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1.0 Introduction

The Australian Council of Social Service (ACOSS) welcomes the opportunity to make a further submission to the Commission's Review of National Competition Policy and to comment specifically on the Draft Discussion Paper (Discussion Paper).

ACOSS is the peak council of the community services and welfare sector in Australia and the national voice for low income and disadvantaged people.

The primary interest of ACOSS in the application and impact of National Competition Policy (NCP) is in relation to:

- improvements or deterioration in the lives of low income and disadvantaged Australians
- improvements or deterioration in the circumstances of community agencies which support low income and disadvantaged Australians.

In summary, our argument is that the costs and benefits of NCP have not been transparently demonstrated this has contributed to community support for NCP being weak. While this lack of transparency limits the capacity to be conclusive about the impacts of NCP. It is noted that over the period since the introduction of NCP inequality has grown. We believe a key criterion for NCP should be the extent to which it contributes to a reduction in disparities by raising the living standard of people living on low incomes or who are otherwise disadvantaged.

The Discussion Paper contains questionable assumptions and limited principles which tend to dominate and distort the identification and analysis of problems. Future reform must instead be based on clearer and more precise articulation of the ultimate objectives of reform.

Articulating social objectives is essentially a public exercise and the public must therefore be actively involved in shaping the objectives of reform. The need for reform should be tied to real problems and policy makers must demonstrate how proposed policies will achieve the desired outcomes. Rigorous and transparent monitoring and reporting of progress coupled with regular reviews to allow for policy adaptation should underpin the reform process.

Intergovernmental cooperation will be essential to achieving national reform but intergovernmental arrangements must engage the community in shaping the national agenda. Human services are in need of reform – there are problems of access, equity and quality which must be addressed – and we strongly agree with the Commission that human services reform needs to be tackled with sensitivity and on a case by case basis. It is also agreed that so-called 'market based' reforms may play a role but that there are risks in these approaches for both low income and disadvantaged groups and nonprofit service providers.

We agree that reform of the health system is an important national priority but it is closely linked with other human service systems – especially aged and community care. Health system reform should carefully consider the connections with aged and community care. The Discussion Paper presents a particular, and ACOSS believes, a

somewhat inaccurate account of the problems and pressures facing the health system. However the recommendation of a national inquiry into the health system is supported, though not one in the style of Hilmer, which was very narrowly constituted.

Nonprofit organisations play a major role in the delivery of human services, contribute to broader community wellbeing and are an important part of the economy. However, the current regulatory framework for nonprofit organisations makes it difficult for nonprofit organisations to adapt to changes in the social and economic environment. A fundamental review is necessary, as the complexity and rigidity of Australia's current nonprofit laws place a costly compliance burden while failing to adequately protect funders and donors and other stakeholders such as volunteers and beneficiaries.

While ACOSS has only limited expertise and capacity to analyse the impacts of NCP on the provision of essential services, notably electricity and telecommunications, these are important areas that have directly had an impact on low income people. The benefits in terms of affordable and accessible essential services arising from NCP have been few, indeed many disadvantaged consumers they seem to be worse off.

2.0 Results and support for reforms

The Discussion Paper concludes that NCP has brought substantial benefits to the Australian community, which overall have greatly outweighed its costs. As we indicated in our earlier submission, it is hard to quantify assertions of this kind because of the lack of evaluative information about the outcomes of competition.

The Commission itself has struggled with this problem and has been left arguing on the one hand that 'one of the main ways in which NCP and related reforms have boosted total output is by reducing the costs and prices of many goods and services' while on the other that 'clearly it is not possible to separate with any precision the impacts of NCP from the myriad other factors influencing prices in the market' (page xviii).

In relation to the impact of competition reform on Australia's broad economic record, some economists have argued that Australia's recent good economic performance can be attributed simply to sound macroeconomic management.¹

ACOSS' is concerned that there is a lack of evidence about the socio-economic impacts of NCP and how these are being monitored, evaluated and ameliorated. The discussion paper offers little comfort in this respect. It acknowledges for example that average real prices paid by households for essential services such as electricity, water and urban transport have in fact risen over the last decade or so. While the discussion paper notes that specific compensation measures for low income households will have lessened the impacts for those least able to cope, it offers no concrete evidence of how effective or comprehensive these measures have been.

¹ John Quiggan, 'Reform for the small minded,' Australian Financial Review, 20 November 2003

ACOSS is aware that a significant number of low income consumers struggle to afford these essential services. Elsewhere the Commission acknowledges that NCP 'provides no guidance on the circumstances in which support to aid adjustment or address adverse distributional consequences ensuing from the reform process may be warranted and that this heightens the risk of inappropriate support or failure to provide it when desirable' (page xxiii).

The Discussion Paper claims that ACOSS, among others, suggested that the growth in inequality over the last decade demonstrates a link between NCP and increased inequality. While it is true that ACOSS is deeply concerned about growing inequality (and persistent long term poverty) we have not claimed a direct relationship between this and NCP. Sadly too little evidence is available to be conclusive on this issue. Our earlier submission stated 'the extent to which NCP has contributed to or ameliorated the level and shape of contemporary poverty in a rich country like Australia, against a backdrop of rapid industry, trade and workforce reform, remains a valid question. Perhaps an even more important question is how NCP will respond to these trends, given its overall aim is to grow a productive society to improve the welfare of the Australian community.'

ACOSS acknowledged that most parts of the NCP regulatory framework explicitly recognise the importance of governments' role in establishing social objectives and of achieving desirable social as well as economic outcomes, but argued that although the Competition Principles Agreement requires the transparent assessment of the costs and benefits of these broader interests of government, such ideals have not always been realised in the implementation of the policy.

Some of the negative perceptions of NCP outlined in the Discussion Paper indicate that there is limited public support for NCP reforms. Cultivating a climate of opinion in favour of future reforms through consistent and constructive engagement with the community will be the important to achieving and sustaining reform.

In our view, the future development of NCP will depend on there being greater and more precise emphasis on the social benefits which competition policy is meant to deliver. Articulating social objectives is a public exercise and the public must be actively involved in shaping the objectives of reform. The need for reform should be justified by reference to objective problems and policy makers must demonstrate how proposed policies will achieve the desired outcomes. Rigorous and transparent monitoring and reporting of progress coupled with regular reviews to allow for policy adaptation should underpin the future reform process.

3.0 Intergovernmental arrangements and national reform

Whatever its outcomes, NCP is an example of how the Commonwealth Government gained the cooperation of the States to achieve national reform. The Council of Australian Governments (COAG) was obviously critical to the planning and implementation of NCP but is probably no longer the best model for driving national reform.

As a recent report by the Allen Consulting Group to the Victorian Government argues:

More recently COAG has had limited effectiveness, and this stems from the fact that the Commonwealth does not at present appear to see major areas ... in which there would be an advantage to it in high level collaboration with the States. ... The fact that the Commonwealth controls when COAG meets and what is on its agenda is a major weakness in current arrangements, as is the fact that COAG has no independent secretariat or analytical capacity.

The report recommends that:

... a new intergovernmental agreement be developed and signed by all governments setting out the scope and charter of an Australian Federation Council (AFC) which would comprise the heads of all Australian Governments, range across all issues of national significance, be open in the setting of its agenda, have its own secretariat and adequate analytical capacity, and meet on a regular schedule.

The core of the AFC would develop a comprehensive vision and strategy in core social policy – as well as in other areas of national importance involving both levels of government. It would develop measures of achievement and performance through which the community could understand the goals and results of the strategy, and against which governments would report – facilitating democratic accountability to the electorate at each level. AFC would replace and transcend COAG.²

While the AFC model is only one of a number of possible options, ACOSS believes it would address many of the problems of COAG.

One criticism of the AFC model is that it does not directly address how the community should be involved in shaping the ‘comprehensive vision and strategy in core social policy.’ This was a weakness in the operation of COAG and the development of National Competition Policy and is not dealt with well in the Discussion Paper either.

The Discussion Paper argues, for example, that ‘in progressing reforms in the human services area in particular, effective consultation and communication of the

² Allen Consulting Group, *Government's Working Together*, May 2004, p193-4)

importance of change will be especially important' and that 'it is incumbent on governments to specify what outcomes they are seeking.' (page 244)

This suggests that it is the role of governments to impose reforms on the community and to smooth any discontent. Certainly governments will need to lead the process but future approaches to long term national reform should ensure broad community support for the directions of reform and a strong role in reviewing performance. In relation to health reform in particular we doubt that substantial reform could be achieved without broad community ownership of the aims and processes of reform.

4.0 Human services reform

4.1 *Articulating the reform imperative*

The way in which the imperatives for reform are articulated effects the shape of reform. In our view the Discussion Paper describes the reform imperatives too narrowly through the lens of competition policy and provides a distorted view of the impact of population ageing on human service systems.

As outlined in our preliminary submission, there are a series of assumptions which underpin the theory and practice of NCP in Australia. These include that the competitive market place provides the most efficient means of producing and distributing goods and services; individuals can participate and meet their needs within the market; services provided or funded by governments should be priced to recover costs; and governments, through regulation, have intervened too much in the operation of markets and are generally inefficient managers.

The Discussion Paper is careful to emphasise the distinctive qualities of human services, down-play the contribution that market based reforms can make to delivering better outcomes in human services and stress the importance of detailed case by case examination of the scope for market based reform.

Nevertheless, the issues are couched in terms of 'market based' and 'competition related' approaches which do suggest a particular path of reform. Would the path of reform be different if the conceptual framework began with phrases like 'equity based' and 'quality related?'

ACOSS believes that the community wants human service reforms which deliver equitable access to good quality services and, as far as possible, equity of outcome. And they want this to happen in an efficient way.

Finding a path of reform that will be acceptable to the many interests with a stake in human service systems will be challenging, but will be made more difficult if the starting point for discussion assumes that the reform imperative, as described in the discussion draft, is to 'improve cost-effectiveness so that growing future demand for services can be met without the need to increase taxation or shift the burden onto future generations through increased public sector debt' (page 243).

ACOSS is concerned that this overlay, and the underlying assumptions of competition policy, mean that human service reforms which proceed under the banner of NCP or the supposed imperative to keep taxes and public sector debt low will subsume access, equity and quality considerations and detract attention from the real drivers of cost in the system which includes the rapid adoption of advanced technology in the medical system and government policy preferences, as well as the cost and blame shifting which occurs between the Commonwealth and the States.

This is not to deny the fiscal implications of the ageing population for governments or that the cost effectiveness of services is an important consideration, but it is possible to overestimate the impacts of the ageing of the population and underestimate (or fail to mention) other causes of current and future fiscal pressure.

The critical issue for the future will be who pays for the necessary expansion of health, aged care, income support and other assistance. While there is some scope for self provision, ACOSS considers that the fairest way to finance 'core' health, care, and social security services is through the general taxation system. If we are successful in boosting workforce participation and productivity over the next 30 years, the necessary increase in the proportion of gross domestic product collected in taxation should be economically and politically sustainable. Even if all of the additional cost of these services were met through general taxation (which we are not advocating), the increase in our tax : GDP ratio would probably be no greater than past increases. For example, our tax ratio increased substantially in the immediate post war period (to invest in post war reconstruction and deal with population ageing at that time), and again in the mid 1970s (to deal with rising unemployment). Further, Australia has more room to move in this regard than most OECD nations because our tax take is well below that of most other OECD nations.

In addition to an element of self provision, consideration could be given to the following options to strengthen the public revenue base to finance services for older Australians:

- Introduce a health and aged care levy linked to personal income tax.
- Broaden the income tax base to raise revenue and improve economic efficiency at the same time, for example by:
 - reducing the tax bias in favour of passive investment in assets such as shares and rental property;
 - preventing personal income tax payers from avoiding tax by the use of interposed entities such as a private company or trust;
 - replacing hidden subsidies in the tax system for certain industries (such as the Fringe Benefits Tax concession for motor vehicles and the Private Health Insurance Rebate) with more transparent and accountable direct expenditures; and
 - generally treating different forms of income in a more consistent way.
- Remove excessive tax support for the disposable incomes of well off retirees (the cost of which will escalate as the population ages).
- Strengthen the consumption tax base, without shifting the overall tax mix in favour of consumption or increasing the rate of GST, for example by indexing the rate of petroleum excise.

Assuming that the community wants human service reforms which ensure equitable access to effective services within an efficient system, what are the priorities for national reform and what role is there for market-based approaches?

4.2 *The first priority - meeting community needs*

Probably the single biggest problem from the point of view of the users of human services is access to good quality services. This is a common theme across many human services including health, aged and community care.

While this partly reflects a general desire for more and better services, for some groups the issue is simply that they cannot get good quality basic services where and when they need them because the supply of the service is either too tightly rationed and/or the planning, regulatory, and resource development and allocation systems (if any) do not ensure that the services are available and accessible.

ACOSS believes that the first and overriding objective of human service reform should be access to good quality basic services to all who need them. If this is the primary objective, the challenges will be securing the real resources needed to deliver the services, directing those resources to where they are most needed, and developing more flexible mechanisms for the funding and delivery of services so that services can be adapted to the particular environments and needs of particular groups and communities.

How this is achieved will involve real choices for the community - about priorities for public funding, the place for self provision, levels and types of taxation, responsibility for long term service planning and workforce development, the regulation of professional qualifications and the place for service substitution.

Do we continue to subsidise, for example, dental care for the middle class while low income groups face four year waiting lists for dental care in the public system? Or do we accept that there is a place for subsidising dental care for the middle class and increase taxes in order to support this level of subsidy as well as providing decent dental care for low income groups?

4.3 *What role for 'market-based' approaches?*

The Commission clearly supports efficiency gains over tax increases and public borrowing as the preferred way to meet social needs.

In terms of access and equity considerations, the Commission argues that:

- User charging can help free up government funds to better assist those in need by limiting inappropriate consumption and reduce subsidies to people who are well able to pay for services;
- Market based reforms have underpinned economic growth which in turn has increased the amount of tax revenue which has increased the capacity of all governments to fund a range of services of benefit to the community;

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- Increasing the performance of services will provide major savings which can be 'at least partly used to enhance service quality and accessibility and to service the needs of an ageing population'. It is important that the Commission, governments and service providers articulate the purposes toward which any savings may be put, there is a strong case that any savings be directed back into increasing access, equity and quality in the system; and
 - Consumer choice imposes disciplines on providers to deliver value for money services and to respond to changing needs.

This submission has already dealt with the claim that micro-economic reform has underpinned Australia's recent economic performance. In the following discussion we deal with user charging and other 'market-based' approaches to enhancing services performance as a means of improving access to good quality services.

4.4 User charging

As the Commission points out, user charging already applies in many human services. We agree that user charging does not inherently transgress principles of equity, but that the practice of user charging has led to community perceptions that it is inherently unfair. In the health system for example, user charges for medical services are uncapped and randomly applied and there is no integration of the user charges applying to medical services and pharmaceuticals which leaves patients vulnerable to a cascading of co-payments one on top of the other.

In relation to the claims that user charges can free up government funds to better assist those in need (page 255), ACOSS believes that evidence is needed to sustain this proposition. For example income from charges should be assessed against lower service use, where applicable, (and associated longer term consequences, such as in delayed use of health services); if additional revenue overall does result, is this consumed returned to general revenue and/or used to invest in different services or for the benefit of groups other than those who pay fees? Do such charge related service revenues contribute to reduced general budget allocations to those services?

There are particular problems in applying user charges to human services in an equitable way. People usually have little choice about whether they use human services - school education is compulsory, child care is a necessity for working parents or for parents in need of respite, and people do not choose to become sick or disabled. Furthermore, the imposition of user charges often occurs at precisely the time that people are least able to afford the charges and/or at a time when they are distressed and vulnerable. We agree with the Commission's conclusion that user charges can dissuade people from using necessary services.

We also have concerns about the logical conclusion of the argument that those who are able to pay should be encouraged to do so. This could well lead to the emergence of two separate service systems - a private system for those that can afford to pay for themselves and a residual public system for the rest. The problem with this scenario is that the quality of the public system is likely to decline as the better off lose their stake in the quality of the public system and begin to resist the spending of tax dollars on maintaining a decent public system. Further as the amount of money

increases in the private system relative to the public system, scarce human resources will be attracted into the private system to the detriment of the public system. There is evidence that this is already occurring in the health system.

If user charges are applied in human services, then there are a number of criteria that should be met before user charges are permitted:

- The purpose of the user charge should be transparent - for example, is the charge a price signal to limit unnecessary consumption and remind people of the value of the service or is it to provide savings that will be used to assist those in most need;
- There should be no requirement for people to pay at the time of service but for pre-paid or deferred payment options or, possibly, income dependent-HECS type arrangements
- People should be charged according to means;
- The user contributions should be reinvested in the service for quality, access and equity related purposes;
- The impacts of user charges on basic human services should be carefully monitored and remedial action taken where adverse impacts are identified; and
- User charges should be regulated and capped - both on a per service basis and on an annual/lifetime basis to ensure heavy users of the system are not unfairly burdened.

4.5 Service performance

The Commission notes that there has already been a range of competition-related reform in human services but thinks that there is considerable scope for further competition and market based change in the human services sector to promote better service performance. The future directions for reform are said to be more of the same 'generic reform approaches that have underpinned much of the previous competition-related reform in the sector.' (pages 250-1)

Some of the strengths and weaknesses of market based reforms were canvassed in our earlier submission and also in the Commission's Discussion Paper. Some additional comments are provided here.

4.5.1 Budget savings

The extent to which there may be substantial budget savings from productivity gains depends on the particular part of the human services sector in question. In relation to health care there are undoubtedly savings to be made from efficiency gains (see later discussion). In respect of some other services we are not convinced that the savings would be great. There may be some savings in rationalising the disparate funding streams that support aged and community care, but in general the broad community services sector struggles to meet demand within current resources.

The 2003 annual survey of the nonprofit community sector conducted by ACOSS, and securing survey responses from 818 agencies nationally, found that many agencies reported problems with:

- large waiting lists and levels of unmet demand;

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- the overall lack of housing options including emergency and long term accommodation and levels of homelessness;
 - the increasing burden of contract administration and onerous reporting requirements;
 - increasing insurance and legal costs;
 - increasing client problems including frailty, violence and domestic violence;
 - recruiting and retaining qualified staff and volunteers and staff shortages;
 - uncertainty and short term nature of government funding; and
 - inadequate premises and facilities due to the need to find the cheapest rent.

These agencies under pressure were asked to indicate what strategies they used to cope with this.

Fifteen per cent of all responding agencies indicated that increased (unfunded) effort by staff and volunteers was a key coping strategy, while 21% said that they used the creation and extension of waiting lists, increased referrals and closer targeting of services as ways of dealing with the pressures they faced.

A significant proportion of agencies nevertheless reported that they had met increased demand within existing capacity, suggesting that agencies have found ways of working more efficiently. However, it was not possible to determine from the survey whether these efficiencies have been at the cost of the quality of services or not.

So while some efficiency gains may be secured in service sectors, this is likely to be in the context of growing demand for services, and unreasonable or unsustainable work practices or impacts on service quality. Even where such efficiencies can be made, support for administrative and management functions of services and better coordination between services are likely to be needed.

It may also be the case that there are efficiency gains in consolidating the number of service providers within particular service streams, but the question then arises about the costs and benefits of having a small number of major providers. It is likely that responsiveness and innovation will be sacrificed for greater standardisation and bureaucratisation and that the regulation of market power will become a critical part of ensuring value for money.

4.5.2 Value and quality

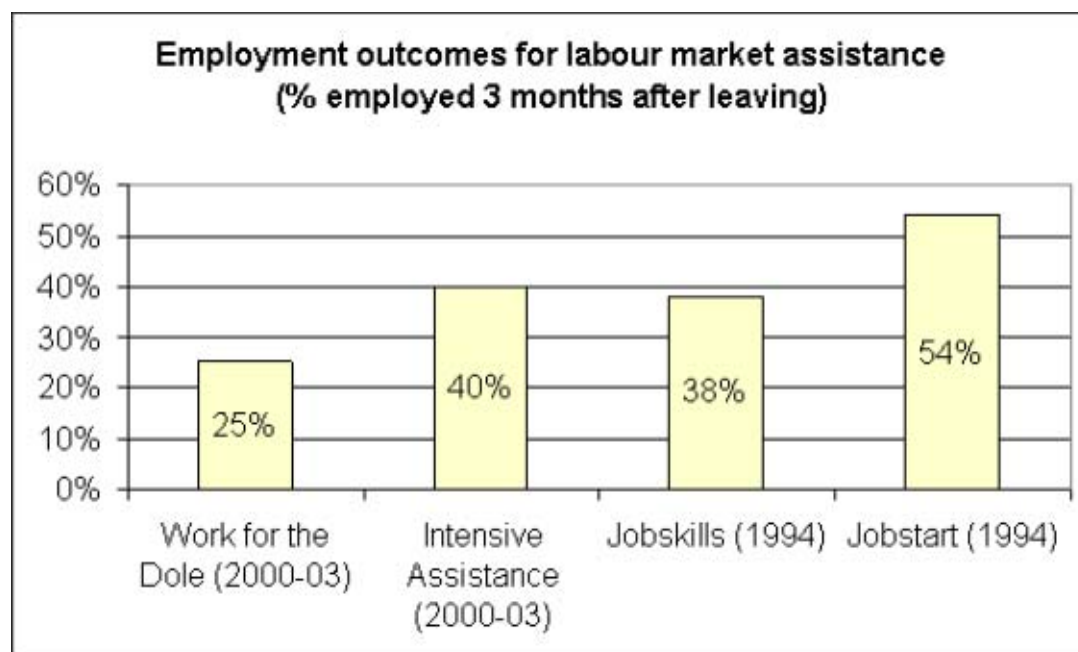
The Commission argues that competitive tendering and competition for the market through 'purchaser-provider' arrangements is likely to bring 'efficiency and effectiveness benefits for the community' (page 252).

No evidence is adduced for this assertion, but the experience of competitive tendering in general has been that government's strictly specify the services to be supplied and providers compete on price for the delivery of those services. Services are generally provided in a manner consistent with the minimum standards under the relevant legislation, but there is usually no incentive to provide higher quality or more effective services. This is unremarkable in an environment where cost containment is an overriding objective.

The Job Network - where providers are paid in part on the basis of outcomes achieved - is an important exception here. However, there are major problems with the Job Network because of the way in which services are funded. Providers lack the resources and incentives to assist long term unemployed people and other highly disadvantaged job seekers (such as people with disabilities) overcome barriers to employment. Neither the input payments nor the outcome payments are adequate to encourage effective investment by providers. Providers and Government should share the risks of investment in labour market assistance, and providers should be rewarded (with adequate outcome payments) for taking risks. At present there is no explicit mechanism for sharing risks. Implicitly, most of the risk lies with the providers because Job Seeker Account payments are very low. There are indications that providers are unwilling to risk making substantial investments for large numbers of disadvantaged jobseekers, given the limited rewards.

ACOSS disagrees with the Commission's argument that Job Network has delivered the same outcomes as previous labour market programs for less money.

ACOSS believes that the Job Network and Work for the Dole have been less effective than the previous work experience programs Jobstart and Jobskills in assisting long term unemployed people into jobs. The main reason for this is that most long term unemployed people need the experience of a period of employment in a mainstream job to help them compete in the labour market. This was offered under the previous programs, but is rarely offered as part of Intensive Assistance. Work for the Dole does not offer the right kind of work experience. Despite welcome reductions in overall unemployment, Australia has not reduced the number of people on unemployment payments long term since the mid 1990s. In July 2004, there were 358,000 people on unemployment payments for over 12 months, about the same level as eight years ago (345,000 in July 1996).



Sources: DEETYA: "Annual reports" (1994-95 and 1995-96), DEWR: "Labour Market Assistance Outcomes" (various quarters 2000-2003).

In looking at these figures, it is important to consider that Intensive Assistance and Work for the Dole have been operating in a more favourable labour market (unemployment was lower and job vacancies were higher) over 2000 to 2003 than the previous programs encountered in 1994. This suggests that average employment outcomes were substantially higher for Jobstart than for the other programs, that Jobskills had similar employment outcomes to Intensive Assistance, and that Work for the Dole had substantially lower outcomes than the other programs. Whether this is a good indication of their relative performance depends on other factors affecting outcomes, especially the profile of job seekers assisted, and labour market conditions.

The client profile for Intensive Assistance suggests that its relative performance was bolstered by having less disadvantaged clients. This view is reinforced by comparisons of its client profile and performance over time. Taken together with the data on job outcomes in the graph above, these data suggest that the 'old' programs, Jobstart and Jobskills, made a greater difference to the employability of long term unemployed people than Intensive Assistance or Work for the Dole.

4.5.3 Purchaser-Provider arrangements

Returning to the main thrust of the Commission's arguments, labour market programs such as the Job Network are illustrative of the criteria that the Commission thinks make purchaser-provider arrangements attractive. The Commission has identified the following as important criteria in assessing whether the purchaser-provider model will be potentially useful:

- Desired program outcomes can be clearly identified;
- Those outcomes can be largely specified in quantitative terms;
- Outcomes can be clearly influenced by the efforts of providers;
- Process specifications can be avoided;
- Contracts are of adequate duration;
- Administrative, compliance and other costs associated with tendering are not excessive relative to the value of service being provided; and
- Contracts can be written to avoid unintended consequences.

In terms of the wider application of purchaser-provider arrangements to human services, these criteria are not often satisfied. There are particular problems in setting boundaries for responsibility when there are interfaces with other services as is common in human services. The difficulties in Commonwealth/State funding across some programs and the cost shifting that goes on is an example of the problems of setting boundaries for responsibilities.

Even with labour market programs, it can be very difficult to determine to what extent employment outcomes are really influenced by the efforts of providers and there would seem to be no way around the need to mandate and monitor certain minimum levels and standards of service.

Given that human service 'markets' will generally be monopsony markets, there is also a strong case for consumer protection in the form of an independent regulator, consumer complaint mechanisms, consumer information about standards, and consumer information about price levels where consumer contributions are a feature.

In most human service fields, consumers and taxpayers have few guarantees that the standard of care is commensurate with the cost of the service. Systems that monitor and support standards of service provision are important in this context.

ACOSS believes that the discussion of value and quality needs to focus more directly on the degree of quality we want in human services and how much is reasonable to pay in order to get it. This equation will entail thinking more about the returns on investment in human services and less about the simple cost of services to the national budget.

Another important dimension to the trend towards market based approaches to human services is the impact on long term industry and workforce planning and development, which is the base upon which quality and effectiveness of human service systems are built. Government funding under the purchaser-provider model is unpredictable and generally short term and there is very little support for organisational capacity building or industry development to compensate.

In many human services there are a shortage of trained workers, with nursing and child care being notable examples. Relatively low wages and conditions and lack of training and career development opportunities are endemic problems which will be exacerbated by industry instability. McDonald has noted that there was a permanent loss of workers from the childcare industry in the 1990's when many operators went out of business as a result of a decline in affordability and that conversely in 2002 the industry was struggling to meet demand (due to increased affordability) because of a chronic shortage of workers. He argues that the current system is inherently unpredictable and unstable due to its sensitivity to changing cost structures and affordability problems.³

We suggest that contestable markets in which providers wash in and out of the system at regular intervals and where consumer contributions are a major part of the system pose a risk to the long term development of human service industries. This is a risk which must be carefully managed, with the responsibility for long term development and investment in capital and infrastructure explicitly shared between government and industry representatives.

4.5.4 The role of for-profit, non-profit and government sectors

Services, in a range of areas, are being provided by a 'mixed economy' of government, non-profit and for-profit sectors. NCP has contributed to the growth of for-profit provision and might continue to do so in the future. In child care and aged care there has been a marked decline in the proportion of non-profit services delivering services compared to for-profit services as both sectors were marketised and deregulated.

In theory, the mission and structure of non-profit providers should ensure that all surplus income is wholly reinvested in the service – whether by hiring more and better trained staff, maintaining and improving infrastructure, or developing new

³ P. McDonald 'Issues in Childcare Policy in Australia,' *Australian Economic Review*, 35 (2), June 2002, p201.

and innovative programs – which should in turn translate into high returns on investment for consumers and taxpayers in terms of quality services.

On the other hand, organisations which run services on a strictly for-profit basis may be less likely to invest in the quality of the service beyond that required by legislation and to lobby against quality standards and wage increases where these are perceived to have a negative impact on profitability.

It is relevant to note that in many important, but often unmeasured ways, non-profit service providers contribute to the building of social capital. Many such agencies at a local level provide venues for volunteers to engage in service provision, management and administration. Community members are given opportunities to contribute money or goods and services. Non-profit agencies may be more cost-effective as a result, but they certainly contribute to a sense of community that has tangible benefits for both the community, those receiving services and the individuals who are so engaged.

There are certainly examples of good and bad practice in both the for-profit and non-profit sectors. However, we are not aware of any research on the overall impact on quality as a result of the decline in non-profit providers in child care and aged care and believe this is an important subject for research. And while the legacy of non-profit provision may have ensured that the current quality provided in the system is as good as it can be for the level of spending, it remains to be seen if there is any change as the share of for-profit provision continues to grow.

The Discussion Paper notes that in a variety of human service areas, governments have sought to improve the cost-effectiveness and quality of services by devolving provision to non-government entities. The argument for purchaser-provider arrangements is that it allows a degree of contestability and competition for the delivery of the service and that this is likely to deliver efficiency and cost effectiveness benefits for the community.

ACOSS takes a different view of the situation. Non-government organisations have a long history of delivering services to the community - and often prior to any government support for the running of these services. These non-government organisations employed their own staff, established their own asset base and management and administrative systems and attracted voluntary contribution of money and labour. As government's recognised the value of this work so they provided support in the form of grants and other assistance to broadly support the work of these organisations.

However, with the advent of micro-economic reform governments saw valuable resources in these organisations which they could use to reduce their own responsibilities for the funding and provision of services. Contracts were drawn for the delivery of narrowly specified services and in some instances organisations were encouraged to compete on price. Very often, the level of government funding has not been sufficient to cover the real costs of delivery and non-government organisations have had to draw on their own resource base to meet the difference.

While this approach may have yielded short term efficiency and cost effectiveness gains from the perspective of government purchasers, there are significant longer

term risks in this type of approach. Tightly defined contractual arrangements and the failure to meet the full cost of delivering the service means that non-government organisations are distracted from, and have less capacity to meet, their broader organisational objectives which are likely to involve more diffuse supports for people in the community. This in turn is likely to 'create' a new set of needs which will need to be met by formal services. More worrying is that the core organisational capacity of many organisations, including their ability to attract and retain voluntary contributions of time and money and maintain capital assets will wither.

There is a need to carefully consider the roles that might best be performed by government or non-government service providers. For example, Centrelink is an agency of the Australian Government responsible for delivering income support under social security law. This role is one that is best suited to government ensuring that such an important service is provided in a fair and consistent manner and that can be made readily accountable both to individuals (who have rights of review and appeal regarding decisions) and to the community (who can hold government directly accountable through elections). In addition Centrelink acts as a gateway to other services, such as labour market assistance, many of which are funded by government but provided by non-government agencies. As an agency of Government Centrelink acts as a conduit to inform government policies in relation to income support recipients and, to some extent, the other services that government funds to assist these most disadvantaged of Australians

By contract employment assistance is most provided by non-government agencies (both for and not for profit). This is appropriate as flexible practices are often required in responding to individual circumstances of job seekers and the needs of employers, most of whom are in the private sector. Such flexibility is often not readily provided by 'rules based' agencies such as Centrelink.

4.5.5 Performance benchmarking

We agree with the Commission that without a clear linkage between desired outcomes and funding levels, there is a risk that service quality and/or accessibility become 'residual balancing items.'

As the Discussion Paper notes, performance benchmarking has been introduced in a range of human services and we believe it has a role to play in improving performance. Routine data is almost invariably more than adequate to allow benchmarking to take place and information technology has made widespread 'active' benchmarking feasible. However, purchaser-provider arrangements with private sector organisations often results in 'commercial-in-confidence' being used to prevent organisations actively participating in reviewing and improving their performance by comparing themselves with other providers.

Competitive environments for service provision can result in service declining to share information about performance, and the outcomes of innovations. Instead these become points of 'competitive advantage', this may contribute stifled development, especially in service sectors that rarely enjoy sufficient funding for research and development and human resource development.

We also draw the Commission's attention to the need for great care in making generalisations about performance across jurisdictions, as the Commission does in relation to Table 10.1. Without data on the quality of the service or level of access to the service such comparisons are questionable. For example, you might conclude from Table 10.1 that the performance of the Northern Territory health system is very poor when it comes to infant mortality until the high proportion of Indigenous people in the Northern is taken into account. It may in fact be that the Northern Territory health system is providing a comparable or superior service but that the high representation of Indigenous people in the NT, who experience much worse health than the general population, skews the raw output data.

4.5.6 Choice

As outlined above some market driven approaches to service delivery may have lead to a diminished presence of non-profit providers. This obviously has an effect on the level and type of choices within particular service systems. If this kind of choice is valued by consumers, then it is worth exploring options for better supporting non-profit providers so that they remain a significant presence in human service systems.

It is interesting to note in this context recent research which shows that the community overwhelmingly supports the delivery of human services by either public or charitable organisations and shows little support for services delivered by for-profit organisations.⁴ The issue then would appear to be whether the public has any desire to exercise a choice in favour of for-profit human service provision.

4.5.7 Access and Equity

There are three major access and equity concerns which can arise from market-based approaches to human service delivery and they all arise from the fact that services in a market-based system are attracted to the places where the returns are good and the risks low.

The first concern is that where consumers who can afford to pay for themselves are encouraged to do so, it is likely that a system of largely private provision will grow up around them while a lower quality residual public system caters for those who cannot pay for themselves. The equity concerns about such a two tiered system have been outlined above.

The second concern is that the additional costs for service providers in providing services to disadvantaged groups will mean that these groups will not receive the services they need unless the needs of disadvantaged groups are directly subsidised. The Commission has referred to the problems of 'creaming' the easiest to help clients and the 'parking' of the hardest to help clients in the Job Network. There have also been reports of private hospitals providing limited access to chronically sick older people in preference to younger, healthier people who need straightforward elective surgery (which attracts the bulk of Medicare and private insurance funding) and who do not stay long in the hospital either before or after surgery. In child care, the Special Needs Subsidy Scheme recognises the additional costs of educating and caring for children with disabilities but the limited funding provided under the

⁴ See Matt Wade, 'Care Industry Can't Ignore Love,' Sydney Morning Herald, 17 April 2004

subsidy scheme means that child care providers often do not have the resources necessary to support the full number of children with disabilities who would otherwise be able to attend child care.

The third concern, and probably the hardest to deal with, is the problem that services in a market-based system are attracted to where the biggest and richest markets are located. This draws a large amount of limited resources (particularly human capital and government funding) into particular areas which is out of proportion to the level of need. Conversely, low population or remote centres as well as areas where disadvantage is concentrated are unattractive to providers despite demonstrable need for the service. For this reason, ACOSS believes that planning controls must necessarily accompany any marketised human service delivery system to ensure a fair distribution of limited resources across the community.

As a general principle, ACOSS believes that governments must work to guarantee that the benefits of the market are available to all or to properly compensate those who cannot, for one reason or another, enjoy access to the market. In this regard, ACOSS rejects the implications of the Commission's comment that 'an efficient and effective community services sector can increase the level and quality of support available to assist those who are disadvantaged by change.' (page 243)

Aside from the irony of suggesting market-based approaches to improving the efficiency and effectiveness of the community services sector when market and government policy failure are largely responsible for the adverse affects of change on some parts of the community, we reject the idea that the role of the community services sector is to mop up the damage inflicted by structural social and economic change and to simply provide ongoing support for those 'disadvantaged by change.'

The Commission's comments imply a heavy responsibility for managing the fall-out from change on the community services sector with little mention of the responsibilities of governments to address the real structural issues that deny people access to stable employment and housing, a decent income, educational opportunities and proper health care. We believe the focus of policy should be on providing the pathways out of disadvantage as well as support for those 'disadvantaged by change.'

4.6 Health system reform

The Commission's Discussion Paper has specifically recommended an independent national review of the health system, akin to the Hilmer Review which foreshadowed NCP.

ACOSS strongly agrees with the need for an independent national review of the health system, but would not support a Hilmer-type review which was very narrowly constituted in terms of its members and their outlook on the issues at hand.

ACOSS suggests that a review structure similar to that of the Royal Commission on the Future of Health Care in Canada (the 'Romanow Commission') be considered for Australia. The Romanow Commission encouraged and received widespread

community input and support for the reshaping of the Canadian health system. ACOSS believes this kind of genuine public engagement will be needed to gain the support of the community for the reorientation of the Australian health system.

ACOSS would also encourage the review to examine the nexus between the health system and aged and community care in particular.

ACOSS also agrees with the Commission that there is much scope for efficiency gains in the health system which would come from a clear delineation of roles between the States and the Commonwealth and from the more rational application of health resources to health needs across the community.

Where ACOSS differs from the Commission is in the Discussion Paper's analysis of the sources of current and future pressure on the health system.

While population ageing will have an effect on health system outlays, the two biggest drivers of increased cost have been deliberate government preferences and the increasing cost of new and more advanced technology.

Government preferences, for example, subsidise the grossly inefficient private health insurance industry (essentially the finance industry) at a current cost of about \$2.5 billion in direct expenditure and perhaps many times that when the distorting effect of private health insurance on the optimal utilisation of health resources is taken into account.

On the technology front, ACOSS sees no essential problem with a wealthy country like Australia spending more on improved medical technology which reduces pain and discomfort for patients and leads to better overall treatment of illness.

It is worth considering that there no 'technological imperative' which implies a suspension of ethical judgement or social control over expenditure - individuals and society do not serve the requirements of a technological system, rather it should be the other way around. We believe the debate on health system reform must look at the law of diminishing returns in relation to technological advances in health in developed countries and to take a much closer look at the social determinants of health and health inequalities which demand action on a number of fronts which are essentially outside the health system. Opportunity cost should also be taken into account - if we assess relative long term benefits of, on the one hand, investment in new medical technologies compared with investment in preventative and primary health services, which would be the most effective and efficient?

ACOSS believes that the greatest health and productivity gains will come from improving the health outcomes of the most disadvantaged groups in the community who bear the greatest burden of ill health. The level of health currently enjoyed by the most advantaged groups in Australia should perhaps be viewed as the outer limit of what is possible and desirable and much greater effort should be devoted to bringing the rest of the population up to this level of health. Within the health system itself, this will mean a much greater emphasis on prevention and primary care and resource allocation measures which ensure that resources follow health care need in a much more consistent and equitable basis.

Whatever the process for health system reform, it needs to focus explicitly on the priorities we want for our health system and how much we are prepared to pay for it.

It also needs to consider the limitations of the health system as an agent for population health gain and consider where else resources are needed to improve the health of the community.

Daniel Callahan, the American philosopher of medicine has talked about priorities for health systems. He talks about a 'sufficiency' of health – that overall quantum of health which permits the vast majority of the population to perform their social roles, while enjoying a life expectancy of 80 odd years with as little severe handicap at the end of life as possible.

Callahan's first objective for a health care system would be to provide adequate caring for all. The need for adequate caring is so significant because of the alienation and fear of abandon that serious illness produces. The provision of care also remains feasible even when the pursuit of cures and their just distribution become unaffordable. Callahan's order of priority, which may provide a useful guide for debate about priorities in the Australian health system, is:

- provision of adequate caring, particularly for people who cannot be cured;
- implementation of disease prevention and health promotion strategies;
- provision of universally accessible primary and emergency care services;
- provision of advanced technological medicine like chemotherapy;
- provision of more advanced technological medicine like organ transplantation.⁵

As outlined above, ACOSS sees real problems for access and equity where there are two tiered systems for the provision of human services and we have particular concerns about a two-tiered health system.

We believe that Australians strongly favour a universal health care system but it is clear that the current health system contains so many gaps that it is probably inaccurate to describe it as universal.

The concept of 'new universalism' developed by the World Health Organisation (WHO) provides some useful ideas for the development and reform of the Australian health system.

WHO advocates a 'new universalism' that recognises governments' limits but retains government responsibility for the leadership and financing of health systems.

The four features of new universalism are:

1. Membership is defined to include the entire population

Health coverage is compulsory. Whether this is defined by citizenship or residence, the purpose is to ensure that the population covered is defined inclusively.

⁵ Quoted in paper by Milton Lewis at the National Health Care Summit, 'Historical Perspectives on the Australian Health System,' August 2003

2. Universal coverage means coverage for all, not coverage of everything.

A core benefit package has to be clearly defined taking into account the resources available and the cost of priority interventions. This also requires an assessment of the services and inputs for which individuals are able and willing to pay out of their own pockets, and the political feasibility of various choices. Lower priority services will only be available for payment.

3. Provider payment is not made by the patient at the time he or she uses the health service.

Health care always has to be paid for but the way it is paid for makes a major difference to who gets care and to overall levels of health. 'Out-of-pocket payments penalise the cash poor: those who work outside the cash economy, or who have only seasonal or occasional cash income, or who are unemployed. Heavy reliance on out-of-pocket payment sets the wrong incentives for both users and providers, and results in an inequitable financing burden and barriers to access for the poorest. Prepayment allows a wide range of incentive-setting methods for the efficient purchasing of services.'

4. Services may be offered by providers of all types.

Ownership status does not matter. A stronger purchaser setting standard rates of remuneration and enforcing a common set of quality and utilisation regulations will enable the most efficient provider of services to flourish. Such arrangements will allow the very large numbers of private providers...to be brought within a structured but pluralistic health care system, benefiting from its resources and subject to sanction and regulation by professional and public bodies.⁶

5.0 Regulatory reform of the nonprofit sector

Australia's nonprofit sector consists of a huge variety of organisations. Nonprofit organisations are the major providers of community services, sport and the representation of collective interests. They are significant providers of education and health services, arts and culture and hospitality services as well as overseas aid and development agencies and environmental groups. They are the exclusive providers of religious services. The nonprofit sector encompasses a much wider set of organisations than those traditionally called 'charities'.

There are as many as 700 000 nonprofit organisations. About 320 000 are incorporated as separate legal entities and about 35 000 employ over 600 000 paid staff and involve over 4 million volunteers. These organisations contribute about 3.3% to GDP (4.7% when the value of volunteer labour is added in), but make an even more important contribution to our society and democratic political system.

⁶ K. Eager and R. Harvey, 'The New Universalism: A Health Financing Model for Australia,' *Australian Health Care Association*, February 2000.
<http://www.uow.edu.au/commerce/chsd/Publications/New%20Universalism.pdf>

Unlike business (or 'for-profit') organisations, nonprofits are typically constrained from distributing any profits made by the organisation to its members. The purpose or motivation for making the profit is to further the organisation's mission, rather than to pay dividends to members. Many nonprofits are governed democratically.

As with the government and business sectors, there are many differences between nonprofit organisations, differences in size, in activities, in the resources they consume. Nonetheless, they share some fundamental similarities, the product of their origins as expressions of collective action, either for members of the collective or for the benefit of others.

Governments recognise these differences by treating most nonprofit organisations differently to business enterprises in the tax system. They also provide a variety of different mechanisms for their incorporation and regulate their fundraising. These laws and regulations are designed to assist nonprofit organisations, by reducing their costs, by protecting their members and directors, and by encouraging donations by assuring the public.

Australia's nonprofit sector is large by international standards. It has grown and changed considerably over the two hundred or so years since European settlement. At this present juncture, many parts of the sector face considerable challenges to adapt to a dramatically changing environment. While there is some evidence of renewal and growth in some parts of the nonprofit sector, it is also clear that many parts are in decline.

One thing that is certain is that the existing legal framework and regulatory environment of the nonprofit sector is in need of fundamental overhaul.

At present there are more than twenty different ways for a nonprofit organisation to secure legal standing as an entity. This variety is a product of both a variety of specialist forms of incorporation (eg for trade unions, parent associations), and the existence of a dual state/federal regime. There are eight forms for incorporating as an association and six as a cooperative. In addition some register as a company. This proliferation imposes unnecessary complexity and duplication on both the sector and on governments. Fundraising is equally bedevilled by a proliferation of regimes across states and territories.

But it is in tax law that the greatest confusion is to be found. There are a great variety of concessions given by different levels of government, each to a variety of nonprofit organisations. It is impossible to find any set of principles underpinning the legislation that designates these concessions. There are no clear links between the concessions provided and public disclosure requirements. Not surprisingly, in such an environment regulation is confusing, contradictory and often unfair.

Unnecessary and inappropriate regulation acts as a constraint on nonprofit organisations. Its rationalisation, and in some cases removal, will assist the formation of new nonprofit organisations and help existing nonprofits better to pursue their mission, be more transparent and, in these ways secure community support.

A fundamental review is necessary, as the complexity and rigidity of Australia's current nonprofit laws place a costly compliance burden while failing to adequately protect funders and donors and other stakeholders such as volunteers and beneficiaries. The evidence suggests that the current scaffold constrains small nonprofit organisations while failing to take account of the complexity, but also the professionalism and national focus of many large nonprofit enterprises. The imposition of unnecessary costs inhibits the formation of nonprofit organisations and increases costs to the community, governments and consumers.⁷

We urge the Commission to promote the reform of the legal and regulatory environment of nonprofit organisations as a priority for COAG post June 2005.

6.0 NCP and Essential Services

NCP has had some important impacts on low income Australians in the provision of essential services, in particular the provision of electricity and telecommunications. ACOSS has only limited expertise in these areas, but is mindful that, nevertheless, the consequences of NCP have been significant and believes these deserve careful consideration by those who do have the resources and expertise to analyse these issues, including the Commission and the Australian and State and Territory governments.

ACOSS notes that several State Councils of Social Service have responded to the NCP Inquiry and shares with them concerns about the impacts that NCP has had on electricity provision. Indeed the commission in the Draft discussion paper notes that overall the benefits of NCP to domestic users have been inconsistent and in many cases resulted in increased, not lower costs. Overall, business users of electricity have enjoyed lower costs.

In some jurisdictions the indirect consequences of NCP in electricity have been rising numbers of disconnections for services. Reconnections after disconnection are reported as growing, evidencing that the on-going need for this essential service has been real, rather than the result of those who abscond from payment of bills when they relocate. There have been trials of, and consideration given to 'pay-as-you-go' meters for electricity use.

At the same time demand for electricity is growing, but supply does not seem to be keeping pace. Shortages and blackouts, often at times of very cold and very hot weather, are becoming more frequent. These blackouts, for older Australians or those with poor health, can have serious, even life-threatening consequences.

State and Territory governments provide for different mechanisms for subsidising access or preventing disconnections for electricity provision, similarly different codes of conduct apply for providers.

⁷ Material taken from a background paper prepared for the National Nonprofit Roundtable.

Overall the electricity market does not seem to be delivering more affordable services, is pursuing practices that limit or deny access to low income people and is not keeping pace with demand. At face value this suggests, at best, a degree of market failure, one that is unlikely to be address by further competition but that should require greater, not less, intervention by governments.

In the telecommunications area NCP resulted in the discontinuation by Telstra of its line-rental subsidy for fixed line telephony. Certainly that subsidy was a clumsy mechanism for improving access for low income people – second home-owners and those with multiple telephone lines into their homes were benefiting from it.

Forced to comply with NCP, Telstra has gone to some efforts to establish reasonable mechanisms for provision for those who are most disadvantaged through its Low Income Measure package (the development of which included input from ACOSS).

We are still to await a detail analysis of the overall impact of LIMA and NCP might reasonably have allowed for this to be undertaken prior to the requiring the discontinuation of the previous subsidy – a step that might have resulted from a more rigours public interest test under NCP.