



Anglicare NT's response to the Productivity Commission's Report,
"National Disability Insurance Scheme (NDIS) Costs"

Thin markets. Provider of Last Resort. Remote Communities. Aboriginal and Torres Strait Islanders with a Disability

INFORMATION REQUEST 6.1

In what circumstances are measures such as:

- *cross-government collaboration*
- *leveraging established community organisations*
- *using hub and spoke (scaffolding) models*
- *relying on other mainstream providers*

appropriate to meet the needs of participants in thin markets? What effects do each have on scheme costs and participant outcomes? Are there barriers to adopting these approaches?

Under what conditions should block-funding or direct commissioning of disability supports (including under 'provider of last resort' arrangements) occur in thin markets, and how should these conditions be measured? Are there any other measures to address thin markets?

The Productivity Commission notes that "given the early stage of transition, it is difficult to tell where thin markets may be diminishing, growing or persisting under the NDIS" (227). At this time in the Northern Territory, six months into the commencement of the Scheme in East Arnhem, it is too early to ascertain the effectiveness of the approaches being adopted by the NDIA to mitigate the risks of thin markets. Anecdotally, though, there are concerns that such strategies have not been effective in the Barkly trail or on the APY lands in the South Australian trial.

The *NDIS Market Approach: Statement of Opportunity and Intent* (November 2016) outlines the "market stewardship" approach of the NDIA and refers to the NDIA's "market intervention framework" where there are "weak/thin markets", as well as describing the commissioning of a "Provider of Last Resort" (POLR) where "the Agency directly commissions the provision of goods and services in order to ensure supply." This document also notes that "even in a mature NDIS marketplace, insufficient local demand, limited service delivery, workforce shortages, and lack of infrastructure will produce "weak" or "thin" markets; primarily in rural, regional and remote areas".

In January 2017, participants in the East Arnhem region commenced transition to the NDIS. It is concerning that the rollout commenced without a clear framework for the Provider of Last Resort (POLR), in spite of "*The Bilateral Agreement between the Australian Government and NT Government on the Transition to the NDIS*", which acknowledges that

the NDIA is responsible for ensuring Provider of Last Resort (POLR) services are in place for all participants in the Northern Territory (Schedule K).

At this time then, Schedule K of *“The Bilateral Agreement between the Australian Government and NT Government on the Transition to the NDIS”*, appears to provide the only substantive articulation of what the “Provider of Last Resort (POLR) Framework” will eventually look like.

Given the comparatively high costs of establishing and delivering services in small communities and the lack of economies of scale to provide human services, there is a significant risk of service failure where there are thin or non-existent markets, including limited supply and very low demand for services.

In these circumstances, there is a clear need to develop a framework for ‘provider of last resort’ service arrangements to mitigate service delivery risks. This framework will identify:

- a. situations or circumstances where provider of last resort services are required (including insufficient market supply, and provider failure);
- b. objective assessment of when market interventions are required;
- c. market development activities to mitigate the need for providers of last resort;
- d. scope and scale (including support types, participant cohorts, and areas/communities) of provider of last resort arrangements; and
- e. governance mechanisms to support provider of last resort arrangements

As the Productivity Commission notes, “The need for clarity on how POLR and thin market arrangements more generally are put into practice is increasing, particularly as governments change their involvement in providing disability and mainstream services” (236). The NDIA has stated that a *Market Intervention Framework* is currently being developed by the NDIA and DSS with each jurisdiction (235). The following comments are made which we would suggest need to be considered by this framework.

Whilst the NDIA acknowledges “insufficient local demand, limited service delivery, workforce shortages, and lack of infrastructure will produce “weak” or “thin” markets, Schedule K does not define what constitutes “service failure” or how it will be recognized or measured by the NDIA, nor when it is necessary for the Provider of Last Resort (POLR) arrangement to be put in place. The Productivity Commission notes that in 2014-2015 participants in the Barkly region in the NT had the third highest level of unutilised funding – 41 percent. At what point is this recognized as service failure and the need for market intervention? With a limited advocacy voice in the Northern Territory, particularly for Aboriginal Australians living in remote communities, who holds the NDIA to account? The Productivity Commission has recognised the importance of such performance targets and indicators to ensure the equity, effectiveness and efficiency of disability supports and thin market strategies (Box 6.6, 233), but it is unclear at this time the extent this will be taken up by the NDIA.

The Productivity Commission’s *Disability Care and Support* (2011) noted that one of the themes that emerged in consultation with service providers, government and advocacy groups in the Northern Territory was that fulfilling basic needs was seen as a higher priority than specific disability support. “While disability support services were very much needed in remote communities, these were seen as secondary to more basic need such as nutritious food, shelter and security” (Box 11.2; 555). The NDIA has recognized that governments “have to deal with multiple levels of disadvantage (housing, health, education, urban amenity, employment, transport and disability)” for participants who are Aboriginal and Torres Strait Islanders (234), however it is clear that it will not fund “food or swags”.

Where the interface between a Territory run service and the NDIS service cannot be resolved in relation to the support for an Aboriginal and Torres Strait Islander person with a disability, is there a responsibility for the NDIA as the Provider of Last Resort (POLR) to carry some responsibility “as a last resort”? Who is responsible for providing supports to a

person with a disability in an emergency or where the person is at significant risk or where they have no access to food? Prior to the implementation of the NDIS in the Northern Territory, this responsibility was carried by the NT Government Office of Disability who would work to ensure that there was some immediate address to any urgent situation. Who carries this responsibility in the new system? Are hunger and homelessness also to be considered as a consequence of market failure?

This situation is further examined in a case study by the Northern Territory Government in its submission to the Productivity Commission (Submission 205, April 2017). They provide an example of a 40 year old Indigenous female with cerebral palsy cared for by her mother and sister and residing in a Department of Housing property in a remote community of the Northern Territory who is eligible for the NDIS. What happens when the woman's care needs change suddenly and she can no longer be cared for at home? In the past, "without the NDIS and with such limited care options available in the community, there may previously have been no choice but to admit the client to the closest regional hospital" (6). Such a decision would have been made in consultation with the local Office of Disability Officer. But "Under the NDIS Provider of Last Resort Framework", the NDIA Government writes, "the NDIA will be required to develop a service response that meets the needs of the participant in these circumstances" (6). Does the NDIA have the capacity to respond to such crisis situations? And who will pay?

The Productivity Commission notes that the NDIS is not responsible for thin markets or market failure. "Thin markets were a feature of disability support arrangements previously, as well as in many other human services... Thin markets will remain a feature of the provision of some disability supports under the NDIS." (227). What is important though, the Commission notes, is "that the appropriate and timely policies are put in place to minimise their incidence and impact on participants and providers. This is especially the case as the interface with other mainstream services evolves." (227)

There is a danger in stating that thin markets will remain a feature of the provision of the NDIS. Such a statement has the potential for the adoption of a passive acceptance of the current situation which is contrary to the spirit of the NDIS reforms. Anecdotal concerns have also been expressed that the NDIS planning process in remote locations have been based on the existing service system rather than on each individual's aspirations. NDIS planners have suggested that it is unrealistic to fund plans for services that can't currently be provided. The problem with such an approach is that the baseline for what a participant needs becomes dependent on where one resides: that is the market determines the needs of an individual. The Productivity Commission has noted, as it did in 2011, that "it will not always be possible to match the price, quality and range of services in the major cities". This is without dispute. But "improving access for participants in thin markets is a key objective of the NDIS" which requires "constant vigilance, monitoring and evaluation" (232)

The Productivity Commission also notes that some participants may need to travel (and in some cases move) to metropolitan areas to access highly specialised services and suggests that transport to access specialised disability care will need to be provided either in a participant's plan or outside of the NDIS where appropriate (232). The issue of transport is an important one for many Indigenous Australians in the Territory who are required to live in regional centres such as Darwin or Alice Springs, far away from their family and country. Is it "reasonable and necessary" then for these individuals to be supported to return home to country once a year? On what basis is the decision made that the person needs to relocate? Is it an assumption about the market that is deciding that the person needs to now live in supported accommodation in Darwin? What efforts have been made to determine the feasibility of the supported accommodation being provided in the participant's community?

A similar situation exists in relation to the proposed hub and spoke model that the NDIA is considering to mitigate the risk of thin markets in locations like the Northern Territory. Previously many people with a disability have come to Darwin for regular respite but service providers are now being asked to consider establishing alternative centre based respite in the East Arnhem hub community of Nhulunbuy. From a service provider perspective there is little to be gained from transferring such a service from Darwin to Nhulunbuy. Yes some participants might have less time to travel but there are significant differences in providing such a service in Nhulunbuy. Issues that need to be considered include the availability of a suitable property; access to a work force of trained staff and their housing; adequate pricing for the service with funding included in each participant's plan to ensure they can access the service. Left to market forces, decisions will be made based on the "commercial decisions of providers" rather than a "consumer driven approach". Has consideration been given to providing respite services in each participant's home community rather than away from their home? And who is helping the community to bring such a concept into a reality? At this time the NDIA in the Northern Territory does not have the time to work with communities in this way as it is so hard pressed to meet its planning commitments.

The Productivity Commission has noted that regardless of the approach chosen "there will be a need for strong market stewardship and collaboration between the Australian and State and Territory Governments... Addressing thin markets requires a whole of government approach and community involvement." (231-232). Such an argument is without dispute as are the principles articulated in the *Bilateral Agreement between the NT and the Australian Governments on the Transition to a NDIS* (229):

- Place based, tailored solutions to planning, market development, access to services and risk management;
- A coordinated, client centred and tailored approach to the operating model in remote communities, informed by existing effective frameworks that maximise access, engagement and management of risk for individuals
- Culturally competent engagement and professional practices.
- Local planning, market development and risk management strategies informed by timely and appropriate data.

But such an approach, in reality, appears to be incredibly challenging for the different levels of government. Take for example the lack of interface between the significant reforms that are concurrently being implemented in the aged care and disability sector in remote communities. The further one moves out from any regional centre into a remote community in Central Australia or the Top End, the greater is the probability that the services for people with a disability and older people will be provided by the same service provider and indeed the same staff! Yet there is little interface between the two Commonwealth Departments that are responsible for funding these services and driving these reforms. Clearly a place based whole of government approach that works to build up a community's capacity is what is required at this time.

In Chapter 11 of *Disability Care and Support* (2011), the Productivity Commission noted that Indigenous Australians have high rates of disability but access relatively few services or supports (532). The report notes there is also broad anecdotal evidence that Indigenous people with a disability face significant barriers when trying to access support (particularly in rural or remote settings) and are marginalised within the disability sector more generally (537). The Commission noted that "the NDIA will need to develop an understanding of the characteristics of effective service delivery to Indigenous Australians..." Supporting Indigenous Australians with a disability, the Commission wrote,

"should be an important, specific goal of the NDIS. A key challenge to achieving this goal is overcoming the barriers to accessing services experienced by Indigenous people The market based service delivery system underpinning the proposed NDIS will often not be the most

appropriate funding method, at least for the medium term. In some cases the NDIA should block fund suitable service providers to work with local communities to deliver disability supports to Indigenous Australians. This approach will be particularly necessary in remote areas. (559)

Six years later, the Commission is asking “under what conditions should block-funding or direct commissioning of disability supports occur in thin markets”. This is an important question. Of most concern though is the lack of any sense from the NDIA that block funding will be considered as an option in its Market Intervention Framework. Have conditions changed in remote communities in the six years since the 2011 *Disability Care and Support* Report? One would think not!

Six year later the Commission suggests that although “it is inappropriate to automatically default to block funding... it is likely that block funding will be needed in some cases”. “Care must be taken,” however, “to avoid crowding out competition.” (231)

“Crowding out competition!” Not likely in remote Australia!

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Attachment

Anglicare NT’s response to the Productivity Commission’s Preliminary Finding Report, “*Introducing Competition and Informed User Choice into Human Services. Identifying Sectors for Reform* (November, 2016)

References

Australian Government and the Northern Territory Government 2016 *Bilateral Agreement between the Australian Government and NT Government on the Transition to a National Disability Insurance Scheme*, Canberra.

NDIA (National Disability Insurance Agency) 2016 *NDIS Market Approach: Statement of Opportunity and Intent*, Geelong.

Productivity Commission 2011, *Disability Care and Support*, Report No 54, Canberra