



Productivity Commission Draft Report (June 2017)
Introducing Competition and Informed
User Choice into Human Services:
Reforms to Human Services

**Response from the Business Council
of Co-operatives and Mutuals**

The Business Council of co-operatives and Mutuals (BCCM) welcomes the release of the draft report on reforms to human services. We commend the Commission for its focus on *“finding ways to put the people who use human services, such as health care, social housing and family and community services, at the heart of service provision”* and welcome the Commission’s commitment to a diversity of organisational forms in the provision of these services

We are encouraged by the Commission’s arguments about the importance of commissioners understanding the primary motivations of each organisational form, and how these motivations affect the choice of stewardship levers around quality, equity, efficiency, accountability and responsiveness. And we welcome the Commission’s recognition that cooperatives and mutuals could play a key role in meeting the requirement for integrating service provision with local communities and the local work force.

We also welcome the Commission’s acknowledgement of the important role for government stewardship in creating the foundations on which all organisations can compete on a level playing field. The Commission says:

“Good stewardship should ensure that the only barriers to entering (and exiting) a market are those necessary to ensure positive outcomes for users and the overall effectiveness of service provision” .

So funders and commissioners need to ensure that there is a level playing field for all organisational forms and that one is not given preference over the others.

Yet in each of our three submissions to this Inquiry, the BCCM explained the barriers faced by co-operatives and mutuals relative to other organisational forms such as incorporated associations, companies limited by guarantee, listed and other for-profit public companies. We cited the findings of a recent Senate Inquiry into Co-operative and Mutual firms which made 17 recommendations to remove these barriers that included :

- **Recognition** of the legal form and understanding the differences to other legal structures;
- **Regulatory change** needed to remove barriers that make it harder for co-operatives and mutuals to be regarded as a preferred organisational form and to raise capital to grow their businesses; and
- **Education and awareness** about co-operatives and mutuals and how they can be used to respond to current and emerging trends including in the context of how public services are delivered

The 17 recommendations are attached to this response at [Attachment A](#). They received bi-partisan support from the Senate Economic References Committee which recommended that:

“(The) Co-operative and mutuals sector be better represented in government policy discussions, and is actively promoted as a possible option for service delivery particularly where community based initiatives are being considered”.

¹ Productivity Commission (June 2017) Draft Report on Reforms to Human Services page 2

² Productivity Commission Draft Report (June 2017) Box 2.6 page 86

³ Productivity Commission Draft Report (June 2017) page 85

⁴ Commonwealth of Australia (2016) Economic References Committee Inquiry into Co-operative and Mutual firms.

Through the BCCM's participation in other inquiries, there have been similar findings and observations. For example, the "Competition Policy Review Final Report" led by Professor Ian Harper found:

"As user needs and preferences continue to evolve, public service mutuals could play a greater role in meeting individual and community needs, possibly in conjunction with other significant government initiatives. Indeed, the (BCCM's) White Paper suggests that NDIS trial sites could prove ideal for piloting a disability staff co-operative"

The Harper review also acknowledged the role of government in fostering this diversity among providers:

"In many human services, users benefit from direct choice and control. In these instances, a range of diverse providers and provider types can be an important factor in ensuring that users have access to meaningful choice. Where direct user choice is not possible, governments can play an important role in encouraging diversity through commissioning processes and decisions. Where they directly commission services, governments can: specify contracts with duration periods that do not exclude potential competitors for extended periods of time; and institute processes that avoid allowing monopoly providers to develop over time"

The McClure Report on welfare reform also observed the opportunity for co-operatives and mutuals to have a larger role in service delivery where the business model is founded on member participation and democratic control which creates obligations and responsibilities on those members.

In light of this feedback, the BCCM was disappointed that the draft report contained no mention of the barriers faced by co-operatives and mutuals and how this may have contributed to the involvement of this organisational form in human services markets, reducing diversity and choice for consumers and commissioners. The BCCM would like to see this considered in the final report.

For example, the Senate recommendations highlighted the discrimination faced by co-operatives and mutuals under the Government's Indigenous Advancement Strategy (IAS) and other grant programs. For example,

Recommendation 10

"The Committee recommends that the Commonwealth Government amend the Indigenous Advancement Strategy to allow registered co-operatives and mutual enterprises the same access to levels of grant funding as other entities"

Recommendation 11

"The Committee recommends that the Commonwealth Government review and where necessary, amend the eligibility criteria for grants and funds across all government grants and program guidelines to ensure that co-operatives and mutual enterprises are not excluded on the basis of their business structure"

⁵ Commonwealth of Australia (2015) Competition Policy Review Final Report (2015) pages 247-248 Harper Review

⁶ Commonwealth of Australia (2015) Social Welfare Reform Final Report Executive Summary P32

⁷ Commonwealth of Australia (2016) Senate Economic References Committee inquiry into co-operative and mutual firms.

Recommendations for consideration to be included in the Final Report.

- Include a co-operative and mutual example in the section comparing the motivations of for profit and not for profit providers in Box 2.6 Substance over Form: provider's motivations
- Expand the section on page 85 about barriers to entering markets to reference the findings of the Senate Economic References Committee Inquiry into co-operative and mutual firms outlined in 17 recommendations that received bi-partisan support from all members.
- Include a reference to the role of Funders and Commissioners in developing markets and fostering innovation and new ideas in Human Services delivery that may include enabling new organisational forms to grow as occurred in the UK with worker co-operatives

Melina Morrison

CEO, Business Council of Co-operatives and Mutuals

Appendix A Senate Recommendations

Recommendation 1

2.32 The committee recommends that the Commonwealth Government ensures that a national collection of statistics and data is undertaken to provide an accurate picture of the scale and extent of the co-operative and mutual sector.

Recommendation 2

3.28 The committee recommends that co-operative and mutuals sector be better represented in government policy discussions, and is actively promoted as a possible option for service delivery particularly where community based initiatives are being considered.

Recommendation 3

3.29 The committee recommends the Commonwealth Government work with states and territories to develop a program of supports to encourage the establishment of new co-operatives and mutual enterprises.

Recommendation 4

3.49 The committee recommends that a mutual enterprise is explicitly defined in the Corporations Act 2001, and its associated regulations.

Recommendation 5

3.51 The committee recommends that the role of directors in mutual enterprises is defined in the Corporations Regulations to align with the proposed definition of a mutual enterprise in the Corporations Act.

Recommendation 6

3.75 The committee recommends the Commonwealth Government work with states and territories to ensure the continual improvement to advice, guidance and information provided at all stages in the establishment, governance and regulation of co-operatives.

Recommendation 7

3.80 The committee recommends that the Commonwealth Government to work with all relevant stakeholders to undertake a program of education and training to inform them about the role of co-operatives and mutuals.

Recommendation 8

3.81 The committee recommends that the Commonwealth Government examine ways in which it can improve the recognition and understanding of the co-operative and mutual sector in the national secondary school curriculum and that tertiary institutions consider the inclusion of co-operative and mutuals in accounting, business, commerce, economics and law degrees. Reforms to Human Services Submission from Business Council of co-operatives and Mutuals in response to Productivity Commission Issues Paper December 2016 Business Council of co-operatives and Mutuals PAGE 40

Recommendation 9

3.82 The Committee recommends that professional accreditation bodies, such as the Law Society and Institute of Chartered Accountants, require a demonstrated knowledge of the co-operatives and mutual structure before it will licence its members to practice accounting or law.

Recommendation 10

3.92 The committee recommends that the Commonwealth Government amend the Indigenous Advancement Strategy to allow registered co-operatives the same access to allow levels of grant funding as other entities.

Recommendation 11

3.93 The committee recommends that the Commonwealth Government review, and where necessary amend the eligibility criteria for grants and funds across all of government grants and program guidelines to ensure that co-operatives and mutual enterprises are not excluded on the basis of their business structure.

Recommendation 12

4.17 The committee recommends that the co-operative and mutual sector be considered when the government is preparing a Regulatory Impact Statement that accompanies new regulatory policies.

Recommendation 13

4.18 The committee recommends that the Commonwealth Government liaise with its state and territory counterparts to ensure that the regulatory burden for small and medium sized co-operative and mutual enterprise aligns with the needs of these organisations and ensures they are not disadvantaged relative to companies of a similar size.

Recommendation 14

4.26 The committee recommends that the Commonwealth Government closely monitor the progress of the International Accounting Standards Board in developing solutions to bring co-operative shares under the definition of capital under AASB 132, and, where possible, facilitate equivalent amendments as expeditiously as possible.

Recommendation 15

4.42 The committee recommends that Commonwealth and State Governments support the formalisation of some of innovative market-based approaches to raising capital for small and medium sized co-operative and mutual enterprises, in the form of advice and information, as they become available.

Recommendation 16

4.45 The committee recommends that APRA set a target date for the outcome of discussions with the co-operative and mutuals sector on issues of capital raising and bring those discussions to a timely conclusion.

Recommendation 17

4.49 The committee recommends that the Commonwealth Government examine proposals to amend the Corporations Act 2001 to provide co-operative and mutual enterprises with a Reforms to Human Services Submission from Business Council of co-operatives and Mutuals in response to Productivity Commission Issues Paper December 2016 Business Council of co-operatives and Mutuals PAGE 41 mechanism to enable them access to a broader range of capital raising and investment opportunities. Source: The Senate Economics References Report into Cooperative, Mutual and Member Owned Firms

