



Western Australian Council of Social Service Inc.

Submission to the Productivity Commission Review of National Competition Policy Reforms

December 2004

OVERVIEW

WACOSS is the peak body of community service organisations and represents the interests of low income and disadvantaged individuals in Western Australia. WACOSS is part of a national network consisting of ACOSS and the State and Territory Councils of Social Service. WACOSS and its members share a vision of a socially just and sustainable West Australian society where people care for each other and have access to the resources and opportunities necessary for their wellbeing.

We welcome the opportunity to provide a written submission to this Inquiry. WACOSS believes that the views of the human services sector are imperative to inquiries such as these in order to represent the needs of financially disadvantaged members of the community. Past experience has shown that policy change often affects financially disadvantaged segments of the population disproportionately and therefore it is important that their interests are fully represented.

Due to the lack of government funding available to assist us in undertaking this kind of work, we were regrettably unable to appear before the Public Hearing in Perth on the 20th of December 04 and our submission is limited to a few key areas. These are:

- The impact of National Competition Policy and related reforms on Community and Consumer benefit; and
- Competition Policy and Human Services

We wish to note that we support the submission provided by the Australian Council of Social Service (ACOSS).

THE IMPACT OF NATIONAL COMPETITION POLICY AND RELATED REFORMS

Community Benefit

The National Competition Policy (NCP) has the stated aim of improving Australia's economic performance and thereby raising living standards and delivering benefits to the community. In view of this, it can be argued that the resulting change in living standards and community wellbeing over the period of implementation of NCP should be a key measurement of its performance.

The report suggests that there has been solid economic growth for which NCP has largely contributed. However, it is well established that aggregate growth alone is not sufficiently indicative of community wellbeing. As outlined in the ACOSS submission, poverty levels, deprivation levels and inequitably distributed opportunity have all risen during this period. This has seen a major increase in the number of people seeking assistance from social services. For example, in Western Australia there was an increase from 500,310 in 2000-01

to 531,299 in 2001-2002.¹ This is an increase of over 30,000 people in one year and represents an increase of 6%.

While these negative trends cannot be attributed to NCP alone, the Productivity Commission itself acknowledges, "policy change typically involves both winners and losers, benefits and costs."² WACOSS' interest is to ensure that those who have the least capacity to incur the costs of policy change, that is disadvantaged and low incomes individuals, do not become 'the losers' and thus suffer further hardship.

Accordingly, we are concerned with the use of 'net benefit' and the assertion that "costs of some individuals or communities are not sufficient reason to forego reforms that are of substantial net benefit to the community as a whole". Unfortunately, measures such as net benefit quantify changes in total gain but do not take into account the distribution of this benefit.

WACOSS argues that even changes that result in a positive net benefit to the community as a whole should not be undertaken if those who already hold the majority of wealth gain, and those who have the least lose. ACOSS refers to this as the "tyranny of the majority" where the social and economic interests of people affected by disadvantage may not be consistent with that of the majority"³

WACOSS advocates that all Government policies and programs be subjected to a 'Poverty Proofing' program prior to implementation. This recommendation was included in our recent Pre-Budget Submission to the Western Australian Government and we consider that such a program be implemented nationally, including in the NCP review. Poverty Proofing programs have been implemented extensively overseas, particularly in the European Union and have been hailed as one of the most significant developments under the Anti Poverty Strategy to date⁴.

WACOSS argues that NCP's vision of success must incorporate a distributive or equity gain. Within this vision, a policy's success is measured against its ability to raise the standard of living of those who currently have the poorest conditions. This means that there must be a consideration of unacceptable burden placed on the disadvantaged minority when considering measures of net benefit and the public interest.

¹ WA Council of Social Service (2003) *WACOSS Submission to the Senate Community Affairs Inquiry into Poverty and Financial Hardship in Australia*, Perth (p8)

² Productivity Commission (2004) *Review of National Competition Policy Reforms*, Discussion Draft, Canberra, October (p4)

³ ACOSS Submission (2004) *Submission to the Productivity Commission Review of National Competition Policy Arrangements*, Canberra (p5)

<http://www.pc.gov.au/inquiry/ncp/subs/sub106.pdf> (accessed 15 December 2004)

⁴ See, for example, Johnston, H. (2003) *The Irish Approach to Combating Poverty*. Speech available at: <http://www.vinnies.org.au/index.cfm>

Public Interest Test

The reversal of the onus of proof

WACOSS reinforces that it is for governments to demonstrate that reforms are in the interests of the community (the original onus of proof). The decision to reverse this onus of proof was made by the Coalition of Australian Governments on the grounds that “theory and evidence strongly suggest that removing restriction on competition will typically be in the public interest”⁵.

However, this is not true in all instances and in these cases it was assumed that “those who benefit from legislative restrictions on competition”⁶ would provide an adequate and persuasive argument to the contrary. The Productivity Commission refers to this as the “counterweight” effect and goes on to note the Western Australian Government’s comments that,

The influence of vested interests is often not recognised by the community and those groups are often skilled in presenting arguments which can gain wider public support. Vested interests in some cases maintain that legislation that prevents the entry of new competitors is for protecting the community from a social harm that will arise if new competitors are allowed to enter the market, without disclosing their interest in avoiding competition⁷

It must also be acknowledged that not everyone who claims to represent the public interest has a vested (profit making) interest.

Many non-profit organisations are charged with the role of representing the interests of low income and disadvantaged individuals and have an important contribution to make regarding policies pursuing the public interest. However, by reason of their non-profit status, non-profit organisations are generally small “generally employing fewer than five staff and spending less than \$100 000 annually”⁸. This means that they do not have the resources available or allowable to act as an effective counterweight to a standing position that assumes competition is in the public interest. Where dissenting voices do not have the means to be heard, reversing the onus of proof effectively silences their dissent.

This statement is backed up by recent research into the ability of non-government organisations to engage in policy debate. In addition to the limited resources of small organisations, other structural features and political mechanisms were highlighted as providing significant impediments to the ability of NGO’s to engage in policy debate. In addition to limited resources, these

⁵ Productivity Commission (2004) *Review of National Competition Policy Reforms*, Discussion Draft, Canberra, October (p124)

⁶ *ibid* (p124)

⁷ *ibid* (p124)

⁸ Auditor General, Western Australian Government, *A Means to an End – Contracting not-for-profit organisations for the delivery of community services* Report 3 June 2000 (p13) www.audit.wa.gov.au/reports/report2000_03.html (accessed 15 December 2004)

included tactics of government such as bullying, public criticism and threatening to defund politically active organisations⁹.

We also support the Productivity Commission's proposal that,

Governments should take a lead role in explaining to the community why further reform is required and what benefits it will bring. They should also ensure that there is effective consultation and engagement with those parties directly affected by reforms.¹⁰

In reality most Australians have little or no understanding of NCP and are therefore unable to make fully informed choice in relation to these issues. For example, in Western Australia the public is currently being asked by referendum to determine whether Retail Trading Hours should be deregulated. Very few citizens understand the link between the NCP agenda, competition and deregulated trading hours and are not as fully informed as they should be when casting their vote.

In regard to the Productivity Commissions recommendation that Government ensure effective consultation, it is vital that appropriate funding is allocated to relevant parties to enable effective and representative consultation with the non-profit sector.

Assessment of the public interest

WACOSS agrees with the Productivity Commission that an "effective public interest test is essential to secure beneficial reform and to enhance community acceptance of the reform process"¹¹

Application of a suitable public interest test will address concerns raised in the Productivity Commission's report that:

- the benefits of economic growth are shared equitably across the community;
- the initiatives to boost economic growth give due regard to regional diversity;
- the environment is not jeopardised in pursuit of higher growth; and
- in seeking to advance the interests of the current generation of Australians, the well-being of future generations is not put at risk.¹²

We agree with the recommendations that any future nationally coordinated reforms should include:

⁹ The Australia Institute (2004) *Silencing Dissent: Non-Government Organisations and Australian Democracy*, Discussion Paper No 6, June.

¹⁰ Productivity Commission (2004) *Review of National Competition Policy Reforms*, Discussion Draft, Canberra, October (p301)

¹¹ *ibid* (pXXIV)

¹² *ibid* (p149)

- explicit recognition to distributional, regional adjustment and other transitional issues in the public interest test¹³
- transparent and independent assessment processes, incorporating a comprehensive public interest test and providing scope for consultation with, and input from, interested parties;¹⁴
- independent monitoring and public reporting on progress made in implementing the program¹⁵

Consumer Benefit

"The benefits for the consumer of expanding the scope of the Trade Practices Act could be immense: potentially lower professional fees, cheaper road and rail fares, cheaper electricity"¹⁶

The Commission acknowledges that the NCP has benefited businesses more than households. The "average real prices paid by households for services such as electricity, water and urban transport have in fact risen over the last decade or so"¹⁷. The Productivity Commission report attributes these price increases to the corporatisation of government utilities involved in the provision of infrastructure services. This initiative was undertaken to "more closely align prices with the costs of supply and to improve cost recovery by GBEs to enable them to earn a commercial return on their assets"¹⁸.

It has been argued that the resulting increases in costs to households have been ameliorated by "lower prices for other goods and services made possible by cheaper infrastructure inputs for businesses", however this is to ignore two facts. Firstly, as the Productivity Commission points out, "affordable and reliable services such as power, water and telecommunications are central to basic quality of life"¹⁹ and therefore cannot be forgone. This is supported by research finding that customers will deny themselves other essentials such as food in order to pay electricity bills and prevent disconnection.²⁰ Secondly, whilst it is unclear from the Productivity Commission's report where prices have reduced (beyond telecommunications and postal services) we would assert that much of the price reductions in goods and services are in non-essential consumption areas, where low-income people are unlikely to spend their limited resources.

¹³ ibid (p231)

¹⁴ ibid (p297)

¹⁵ ibid (p297)

¹⁶ ibid (p2)

¹⁷ ibid (pXIX)

¹⁸ ibid (p53)

¹⁹ ibid (p153)

²⁰ See for example Kilger, B (1999) Flogging Utilities: The Social Context of Privatisation. *Consumer Rights Journal*; Vol 3. No2. Available at: http://home.vicnet.net.au/~fcrj/crj/3_2a.htm
Lawrence, J. (2002) *Electricity: It's Just Essential. Low Income Electricity Consumers Project Final Report*. South Australian Council of South Australia; Adelaide. Available at <http://www.sacoss.org.au/pubs/liecreport.htm>

NCP implementation, along with other inter-connected reforms, has created serious issues for some consumers. For example, aligning the prices of natural resources with the true costs of supply can indicate the scarcity of these resources to consumers and send a price signal, there are other means by which to reduce 'wasteful use' without impacting on families' basic quality of life. Efforts undertaken by suppliers to educate consumers how to reduce unnecessary consumption would reduce excessive natural resource use as well as reduce total cost of utilities to households.

often clients are unaware that they are eligible for concessions or rebates. It appears that the utility service providers do not readily volunteer information regarding concession and rebates to customers²¹

As well as increasing prices for households, corporatisation has resulted in an increased voracity of credit management and an increased rate of disconnections and restrictions on supply. Disconnection of essential services can cause an array of detrimental effects including: increased stress, family conflict and domestic violence; poor health, hygiene and nutrition; reduced school attendance; and increase risks to safety. These social costs "externalities" have not been adequately considered.

WACOSS agrees with the Productivity Commission's findings "competition laws and consumer protection are in many respects complementary" and that "without appropriate safeguards, competition for the consumer dollar can lead to inefficient outcomes"²² We fully support the Productivity Commission's recommendation that the "Australian Government in consultation with the States and Territories should establish a national review into consumer protection policy and administration in Australia"²³ Furthermore, WACOSS believes it is imperative that this review be representative and independent.

²¹ WACOSS (2003) *Would You Like a Bit of Heat with that Trickle of Water? A report on the results of research into the costs of essential services to Emergency Relief Agencies and their clients*, Perth

²² Productivity Commission (2004) *Review of National Competition Policy Reforms*, Discussion Draft, Canberra, October (p218)

²³ *ibid* (p218)

COMPETITION POLICY AND HUMAN SERVICES

The Productivity Commission has identified the Human Services Sector as an area offering opportunities for significant gains to the Australian economy by removing impediments to efficiency and enhancing competition. The discussion draft stated that:

“ participants representing the social welfare sector at the Commission's policy roundtable (see Appendix A) observed that reforms in the human services area may well be of greater benefit to lower income Australians, and to those in regional areas, than the more ‘traditional’ targets for reform.”²⁴

Further consultation with a broad range of organisations in the sector needs to be undertaken in order to establish support or opposition to this view.

WACOSS welcomed the acknowledgement in the discussion draft that human services are not ‘normal’ marketable products. The human services sector is an area where the conditions required for market forces to function are often absent and market failure occurs. There are asymmetries in the knowledge of consumers and sellers; consumers often having to make life-changing choices about products based on limited information. Many individuals who access human services do so to fulfil basic human needs and have little scope to exercise choice. Social capital is predominately intangible, and is therefore in danger of being undervalued. Due to these particular circumstances, the assumption that removing restriction of competition (or in this case introducing competition) is in the public interest does not hold true and WACOSS recommends that the original onus of proof be applied to the Human Services area.

Non government organisations and the Humans Services Market

WACOSS supports the pursuit of greater equity, efficiency and effectiveness in human services provision, however we are not convinced that competition related reforms would deliver these outcomes. WACOSS is concerned that such reforms may lead to:

- Losses of efficiency due to markets being repeatedly contested

The Productivity Commission states that the periodic contestation of markets through the process of competitive tendering is undertaken to deliver efficiency gains to the community. However, WACOSS has found that this process can, in itself, lead to inefficiencies. The Auditor General's report “A MEANS TO AN END- Contracting not-for-profit organisations for the delivery of community services” found that,

“the majority of government contracts for the delivery of community services run for a short period of time (12 months).

²⁴ ibid (p153)

This hampers the ability of NFPO's to achieve efficiency gains and threatens the continuity of service delivery"²⁵

- Losses of efficiency through reduction in collaborative activity

The same Auditor General's report noted that competitive tendering (a key feature of the purchaser-provider model) resulted in,

"the sector has become more business like and competitive, organisations are increasingly reluctant to share information with each other. As one NFPO commented, 'In a competitive environment, an idea shared is a tender lost'"²⁶

- Reduction in quality of services

Competitive tendering based on lowest price tenders can undermine quality of services as providers cut essential inputs in order to win contracts. The non-profit sector is already experiencing a crisis in relation to recruiting and retaining staff due to the low wages and entitlements for its workforce and the inadequate provision for workforce development. This is not a sector where unit costs can be driven down further.

- Loss of social capital through the further introduction of for-profit organisations.

Non-profit organisations build social capital by involving local communities in voluntary work, fundraising and community education. Social capital is in effect a positive externality obtained by funding non-profit organisations.

"The notion that community based and for profit organisations should compete for community services funding to improve efficiency also ignores the social capital that community organisations build."²⁷

WACOSS supports ACROSS' proposed forward movement in the following areas:

- improved support for the development of high level management, governance and organisational capacity of non-government community service organisations

²⁶ Auditor General, Western Australian Government, (2000) *A Means to an End – Contracting not-for-profit organisations for the delivery of community services* (p21)
www.audit.wa.gov.au/reports/report2000_03.html (accessed 15 December 2004)

²⁷ ACROSS, (2004) *Submission to the Productivity Commission Review of National Competition Policy Arrangements*, Canberra (p8)
<http://www.pc.gov.au/inquiry/ncp/subs/sub106.pdf> (accessed 15 December 2004)

- greater transparency and accountability, especially in terms of targeting greatest need
- the need to recognise and build in the true costs of quality service provision
- increased dialogue and cooperation between government civil society and industry on social policy and planning issues, and
- achieving more appropriate (and reduced) compliance costs for service providers
- the need to recognise and build in the true costs of quality service provision.

CONCLUSION

The Productivity Commission's discussion draft posits the National Competition Policy as a means to the end of delivering benefit to the Australian community.

When considering measures of net benefit and the public interest WACOSS asserts that there must be consideration of unacceptable burden placed on the disadvantaged minority. WACOSS supports the application of a public interest test that specifically addresses this issue. We also support the establishment of a national review into consumer protection and administration in Australia, which will give further consideration to the rights of low-income and disadvantaged individuals.

In regards to the extension of competition-based reforms into the area of human services, we recommend that the original onus of proof apply such that it is the government's responsibility to convince the community of the benefits of competition policy.

At present, WACOSS is not convinced that competition related reforms would deliver these outcomes, however, we affirm our pursuit of greater equity, efficiency and effectiveness in human services provision through alternate means.