



Catholic Social Services Victoria

Submission

Productivity Commission Inquiry into  
Introducing Competition and Informed User  
Choice into Human Services

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August 2016



## **Contents**

1. Executive Summary .....	3
1.1. General points.....	3
1.2. Responses to questions in Issues Paper .....	4
2. Introduction.....	5
2.1. The Inquiry.....	5
2.2. Catholic Social Services Victoria .....	6
2.3. This submission .....	6
3. General issues.....	6
3.1. Human flourishing: individuals and communities.....	6
3.2. Improved outcomes are the main focus .....	7
3.3. Complex Relationships between Users and Providers .....	8
3.4. Collaboration is positive for service users.....	9
3.5. Innovation.....	10
3.6. The private sector and the regulatory challenge .....	11
3.7. The community sector and community services .....	12
3.8. Making haste slowly .....	14
3.9. Transition issues, for communities and for providers.....	15
4. Responses to specific queries set out in Issues Paper. ....	16
4.1. What constitutes improved human services? .....	16
4.2. Selecting services for reform.....	17
4.3. Greatest scope for improved outcomes .....	21
4.4. Applying the principles in practice.....	22
Attachment A: Members of Catholic Social Services Victoria .....	25
Attachment B: Examples of adverse impacts of competition .....	26



## 1. Executive Summary

### 1.1. General points

We look forward to engaging with the Productivity Commission on this important review and responding to the Draft Report. It is recommended that the Commission create opportunities for dialogue around that Draft Report.

There is an urgent need to evaluate the recent experience of commissioning and tendering Government services. There needs to be a professional analysis in each future case to ensure that vulnerable communities do not lose out through marketization. ([Introduction](#))

For individuals to flourish, we must achieve not only the best outcomes for individuals but the best outcomes for society's structures that are the context within which services are utilised, whether these be families, neighbourhoods, towns or the nation as a whole. This cannot be achieved through contracts that focus only on quantifiable deliverables. ([section 3.1](#))

Competition policy is not an end in itself. It could be a tragedy for those most in need, and therefore for our community as a whole, if competition were the key driver for change in sector funding. ([3.2](#)) One of the challenges for governments and the sector is how to build constructive elements of competition policy into a rich framework of collaboration and innovation. ([3.4](#))

The safeguards and market structures adopted in the utilities sector are complex and expensive, and have had mixed results. Yet, the human services sector is much more sensitive, where 'the product' is often inextricably linked to the relationship between provider and citizen, and where services are targeted at those most in need. ([3.6](#))

There is a well-founded fear that service provision through the contracting and tendering that is usually associated with competition policy will tend to reduce outcomes, not increase them. This relates to the difficulty of aligning financial incentives with complex human need, and the challenge of recognising the strengths of the faith-based and community sector in competitive tenders. ([3.7](#))

As Professor Harper has observed, a sensible person would tread carefully in applying competition policy principles into human services – a useful analogy is of testing carpet shampoo on a corner of a rug before broad application. ([3.8](#))

Faith-based providers are not active in working with those most in need in our society in order to gain Government funding; rather, they assist Governments to play their part in support for those in need by providing the services that are



more effectively provided by them than by Governments directly. Nevertheless, where Governments are to consider imposing change in funding arrangements, it is important that transitional arrangements be adequately planned and funded. (3.9)

## 1.2. Responses to questions in Issues Paper

Improved human services: Dialogue and partnership are features of good human services.

Policy issues: To improve policy settings, there needs to be a sound understanding of the desired outcomes. These must focus on the complex needs of each person, including the communal dimension of their wellbeing. Analysis need to take into account the experience of agencies within the sector.

Market structure: The Paper seems to focus on services that are a set of transactions. But, to adapt the words of the Australian theorist Alistair Mant, social services are more like a frog than a bicycle: you can make one of them work better if you take it apart and refresh each element, but the same treatment applied to the other would be disastrous.

Scope for improved outcomes: There are many situations where outcomes are well below best practice, but there is no evidence that competition would change that. Also, there seems to be no clear linkage between the absence of competition, contestability and user choice and the extent of the gain to be made by the introduction of these features.

User choice is, other things being equal, a positive – among other things, it respects the dignity of the service user.

Competition: Careful analysis, dialogue and testing are needed before competition can be expected to improve outcomes for vulnerable people. Services need to be affordable to the user, and in adequate supply. Users need adequate information about providers and their services, and must readily be able to change to alternative providers. The costs to a user of making a wrong decision need to be manageable. Provision needs to be made for those who are excluded from markets because of the inability to exercise choice, whether due to intellectual capacity, information asymmetry, the cost of transition, etc.

Contestability is a crude instrument for improving the impact of services. It does not bring with it the advantages of user choice, and can be costly and disruptive, for the funding body, the service provider, and the users.



## 2. Introduction

### 2.1. The Inquiry

As the Treasurer's Terms of Reference make clear, this Inquiry is primarily to 'focus on innovative ways to improve outcomes' in human services, 'through introducing the principles of competition and informed user choice.'<sup>1</sup>

The Terms of Reference also highlight a commitment and a goal of the Australian Government 'to ensure that all Australians can access timely, affordable and high quality services, which are appropriate to their needs, and are delivered in a cost-effective manner.'<sup>2</sup>

This Inquiry thus represents an opportunity to focus carefully on improving outcomes in human services. It provides an opportunity to look more closely at the findings of the Harper Review<sup>3</sup>, and to gather evidence to assess proposals for reform.

This is an important opportunity. Human services are vital to the wellbeing of our society. In its consideration of this sector, the Harper Review drew heavily on the theory of commissioning to suggest directions for change. This enquiry can dig deeper, to explore the complexities of human services and their relationship to the community that they serve, to build a firm basis for future directions.

There is an urgent need to evaluate the recent experience of commissioning and tendering Government services. There needs to be a professional analysis in each future case to ensure that vulnerable communities do not lose out through marketization. Such an approach, which this Inquiry can explore, should enable Governments to avoid some of the mistakes that have emerged from the hasty implementation of commissioning processes by Commonwealth and State governments in recent years

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<sup>1</sup> Terms of Reference, at p i of Productivity Commission 2016 *Issues Paper: Human Services: Identifying sectors for reform*, at [www.pc.gov.au](http://www.pc.gov.au)

<sup>2</sup> Productivity Commission 2016, p iii, repeated at p iv.

<sup>3</sup> Competition Policy Review 2015 *Competition Policy Review: Final Report* at <http://competitionpolicyreview.gov.au>



## **2.2. Catholic Social Services Victoria**

Catholic Social Services Victoria (CSSV) is the peak body in Victoria for the Catholic social services sector. Our fifty member organisations (listed in [Attachment A](#) to this submission) deliver a variety of programs across the range of human services, including in the areas of disability, aged care, juvenile justice, addiction, chaplaincy, homelessness, crisis services and poverty alleviation.

These services are delivered to a diverse range of clients, many facing multiple disadvantage or lifelong suffering linked to childhood trauma. They are built on the Gospel-inspired principles of Catholic Social Teaching, central to which are respect for human dignity and the centrality of the common good.

CSSV's views draw upon the experience of members, who may also make submissions in their own right.

## **2.3. This submission**

This submission makes some general observations related to the subject matter of the Inquiry, and then addresses the specific queries set out in the Issues Paper.

We look forward to engaging with the Productivity Commission on this important review and responding to the Draft Report. It is recommended that the Commission create opportunities for dialogue around that Draft Report.

## **3. General issues**

### **3.1. Human flourishing: individuals and communities**

Access to health, housing, education, care for young and old, and safety has benefits beyond those accruing to individuals. Cohesion of families, neighbourhoods, communities and the nation depend upon individuals having access to basic social and public services. And, as Tony Vinson and his colleagues have demonstrated over time<sup>4</sup>, individuals cannot reach their potential except as part of a flourishing community.

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<sup>4</sup> T. Vinson and M. Rawsthorne with A. Beavis and M. Ericson, 2015 *Dropping Off The Edge 2015: Persistent Communal Disadvantage in Australia*. Melbourne and Canberra: Jesuit Social Services and Catholic Social Services Australia; at [www.dote.org.au](http://www.dote.org.au).



Thus, for individuals to flourish, we must achieve not only the best outcomes for individuals but the best outcomes for society's structures that are the context within which services are utilised, whether these be families, neighbourhoods, towns or the nation as a whole.

It is these outcomes that all within our society are called to work for: each person, each part of the community is called to contribute to the common good; and it is the role of Government to support and complement that work.

The Harper Review into competition policy<sup>5</sup> focused on outcomes for individuals – and there is an assumption that broader outcomes will follow. This assumption is heroic, and highlights an opportunity for the current Inquiry to delve more deeply into the services that are its focus.

This connectedness between individuals and society, and the need for Government to complement the work of society as a whole, has strong implications for the design of Government-supported services, and for contracts for their provision. The connections between services to individuals and the integration back into family and community life of those individuals are central to the promotion of human flourishing. This cannot be achieved through contracts that focus only on quantifiable deliverables, as, we are pleased to note, the Inquiry recognises<sup>6</sup>.

### **3.2. Improved outcomes are the main focus**

Improving outcomes for people in need must be the key focus on reform in the social services sector, and we are pleased to note that the Inquiry's terms of reference recognise this (at p i).

The major barrier to improving outcomes in the social services sector in Australia today is a lack of resources to enable people in need to access the services they need. The number of people experiencing homelessness, shortcomings in the delivery of mental health services particularly in rural and regional Australia, the pervasive challenges facing alcohol and drug services and the concerns that the roll-out of national disability services will not reach all in need are some examples where urgent attention is critical.

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<sup>5</sup> Competition Policy Review 2015 *Competition Policy Review: Final Report* at <http://competitionpolicyreview.gov.au>

<sup>6</sup> *Issues Paper*, p 11



In these circumstances, it is understandable that Governments would seek to shape markets in order to reduce the costs of service provision. And, clearly, fiscal prudence demands that funding unmet demand occur in the most efficient way possible and competition policy may have a role to play in some parts of social services.

But competition policy is not the main game; it is not an end in itself. It could be a tragedy for those most in need, and therefore for our community as a whole, if this were the key driver for change in sector investment.

Indeed, the main positive contribution that competition policy might make to improving outcomes is by drawing attention to the principles of informed choice and of broad-based efficiency; and not through the introduction of direct competition between providers.

### **3.3. Complex Relationships between Users and Providers**

One pre-condition for competition in markets for goods or professional services to be beneficial for service users is that the relationship between service provider and client is focused on readily identifiable products or services.

Another, which is found in some social services such as aspects of health and aged care, is that service users have the operational capacity, the knowledge and the financial means to exercise choice responsibly.

However, these market conditions rarely apply to services to the most disadvantaged in our community. Many disadvantaged people are unable to equip themselves with the knowledge or financial means to make optimal market choices.

Moreover, some of the most disadvantaged people in our communities survive and thrive only because of long-term relationships with dedicated and expert service providers, often particular individuals. The service that is provided is complex. The rapid introduction of commissioning in recent times has caused the destruction of many of these relationships in some sectors – see some examples in [Attachment B](#).

Outcomes in human services are much more difficult to define than in the case of many commercial or material products. In fact, the Competition Policy Review's emphasis on the quality of outcomes almost demands preservation and increased security of relations between service providers and clients - a





point illustrated in a recent long term program at Sacred Heart Mission in St Kilda to develop enduring outcomes for people who have been homeless.<sup>7</sup>

Some citizens will have short-term needs with one type of temporary disadvantage and be in need of a short-term service with perhaps one or two follow-up meetings to check on progress with a solution to their needs. However, other citizens will be sufferers of multiple disadvantage, and nothing short of case management to enable the citizen to access professional care across a range of issues will suffice.

And flexibility is needed in service arrangements to enable providers to react appropriately to the needs of those they serve.

Governments need to respect these various complexities in structuring funding arrangements with service providers. Great care needs to be taken to avoid over simplification of the needs to be addressed, or of the services to be provided.

Great care is also needed to ensure that the services are not priced in such a way that the most disadvantaged miss out on them. Potentially exacerbating such under-funding is the potential for market-focused providers to seek to cater for the more straightforward user needs, leaving community sector providers to deal with the more complex cases, with inadequate funding.

### **3.4. Collaboration is positive for service users**

The social services sector has been built upon a rich tradition of cooperation and collaboration. The previous paragraphs reflected on the relationships between service providers and the people they serve. Cooperation between service providers is equally as important.

While competition policy may have important insights for the community sector, including funding mechanisms, the sector has a long tradition of achievement through cooperation, not competition. Indeed, collaboration and cooperation have played a critical role in the achievement of outcomes,

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<sup>7</sup> Johnson, G., Kuehnle, D., Parkinson, S., Sesa, S. & Tseng, Y. (2014) *Resolving long-term homelessness: A randomised controlled trial examining the 36 month costs, benefits and social outcomes from the Journey to Social Inclusion pilot program*. Sacred Heart Mission, St Kilda.



innovation and efficiencies within the sector – a recent benchmarking study in Melbourne is but one example of this<sup>8</sup>.

The challenge for governments and the sector is how to build constructive elements of competition policy into a rich collaborative framework. The serious danger everyone must avoid is the replacement of a culture of collaboration with a market which fosters rivalry or lack of openness.

This is a significant challenge. Competitive tender processes foster competition. In some cases, probity requirements have been used to prohibit discussion between parties that are not part of a formal consortium. There are alternatives to such an approach that build on collaboration, including ongoing relationships between funding bodies and service delivery partners.

### **3.5. Innovation**

Innovation has long been a feature of social services, and competition policy correctly designed can assist this trend. But, if poorly designed, competition policy can limit some kinds of innovation, particularly if commodification of services were to be pursued too zealously.

The Productivity Commission is right to hone in on the incentives with competition policy for the sector to innovate in the delivery of existing services, but some notes of caution need to be sounded:

- The on-going differentiation of services for people with multiple disadvantage is already leading to evolution of social services. For example, there is a lot of innovative research involving case management of people with multiple disadvantage. There is a danger that in commodification of individual services for the purposes of establishing markets that this form of innovation is stifled and lost.
- Innovation is often at its best and most productive in the sector when different providers collaborate to contribute different skills and experience. Any move towards more competition should not be at the expense of this type of collaboration.

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<sup>8</sup> Nous Group, 2014, *Benchmarking with Benefits*, Melbourne



### **3.6. The private sector and the regulatory challenge**

In energy and water markets, it was recognised that the introduction of market-based or private providers would radically disrupt the relationship of consumers and suppliers – that the introduction of private sector market participants fundamentally changed the nature of the market.

Part of the response to this was the development of a relatively sophisticated system for the protection of citizens' rights. This has consisted of licence agreements, including standards and accreditation for service providers so that citizens have confidence in the service providers. Key aspects include:

- National and state economic regulators
- Citizen charters setting out rights and protections in words agreeable to both citizens and service providers
- Dispute resolution capability similar to the facilities offered by energy and water ombudsmen
- Annual reporting of program outcomes and activity to an independent regulator or monitor
- “Service provider of last resort” for selected service providers who undertake to service the needs of citizens whom no other agency is willing or able to service
- Privacy and access of vital information under the control of citizens

This is a complex, costly response, and one which has had mixed results.

And yet at least this much regulation would be needed in the social services sector, as the services to be provided there are much less transactional, and what is targeted are benefits for individuals, family, and community.

The approach taken in the utilities sector should be a minimum requirement in any attempts to increase market-driven competition in the much more sensitive human services sector, where ‘the product’ is often inextricably linked to the relationship between provider and citizen, and where services are often targeted at those most in need.

It is also interesting to note that in energy and water markets industry and government addressed the needs of the most disadvantaged through provision of concessions on market access, price and hardship policies. These policies were encapsulated in the concept of “consumer service obligations”.



However, for governments and society, funding the supply of social services is one big “consumer service obligation” – service users, almost by definition, are outside traditional market structures, and need special protections to be built in to almost all aspects of the market that is being constructed. Bringing outcomes to the centre of the stage, and to take fully into account the importance of relationships in service provision, takes the initial focus off markets as such. And, rather than look at the user safeguards in utility markets as being ‘add ons’ to the market, it might be more helpful to start by putting users and their needs at the centre of the analysis, and not start by adapting some pre-conceived market structure.

### **3.7. The community sector and community services**

Social services are essential services. Access for all Australians is first and foremost a matter of social justice, not a matter of consumer choice. Housing, health, education, care for young and old, and safety from violence in all its forms are all areas in which Australians expect their governments to complement the appropriate efforts and the needs of individuals, families and communities.

A number of the positive features of community sector activity that works in the interests of users have been outlined already, including cooperation and innovation.

There are other important features. These include that many organisations have a set of established relationships and standing in the communities that they seek to serve. These linkages arise from within faith-communities; from long-standing presence and from relations across a number of programs; and just from ‘presence’ – that they are a trusted element in a society where trust has to be earned, over time.

An anecdote is illustrative here: among Victorian magistrates are a number who argue that justice was better served when there were more local courts, in Prahran, Collingwood, etc, and where justice had a more local face. In a similar way, the Koori Court in Victoria moves the hearings to a more familiar environment, even if the individuals involved are not known.

There is an issue of purpose. In one residential care facility, an intellectually active person who lacked muscle control was being fed by a carer. To the observer, this was an exercise in patience and care. But at the end of the meal, the resident said to a visitor that ‘he is doing it just for the money.’ Attitude and purpose matter in human services. All services are related, as they all



relate to the multi-faceted wellbeing of the one person. All interactions count. While there are good people in every organisation, and some for-profit organisations are exemplary in the service they provide, people seem to prefer dealing with community sector organisations than for-profits. And that is central to effective user choice – for the providers that you prefer to be available for you to choose them.

Community sector organisations also bring with them volunteer input (around 4.6 million volunteers when last estimated by the Productivity Commission), financial input, social capital and community linkages. Each of these add to the services that can be provided. In many cases, they are necessary to the effective provision of services.

If faith-based or other community-based organisations are ‘crowded out’ by for-profit operators, many valuable aspects of their presence will be lost. Similarly, if they need to cut costs to the bone to win or retain the resources needed to deliver services according to contract specifications, the cultural attributes of these organisations centred on inclusive outcomes will be under real threat.

Indeed, Professor Harper identified the importance of reforming so as not ‘to discourage or crowd out the important contribution that not-for-profit providers and volunteers currently make to the wellbeing of Australians’<sup>9</sup>.

We are very well aware of the great contributions to human wellbeing that the private sector makes in Australia and beyond, and of the cost to the common good of the exclusion of the private sector. We are also very well aware of the attractiveness to Governments of opening up work to private sector providers, in the interests of promoting efficiency, contestability, innovation, and user choice.

But the community sector has a well-founded fear that service provision through the contracting and tendering that is usually associated with competition policy will tend to reduce outcomes, not increase them.

A number of ways in which this can happen come readily to the surface:

- (i) A reduction in the cooperation, innovation, relationship base, purpose focus, volunteer and capital input, etc, as mentioned above

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<sup>9</sup> Competition Policy Review 2015 *Competition Policy Review: Final Report* at <http://competitionpolicyreview.gov.au> p 35



- (ii) Private sector operators aim to make significant profits from Government contracts, and, as these are withdrawn, thus reduce the resources that are applied to the community and users who are to be served.
- (iii) This reduction in resources is exacerbated in practice by actual behaviour. This has been highlighted recently by respected journalist Ross Gittins – ‘when you give businesses access to the government’s coffers, a surprisingly high proportion of them start acting like robbers in Aladdin’s cave<sup>10</sup>’ – and the highly respected Chair of the Australian Competition and Consumer Commission, who recently lashed out at the way that Government asset sales to the private sector had not worked out as planned, nor in the interests of consumers.<sup>11</sup>
- (iv) As a reaction to this, there is a strong temptation for Governments to control these market spirits by attempting to more thoroughly specify and quantify the outputs that they fund. This in turn tends to oversimplify the complexity and inter-connectedness of the services that are needed, thus detracting from the impact of the services; and to make the contract more complicated, thus increasing compliance costs and reducing funds applied to the actual purpose.

At the heart of these difficulties is that commercial interest can outweigh program quality in some of these sector developments; as the nature of the engagements is such that full contractual alignment between financial interest and program impact are not achievable – a commitment that transcends financial interests is needed.

### **3.8. Making haste slowly**

Professor Harper has said in various presentations on the findings of the 2015 Competition Policy Review, which he chaired, that the incursion of competition policy principles into human services is an area where a sensible person would tread carefully. He has used the analogy of testing carpet shampoo on a corner of a rug before moving to the rest of the rug.

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<sup>10</sup> Gittins R 2016 ‘Think twice when throwing open the coffers’ at pp6, 7 in *The Age*, Saturday 16 July 2016

<sup>11</sup> Hatch P 2016 ‘ACCC chief hits privatisation’ at p 17 in *The Age*, Wednesday 27 July 2016



While competition policy may have important insights for the community sector, hasty implementation has damaged the delivery of services and affected clients and institutions alike.

We recommend that the Competition Policy Review advise governments to tread cautiously and avoid implementation with undue and dangerous haste. Beyond the social services sector, governments have responsibly allowed some industries up to 25 years or 300 months to adjust to encroaching competitive pressures, but those parts of the social services sector serving the most disadvantaged have, in recent years, been given only months to adjust to reform. There were many losers from such exercises.

### **3.9. Transition issues, for communities and for providers**

There is a long tradition in industry policy as conducted by Commonwealth and State governments of ensuring the availability of financial assistance for industry adjustment where there exist externalities related to labour market dislocation or the viability of regional communities. The automotive industry, clothing, textiles and footwear, and a range of primary industries come to mind.

Indeed, the success of National Competition Policy (NCP) (1995 – 2004) was in large part due to competition policy payments to the states to fund transition and adjustment.

Faith-based providers are not active in working with those most in need in our society in order to gain Government funding; rather, they assist Governments to play their part in support for those in need by providing the services that are more effectively provided by them than by Governments directly.

While we advocate for the continuation and extension of funded programs in order to address the need within society, where such barriers to human flourishing continue, so too will our members continue to serve, whether or not Government funding is available to support that.

Nevertheless, in addition to our focus on people in need, we also need to be conscious of the needs of those who deliver our services, and we must advocate to ensure that society treats them with justice. So, where Governments are to consider imposing change in funding arrangements, it is important that transitional arrangements be adequately planned and funded.

Examples of transition and adjustment include:



- Mergers of service providers (public / private / not-for-profit) within same areas of the sector and across the sector. Legal expenses, rationalisation of physical assets, provision of redundancies are some examples of costs that need to be covered;
- Training workforce capability to operate in new management paradigms consistent with economically efficient provision of services; and
- Transitional services for clients and communities – these must remain as the primary focus of change, and change must be designed to ensure continuity of service provision and effective transitions where these are necessary. Sector adjustment policies and programs must be adopted where change is to be implemented.

Thus, at the least, Governments will need to give serious consideration to introducing transition payments to social service providers to facilitate efficient adjustments of workforce, governance and physical facilities so that the vulnerable citizens that are our clients are not disadvantaged by any restructuring that results.

#### **4. Responses to specific queries set out in *Issues Paper*.**

##### **4.1. What constitutes improved human services?<sup>12</sup>**

The Issues Paper (at p 6) approvingly quotes quality, equity, efficiency, accountability and responsiveness as attributes of good public services. Better services would, thus, be services that were enhanced in these various dimensions.

Within this narrow frame of reference, we would add dialogue and partnership as attributes of good public services. The experience of the NDIS has added to the appreciation of the social services community of dialogue at all stages with those who are to be the beneficiaries of the program. And the experience of the community sector over an extended period is that dialogue with informed parties improves the quality of programs at every stage, from conception, through design, implementation and follow up. Meaningful participation by people accessing services is also another way of advancing human dignity, which is one of the dimensions of human flourishing that the programs in question are intended to promote.

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<sup>12</sup> Productivity Commission 2016 p 6





To take a step back from this framework: the rationale for these services is to promote the integrated wellbeing of the people; and to contribute to the common good through the flourishing of all people, particularly those who without the assistance of Government would not share in the physical, social and spiritual goods that are necessary for full participation in society.

Effectiveness in contributing to these broad goals must therefore be at the heart of our evaluation of these services.

Effectiveness on this broad front will not be achieved by any one program, but it can only be achieved as part of a comprehensive policy framework that looks at the range of needs of each person and each community.

In most service areas, there are important policy and system problems to be addressed: fragmentation of service, inter-jurisdictional discontinuities, etc. Addressing these issues is a pre-condition for maximising effectiveness.

And within an appropriate policy framework, effectiveness can only be approached with adequate resources. Accountability, equity, efficiency, responsiveness are only minor decorations on a program that is not adequately resourced to achieve the impact for which it is intended. 'Quality' might arguably be seen as present only when resources were adequate to achieving worthwhile program goals, but in that case it would be more transparent to include 'adequacy of resources' among the attributes of service effectiveness.

So, improved human services are support for the needs of the whole person, located within a community, which are of sufficient scale and sustainability to have lasting impact, and which are also superior in relation to quality, equity, efficiency, accountability and responsiveness, dialogue and partnership.

## **4.2. Selecting services for reform**

**What factors should be considered when considering what human services are best suited to the increased application of competition, contestability and informed user choice?<sup>13</sup>**

The Issues Paper, in figure 2 (p 10) identifies three sets of factors that need to be considered in assessing whether a service is well suited to 'the increased application of competition, contestability and informed user choice.' These relate to the policy settings; the nature of potential benefits of change; and the potential costs of the changes.

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<sup>13</sup> Productivity Commission 2016 p 11



Each of these sets of factors is complex.

They highlight the extent of policy and practical analysis that is needed if the provision of services is to be disrupted for the purpose of achieving enhanced outcomes.

We urge that any move towards greater marketization of services – understood as the combination of competition, contestability and user choice - include analysis along each of the lines identified in the Paper.

### **Policy issues**

Clearly, policy settings are important – there is little point in making more efficient something that is on the wrong track. But to improve policy settings, there needs to be a sound understanding of the desired outcomes. As noted above, these must focus on the complex sets of needs of each person, including the communal dimension of their wellbeing, and on the flourishing of all people, particularly those who without the assistance of Government would not share in the physical, social and spiritual goods that are necessary for full participation in society.

This is far from self-evident. Reforms to Vocational and Technical Education, which increased competition and contestability in that sector in recent years, did not focus on the outcomes that were needed by the society or the individuals concerned. Sections of the international student system, and the transition of the Personal Support Program into the mainstream Job Network are other examples of ‘reforms’ that in effect focused on implementing models of policy systems rather than on the purpose of the programs that were to be reformed.

To develop a program that is designed to reach appropriate outcomes, one needs to understand fully the people, the communities and the dynamics within which the target group live their lives. This is often not achieved. Stark examples of this were seen in the Victorian Government’s ‘recommissioning’ of community mental health services in 2014, which failed to take into account the setting of existing services within a broader set of relationships. That recommissioning sought to address only particular aspects of personal need without understanding that these aspects of the person’s life could only be effectively addressed through the sort of relationships that had been created, and which were now being dismantled - examples of the adverse effects of this particular exercise are set out in Attachment B to this paper.



Reviews of such experience need to be undertaken with sufficient independence and transparency to ensure that lessons can be learned before any further market re-structuring is considered. Governments should delay further restructuring of social services until such reviews are undertaken and their findings fully understood and been the subject of constructive dialogue between governments and the sector.

Such reviews need to take into account evidence on the experience of agencies within the sector.

### **Market structure issues**

We agree with the Issues Paper that ‘factors influencing the potential benefits of increased competition, contestability and user choice’ need to be examined in relation to any service that is a candidate for restructure.

The Paper identifies 10 such factors, relating to the characteristics of the user community; the nature of the transactions, and ‘supply characteristics.’

All of these are important, and all raise challenges.

All share the challenge that they are premised on a transactional service, or on a service that is a set of transactions.

This is a very limiting premise. Taxi passengers prefer regular drivers, for a range of rational reasons; health improves when one can visit the same GP over time; infant welfare tips are learnt in a community of shared care and interest; etc, etc. The transaction that characterises a service is so often embedded in a setting, with other people, over time; and it is these factors – the community dimension – that is so often a major part of the imparting of the intended benefit.

To adapt the words of the Australian theorist Alistair Mant, social services are more like a frog than a bicycle: you can make one of them work better if you take it apart and refresh each element, but the same treatment applied to the other would be disastrous.

Approached with the right intention, the factors identified in the Paper would lead the conscientious analyst to distinguish the frogs from the bicycles. The following factors in particular seem well stated:

- Willingness and capacity of users to exercise informed choices
- Relationship between user and provider



- Whether multiple services provided to a user can be unbundled
- Whether providers offer multiple services to clients with complex needs, and
- Nature and location of demand for services

The thorough examination of these aspects of employment services for those with multiple barriers to workforce entry, of much TAFE training, of community mental health services etc would have argued against the recent 'reforms' in those areas.

### **Costs of reform**

As the Paper notes clearly, the costs of reform cannot be ignored. Eight potential costs are listed, each of which is noteworthy:

- search and switching costs to users
- cost to users of adapting to new arrangements
- cost of oversight and consumer protection
- initiatives to inform users
- cost of commissioning
- implementation costs
- cost to providers of adapting service delivery
- cost to providers of regulatory compliance

Again, there seems to be an underlying assumption here that the market is fairly straightforward: that the 'service' to be delivered can be well defined, and that all participants – users, Governments, suppliers – fully understand the market.

These factors could be seen to apply to, say, provision of utility services. In those cases, review of each of these factors would amass evidence and assessments against each of these factors, and an overall assessment would need to be made as to whether the total cost to users and to the community (ie, in this case, Government) were justified in light of the benefits to be achieved.

But the markets under consideration here are much more complex, because the services are much more complex – they cover all points of the continuum except for the commodity point, which is what the model seems to have been



designed to address. That is not to say that such a matrix for assessing change doesn't add value; but it is to say that it will be a very complex assessment.

The last two points to be considered are, at first reading, puzzling. They are costs to the supplier, which would be covered in the price received by the supplier, or, in a commercial setting, they would not operate in that market.

It makes sense for these costs to be considered in a policy process that assesses whether suppliers would participate in a market, but, in the intricately constructed markets in focus here, the price will largely be paid by Government. If the need is great enough – eg, adequate low-cost housing – or if it were so closely connected with other needs and services – eg, education services for children in care or in youth detention – then the price needs to be paid.

In another sense, though, these two cost lines are very important. When an existing arrangement is considered for change, and where existing providers are community sector bodies, careful scrutiny is needed of additional adaptation or compliance costs; for without allocation of funds to meet those additional costs, the community – user, their social setting, the organisation that is part of the social fabric – would all suffer from the resulting 'reform.'

### **4.3. Greatest scope for improved outcomes**

#### **Which human services have the greatest scope for improved outcomes from the increased application of competition, contestability and user choice?<sup>14</sup>**

The coverage of this question in the Issues Paper raises some important questions.

It is suggested (at p 11) that increased competition, contestability and user choice are likely to lead to greater benefits where

- outcomes are typically well below best practice, and/or
- these policy attributes are not present in an effective way.

In relation to the first point, we would first welcome the Paper's recognition that quantitative indicators alone are unlikely to be adequate in assessing performances of services. This is because we are dealing with the complexities of people's lives, and of societies, which cannot be reduced to measurables.

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<sup>14</sup> Productivity Commission 2016 p 12



From this flows a key challenge to competition and contestability in situations where the funding body is the Government: if desired outcomes cannot be readily measured, then how can the Governments define for contract purposes the services to be provided? By attempting to do so, it tends to reduce those services to measurable elements, thereby losing focus on the heart of what is needed to address the situation at hand.

There are many situations where outcomes are well below best practice, but there is no evidence that competition etc would change that. Unacceptable behaviour by police, inadequate enforcement by regulators of conditions in boarding houses, and the waste and perverse outcomes in the VET sector are all outcomes that are far from best practice, but there is no logical connection between those poor outcomes and the lack of competition etc.

Also, there seems to be no clear linkage between the absence of competition, contestability and user choice and the extent of the gain to be made by the introduction of these features.

This would seem to particularly be the case in areas where current service provision seems satisfactory. A wide range of smaller services could be given as examples here: case management of recently arrived families; engagement through music with alienated young people; development of job skills for former young offenders. In programs of this sort across Melbourne the main constraint on greater impact is the lack of funding. There is no evidence that the market features in question would enhance these services; no evidence that such an assumption should be made.

#### **4.4. Applying the principles in practice**

##### **Case studies of where policy settings have applied the principles of competition, contestability and user choice<sup>.15</sup>**

For this and other analytical purposes, there would seem to be value in disaggregating the three principles under review. Consideration of each of these principles reveals limitations on the circumstances in which they might lead to enhanced outcomes.

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<sup>15</sup> Productivity Commission 2016, p 13



### **User choice**

There are quite a number of human services where users have a choice of provider, or of the services they receive.

Catholic social services joins the current consensus that, other things being equal, the ability to exercise choice is a positive – among other things, it respects the dignity of the service user; it adds to the quality of the service as received by allowing citizen preference to be factored in to the selection; and it can help the service user over time to develop confidence and capability in engaging with others.

The benefits of user choice to the user can be seen in some of the NDIS experience, and in the choice that is exercised in selecting aged care residences, schools, hospitals, etc.

But these benefits often seem to accrue only to some users. In domestic utility markets, for example, there is abundant anecdotal evidence that many consumers are just not that interested in utilising the choice that has been provided for them, at great cost.

### **Competition**

As defined in the Issues Paper (at p 2), competition is restricted to situations where suppliers compete with each other in the provision of services to a user. It thus comes into play only where there is user choice.

In some areas, such competition can enhance the impact of a service, both by enabling user choice (see above for the benefits of this), and by enabling users to move towards services that they find more satisfactory. Examples of this would be the provision of general practitioner services for those that can afford them in areas where there are multiple providers, and some of the early user experiences under the NDIS.

But there are a number of caveats that must be applied. Services need to be affordable to the user, and in adequate supply. Users need adequate information about providers and their services, and must readily be able to change to alternative providers. The costs to a user of making a wrong decision need to be manageable.

And many are excluded from such benefits because of the inability to exercise choice, whether because of intellectual capacity, information asymmetry, the



cost of transition, etc. The principle is supported, but its application as part of a service design needs careful analysis, dialogue, consultation and testing.

### **Contestability**

Quite a number of human services are currently contestable: they are contracted to a provider for a set period, and that provider has no guarantee of being selected beyond the current contract duration.

Contestability is a crude instrument for improving the impact of services. It does not bring with it the advantages of user choice, and can be costly and disruptive, for the funding body, the service provider, and the users.

The 2014 're-commissioning' of community mental health services in Victoria illustrated all of these negatives. Some aspects of the job network – particularly relating to the most disadvantaged job seekers – have been unsatisfactory for users and providers; and the tendering out of private prisons has often been contestable in name only – negotiations for further long term contracts seem to have involved only the current supplier.

### **Attachments:**

A: Members of Catholic Social Services Victoria

B: Examples of adverse impacts of competition





## **Attachment A: Members of Catholic Social Services Victoria**

Aboriginal Catholic Ministry	Mary Aikenhead Ministries
Assisi Centre	Mary MacKillop Aged Care
Australian Catholic Religious Against Trafficking in Humans (ACRATH)	McAuley Community Services for Women
Brigidine Asylum Seeker Project	Missionary Sisters of Service
Cabrini Health	Nazareth House/ Sisters of Nazareth
Catholic Chaplains Association for Health Care	Office for Justice and Peace, Archdiocese of Melbourne
CatholicCare Melbourne	Order of Malta Hospice Home Care Victoria
CatholicCare Victoria Tasmania	Pregnancy Assistance Frankston
CatholicCare Sandhurst	Rosies Oblate Youth Mission
Catholic Women's League of Victoria & Wagga Wagga	Sacred Heart Mission
Centacare, Diocese of Ballarat	Society of St Vincent de Paul
Corazon	Solo Catholics
Corpus Christi Community	Southern Cross Care (Victoria)
Don Bosco Youth Centre and Hostel	St John of God ACCORD
Edmund Rice Camps	St Joseph's Flexible Learning Centre
Edmund Rice Refugee & Community Services	St Joseph's Home for the Aged – Little Sisters of the Poor
Good Samaritan Inn	St Mary's House of Welcome
Good Shepherd Australia NZ	The Way Community
Griefline	Vietnamese Catholic Family Mutual Assistance Network
Jesuit Social Services	Villa Maria Catholic Homes
John Pierce Centre for Deaf Ministry	VincentCare Victoria
Kewn Kreestha	Wellsprings for Women
Keysborough Learning Centre	
MacKillop Family Services	
Marillac	
Marist Youth Care	(July 2016)



## Attachment B: Examples of adverse impacts of competition

### Examples of Adverse Impacts on Programs and Agencies from Recommissioning <sup>16</sup>

Two **Jesuit Social Services** programs were impacted: Connexions, the state's first dual diagnosis service working exclusively with young people dealing with concurrent issues of mental illness and substance abuse and Artful Dodgers Studios, a safe space where vulnerable young people can build skills and complete training units, using music and art as the medium. The loss of Psychiatric Disability Rehabilitation and Support Services (PDRSS) funding will mean reduced access to mental health care for young people who need a 'soft entry' to services, or who need the kind of outreach and holistic support provided by Connexions.

**St Mary's House of Welcome** is a refuge for disadvantaged people experiencing homelessness, poverty and mental health issues. St Mary's offers various programs and activities assisting people to engage in community, to feel safe and to have a point of stability in their lives. The Centre provides information, advice and referral, emergency relief, showers and meals for people in need. The programs and activities assist people to cope with life, and to develop their living skills, enabling them to participate more positively in community. The loss of PDRSS funding has significantly impacted on the capacity of St. Mary's to offer services to people with complex mental health needs.

**McAuley Community Services for Women** provides services including crisis and longer term accommodation, employment services, social and recreational support and children's services for women and children escaping family violence as well as women who are homeless. The loss of PDRSS funding has significantly impacted on the capacity of McAuley to offer services to people with complex mental health needs.

**Bethlehem Community** provides medium and long term accommodation and support to homeless women across Victoria. The focus is on providing a home within community, enabling the women to rebuild their lives. The funding provided through PDRSS, which was withdrawn as an outcome of recommissioning, enabled support to women living in a new development of independent living units in Thomastown.

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<sup>16</sup> A response from Catholic Social Services Victoria to the Community Sector Reform Council on the 2014 recommissioning of Victorian Government services, August 2014  
[http://www.css.org.au/Portals/51/Submission\\_SectorReformCouncil\\_Sept2014.pdf](http://www.css.org.au/Portals/51/Submission_SectorReformCouncil_Sept2014.pdf)