



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

The introduction of the National Disability Insurance Scheme (NDIS) provides fertile material for the Commission to explore the role of competition and choice in human services. This enormous national reform aims to improve the lives of people with significant disability by providing them with funding to purchase the supports they require. Driven by consumer choice and control, it is hoped that a vibrant and competitive market for disability services will be created.

As it is early days, this dramatically increased application of competition principles in disability services has not been fully tested. In particular, the potential for unintended consequences needs to be carefully monitored. There are risks to the financial viability of long-standing not-for-profit organisations and to the social capital they create (including volunteering, community linkages and fundraising). Any diminution of this social capital would decrease the expected benefits of the NDIS and ultimately increase the financial cost of the scheme.

This submission outlines the likely impacts of increased competition on disability service providers, particularly if some design features are less than optimal. This information may be of benefit to the Productivity Commission as it identifies new sectors for competition reform.

Desirable elements of a reformed disability sector

The NDIS is quasi-market which seeks to combine market principles - such as consumers with purchasing power exercising choice among suppliers – with public administration principles – such as the equitable provision of resources, accountability for the expenditure of public funds and regulation of quality.

In NDS's view, the emerging disability market should have the following features:

- is contestable (with barriers to entry sufficient to protect minimum standards)
- is diverse (with respect to size, structure and specialization)
- responds to the reasonable needs and choices of participants across Australia
- provides good information to support service development and consumer choice
- delivers effective social and economic outcomes for people with disability
- allow providers to be innovative and relatively unencumbered by red tape
- values the social capital creation of not-for-profit organisations
- encourages local connections and local responsiveness
- fosters collaboration between stakeholders, including with mainstream services
- individualises most funding while acknowledges a role for other funding methods
- provide safeguards for participants based on risk
- deliver high-quality supports

- guards against the abuse of market power and anti-competitive practices.

Some of these features are at risk in the competitive market that is emerging under the NDIS.

Emerging risks

Information gaps

Good information is essential for an effective competitive market, but has been lacking during the trial phase of the NDIS.

NDIS participants need good information to make informed choices about the possible supports they might purchase. Plans are underway by the National Disability Insurance Agency (NDIA) to develop an e-market on which providers will be able to advertise and negotiate with participants who wish to purchase. Unfortunately it is not yet available.

Providers need knowledge about the demand for supports in different areas of Australia in order to plan and invest. In a welcome development, the NDIA has begun to release Market Position Statements to assist providers understand expected consumer demand across a range of different types of supports. Over time, it is hoped that these statements will include actual demand information for particular supports and information on service gaps.

Price caps

At present, NDIS supports are generally subject to price caps set by the NDIA. As well as constraining the market, some of the key price caps are set at levels that do not cover the costs of providing the supports, particularly to people with complex needs. If this situation persists, the quality of disability supports will be eroded by factors such as reduced training and development of staff, increased supervision ratios and possibly by the increased use of casual staff.

Inadequate transition support for not-for-profit providers

Evidence from the NDIS trials show that the costs to not-for-profit providers of preparing to operate in a competitive market are large and the assistance available to date has been uneven across Australia and inadequate. Many not-for-profit organisations have limited resources to draw on to invest in the new information technology systems that would help to streamline business operations or to develop marketing materials. They often lack the capacity to purchase the business advice to restructure their organisations.

Inadequate IT platforms

The IT system which supported the trials of the NDIS was clunky and inefficient. The new IT system to support the full transition to the NDIS has malfunctioned since being introduced on 1 July 2016. Most providers have had very limited ability to claim for supports delivered since the old system closed on 16 June and are spending many thousands of dollars from their own reserves in attempts to receive payments. While the NDIA is providing emergency payments, the reconciliation of these could be time-consuming and costly.

Highly prescriptive arrangements for Disability Employment Services

Disability Employment Services, which sit outside of the NDIS, have experienced competitive tendering for many years. The program is both heavily regulated (contractual requirements in the form of the Deed and Guidelines total about 900 pages) and subject to a performance framework that provides limited useful information to participants seeking to use it.

What is required?

Fair pricing

There is a lack of evidence supporting the cost assumptions which underpin the price caps set by the NDIA. Data on the costs of providing a range of NDIS supports needs to be collected and used to inform revised prices (which are—and will continue to be—used to set the funding packages for individuals). The NDIA has a plan to decrease the real value of price caps on a number of supports to an arbitrarily-set 'efficient price'.

The NDIA also has an intention to set common price caps for services right across Australia, with loadings only for remote and very remote areas. This approach does not take into account regional differences in the cost of service delivery (for example, it does not address the particularly high costs of service delivery in an area like Darwin).

If these approaches to pricing continue, perverse and undesirable outcomes will result. Valued not-for-profit service providers will be forced to close; there will be excessive market aggregation in already thin markets; or there will be a reduction of services delivered in remote areas. None of these is desirable.

Price deregulation

Centralised price fixing in the NDIS will inevitably fail to reflect the diverse circumstances in which disability services are provided around Australia and the different values which participants (consumers) attach to variables such as quality. The NDIA is committed to deregulating prices in the long-term; NDIS is keen for this to happen soon. Participants should be allowed flexibility in how they spend their funding packages through negotiation with providers. A small testing of deregulation has begun but it is only available to participants who self-manage the funding in their support package (currently about 5% of participants).

Efficient and effective NDIA ICT system

For the NDIS to succeed there must be an effective and efficient ICT system. The problems that have resulted from the introduction of the NDIA's new ICT system must be quickly rectified and the sector should be compensated for the thousands of dollars they have spent trying to claim payments.

Market stewardship

The impact on the disability sector of the introduction of a competitive market for NDIS supports is unknown. This emerging market must be closely monitored in relation to factors such as:

- structure and composition (of organisations and available supports)
- purchasing decisions by participants
- financial sustainability (particularly of not-for-profit organisations)
- impact on volunteer hours and on charitable giving
- business confidence.

In human services, Governments, and regulators, cannot distance themselves from the quality of services in the same way that they can in some other industries. The resulting regulation means that modelling based on 'free markets' cannot be accurately applied. We need to build evidence on the suitability of competitive markets for human service delivery, what risks exist and how they can be managed.

Policy settings that support the creation of social capital

Over many years, not-for-profit services have built social capital, infrastructure and linkages which help include people with disability in their communities. This value cannot be purchased or contracted for and without careful stewardship could be lost.

Charity tax concessions, some competition-policy exemptions, preferential contracting for community services and investment in sector development are warranted.

Diversity

Continued direct investment in some specialised services that respond to aspects of diversity—culture, disability type, gender, age, sexuality, highly challenging behaviour or geographic location—is likely to be required, even in a competitive market.

Bulk purchasing to ensure supply in thin market

Competition among disability service providers is expected to serve the interests of people with disability through expanding choice and the provision of tailored, efficiently-priced services. However, this competition may be unable to serve consumers' interests where 'thin markets' exist. These markets include rural and regional areas (where the cost of providing services is particularly high) and the provision of certain specialist service types or models.

To maintain supply in these situations, services may need to be block funded or contracted.

Emergency response and provider of last resort services

Emergencies arise in everyone's lives; they are unpredictable and cannot be planned for. People with disability and their families need to be able to draw on immediate disability support when these emergencies arise, such as when a family relinquishes responsibility for the care of their child at 9 pm at night; or when an elderly parent caring for an adult family member with disability is hospitalised and the person with disability cannot be left alone.

As the need for these services will be erratic and immediate, they will not be easily delivered from within a competitive market. They are more appropriately funded through a contract or block funded.

Reducing compliance burdens, red-tape and promoting sustainability

The experiences of DES providers, which operate in an environment which combines high regulation with competitive selection by government, must be avoided. The compliance burden of a highly prescriptive contract is onerous and limits the flexibility providers have in finding good outcomes for job-seekers. Job-seekers should have increased choice over their providers.

In the NDIS, small not-for-profit disability organisations need to be able to focus their limited resources on the needs of the people they support. The cost of service delivery in rural and remote parts of Queensland, Western Australia and the Northern Territory is high and the markets are thin. Organisations that service these areas may be relatively small but often need complex administrative systems to support the delivery of a broad range of services and the associated reporting obligations to diverse funders. Reporting and compliance are expensive.

Not all services can be individualised

The NDIA has recognised that there are services that it would be inefficient and/or ineffective to have available to be purchased by individuals with their funding package. These services—part of the Information, Linkages and Capacity Building (ILC) services—contribute to the sustainability of the NDIS by building the capacity of the community, people with disability, their families and carers, and greater community inclusion. These services will be funded through a grants program.

Risk-based quality control and safeguards

People with disability differ in their capacities. Some people are highly vulnerable and require significant support to access information and make decisions. People with disability should receive high-quality services which minimize the risk of harm while supporting the rights of participants to exercise choice and control. Quality and safety does not rest with one entity, or one set of rules; it is protected by a landscape of actors and activities. These range from universal systems and natural supports through to organisational cultures to specific requirements in an individual support plan. Unhelpful regulatory burdens should be minimised. This requires a risk-based approach to regulation and a collaborative approach to promoting and monitoring quality.

To manage quality in the NDIS, the system must invest properly in:

- the knowledge, capacity, social networks and personal resources of participants and their families
- disability provider and workforce knowledge and skills for creating high-quality service cultures with robust complaints and feedback systems
- broader community knowledge and awareness of disability rights to enable inclusion, personal advocacy and bystander interventions.

While increased consumer choice will help to assure quality, it cannot replace standards and monitoring. The point can be illustrated by considering a different consumer-oriented market—restaurants. Consumer choice helps drive quality and diversity among restaurants, but the public rightly expects some standards to be monitored and enforced to protect them from harm. They do not believe that choice should expose them to the risk of food poisoning. Similarly, as important as choice is in the design of the NDIS, it should not be so broad that it puts participants at risk of harm.

Investment in evidence and innovation

Long-term investment decisions and reform initiatives should be informed by evidence. The reforms underway in the disability sector can help provide this evidence. Any decisions about extending competition policy into additional human services must be made carefully and draw on the evidence that will emerge over coming years.

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National Disability Services is the peak industry body for non-government disability services. Its purpose is to promote and advance services for people with disability. Its Australia-wide membership includes 1100 non-government organisations, which support people with all forms of disability. Its members collectively provide the full range of disability services - from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.