs to be reflected in the actions of the government. These human rights obligations were predominately formulated at a time when the government's clear role included the provision of certain services fundamental to the functioning of society, such as health and education services, employment services, prisons and water and power utilities. Since that time, many of these functions have been privatised or contracted out.

Health and education are among a number of other human services that are essential to the realisation of human rights. The two services for example share key requirements of service quality and accessibility in the realisation of the central right and raise similar issues in relation to the effect each service has on other human rights.

Health

The right to the 'enjoyment of the highest attainable standard of physical and mental health',³ appears repeatedly in international human rights instruments including the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the United Nations Convention on the Rights of the Child, regional human rights instruments in Europe, Africa and the Americas, and treaties aimed at the elimination of racial and gender-based discrimination. There

³Article 12 of the International Covenant on Economic, Social and Cultural Rights

can therefore be little doubt that the right to health is generally accepted international human rights norm.

The core obligations include the obligation 'to ensure the right of access to health facilities, good and services on a non-discriminatory basis, especially for vulnerable or marginalised groups' and the obligations to 'ensure equitable distribution of all health facilities, goods and services.'⁴

The government obligations under the right to health are both clear and broad: governments must allocate the maximum possible resources towards the goal of universal provision of preventative and palliative health care, paying particular attention to access to services for marginalised groups, such as the poor, geographically isolated communities or cultural minorities.

The Productivity Commission looking into the benefits and costs of competition, contestability and user choice in the realms of health services should be assessed with great scrutiny. The question the ETU poses to the Commission is to consider how the governments duty translate to a system of private or mixed public-private delivery of health care services?

For private service providers, the driving motivation is inevitably profit. It therefore follows that private provider of health services, or indeed any services, will seek to concentrate on areas that provides the most lucrative financial return for the outlay.

The ETU highlights to the Productivity Commission that the government is obliged to ensure that privatisation of the health services/sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, good and services. Thus any deterioration in the ability of the most vulnerable members of society to access health care as a result of privatisation from the provision of health care services is likely to constitute a violation of the right to health by the government. As far as the role of the government is concerned, it would seem that a contract with a private entity to provide health services would be in violation of the government's obligations in relation

⁴ <https://www.humanrights.gov.au/publications/social-justice-report-2005-2>

to the realisation of the right of health if its terms did not allow the government to intervene and impose restrictions to ensure that the needs of the most vulnerable in society are met.

A major area of importance to our membership is access to mental health services as highlighted in the case study below.

Case study

FIFO workers dealing with mental health

In 2015 the ETU surveyed ETU fly-in fly out (FIFO) members and a number of very alarming issues precipitated from the survey results. The survey was initiated in response to concerns among ETU members and the community on how FIFO workers rostering times and conditions impacted their personal health and their relationships with family and friends.

A staggering 42%⁵ felt more unhappy and depressed. Mental health is a major concern not sufficiently addressed by employers and that these members would have to rely on alternative services provided by the Government or private providers.

Comments from Members Surveyed

"In the four years I've been involved I have been in two camps there has been a suicide in each one. When you're under the construction pressure where under to get these projects finished and live and breathe these projects from go to wo it places a huge amount of anxiety on both yourself and your family."

"[An] employee commit suicide 10 months ago and the company said they would further assist employees with our long swings and remoteness with a peer support program that has not eventuated."

Mental health services accessibility and affordability (as an example) is vital and crucial for our members, workers in the construction industry and the greater community. Some of our members and the greater community rely on programs by MATES in Construction⁶, for example, to provide suicide

⁵ Sample size of survey was 189 people.

⁶ <http://matesinconstruction.org.au/>

prevention measures via community development programs on work sites and provide case management and host a 24/7 help line.

To suggest to introduce principles of competition, contestability and user choice in an array of health services, such as in mental health services as an example, would be an insensitive approach for the Productivity Commission to recommend and for a Government to execute. It is recommended to take extensive analysis to see the disproportional impact it could have applying competition, contestability and user choice upon vulnerable users of human services, such as mental health services or other health services alike.

Education

The right to education is widely recognised. It appears in the UDHR, expanded on in ICESCR and Convention on the Rights of the Child (CROC) and is reaffirmed in numerous international and regional instruments. Like the right to health, the right to education includes an obligation of accessibility, which itself includes requirements of non-discrimination, physical accessibility (including those living in remote areas) and affordability.

The obligation of affordability requires that primary education be available free of charge, secondary education 'shall be made generally available and accessible to all by every appropriate means' and higher education 'shall be made equally accessible to all on the basis of capacity'. Further, free secondary education and tertiary education is to be progressively introduced.

The government's duties in relation to the right to education therefore have a dual character not evident in relation to the right to health. The government must monitor the standards of private education and must ensure that accessible and affordable education is available to all, but it must not interfere in the delivery of education by private entities *provided those standards are met*. The government is obliged to ensure that private education meets the government minimum educational standards and must ensure that the provision of private education 'does not lead to extreme disparities of educational opportunity for some groups in society'.⁷ The vocational educational training (VET)

⁷ General Comment 13 on the right to education, Article 13 of the International Covenant on Economic, Social and Cultural Rights

sector is a good example to reflect on the implications of 'competition, contestability and user choice' within the realms of education.

Case Study

The private VET sector

VET is crucial to developing the skills of the workforce, but the quality of training and development is under question and it is a major problem. Public TAFE colleges Australia-wide have continued to experience funding cuts and private VET providers are poised to get a boost in funding to train Australia's workforce.

The reforms in 2012, by the federal and state governments, encouraging a market driven funding model only promoted private VET providers to compete with TAFE. These reforms have only lead to sharp reduction in government spending per hour of VET delivery and the taxpayers' dollar fall in the hands of private VET providers. Furthermore, private VET providers have sustained profit margins of around 30 per cent.⁸ In Victoria, private VET providers generated \$230 million in profit in 2013.⁹

The growth of the private VET sector globally has been rapid. Two-thirds of Brazil's tertiary VET institutes are private.¹⁰ In Chile, the military dictator-ship privatised all VET in the 1980s. Across the Middle East and Africa, there has been a dramatic proliferation of offshore private training centres and programs. In the Philippines, 50 per cent of all VET students are enrolled in private VET institutions.

This rapid growth of private VET sector has had a serious impact on the quality and execution of VET courses. Quality is often compromised as there are pressures to narrow the curriculum and the shift resources away from the classroom into marketing and student recruitment.

⁸ The Capture of Public Wealth by the For-profit VET Sector, Workplace Research centre, USYD, 2015 <<http://www.aeufederal.org.au/application/files/9614/3315/0486/WRCAEU2015.pdf>>

⁹ Ibid.

¹⁰ Education Policy Outlook Brazil, November 2015, p8 <<http://www.oecd.org/edu/Brazil-country-profile.pdf>>

In addition, there have been renewed concerns about questionable recruitment practices of private VET institutions, practices that often cross the line into outright fraud. The US investigation into the sector found many instances of recruitment agents lying to potential students about the nature of programs on offer and likely employment prospect.

While the ETU acknowledges the present quality private VET providers in the sector, there has been a worrying increase in below par, 'doggy' providers absorbing government training money and student fees while short-changing on training outcomes.¹¹

Private VET providers have no obligation under the quality structure to deliver many of the support mechanisms compared to TAFE and lined to this is that administration costs and additional overheads of private providers are much less than those in TAFE.

The concept of market contestability in VET is fundamentally flawed. For students, the impact of privatisation shows up not just in reduced quality, but also higher costs. Private VET institutions often charge extremely high tuition fees, often subsidised by public funding and bursaries. However, even public institutions have privatised financing in recent years, raising costs for students and their families that threatened to impair access.

A private and market-based VET system is simply unsustainable. It is evident that marketisation and privatisation of the VET sector has failed. Markets are not the best way to produce and deliver education in an efficient, fair and equitable way. Clearly, the Australian Government needs to invest in VET and to recognise that public VET providers play a vital role in delivering high quality programs that promote social and economic development. Governments should have learnt the lesson of the crisis about the importance investment in public vocational institution for the future of the economy and society.

¹¹ *ABC news online*, 18 February 2015, <<http://www.abc.net.au/news/2015-02-18/students-being-deceived-about-training-cost-and-outcomes/6141726>>

Conclusion

Access to certain services, such as health and education, is a right in a developed country like Australia and the Government has a responsibility to ensure that access is provided to all, particularly those in most need and those most vulnerable, and to ensure that levels of access are continually improved. This may require contractual obligations, subsidies or the like, or may require the Government to provide supplementary service to those not served by the private provider, ensuring that such service is of a comparable quality.

We do not believe that there are any sectors with the human services industry that are suitable for increased contestability and consequently there should be no recommendations from the Commission in this regard. Unfortunately, we do not hold much hope of this occurring. Whatever the final recommendations from Productivity Commission to government as a result of this review we believe it should be explicitly stated that the private provider therefore acquires human rights obligations, the nature of which will depend upon the type of human service in question and the provider's sphere of activity. However, the government must retain its overarching human rights responsibility, intervene where necessary, and a continuing obligation to guarantee the protection and realisation of the human rights of everyone under its jurisdiction, regardless of the character of the service provider.