



NATIONAL CONGRESS
OF AUSTRALIA'S FIRST PEOPLES

**Submission to Productivity Commission Draft Report on Introducing Competition
and Informed User Choice into Human Services: Reforms to Human Services**

July 2017

About the National Congress of Australia's First Peoples

National Congress of Australia's First People (Congress) welcomes this opportunity to respond to the Productivity Commission's draft report on Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services.

Congress is a representative voice for Aboriginal and Torres Strait Islander Peoples. Established in 2010, Congress has grown steadily and now consists of over 180 organizations and almost 9,000 individual members, who elect a board of directors.

Congress opposes legislation or policy that is, or may be, discriminatory (directly or indirectly) and or may limit the rights of Australia's First Peoples. Many of the social problems faced by First Peoples today are the result of a history of coercive government policies, notably forced removal from land, relocation to reservations and missions, assimilation, stolen generations, stolen wages and income management regimes.

Congress advocates self-determination and the implementation of *the United Nations Declaration on the Rights of Indigenous Peoples*. Congress believes Aboriginal and Torres Strait Islander peoples should be central in decisions about our lives and communities, and in all areas including our lands, health, education, law, governance and economic empowerment. It promotes respect for our cultures and recognition as the core of the national heritage.

Introduction of Competition

Congress agrees with the Productivity Commission's assessment, particularly in Part 8 ("Human services in remote Indigenous communities") of the Draft Report, of the potentially problematic aspects of introducing competition to the human services sector. In particular, Congress considers that the introduction of competition to the delivery of human services would weaken the relationships between service providers and recipients which serve as the foundation of the sector's effective functioning.

Congress is, however, sceptical of the Draft Report's suggestion that a "model of commissioning where providers 'compete' periodically for funding to deliver services [...] can be a sound model if implemented well."¹ In particular, it notes that many of the negative outcomes of current government policies relating to Aboriginal and Torres Strait Islander affairs are the result not only of poor implementation, but also of inherent problems posed by any competitive model of service provision. For instance, the Draft Report's observation that "services are uncoordinated, both between and within governments, and between service providers" is exacerbated by any system which forces service providers to compete against one another for funding from the Government.² Such a system reduces the incentives for service providers to co-operate with one another and share cultural and logistical knowledge (since they are in competition with one another). This leads to both the fragmentation and duplication of service delivery, and therefore the wasting of valuable resources.

As the Draft Report acknowledges, the isolation, inaccessibility, and lack of technological infrastructure which characterise many remote Aboriginal and Torres Strait Islander communities renders any consumer-driven competition within the human services sector unfeasible.³ However, it is important to note that a government-driven, commission-based model is equally unsatisfactory. The failures of the Indigenous Advancement Strategy offer a poignant illustration of this. Over half the funds allocated under the first year of the IAS were given to organisations and businesses not headquartered in the communities they were supposed to work in. Furthermore, Aboriginal and Torres Strait Islander organisations made up only 45% of successful applicants in the first round of funding grants.⁴ The allocation of funds to groups which are geographically removed from the regions which they are required to serve, and to non-Indigenous service providers only exacerbates the cultural insensitivity and lack of a needs-based approach which have plagued the Aboriginal and Torres Strait Islander services sector.

¹ Productivity Commission, "Draft Report: Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services" (June 2017), 239.

² Ibid.

³ Ibid, 238.

⁴ Anna Henderson, "Majority of grants from Indigenous Advancement Strategy first round given to non-Aboriginal groups," *ABC News* (5 May 2015), available at <http://www.abc.net.au/news/2015-05-05/majority-of-indigenous-grants-go-to-non-aboriginal-organisations/6444534>.

As the Department of Social Services suggested in its submission, competitive tendering arrangements tend to “favour large-scale NGOs which have the skills and capabilities to develop effective grant applications.”⁵ Congress notes that many smaller organisations, such as those run in regional communities by Aboriginal and Torres Strait Islander people, do not have access to the legal or logistical resources required to engage in the complex tendering process created by the Australian Government.⁶ Furthermore, given that many of these organisations are already understaffed and in a precarious financial situation, any competitive system of service provision requires them to devote a significant proportion of their scarce resources to seeking funding.⁷ It is unclear whether any of the suggestions made in Draft Recommendation 8.4 of the Draft Report would significantly alter the disadvantages which these organisations face. Although community engagement and feedback may serve as useful supplements to the tendering process, formally compiling and co-ordinating diverse community responses presents similar logistical challenges to those involved in participating in the tendering process.

The Draft Report is correct in identifying the tendency of the Australian Government to fail to take into account the “advantages Indigenous organisations offer over ‘mainstream’ organisations.”⁸ As is noted by many family and community service organisations, including many non-Indigenous organisations, the Government tends to focus disproportionately on cutting costs and the quality of *applications*, as opposed to the needs of communities and the appropriate means of fulfilling those needs.⁹ For instance, although organisations which offer mainstream health services to remote Aboriginal and Torres Strait Islander communities may be able to boast reduced costs, such services often fail to take into account the cultural and social particularities of our communities and therefore produce negative outcomes.¹⁰ In contrast, Aboriginal and Torres Strait Islander organisations may, as the Draft Report acknowledges, “provide greater health benefits, improve access for Indigenous people, deliver culturally appropriate services, [and be] more likely to be committed to processes of clinical governance and evidence-based medicine and employ more people.”¹¹ Yet, as benefits such as cultural sensitivity are difficult to quantify and evaluate in monetary terms, they are given scant consideration by the Government.

As a result, Congress welcomes Draft Recommendations 8.1-8.4 of the Draft Report insofar as they encourage the Australian Government to allow Aboriginal and Torres Strait Islander organisations more time to both develop applications and built working relationships with the communities which they serve. The suggestion that the Government account for the cultural competency of service providers is particularly welcome.¹² However, Aboriginal and

⁵ Productivity Commission, 254-255.

⁶ Senate Finance and Public Administration References Committee, Parliament of Australia, *Commonwealth Indigenous Advancement Strategy tendering processes* (2016), 21-22.

⁷ *Ibid.*

⁸ Productivity Commission, 255.

⁹ *Ibid.*, 208.

¹⁰ *Ibid.*

¹¹ *Ibid.*, 26.

¹² *Ibid.*, 42-43.

Torres Strait Islander organisations cannot be faulted for remaining somewhat sceptical of the ability of the Australian Government to fund “culturally appropriate service provision,” given the extraordinary number of similar promises which have been made and broken in the past. Furthermore, Congress submits that Draft Recommendation 8.4 may only have a limited impact as a centralised government bureaucracy is structurally ill-suited to the evaluation of the needs of a diverse range of individual communities.¹³ Indeed, any competitive model of service provision has the adverse effect of forcing Aboriginal and Torres Strait Islander service providers to compete against one another (for instance, by proving that they are more “culturally sensitive” than their competitors), promoting a culture of antagonism in the sector and thus further fracturing it.

Congress, in principle, welcomes Draft Recommendation 8.5 and its call for more frequent “assessments of the characteristics and needs of Indigenous Australians living in remote communities,” and the establishment of “systems to identify and share information on ‘what works’ in human services in remote Indigenous communities.”¹⁴ However, we note that any competition within the service delivery sector is fundamentally at odds with the aim of “sharing information,” as an organisation which co-operates with other organisation effectively jeopardises its own ability to win bids for contracts with the Government. Furthermore, we submit that the goal of assessing the impact of service provision in remote communities may be particularly difficult: it is difficult to accurately gauge and quantify measures of wellbeing such as cultural and spiritual connection.¹⁵ In addition, Congress notes that the Australian Government is already constantly provided with information about the characteristics of remote Aboriginal and Torres Strait Islander communities. Yet, as paternalistic and assimilationist programs such as the Northern Territory Intervention (now continued under the Stronger Futures policy) and the Community Development Program illustrate, the current failures of government policy are not merely due to a lack of information, but rather the Government’s belief that it already knows what is best for Aboriginal and Torres Strait Islander people.¹⁶ As a result, Congress suggests that it is not enough to merely publish assessments of the service sector; those assessments must also be given weight in government decision-making processes.

Furthermore, Congress submits that in order for the Productivity Commission’s recommendations to take effect, the Australian Government must revise the process by which it currently records assessments of development policies. The Government’s reliance upon verbal negotiations with organisations, failure to assess funding applications according to policy guidelines, and inadequate record-keeping of meetings has made any assessment of the impacts of policies and funding allocations virtually impossible.¹⁷

¹³ Australian National Audit Office, *Indigenous Advancement Strategy* (2017), 60-63.

¹⁴ Productivity Commission, 43.

¹⁵ See AIHW, “Measuring the social and emotional wellbeing of Aboriginal and Torres Strait Islander peoples” (2009).

¹⁶ See National Congress of Australia’s First Peoples, *Briefing for the United Nations Special Rapporteur on the Rights of Indigenous Peoples, Ms Victoria Tauli-Corpuz* (March, 2017).

¹⁷ *Ibid*; see also Australian National Audit Office, *Indigenous Advancement Strategy* (2017), 52-53.

Congress would like to note its appreciation of the devotion by the Commission of an entire section of the Draft Report to the analysis of issues concerning service provision in remote Aboriginal and Torres Strait Islander communities. This is a noteworthy policy area requiring reform. However, Congress emphasises that this section addresses the lives of barely one in five Aboriginal and Torres Strait Islander people.¹⁸ Therefore, while Congress believes the Commission's recommendations to be highly worthwhile and welcome, we urge the Commission to broaden its inquiry to tackle the issues afflicting the large number of our people who live in urban areas. In particular, we submit that the Draft Recommendations in Part 8 of the Draft Report should be broadened and implemented in these locations, particularly given that urban housing, health, and education services can similarly be improved through an overarching needs-based, culturally sensitive approach.

¹⁸ Productivity Commission, 22.

Informed User Choice

Congress concurs with the Productivity Commission's view expressed in its Draft Report that facilitating the making of informed choices by users of human services about their individual care instils empowerment, particularly by respecting their dignity, and right to freely live their lives. Although Congress acknowledges that this is not always possible, particularly in remote communities, we stress that the ability to make independent, informed choices should be afforded to Aboriginal and Torres Strait Islander wherever feasible. The ability to make these decisions aligns succinctly with the values of Congress, which include allowing our people to determine the course of their own development and to enable the self-determination of Aboriginal and Torres Strait Islander people.

Informed user choice is of particular significance to our people due to our history of being subject to generations of discrimination, disadvantage, and violence, and the erosion of our self-determination. Despite several reports stressing the need for our peoples to "have a genuine say in our lives and decisions that affect our peoples and communities," the Australian Government has continued to pursue paternalistic, assimilationist policies which have only exacerbated our marginalisation.¹⁹ Congress therefore advocates for the restoration of policy autonomy for our peoples, and submits that the human services sector, due to the sheer size of the population which it serves, forms a critical part of that plan.

However, although informed user choice may appear highly amenable to the goals and values of Congress, and our people as a whole, there are caveats to their effectiveness. A significant one is that which has been discussed previously, that is, that any options from which our peoples are expected to make an informed choice must be culturally appropriate and equitable to Aboriginal and Torres Strait Islander service recipients. Furthermore, many communities and organisations lack the infrastructure and manpower required to provide culturally appropriate services due to chronic underfunding and lack of support from the Government. The draft recommendations of the Productivity Commission must, therefore, be accompanied by a recognition for broader governmental support of Aboriginal and Torres Strait Islander organisations, and an emphasis upon the need to respect the autonomy of those organisations.

Many of the human service categories outlined in the Draft Report are highly relevant to the facilitation of informed user choice by Aboriginal and Torres Strait Islander recipients of social services. A crucial one is "caring for people at the end of life." As the Report highlights, although 70% of the Australian population would strongly prefer to spend their twilight years in their ancestral lands, very few people are permitted to do so. This is a particularly sensitive issue for our peoples. Firstly, our peoples have strong cultural, emotional, and spiritual connections to their respective ancestral lands. These bonds are extremely significant for our peoples, particularly in the twilight moments of life, although the strong emphasis of familial care at this time is unachievable in more formal settings.

¹⁹ National Congress of Australia's First Peoples, *Redfern Statement* (Redfern: National Congress of Australia's First Peoples, 9 June, 2016), 5.

Hence, many of our peoples unfortunately have to pass away in environments alien to them, often associated with the engrained historical trauma, and not sensitive to cultural dignity otherwise received in the lands of their respective peoples. Secondly, there has been an “enormous cynicism” among Indigenous people’ due to factors such as the ‘focus on the closing the gaps agenda... not necessarily reflect[ing] Indigenous people’s objectives and priorities, particularly in relation to community development and governance issues’.²⁰ Congress considers this the culmination of an historical aversion to provision of critical human services such as hospitals, and aged care facilities that were provided by non-Indigenous actors. It is therefore unsurprising that a lack of informed user choice means that Aboriginal and Torres Strait Islander people are often reluctant to engage with such services in the first instance. This is exacerbated by their fear of not being permitted to spend their twilight months on the land of their respective peoples. Congress considers that this perpetuates a vicious cycle of separation from one’s ancestral land, and rootlessness that afflicts a sizable proportion of our peoples.

²⁰ Productivity Commission, *Better Indigenous Policies: The Role of Evaluation: Roundtable Proceedings* (Canberra: Productivity Commission, 2013), 10.

Conclusion

National Congress of Australia's First People once again welcomes this opportunity to respond to the Productivity Commission's draft report on introducing competition and user choice within the human service sector. We strongly believe that the commission is heading in the right direction in promoting and defending the rights of all Aboriginal and Torres Strait Islander people within the human services sector. This is apparent in a number of recommendations throughout the draft report which condemn the introduction of competition in a sector which so heavily relies upon the positive interagency collaboration and support; factors unlikely to survive a more competitive structure. Confidence too is found in the continuous encouragement within the recommendations for government to work alongside and in partnership with our people in devising culturally competent programs and services. Congress is keen to see these suggestions come into fruition.

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