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## **ADJ Consultancy Services**

To: **PRODUCTIVITY COMMISSION INQUIRY INTO INTRODUCING COMPETITION AND INFORMED USER CHOICE INTO HUMAN SERVICES**

From: ADJ Consultancy Services

Date: 27 October 2016

Re: **INTRODUCING COMPETITION AND INFORMED USER CHOICE INTO HUMAN SERVICES**

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### **TERMS OF REFERENCE (IN PART)**

In the second stage, the (Productivity) Commission will undertake a more extensive examination and provide an inquiry report making recommendations on how to introduce greater competition, contestability and user choice to the services that were identified above.

(a) In providing its recommendations, the Commission's report should identify the steps required to implement recommended reforms.

(b) In developing policy options to introduce principles of competition and informed user choice in the provision of human services, the Commission will have particular regard, where relevant, to:

(i) the roles and responsibilities of consumers within the human service sector, and the service or services being considered;

(ii) the factors affecting consumer use of services and preferences for different models of service delivery, noting the particular challenges facing consumers with complex and chronic needs and/or reduced capacity to make informed choices;

(iii) the role of the government generally, and as a commissioner, provider and regulator, in the delivery of human services;

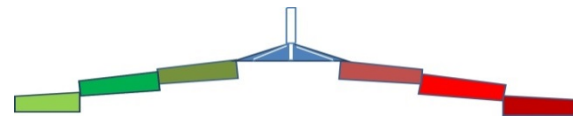
(iv) the role of government agencies in designing policy, commissioning and, in some cases, delivering human services in a client-centred way that encourages innovation, focusses on outcomes and builds efficiency and collaboration;

(v) the role of private sector and not-for-profit providers;

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- (vi) the benefits and costs of applying competition principles in the provision of human services, including improving competitive neutrality between government, private and not-for-profit service providers;
- (vii) how best to promote innovation and improvements in the quality, range and funding of human services;
- (viii) the challenges facing the provision of human services in rural and remote areas, small regional cities and emerging markets;
- (ix) the need to improve Indigenous outcomes; and
- (x) the development of systems that allow the performance of any new arrangements to be evaluated rigorously and to encourage continuous learning.

Dear Commissioners,

All the above words sound good and noble in theory, but they are not anything like that in practical application. As someone with cerebral palsy who has been confined to a wheelchair all my life, I look upon many of the reforms you propose with a degree of horror. This is because personal, first-hand experience says many in the charitable sector are neither noble, nor benevolent. As such, the last thing one wants to see is more collaboration between the NGO or charitable sector and government, regarding the delivery of human services.

I have addressed these issues in a range of submissions, most of which are listed in a submission to a lapsed inquiry of the 44<sup>th</sup> Federal Parliament into tax deductibility.<sup>1</sup> In short, it is difficult to comprehend how any government can continue to justify cooperation with the NGOs, be it on the grounds of foregone tax revenue (in the form of deductible donations and grants), or the now widely accepted systemic abuse of many vulnerable people which has been exposed by the McClelland Royal Commission into Institutional Responses to Child Abuse and Neglect.<sup>2</sup>

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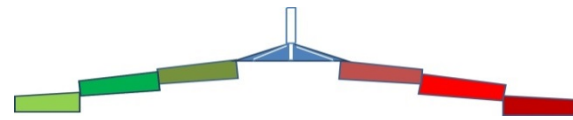
<sup>1</sup> See <http://www.aph.gov.au/DocumentStore.ashx?id=00874c93-07f4-4b37-9403-c50fef481832&subId=407687> as at 26 October 2016

<sup>2</sup> I attach a copy of my submission to the Royal Commission, with supporting documentation.

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Why would we ever trust or fund any of these NGO care institutions again? I would not and do not endorse the central role of charities in the NDIS rollout. This is emphasized in my submission to the NDIS Discussion Paper on their Safety and Quality Framework.<sup>3</sup> Furthermore, an argument can readily be made that moving human service provision to the non-government sector subtly denudes people of their public citizenship, by putting them out of public sight and out of the public mind. This is an argument I have made repeatedly, but most notably before the ALRC's Inquiry into Disability and Capacity before the Law.<sup>4</sup> You will note that at the beginning of the submission I quote Oscar Wilde who wrote:

But (charity) is not a solution: it is an aggravation of the difficulty. The proper aim is to try and reconstruct society on such a basis that poverty will be impossible. And the altruistic virtues have really prevented the carrying out of this aim. Just as the worst slave-owners were those who were kind to their slaves, and so prevented the horror of the system being (realised) by those who suffered from it, and understood by those who contemplated it...Charity degrades and (demoralises)...Charity creates a multitude of sins.<sup>5</sup>

I do not wish to spend my entire life tethered to the charitable sector by lazy public policy and, it was a relief to see the Commission acknowledge:

The Commission considers that maximising community welfare from the provision of human services does not depend on adopting one type of model or favouring one type of service provider. Additional benefits — such as those potentially offered by not-for profit organisations — should be considered, but not at the expense of improving outcomes for individuals and their families.<sup>6</sup>

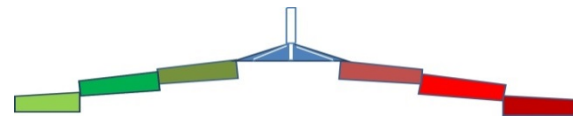
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<sup>3</sup> See generally, <https://engage.dss.gov.au/wp-content/uploads/2015/05/Submission1.docx> as at 26 October 2016

<sup>4</sup> See generally, [http://www.alrc.gov.au/sites/default/files/subs/12\\_a\\_johnston.pdf](http://www.alrc.gov.au/sites/default/files/subs/12_a_johnston.pdf) as at 26 October 2016

<sup>5</sup> Oscar Wilde, "The Soul of Man Under Socialism." Quotation taken from <http://abetterworldisprobable.wordpress.com/2012/01/01/oscar-wilde-on-theproblems-of-charity/> as at 26 December 2013; Oscar Wilde, *The Soul of Man Under Socialism*, (1891)

<sup>6</sup> Productivity Commission 2016, *Introducing Competition and Informed User Choice into Human Services: Identifying Sectors for Reform*, Preliminary Findings Report, Canberra, p.7 (17 of 183) Adobe numbering



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As the years' have passed, Wilde's characterization of the charitable sector has increasingly resonated with me, as poor service, poor outcome and a lack of accountability have re-emerged again and again.<sup>7</sup> This has been my consistent experience with the NGO sector, be it in the provision of disability employment services,<sup>8</sup> or in my dealings with the National Disability Insurance Agency.<sup>9</sup>

This was an Agency and a reform supposed to be about choice and flexibility, but as my attached complaint to the ACCC shows, it is about an exhausting round of contracts, budgets, red tape and charities trying to gouge money out of you.<sup>10</sup> As I said to a recent conference at the Consumer Directed Care conference at the Northside Conference Centre in Crowsnest NSW,<sup>11</sup> I doubted many of us with disabilities were as economically savvy as we were now

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<sup>7</sup> I proposed the NGOs who undertook any public functions should be called before Parliament like any other Department of State. However, NSW did not proceed with recall election reforms; see [http://www.dpc.nsw.gov.au/\\_data/assets/pdf\\_file/0008/131120/06\\_Johnston.pdf](http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0008/131120/06_Johnston.pdf) as at 26 October 2016

<sup>8</sup> See my submission to a Senate inquiry into employment services at <http://www.aph.gov.au/DocumentStore.ashx?id=a6fa4e6a-eb31-49de-bb0f-c9f11849c86c>. and see also <http://www.aph.gov.au/DocumentStore.ashx?id=b0e07f8c-3f2b-43f0-b6de-3e7f0ceaf38e&subId=301892> as at 26 October 2016

<sup>9</sup> My becoming a participant in the scheme was forced by the Baird Government's decision to transfer all NSW Homecare clients to the NDIS. I would not have done so, had the State retained its (in my view, proper) role in the direct delivery of disability services. This view is strengthened when considering the words of the Liberal Party's founder Sir Robert Gordon Menzies, when he said:

The country has great and imperative obligations to the weak, the sick, the unfortunate. It must give to them all the sustenance and support it can. We look forward to social and unemployment insurances, to improved health services, to a wiser control of our economy to avert if possible all booms and slumps which tend to convert labour into a commodity, to a better distribution of wealth, to a keener sense of social justice and social responsibility. We not only look forward to these things; we shall demand and obtain them. To every good citizen the State owes not only a chance in life but a self-respecting life. (Source: Petro Georgiou, *Menzies, Liberalism And Social Justice*, Sir Robert Menzies Lecture Trust, 1999 Lecture (1999), 3, quoting as at 13 March 2012, quoting Robert Menzies in a 1942 radio broadcast (citation omitted) <<http://www.menzieslecture.org/1999.html>>; the source of the broadcast is: Robert Menzies, *The Forgotten People: Chapter 5 - Freedom from Want*, 10 July 1942, The Menzies Foundation, Menzies Virtual Museum <<http://menziesvirtualmuseum.org.au/transcripts/the-forgotten-people/63-chapter-5-freedom-from-want>>.)

I suspect Sir Robert would have had many misgivings about Premier Mike Baird's policy choices, particularly with regarding to human services. As a service recipient, even though the quotation is dated, I place greater faith in the judgment of the older, wiser Menzies.

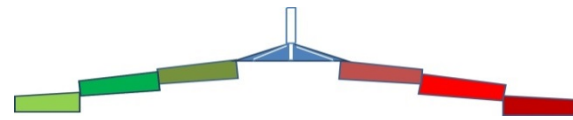
<sup>10</sup> See my attached complaint to the ACCC

<sup>11</sup> See conference details at Care and Support Directed by the Consumer Forum, <http://sydneynorthhealthnetwork.org.au/consumer-forum-care-support/> as at 26 October 2016

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expected to be. As many of us are both high dependent and living on fixed incomes (i.e.: pensions) the notion that we are anything but price-takers was laughable.<sup>12</sup>

Equally, the notion that there is a market in many human services is also laughable; NGO welfare agencies, be they in child-care, disability care, employment services or aged care, are heavily subsidized by government, devoting much energy to maintaining that subsidy.<sup>13</sup> Meanwhile, service recipients lose key access to public oversight bodies, when human services are outsourced.<sup>14</sup> This is certainly my experience of the VET sector, where I completed a small business certificate, on the recommendation of disability employment agent who is long gone. I am left with a qualification few seem to recognise and a complaint mechanism that proved to be a disinterested, “toothless tiger”, which I had to pursue via the Commonwealth Ombudsman to have the Australian Skills Quality Agency<sup>15</sup> even respond to my complaint.<sup>16</sup>

The push to make human services contestable and market-driven miss several key issues. The first is that many consumers cannot be regarded as customers; we don't have the money to select from a wide range of providers, and the products we seek do not lend themselves to a great deal of differentiation, so is there any great need for “choice”? Further, did we *really* ask for choice, or was this another concept foisted upon many of us, whether we wanted it or not?

And what does it achieve? Those who are providers have great market power because they are often large agencies with a large caseload, alongside an

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<sup>12</sup> Find my Powerpoint presentation to forum attached

<sup>13</sup> See e.g., my submission to the McClure Review of Welfare at <https://engage.dss.gov.au/wp-content/uploads/2016/06/Welfare-review-1.pdf> (as at 26 October 2016) and, also note my 2015 Pre-Budget Submission, attached

<sup>14</sup> The NSW Baird Government is yet to empower the Auditor General to look at the accounts of NGOs, despite outsourcing all disability services to them and, having a clear recommendation from the Public Accounts Committee that reform was needed – The Report <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/5507/Efficiency%20and%20effectiveness%20of%20the%20Audit%20Office%20o.pdf>; my submission <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-submission-details.aspx?pk=48395> as at 26 October 2016

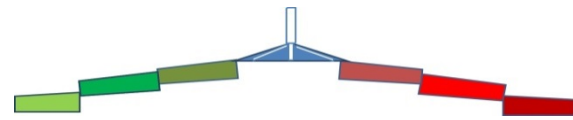
<sup>15</sup> See <http://www.asqa.gov.au/> as at 27 October 2016

<sup>16</sup> See my attached submission to the VET review

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administrative set-up aimed at maintaining relationships with, and subsidies from, government.<sup>17</sup> You can choose another agency, if you have the time, energy and inclination for research, as well as the preparedness to have the rhythms of your life disrupted. So, is it better to “stick with the devil you know?” More often than not, the answer is: “Yes”.

Therefore, in many respects, the NDIS, for all the claims of reform, is little different from the system it is supposedly replacing. As noted above, all the NDIS has brought me is stress and, as my conference presentation argues, while we waste money on rolling out this bureaucracy, what scientific and technological opportunities are we foregoing? There is an opportunity cost to every policy decision and, I would much rather be cured than indefinitely cared for. Additionally, if we were serious about tax reform<sup>18</sup> more people with chronic illnesses and disabilities will find it economically advantageous to work<sup>19</sup> and, we will have the revenue to fund innovation and research, rather than prop up an outsourced care system.

Trying to reinvent the human services sector as an efficient, customer-focused business invokes in my mind the rather blunt terminology of former Queensland Senator and NRL star Glen Lazarus's rather infamous reference in a press conference to ‘polishing a turd.’<sup>20</sup> If needy, vulnerable people are truly citizens, then they deserve to know the State will not abandon them. One of the ways the State can arguably show good faith and maintain the ‘social contract’ is by being a direct provider of services. Again, while we can complain about public service and efficiencies, it has clearer “chain of command”

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<sup>17</sup> I have previously recommended to the State Government that all churches and charities should be registered as lobbyists, if they wish to lobby Government. As far as I know, this has yet to be acted upon; see my submission at [http://www.dpc.nsw.gov.au/\\_data/assets/pdf\\_file/0005/170753/ADJ\\_Consultancy\\_Services\\_Submission\\_on\\_Lobbying\\_Regulatory\\_Impact\\_Statement.pdf](http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0005/170753/ADJ_Consultancy_Services_Submission_on_Lobbying_Regulatory_Impact_Statement.pdf) and, a further submission made on reforming political donations (which covers many similar issues) at [http://www.dpc.nsw.gov.au/\\_data/assets/pdf\\_file/0003/166008/Submission\\_19\\_-\\_Adam\\_Johnston.pdf](http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0003/166008/Submission_19_-_Adam_Johnston.pdf) as at 27 October 2016

<sup>18</sup> See e.g. my submission to the *Rethink Tax Review* at <https://engage.dss.gov.au/wp-content/uploads/2016/06/Rethink-submission-1.pdf> as at 27 October 2016

<sup>19</sup> See e.g. my submission to the Human Rights Commission inquiry, *Willing to Work*, attached

<sup>20</sup> See e.g.: *Brick with eyes: Budget “unpolishable turd”*

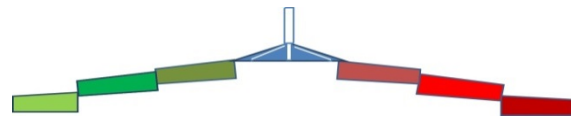
By Houses and Holes in Australian budget, Featured Article at 7:20 am on January 22, 2015 | 64, <http://www.macrobusiness.com.au/2015/01/brick-with-eyes-declares-budget-unpolishable-turd/> as at 27 October 2016

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reporting and accountability lines than say, an industry ombudsman (if you can find them). As such, I am far from convinced about the reform of human services and, the introduction of supposed competition.

Yours faithfully,

Adam Johnston



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