



Professor Mike Woods
Commissioner
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

Dear Professor Woods

Re: Independent Review of Job Network

I am pleased to provide you with Jobs Australia's submission in response to the Commission's Draft Report on the Independent Review of the Job Network.

I note that we have greatly appreciated the opportunity to work with you and your colleagues during the course of the Review.

We believe that the Commission's Draft Report contains many useful and pertinent insights into the management, administration and operations of the Job Network, as well as many positive recommendations on ways of improving and refining it.

We look forward to the Commission's final Report.

Regards

A handwritten signature in black ink, appearing to read 'D. Thompson', with a stylized flourish at the end.

David Thompson
CEO
23 May 2002



Jobs Australia Submission Independent Review of Job Network Draft Report

Jobs Australia welcomes the Commission's Inquiry into the Job Network. The Commission's Draft Report provides the government, employment service providers, researchers and interested unemployed people with a much needed, comprehensively investigated, and clearly written account of the system. The Commission's status as a non-stakeholder in the Job Network and the analytical rigour evident in the report gives credibility to its recommendations. In some instances we do not agree with the Commission's recommendations, but we welcome the opportunity for robust debate about the directions of the Job Network.

To some extent the Commission's Draft Report and recommendations resulting from the inquiry into the Job Network have been overtaken by government announcements about Job Network changes in the May Budget. This submission incorporates comments about proposed changes to the Job Network where these are relevant to the Commission's recommendations.

Background

In 'Reforming Employment Assistance: Helping Australians into Real Jobs' (1996) the Government outlined its new framework for the delivery of employment assistance.

The primary objective of the reforms is to ensure that labour market assistance has a clear focus on real job outcomes and genuinely makes a difference to those assisted...

As the new arrangements are put into place unemployed people can expect to receive:

- **better quality of public services.** *The new agency [Centrelink] will offer more integrated services to clients at the highest possible standards of quality; no longer will it be necessary for unemployed people to move between separate CES and DSS offices to receive closely related and even overlapping services.*
- **more flexible and customised assistance in their search for work.** *For those receiving intensive assistance, in particular, assistance will be far better tailored to their individual needs and circumstances; no longer will clients be referred to compulsory training courses of little relevance or benefit to their vocational needs.*
- **ultimately and most significantly, better and more sustainable labour market outcomes,** *underwritten by a more competitive, flexible, and incentive-driven approach to the delivery of labour market assistance.*

In summary, the Job Network was to offer jobseekers more choice from a greater number and range of providers. The assistance they would receive was to be more integrated, more flexible, and would ensure better and more sustainable labour market outcomes. The new framework was to be '*client-focused, not program-driven*'. The then Minister for Employment Education and Training, Dr David Kemp, spoke of putting the jobseeker in 'the driver's seat' of the employment assistance experience.

After five years the Job Network can no longer be described as a new experiment in the creation of a competitive market for employment services delivery. The system has bedded down and stakeholders' expectations of market-driven features of the Job Network have moderated.

As the Commission has observed in its Draft Report, the notion that providers would be rewarded with more business by customers 'voting with their feet' has been subdued by low rates of people choosing a provider and relatively reliable flows of referrals to providers' caseload capacity, whatever their performance in terms of outcomes. A fair weighting of the fees paid on commencement for IA clients has reduced providers' risk of becoming unviable and going out of business within the period of a contract. The potential for immense diversity of provider approaches to getting people jobs has been tempered on one hand by floor prices in Intensive Assistance, 'illustrative' prices for Job Search Training and Job Matching published by a then-DEETYA, and on the other hand by providers' understandable intention to stay in the running for Job Network business by bidding at the mid-point of the quality-price trade-off.

Not so much a market as...

The Job Network is not so much a market-driven system as it is a set of competitively tendered price-moderated services delivered in an environment subject to a large number of policy requirements and inter-agency constraints. As the Productivity Commission has concluded, in many aspects the Job Network does not operate like a market at all. In the classical market of abstract economics, a consumer and a business strike a bargain over what the consumer will buy and what she will pay for it. In the Job Network market, the buyer is not the consumer. The consumer does not necessarily want what has been bought for him and does not necessarily know he wants it. Neither does he know how much it cost and what value he should expect to get from it.

In a classical market the consumer may choose not to buy a product at all and can reasonably expect not to suffer any consequences from walking away from a business offer. In the Job Network market, the consumer who declines the product can lose his income, sometimes all of it. This is the incentive and means to persuade him that the product offered will really improve his economic prospects.

In a classical market the business not achieving success with its product might review and change its price or its product, market to a different audience, shift to a higher-cost higher quality product or to a low-cost high-volume product. In the Job Network market such changes are not possible over the life of a contract.

These substantial departures from the conventional operations of markets must be understood if we are to appreciate the real constraints as well as the potential opportunities for the Job Network to offer genuine assistance to unemployed people. By assistance we mean first employment outcomes, which are the best and most concrete means of reducing people's dependence on unemployment benefits and establishing a sustainable and positive economic future. On this point we agree with the government and the Commission.

But failure to secure a job outcome does not necessarily mean a failure of service or a failure of effort on the part of the jobseeker. Acknowledging that for every job vacancy in Australia there are an average 7.5 applicants, with a figure much greater than that in rural and regional areas, we must

ask whether employment outcomes represent the only form of genuine assistance available¹. For the other 8 applicants required by government policy to experience 6 to 10 employer rejections a fortnight, Job Network providers have a role in developing and supporting enterprising ways of looking for jobs and longer term strategies to get back into work. The Job Network is the government's message to unemployed people that they will be treated – as citizens – with respect and dignity, that they will be supported through difficult times and offered hope.²

Employment outcomes and performance

In its report, the Commission observes that a risk of using key performance indicators as the basis of payments and of contract renewal is that indicators may only capture some dimensions of the desired outcomes, thereby biasing the actions of the contracted agency. The Commission finds many possible manifestations of this in the Job Network. While we may enter a debate about the extent to which parking, creaming and the construction of short-term, poor quality outcomes occur, we agree with the Commission that the system does not encourage investment in people who are unlikely to generate an outcome for providers.

The Commission considers a few possibilities in relation to this problem.³ One is to formally recognise 'social integration and social capital' as an output in its own right, though it notes that to formally incorporate such outputs into payments might be difficult. Another is for DEWR to increase quality assurance or other quality assessment into performance measures, though this increases the risk of micro-management. A further possibility is to re-refer jobseekers unlikely to achieve a job outcome to other programs. We will discuss each of these.

The Commission notes that re-referral to other programs may in effect operate as another opportunity to 'cream' clients but suggests how to manage this and argues that in any case re-referral would reduce the waste of resources represented by parking such clients. We agree with the Commission that the Australians Working Together measures that provide for a period of assessment and re-referral (without the current disincentive of providers having to pay Centrelink for reassessment) will go some way towards better targeting of Job Network to those more likely to benefit. However even substantial re-referrals will still not reduce the numbers of those in Intensive Assistance ('customised assistance' in Job Network 3) to numbers with a good chance of securing an employment outcome. No amount of targeting can have an impact on the available supply of jobs.

The Commission also suggests that DEWR could increase its quality monitoring of the Job Network but we agree that the resultant risk of micromanagement is high, particularly in view of the difficulty of objectively and reliably determining what 'the spirit' of the Job Network contract is. It is useful to note in this context that DEWR's understandable difficulties in pinning down the spirit of the contract arose precisely because of provider practices that pursued outcomes that were technically legal but ethically questionable.⁴

¹ Australian Bureau of Statistics February 2002 data: 652,500 unemployed and 87,500 job vacancies.

² The most healthy, effective societies around the world, both rich and poor, are those that are the best educated and most egalitarian - societies that distribute reasons to live. Janet McCalman, *The Age*, 17 May, 2002.

³ 3.14-3.15 Independent Review of Job Network Draft Report, Productivity Commission.

⁴ Report of Enquiry Arising from Senate Estimates Hearings on 4-5 June 2001 into Matters Concerning Job Network, DEWR, July 2001.

This case in point draws attention to the need to identify, record, and give commercial value to other kinds of outcomes achieved through Job Network intervention. The challenge acknowledged by the Commission, but which we believe should be met, is how to measure those other outputs.

We return to the Commission's acknowledgement that 'social integration and social capital' might be recognised as an output in its own right. We agree that social integration and the development of social capital *are* a legitimate benefit resulting from the application of Job Network resources, however difficult to measure these might be. We will consider the value of these intangibles by asking what 'quality' means and how it is measured.

Employment outcomes and quality

DEWR views employment outcomes as the primary indicator of the quality of service being offered in the Job Network:

*Arguably, high quality service should translate to high levels of outcomes and therefore the prime measure of service quality in Job Network should be job outcomes...*⁵

As DEWR has indicated by using the qualifier 'arguably', it does not logically follow that employment outcomes *are* an indicator of quality. In the case of Intensive Assistance, can we assume that the 41.9% of IA participants nationally who achieved outcomes received a quality service?⁶ We may decide not to make that assumption in the case of jobseekers who find that their employer ends their job when the 13 week wage subsidy expires. In any case, who decides? The provider, who believes that even this short placement will 'break the cycle' of unemployment and increase the chances of the jobseeker getting further jobs? DEWR, for whom this is contractually acceptable? The jobseeker, who would have preferred an ongoing employment placement and who has used up his or her intensive employment assistance following placement?

For the people for whom no outcome is achieved, a 'quality by results' indicator is even less able to capture information about how the service works. What deduction can be made about the quality of service provided to the 58.1% of IA clients who do not get an outcome? Could the service have been excellent, the client satisfied, and progress made, even if no employment or training outcome follows? On the other hand, if providers reserve their most resource-intensive forms of assistance for clients that represent greater outcome prospects, what consequences are there for the quality of service available to the others? What differences are there *between* providers, and how can we know?

Although the Government *pays* providers according to outcomes achieved (a principle accepted by Jobs Australia) what it pays for is not the only thing it gets.

An additional outcome measure

For the reasons given above, we believe DEWR should investigate and test ways to measure concrete gains made with jobseekers as a result of their contact with providers. Such measures could include:

- soft skill, or employability skill, development;⁷

⁵ DEWR Productivity Commission submission 2002, p. 38

⁶ Job Network Stage 2 Evaluation Report 2001, p. 44

⁷ Employability Skills for the Future, Department of Education Science and Training, March 2002 reports on research project undertaken by the Australian Chamber of Commerce and Industry and the Business Council

- change in attitude and motivation to jobsearch;
- customer satisfaction with the service provided in terms of, for example:
 - the range of job search strategies identified and actioned;
 - the quality of information provided to the jobseeker;
 - the frequency of contact made;
 - the appropriateness and expertise of personnel; and
 - awareness of Job Network and other agency support available.

This recognition of jobseeker feedback, expressed as a legitimate and valued element of outcomes achieved by providers, would serve as a vital and needed bridge between three unchanging elements of the Job Network: the government's mutual obligation policy, assistance to help people find work, and the limited availability of jobs. Giving jobseekers clear information about what they can expect from their Job Network provider and recording and reporting on whether these expectations are met would be itself a means of positively and constructively engaging the users of the system. It would clearly demonstrate the government's offer of assistance, its side of the mutual obligation bargain. In this context, we support jobseekers' ability to make an informed choice of provider and, with some provisos, to change providers.

The interests of the three key stakeholders in the Job Network equation would also be well served by the inclusion of customer-rated non-job outcomes as a performance indicator. Jobseekers would be able to make an active contribution to service quality monitoring and provider accountability⁸, providers would have another measure of the impact of their efforts, and DEWR would more comprehensively be able to identify and measure what its investment has achieved.

We do not underestimate the difficulties involved in developing outcome measures based on jobseeker benefits achieved that can be attributed to providers, nor of arriving at a reasonable weighting for this outcome type in summarising performance and provider ratings. We believe, however, that it is very important to capture the experience and benefits of Job Network participation for the nearly 60 per cent of the people who currently use Intensive Assistance services (and we can expect a similar proportion of the people who will receive 'customised assistance' from July 2003)⁹. Job seekers are the vital stakeholders in the system and the reason for its existence. Their views should be central to the development, monitoring and ongoing refinement of the services that are meant to assist them.

of Australia to provide DEST with a detailed understanding of the skills needs of industry. Along with personal attributes such as loyalty, commitment, honesty and enthusiasm, the key desirable skills identified by employers (also known as 'soft skills') are the skills of communication, team work, problem-solving, initiative and enterprise, planning and organising, self-management, learning and technology skills.

⁸ In Job Network 2, according to DEWR:

...the Department sought to increase the accountability of or providers (through a Declaration of Intent and Intensive Assistance Support Plan) in order to hold providers to their tender undertakings. The Department believes that there is room for improvement in the 'intensity' and individuality of assistance provided under Intensive Assistance and will continue to work with the industry and provide advice to government to improve performance in this regard. DEWR submission to the Independent Review of the Job Network, p. 62.

⁹ 41.9% of IA participants achieve outcomes. Job Network Stage 2 Evaluation Report, 2001, p.44

Supporting consumer sovereignty and choice

The Job Network has rightly emphasised the importance of provider diversity and flexibility of approach and style. Consistent with this is the important principle of choice for Job Network clients. In a competitive market this choice should be informed by clear, effective and readily available consumer information about providers, their performance, and customer satisfaction ratings.

Hundreds of thousands of jobseekers encounter this complex system, a number vastly greater than the combined force of the DEWR, Centrelink and Job Network personnel who manage it. While the government and Job Network agencies can collect the data that informs their own part in the operation of the system, jobseekers must rely on information that is produced on their behalf by these different stakeholders.

The Commission has recognised at points in its report and Jobs Australia is well aware that the different business priorities, operating constraints and systems requirements of different agencies can have consequences that are not in the best interests of jobseekers. There is a strong case for establishing an independent authority to operate as a consumer advisor and advocate for people referred to the Job Network. We believe that such a body could perform a series of complementary roles in informing jobseekers and representing their interests and perspectives on the Job Network by:

- producing effective information about jobseeker rights and responsibilities in the Job Network;
- providing jobseekers with information and advice about strategies to achieve informed customer choice of Job Network provider;
- advising DEWR about customer satisfaction measures;
- monitoring the relationship between provider services and activity reporting;
- providing information about consumer privacy issues; and ,
- operating as an independent mechanism for handling customer complaints. The Commonwealth Ombudsman can only investigate DEWR's handling of complaints, cannot investigate complaints made about a particular Job Network provider.

An independent authority of this nature would have greater credibility with jobseekers and in that role would be in a better position to inform and advise them of government mutual obligation requirements and the options available in the system. At the same time, the authority should be able to collect information about jobseeker experiences in understanding and navigating the system, and use this to provide policy advice to DEWR and Centrelink.

Profit or surplus

Job Network providers face an uncertain financial future. Payments based on outcome fees are hard to achieve and cannot be assumed, fixed costs are high relative to variable costs, and flows of client referrals are not guaranteed. Two full Job Network tenders have created winners and losers among Job Network providers. There have been sudden expansions of business for some, closures and redundancies for others. One manager has described as 'the see-saw effect' his own situation where as small provider he achieved high performance in a first contract, was on that basis awarded a large second contract, expanded suddenly, could not meet performance targets, and is likely now to shrink in the third contract in favour of a different provider that may require sudden expansion to cope with the business it has won from him. The third tender rollover of 60 per cent of the business based largely on providers' star ratings will give some - but not all - providers a little more certainty about the dimensions of their business in Job Network 3.

These circumstances tend to make financial conservatives of managers in both the private and the not for profit sectors. While not for profit organisations do not distribute profits to shareholders in our experience they are no more inclined or indeed able to run Job Network services at a loss than are for-profit providers. Whatever the mission and intentions of various organisations in the Job Network, the financial conservatism arising from uncertainty about future income and operations can result in the convergence of providers to similar models of business planning and therefore service provision.

Even providers who decide not to pursue income-focused Job Network practices because they are unwilling to compromise on the best deal for their clients cannot afford to ignore the effect on their own market position of those who do pursue strategies to maximise outcomes for the lowest possible investment in clients' future long term employment prospects. In a competitive environment, *all providers* are forced to consider the opportunity cost of eschewing such strategies. Their Boards must all continue to account for the potential income foregone, their slippage in the star ratings charts, and their reduced chance of a further contract.

There are a number of ways to address this. One is to generate greater confidence in the means by which future Job Network business allocations will be awarded. This means building provider confidence in the legitimacy of the star ratings system, what it measures and how it is measured. Related to this is the need to give providers some assurance that their future business will depend, at least in part, on whether they have delivered a quality service that is acknowledged and valued by their clients.

Is a purchaser-provider model justified?

3.1 The Commission recommends that a purchaser-provider model for employment services be retained, with a continued strong focus on outcomes, competition and choice.

Jobs Australia supports this recommendation. One of the strengths of the Job Network, in particular Intensive Assistance services, has been the flexibility it affords providers to assist unemployed people to achieve employment outcomes. This flexibility means that providers can design the best fit between services that will achieve outcomes within the constraints on price of a competitive tendering environment.

In a system that places heavy emphasis on outcomes, through payments made to providers and through a star ratings system that largely determines the ability of providers to be awarded contract rollovers, it is inevitable that the definition of outcomes will be subjected to intense scrutiny and debate. Outcomes may be achieved through employer demand for labour or through provider supply using wage subsidies or education and training. While both purchaser and provider agree that the best outcomes are ongoing full-time jobs, 'softer' outcomes achieved by providers can engage job seekers and increase labour market competitiveness in the longer term and we have suggested ways to measure this.

Employment outcomes and costs

- 5.1** The Commission recommends that DEWR collect further information on compliance effects, the longer term effects of participation on a job seeker's employment history and the quality or suitability of the jobs obtained.

We support this recommendation. More research identifying the longer term impact of Job Network participation would usefully inform debates about the definition, legitimacy and weightings of various types of outcomes. Research in this vein would identify the value of education and training secondary outcomes and could support the claim by some providers that the provision of substantial education and training programs leads to sustained and quality employment outcomes.

In the light of AWT and further changes announced in the Budget, the information collected should include and where possible identify the respective impact of program participation in Job Network, Work for the Dole, and other mutual obligation activities and of combinations of these activities.

In terms of compliance effects, while we know that JST in particular yields apparently high compliance effects in that substantial numbers of jobseekers don't turn up and therefore go off benefits, it is not necessarily known what the destinations of people in this category are. These 'outcomes' of Job Search Training should be researched. While some may well have been working and some may choose to take up employment, others may opt out of the labour market and be forced to take up other ways of deriving income in order to survive.

- 5.2** The Commission recommends that consideration be given to establishing an independent panel of researchers to advise on the data needed to evaluate the Job Network programs.

Jobs Australia supports this recommendation.

- 5.3** The Commission recommends that all de-confidentialised data on Job Network programs be made available for independent scrutiny by other researchers as soon as is practicable after they are produced.

Jobs Australia supports this recommendation. There is significant research capacity outside DEWR, particularly in the university sector, and we are aware of a number of researchers who have expressed interest in the Job Network. Australian Research Council grant conditions quite reasonably expect an empirical element for research into public programs such as the Job Network. Researchers' lack of access to Job Network data means many lost opportunities for more description and analysis of this internationally significant public policy initiative.

The enormous volume of data collected by the Department should also be used to inform and support the design of Job Network services and to inform best practices for providers. Opportunities to explore uses of this data for those purposes would be extremely welcomed by providers.

What services should the Job Network provide?

- 7.1** The Commission recommends that the payment of a job matching placement fee for 15 or more hours work be terminated at the conclusion of the second contract period.

The Commission recommends that the role of Government in job matching for non-disadvantaged job seekers be limited to the continued maintenance of an internet website and Centrelink touchscreens for access to Job Search Australia (the vacancy database) and other simple self-help facilities such as fax, resume and photocopy services.

Job matching for disadvantaged job seekers should remain an integral part of the assistance provided to job seekers eligible for Intensive Assistance, but should no longer attract a separate fee.

While we appreciate the Commission's reasons for making this recommendation and in particular its finding that cost of delivering Job Matching services is not met by the fees, we do not support this recommendation. The Job Matching service is a key means by which providers can develop a relationship with employers and increase their chances of finding placements for disadvantaged jobseekers.

Jobs Australia generally supports the views on these matters put to the Commission by DEWR in its supplementary submission.

- 7.2** The Commission recommends that Job Search Training be retained.

Jobs Australia supports this recommendation.

- 7.3** The Commission recommends reducing the period of assistance afforded to Intensive Assistance clients to six months.

We accept the logic of the proposition that a shorter duration of Intensive Assistance with the same level of resourcing should lead to more intensity of activity. However, it is clear from analysis of the true picture of the achievement of IA outcomes over time that a significant number are presently achieved after six months. This supports the numerous anecdotal contentions many providers that some clients require more time to engage and assist to a point where they can secure a job outcome.

The proposed six months limitation on the new 'customised assistance' combined with a prescribed regime of activity testing and reporting should result in greater intensity for many jobseekers. The availability of substantial outcomes payments beyond the period of six months will mean that providers have the opportunity to continue to assist and secure outcomes for people who need more time.

- 7.4** The Commission recommends that the Government mandate that the activity test requirements for Intensive Assistance participants be consistent with activity tests that apply under other labour market programs.

Jobs Australia acknowledges that the government has made a clear decision to accept and implement the same activity test requirements for Intensive Assistance as for other programs. It is imperative, however, that providers are given substantial flexibility to moderate standard activity test requirements to take account of individuals jobseekers' ability to meaningfully engage in job search activity. In this context we emphasise the importance of opportunities for providers to exercise their professional judgement about how to establish trust and to positively engage the jobseeker.

7.5 The Commission recommends that the New Enterprise Incentive Scheme be retained for the reasons it outlines.

Jobs Australia supports this recommendation and the associated recommendation related to improved targeting.

7.6 The Commission recommends that the Self Employment Development program be terminated.

Jobs Australia supports this recommendation. The modest resources involved might well be better applied to NEIS.

7.7 The Commission recommends that subsidies be removed for Project Harvesting Services.

Jobs Australia observes that the government has chosen not to accept this recommendation and that it wishes to continue to subsidise the relevant employers. We think it appropriate that the government has also decided to operate this program in future outside the aegis of the Job Network.

Job seeker choices

8.1 The Commission recommends that provision of information to job seekers about the Job Network and the associated referral system be enhanced to allow greater scope for informed choice.

The introduction of the Job Network in 1997 was heralded as a system that would offer job seekers choice from a diverse range of different kinds of providers, and Jobs Australia fully supported this. We appreciate the Commission's efforts to identify the extent to which job seekers in fact exercise choice in the system, having from time to time sought this information ourselves.

Our own information from providers and other sources is consistent with the Commission's finding that many jobseekers do not exercise choice of a provider largely because they are not provided with sufficient information to make a choice. The diverse and intangible nature of what constitutes different providers' offerings in Intensive Assistance also works against the exercising of informed choice.

In view of the government's Job Network 3 proposal to have jobseekers remain attached to their provider for the duration of their unemployment, which may last for some years, and perhaps even to return to the same provider through subsequent periods of employment, the importance of making a properly informed initial choice becomes even more critical.

We strongly agree with the Commission's assertion that 'in principle, a greater capacity for choice under the Job Network has the capacity to reduce problems of regulatory oversight and micromanagement and to increase the empowerment of jobseekers.' If choice is substantially limited or constrained, then so is the sovereignty of the jobseeker as the consumer of Job Network services.

8.2 The Commission recommends that entry into Job Search Training remain mandatory for eligible benefit recipients. Entry in Intensive Assistance should be voluntary for eligible benefit recipients rather than mandatory, provided they participate in some activity that meets mutual obligations.

Jobs Australia supports the recommendation in relation to Job Search Training but not in relation to Intensive Assistance. We broadly concur with the DEWR supplementary submission on this point and emphasise the importance of providing timely and comprehensive information to jobseekers about Intensive Assistance given that it is compulsory.

8.3 The Commission recommends that there be some scope for job seekers to change their Intensive Assistance Job Network provider, but that portability should be limited to:

- (a) a short period at the commencement of program participation; or
- (b) where a Job Network provider has failed to meet reasonable obligations to the job seeker; or
- (c) where mutual consent is given by the job seeker and current and prospective Job Network providers.

Jobs Australia supports this recommendation, especially in the context of proposed Job Network 3 arrangements, which could mean that jobseekers might be attached to a single provider for all their workforce-age periods of unemployment. It is also important to note that effective relationships between providers and jobseekers are between an individual and an organisationally-determined style of service. On the previous point we have recommended that jobseekers are provided with sufficient information to make a more reliable choice of provider, but even if this were the case, the jobseekers may not fully realise how a provider operates until s/he has commenced. The \$850 jobseeker account reduces the risk that a subsequently chosen provider will benefit through outcome fees from an investment made by the first provider.

Under the proposed new arrangements, there would seem to be a lesser impediment to allowing jobseekers to move from one provider to another after a short period after their six months of customised assistance ceases.

8.4 The Commission recommends that job seekers be able to exit Intensive Assistance if Job Network provider's reasonable obligations to a job seeker have not been met, provided that they participate in some activity that meets mutual obligations.

In such cases, we believe that jobseekers should have the opportunity to move to another provider and we have elsewhere in this submission argued that jobseeker satisfaction, quality and nature of service received should be recorded and reported.

Targeting

- 9.1** The Commission recommends that a pilot be undertaken to test the benefits of the flexible implementation of the Job Seeker Classification Instrument by Centrelink.

Jobs Australia supports this recommendation, including in relation to the proposed revised application of the JSCI for Job Network 3.

- 9.2** The Commission recommends that the Job Seeker Classification Instrument not be used to manage the workload within the Job Network.

Jobs Australia supports this recommendation and notes DEWR's intentions in this regard for Job Network 3.

- 9.3** If the Government does not implement recommendation 9.5, the Commission recommends that charges only be imposed on Job Network providers for re-assessment of job seekers' special needs if Centrelink or an independent assessment organisation establishes that the clients do not have special needs.

Jobs Australia supports this recommendation. The current charges may create an incentive to park some clients who would be more appropriately assisted elsewhere.

- 9.4** The Commission recommends that there be a target maximum delay associated with special needs re-assessment, subject to automatic penalty payments to Job Network providers if this period is exceeded.

Jobs Australia supports this recommendation - subject to its continuing relevance to the caseload and flow management approaches to be adopted in Job Network 3.

- 9.5** The Commission recommends that where a Job Network provider considers that Intensive Assistance is unlikely to generate an outcome for a job seeker:

- the Job Network provider have the capacity to re-direct job seekers to Centrelink for referral to other programs;
- mutual obligations and activity tests generally be maintained for re-directed clients; and
- the characteristics of re-directed job seekers be assessed, recorded and analysed, so as to improve Assistance and potentially to increase outcome payments in selective instances.

- 9.6** The Commission recommends that if recommendation 9.5 is adopted, then DEWR develop criteria to detect the possible strategic use of re-referrals.

In principle Jobs Australia supports recommendations 9.5 and 9.6 and the Commission's reasons for making these recommendations. In practice, the difficulty will be to determine the numbers of jobseekers to redirect, given that around 60 per cent of IA clients do not achieve an employment

outcome. A further challenge will be to ensure that they receive other substantive assistance – which may well not be available within the current range of relevant programs.

- 9.7** The Commission recommends that consideration be given to mechanisms that prevent wasteful recurring participation of job seekers in programs that have proven ineffective for them.

The implementation of this recommendations would inevitably give rise to questions about whether more places in existing programs, or more highly resourced places in other programs, might be needed. For jobseekers in extremely depressed labour markets the government may need to seriously consider providing mobility and relocation assistance and even a variety of job generation programs or measures.

- 9.8** The Commission recommends that Job Network providers be able to choose whether they wish to offer any combination of generalist and specialist services.

Jobs Australia supports this recommendation and also the Commission's suggestion that payment be related to the characteristics of the jobseeker rather than by the fee bid by a specialist agency. We agree with the Commission that this increases the incentive for generalist agencies to deliver services to special needs clients. It may also be necessary to provide other resources to enhance the capacity of generalist providers to meet the needs of people with special needs. Given the present relatively small number of specialist providers, there is a clear need for strategies which support the capacity of and provide incentives for generalist providers to deliver effective assistance to job seeker with special needs.

- 9.9** The Commission recommends the continued use of an evidence-based system – such as the Job Seeker Classification Instrument – as the basis for determining the outcome payments that should be attached to particular groups of job seekers.

Jobs Australia supports this recommendation and concurs with DEWR comments in its supplementary submission about the use of a combination of a streamlined JSCI and unemployment duration, improved application of the JSCI and enhanced assessment processes.

- 9.10** The Commission recommends that the New Enterprise Incentive Scheme be targeted at disadvantaged job seekers who would not otherwise have started a small business, but for whom there is a reasonable prospect of success.

Jobs Australia supports this recommendation

Pricing

- 10.1** The Commission recommends that default prices for Intensive Assistance be set administratively, but with the possibility of trialing new forms of incentive contracts for those providers that believe they can get better outcomes at a price higher than the default.

JA supports this recommendation, noting, however, that the process of fixing and subsequent adjustment of prices should be objective and transparent and subject to review and arbitration by an intermediary (which might be a modestly resourced independent regulator) in cases where providers can prima facie demonstrate that there are flaws or deficiencies in the ways in which prices have been set.

We also firmly believe that there should be a transparent mechanism for regular review and adjustment of prices during contract periods to take reasonable and adequate account of movements in providers' cost structures – so as to prevent the inevitable squeeze on quality of service provision when prices remain essentially fixed for very long periods.

10.2 If recommendation 7.1 is not implemented, the Commission recommends that Intensive Assistance providers should not be required to also supply Job Matching services.

JA supports this recommendation. We note that proposed new arrangements for Job Network 3 are likely to mean that fees payable for the new equivalent of job matching will be significantly less than those now payable and therefore substantially less than the costs of providing the service – unless fees for service are also paid by employers. IA (or its future equivalent or like service) providers should not be required to undertake any other service at less than viable prices unless they make a decision to do so and are prepared to find other ways of offsetting the losses they make on the relevant transactions.

10.3 The Commission recommends that there be more outcome payment categories for Intensive Assistance to take account of existing special groups of job seekers, but that further payment categories should only be created if the supporting Job Seeker Classification Instrument classifications are sufficiently reliable.

JA supports this recommendation. We note that some classes of jobseekers such as people with low or medium levels of disability, indigenous jobseekers or people with long duration unemployment might also warrant additional outcome payments and perhaps higher levels of jobseeker accounts under the proposed arrangements for Job Network 3. The government has already announced it intends to implement some measures of this kind.

10.4 The Commission recommends that interim outcome payments for educational and training outcomes be abandoned and replaced by a higher final payment when the course has been successfully completed.

JA supports this recommendation.

10.5 The Commission recommends that primary interim outcome payments should be split into two instalments made at the 7 and 13 week periods of a job.

JA supports this recommendation, and especially to the extent that it might better recognise and reward providers who can't readily secure 13 week outcomes as a consequence of local labour market conditions and/or the degrees of difficulty involved in assisting some categories of jobseekers with relatively high levels of need such as some indigenous people.

10.6 The Commission recommends that the existing 28 day cut-off for verification of outcomes be removed.

Jobs Australia fully supports this recommendation. The Job Network must be the only enterprise of its kind where the purchaser insists that invoices must be received within a very short time frame in order for the supplier to be paid. One of the most consistent complaints about increasing compliance and administrative burdens and costs relates to the tedious and expensive process which providers are required to follow in order to make special late claims for Intensive Assistance outcomes. The public interest and that of the taxpayer would be better served with arrangements that are more flexible and truly commercial in character.

10.7 The Commission recommends that the payment structure for Job Search Training be shifted more towards outcome payments.

JA does not support this recommendation. Although JST has become somewhat more flexible than in the earlier iteration of the Job Network, the service being purchased is strongly process-oriented and relatively tightly prescribed in its nature. Providers need to be able to meet the relevant costs of delivery of the prescribed process and need to be paid accordingly. Additional and modest supplementary payments for outcomes, combined with a measure of recognition and reward in performance ratings would serve the same purpose.

Industry dynamics

11.1 The Commission recommends that competitive tendering be abandoned as the method for provider entry and contract renewal in the Job Network. It should be replaced by a licensing system that allows:

- Free entry at any time to any supplier that meets DEWR's accreditation standards; and
- Automatic licence renewal, subject to a requirement that providers achieve a certain performance standard.

The Commission recommends that there be no regulated limits on caseloads and/or the absolute number of payable outcomes for individual Job Network providers in subsequent contracts.

JA does not support these recommendations at this juncture of the development of the 'market'. The end result of their implementation may well result in substantial volatility and instability in what is still a relatively immature market. We believe, however, there is merit in a gradual move in this direction such as could be achieved with more dynamic and flexible management of client flows – with more capacity for jobseeker choice and more flexibility in contract capacity management to take account of this. This ought to go some way towards giving the jobseeker more sovereignty as consumers and encouraging providers to be more actively responsive to their needs.

11.2 The Commission recommends that the auto-referral system be changed so that it favours Job Network providers that are more successful in achieving outcomes for job seekers.

Jobs Australia supports this recommendation.

11.3 The Commission recommends the retention of the star rating model as a basis for assessing the performance of Job Network providers, but it should be subject to continuing refinement.

Jobs Australia supports this recommendation.

11.4 The Commission recommends that DEWR generally publish:

- star ratings at the Employment Service Area level and at the site level where the estimates are reliable; and
- some indication of the reliability of the published estimates.

Jobs Australia supports this recommendation.

11.5 The Commission recommends that:

- no weight in the star ratings be given to interim education and training outcomes, but that final outcomes continue to be recognised; and
- secondary outcomes receive a lower weight in the star ratings than primary outcomes, consistent with the payment system.

Jobs Australia supports this recommendation. We note also in this context that consideration should be given to longitudinal monitoring of jobseekers to determine whether higher longer-run net employment outcomes are being achieved.

11.6 The Commission recommends that the full details of the star rating model be made publicly available, including any assessments made of its technical validity.

Jobs Australia supports this recommendation. DEWR has already taken some welcome steps in this direction.

Contract monitoring and compliance

12.1 The Commission recommends that in developing a risk management approach to contract monitoring and compliance that encourages innovation and minimises costs, DEWR adopt and apply the following principle in round three of the Job Network:

- monitoring and compliance activity be the minimum necessary to ensure accountability in the expenditure of public funds and the achievement of clearly specified objective outputs and outcomes.

Jobs Australia supports this recommendation. We also consider it necessary that the government should review the form and nature of their contracts with providers to make them more balanced and commercial in nature. A letter from our lawyer, Greg Banks, setting out his views on the

contract and on contract management issues is attached. Mr Banks has had considerable involvement with JA and with NESAs on broad contract management and content matters as well as with many individual providers.

12.2 The Commission recommends that DEWR openly negotiate all contract variations with relevant providers, or their industry associations. Providers should be financially compensated for any significant additional administrative or compliance burdens placed on them by the Department.

Jobs Australia supports this recommendation. Our comments above in relation to recommendation 10.1 are also relevant here.

12.3 The Commission recommends that when dealing with identified unsuitable behaviour or unintended consequences, DEWR avoid, to the extent possible, imposing additional compliance costs on providers whose behaviour has been acceptable.

Jobs Australia supports this recommendation.

12.4 The Commission recommends that DEWR collect and publish relevant data about the nature, extent and cost of its contract and compliance monitoring activities, as well as information about provider behaviour (such as cases of fraud found and errors made in claims).

Jobs Australia supports this recommendation.

Competitive neutrality issues

13.1 The Commission recommends that the Government require that any Job Network business accepted by Employment National after the second Job Network contract period expires be on the basis that it expects to achieve commercial rates of return for that business as a whole averaged over several years.

Jobs Australia supports this recommendation and notes that the government has recently announced that public subsidies to Employment National are not to continue and that it is to be wound up and sold.

In relation to the beneficial taxation treatment which non-profit providers enjoy, we concur with the Commission's observations that previous Industry Commission reports have concluded that exemption from income tax are not likely to have any significant effect on competition. We also agree that, prima facie, differences in the application of input taxes can lower the costs of not-for-profit providers and give them an advantage over for-profit providers. Since the introduction of the GST and associated changes to the tax system not-for-profit providers the substantial benefit and advantage derived from exemption from wholesale sales tax no longer apply.

The remaining substantial benefit which does apply to some, but not all, not-for-profit providers is exemption from Fringe Benefits Tax (FBT) (for those organisations which are endorsed by the ATO as Deductible Gift Recipients (DGRs) or as public benevolent institutions) or rebatable FBT (for some educational and other not-for-profit organisations). On one hand, it can be argued that

organisations which derive the benefit of these exemptions or rebates can have lower labour costs and therefore derive a competitive advantage over those organisations (which include some not-for-profit and well as for-profit organisations). In this context, we observe that the quantum of the benefits derived have effectively been capped by recent legislation (for FBT-exempt organisations) and will substantially reduce over time.

On the other hand, the organisations enjoying beneficial tax treatment are required to demonstrate on an ongoing basis that they provide beneficial services and assistance to very disadvantaged people and communities, which arguably must go beyond those services which are paid for by governments – in this case, the delivery of Job Network services. Many of the relevant organisations, and especially small and medium ones, also encounter great difficulty in obtaining access to capital (unless their voluntary board members are prepared to personally guarantee loans and lines of credit) and are at a significant disadvantage over their for-profit counterparts in that regard.

In our submission on behalf of our members to the government's Charities Definitions Inquiry (copy attached), we provided numerous examples of additional services to disadvantaged individuals and to communities which relevant organisations provide and argued that all organisations which derive the benefits of beneficial taxation treatment must be fully and openly accountable for providing charitable and benevolent assistance as a condition of continuing to access that beneficial treatment.

As the Commission has correctly observed, these issues are very much broader in scope than the Job Network. Examination of them raises some extremely important and complex issues about the roles, functions and operations of not-for-profit organisations and their place in our society and in communities. They will undoubtedly be considered and further debated in the context of the government's consideration of its response to the definitional framework recommended by Charities Definitions Inquiry and subsequent and related decisions about the taxation treatment of charities and related entities.

The roles of the Job Network players

14.1 The Commission recommends that DEWR, in consultation with Centrelink, NESA and the Privacy Commissioner, develop a protocol for the storage and sharing of relevant personal information between DEWR, Centrelink, Job Network providers, and between Job Network providers themselves.

Jobs Australia supports this recommendation. This is a particularly important issue in relation to proposed new IT arrangements for Job Network 3 because providers must have the capacity to store and manipulate some data held on jobseekers in order to conduct their business as providers – and not highly restricted access as has been mooted in some early discussions on this matter

Extending application of the model

15.1 The Commission recommends that in applying the purchaser-provider model to the delivery of social services to the community, government agencies actively consider the advantages of adopting features of the Job Network model: that is, basing a substantial proportion to

payment to providers on defined outcomes (or outputs), contestability among providers and choice for consumers.

Jobs Australia generally supports this recommendation – but notes that there will be considerable difficulty in defining and measuring outputs and outcomes for some social services programs and that these difficulties may mean that the model cannot practically be implemented for many other programs.

15.2 The Commission recommends that DEWR and Centrelink negotiate an appropriate set of key performance indicators on which a substantial proportion of payment from the Department of Centrelink should be based.

Jobs Australia supports this recommendation.

15.3 The Commission recommends that DEWR and other government agencies be given the freedom to obtain services from providers other than Centrelink, if they judge that offers better value for money at acceptable risk.

Jobs Australia supports this recommendation.

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Your Ref:
My Ref: JOBS-018

28 December 2001

Mr D.Thompson
Chief Executive Officer
Jobs Australia Ltd
PO Box 299
Carlton South .Vic 3053

Dear David

Job Network Productivity Commission

You have asked me for some brief comments on the ESC 2000 which you intend to make available or at least incorporate into JA's Submission.

As you know I advised JA membership on aspects of the first (1997) ESC and then reviewed the Second Contract (usually known as ESC 2000 or ESC2). I have also advised JA members on particular issues that they have encountered during the Contract Administration of the 2 contracts. I have also advised NESA members from time to time. Obviously it is inappropriate in comments such as this to identify those clients by name or by reference to their particular circumstances. Within those limits, I make the following observations:

The first time it was used (1997), the ESC represented a major change to the type of documentation that the not for profit sector had seen. There were many aspects that were not understood at the time of tendering. As Providers have now worked with the form of Contract for nearly 4 years there is significantly greater familiarity and knowledge of its terms. Experience has taught many how to manage the Contract process to avoid or at least reduce the potential pitfalls.

That said there are still matters of concern.

It is a tough contract

ESC2000- is a good contract from the Government's point of view.

Much of the risk to be taken is contractually taken by the Service Provider. I liken it to a commercial lease where nearly all the important issues are determined in favour of the Landlord; except that in the case of the ESC2000 there is no negotiation of the terms. A Provider either tenders on the Government terms or not at all!

In this context there is a certain irony in that the Government has often during the life of the ESC (versions 1 and 2) promoted the Job Network as a partnership between the relevant stakeholders. However I am confident that many Job Network Members do not see the relationship with DEWR as a partnership.

If one looks at the form of the Statutory declaration that a tenderer must lodge with its Offer, one can see just how careful the Department has been to cover off its risk. In the Statutory declaration the tenderer declares that it has accepted and assumed all possible risks. This would at least on its face include such events ranging from the S11 tragedy to a change in Government to a change in policy to a change in the procedures of administration and to a change in departmental responsibility.

Differing interpretations-confusing and expensive

There are to my mind too many places in the Contract that confer too much discretion on the Department.

This gives rise to difficulties for the Contract Managers. I have seen instances where there seems to be confusion and different interpretations, often between Contract Managers, as well as with Providers.

One example is how Contract Managers rely upon Clause 4.7(b). It says that the Provider must supply upon request evidence “acceptable” to the Department that the Services have been provided to the eligible Job Seeker referred to in the Invoice.

What exactly is acceptable varies. While this gives flexibility to the Department it can easily be used as a tool to create very significant increases in administration.

Obviously, requests for further evidence to support claims or a particular interpretation can be extremely time consuming. Eg What does a JNM need to produce to show 15 hours for a trainee? Is it enough for the placement and hours to be confirmed verbally with the Employer? If not then presumably it needs to be in writing, but does it need verification. How does this work with interstate placements?

Even if a request is apparently justified who pays for the cost of compliance if say the result was that that the Service Provider was substantially in compliance with the Contract terms?

Another example of different interpretation is the definitions of Primary Outcomes and Secondary Outcomes. Use of single semester courses should not necessarily be an issue but it seems that the Department developed a very different view. (NB this example also shows in my opinion the need for improved consultation by the Departmental representatives).

A third example is to what extent a Service Provider has to follow up whether a Training Agreement has been signed.

The need for the Department to monitor compliance of ESC2000 as against unreasonable interruption to the job at hand can often be a difficult balancing act. I have seen instances where the desire for compliance has out weighed the reasonable expectations of a Provider.

This can be quite easily demonstrated by comparing the NAC agreement administered by DETYA (now DEST). Not unsurprisingly the NAC contract contains very similar wording and many similar features as the ESC 2000 Contract. Yet there is a very considerable difference in the way the 2 Departments administer the respective contracts- same words, different results may occur. To be fair to DEWRSB (now DEWR) it tends to be more flexible than DETYA has been when it comes to administration, but the point is that Service Providers are very much in the hands of the Contract Managers when it comes to proving their claims/compliance.

Subcontracting

There still remains uncertainty in ESC2000 and the Department's Guidelines as to what can be subcontracted out or the level/magnitude without requiring Departmental approval. I have also received client complaint regarding the time that the approval process can take. If one were to compare the approval process of a sub tenant (to continue the commercial lease analogy) the DEWR process to approve a sub contractor should be much easier, particularly since the JNM remains completely responsible for the actions of the sub contractor.

Use of surveys

The Department's reliance upon surveys to initiate full-scale audits needs to be reconsidered. Replies for instance on the "found own employment" issue can be quite misleading, as their will often be a desire to claim, understandably, credit for finding one's own job.

Additional workload to satisfy Departmental Systems

ESC2000 permits the Department to make changes to its systems and require the Service Providers to implement the changes without recompense. There have been occasions where the Providers have received compensation but from what I have been consistently told, it has been "too few, too little and too far between". Even allowing for the usual grumbles that one could expect, the complaints appear reasonable.

Please feel free to call me to discuss.

Yours sincerely

(signed)

GREGORY BANKS



Jobs Australia
Linking People and Work

Submission to the
Inquiry into the Definition of Charities and
Related Organisations

Jobs Australia Limited

ABN 17 007 263 916

The Chairman
Inquiry into the Definition of Charities and Related Organisations
C/- The Treasury
Parkes Place
PARKES ACT 2600

19 January 2001

Dear Sir

Please find attached a submission to the Inquiry into the Definition of Charities and Related Organisations on behalf of our member organisations which comprise the large majority of charitable and not-for-profit providers of government-funded employment services in Australia and which currently deliver services to unemployed people through the Commonwealth-funded Job Network and a wide variety of other Commonwealth and State/Territory programs.

More detailed information about Jobs Australia and the nature and activities of our member organisations is set out in our submission.

I note here that Jobs Australia is a national member organisation of the Australian Council of Social Service (ACOSS) and that we support and endorse the submission made by ACOSS to the Inquiry.

I also note that while the Inquiry is not seeking submissions or making comment on issues related to the taxation or other legislative or administrative treatment of charitable, religious or community service not-for-profit organisations, it will be necessary for the government to consider these issues in its consideration of any recommendations made by the Inquiry and that a further inquiry and consultation process will be needed to address those issues.

I would be pleased to provide any additional information that the Inquiry might require.

Yours sincerely

David Thompson
CEO
19 January 2001

Attributes, purpose and behaviour of the sector

Jobs Australia Member Organisations

The membership of Jobs Australia comprises some 250 not-for-profit organisations involved in the delivery of services to assist unemployed people to gain and retain employment. Our members operate in all States and Territories and include large and medium religious and charitable organisations and a large number of generally small and medium community service not-for-profit organisations. Many of our members provide a wide variety of other services to disadvantaged people and to communities and many are involved in “commercial” enterprises as a means of generating additional resources and building their own capacity as well as that of the communities they serve.

More detailed information about the nature and scope of our members’ activities is set out in Appendix 1 to this submission.

The focus of our members’ employment services activities is on those unemployed people who are most disadvantaged in the labour market but their activities necessarily (as a condition of particular program funding or for other reasons) include provision of services to employers and other unemployed people who might be described as being less disadvantaged. Provision of assistance to unemployed people to gain and retain employment is widely held to be a key means of alleviating poverty and improving the welfare and well-being of unemployed people themselves and of their families and the broader community.

Most of our member organisations are incorporated as associations or as companies limited by guarantee and a small number operate under particular statutes or trusts. We believe that the majority of our members are public benevolent institutions and that they have recently been endorsed as Income Tax Exempt Charities and Deductible Gift Recipients by the ATO. In this context, however, we note that there has been some inconsistency in the approach taken by different offices of the ATO to applications for public benevolent institution status and that, as a result, different member organisations with very similar structures, purposes and activities have been afforded different status by the ATO as a consequence.

The larger organisations within our membership are generally long-established religious and/or charitable organisations and the small and medium organisations within our membership were generally established within particular local communities during the 1970s and 1980s in response to government programs which encouraged the formation and ongoing operation of local community organisations to address problems of growing long term unemployment. These latter organisations are managed by groups of voluntary local citizens who comprise the committees of management or boards and who use government and other funding to employ staff and to deliver the range of services they provide. Any surpluses generated from their activities are not distributed to members or others but rather are used to undertake additional activities or to provide services which are not funded by governments, to enhance the quality of government-funded activities, to provide access to capital needed to operate in outcome based funding and to otherwise build organisational or broader community capacity.

Although the Job Network and other similar employment services programs have been in operation since 1998, the environment in which they operate remains immature and is yet to stabilise. Many of our members tendered for contracts under the new arrangements in the expectation that they would eventually generate surpluses that they could utilise for community benefit and benevolent purposes.

The vagaries of client and cash flows and the need to accumulate capital reserves to enable them to meet financial viability requirements in tender processes has meant that some of our members are not yet in a position to finance and deliver additional services in the ways or to the extent they had anticipated when the Job Network was announced in 1996.

Nonetheless, our members have reported a diverse and comprehensive range of ways in which they add value to funded programs they deliver, contribute significant resources to other community organisations and

Inquiry into the definition of charities and related organisations: Jobs Australia submission

provide services to unemployed and other disadvantaged people which would otherwise not be available to them. These are broadly described at Appendix 2.

The environment in which our members operate has changed markedly over the past 10 years in particular and is likely to continue to change in the foreseeable future. Our member organisations have generally proved their ability to respond and adapt to change, to adopt and adapt a variety of business management practices and to become more enterprising and entrepreneurial in their approaches to management and service delivery. Their ability to respond effectively to increased change and complexity reflects their clarity of purpose and their commitment to continue to serve unemployed people and local communities.

Over the last 10 years, we have witnessed:

- a move away from annual and reasonably secure “grant” type funding for infrastructure and service delivery (many of our members received annual Commonwealth grant funding for more than 20 successive years) to competitively tendered and outcome-based funding with longer term contracts;
- increasing involvement of private and public sector organisations in direct competition for delivery of similar services and in the context of quasi or constructed monopsony “markets” (most notably, the Job Network);
- a reduction in dependence or reliance on ongoing funding from particular programs or departments and increasing diversity of sources of income - including the development of enterprises or “commercial” activities to bolster income, to generate employment and to build local community capacity;
- increased exposure of individual voluntary committee and board members to financial and other risk as a consequence of changed funding arrangements;
- increased need for organisations to build their own capital reserves to enable them to remain viable in delivery of services with outcomes-based funding - it remains very difficult, if not impossible, for not-for-profit organisations to access capital by means generally available to the private sector;
- increasing sophistication and complexity of business and strategic planning, financial management, quality assurance, marketing and promotion, human resource management and development, service delivery strategies, contractual requirements and compliance and utilisation of information technology;
- increasing apparent and actual convergence with private sector organisations in terms of the style and nature of service delivery – not least as a consequence of increasing levels of contractual prescription of service delivery and administrative requirements;
- increasing complexity of taxation compliance and reporting requirements and a reduction in the range and quantum of benefits to be derived from concessional taxation treatment;
- fundamental changes in relationships with government funding agencies (which are now cast as “purchasers” and which seek to be seen as “partners”) and between organisations in the sector as a consequence of intrasectoral competition and of fiscal consolidation;
- a marked reduction in direct public sector service delivery and increased reliance on “outsourced” service delivery and especially on the not-for-profit sector for those services which are unlikely to yield profits for other providers and those which

governments have ceased to fund or have reduced funding to levels which mean that real levels of community need cannot be met from government-funded service provision alone.

These developments reflect the observations made by the Committee at paragraph 11 of its Issues Paper and the experience of our member organisations perhaps mirrors that likely to be experienced by other organisations in the community welfare sector as models like the Job Network are implemented in other sub-sectors.

As noted above, all present indications are that our member organisations will continue for the foreseeable future to experience these trends and others as changes in approaches taken by government to purchasing and management of services are implemented. It is also evident that governments and communities will continue to rely on not-for-profit organisations to deliver services that would be commercially unattractive or unviable without significant increases in the prices paid for those services. The Job Network experience also demonstrates the importance of diversity of service provision to meet diverse individual and community needs and the value placed by many local communities on local ownership and control of services.

Governments and communities will only be in a position to rely on not-for-profit organisations to continue to play a significant and perhaps growing role in service delivery if sector organisations are able to maintain and develop their infrastructure and are able to continue to operate in an environment which values them and accommodates their particular needs.

Not least in this context, will be continuing recognition and understanding that citizens will be reluctant or may cease to make voluntary contributions to the management and operations of organisations if those contributions are not acknowledged and valued and if it is considered that the competitive neutrality of the level playing field must be a paramount feature of market –oriented purchasing arrangements. Continuing access to concessional taxation treatment that flows from differing definitional treatment will remain an important element of this recognition.

It is recognised and acknowledged that private sector organisations operating in the employment services “market” and in other similar “markets” involving human service delivery face many of the same economic and social factors as their not-for-profit counterparts. It is also recognised that many such organisations deliver high quality services that do meet individual consumer and broader community needs. They do so, however, on the basis of a fundamentally different motivation - their need to generate returns for the personal benefit of their shareholders and owners. Not-for-profit organisations, on the other hand, may generate surpluses that cannot be used for the personal benefit of their members or “shareholders”. Rather, they are used to enhance the quality of their services or to provide services to individuals and communities that are not funded or not funded adequately by governments or others. It is not unreasonable to expect that they should be transparent and accountable to communities and to governments for what and how much they do in that regard.

Wholly or partly charitable, religious or community service not-for-profit organisations:

The range of scenarios described in paragraph 13 of the Committee’s Issues Paper broadly and accurately reflects the significant diversity of different mixes and types of activities undertaken by Jobs Australia member organisations. Many of our members and especially the large and medium religious and charitable organisations are major providers of a wide variety of community welfare services.

Many of our member organisations:

- have also developed enterprise or commercial activities to generate additional employment opportunities for unemployed people, to generate additional income to supplement government and other funding for delivery of the services they provide and to assist them to maintain the infrastructure they require to continue to operate;
- are also involved to varying degrees in partnerships with the business sector to assist them to achieve their purpose; and,
- are also frequently involved in advocacy, capacity building and other activities which don’t involve direct service delivery to disadvantaged people and whose purpose is to build community awareness and capacity, to prevent and/or alleviate poverty or to generate resources which can be applied to the achievement of their primary purposes.

The diversity of activities, programs and sources of income of our member organisations is also reflected in the often complex service delivery and organisational structures that many organisations have developed over time. In addition, and as evidenced by the experience of our own member organisations, the nature and scope of activities is often subject to considerable change over relatively short periods of time. Any attempt to examine and define individual activities as a basis for determining whether an organisation wholly or partly fits a particular definitional framework would be fraught with difficulty in a number of ways. Such an approach might well:

- impose complex and resource-intensive compliance burdens on organisations and regulatory authorities;
- place inappropriate pressure on organisations to implement separate structures for different types of activity when an integrated approach is more effective and efficient for service delivery and management purposes; and,
- also prevent or mitigate against organisations adopting innovative and creative approaches to the achievement of their overall purposes.

For these reasons, we are strongly of the view that the primary basis for the application of definitions to organisations should be on the purpose of the organisation and its activities rather than the nature of the activities which organisations undertake. It might be appropriate to adopt an approach whereby a secondary approach involving examination of particular activities is undertaken on an exception basis when it not readily apparent, for example, as to how a significant apparently “commercial” activity is related to a charitable, religious or community benefit purpose. In this context, it is not unreasonable that organisations should be required to report on and be accountable for how they generate and utilise funds from activities that do not appear, prima facie, to have a direct religious, charitable or community benefit purpose.

Existing definitions of charities and related organisations used in Australia

We strongly support the views and recommendations put forward by ACOSS in its submission to the Inquiry on these matters. It seems self evident that definitional frameworks derived from a statute which will be 400 years old this year and the huge body of relevant common law cases since considered by courts in the UK and in Australia and elsewhere cannot possibly comprehend or take proper account of the vastly different circumstances in which charities and related bodies now operate.

There is therefore a compelling need to:

- modernise and modify classification and definitional frameworks to reflect the contemporary reality of the nature and delivery of human services;
- recognise the public and community benefit derived from self help, child care, advocacy and other services not currently recognised as being charitable and/or benevolent; and
- to achieve greater equity and consistency of treatment of different types of organisations involved in such service delivery.

Given the significant change which has occurred in the past 10 years and given that it is more than likely that this will continue to occur in presently unknown directions into the foreseeable future, it seems also desirable that new definitional frameworks be based on first principles and be subject to regular review.

Regulation of charities and related bodies

As noted above, we appreciate and accept that charitable and related organisations that derive tax concessions and other benefits from governments and from the broader community as a consequence of the application of relevant definitional frameworks should be accountable to governments and the broader community. They should be accountable in terms of their continuing eligibility for any such beneficial or concessional treatment and for the way in which they apply resources gained or enhanced by those means to the achievement of their overall purposes.

It is also considered desirable and appropriate that the locus of responsibility for regulation and monitoring of compliance of charitable and related bodies should be outside the ATO and that it should also involve State and Territory governments. We therefore support the recommendations made by ACOSS and others to the Inquiry in relation to the establishment of a national charities commission along the lines of the UK Charities Commission.

Appendix 1

The Jobs Australia network

This section provides a “snapshot” of the Jobs Australia network of member organisations and more detailed information is available.

Jobs Australia Limited (JA) currently has over 250 members operating from over 850 sites across Australia – from Far North Queensland, Franklin in Tasmania, to Christmas Island. The membership is diverse, ranging from small community-based organisations through to large charitable and religious organisations.

Our network’s metropolitan and regional/remote divide is roughly equal, with only slightly more member organisations based in regional/remote areas (51.4%). The head office for most JA member organisations is to be found in the eastern States/Territory (75%), but the spread of organisations across the rest of Australia ensures that the JA network provides an accessible service to most Australians.

Eighty per cent (80%) of JA members are small organisations with less than 20 employees. The remainder are mostly medium-sized (19%) of which most have less than 35 employees. The large organisations (100+ employees and 15 of members) are invariably church/charity-based organisations.

The religious or charity-based organisations make up about 6% of JA members, with the majority of being incorporated associations (81%).

Jobs Australia member organisations make significant contributions in other ways to their communities, employing on average 17 staff, although the average number of employees in small organisations is six.

Most of the \$1.5 million average annual income of JA members derives from federal and state government programs and activities, including Jobs Network, Work for the Dole, New Enterprise Incentive Scheme, New Apprenticeship Centres, Return to Work, Job Pathways Program and language and literacy.

Recent figures have shown that over 40% of JA members make up 33% of Job Network providers (servicing on average 2,110 clients per annum) and about 50% of members account for more than 60% of all Work for the Dole placements (resulting in an average yearly client base of nearly 1,500).

Members also provide comprehensive training services either through the auspicing of Jobs Australia or through government funding. Over 40% of JA members are Australian Training Network members and, in total, over 50% of members offer training services. The average number of trainees associated with member organisations is in excess of 175.

A majority of member organisations are involved in enterprise and fee-for-service activities. Enterprise activities allow for on-the-job training and, along with fee-for-service, provide additional income that enables organisations to value-add to the other services and programs they provide.

Appendix 2

Extending and adding value to government programs

In an environment of contracted employment services where the government pays a set fee for outcomes achieved, or services provided, for a predetermined number of eligible participants, providers can often find that they face the following scenarios:

- eligible clients for a service can exceed the numbers for which they have been contracted and are required to be paid;
- there are ineligible clients who wish to access a service;
- the circumstances of clients who have commenced a service change so that they become ineligible but they wish to continue to access the service, particularly if this involves counselling and general support;
- the organisation perceives a greater community benefit in the continuation of programs beyond the period (or the financial limits) for which they are funded; or,
- the organisation perceives a greater likelihood of an employment outcome if the assistance is extended beyond the period (or the fee per place) for which the funding is paid.

We provide the following examples of each of the above situations and of the kinds of assistance provided by Jobs Australia member organisations:

- *eligible clients for a service can exceed the numbers for which they have been contracted and are required to be paid;*

An example of this is the DETYA funded Jobs Pathways Program (JPP), the eligible group for which is defined as ‘young people between the ages of 15 and 19 who intend to make the transition from school to work in the following 12 months.’ The potential eligible group significantly exceeds the numbers specified in JPP providers’ contracts, and many JPP providers service far more young people than are specified in their contracts, frequently seeing them for a longer period than is specified.

- *there are ineligible clients who wish to access a service;*

An example of this is the DEWRSB Job Network Job Matching Service, for which fees are not payable to providers for people who are already in employment. However there are a great many people in low-paid employment seeking other work. Our members that are Job Network providers can and do assist this group to prepare their resumes and to access information about employment opportunities even though they cannot claim a Job Matching fee.

- *the circumstances of clients who have commenced a service change so that they become ineligible but they wish to continue to access the service, particularly if this involves counselling and general support;*

An example of this is the DEWRSB Community Support Program, which provides counselling and referral assistance to people whose face barriers to employment such as homelessness, drug and alcohol addiction, mental health or low levels of English

language and literacy competence. CSP providers widely report that their clients value the 'human face' of this program and this, together with the severe employment barriers they face, means that they often extend them for well beyond the two years which are funded.

- *the organisation perceives a greater community benefit in the continuation of programs beyond the period (or the financial limits) for which they are funded; or,*

An example of this is the DEWRSB Work For the Dole (WFD) Program, in which projects of community benefit managed by community organisations are continued by organisations beyond the (usually) six month period for which they are funded. In some cases, the community benefit (for example, a project to assist other local community organisations to develop their own websites) is the primary reason for continuing the project, in other cases it is the interest levels and engagement of WFD participants which keeps the projects going beyond their funded period.

- *the organisation perceives a greater likelihood of an employment outcome if the assistance is extended beyond the period (or the fee per place) for which the funding is paid.*

An example of this is DEWRSB Job Network Intensive Assistance service, which is for up to 52 weeks for a Level A client and up to 65 weeks for a Level B client. Beyond that time frame, the provider will be referred another IA client to their caseload. Jobs Australia member organisations often extend the period of assistance they provide beyond the period for which DEWRSB pays the fee.

Support for job seekers

Special programs

Jobs Australia member organisations run large and diverse range of programs, funded by themselves, to assist people to gain employment. These fall into the following broad categories:

- *Job search training* In addition to providing various facilities for job search training (see below), member organisations provide specific-purpose training programs, for example, interview skills, mock interviews, sometimes with real employers,
- *Career advice and guidance* This takes the form of talks, presentations, special events, forums, programs conducted for schools
- *Enterprise assistance* Many of our member organisations are committed to the cause of assisting people to become self-employed by starting their own businesses. This takes the form of free or subsidised access to facilities to unemployed people investigating or setting up their own businesses, financial advice and support, referral to relevant local business contacts and other community resources.

Job search facilities

Our member organisations provide free advice and support services for job seekers, including assistance with access to computers and the Internet, assistance with word processing and the preparation of resumes, access to newspapers, libraries of other resources, printers, phones, fax machines, copiers, tea/coffee and restroom facilities, as well as job search advice, assessment and referral to other agencies.

Training

It is difficult for unemployed people to access free or low cost accredited training even though various academic and government sources acknowledge this to be a means to increase people's chances of getting employment. Access to accredited vocational training in a range of industry areas is limited to people in apprenticeships and unemployed people in Intensive Assistance under the Job Network whose providers agree that training is appropriate and will pay for the training on the participant's behalf. As part of their work to assist unemployed people, JA member organisations often fill this perceived gap by providing free or subsidised training for unemployed people in a range of vocational and industry areas.

Other assistance

Our members provide other vocational counselling and professional recruitment services to unemployed people free of charge or at rates which are subsidised by the organisation, including, interest and aptitude testing, skill auditing, personal development training and counselling.

Providers working in rural and remote areas frequently report that they use their own vehicles or pay for other transport means for participants who lack access to public transport. The costs involved can be very substantial.

Mentor and volunteer tutor networks

Our members initiate and manage networks of mentors and volunteer tutors, to foster and build links between, for example, employers and unemployed people, the skilled and the unskilled, those working at different levels of an industry, people who are self-employed and those hoping to become so.

Unemployment support networks

Our members initiate, facilitate and convene forums, associations and networks of unemployed people, to give them a collective voice in the community as well as a means to learn from and support each other.

Support for other community organisations

Our members provide funding to other organisations in the community, and this kind of assistance falls into two main groups: assistance provided to other community organisations not related to unemployment and training, and assistance that is related. In the former category, assistance is provided 'for the good of the community', based on a recognition of the work done by those other community organisations and on the view that a community organisation's surplus may legitimately be applied to other community purposes.

General community focus

The kinds of assistance provided for general community benefit are financial and in-kind assistance given to community groups providing community visitors programs and support and activities to those who are lonely, physically and intellectually impaired, or who are single. Our members also provide assistance to sporting clubs, social groups and other groups working with disadvantaged people.

This kind of support can take the form of financial support of a one-off grant or ongoing nature, or in-kind support that includes providing subsidised or free access to facilities and equipment, transport facilities, staffing resources, professional and financial advice and support, and free or subsidised training.

While these kinds of support manifest many features of 'corporate citizenship', there is an important distinction to make in the way the term might applied to not-for-profit organisations. When our members contribute to other community organisations, their support seldom demands such conditions as sponsorship or naming rights for advertising purposes. That said, our members also make some typically 'corporate citizenship'-style contributions to the community in the form of scholarships, bursaries, and specific-purpose grants.

Employment, education and training focus

The kinds of assistance provided to other community organisations with an employment, education and/or training focus are: financial and in-kind assistance to schools, community groups, and education and/or training organisations working to educate, train, and assist people into employment.

This kind of support is more systematically and comprehensively offered by our member organisations, and is offered as a contribution to other organisations' core programs or special purpose activities or events in school to work transition, vocational training, and range of forms of assistance to unemployed people. It is also very common for Jobs Australia member organisations to participate in network or coalition groups with similar objectives.

This kind of support can take the form of financial support of a one-off grant or ongoing nature, or in-kind support that includes providing subsidised or free access to facilities, accommodation and equipment, transport facilities, staffing resources, professional and financial advice and support, and free or subsidised training.

Non-employment related support for disadvantaged people

While Jobs Australia members are employment services providers, they operate on the basis that people's basic housing, food, clothing and health needs must be met before they can benefit from employment assistance.

- Jobs Australia organisations provide emergency relief in the form of food, clothing and accommodation services or referral to accommodation services.
- Some organisations have had the opportunity under previous government programs or from their own resources to acquire trade workshop equipment and this is made available (sometimes with peer support) to disadvantaged people in the community to use, or to learn so that they can undertake practical self-help activities such as car maintenance, home maintenance, woodworking repairs, welding, and gardening.

- Some organisations own or have built their own premises and these are applied to the benefit of disadvantaged people, for example, to house an enterprise that will employ people with disabilities, to make an organisation's extensive sporting facilities available to disadvantaged adolescent boys.
- Some organisations conduct adult literacy programs that are provided free to those in need, and this includes volunteer training of those who assist in the adult literacy programs.
- Some organisations conduct courses of a personal development nature in subjects such as health, personal and social development, planning for the future, personal finances management, aggression and anger management.