

3 August 2016

Human Services inquiry

Productivity Commission
Locked Bag 2, Collins Street East
Melbourne Vic 8003

Re: A public inquiry into the increased application of competition, contestability and informed user choice to human services

<http://www.pc.gov.au/inquiries/current/human-services/terms-of-reference>

We thank the Productivity Commission for the opportunity to make a submission and granting an extension, to this important inquiry and contribute to this inquiry.

Aged Care Crisis (ACC) is a community based independent group that listens to the voices coming from the coalface of aged care - the stories of family members of residents and of the individual nurses and nurse aids who work there.

Unlike a majority of community organisations that are constrained in what they feel they can say by their dependence on government and corporate donations, ACC receives no funding and is consequently free to listen to dissenting voices, critically examine what is happening, describe what it sees and say what it thinks.

ACC are deeply disturbed by what we have heard about the care provided over the last 16 years. In our view, there has been a serious deterioration in the quality of the lives lived. The poor quality of life is not only for those who need care in order to continue to have a life worth living, but also for staff who struggle to provide that care. We also speak for the families who find themselves powerless and trapped in an impersonal and process driven system.

We note that a number of other submissions representing the community and health sector have also issued caution in further exposing human services to an open market¹ and we also wish to support the submission that has been made by the Combined Pensioners and Superannuant's Association of NSW.

Family members and staff who rely on human services both in care and delivery, do not have the time or the skills to understand and challenge the innocuous world masked as 'improved outcomes' that are thrust at them and which they are told are for their benefit.

Many submissions to this inquiry come from those who have real experience and work in human services. They have expressed their distress and concern, but few have an in depth understanding of the social dynamics of the belief system that has so frustrated them and changed their working lives.

The critical comments made in response to press reports are particularly revealing. Those below are from an article about the Aged Care Roadmap. ACC has also strongly criticised this roadmap². This sets out the government's implementation of the 2010 Productivity Commission (PC) report.

¹ <http://www.pc.gov.au/inquiries/current/human-services/identifying-reform/submissions>

“... Now as for community dwellers I think we are seeing aged care being shaped by the current (and outmoded I would suggest) adherence to neo-liberal socio-economics, masquerading as choice and freedom.

“... The future of aged care should be shaped by people who have never actually cared for the frail elderly. We need a board full of CEOs, public servants and career bureaucrats to ensure things head in the opposite direction of reality ...”

“... spot on – what we need is advisory committees made up of people who actually deliver hands-on care, so that Treasurers, Ministers and policy makers can find out what really is happening to our residents.

Anyone who provides hands-on aged care knows – the almighty dollar trumps quality care – and no-one at the top level has the intestinal fortitude to change that ...”

Source: *Australian Ageing Agenda* (13 Jul 2016): *Comments on Aged Care Roadmap: what will aged care look like in a decade?* <http://www.australianageingagenda.com.au/2016/07/13/aged-care-roadmap-will-aged-care-look-like-decade/>

Like previous inquiries such as those into Private Equity (2006), the Complaints system (2009) and the Accreditation system (2010), the report by the Productivity Commission’s Inquiry *Caring for Older Australians* (2010/11) ignored the problems created by the government’s economic reform agenda and the recommendations ACC members made to address this.

We ask the commission to have the courage to listen to critics, to hear what citizens are saying and to act in their interests. We ask you to look at the consequences of free market policies in the service sector. The necessary conditions for unrestrained markets to work do not exist in most human service industries.

Government regulations intended to control aberrant behaviour have failed in the UK, in the USA and in Australia. An examination of the way they operate, for example in aged care, reveals that they are no match for the pressures generated by strong competitive pressures in the marketplace. They are not fit for purpose in the face of strong perverse incentives.

We are deeply concerned at the proposal to introduce more competition and an even greater focus on efficiency into sectors where these strategies have already resulted in harm. It is clear that they have not worked and unless they are contained and restrained are unlikely to serve service sectors where people are vulnerable.

² Inside Aged Care website: Analysis and critique of the Government Aged Care Roadmap www.insideagedcare.com/introduction/aged-care-roadmap

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1. Our submission

What the commission is asked to address is a vast and complex matter and we will only summarise the issues and our arguments. Instead, we supply links and references by linking either to material where we have explored the issues in depth ourselves and where more reference material can be found, or by linking directly to other material that is relevant.

A. Introduction: Widespread market failure ignored

Those with little understanding of the implications have imposed unrestricted markets on sectors where they are inappropriate and harmful. They have consistently failed to heed the warnings and logical arguments of their critics.

Profound changes: For example, the changes that have occurred in aged care since 1997 have had a profoundly negative impact on the lives of many frail elderly and on those who provide that care. Failures are occurring far too often. Good care is being given in many facilities but this is in spite of the system and not because of it. It occurs when dedicated managers and their staff resist the strong perverse incentives that have been introduced into the system.

Willful blindness: The efficacy of these policies has been measured by their economic outcomes. The negative impact on the lives of citizens has been ignored. The significant economic successes of these policies for the market have been acclaimed. In the absence of solid data, the social consequences and the cries of unhappiness coming from those who have become victims have been ignored.

Watching what has been happening: Aged Care Crisis has been listening to these failures for many years and has made many submissions to inquiries. One of us has recently undertaken an in depth analysis of aged care. This reveals the close relationship between what is happening in aged care and what is happening in other vulnerable service sectors and the wider society. Basic community values have been ignored and social responsibility abandoned in many sectors. It is as if in every system any vulnerability that the marketplace can find is exploited regardless of the costs to society.

Economy and markets, important for developing and maintaining society have become so omnipotent that they control thinking in both politics and in much of civil society. In a capitalist democracy both should be serving civil society and reflecting its views.

Cannibalising society: Instead of serving us, markets in some sectors are cannibalising the societies that gave rise to them. Civil society is no longer fulfilling its critical role of constraining the excesses of both marketplace and politics.

Confused policies: We see governments responding to and embracing 21st century aspirations. At the same time they cling desperately to dated 20th century ideas and practices that have demonstrably failed. These make it difficult or not impossible to attain the objectives. The response in failed markets like aged care has been to develop a façade that shields believers from what is happening.

A frenzied process replaces considered action. Words lose their attachment to the things they represent and are accepted as real. A critic from the coalface aptly described what is happening in aged care as “all show and no go!” This is no more apparent than in the roadmap proposed for aged care.

Searching for a way forward: Aged Care Crisis has accepted the stark reality of what has happened. The limited evidence (*note that the system does not collect objective data*) clearly indicates that aged care has taken the wrong road but there is no going back to the past.

Instead we are embracing 21st century ideas and are seeking to encourage a broad debate in trying to develop policies that have some chance of succeeding.

On the Aged Care Crisis and Inside Aged Care websites, we suggest ways in which the benefits from a market system might be realised in aged care by introducing 21st century ideas and understandings that aim to rebuild civil society and control the excesses of the marketplace. It is intended to empower the disempowered and protect those who are vulnerable. While the suggestions are for aged care, the principles may be applicable elsewhere.

Recommendation 1: We urge the Commission to seek out the real lived experiences of those in the sectors that they are looking at and carefully consider what the consequences of current policies have been and what the consequences of your recommendations will be.

i Related links:

- **Aged Care Crisis:** www.agedcarecrisis.com
- **Inside Aged Care:** www.insideagedcare.com
- **Corporate Medicine** website: www.bmartin.cc/dissent/documents/health/
(a large older website that is no longer updated but contains illustrative historical material that is of relevance to this submission)
- **Inside Aged Care:** Analysis and critique of the Government Aged Care Roadmap
www.insideagedcare.com/introduction/aged-care-roadmap

B. Aged Care is a failed market

The story of aged care in Australia is the story of recurrent scandals set against a background of continuous unhappiness and complaints. In the face of this, governments and industry have consistently refused to even consider these as red flags to a dysfunctional system that should be investigated. Instead, they have asserted that these are rare exceptions to a 'world class' system that others admire.

Complaints and frequency of scandals have steadily increased: The response to criticism has been to attack, discredit critics and destroy the messengers³. Most of the information about serious failures in care comes from whistleblowers (staff or family), who usually pay a heavy price.

The press has been attacked for publishing the sort of information that the government has ignored. They are blamed for giving the industry a bad name and not reporting the good that it does.

- ³
- (a) Questions raised over how national changes will impact aged care sector - ABC News, 1 Aug 2014 (Allegations about care made by an academic): <http://www.abc.net.au/news/2014-07-31/expert-says-national-reforms-won27t-improved-systemically-flaw/5637206>
 - (b) Academic scaremongering with unsubstantiated claims ACSA Media release, Aug 2014 (Example of response to the allegations and attack on the academic above) - <http://www.agedcare.org.au/news/2014-news/academic-scaremongering-with-unsubstantiated-claims>
 - (c) Noleen Hausler's dad fought for his life. Now Noleen is fighting for him and justice - *Adelaide Now* 29 July 2016 (**One of many examples of a family threatened for revealing problems in a nursing home**)
<http://www.adelaidenow.com.au/news/south-australia/noleen-hauslers-dad-fought-for-his-life-now-noleen-is-fighting-for-him-and-justice/news-story/bf2fe8d670e44937377d093f9de>
 - (d) **Example of response of industry to research it does not like:** Productivity Commission Inquiry - Caring for Older Australians: - evidence of Dr Bernoth: Transcript of Proceedings - Canberra, (see page 1371, 5 Apr 2011)
<http://www.pc.gov.au/inquiries/completed/aged-care/public-hearings/20110405-canberra.pdf>
 - (e) Inside Aged Care - Speak out if you dare (A discussion about dissent and whistleblowing including aged care)
<https://www.insideagedcare.com/introduction/speak-out-if-you-dare>
 - (f) Death in a five star nursing home (nurse whistleblower sacked):
<http://www.abc.net.au/radionational/programs/backgroundbriefing/2014-09-21/5753372>

But it is the failures that need attention. It is the press' primary responsibility in a democracy to expose failures and hold market and politicians to account. All this is conveniently ignored when it does not suit them. Instead of addressing the problems, they have countered with positive stories.

During this period there have been multiple aged care inquiries and reviews. Criticisms that were made and the core problems in the policies introduced in 1997 (giant elephants standing quietly by) have been ignored. The vulnerability of frail customers was glossed over and the possibility that this market might be failing was not considered.

The **19 years of care** web page is where the material, describing the failures in aged care in Australia are examined. It is intended to confront those who think that government policy is working. I draw the commission's attention to the cultures revealed in these homes on the pages within this section, **Scandal after Scandal** and to the experiences described and the views of those who have actually seen what is happening on the page **Those who know**.

The full extent to which the system has failed is not clear because unlike other countries with similar aged care systems, Australia does not collect objective data. The data that it does collect is not publicly available. What is clear is that the system is failing far too often and no one is asking why.

Recommendation 2: That the commission carefully examine the experience of aged care and consider the impact that free market competition and efficiency has had on aged care before making any decision about other human services.

Related links:

- 19 years of care (The failures in aged care):
<https://www.insideagedcare.com/aged-care-analysis/19-years-of-care>
 - Corporate Medicine website: Oh no! Not another aged care inquiry (A review of the pre 2010 inquiries):
<http://www.bmartin.cc/dissent/documents/health/agereport.html>
 - Inside Aged Care: Scandal after Scandal -
<https://www.insideagedcare.com/aged-care-analysis/19-years-of-care/scandal-after-scandal>
 - Inside Aged Care: Those who know
<https://www.insideagedcare.com/aged-care-analysis/19-years-of-care/those-who-know>
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C. Aged care is a global problem

Other countries such as the USA and the UK have adopted similar free market solutions. They have similar or worse problems, but because they do gather some information some conclusions can be drawn and research undertaken.

Recommendation 3: That the commission carefully consider the full extent to which free markets and private equity in particular have contributed to the parlous state of aged care in the USA and the UK.

Related links:

- Aged Care Crisis: International aged care
<http://www.agedcarecrisis.com/solving-aged-care/part-4/international-aged-care>
- Inside Aged Care (2016): Aged Care failures:
<https://www.insideagedcare.com/aged-care-analysis/aged-care-marketplace/aged-care-failures>
- Corporate Medicine website: Aged Care and Nursing Homes (and multiple linked pages - older study of the US system in the late 1990s): http://www.bmartin.cc/dissent/documents/health/access_aged.html

D. Market failure is widespread

Almost every sector with any vulnerability whether these be customers, employees or the funding system, has been exploited to obtain a competitive advantage. Once one company finds a loophole and develops a justification for exploiting it, others have followed. They have little choice if they are to compete.

Companies have shown no social responsibility and no empathy for those they exploit. Many have been harmed. The way people think and the cultures that develop in strongly competitive marketplaces are revealed in these failures.

These are not fringe groups or rogue individuals, but established market leaders, some representing the industry on public bodies. They include reputable retired politicians and highly reputable companies. These are the people and the businesses that we trust. Wall Street and the Australian Banks are good examples. In the distant past they earned our trust by serving us.

The first of the linked related pages uses a US health care company that operated in Australia to illustrate the consequence of applying normal accepted marketplace thinking and practices to particularly vulnerable sectors in health care. It explains how this happens. The remaining links give multiple examples where company after company has exploited every weakness that they can find. Most examples are from Australia but with some illustrative examples from the USA.

When the money comes from government or government contracts, the sectors seem to be particularly vulnerable. With few exceptions, government oversight has been singularly ineffective in containing, detecting and addressing the problems that arise in vulnerable sectors.

The increased vulnerability when government or any other 3rd party payer is involved in funding is illustrated by aged care in Australia as well as both health and aged care in the USA. Taking funding away from the community and placing it in the hands of 3rd parties seems to place both the recipients of services and the funding system at increased risk.

Recommendation 4: That the commission look at the extent to which every vulnerability in the market system has been exploited. Please consider the human costs of this when making any recommendations particularly in government and third party funded systems.

i Related links:

- Inside Aged Care website (2016): Culturopathy - A for-profit example
<https://www.insideagedcare.com/aged-care-analysis/cultural-perspectives/for-profit-example>
- Inside Aged Care website (2016): Failed markets and culturopathy (multiple examples)
<https://www.insideagedcare.com/aged-care-analysis/cultural-perspectives/failed-markets-and-culturopathy>
- Inside Aged Care website (2016): Contracting government services to the market
<https://www.insideagedcare.com/aged-care-analysis/cultural-perspectives/contracting-government-services-to-the-market>
- Inside Aged Care website (2016): Consequences of marketplace thinking
<https://www.insideagedcare.com/aged-care-analysis/aged-care-marketplace/aged-care-in-the-dark/consequences-of-marketplace-thinking>

E. The nature of Markets

While we have no economic background, it is clear to us as citizens that:

1. Markets are simply an impersonal mechanism created by society to serve it. Markets do not have any values and they have no intrinsic benefits or risks. Believing in them or claiming that they are in some strange way self-correcting and need liberalizing to enable them to work some strange magic is an illusion and evidence clearly indicates that when misapplied markets can be harmful.
2. Like any tool markets have to be applied to the situations where they work. They must be modified for other situations to make them work there. They should not be used in situations where they clearly do not work. When they are misapplied, they cause injury and create a flawed product that is not fit for purpose.
3. A functioning market depends on a balance of competing self-interest between the business providing the service and the customer. This is a necessary condition for a market to work and the presence of an effective and empowered customer is critical for success.
4. The parameters and accepted limits of conduct by markets in functioning capitalist democracies are set by civil society. The excesses of markets are controlled by the values and norms of civil society. Civil society controls these excesses primarily by social pressures. Government sets and objectifies society's values setting out the limits of acceptability in regulations.

This responsibility and the important role for civil society was famously expressed by Adam Smith when he warned that proposals coming from the *marketplace* “*never to be adopted, till after having been long and carefully examined ... with the most suspicious attention*” because “*it comes from an order of men ... who have generally an interest to deceive and even oppress the public*”. If we look at what has happened in aged care and similar vulnerable sectors that 200 year old warning was prophetic.

5. For over 2000 years society has recognised the risk that the self-interested will exploit the vulnerability of others, and stressed the Samaritan responsibility of citizens to help and care for those in need.

Vulnerable sectors have been protected by strong codes of ethics that constrained the caring professions. Community norms and values protecting and caring for the vulnerable were given form and objectified in the provision of not-for-profit community and religious services. By their involvement citizens, including businessmen, reaffirmed and objectified these values and norms.

The community's expectations were given legislative form by requiring that those who provided these services were "fit and proper" persons "of good standing". Only socially responsible and honourable people who could be trusted to help and not exploit the vulnerable were permitted to provide these services. In being singled out these groups in turn objectified their identification with these values and internalised them.

F. Free market ideology

The revival of free markets in the 1980s has all of the characteristics of an ideology. This is obvious from the language used to promote it, the manner in which it has been adopted, the way it is sold to the public, the way it has taken control of the collection and interpretation of information and then misrepresented it, and the way it has sought to discredit those who challenge its beliefs. It ignored hundreds of years of experience and knowledge turning established ideas on their heads. The following matters are particularly concerning:

1. The debt it owes to economist Milton Friedman who attacked social responsibility as socialist and essentially evil. He described it as a "fundamentally subversive doctrine". This legacy can be seen in the way the market has exploited every opportunity regardless of the extensive adverse consequences for society and its citizens. While it has created wealth this has been uneven and the claim that unconstrained self-interest serves society is manifestly nonsense.
2. The manner in which Friedman focused on the priority of profits for shareholders and hardly mentioned the pivotal role of customers in the marketplace. The legacy of this can be seen in the way markets have been uncritically introduced into those sectors where customers are unable to fulfil their role, and where the restraints, which previously constrained their excesses and restricted operation to the socially responsible have been "liberalised".
3. The way in which critics were simply ignored and their arguments not addressed. These included
 - a. Druker who emphasised the critical importance of customers.
 - b. Kuttner who attacked the disturbing logic, the way the focus on self-interest and ideology ignored the social nature of man (our social selves) and the tautology of a belief that blamed its failures on inadequate implementation and compounded the problems by more rigid application of its principles.
 - c. Relman who in the 1980s argued against the introduction of unfettered markets into health care where the system was subsequently ruthlessly exploited and large numbers harmed.
 - d. Williams who in 1992 warned Australia about the sort of medicine practiced by the large US corporations that governments were inviting into Australia.
 - e. Reese and colleagues who in Australia in 1995⁴ warned of the extent to which the management structures driving and introducing free market systems and thinking into Australia would destroy our humanity. This is amply illustrated by the ruthlessness of the US health system and what has been happening in aged care in the USA, the UK and Australia.

What happened in 1997: Like all ideologies, critics of the proposed changes made in 1997 were not properly engaged. Their criticisms were not confronted but discounted by attacking the messenger.

⁴ The Human Costs of Managerialism: Edited by Stuart Reese and Gordon Rodley, Pluto Press 1995

Because every system of thought has an internal logic, one needs to look at proposals from alternative points of view in order to see the faults. To succeed a dysfunctional ideology must escape this.

The 1996 election was funded by industry and it was the free market policies of these industry supporters that government planned to introduce. A prominent one of these, aged care doyen, Doug Moran even claimed that he had written much of the aged care policy. He was so incensed when government later backed away from some of it that he resigned from the party.

The government ignored the warnings of the 1994 Gregory report which, in referring to the free market option in his report, that government later selected, *“noted that neither the current standards monitoring system, nor any alternatives considered, would be able to prevent the diversion of funding from nursing and personal care to profit”*.

Objections in parliament: There was strong objection to the way the 1997 legislation⁵ was rammed through parliament before adequate information was provided. The senate review of the legislation indicated that *“while there are so many issues yet to be resolved and such widespread concerns still being expressed over aspects of the reforms and their implementation timetable, the commencement of the legislation should be delayed”* until an adequate evaluation of the possible consequences was possible.

Among the many concerns the report stressed *“the potential to compromise the standards of care in aged care facilities”*, and that *“the full details of the new quality assurance system based on accreditation is not yet available”*. The report was very concerned about the likely adverse consequences for staffing and the consequences of this for care^{6 7}.

Contracting out services: The House of Representatives Standing Committee “What Price Competition?”⁸ in 1998 raised *“important questions of accountability and quality, equity and distributional impacts of contracting, and the suitability of pro-competitive models for particular services”*. Global ideology and “small government” proponents were advocating the contracting of government services to the market.

The committee considered whether this could *“lead to a diminution of accountability as lines of responsibility become blurred and mechanisms for accountability are reduced”*. The community generally felt that the providers of services would focus *“on reducing costs and outbidding other service providers”*. *The services would suffer*.

While the report stressed accountability in many of its recommendations, it is clear that this and many of the other issues raised in submissions were never resolved and properly addressed in practice.

Relevance: The importance of confronting criticisms from alternative points of view is re-emphasised. It is interesting that it was the opposing worldview of the World Socialists who most clearly identified the many issues that we are complaining about in 2016. They did that in 2000⁹, long before anyone else.

Ruthlessness and humanity: Reese and Rodley’s warnings about the impact on our humanity in 1995 are reinforced by comments made in the *New York Times* by eminent analysts in 2001. Aged care in Australia has taken that a step further.

⁵ Senate Official Hansard (Wed, 25 Jun 1997, Aged Care Bill 1997, Second Reading, Pg 5065 -5099)

⁶ Report on Funding of Aged Care Institutions - Senate Community Affairs Committee June 1997 (a criticism) <http://www.bmartin.cc/dissent/documents/health/agereport1997.html>

⁷ Report on Funding of Aged Care Institutions - Senate Community Affairs Committee June 1997 (the full report) http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/1996-99/aged/report/index

⁸ What Price Competition? A Report on the Competitive Tendering of Welfare Service Delivery House of Representatives Standing Committee http://www.aph.gov.au/parliamentary_Business/Committees/House_of_Representatives_Committees?url=fca/inquire.htm

⁹ Kerosene baths reveal systemic aged care crisis in Australia World Socialists web site 10 March 2000 (criticism from the opposite side of the fence) <https://www.wsws.org/en/articles/2000/03/aged-m10.html?view=print>

Some health policy experts like Uwe Reinhardt, an economics professor at Princeton University, see the situation as "brutal and inhumane." But, Professor Reinhardt said, doctors and hospitals are trapped in it.

Mark Pauly, a professor of health care systems at the Wharton School of the University of Pennsylvania, said there was no real villain. "I don't think it's exactly good versus evil," he said, "it's just business."

Source: *Quoted from a 2001 article in The New York Times*

There is little room for humanity when you are not constrained by social responsibility and your duty lies elsewhere:

Senator BISHOP (Western Australia)

"... Senators need to understand that under corporations law the managing directors of the nursing home, particularly if it is listed on the stock exchange, are obliged to do everything in their power to maximise returns to shareholders. That is their obligation under the law ..."

Source: *Hansard, 25 June 1997, Page 5066*

Recommendation 5: That the commission carefully consider the nature of free markets and the nature of ideology when assessing the sector. While the commission may not share the beliefs and patterns of thought of the system's critics, these need to be carefully considered and refuted with evidence and argument before making decisions.

Related links:

- The *New York Times* Magazine (13 Sep 1970): The Social Responsibility of Business is to Increase its Profits by Milton Friedman <http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>
- The Origin Of 'The World's Dumbest Idea': Milton Friedman by Steve Denning Forbes Leadership 26 Jun 2013 (Druker is quoted): <http://www.forbes.com/sites/stevedenning/2013/06/26/the-origin-of-the-worlds-dumbest-idea-milton-friedman/-41f8ea8f214c>
- Inside Aged Care website (2016): Analysing in greater depth <https://www.insideagedcare.com/aged-care-analysis/aged-care-marketplace/aged-care-in-the-dark/analysing-in-greater-depth>
- The American Prospect (19 Dec 2001): The Limits of Markets Robert Kuttner, (Critical analysis of unrestricted free market policies) <http://prospect.org/article/limits-markets>
- Remission Impossible - Book by Ron Williams in 1992 (quotes from book warning Australia) <http://www.bmartin.cc/dissent/documents/health/williams.html>
- The Atlantic Monthly, Mar 1992 USA: What Market Values Are Doing to Medicine, Prof Arnold Relman (Warning about free markets in health care) <http://www.theatlantic.com/past/politics/healthca/reلمان.htm>
- Corporate Medicine website (29 Dec 1996): The impact of financial pressures on clinical care lessons from corporate medicine - Paper delivered to conference (an illustrative example) <http://www.bmartin.cc/dissent/documents/health/corpmed.html>
- Corporate Medicine website (2004): The Financial Institutions in Health Care - (Health care but contains quotes from a landmark study of the US health care market "Critical Condition" 2004 by Barlett and Steele) <http://www.bmartin.cc/dissent/documents/health/financiers.html>

G. Free market policies

A worrying feature of the introduction of free markets is the thinking behind the processes that are promoted and claimed to be essential in making the system work (**competition, efficiency, choice and contestability**). One of us is reminded of the illogical justifications given by a large US company to support its business practices at the end of the 1980s. At the time uncontrolled markets were making huge profits from health care.

Example: The US Company's internal documents claimed that if treatment was good for you, then more treatment was even better for you. Because you were insured you were entitled to all this treatment. It was beneficial for you to stay in hospital for the duration of your insurance. You were entitled to it. An internal booklet instructed staff on how to provide the maximum numbers of treatments each day.

Staff were employed specifically to persuade patients that they still needed treatment and prevent them from discharging themselves until their insurance expired when they were pronounced cured. Most of this treatment was of no benefit. Many, particularly children, were harmed by all of this. Doctors who slipped in at weekends and discharged patients before their insurance had expired were called the "backdoor problem". Managers were instructed to deal with them.

And in free markets: As with these treatments, free market beliefs have taken useful concepts like efficiency and competition, which are useful but simply a part of our complex psyche. They have applied them in excess and without constraint. They normally contribute to the rich structure of our lives. Here they are balanced, controlled and directed so that they are beneficial and are not used inappropriately or in excess.

Harmful ideologies that distort the world we live in prosper and succeed to the extent that they find ways of limiting the way citizens engage their critical faculties and to the extent that they undermine and subvert civil society so that it no longer functions effectively. Free market thinking has been singularly successful in accomplishing both.

1. Competition: Competition has been taken out of its context and given god-like properties as an unchallengeable good. Quite clearly, if we apply some common sense we will see that it will be harmful if carried to extremes whether in sport or in society. We don't normally kill our rivals, but in the gladiatorial competitive marketplace where no one can afford to accept responsibility for the social consequences of their actions, competitors strive to stay alive and put others out of business. The more competitive and the more profit driven the marketplace becomes, then the greater the pressure, the higher the tensions and the less room there is for socially responsible conduct.

Employees muzzled: Markets, like any tool, function for us to the extent that we control and manage them. Strong competitive pressures bind all employees to the corporate mission even when that includes exploiting vulnerabilities or harming citizens. The employees are unable to give expression to their humanity or to express their social selves when doing so would impact profitability. Whether directors, managers or nurses they become servants of the process they should control. If they attempt to express their humanity in ways that impact on profitability then they are isolated, attacked, fired or even sued.

Loyalty demanded: Total loyalty to corporate interests is required. In 2003 government proposed whistle blowing regulations that would have encouraged employees to speak out in the public interest. The business sector "*furiously lobbied*" for the bill to be watered down. The chairman of The Australian Business Council¹⁰ angrily complained that "*it would put employees in conflict with the interests of their organisations and would turn them into "state informers"*".

Being socially responsible and acting in the public interest was a betrayal of a higher duty of loyalty to their employer.

¹⁰ The Australian (2 Dec 2003): [Laws an attack on way of life \(Business' response to encouraging whistle blowers\) - paypal](#)

Canadian critic John Ralston Saul, who writes extensively about ideology¹¹, commented on the extent to which corporations owned not only employee's loyalty but also their intellectual contributions. As a consequence civil society was deprived of the intellectual contribution and responsible citizenship of a large if not a majority of its members. The extent of this in Australia is not clear.

The customer is key: Like Druker we argue that it is the customers supported by civil society who insist that the market meets their needs. Together they force the market to be socially responsible and operate within the values and norms of society. They ultimately determine each company's survival.

As importantly it is the customers controlling influence that forces the market to align its interests with theirs and deliver what they require and in vulnerable sectors they require social responsibility. This releases employees from the bonds that bind them and allows them to express their humanity in serving customers and the community.

A balance of forces: Clearly the stronger the competition and the less effective the customers, the greater the chances that they will be exploited and that they and their community will be harmed. It is hardly surprising that, with unrestrained competition, customers have been exploited and harmed in almost every sector where they are vulnerable.

The extent to which vulnerable employees and funding systems are also exploited can be seen as a reflection of the extent to which civil society has disengaged from the day-to-day happenings in society. This illustrates the erosion of its value systems and the lack of cohesion between its members so that citizens do not recognise (or care) about what is happening to their fellows.

It might not matter when buying and selling whatnots and trinkets in the shops but social services support the lives and welfare of citizens, their education, their futures, their health and the quality of their existence. Treating them in the same cavalier manner as these baubles is we believe irresponsible.

Richard Baldwin in his review of the international literature found no evidence that competition was beneficial in aged care and some evidence that suggested it was harmful. Common sense indicates that in excess it is. An article in *The Conversation*¹² challenges the utility of competition in aged care and that is likely to apply to other human services as well.

2. **Efficiency:** Efficiency too, has been taken out of context and become unchallengeable. As a universal good it cannot be constrained and there is no requirement for it to justify itself or produce evidence that it is not harming customers.

The human interaction that gives life meaning and makes it liveable can never be efficient. It is a reflective process, takes time and cannot be done in a rush. While there is no need for inefficiency, an uncontrolled drive for efficiency in services, where human interaction is integral to the services provided, will adversely impact the lives of those whose lives these services are intended to improve. In the hands of an impersonal mechanism unable to imagine the life of the other, enter into it and become empathic, this becomes a recipe for disaster.

¹¹ (a) *The Unconscious Civilization* by John Ralston Saul The Massey Lectures, Penguin Books, 1997 - (a criticism of 20th century society and its weakness for ideology)

(b) *On Equilibrium* by John Ralston Saul, Penguin Books 2001 (an examination of our human nature in an attempt to find ways of preventing this)

¹² More competition may not be the answer to reforming the aged care system - *The Conversation*, 27 May 2016 <https://theconversation.com/more-competition-may-not-be-the-answer-to-reforming-the-aged-care-system-58155>

Much of the misery and unhappiness in aged care is a direct consequence of the unchallenged drive for efficiency. This is an intrusion into the capacity of the elderly to make the most of their longevity and actualise the remainder of their lives by interacting with those in what is now their “home”. We currently have a community of carers who are so focused on their tasks that they have no time to be human.

Efficiency has been used as a justification to deskill and reduce staffing as well as endless strategies to reduce the costs of meals, ration diapers and more, all without any supporting evidence that all this is not as harmful as the staff, families and residents indicate it has been.

An Australian company operating in Canada¹³ even employed a consultant to calculate how many diapers incontinent residents needed and then rationed them accordingly. That residents’ needs varied from day to day was not considered. Nurses who hid diapers so they had reserves were seen as a problem and threatened.

Conveniently, no evidence of value in assessing the actual care provided or the quality of the lives lived is collected in aged care.

- 3. Choice:** Above all else, the elderly whose memories are challenged need stability and control of themselves and their environment – a place where they know where things are and familiar faces that they know, relate to and trust. While they obviously have desires and would like to have options and activities that engage their minds, the ideological rhetoric about choice is once again taking something sensible out of its context, making it a slogan, and using it to create a positive illusion.

If we look at this through Adam Smith’s jaundiced eyes we can see it as something that needs *“the most suspicious attention – (coming from) - by an order of men ... who have generally an interest to deceive - - .”*

This is a gullible sector where anxious families want the best for their vulnerable and dependent parents. The market is going to offer them choices that they are going to pay extra for. Their anxieties simply need a little fanning to become a gold mine.

Example: The US health care company used on Inside Aged Care to illustrate the excesses of market practices capitalised on a similar opportunity. It tapped into the generosity of a government that had responded to community anxiety about the young by legislating additional insurance cover for children. The company was able to use television and books to fan the anxiety of parents who were struggling with normal children and sulky teenagers. They capitalised on this. It was easy to persuade parents to allow their children to be admitted to hospital for an endless cycle of treatments, and where their rebellion against what happened to them there would have been grounds for longer incarceration. They advertised emergency telephone services and even operated health stalls at schools where parents could be persuaded. It was a bottomless pot of gold at the end of the rainbow.

Why are politicians selling this?: But it is not the businessmen that are setting this up and promoting it. It is the politicians that we have elected to serve us. They are doing this for the market. We wonder whether this is to support their ideology and drive its implementation by making aged care more “market-like”. Alternately is it to solve their own financial difficulties by shifting the costs.

¹³ Corporate Medicine website: <http://www.bmartin.cc/dissent/documents/health/austrbanks.html#Canada>

An amusing parody in *The New Yorker* writes about the danger that *billionaires might not be able to afford to buy politicians*¹⁴. It discusses the risk of investing in them. One of our own politicians, who held the balance of power in 2011 and struggled to make government work, indicated that when faced with difficult problems “political parties took the money and ran”¹⁵.

4. Contestability: If it is the customer who is expected to contest, then in most service industries, as in aged care, the power imbalance that exists between the provider of services and the customer makes this a thankless task.

There is the constant fear that complaining will be responded to by taking it out on the resident. Simply talk to families who have tried to contest the quality of care provided whether with the provider or to the 5th reincarnation of the Complaints system and its predecessors. In many instances, the Complaints system sends them back to sort it out with the provider. The sort of impersonal arms-length process driven complaints system that governments are able to provide, do not have the capacity or flexibility to manage complaints effectively.

Consequences

It is claimed that the market system should work to reward those who serve us well and put those who don't out of business. Many wonder at the strange world we live in and the remarkably different market we have in aged care. It rewards those who skimp on services and prospers by manipulating the system. In contrast, those who provide the services to the best of their ability and behave like responsible citizens struggle to survive and frequently have to sell to those who know how to play the game. But this market also seeks to silence those who complain, and crush those who think what is happening is not fair and speak out.

But this is of course is exactly what you would expect to happen in the sort of system that has been imposed on aged care. It is not that logical arguments were not made, but that they were not considered credible.

Recommendation 6: We urge the commission to carefully examine the adverse impact that free market processes have had on aged care and the suffering that has resulted. We urge the commission to carefully consider other human services to see what the consequence of applying these concepts in the same uncontrolled way might be on those receiving services.

Related links:

- Inside Aged Care website (2016): The Aged Care Marketplace - Introduction
<https://www.insideagedcare.com/aged-care-analysis/aged-care-marketplace>
- Inside Aged Care website (2016): Market processes in simple terms
<https://www.insideagedcare.com/aged-care-analysis/aged-care-marketplace/market-processes-in-simple-terms>
- CPSANSW: Estia Healthcare's dodgy index (23 Oct 2015) (*maximising opportunities*)
<http://www.cpsa.org.au/aged-care/1366-estia-healthcare-s-dodgy-index>

¹⁴ The New Yorker (9 Dec 2012): Billionaires Warn Higher Taxes Could Prevent Them From Buying Politicians (amusing parody)
<http://www.newyorker.com/humor/borowitz-report/billionaires-warn-higher-taxes-could-prevent-them-from-buying-politicians>

¹⁵ The Saturday Paper (9 Aug 2014): Rob Oakeshott: How big business hijacked parliament (the impact of political funding)
<https://www.thesaturdaypaper.com.au/topic/politics/2014/08/09/rob-oakeshott-how-big-business-hijacked-parliament/1407506400>

H. Innovation and deregulation

There has been intense lobbying from the aged care industry and its political supporters for the removal of 'onerous regulations' in order to free up the industry and enable it to innovate and develop new solutions for aged care. Outside aged care, 'innovation' has become a political catchphrase and a policy. Once again we should heed Adam Smith' warnings and look at corporate behaviour through his eyes and look at what has happened in the past.

Examples:

US health care: In the years when one of us studied US health corporations it was readily apparent that for-profit hospital companies sought out and provided care that was profitable and avoided that which was unprofitable. Those that were needed but less profitable or not profitable at all were left to the not-for-profits who bore the costs and so were less able to compete. Ambulances bearing unprofitable uninsured patients found that corporate owned hospitals were full and they were diverted elsewhere.

Companies courted specialists who were profitable. They marketed them and the service they provided to other doctors and the public. They rewarded them with well-paid positions of authority within their hospitals. Profitability trumped competence so that incompetent practitioners, often those shunned by the profession who were prepared to cut corners and provide more services prospered at the expense of the thorough and competent.

Example: The poster US company (the second largest hospital owner in the USA) that I use as an example did this in its psychiatric hospitals and when local psychiatrists banded together to resist it brought in and appointed questionable doctors from outside who would do what it wanted¹⁶.

In its US general hospital sector it promoted and built a massive new heart unite specially for a cardiologist who was responsible for doing hundreds of unnecessary heart operations making this probably the most profitable hospital in the USA¹⁷. Concerns that doctors within the hospital and outside it had about what was happening were ignored. An attempt by them to review the service was quashed by management. Neither the US accreditation process nor state regulators took action. This hospital was so profitable that it was very credible and highly acclaimed.

A doctor in an international general hospital gave evidence describing the financial and other perks he was to be given depending on the number of operations he performed¹⁸. He refused.

Despite the strong criticism of its business practices by the judge in this international case, this hospital was so profitable that its administrator was promoted to a senior position in Australia and then in the USA where he was in overall charge of the hospital doing unnecessary heart surgery¹⁹. He negotiated the contracts with the doctors involved.

¹⁶ Corporate Medicine website (29 Dec 1996): (Paper delivered to conference) The impact of financial pressures on clinical care lessons from corporate medicine. <http://www.bmartin.cc/dissent/documents/health/corpmmed.html>

¹⁷ (a) Corporate Medicine website (2003): Tenet Healthcare's Redding Hospital: Unnecessary Cardiac Procedures (1st of 4 pages about Redding Hospital) http://www.bmartin.cc/dissent/documents/health/tenet_redding.html
(b) Coronary: A True Story of Medicine Gone Awry by Stephen Klaidman 2007 by Scribner Book Company (The detailed story of Redding Hospital –Book review at link) <https://zcomm.org/zmagazine/book-review-coronary-by-stephen-klaidman-by-kip-sullivan/>

¹⁸ Corporate Medicine website (2003): Submission to Tenet's Ethic's Committee" 1996; E. Singapore - allegations of trading in patients <http://www.bmartin.cc/dissent/documents/health/submission.html#E>

¹⁹ Corporate Medicine website (2007) From Singapore to Redding: Dennis Brown - A Long Trail to Follow (the story of an administrator). http://www.bmartin.cc/dissent/documents/health/tenet_admin.html

The company was fully aware of the issues. The company had paid \$61,000 to fund an unsuccessful defamation action by this administrator against a whistleblower who warned Australian doctors of the practices of this administrator and the company. They tried a second unprosecuted action in another country. His alleged conduct was reported to the company's ethics committee in 1996.

They was never able to accept that there was anything wrong with these "normal" very successful business practices or that incentives linked to increased surgery or other services were responsible for failures in care.

The company led the way in innovative business strategies. This sort of thing was company-wide, country wide and at a less confronting level industry wide. It was deeply entrenched and continued despite criminal convictions, government oversight and a multitude of integrity agreements. Leading politicians, including two with presidential aspirations were on this company's board and there was a revolving door with government. These were normal business practices. They were blind to what they were doing and derisive of their critics. All of the many innovations were directed to their profitability.

Australia health care: Then, in Australia, our largest hospital company went down the same path. In 2002 it started cherry picking profitable patients and leaving the less profitable to wait²⁰. Doctors in Australia were aware of what had happened in the USA and heeded warnings. Unlike their US colleagues, they had retained their market power by refusing to enter into the sort of managed care contracts that had trapped their US colleagues. They took their patients elsewhere and put this company out of business. They have filled the role of effective hospital customer in Australia so limiting the full impact of free market changes in health care.

Aged Care: In aged care in the USA, a company called Vencor²¹ led the way in the late 1990s by targeting (cherry picking) profitable residents and simply discharging less profitable ones back to their families.

In the Australian aged care system, physiotherapists have complained that relatively ineffective care is provided simply because the government funding system pays for it and that beneficial alternatives are not funded.

Traditional professional codes of conduct are inverted. Under the market system administered by government, care follows the money instead of the money going to the care that is needed. Companies are accused of artificially inflating the grading of residents in order to be paid more, even though no more care is given.

What sort of innovation?: It is difficult not conclude that freeing up this market to allow it to innovate will be at high risk of creating innovations that are profitable above innovations that improve the care and life of residents. A group called the *Dragonfly Collective* have strongly criticised the sudden focus on marketplace innovation by governments and see it as self-serving.

A new approach:

Aged Care Crisis is pressing for a 21st century model for aged care, one that operates through local government and community structures and where local communities have a controlling role. We want to replace the complex process driven one that has destroyed our humanity with one that manages and controls aged care as an empathic humanitarian service.

²⁰ Corporate Medicine website: Mayne crashes 2002 and 2003. <http://www.bmartin.cc/dissent/documents/health/maynecrashes.html>

²¹ Corporate Medicine (2001): Vencor's care, morality and ethics: http://www.bmartin.cc/dissent/documents/health/vencor_care.html

Our proposal puts civil society at the centre of aged care and gives isolated customers the organisational support and power needed to be effective. Government should support and mentor. Instead of the limited innovative resources of the providers, innovation will tap into the depth and breadth of the community's experience and skills to innovate for their benefit. Their evaluation will be free of the confirmation bias of commercial enterprises.

Recommendation 7: That the Commission should carefully examine the sort of innovations that have been made in the marketplace and what the real world consequences have been. Please balance these against the contributions that the community can make and the benefits of embracing their contributions before accepting the argument that deregulation will allow the market to innovate. Please consider how the introduction of uncontrolled competition, efficiency, choices and contestability will impact the innovative contributions that community might make.

i Related links:

- Inside Aged Care website (2016): Consequences of marketplace thinking - Structure, Order and Process (innovative ways of exploiting the funding of aged care) <https://www.insideagedcare.com/aged-care-analysis/aged-care-marketplace/aged-care-in-the-dark/consequences-of-marketplace-thinking - slider-5-structure-order-and-process>
 - Aged Care Crisis website (2015): Developments in social thought - Social innovation and the Dragonfly Collective (discussion and links) <http://www.agedcarecrisis.com/solving-aged-care/part-4/developments-in-social-thought#social-innovation-and-the-dragonfly-collective-australia-uk>
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I. Patients replaced by 'Consumers' or 'Customers'

Over the years frail older people have found themselves cast first as patients needing medical and nursing care in nursing homes where they lived and formed close relationships with those around them. They were largely cared for by their communities. A not-for-profit Samaritan ethic dominated. As they struggled for resources, governments responded by funding and regulating. Increasingly, 'patients' became 'residents'. Commercial providers entered the market but chafed at the restrictions and accountability, which limited their profitability.

They successfully lobbied for the sector to be turned into a free market in 1997. They welcomed claims from the USA that residents were not sick, but just old and did not need skilled care. They needed little more than basic care, which was provided by poorly trained nurse aids and a diminishing number of nurses. The community were increasingly marginalised and "hollowed out" as aged care was managed from above.

Most recently, residents have become 'consumers' (or customers) who, in theory but not in reality, are able to pick and choose from a range of (increasingly) commercial providers. 'Choice', 'consumers' and 'customers' are the new currency where aged-care services are increasingly exposed to the market economy^{22 23 24}. These changes have everything to do with changes in political and community ideology and little to do with the aged themselves although they have suffered the consequences.

²² The aged care gravy train (The Age, Jan 2016): <http://www.theage.com.au/comment/the-aged-care-gravy-train-20160108-gm1y33.html>

²³ Our elderly need homes, not warehousing (The Age, Jan 2016): <http://www.theage.com.au/comment/our-elderly-need-homes--not-warehousing-20160110-gm2uoo.html>

The aged remain frail, confused, vulnerable, and in need of support and the social interaction that gives their lives meaning and relevance - something each ideology offering solutions conveniently ignores.

‘Choice’ implies that there is ample information to be able to make an informed decision in aged care. It has little relevance or meaning when the information needed to make the most important choice - who is going to care for you and help you to die without suffering - is not available²⁵.

Related links:

- (2015) Baldwin, R., et al., **Residential Aged Care Policy in Australia – Are We Learning from Evidence?** Australian Journal of Public Administration. doi: 10.1111/1467-8500.12131 - University of Technology Sydney, <http://onlinelibrary.wiley.com/doi/10.1111/1467-8500.12131/abstract>

J. The importance of Data

There are problems in collecting and accurately evaluating data about the care provided by human services such as health and aged care. It is unacceptable to use that as an excuse for not collecting any data, or for basing claims on crude data that takes no account of variables. When pressured by criticism, government and industry have resorted to self-assessed data (using Quality Indicators) from a sector where strong commercial interests create a context for confirmation bias.

The consequence of this failure to collect data in aged care is that:

- **There is a wide divergence between the views of providers of care and government on the one hand and those at the coal face on the other.** People away from the coalface believe what they want to believe and the “*no evidence that*” is used to support the exaggerated claims to excellence.
- **Every inquiry at least since 1997, has been expected to evaluate the system and make decisions when the only useful data provided is economic. This is data voluntarily supplied by the industry.** Although some inquiries have complained about the lack of data, its absence has not stopped them from confidently making recommendations that support the providers but do not help their frail customers. Recommendations have been made in the dark and in the interests of the well-organized providers whose credible sounding assertions go unchallenged.
- The current commission inquiring into human services will face the same problem and will be expected to make recommendations without the basic information needed to do so.

In regard to data collection:

Other countries do collect data and when properly assessed, important conclusions can be drawn.

1. In spite of overwhelming international data showing the relationship between staffing and failures in care Australia has consistently refused to collect and report on the levels and quality of staffing in our facilities. Under growing pressure from advocates we believe they have started doing so, but that information is not publicly available.

²⁴ (2015) Baldwin, R., et al., **Residential Aged Care Policy in Australia – Are We Learning from Evidence?** Australian Journal of Public Administration. doi: 10.1111/1467-8500.12131 University of Technology Sydney, <http://onlinelibrary.wiley.com/doi/10.1111/1467-8500.12131/abstract>

²⁵ **Letter to Minister - No staff for 10.5 hours per day:** <http://www.agedcarecrisis.com/opinion/articles/213-no-staff-for-10-5-hours-per-day>

2. A report by ACSA, the group representing not-for-profits in 2013 commented:

“ ... The available data on performance and sustainability of the sector appears to be based entirely on an assessment of financial metrics. There is no attempt in any of the reports reviewed to balance financial performance, financial viability or system sustainability with quality of care and outcomes for residents, or with community expectations or objectives. These financial estimates appear to make the assumption, but it is not explicitly stated, that all operating RAC (Residential Aged Care) service are of equal and acceptable quality.

There appears to be a significant gap in our knowledge of the relationship between financial performance and of quality and between staffing levels and quality ...”

Source: ACSA Report (2013): *The financial viability and sustainability of the aged care sector*
<http://www.agedcare.org.au/publications/the-financial-viability-and-sustainability-of-the-aged-care-sector/view>

3. Richard Baldwin in his research was unable to find any useful Australian data and was left only with a list of facilities that had been sanctioned. He found that *“The Australian Aged Care Quality Agency does not publish any data that would assist the assessment of the relationship between structural and regulatory reforms and the provision of quality services”*²⁶.
4. In a letter dated 7 Sep 2012, Glen Rees, the CEO of Alzheimer’s Australia wrote “- - - it is not sensible to look at pricing and costs without also addressing issues of how funding relates to quality of care”. Carol Bennett, the new CEO of Alzheimer’s Australia appointed in 2015 has consistently complained about the lack of useful data in aged care²⁷.
5. Assessments of standards of care in Australia are by a process of accreditation, the body responsible is currently called the “Quality Agency”. There are major structural problems:
 - a. The cycle of “continuous improvement” on which its activities are based comes from an understanding of human behaviour. This has once again been removed from its context by separating it from the data on which it operates. The data that should underpin this cycle has not been collected and is not reported publicly.
 - b. It is a useful process when working with motivated providers, eager to improve services and this was what it was designed to do – not to regulate. In its submission to the Productivity Commission in 2010 the Agency acknowledged its difficulty and asked to be relieved of its role as regulator²⁸. This did not happen.
 - c. It has failed repeatedly when used as a regulator, particularly in the high-pressure content of vulnerable markets. It failed in the US examples I have given and in aged care in Australia. Only Australia uses accreditation as the only regulator and only data source.
 - d. The data it assesses and reports is collected only after months of preparation by the facilities, at infrequent 3 to 5 yearly intervals and the system is easily gamed.
 - e. The data collected and reported does not represent what is happening on a day-to-day basis and is of little value to anyone except the industry and government. They use it when they need to counter criticisms and to claim robust regulation when selling Australian service industries in the global aged care marketplace.

²⁶ Australian Ageing Agenda: Newsletter (May-Jun 2015 p20) - Unfolding changes warrant greater scrutiny by Richard Baldwin, UTS

²⁷ Better data needed to compare aged care ABC Radio pm 24 Nov 2015 <http://www.abc.net.au/pm/content/2015/s4358621.htm>

²⁸ Quoted in Community Affairs References Committee - 14/02/2014 - Care and management of younger and older Australians living with dementia and behavioural and psychiatric symptoms of dementia - Ms Saltarelli - <http://bit.ly/1iyT2OH>

Deceptive data reporting

The way these flawed accreditation figures are reported publicly is also deceptive in that:

1. They do not reveal the numbers of facilities that fail each year. Even after the minister was challenged and forced to admit this in 2008, they continued to report data in this way.
2. False claims have been made on improperly analysed raw data²⁹, which is fallacious.
 - The Agency's accreditation reports show that rural and remote facilities perform more poorly than metropolitan ones. The same figures show that for-profit and not-for-profit perform equally well. As for-profit providers do not operate in rural areas this by itself shows that not-for-profit providers must be performing several times better than for-profit ones in comparable localities. This is comparable with international data.
 - Aged Care Crisis confirmed this by performing an analysis of a sample of the agency's data in 2008. In spite of this, the Quality Agency have continued to present their figures to industry conferences in this way and to claim that these two groups perform equally well. When challenged again in 2015 and asked to retract their claim³⁰, they simply did not respond.

In regard to future data collection

The government is currently evaluating and exploring ways of providing more useful data:

1. **The use of Quality Indicators:** This data is collected by the nursing homes themselves and is in our view at high risk of confirmation bias. When used as a public measure of standards that customers can use when making decisions strong pressures are introduced and these encourage providers to massage the data. The USA, which has gone down this path, has found that some of the best performers on the quality ratings actually provided the worst care³¹. Aged Care Crisis believes there are better ways of addressing this issue.
2. **Feedback systems:** The government is supporting various forms of digital feedback many operated by commercial operators. It is even planning to offer a version itself. Our examination of what is on offer leads us to the conclusion that the way it is being done is fragmented and open to gaming and fraud. As with much that government does in aged care, good ideas are compromised by the need to structure and organise along the lines dictated by its ideological agenda.

Implications for the commission: What has happened in aged care is a graphic illustration of how confirmation bias can profoundly influence the way data is collected and analysed, not only by commercial enterprises but by government. Belief becomes a highly selective filter that allows only the ideologically acceptable and credible through.

If, as seems likely, aged care data is collected and filtered in this irresponsible way to support the industries that fund political parties, then it is likely that data from other Human Services will be similarly skewed.

Recommendation 8: That in considering its recommendations, the commission should look at what has happened in aged care. We urge the commission to carefully examine the reliability, objectivity and transparency of data collection in each sector. It is essential that failures be detected and that Australia does not replicate the serious problems created in sectors like aged care in other human services.

²⁹ Aged Care Crisis website (2008): Aged Care Report Card <http://www.agedcarecrisis.com/news/research/108-aged-care-report-card>

³⁰ Australian Ageing Agenda (25 Mar 2015): Quality Agency rejects ownership factor on accreditation (Please examine the comments which describes the challenge made and the agency's refusal to respond) <http://www.australianageingagenda.com.au/2015/03/25/quality-agency-rejects-ownership-factor-on-accreditation/>

³¹ New York Times (24 Aug 2014): Medicare Star Ratings Allow Nursing Homes to Game the System http://www.nytimes.com/2014/08/25/business/medicare-star-ratings-allow-nursing-homes-to-game-the-system.html?_r=0

i Related links:

- Aged Care Crisis website (2015): **Policy and Evidence** Aged Care Crisis 2015/16 <http://www.agedcarecrisis.com/solving-aged-care/part-4/policy-and-evidence>
 - **The Future of Aged Care in Australia** Dr Richard Baldwin University of Technology Sydney October 2015 at ACHSM 2015 Annual Congress http://achsm.org.au/Documents/Events/Congress/2015/Presentations/Presentations/Fitzroy/2_Thurs/Concurrent_2_-_Stream_8/2_-_Richard_Baldwin.pdf
 - Australian Ageing Agenda (20 Feb 2015): **Perverse effects of quality indicators raised** <http://www.australianageingagenda.com.au/2015/02/20/perverse-effects-quality-indicators-raised/>
 - Aged Care Crisis website (2016): **Soliciting feedback** (Summary of linked in-depth analysis) <http://www.agedcarecrisis.com/solving-aged-care/part-4/soliciting-feedback#the-community-aged-care-hub>
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K. The relationship between profit and care

US Health care: One of us has seen several studies done by academics in Canada during the late 1990s showing that in several health care services (eg Renal Dialysis) for-profit services had a higher mortality and/or a larger number of complications that not-for-profit.

US aged care: State and federal regulators have oversight of the troubled US aged care system. Data about staffing and failures in care has been collected and made public. Multiple assessments have been made and the overall risks of failure set against staffing levels in order to suggest safe levels and dangerous levels. The average level is well below the safe levels and closer to the dangerous levels. The quality of care and problems in the USA are a consequence.

Studies since 1994 have clearly established the relationships between pressures for profit and both staffing levels and failures in care. These show a clear pattern³².

1. Not-for-profit owned facilities have the most staff and the least number of failures.
2. Market listed for-profit providers have fewer staff and several times more failures in care.
3. When compared with the market listed for-profit companies Private Equity owned facilities have the poorest staffing and the largest number of failures. Both continue to deteriorate the longer the facility is owned by private equity.

This information has been readily available for years. Government has been made aware of them and we believe that a government web site has a link to the Corporate Medicine website as a resource. The early studies are referred to there.

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- ³² (a) St. Louis Post-Dispatch (14 Oct 2002): Woefully inadequate staffing is at the root of patient neglect (recommended staffing levels) <http://www.ccfj.net/NHSTLseries7.html>
- (b) Orlando Sentinel (10 Feb 2006): Still waiting for nursing-home staff increase (dangerous staffing levels) http://articles.orlandosentinel.com/2006-02-10/news/MYWORD10B_1_lawsuit-limits-nursing-home-residents
- (c) Health Services Research Article UCSF: Low Staffing and Poor Quality of Care at Nation's For-Profit Nursing Homes 29 Nov 2011 <https://www.ucsf.edu/news/2011/11/11037/low-staffing-and-poor-quality-care-nations-profit-nursing-homes>
- (d) Harrington C, Olney B, Carrilp H & Kang T Health Services Research Volume 47 Issue q pt1 pages 106-128 Feb 2012 (Private equity) Nurse Staffing and Deficiencies in the Largest For-Profit Nursing Home Chains and Chains Owned by Private Equity Companies <http://onlinelibrary.wiley.com/doi/10.1111/j.1475-6773.2011.01311.x/abstract>
- (e) Centre for Medicare Advocacy 20 Aug 2014 (private equity vs market listed) Nursing Facilities Owned by Private Equity Firms: Fewer Nurses, More Deficiencies <http://www.medicareadvocacy.org/nursing-facilities-owned-by-private-equity-firms-fewer-nurses-more-deficiencies/>

The studies have been countered by an Australian study done in Victorian government owned nursing homes some years ago. But these homes are probably the best staffed in Australia and clearly when enough staff are employed, then it will be skills and not numbers that impact care.

In Australia: Baldwin and colleagues have analysed the facilities sanctioned by government in Australia. Sanctions are imposed when there are significant failures in care and residents are at high risk. They found that for-profit facilities were more than twice as likely to be sanctioned³³. While we do not consider the accreditation data to have much validity it is interesting that our 2008 study of this data was congruent with both Baldwin's study and the international data.

Not-for-profit providers are threatened and are responding by emulating the for-profit sector. Our impression is that we are seeing an increasing number of failures among the not-for-profits. We worry that without a change in the system this trend will increase rapidly until this difference disappears.

Government policy: It is clear that ownership, and particularly the pressure for profit on management is the most important factor impacting on the care of residents. It is therefore worrying that the government is the driving force behind consolidation.

Both governments are supporting the development and dominance of large for-profit, market listed for-profit and private equity corporations. International studies link poorer staffing and care to both. The larger sized facilities with more residents owned by these corporations are more profitable. Studies also show that large facilities are associated with poor care. It is clear that government has been wilfully blind to the data that is available. They are placing ideology and economic considerations above the welfare of citizens.

Government's motivation: Government has entered into trade agreements in services with many countries including China. It views the ageing of the world's population and their need for health and aged care, not as a humanitarian need to be met but as a global commercial opportunity. To capitalise on this global opportunity, government needs large commercially structured competitive companies. Its policies are focussed on economic opportunities and not on the plight of its citizens.

We have grave concerns about the ethics of a policy that leads to poorer care for vulnerable Australian citizens and markets a substandard system of care to countries that are either gullible or also prepared to sacrifice the best interests of citizens.

Relevance: It is clear that the primary interest of the treasurer in the commission and in its recommendations is commercial. He and his colleagues are looking for human services that have commercial potential. They are looking for sectors that can exploit the opportunities created by these trade deals.

Recommendation 9: That the commission carefully consider the international and local data regarding the structure of aged care and the influence that profitability has. Please consider the ethical implications of any recommendations made and the consequences they will have for the vulnerable recipients of services in Australia and other countries.

³³ Australian Ageing Agenda, 8 Oct 2014: For-profit providers more likely to be sanctioned: study <http://www.australianageingagenda.com.au/2014/10/08/for-profit-providers-more-likely-sanctioned/>

Related links:

- Aged Care Crisis website (2015/16): Politics is broken - Globalisation of Health and aged care <http://www.agedcarecrisis.com/solving-aged-care/part-4/politics-is-broken#3-globalisation-of-health-and-aged-care>
 - Inside Aged Care website (2016): Market processes in simple terms - TISA global agreement: Adding fuel to the pressure cooker <https://www.insideagedcare.com/aged-care-analysis/aged-care-marketplace/market-processes-in-simple-terms#tisa-global-agreement-adding-fuel-to-the-pressure-cooker>
 - The Policy Space, 22 Sep 2015: **The Future of Aged Care in Australia: A Call for Evidence Based Policy** by Richard Baldwin (UTS) <http://www.thepolicyspace.com.au/2015/22/55-the-future-of-aged-care-in-australia-a-call-for-evidence-based-policy>
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L. Private Equity

High-risk private equity (PE) ownership has had a large impact on vulnerable sectors and in none has it been greater than in aged care. But the impact is much wider than their own ownership. Private Equity are high risk enterprises that make large profits during good times. Other market-listed corporations have to compete to survive. They adopt similar high-risk strategies and assume greater debt in order to do so.

During good times the prices paid for nursing homes are inflated beyond their real value and this is supported by borrowing. When the market is bad these companies all struggle to service their debt and do so by cutting costs and increasing fees. Their assets lose value. The impact on care, quality of life and survival can be devastating.

Informed investment: Those marketplace players who invest in these projects are fully informed of the risks and when things go bad it is only money they lose. Those who enter nursing homes as residents follow glossy advertisements. They are not warned and given any choice. Even when they select a good nursing home there is a large risk that, in a consolidating marketplace, it will be sold to an aggressive competitor who will recoup the large sum by being more efficient in cutting the cost of care.

The residents are simply the profit generating parcels attached to the sale. They are not consulted and they have no say in what happens. If sold to a company building profits as a prelude to listing, to a listed company seeking to grow, or to a private equity seeking to sell at a profit then it is the care of residents that is pruned to increase efficiency and build profits. This can be devastating for them.

This is the industry that the government is now asking to provide the many choices residents are being offered.

Government was warned: Two submissions to the 2006 senate inquiry by the economics committee into private equity were made by Dr M dela Rama from UTS and one of us (JM Wynne). Both warned of the likely consequences. Both warnings were dismissed in the report.

The USA: Within weeks the *New York Times* published an expose describing the profit generating strategies used by private equity in aged care and the complex structures developed to protect themselves from litigants and from government fines. Since that time similar strategies to shift profits and responsibility across multiple subsidiaries have been adopted by many companies. Litigants and regulators imposing fines struggle to find who is actually responsible for care and when they do the entity has no money. Subsequent studies have documented staffing and care issues.

The UK: Private Equity has wreaked havoc in the United Kingdom where the entire industry is in dire straights. There have been massive bankruptcies and many more are threatened. The residents have been the real victims of this. Two very interesting studies have been done.

Private Equity leaders: The first was a study of attitudes done by interviewing leaders in private equity. This study was very revealing of the high-pressure environment and the way these leaders thought and behaved. There was little thought of social responsibility.

Financialisation: The second was a study of the financialisation of aged care. This was led by private equity and others followed. It revealed just how much risk was taken, how much prices were pushed up and the huge debts needed to sustain this frenzied activity. The market became extremely vulnerable to any minor downturn or any reduction in government subsidies.

Australia: In Australia there are currently two large aged care companies that have been private equity owned. One listed on the share market at the right moment and did very well. It was praised and gained support because of its rapid growth. The second missed the opportunity to float and is still owned by private equity but trapped in a falling market.

A reduction in funding came when government clamped down on the way the sector was “maximising” funding by exploiting weaknesses in the system. This brought the market boom to a halt. It seems the first company had been maximizing by exploiting vulnerabilities in the funding system and its shares plummeted. It has responded by increasing the fees residents’ pay in any way that it can find. One group has lodged a formal complaint with the ACCC about some concerns around this³⁴.

The second company has fired large numbers of nurses. One of its facilities has failed several accreditation standards and many residents are unhappy. The extent to which these businesses have been financialised and are now in trouble as a consequence is not known.

More information: Private equity and its problems are explored on the private equity page linked below. Links to material illustrating all of these issues is on that page. The page asks the question that many in the UK have asked – whether private equity should be allowed to operate in aged care.

Social Darwinism: For many years one of us has argued that a perverse form of social Darwinism operates in vulnerable market sectors. The system selects for the least suitable people and rejects the most suitable. The study of private equity leaders supports this.

Success depends on having a personality that is driving, one eyed, ruthless and persuasive and that justifies rather than reflects or challenges. People who have or readily develop these characteristics flourish, succeed and dominate. They are the least suitable people to operate in these sectors and be responsible for frail and vulnerable people. Here the capacity to reflect and evaluate practices and their consequences is critically important.

The most suitable people are driven by humanitarian motives and they go elsewhere if they are not pushed out. The older linked page in related links explores this issue and links to many examples.

Recommendation 10: That the commission carefully consider the role that private equity and financialisation has played in driving a high risk high yield market in aged care – one in which the main risk is born by the residents. The reviewers in the UK argued for a lower yield stable aged care market one suited to low risk investors. It would be much safer for residents.

Related links:

- Inside Aged Care website (2016): Private Equity (Detailed review with links to all items above)
<https://www.insideagedcare.com/aged-care-analysis/aged-care-marketplace/private-equity>
- Corporate Medicine website (2001-2003): Introduction to Sociopathy (Social Darwinism)
<http://www.bmartin.cc/dissent/documents/health/sociopathy.html>

³⁴ Nursing homes now anti-accommodation bonds: www.cpsa.org.au/aged-care/1519-nursing-home-now-anti-accommodation-bonds

M. The impact on civil society

This is not the place for an in depth exploration of the impact that the restructuring of society and of the political system that has accompanied free market/neoliberal/economic rationalist policies in Australia. A few comments must suffice, These changes have been facilitated by the use of hierarchical management systems.

A changed society: The economic benefits of free markets have not been set against the many adverse consequences for society. Society's focus has shifted towards self-interest and loyalty to interest driven groups. Attention has been directed away from the core societal activities that give expression to community values, norms and ethics.

To maintain the legitimacy of these values and norms, and socialise other citizens in their responsibilities, citizens need to engage in activities that objectify and express these values. This is where ideas of public good and social responsibility are embraced. Humanitarian services have been a core activity for civil society and central to the building and expression of value systems.

The community organisations that developed over many years, including the many not-for-profits, have been the pillars of civil society upholding and institutionalizing the values, norms and ethics of responsibility and involved citizenship. These organisations express the Samaritan traditions on which the care of fellow citizens was built.

Socialisation: Managers and employees of businesses are a part of this community and as they participate they are socialized. They absorb and identify with these values and ethical concepts. They carry them with them when they do business. This is the primary and most important way in which civil society controls and guides the marketplace.

The ascendancy of free markets and strong competitive pressures have destroyed much of this. A few consequences can be listed.

1. The not-for-profits, a core part of civil society, have been forced to adopt market thinking and practices and are socialised by the market adopting its thinking and values. They are conflicted and less readily express the core community values in their actions although they may claim to do so.
2. The not-for-profits lose their close relationship with community and the community loses the institutions that give expression and relevance to their values. This process is accentuated when not-for-profits decide to vacate sectors rather than abandon their values or alternately abandon their values in order to compete. Others adopt market values when they are acquired by more aggressive and commercially successful competitors whether for-profit or not-for profit.
3. We have already referred to the loss to civil society of expertise, human resources and people as a consequence of the requirement that employees give exclusive ownership of their intellectual activities to companies and place loyalty to the company above responsibility of the community. In doing so their loyalty to community values is lost.
4. The privatisation of community facilities and services places them under central corporate control. All of this is taken away from community.

The consequence of all this is a loss of community involvement in its own affairs. This is accompanied by a loss of experience, loss of knowledge, loss of expertise and so the loss of interest and engagement. It has been described as a "hollowing out" of civil society. Citizens disengage from politics and in depth involvement in society with consequences for democracy.

Recommendation 11: We ask the commission to carefully consider what the impact of its recommendations will be on society and the extent to which they might either revitalize civil society or hollow it out further.

Related links:

- Inside Aged Care website (2016): Conflicting cultures
<https://www.insideagedcare.com/aged-care-analysis/cultural-perspectives/conflicting-cultures>
 - Inside Aged Care website (2016): Dilemma for not-for-profits
<https://www.insideagedcare.com/aged-care-analysis/cultural-perspectives/dilemma-for-not-for-profits>
 - Inside Aged Care website (2016): Driving cultural change
<https://www.insideagedcare.com/aged-care-analysis/cultural-perspectives/driving-cultural-change>
 - Aged Care Crisis (2015/16): Politics is broken
<http://www.agedcarecrisis.com/solving-aged-care/part-4/politics-is-broken>
 - Centre for Welfare Reform (2013): Community Sourcing and Social Care: by Chris Yapp and Chris Howells (addressing hollowing out of communities)
<http://www.centreforwelfarereform.org/library/by-date/community-sourcing-and-social-care.html>
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N. Moving into the 21st century

Unknown to most Australians there was a global movement during the first part of the 21st century. Between 2007 and 2013 Australia was a leader in this. It was quietly exploring and experimenting. There was considerable activity. It was a move away from the horrors of the 20th century. It was an attempt to discard the debris the 20th had left behind and build a responsible society and a responsible democracy.

This was the Open government and participatory democracy movement best explained as a partnership between governments and civil society. It was an attempt to rebuild civil society. FOI legislation was passed that increased transparency. A number of expert community groups were formed to work with and advise government. There were experiments in participatory democracy.

This came to a shuddering halt following the 2013 election. Australia went back into the past and the endless hollow rhetoric that continues unabated today

The participatory democracy projects trialled focused on giving citizens real responsibility for making decisions that had real consequences. The comments from those who have participated in Citizens juries show a fulfilling sense of pride, involvement and engagement in the affairs of the community.

Recommendation 12: We ask the commission to carefully examine the 21st century ideas and thinking that is still ongoing. Please consider the direction that the 21st century would or should take if we are to leave the horrors and failures of the 20th century behind. Please consider whether the commission's recommendations will take us back to the 20th or into the 21st?

Related links:

- Aged Care Crisis website (2015/16): Developments in social thought
<http://www.agedcarecrisis.com/solving-aged-care/part-4/developments-in-social-thought>
 - The Conversation (19 Jul 2016): City calls on jury of its citizens to deliberate on Melbourne's future
<https://theconversation.com/city-calls-on-jury-of-its-citizens-to-deliberate-on-melbournes-future-59620>
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O. Solving Aged Care

Flawed responses that don't work: We notice that the chairman of the ACCC³⁵ has been critical of privatisation. Like many who have not really examined and understood why systems fail, he blames poor implementation and regulation. He calls for more effective regulation. But blaming implementation is an example of the tautology referred to by Kuttner when believers cannot accept that what they do is flawed.

Why regulation fails: Regulation has not worked in the USA, the UK or Australia. Trying to regulate activities that are scattered across the country from a central location is not going to be truly effective when there are strong perverse incentives.

Government regulation inevitably develops into a complex set of processes that reduce flexibility and allow people to fall through the cracks. Process driven activities become task focussed and lose their humanitarianism becoming increasingly impersonal.

If a social system has to rely on regulation to contain dysfunction, then it is because the system is flawed. That flaw is the first and not the last thing that should be addressed.

Regulation too often leaves the underlying problems unresolved. They will reappear in some other way. The problem here is an unwillingness to challenge the belief system on which the harmful practices are based and then deal with the cause rather than the result.

In her Boyer lectures "*A Truly Civil Society*" Eva Cox indicated that in a functioning civil society laws should rest lightly and be seldom used. This is because the laws reflect the values that the society has embraced and which citizens support.

In our view, if the system cannot be redesigned to eliminate perverse incentives and the people involved are unable to accept community values and behave responsibly then some other way must be designed.

Looking for something that will work: Aged Care Crisis are pressing for a system that eliminates the perverse incentives, takes control of the processes driving dysfunction, rebuilds values, norms and ethics in the sector and makes social responsible and empathy for those in need the primary motives driving the system.

Aged Care Crisis and its members have been pressing for communities to play a central and controlling role in aged care for several years. We need community structures that empower customers and act as proxy customer for those who are disempowered. While our proposals for change were developed independently, we find that they are closely aligned with the open government and participatory government movement.

Our proposal would ensure the accurate collection of data and its total transparency. It would give citizens in the community an important role and the power to control the market and insist on the services they need. They would be working closely with providers and there would be a channel for their views to be represented centrally.

³⁵ ABC News (26 Jul 2016): ACCC boss says privatisation costing consumers and damaging economic reform
<http://www.abc.net.au/news/2016-07-26/acc-boss-says-privatisation-costing-consumers/7662194>

The principles would be:

1. The dismantling of the complex and cumbersome centrally controlled bureaucracy that has strangled the system and robbed it of its humanity. Instead government would delegate and mentor or work with a local community service, handing responsibility to it as skills and knowledge grew.
2. Interested parties are frequently more resourceful than government when investigating matters that will affect them. Local community structures should play a role in assessing the suitability of potential owners to provide services locally and be represented nationally when assessing new owners that apply to enter the Australian aged care market. This would place civil society at the centre of the process and enable it to function for citizens.
3. The creation of local community structures in which community would have a dominant role and where customers and community would be empowered. Government would mentor and educate. It would progressively delegate or carry out its functions through or in cooperation with the community organization.
4. These groups would work closely with the providers. The excesses of competition would be confronted, perverse incentives removed and increased efficiencies directed to care rather than solely to profit. The empathy of a directly involved community would be harnessed to the project. Employees would be released from their bonds.
5. The effectiveness of the service provided in improving the quality of the lives of customers would become the primary objective of all those involved. Efficiency would be driven by the need to get maximum benefit from available resources.
6. Complaints management would be on site, immediately available and promptly addressed.
7. Oversight would be at the bedside, regular and nonintrusive so not disruptive of services or onerous. The experience of users receiving care and their enjoyment of life would be assessable in an ongoing manner. Attention to failures would be prompt and transparent to those who have been failed.
8. This is not an attempt to abolish markets or profits but to control and direct them so that they embrace the values of the community and become socially responsible. This would turn it into a stable market for steady investors and not the high risk financialised one where fortunes are made and lost by high rollers and adventurers at the expense of residents.

We were interested to see that a submission from a community group to an inquiry in 1998 that was looking at the contracting out of community services pointed out that smaller groups could not marshal the resources needed for competitive tendering. In regard to tendering they indicated:

This does not necessarily result in a better service to consumers. Many smaller organisations are managed by the consumers themselves, such as FRANS, and offer a range of options for consumers on a grass roots level. Competitive tendering would result in the loss of these smaller organisations and remove many choices for consumers".

Source: Quote from *The Family Resource and Network Support Inc.* submission in *What Price Competition? A Report on the Competitive Tendering of Welfare Service*

Delivery http://www.aph.gov.au/parliamentary_Business/Committees/House_of_Representatives_Committees?url=fca/inquire.htm

Recommendation 13: While Aged Care Crisis proposal for a way forward would not work in other sectors, we ask the commission to consider the benefits and see whether some of the ideas could be applied in other sectors. We would welcome support for this approach. We feel that the market and the politicians they support will need persuasion.

i Related links:

- Aged Care Crisis website (2015/16): Solving Aged Care <http://www.agedcarecrisis.com/solving-aged-care>
 - Inside Aged Care website (2016): Aged Care Roadmap (analysis and comparison with the Aged Care Roadmap) <https://www.insideagedcare.com/introduction/aged-care-roadmap>
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P. Cost considerations

The legitimacy of competitive markets rests on their claim to greater efficiency in providing better services more cheaply. If economists have objective evidence of this we are not aware of it.

US Health care: When examined a few years ago the market driven competitive USA had by far the most expensive health system in the world. Although it had some of the most sophisticated hospitals in the world, the evidence collected by the World Health Organisation found that its services to citizens and the health of its citizens was among the worst in the developed world. It was outperformed by socialist Cuba at a fraction the cost. It was the most inefficient system. When the complex structures and maze of businesses that supported all of this competitive activity are considered, it is obvious why this is so.

(Page 2) Over the past few decades, American health care has radically changed. A system that was largely not-for profit has become a field where the profit motive and market forces affect every decision. Publicly held corporations answerable to stockholders decide which doctor you may see, how much medication you can take, whether you can be evaluated by a specialist, whether you qualify for a test, how long you stay in a hospital, how many therapy sessions - physical or psychiatric - you may attend.

Patients wait months for appointments that once could be made in days. Their medical condition is evaluated by clerks with no medical training. Patients who are so sick that they meet the strict criteria for hospitalisation are discharged before they are well, despite the protests of their doctors.

(Page 4) Much of the turmoil is a direct result of a national policy to run health care like a business, a misguided notion promoted by Washington over the last two decades that the free market and for-profit health care would restrain costs and bring high-quality care to all. On both counts, the experiment has failed miserably. In the meantime tens of billions of dollars - money that could have gone into patient care - has been drained from consumers and corporate subscribers and transferred to investors, executives, and others who have a stake in perpetuating this myth.

Source: *Critical Condition: How Health Care in America Became Big Business & Bad Medicine* by Barlett & Steele (Doubleday Nov 2004). This book by award winning journalists dissects the US Health care system

Aged care in Australia: If we turn to aged care in Australia, we see the development of a massive expansion of marketplace support companies. There are consultants and advisory groups of all sorts, legal, marketing and financing that guide providers and provide services to them. Other groups of consultants, lawyers and financial advisers guide prospective customers through the complex maze. The breadth of the speakers talking at various aged care meetings reveals the extent of these corporate activities. Their websites are impressive.

They are all making money and much of that is based on their expertise in helping companies to survive in this high-pressure marketplace. It has nothing to do with care. It is clear that there is a lot of money going this way. Ultimately it all comes out of the money that government and the elderly themselves are pouring into the system. If we view this simply as money that is intended for the provision of care, then it is horribly inefficient – particularly when we look at the sort of care being provided.

Money to support a community service: If we had a more sensible system, one that depended on stable investments rather than large profits and impression management, we would be able to dispense with all of these extra businesses that have nothing to do with care. We could employ far more trained nurses and have the money needed to give the proposed community hubs some permanent staff.

The system would be driven by community involvement many drawn from the families who had been carers or from the large cohort of younger retirees. Many of the contributions made by the community would be voluntary. It would rebuild civil society around aged care.

This might even be cheaper and more efficient. Some who advocate for community driven social services claim that it would be much cheaper.

Recommendation 14: We do not have the skills needed to examine the costs of our proposal but we ask the commission to consider the possibility that a local community centred system to manage aged care might be more efficient when the improved standards of care and quality of life are balanced against costs.

Related links:

- Corporate Medicine website (2004): The Financial institutions in Health Care (more quotes from the book “Critical Condition”) <http://www.bmartin.cc/dissent/documents/health/financiers.html>
- Hilary Cottam: Social services are broken. How we can fix them: TED website video http://www.ted.com/talks/hilary_cottam_social_services_are_broken_how_we_can_fix_them

2. Summary of recommendations

Recommendation 1: We urge the Commission to seek out the real lived experiences of those in the sectors that they are looking at and carefully consider what the consequences of current policies have been and what the consequences of your recommendations will be.

Recommendation 2: That the commission carefully examine the experience of aged care and consider the impact that free market competition and efficiency has had on aged care before making any decision about other human services.

Recommendation 3: That the commission carefully consider the full extent to which free markets and private equity in particular have contributed to the parlous state of aged care in the USA and the UK.

Recommendation 4: That the commission look at the extent to which every vulnerability in the market system has been exploited. Please consider the human costs of this when making any recommendations particularly in government and third party funded systems.

Recommendation 5: That the commission carefully consider the nature of free markets and the nature of ideology when assessing the sector. While the commission may not share the beliefs and patterns of thought of the system's critics, these need to be carefully considered and refuted with evidence and argument before making decisions.

Recommendation 6: We urge the commission to carefully examine the adverse impact that free market processes have had on aged care and the suffering that has resulted. We urge the commission to carefully consider other human services to see what the consequence of applying these concepts in the same uncontrolled way might be on those receiving services.

Recommendation 7: That the Commission should carefully examine the sort of innovations that have been made in the marketplace and what the real world consequences have been. Please balance these against the contributions that the community can make and the benefits of embracing their contributions before accepting the argument that deregulation will allow the market to innovate. Please consider how the introduction of uncontrolled competition, efficiency, choices and contestability will impact the innovative contributions that community might make.

Recommendation 8: That in considering its recommendations, the commission should look at what has happened in aged care. We urge the commission to carefully examine the reliability, objectivity and transparency of data collection in each sector. It is essential that failures be detected and that Australia does not replicate the serious problems created in sectors like aged care in other human services.

Recommendation 9: That the commission carefully consider the international and local data regarding the structure of aged care and the influence that profitability has. Please consider the ethical implications of any recommendations made and the consequences they will have for the vulnerable recipients of services in Australia and other countries.

Recommendation 10: That the commission carefully consider the role that private equity and financialisation has played in driving a high risk high yield market in aged care – one in which the main risk is born by the residents. The reviewers in the UK argued for a lower yield stable aged care market one suited to low risk investors. It would be much safer for residents.

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