



## **Submission to the Productivity Commission**

**Inquiry Into Introducing Competition And  
Informed User Choice Into Human Services**

*July 2016*

## Introduction

This Community Council for Australia (CCA) submission briefly outlines some of the key issues for Australia's not-for-profit sector in response to the *Productivity Commission Inquiry Into **Introducing Competition And Informed User Choice Into Human Services*** and the associated discussion paper. It has been prepared with CCA members (see *listing of CCA members, Attachment 1*) as well as other key organisations working in the broader not-for-profit sector.

It is important to note that this submission does not over-ride any policy positions that may be outlined in individual submissions from CCA members.

CCA is concerned to ensure this Productivity Commission inquiry acknowledges three key principles; the need to clarify the goals of human services delivery and desired outcomes by which performance will be monitored; the importance of fully understanding the complexity of the human services 'market'; and the need to reform the contracting / tendering / funding processes of governments across Australia.

While making human services more responsive to individual and community need is clearly desirable, a superficial application of market based theory to human service delivery has the potential to create irreversible harm to many organisations and the communities they serve across Australia.

CCA welcomes this opportunity, provided by the Treasurer, to actively engage with the Productivity Commission on this very important issue.

## The Community Council for Australia

The Community Council for Australia is an independent non-political member based organisation dedicated to building flourishing communities by enhancing the extraordinary work undertaken by the charities and not-for-profit sector in Australia. CCA seeks to change the way governments, communities and not-for-profits relate to one another. It does so by providing a national voice and facilitation for sector leaders to act on common and shared issues affecting the contribution, performance and viability of NFPs in Australia. This includes:

- promoting the values of the sector and the need for reform
- influencing and shaping relevant policy agendas
- improving the way people invest in the sector
- measuring and reporting success in a way that clearly articulates value
- building collaboration and sector efficiency
- informing, educating, and assisting organisations to build sustainable futures
- providing a catalyst and mechanism for the sector to work in partnership with government, business and the broader Australian community to achieve positive change.

Our success will drive a more sustainable and effective charities and not-for-profit sector in Australia making an increased contribution to the well-being and resilience of all our communities.

## **Current situation – the context**

### **The not-for-profit sector**

The charities and not-for-profit sector turns over more than \$105 billion annually, contributes over \$55 billion to GDP per annum, and employs over one million staff (or eight per cent of all employees in Australia). The sector holds over \$175 billion in assets, and across the last decade, sector growth has continued at approximately 7% a year, greater than any other industry group.

These figures tell only a small part of the story. The real value of the sector is that these are the organisations at the heart of our communities; building social connection, nurturing spiritual and cultural expression, and enhancing the productivity of all Australians.

The importance of the sector is now being internationally recognised with many governments putting in place measures to increase NFP productivity. Smaller government and bigger community is a common theme, driven in part by savings, but also by a commitment to greater civic engagement and a more outcomes focused NFP sector. The sector itself is beginning to work on productivity as a core issue.

The recent history of the NFP sector is framed by growth and reform, but there are a number of new issues emerging. The level of individual philanthropic giving has levelled out from the high in 2008. The ongoing increase in revenue available to governments is effectively stalling in real terms against a backdrop of increasing demands and higher community expectations. Competition within the sector is increasing, although this increased competition is not always to the benefit of the community.

There have been no less than 15 major reviews, reports and inquiries into the regulation and contribution of the charities and not-for-profit sector since 1995. There are currently a range of initiatives seeking to promote social enterprise; reduce compliance costs for NFP organisations; encourage a diversification of financing options to build a more sustainable funding base; streamline and refine the regulation of NFPs and charities; establish less bureaucratic reporting requirements while building community transparency; increasing philanthropy and improving relationships between government and the NFP sector. CCA supports these activities.

The Australian Charities and Not-for-profits Commission (ACNC) is now an effective national regulator. The establishment of the ACNC is the first time the NFP sector has had an independent regulator dedicated to serving their needs and the needs of the community. It is a positive step towards reducing red tape, supporting transparency, building community trust and enhancing the role of the sector.

The inability of governments to streamline their own regulatory processes, their tendering processes, contract management and programs monitoring has consistently been identified as a major barrier to improving productivity in the not-for-profit sector in Australia. The lack of certainty in the government regulatory environment, funding and contracting processes also undermines performance and ongoing investment in improving outcomes. For the sector to be more effective, these issues must be addressed.

Competition between providers is often about highlighting differences. Positive change often requires increased collaboration, recognition of shared goals and shared ways of achieving outcomes. Given the size of the sector and its critical role in human services, there is scope to boost productivity by working constructively with the sector in developing more responsive and effective programs and services. Working with the sector will require a significant culture shift within many government Departments.

## Overview of key issues

There are three broad issues that inform most discussions about competition and contestability within human services. These three issues encompass many complex factors including both barriers to reform and drivers for reform. It is beyond the scope of this submission to address all these complexities or to fully canvass each option for each area of human services delivery in Australia.

It is anticipated that through CCA highlighting these three fundamental issues, individual CCA members and others that provide human services will be in a better position to focus on the approaches they believe are most appropriate in their specific areas of activity.

### 1. Clarifying the policy goal in human service provision

The most fundamental question in any meaningful discussion of human services delivery is; what is the policy goal of these services? The next question should be; what informs these goals and how are they measured?

The usual response to questions about policy goals in human services are descriptions of inputs and outputs – how many people were serviced and at what cost? Only rarely is there any real discussion about what was achieved in terms of outcomes. There is even less discussion about longer term impact.

A lack of clarity about goals results in a failure to understand how best to deliver the desired outcomes. As a consequence, many human services are based on untested assumptions about the impact of human services that may or may not translate into practice. The reality is that where there are no clear goals, no clear measures of successful outcomes (including the client experience of the service), we may well be rewarding failure.

Unfortunately, the lack of goals and meaningful measures is common across many human services. If we look objectively at what is rewarded in our health services, it appears illness is rewarded while wellness is ignored. This is because health services tend to operate within an activity based system. Doctors are paid more if they see more sick people or see the same people more often. Surgeons make more if they operate more. Drug companies make more for their shareholders if they sell more of their drugs. Reducing levels of mortality and morbidity across population groups is not really a winner for the current stakeholders of our health services. This may be why population and preventative health measures attract such a small percentage of health spending. It may also be that the benefit of achieving preventative health goals – for instance; achieving a reduction in the number of people injured or killed in car accidents - is distributed across the whole population and is non-specific. We cannot know who is now alive or not seriously injured because of compulsory seat belts, speed reduction measures, or random breath tests.

In most human services, the policy goal is about achieving a change in the status of those using the services – for instance; improving education, increasing employment, providing housing, reducing illness, reducing imprisonment. Unfortunately, these broader beneficial policy goals are often not seen as critical in program development, or are lost in translation when it comes to implementing programs and services.

For instance, a government may, for very good reasons, have a policy goal of increasing indigenous junior school attendance and retention. Senior government officials might develop and implement a program to pay for additional social workers to visit the homes of students absent from school and encourage them to attend or to talk to parents. What gets measured and reported is how many social workers are deployed and how many hours of home visits are conducted. If the government is able to achieve a major increase in the number of hours of home visits, the officials involved might call the program a success even if attendance rates only increase slightly.

In practice, improving indigenous attendance at school is a complex issue driven by many local factors. There have been successful initiatives such as providing a four-wheel drive diesel bus capable of carrying 25 people between remote communities enabling junior football teams to become part of a regular fixture of inter-community football matches. Only kids who attended school could be selected in the football team. Without the bus it would take many vehicles and adults for the competition to work. Experience tells us that in some communities, this kind of active engagement initiative has increased school attendance by over 30%. Successful investments to increase indigenous school attendance include building a swimming pool, setting up a music recording and video production studio, and supporting a mentoring program. What might work in any particular community clearly needs to be informed by those who live and work in the community.

As this example highlights, achieving real change for people is not always about directly intervening in one area of their lives, independent of others. For instance, the best way to improve the health status of someone who is unemployed, homeless, depressed and using illicit drugs may be to provide stable housing, supportive employment and a network of peer support. The provision of specific health services may or may not be effective.

How do we know what works, or in a market sense – what are we buying? It all starts by setting clear policy goals, talking with clients, local organisations and communities to establish meaningful goals, and then measuring success or failure against the agreed outcomes.

Without clarity about what the policy goal is in any human services delivery program, it is difficult to see how it is possible to begin discussing productivity, contestability or competition.

## **2. The nature of the ‘market’**

If there is such a thing as a human services market, it is diverse and distorted. In most human services provision, normal market forces do not apply. Government is often the main customer and the drivers of government investment are far removed from market based principles.

When the government is the customer, a well presented and well thought through funding application or tender counts for much more than years of success in delivering real outcomes within communities. This kind of market encourages more investment in consultancy firms to write funding applications. It does not encourage increased investment in services improvement to achieve better outcomes.

What governments sometimes describe as an outcomes based system of incentives is often no more than an activity based invoicing system. For instance, the most common form of invoicing / reporting for residential drug treatment services is how many beds were occupied for how many days? No one asks how many previously unemployed dependent drug users involved in petty crime are now gainfully employed, have stable housing, are crime free and making a positive contribution to the community?

Even when governments push for more consumer led markets (as with the National Disability Insurance Scheme) the government is still the dominate customer, setting up a relatively narrow band of options, an envelope of choice for people with disabilities and their families.

It usually takes a level of affluence to exercise genuine choice in human services. If you have the financial means, you can choose your school, health services, child care, transport and housing options.

Of course, choice still relies on information and there is often limited information available that provides relevant data about performance. In areas such as aged care, for instance, the capacity to make an informed consumer choice is almost non-existent. There are no measures of quality for residential aged care, no meaningful way of comparing the care provided, no effective way of reviewing the level of encouragement for ongoing physical activity and social engagement (critical factors in maintaining quality of life). Consumers are forced to rely on word of mouth, listings of staff qualifications, or advertising material descriptions of services from the providers.

Those who do not have the means to exercise a choice often have to rely on the government purchasing human services on their behalf.

Where there is 'market failure' and people do not receive the required services, charities or others tend to step in to provide the human services needed. Charities often have to rely on uncertain government provided funding within government developed programs, raising their own funding through fees and charges on services, or fundraising and philanthropy. A very small minority of not-for-profit organisations are able to run their own income producing activities or investments that underwrite their service provision.

Where the fees and charges are significant – as can be the case in education, health, affordable housing, disability and employment programs - for-profits can often deliver scale and efficiencies that make their prices competitive with charities. It is important to note the many businesses can readily access capital for new ventures whereas most not-for-profit organisations cannot, and that while the not-for-profit will have a purpose of serving their communities, business will be trying to generate maximum profits. Some for-profits see a potential to make money out of human service provision without improving outcomes.

In practice, this means the human services market has multi levels of service provision in each area. Access to services is largely determined by individual capacity to pay and government priorities in providing various forms of funding and support for preferred programs and services. The rationing of human services is common through restricted access and capped government funding.

This is anything but a traditional supply and demand market. The most effective human services provider with the highest quality services, valued by those they serve, offering one of the cheapest prices, may not be preferred by the major customer – the government.

Clarifying each part of the human services market, particularly the role of government, service providers, the service user and their community, is a critical pre-requisite for any meaningful discussion about competition and contestability in human services.

While there is clearly scope to improve the market, to make it more consumer and community driven, to ensure it is informed by the achievement of real outcomes, it would be wrong to assume contestability and competition principles can be readily applied across the existing human services market.

### 3. Development and implementation of appropriate funding / contracting / tendering mechanisms

*'Governments are realising the limitations of the 'contract state' and are searching for more creative ways of applying the experience, knowledge and capability of a wider array of actors to pressing problems in public policy.*

*This 'third wave' of policy delivery in which government, not-for-profits and business work together for public purposes, will need to accommodate a more elastic concept of 'risk', embrace new forms of shared governance, and encourage experimentation and innovation.*

*Crucially, policy actors from all sectors will be obliged to engage in a meaningful conversation with constituencies of need. Where, in the past, public policy interventions were 'done to' or 'done for', in the emerging policy environment policy delivery will be 'done with' end users and communities.'*

Australian and New Zealand School of Government monograph, *'The Three Sector Solution'*  
Cited from: <https://www.anzsog.edu.au/blog/2016/07/440/the-three-sector-solution> posted 18/7/16

Assuming there is clarity about both the human services goal, and the nature of the existing market for particular human services, the question then becomes what is the best way of developing, funding and implementing appropriate human services.

The short answer is that any new approach has to be about the customer / consumer / client, their families and communities. What will work best for them? What will deliver the best outcomes in their lives?

Within this context there are a number of approaches developing in Australia and around the world that may or may not be suitable for application in particular areas of human services. It is beyond the scope of this submission to fully explore all these options. However, it is important to say that at this point in time, many Australian government departments have been reluctant to adopt more consultative and informed approaches in the development of human services (*see article describing the process used by the Department of Social Services in their recent major tendering processes – Attachment 2*).

A starting point in considering alternatives to the current human services contracting is the possibility of outsourcing government contracting of human services to non-government specialists who have the capacity to engage with potential clients and their communities, can manage risk without resorting to micro management of inputs and outputs, understand measurement of service outcomes, can assess organisational capacity, and demonstrate a preparedness to take a longer term view of human services.

Other possible ways to achieve efficiency, effectiveness and improved outcomes through reform of human services include:

- *promoting co-design* (with service users, their communities and providers of services)
- *collaboration and collective impact* (drawing on the combined strengths of different organisations in flexible funding arrangements to support community driven goals)
- *broader goals* (less focused on a particular aspect of a person's life – more holistic including social supports, housing, employment, etc.)
- *less micro-management and compliance* (giving organisations a greater opportunity to both succeed and fail)

- *greater emphasis on achieving outcomes* (better focus on exactly what the service is meant to be delivering in terms of outcomes and impact)
- *more time to develop and sustain programs* (short term funding is often consumed establishing capacity which is then undermined by future uncertainty)
- *building on what works* (knowing what has been tried and what works is critical to improving service delivery)
- *recognizing the value of relationships* (often the real capacity of an organisation lies in the relationships with clients, families, communities and other service providers)
- *drawing on real expertise and grounded knowledge from service providers and users* (similar to co-design but beyond the development phase – actively engaging people and local organisations in implementing, monitoring and sustaining human services delivery)
- *place based solutions* (working with communities to develop local solutions that may be adapted from the experiences of other communities)
- *impact investing* (drawing on the capacity to generate income and returns on investment through service provision)
- *pay for results* (not paying for activity but paying for delivering agreed measurable outcomes).

Within each of these approaches, there is capacity to create options for increased consumer choice, contestability and competition.

We need to improve the way human services are paid for. This includes overcoming the command and control approach of so many government departments to contracting and tendering services. We must develop more effective ways to link payment systems to improved outcomes for service users.

## **Conclusion**

This submission seeks to highlight CCA's key concerns with the application of contestability and competition to the human services sector.

As noted at the outset, this is a very complex area across many different kinds of service delivery with a broad diversity of desirable goals and outcomes. While CCA supports moving to a more consumer driven model, this kind of reform will be challenging, not the least because governments and their officials see control as protection against risk. It will also be challenged by many existing providers that benefit from the current systems. Delivering better human services must be the primary goal, not simply applying a desired ideology around markets and competition.

CCA supports the need to clarify and measure goals and outcomes, understand the real nature of a human services market driven largely by government, and acknowledges the desirability of making human services more responsive to consumer needs and the achievement of real outcomes.

There is no evidence that greater competition and contestability will automatically deliver better human services outcomes, particularly in outcome blind service systems where the government is the primary customer. There is evidence that if we give people what they want, they get what they need.

CCA looks forward to ongoing discussions with the Productivity Commission as the inquiry progresses.

## **Current Membership – Community Council for Australia (Attachment 1)**

### **Organisation**

2Realise

Access Australia's National Infertility Network

Alcohol Tobacco and Other Drugs

Arab Council Australia

Australian Charities Fund

### **Australian Council for International Development**

Australian Healthcare and Hospitals Association

Australian Indigenous Leadership Centre

Australian Institute of Superannuation Trustees

Australian Major Performing Arts Group

Australian Women Donors Network

Beyond Blue

Business Council of Co-operatives and Mutuals

Carers Australia

Centre for Social Impact

Church Communities Australia

Churches of Christ Community Care Vic/Tas

Community Based Support

Community Broadcasting Association of Australia

Community Colleges Australia

Compass Housing Co Ltd

Connecting Up Australia

### **Drug Arm**

e.motion21

Ethical Jobs

EveryMan

Foresters Community Finance

Foundation for Alcohol Research and Education

Foundation for Young Australians

Fundraising Institute of Australia

### **Director / CEO**

Rowena Stulajter

Sandra Dill

Carrie Fowlie

Randa Kattan

Jenny Geddes

### **Marc Purcell (Director)**

Alison Verhoeven

Rachelle Towart

Tom Garcia

Bethwyn Serow

Julie Reilly

Georgie Harman

Melina Morrison

Ara Cresswell

Andrew Young

Chris Voll

Gabriel Hingley

Murray Coates

Jon Bissett

Don Perlgut

Greg Budworth

Anne Gawen

### **Dr Dennis Young (Director)**

Claire Vissenga

Michael Cebon

Greg Aldridge

Rhyll Gardner

Michael Thorn

Jan Owen

Rob Edwards

Good Samaritan Foundation	Catherine Cresswell
Good2Give	Lisa Grinham
HammondCare	Stephen Judd
<b>Hillsong Church</b>	<b>George Aghajanian (Director)</b>
Justice Connect	Fiona McLeay
<b>Life Without Barriers</b>	<b>Claire Robbs (Director)</b>
Lifeline Australia	Pete Shmigel
Maroba Caring Communities	Viv Allanson
Mater Foundation	Nigel Harris
<b>Mission Australia</b>	<b>Catherine Yeomans (Director)</b>
Missions Interlink	Pam Thyer
<b>Musica Viva</b>	<b>Mary Jo Capps (Director)</b>
Opportunity International Australia	Robert Dunn
Our Community	Denis Moriarty
Palliative Care Australia	Liz Callaghan
Philanthropy Australia	Sarah Davies
Port Phillip Housing Association	Karen Barnett
Power Housing Australia	Julie Quass
Pro Bono Australia	Karen Mahlab
Reach Foundation	Trisha Squires
<b>RSPCA Australia</b>	<b>Heather Neil (Director)</b>
SANE	Jack Heath
SARRAH	Rod Wellington
<b>Save the Children Australia</b>	<b>Paul Ronalds (Director)</b>
Scope (Vic)	Jennifer Fitzgerald
Settlement Services International	Violet Roumeliotis
SHOUT	Darryl Smeaton
Social Ventures Australia	Rob Koczkar
St John Ambulance Australia	Robert Hunt
The Benevolent Society	Joanne Toohey
The Big Issue	Steven Persson

The Fragile X Association of Australia

The Non Profit Alliance

**The Smith Family**

The Ted Noffs Foundation

Variety Australia

**Volunteering Australia**

**Wesley Mission**

White Ribbon Australia

**World Vision Australia**

YMCA Australia

Youth Off The Streets

Wendy Bruce

Kelly Beaumont

**Lisa O'Brien (Director)**

Matthew Noffs

Neil Wykes

**Brett Williamson (Director)**

**Keith V Garner AM Mth (Oxon)  
(Director)**

Libby Davies

**Tim Costello (Chair)**

Ron Mell

Fr Chris Riley

## ProBono Article on the PC Inquiry (*Attachment 2*)

### To compete or not compete – big questions for the sector

David Crosbie, CEO, Community Council for Australia

Could increasing contestability and competition in human services deliver better outcomes for government and the community? Which services? What are the costs and benefits?

Are there barriers for new suppliers to enter the human services market? How could these barriers be removed?

These questions reflect the fundamental issues the Productivity Commission has been tasked by the government to consider as part of the ***'Inquiry Into Introducing Competition and Informed User Choice Into Human Services.'***

Many questions are listed in the recently released discussion paper by the Productivity Commission: ***Human Services: Identifying sectors for reform*** (see <http://www.pc.gov.au/inquiries/current/human-services/identifying-reform/issues> )

This new Productivity Commission inquiry has major ramifications for the future of the charities and not-for-profit sector. The inquiry has two stages:

1. *The first stage will deliver an initial study report identifying services within the human services sector that are best suited to the introduction of greater competition, contestability and user choice.*
2. *In the second stage, the 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.*

I know from talking with some CCA members as we begin the process of drafting the CCA response, that most people in the sector will adopt the same 'not for us' approach in their submissions. The human services sector will try to dismiss this PC inquiry by saying their particular area of service provision – be it; education, health, employment, child protection, disability, housing, correctional services, etc – is not suitable for a more competitive market based approach.

The bad news is that this is not what the government is waiting to hear and it is not what they are expecting or wanting the Productivity Commission to report. Governments are expecting to find savings through restructuring human services funding. Increasing competition and contestability is also part of a fundamental commitment to a more market based service provision model.

In the media release announcing the terms of reference for the Inquiry, Treasurer Scott Morrison said ***'By commissioning this inquiry, the Government is meeting a commitment made in its response to the 2015 Harper Competition Policy Review, released on 24 November 2015.'***

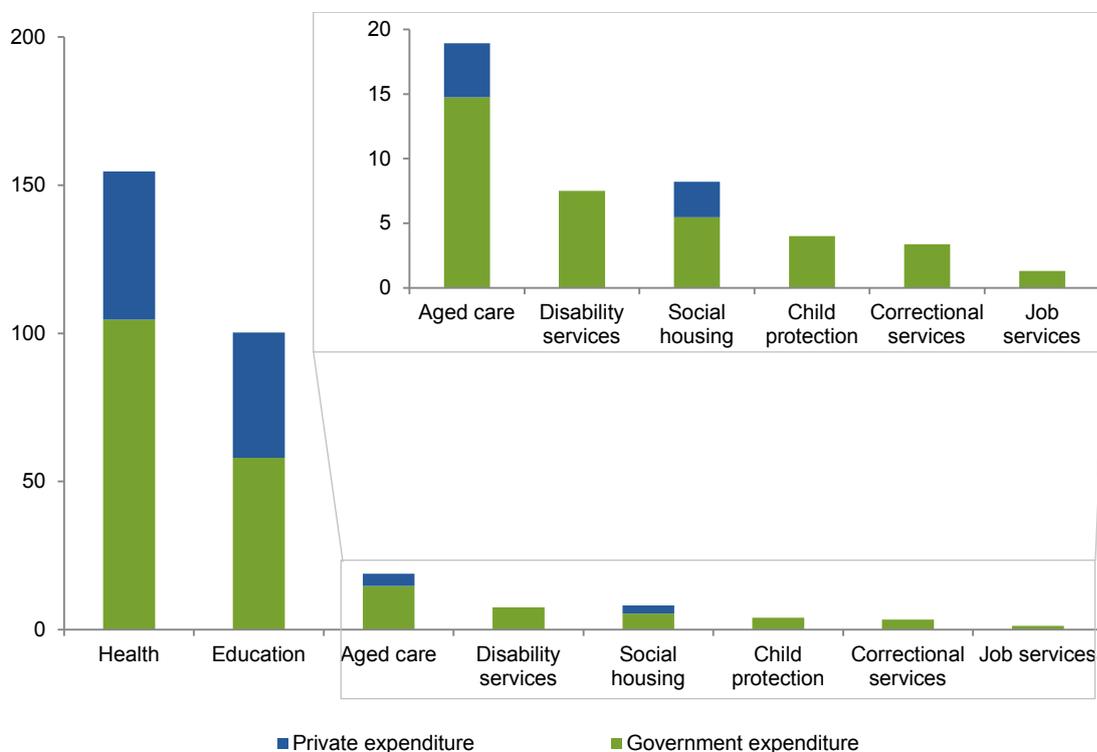
For those who are not aware of the Harper Review findings, the key recommendation for our sector was that, ***'each Australian government should adopt choice and competition principles in the domain of human services'***.

Treasurer Scott Morrison went on to say; ***‘finding innovative ways to improve the efficiency and cost effectiveness of the human services sector, and to target services to those most in need, will help ensure that high quality service provision is affordable for all Australians and leads to improved outcomes for individuals and the economy.’***

What has always been of most concern to CCA is not so much the idea of competition – there are already forms of competition and contestability at play in many of these areas – but how ‘the market’ is defined and how competition is structured.

The Human Services ‘market’ is more complex than the standard supply and demand market, primarily because the government is the biggest buyer (customer):

**Figure 1 Expenditure on human services**  
\$ billion, 2013-14



<sup>a</sup> Private expenditure on education is based on ABS Government Financial Statistics and may include some government payments to private individuals that are spent on education services and are also included as government expenditure on education.

Sources: ABS (2015, 2016); ACFA (2015); Australian Government (2014); SCRGSP (2015, 2016).

A market approach that is driven, informed and funded by government may be described in many ways, but it is not an open or free market. In most cases, it is a distorted market monopoly.

The completely botched tendering of almost \$1 billion of community services funding by the Department of Social Services (DSS) under the Abbott government is a classic example of how governments get it wrong when applying market approaches to human service provision.

In the Senate Inquiry into the DSS grants process, senior executives from DSS said they were 'testing the market' and that this testing was long over-due.

As CCA repeatedly pointed out in submissions and Senate appearances relating to these processes, the most important principle in testing any market is knowing exactly what you are seeking to buy and having measurable criteria for the quality of the product. For me, this is why government 'market testing' in human services provision is actually grounded in a whole series of false assumptions.

The grant process DSS set up to allocate hundreds of millions of dollars across thousands of organisations was entirely self-informed and self-serving. DSS determined the scope and nature of the new grant programs, the areas of need, what services could or should be run, what services would or would not work within specific communities and how much funding organisations should be allocated to provide the services DSS wanted provided in that location. The process for making these decisions was developed and imposed by DSS, all decisions were made by DSS staff and the review of the program was conducted by DSS staff.

CCA believes it is important to ensure government money is being well applied to achieve the desired policy goals. It is also important to acknowledge that some measure of contestability can be positive – there is not a strong case for simply continuing historical funding models.

There are, however, better ways to achieve efficiency, effectiveness and improved outcomes through reform of human service funding. Promoting co-design, collaboration, broader goals, less micro-management and compliance, greater emphasis on achieving outcomes, more time to develop and sustain programs, building on what works, recognizing the value of relationships, drawing on real expertise and grounded knowledge from service providers and users, place based solutions, etc. are just some of the approaches CCA will be putting forward as part of our submission to the Productivity Commission.

We should not ignore the clear indications of what is coming – an increased measure of competition and contestability is going to be applied across many areas of human service delivery. The question is how?

If we are committed to our programs and services, sitting back and hoping these changes will somehow fade away is not an option. It is our responsibility to advocate for what we believe, what we know works, what we know makes a difference in the communities we serve.

If ever there was a national inquiry that the not-for-profit sector must be very active in, this is it!

NB. Submissions to the Productivity Commission Inquiry ***Human Services: Identifying sectors for reform*** close on 25<sup>th</sup> of July – see <http://www.pc.gov.au/inquiries/current/human-services/identifying-reform>

CCA members should send their comments and input to [leighw@communitycouncil.com.au](mailto:leighw@communitycouncil.com.au) or [davidc@communitycouncil.com.au](mailto:davidc@communitycouncil.com.au)