

25 May 2011

Ms Patricia Scott
Commissioner
Disability Care and Support Inquiry
Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601



By email: disability-support@pc.gov.au

Dear Ms Scott

SUBMISSION TO THE INQUIRY INTO DISABILITY CARE AND SUPPORT

The Business Council of Australia (BCA) welcomes the opportunity to present its views to the Productivity Commission's inquiry into Australia's disability care and support system, with specific focus on the proposed National Disability Insurance Scheme (NDIS). The BCA is an association of the CEOs of around 100 of Australia's leading corporations with a combined workforce of more than 1.2 million people.

The BCA understands and recognises the need for a cohesive society and that as a nation we will always have an obligation to assist those within the community who are less fortunate. In this regard, the Productivity Commission has effectively highlighted the inadequacy of the current disability support system and outlined a compelling case for the establishment of the NDIS in its draft report.

The BCA supports the establishment of the NDIS. If implemented effectively and accompanied by structural changes to the market for disability care and support, the NDIS will place Australia in a better position to fund an adequate level of disability care and support at a reasonable cost in the longer term.

An adequate level of support, delivered by an effective market, will enhance participation in the workforce and community for people with a disability, their families and carers. It will also take pressure off other services such as healthcare, where costs are already expected to increase substantially in the years ahead.

The BCA offers the following comments on the commission's proposals:

- We support funding the NDIS through the direction of payments from consolidated revenue into a National Disability Insurance Premium Fund, using an agreed formula (Recommendation 12.2). This approach gives the government the flexibility to determine how it will fund services in line with the prevailing fiscal environment and broader tax reform objectives. The scheme is not proposed to commence across Australia until 2015, by which time Australia's fiscal position is forecast to have improved considerably.

- In order to encourage accountability for disability care and support services, the BCA suggests that the commission also recommend that the formula be transparent and simple enough to be understood widely by the community (Recommendation 12.2).
- The BCA does not support a specific levy or additional tax being raised to fund the NDIS (Recommendation 12.2). The NDIS should be funded in part through the redirection of current state and territory funding (\$4.5 billion), disability specific purpose payments (\$904 million) and Commonwealth-funded programs (\$816 million). If the government is unable to fund the remaining \$6.3 billion from existing revenues from 2015, then the government should cut other lower-priority expenditures and poorly performing programs. The task of identifying those savings could be undertaken by the soon-to-be-established Parliamentary Budget Office.
- Increased funding must be accompanied by genuine reform of the way in which disability care and support services are delivered (Recommendation 8.1). This requires a consumer-centred market with an agreed outcome that is focused on people with a disability having the fullest possible levels of social and economic participation, with the underlying operational objectives of the market then geared to meeting this outcome. The commission's recommendations should seek to ensure that the service delivery model for the NDIS:
 - Leverages individualised support models and workforce strategies implemented in jurisdictions such as New South Wales and Victoria to enhance the market for disability services in all states and territories, creating a truly effective national market.
 - Reforms the 'front end' of the services system through strong, individualised assessment and case management to allocate the resources available most efficiently to individual needs.
 - Has a focus on early intervention and preventative care and support wherever possible (Recommendation 11.1). This will enable individuals to reside with their families and participate more fully in education, the community and ultimately in the workforce, while reducing pressure on the scheme to fund more intensive high-cost care like specialist accommodation over the course of the individual's lifecycle.
- The BCA strongly supports disciplined cost control of the scheme. In this regard the BCA supports:
 - Stringent eligibility thresholds that remain consistent with the objective of the scheme, delivering services and support based on individual need and circumstances (Recommendations 7.5 & 7.11).
 - The application of eligibility thresholds and supporting assessment tools being carefully designed and regularly reviewed to ensure that they are not unduly eroded over time (Recommendations 5.3 to 5.5).
 - Independent evaluation of the operation of eligibility thresholds, as well as costs and benefits of the scheme to determine whether the NDIS is realising

benefits over time at an efficient cost. The commission has proposed an independent public inquiry to be held in 2020, into the operation of the NDIS and its effectiveness (Recommendation 17.4). However, the BCA considers that there is a strong case for the commission recommending more regular reporting, possibly on a biennial basis.

- A strong focus on implementing early intervention and preventative care and support that reduces the need for more intensive, high-cost care over the course of the individual's lifecycle, as noted previously.
- A broader focus on government policies that lift productive capacity to drive economic growth. Continued economic growth will be the most effective way of making our country's finances sufficiently robust to provide an adequate social safety net in the future, including for those people with a disability.
- The NDIS must be delivered collaboratively, bringing to bear the significant experience of state governments in delivering disability services packages and in their administration of other no-fault schemes. This should be facilitated through:
 - Adequate representation of states and territories in the structure of the reform taskforce and the oversight of the National Disability Insurance Agency, as recommended by the commission (Recommendations 7.3 and 17.2).
 - The intergovernmental agreement between the Commonwealth, states and territories to introduce an NDIS, recommended by the commission, being augmented by a detailed implementation plan with regular monitoring and reporting to be undertaken by the COAG Reform Council (Recommendation 17.2).
 - Decisions regarding the transition to a fully Commonwealth-funded system being resolved in light of broader state tax reform, rather than through a specific intergovernmental agreement as recommended by the commission (Recommendation 12.3).

The remainder of the submission expands further on our views regarding the need for the NDIS and how it might be most effectively designed and implemented.

The need for change is well established

It has been widely acknowledged through the commission's consultations and the report of the Disability Investment Group in 2009 that the current system is not delivering the standard of care and support for people with a disability that we should expect as a community. Instead, the disability care and support system is characterised by:

- *Underfunding of support services*, which leads to prioritisation and rationing of services, placing undue financial burden on people with a disability and their families.
- *A lack of adequate services* to disabled people and their families, including gaps in regional and remote services and a lack of support at critical stages where people are seeking to gain greater independence. This also includes a lack of services targeted at early intervention.

- *Rigid program funding*, which prevents people with a disability gaining greater control of the mix of services that they can receive and the service providers from whom they receive services, with a resulting lack of person-centred packages to assist them.
- *Fragmentation*, which places a significant burden on people with a disability, their family and carers to navigate disparate programs and multiple agencies and prevents portability of entitlements across state boundaries. There is also an insufficient focus on participation in the paid workforce wherever possible, which results to some extent from fragmentation with broader programs outside of disability such as employment services.

The framework for an effective market

The BCA supports the commission's proposals for addressing the deficiencies of the current system including individualised support packages, better information and quality assurance and strong governance for the disability sector. These proposals are consistent with the approach to reform that the BCA has supported in the health and aged care sectors.

In providing the 'right' framework for an effective market for disability care and support services, the BCA considers that there are five essential elements that must form the foundation of a new scheme:

1. The market needs an agreed outcome

Public service provision can be captured by a range of multiple conflicting objectives related to detailed operational issues, while paying insufficient attention to the overarching outcome upon which the market should be delivering.

As the commission has noted in its draft report, fully meeting all of the community's objectives of a new scheme may not be feasible. However, a consumer-centred market must have an agreed outcome focused on people with a disability having the fullest possible levels of social and economic participation, with the underlying operational objectives of the market then geared to meeting this outcome.

2. The market must provide the right incentives and sufficient flexibility for different parties to deliver the right services at the right price in the right quantity

Consistent with the need for a consumer-centred market, there must be a direct link between the consumer and the service provider. Regardless of the source of funding, the consumer must be in charge of choosing and paying for services, thus making the service provider more accountable and exposing them to competition from other providers.

Service providers must also have sufficient flexibility to deliver the services in accordance with the consumer's preferences at the lowest possible cost. In our view, adopting this approach is the only means of properly meeting the requirements of a diverse population.

Experience from other jurisdictions in reforming disability services makes it clear that fundamentally changing the way in which services are delivered through a market approach focused on incentives and flexibility is critical to the success of reform. The New South Wales Government's 'Stronger Together' package is such an example. It recognises that services must be designed around the individual, with service

providers given sufficient flexibility to be more responsive to people's changing needs. In order to achieve this, the government has directed significant resources to improving the interface between consumers and providers.

In many cases this has resulted in a greater focus on early interventions that prevent the need for higher-cost supports throughout the lifecycle. For example, in the three years to 2008–09, investment in community-based support increased from 31 per cent to 36 per cent of disability funding.¹ At the same time investment in high-cost solutions such as supported accommodation decreased from 69 per cent to 64 per cent of disability funding.²

Increasing funding in the absence of market reforms could simply lead to a continued increase in the proportion of funding going into high-cost services, thereby reducing fiscal sustainability. On the other hand, increased funding in tandem with a market-based approach that better delivers on individual needs will actually shift the cost base away from high-cost services and put the scheme on a more secure fiscal path.

3. The market needs a payer

When provided in tandem with a market-based service delivery approach, a stable funding source will give people with a disability greater certainty about getting the support they need. If there is a clear payer with sufficient capacity to administer funds in an efficient manner, then both public and private service providers will be able to make long-term investment and workforce planning decisions to meet demand.

4. The market needs an interconnected safety net

As the commission's report notes, people with a disability and their carers often experience low levels of income, educational attainment, employment, superannuation, health and wellbeing.

If people are to gain greater control over their lives and improve their position in these areas then they must have greater certainty that a reasonable minimum level of support exists to assist them in realising their potential. If this is to occur, this support must also be linked seamlessly to other areas of government support including education, training and employment services and support.

5. The market needs an advocate to ensure quality of services, consumer-centredness and effective navigation of service options

While mature competitive markets will have significant consumer sovereignty, the highly regulated and relatively underdeveloped market for disability care and support requires a dedicated body to build greater engagement and empowerment for people with a disability and their carers at an individual level. This should increase the level and useability of information for consumers in the market.

Measuring and publicly reporting on the performance of different providers and the effectiveness of the market should also provide incentives for all parties.

¹ NSW ADHC Annual Reports.

² *ibid.*

Benefits of an NDIS

While developing and implementing a market with these elements represents a challenging reform, the benefits to the community of getting it right are substantial.

Greater independence and quality of life

As evidenced by the commission's consultations, a more effective support scheme should enhance people's wellbeing both from increased availability and suitability of services as well as reduced inconvenience from navigating a complex system.

Improved workforce participation

As the PricewaterhouseCoopers report on the NDIS prepared for the Disability Investment Group suggested, a more evolved management and support model for people with a disability should result in a narrower gap in workforce participation between those with and without a disability.³ There are significant opportunities to improve these outcomes given that:

- Australia's workforce participation rates for people with a disability (54 per cent) compare with a workforce participation rate of 83 per cent amongst the non-disabled population.⁴
- The tiered services to be provided by the NDIS will mean that all people affected by a disability (not just those insured under the scheme) will be able to better navigate care and support options. This may be particularly beneficial for the over 45 per cent⁵ of people with a disability not in the workforce who are either seeking employment – or are able to work – getting better access to care and support that would facilitate workforce participation.

The NDIS should also boost workforce participation for those people who provide informal care, given that around 38 per cent⁶ of primary carers who leave work to take on a caring role do so because alternative care and support is not adequate or too expensive.

Benefits of early intervention

While the costs of delay in accessing services are high for all people with a disability, they are particularly significant for those who would benefit from cost-effective early therapeutic interventions. Such interventions would improve their level of functioning or limit the severity of their condition over the longer term.

Reduced long-run cost of disability support

The longer that a significant gap between demand for services and the supply of those services persists, the more that costs will escalate. By taking steps now to improve market capability, the costs of delivering a reasonable level of disability care and support in the long run should be lower.

Cost offsets in other sectors

As the commission notes in its draft report, "disability exacerbates disadvantage" including in health and wellbeing. More timely and effective support for people with a

³ PricewaterhouseCoopers, *Disability Investment Group: National Disability Insurance Scheme Final Report*, 2009.

⁴ ABS, *Disability, Australia*, Catalogue No. 4446.0, 2009.

⁵ *ibid.*

⁶ *ibid.*

disability and their carers should improve health and wellbeing, taking pressure off other community services like healthcare and mental health.

Funding the NDIS

As noted previously, the BCA recognises the need for stable funding to create certainty of access to appropriate support for people with a disability and to provide important signals for investment to service providers. If the NDIS is to be fiscally sustainable over time, then governments must adopt a multifaceted strategy.

The commission has highlighted the need to allocate substantial additional resources to the disability sector and has suggested that this could be funded through a combination of cuts in existing, lower-priority expenditure and more taxes. In order to balance the need for certainty of funding with a level of fiscal flexibility, it is the commission's preference that the Commonwealth Government direct payments from consolidated revenue into a National Disability Insurance Premium Fund, using an agreed formula.

In order to drive greater accountability, the formula should be transparent and simple enough to be understood widely by the community. The BCA notes that the Commonwealth Government is forecasting a return to fiscal surplus before the scheme's proposed universal rollout in 2015. The commission's preferred funding approach gives the government the flexibility to determine how it will fund services in line with the prevailing fiscal environment and broader tax reform objectives.

Balancing long-term fiscal sustainability with providing an adequate social safety net will place increasing pressure on governments to prioritise their expenditures carefully. The NDIS should be funded in part through the redirection of current state and territory funding (\$4.5 billion), disability specific purpose payments (\$904 million) and Commonwealth-funded programs (\$816 million). If the government is unable to fund the remaining \$6.3 billion from existing revenues, then it should find savings by cutting other lower-priority expenditures and poorly performing programs.

As the commission notes, if the government were starting with a 'blank slate', then there would be strong reasons for disability services being a high priority for funding. This is particularly relevant given the current focus on boosting the workforce participation of groups who are underrepresented in the workforce and the possible benefits for participation outlined previously.

The BCA has proposed that a Commission of Budget Integrity be established to provide greater external scrutiny on existing spending programs with a view to a greater focus on value for money. This body or a body like it such as the Parliamentary Budget Office could play a prominent role in finding savings to help fund the NDIS, if necessary.

The BCA does not support a specific levy or additional tax being raised to fund the NDIS. If the government does propose to raise additional tax revenue, then the BCA would assess any proposals against its tax principles. The most critical issue would be whether the new tax or additional tax is consistent with a reduced reliance on taxes on capital and income and a greater reliance on broad-based taxes on consumption. The commission's draft report has highlighted the relative inefficiency of taxes on capital and income to fund the NDIS.

Over the longer term, the fiscal sustainability of the NDIS will be dependent on continued economic growth as well as disciplined cost control. Ongoing economic growth will ensure that the country's finances are sufficiently robust to be able to pay for the provision of appropriate services to those deserving of assistance, such as recipients of the NDIS. Increased wealth should lead to increased tax revenues and represent less of a call on other lower priority areas of government support across the community. Economic growth will be best supported by long-term structural reforms, such as those to the tax system.

As noted by some state governments with significant experience in administering no-fault schemes, even slight deviations in actual claims from expected levels can threaten long-term fiscal sustainability. This experience highlights the need for:

- eligibility thresholds to remain consistent with the objective of the scheme and not be unnecessarily eroded over time
- timely monitoring and reporting of claims experience and trends to identify and address systemic issues at an early stage
- a market that delivers efficiently priced services.

In assessing an individual's eligibility for services under the scheme, the BCA agrees with the commission's view that there will be a challenge in striking the right balance between being too tough or too generous. Being too tough could undermine the ability of the scheme to deliver on its objectives, while being too generous could undermine the fiscal sustainability of the scheme, thereby jeopardising the scheme's capacity to deliver on its objectives over the longer term.

Eligibility thresholds and supporting assessment tools must be carefully designed and regularly reviewed to ensure that they are not unnecessarily eroded over time. In particular, the BCA supports the commission's proposals in the following areas:

- Limiting the capacity to widen eligibility thresholds and entitlements in legislation.
- Assessment tools used under the NDIS to determine eligibility for a package of services will need to be customised and fit for purpose, rather than simply being drawn from other sectors.
- Without unduly increasing the amount of time that assessments take to process, the National Disability Insurance Agency (NDIA) should have a central role in evaluating assessments against benchmarks and detecting and adjusting inappropriate assessments prior to finalising individualised packages.
- Assessors should not have a longstanding connection to the person being assessed, and their performance should be continually monitored and assessed to ensure comparability of outcomes and to avoid 'sympathetic bracket creep'.
- The NDIS should periodically reassess people's need for funded support, with a focus on key transition points in their lives.

In order to assess whether eligibility thresholds are operating effectively and the NDIS is realising benefits over time at an efficient cost, the BCA suggests regular independent evaluation of the costs and benefits of the scheme. The commission has proposed an independent public inquiry to be held in 2020, into the operation of

the NDIS and its effectiveness. However, the BCA considers that there is a strong case for ongoing independent reporting, possibly on a biennial basis.

Ongoing independent reporting will put in place strong accountability and transparency mechanisms from the outset of the scheme. This should provide a benchmark for ongoing evaluation of the government's largest programs and will be particularly important in coming decades when an ageing population will be placing increasing pressure on government programs. Promptly identifying and addressing areas of the scheme where the full benefits are not being realised or where costs are unnecessarily high will promote fiscal sustainability and give confidence that value for money is being achieved under the NDIS.

A national scheme delivered collaboratively

The commission has highlighted the difficulties of a major reform being undertaken within a system that has multiple jurisdictions with established systems. Implementing an effective NDIS will be a significant test of collaborative federalism with the need for a seamless national scheme, which can only be delivered applying the collective expertise of governments across Australia.

There is a clear case for pooling of risk, having a system that is well-funded by the dominant collector of tax revenues and has seamless portability across jurisdictions. This suggests that the Commonwealth will have an important coordinating role to play. The structure of the reform taskforce and oversight of the NDIA should bring to bear the significant experience of state governments in delivering and reforming these services and in their administration of other no-fault insurance schemes.

As the commission's report notes, state governments will continue to provide some services and in many cases will be a provider of last resort, meaning that ongoing goodwill and sharing of expertise will be critical in delivering the best service delivery outcomes.

The introduction of the NDIS is a reform of significant scope and is central to many of the objectives of the existing National Disability Agreement, thereby warranting a detailed agreement and regular independent reporting of progress.

In progressing these reforms through the auspices of the Council of Australian Governments (COAG) in the most rigorous manner possible, the intergovernmental agreement proposed by the commission should be supported by a detailed implementation plan with monitoring and reporting by the COAG Reform Council.

The BCA suggests that decisions regarding how state governments will offset the transition to a fully Commonwealth-funded system be resolved in light of broader state tax reform. In addition, it will be important to ensure that if state governments do continue to invest in state-based disability programs in some capacity once the scheme has commenced, that these programs are consistent with the individualised support model and objectives of the national scheme.

Lifting the capacity of the sector

The Productivity Commission has rightly observed that the capacity of the sector to deliver on the services envisaged under the NDIS could be tested and has therefore recommended a phased implementation, particularly to avoid 'overheating the labour market'.

The BCA supports the commission's recommended approach and suggests that the NDIA and service providers build on existing state government workforce strategies, including boosting opportunities for training and ensuring that there are not undue regulatory barriers to entering the disability support workforce.

Moving to a disability support system based more closely on market-based principles has the potential to make the provision of these services more attractive to for-profit providers as has been observed in jurisdictions such as Victoria. The increased competition provided by the entry of such providers has the potential to boost incentives across the sector for increased productivity and quality of service, including through technological and managerial innovation.

The commission has proposed establishing an innovation fund that providers would use for trialling novel approaches to disability services. While this proposal has merit, it should not be a substitute for sufficiently flexible ongoing funding and regulatory arrangements that incentivise productivity and innovation in day-to-day service delivery.

The most significant productivity improvements are often achieved through cumulative improvements in the service delivery system over time rather than one-off step changes. Similar to sectors such as health and ageing, the incentives provided by more flexible funding and competition will play an important part in lifting the capacity of the sector.

The implementation of a quality framework will also be important in boosting the capacity of the sector, although this must be administered in a balanced fashion so as not to deter market entry by efficient and effective service providers.

In addition, there must be competitive neutrality across the sector with for-profit, not-for-profit and government service providers not gaining advantage over competitors solely by virtue of the nature of their ownership. While there are risks to competitive neutrality in the disability sector, these can be effectively managed through the monitoring and oversight of the NDIA as the capacity of the market for NDIS services develops.

I look forward to the commission's final report and the critically important contribution that it will make in forging an effective path for reform of disability care and support.

Yours sincerely

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