



Executive Summary

This submission forms ACOSS's response to the Productivity Commission's issues paper *Human Services: Identifying Sectors for reform*. ACOSS holds concerns about the impact of competition reform on people experiencing poverty and inequality as well as the community organisations that support them; and the extent to which competition may undermine core principles in human services, including universality.

Australia already has a lengthy experience of using competitive approaches to deliver human services, including universal services such as health, childcare and vocational education and training, as well as targeted community services like employment services, financial counselling, and correctional services. However, experience to date indicates that competition should not be assumed as a preferred framework for the delivery of human services, and in many cases it has led to poor social and economic outcomes. Evidence from employment services, aged care and disability services shows that competition can risk undermining preconditions for effective and efficient delivery of human services, including:

- + High-trust collaboration amongst service providers, particularly at the local community level
- + Strong shared objectives amongst service providers to enhance economic and social development for individuals and communities
- + A focus on prevention and early intervention to appropriately reduce service need in 'targeted' service areas, such as employment services as well as universal service areas, such as health care
- + Flexible service design tailored to local regional and community needs
- + Flexible service design tailored to individual circumstances
- + Guarantees of access to essential services regardless of location, means or personal attributes
- + Information sharing and advocacy to achieve positive change for individuals and local communities

We call on the Commission to draw on the evidence from the Australian and international experience to address the following questions:



- + When can competition improve or erode the quality of human service delivery, recognising that some necessary preconditions, such as high-trust collaboration, openness, transparency, public advocacy and engagement may conflict with a competition model?
- + Recognising that user choice does not necessarily lead to improved services or outcomes and that user control is often of greater value to service users, what kind of approach can foster greater user control as an essential component to improved service delivery?
- + What are the risks in competition leading to perverse outcomes in service delivery such as “creaming” of service payments, targeting of clients who are lowest cost rather than most in need, poor marketing practices including fraud and deception, and lack of accountability to affected communities; and how can these risks be addressed?
- + How can competition deliver universal access to essential services regardless of an individual’s income or where they live, recognising that evidence to date shows pressure to introduce user fees for clients, particularly in ‘thin markets’ where there are few providers?
- + What are the preconditions to competition policy being an appropriate approach for the delivery of effective and efficient human services?

Introduction

ACOSS welcomes the opportunity to comment on the Productivity Commission’s Issues Paper: *Human Services: Identifying sectors for reform*. ACOSS is a national voice for people affected by poverty, disadvantage and inequality. Our vision is for a fair, inclusive and sustainable Australia where all individuals and communities have the opportunities and resources they need to participate fully in social and economic life.

Human services is a complex area covering a range of different services, from aged care to homelessness and housing services; health and education to prisons and child protection. Human services is a unique service area and differs from conventional markets largely because these services are relationship-based and contribute to social capital and economic and social development in our communities. Human services also differ from conventional markets because citizens expect government to ensure that these services exist. They form part of an implicit social contract and citizens – including those who may never use certain services – have expectations about who should provide them and in what way they should be provided.



Many human services are highly specialised to address need and delivered by small, community-based organisations. Service users often face multiple complex issues, including financial disadvantage, health problems, long-term unemployment and a reliance on care and support services. Human services are also characterised by the role of government in purchasing and provision, as well as in regulating standards of quality and equitable distribution of services.

ACOSS fully supports policy reform to ensure that human services are of high quality, deliver value for money and provide essential services to all who need them. However, the complexity of human services and the challenges facing service users make achieving successful outcomes in this policy area notoriously difficult (and also difficult to measure). Opening up these sectors further to competition presents a real risk of worsening outcomes. This risk is heightened by the failure to invest in an evidence-based assessment of what works in competitive human services. The Commission must comprehensively assess evidence of experiences of competition in the human services both here and in comparative contexts overseas to ensure lessons are learnt and any reform is evidence-based.

While ACOSS supports initiatives to improve outcomes for service users, it cannot be assumed that competition reforms will universally improve efficiency or service quality. Previous experiences of outsourcing of human services – such as employment services – demonstrate the risk of ‘creaming’ (where a provider focuses resources on less complex cases) and ‘parking’ (where more complex cases are set aside because they are resource-intensive) with reduced outcomes for people. Competition does not necessarily produce equity in service provision and universal access will likely require government involvement particularly in thin market areas.

ACOSS notes that the Commission’s inquiry question is broadly framed as which sectors should be considered for reform, which does not imply a cautious, patch-test approach as recommended by the final report of the Competition Policy Review (Harper Review)⁴. This review called for pilots in implementing competition in human services, rather than applying competition to whole sectors, recognising that extending competition in these areas requires careful consideration, not least because poorly implemented reform can have considerable implications for people needing services and their communities. We urge the Commission to frame its recommendations cautiously with these risks in mind.

Elements of service delivery that are often framed as synonymous with competition, such as user choice, individualised services and innovation, could be achieved without competition policy. Giving service users more control and choice does not

⁴ ACOSS’s submission to the Harper Review may be found here: http://www.acoss.org.au/images/uploads/COSS_Competition_Review_submission_november_2014.pdf



require competition (and is often not achieved through competition), just as innovation and individualisation can be fostered without competition.

1.1 Competition in human services

Competition may arise when there is more than one provider offering similar services and they compete against each other to attract service users and/or public contracts.

Providers may compete on price, service quality, innovation or outcomes. Because of the high level of government involvement in human services (as purchaser and regulator) there are often perimeters placed on competition. For example, prices may be fixed to ensure they are affordable for service users and government (aged care) or there may be limits on services or products made available to contain costs (Pharmaceutical Benefits Scheme).

Competition should not be confused with contestability, as it is possible to have competition without contestability and vice versa. While contestability opens up a market to other providers, this does not mean that competition in service delivery will result; a service may be opened to multiple providers to apply for, but only one provider selected and become a monopoly provider.

Contestability is seen as a way of encouraging innovation, cost effectiveness and quality service provision through creating uncertainty around ongoing funding, which compels providers to achieve positive outcomes. It can be used to replace poor providers with good providers and boost accountability of providers to both service users and government. But success depends on the approach taken and whether the right preconditions exist. The evidence from employment services, childcare, aged care and disability services shows that designing and implementing effective competition and contestability in human services have proved to be extremely fraught, often failing to improve efficiency and outcomes. It is important that the Commission does not equate 'efficiency' with 'effectiveness' and that evaluations of the effectiveness of reform should be made on the basis of outcomes delivered rather than efficiencies achieved. It should also be acknowledged that improved outcomes could require further investment, as shown by the National Disability Insurance Scheme (NDIS).

Competition in human services is not new in Australia or in other comparable jurisdictions like the UK and New Zealand. In this context, any move to develop further competition in the human services needs careful assessment of previous experience and its perceived benefits should not be presumed. For example, it will likely require a strong framework to ensure service providers are held accountable to communities and funders for the services provided, which should include open



and transparent reporting. It is also likely to require adequate and effective regulation to protect service users from poor providers. Equally, strategies are needed to ensure there is a diversity of providers (including community-based) where that is achievable, and that providers are responsive to the needs of communities and service users. Providers must also have flexibility to innovate, collaborate and build relationships with other organisations for efficient service delivery.

1.2 When can competition improve or erode the quality of human services delivery?

Human services is a unique sector and faces far more complex challenges in delivering positive outcomes compared with a conventional market. Effective human services that deliver positive outcomes for individuals and communities work in collaboration with other organisations, building relationships of trust with service users and stakeholders. These services greatly contribute to social capital by providing opportunities for volunteering, empowering communities through advocacy and education, creating inclusive environments, and contributing to improved economic and social outcomes. Many human services providers offer far more than can be measured in inputs and outputs (such as providing expertise, support and infrastructure to other organisations and agencies) and have an overarching goal of achieving social progress and change.

Strong relationships in the human services sector allows services to enhance social and economic outcomes for service users and local communities. It is these relationships and networks that facilitate responsiveness to service users, particularly in highly specialised areas (for example, services for Aboriginal and Torres Strait Islander people or culturally and linguistically diverse communities). Services can collaborate to achieve outcomes for service users and communities that would not otherwise have been achieved by individual service providers. Improved collaboration, knowledge sharing and expertise leads to stronger clarity of purpose, including, in many cases, improved focus on prevention and early intervention. This desire in human services to focus on prevention and early intervention is unique and not replicated in traditional markets. A strong motivator in traditional markets is to create demand, to open up new markets and to increase profits. A core goal of many human services should be to reduce demand, including through prevention and early intervention. Not only does this benefit service users and their communities, it also achieves efficiencies in service delivery.

Competition in human services risks limiting and even losing relationship building and connections with community. The relationships built between human service providers and those they serve are a critical component of supporting some of the most vulnerable and disadvantaged people in Australia. However, if competition leads to service consolidation and loss of small, community-based providers, those



relationships could suffer or disappear entirely. Consolidation of services could also lead to a loss of valuable expertise, as witnessed in the reforms to homelessness contracts in NSW and the recommissioning of the mental health and alcohol and other drugs services in Victoria.

Good collaboration requires flexibility in service delivery and information sharing to achieve the best outcomes for communities. However, these crucial elements of effective human services do not sit easily with a competition model, where information sharing and collaboration are generally either prohibited (for example through a competitive tender process) or not encouraged in order to enhance the 'competitive edge' of individual providers.

There are some areas of human services delivery where competition may be completely inappropriate for cultural reasons or where there is entrenched disadvantage. For example many services in Aboriginal and Torres Strait Islander communities should be guided by principles of self-determination and partnership rather than competition.⁵ In these areas, competition may pose a threat to services run by Aboriginal and Torres Strait Islander people for Aboriginal and Torres Strait Islander people and undermine service quality and cultural safety as a result.

Another important element of human services delivered by community organisations is their role in advocacy and policy development. Many community organisations delivering human services play a vital role in advocating policy reform to achieve better outcomes for the individuals and communities they serve.

It is unclear how furthering competition could assist this important part of human services work, and there is a risk that more active or 'inconvenient' advocates lose funding in contestable markets. This is a substantial problem for advocacy organisations operating in a contestable market.

1.3 Competition policy for community-based organisations

Community-based organisations are generally established to respond to local need. Community-based providers tend to have expertise of local circumstances that allows them to be flexible and responsive in their service delivery and facilitate collaboration with other providers to achieve positive outcomes. They have often built long-standing relationships with local providers and garnered reputational capital with local people.

However, these providers can be disadvantaged under a competitive model of human services delivery. For example, individualised funding models can disadvantage small service providers who cannot compete with larger providers because of a

⁵*Principles for a partnership-centred approach for NGOs working with Aboriginal organisations and communities in the Northern Territory* 2013 <http://nationalcongress.com.au/wp-content/uploads/2013/11/NGOPrinciples.pdf>



limited capacity to fund overheads (administration, staffing, premises, marketing, etc.). Some service providers who would be best placed to offer a service may be pushed out by larger, better funded providers that can take advantage of economies of scale. This is an issue particularly for small specialised services and those in rural and regional areas.

While it would appear to be more efficient to award tenders to other providers that can deliver services at a cheaper rate, unless they have effective community engagement and local leadership structures in place, such practices could lead to poorer quality outcomes and inefficiencies. The time taken by new providers to build the necessary referral pathways, partnerships with other providers and the community is time intensive and inefficient. Whether big or small, providers need to have governance arrangements that enable on-the-ground knowledge to effectively respond to local need. Otherwise, there is a risk that markets become concentrated and user choice, service quality and responsiveness is compromised.

Increased competition in human services has the risk of undermining locally based organisations who work with communities through volunteering, fundraising, and delivering tailored solutions to their unique needs. The Commission must recognise the importance of diversity in service provision in meeting need, particularly as it concerns highly specialised or niche services. Competition could both encourage and undermine such diversity, and this will have implications for service quality.

1.4 User choice versus user control

The users of human services make this area of service delivery unique. Generally people access human services out of need rather than want, and some must access services through compulsion (for example, people using employment services because of activation requirements tied to their income support payment) or in a crisis (for example, sudden homelessness). The role of government is particularly important in facilitating user choice and control when there is a legislated entitlement to a service provided by multiple private providers.

The vulnerability of many people using human services greatly impacts the way services are delivered. It often requires additional supports to be put in place for service users, including advocacy and regulation of service providers to ensure users are not exploited. Vulnerability can constrain user choice and control, and highlights the need for carefully designed service delivery to avoid problems of information asymmetry and poor service outcomes.

User choice is cited as a fundamental element of competition and often linked to quality service delivery. Theoretically, user choice allows a service user to 'vote with their feet' and in a competitive market, this should lead to improved service provision as providers compete for service users. However, in reality, user choice



does not always improve quality, particularly in the human services. Effective user choice requires users to be able to choose and, in the human services, this may not be a realistic assumption. In many human services, the majority of service users are vulnerable or disadvantaged and their capacity to choose is limited. This may be because of their personal circumstances (for example, they have advanced dementia and rely on others to make decisions for them), they are in immediate need of assistance (someone escaping domestic violence and in need of a refuge) or they may have poor access to information and systems knowledge (someone without internet access or limited English literacy).

User choice is also very difficult when services are in scarce supply. For example, there are extreme shortages in homelessness and emergency accommodation services, which means that many service users are forced to accept what they can get. Social housing is another area where lack of supply constrains choice, with waiting lists of over 200,000 households across Australia.⁶ In ACOSS's 2014 Community Sector Survey, 80% of community organisations stated that they could not fully meet demand for their service, ranging from homelessness, counselling, emergency relief, child care, family support and legal advice.⁷

Even if users are able to choose, competition does not necessarily lead to user choice. A market with multiple providers could offer markedly the same product or service. This often happens when markets are dominated by one or two major providers (for example, the Woolworths and Coles duopoly).

Effective user choice is also only possible when there is good quality, independent information available about services and people are able to understand and digest the information and make rational, informed choices. However, such information and its provision is not very well developed in many areas of human service delivery. Information asymmetry is a major challenge, made worse by these services being essential rather than desirable. The contexts of people's lives can also constrain their ability to carefully review all available information to make an informed decision, likely to be a challenge for many people living on very low incomes and also experiencing financial stress, poor health and other challenges.

Even when service users are in a position to be fully informed, too much choice can make choosing a complex, time-consuming and difficult task. As witnessed in the energy market, the increase in retailers has not resulted in substantial numbers of consumers changing retailer even when they could get a better deal. This is largely because of the complex nature of the product and the time it takes to change.

⁶Australian Institute of Health and Welfare 2016 <http://www.aihw.gov.au/housing-assistance/haa/2016/>

⁷ Community Sector Survey ACOSS 2014 http://www.acoss.org.au/images/uploads/ACSS2014_final.pdf p. 18



ACOSS submits that the Productivity Commission should focus on 'user control' as being more important than user choice. Having control over the services one receives, for example through being actively involved in designing a support package, may be far more empowering than having different providers to choose from. Trial sites of the NDIS have shown that participants value control over their services rather than being able to choose between services and would prefer to have greater control rather than more choice.

User control can also be a more practicable approach to empowering service users for whom choosing between services is not feasible. For example a residential aged care resident is unlikely to change care providers easily. However, they would benefit from having control over the services they receive. Likewise, someone accessing homelessness services may not be in a position to choose between services, but they could benefit from exercising control over the kind of assistance they receive. User control enables service users to provide direct feedback to service providers to ensure that outcomes are tailored and appropriate. ACOSS submits that the Commission reframe its thinking about how to empower service users from being focused on user choice, to consider user control as an essential component to improved service delivery.

1.5 Risks of competition in human services

There are considerable risks involved in opening up human services to competition. Not only are service users exposed to potentially poor service provision, government is exposed to the risk that providers fail to deliver efficient and effective services.

Opening up human services to for-profit providers has arguably heightened this risk. For-profit providers have a responsibility to make a profit, which can override any altruistic motive of improving individual wellbeing and communities (a key tenet of human services delivery). As an example, some for-profit aged care providers have replaced high-skilled nurses with lower-skilled care workers in order to increase profits. Some not-for-profit providers have also reduced spending on skilled staff because of competitive pressures, but the risk is generally higher that for-profits will place the interests of shareholders ahead of their clients'.

Competition can pose a risk to employment conditions through job insecurity (especially in contestable markets where provider funding is short-term and uncertain), poor contracting processes that lead to employee burnout (as witnessed in the Going Home Staying Home reforms in NSW) and a demise in staffing arrangements. Staffing often comprises the bulk of human service providers' expenditure and is therefore most exposed to cutbacks as providers attempt to contain costs in a competitive market. ACOSS refers the Commission to the Australian Services Union's submission for a full analysis of these issues.



For competition to work, it is critical to get contract design right because it greatly influences the quality of service provided. However designing contracts to produce desired outcomes can be very difficult in the human services, not least because creating indicators that adequately measure improvements in wellbeing is challenging. Funding may be provided on the basis of inputs, outputs or outcomes, but each carries its own risks and benefits. Perverse outcomes may arise where incentives for providers are misaligned with the desired outcomes.

Employment services offer a good case study in the difficulties of aligning contracts and funding arrangements with program goals. Where employment services have received outcome payments for getting people into a job, evidence suggests that providers have engaged in 'creaming' and 'parking' of clients, concentrating their efforts on more straightforward cases while failing to assist those with more complex problems. Targeting of clients who are lowest cost rather than those in greatest need is hugely inefficient and compromises the integrity of programs that should be focused on helping the most disadvantaged.

However, paying services on an ongoing basis (not aligned to outcomes), fails to encourage services to place people into work. Funding of employment services has thus developed into a complex array of payments to avoid perverse outcomes, which in turn has reduced the ability of providers to be flexible and innovate. The structure of incentives has arguably encouraged some employment services to standardise service delivery and provide a minimalist service model. There is little flexibility for job seekers who generally do not exercise choice in service provider, tending to go to the provider nearest Centrelink. Furthermore, despite multiple services, it is difficult for service users to discern differences between them, both in service delivery and outcomes achieved.

Another risk of competition policy is the heightened risk of fraud and deception where incentives are poorly designed and where service users are vulnerable or disadvantaged. As witnessed in vocational education and training, private providers have employed aggressive marketing techniques to enrol students who did not realise they were enrolling in a course costing tens of thousands of dollars. Some were enticed to sign up by the promise of a free laptop or iPad.

These examples highlight the problems involved in opening up human services to competition and the difficulty of holding providers to account for the services they deliver. They underscore the need for government regulation that prevents and detects poor performance. They also show the importance of open and transparent public reporting of operations and outcomes (which is undermined by 'commercial in confidence' assertions), licencing (to prevent inappropriate providers), ongoing monitoring and investment in independent advocacy.



Good regulatory systems generally place the regulator at arm's length of government, which is typically responsible for funding and policy making. To achieve this separation, regulation often remains a government function, but operated by an independent statutory body. Regulation should encourage providers to strive for excellence rather than setting a minimum standard and allow for flexibility in service delivery. At the same time, care needs to be taken to ensure that flexibility does not have a deleterious impact on vulnerable service users. For example, aged care providers have flexibility in how they staff their services, which has resulted in some services operating with unsafe staffing levels, negatively impacting on aged care recipients. These issues that arise in regulation necessitate the need for ongoing public engagement and for government to ensure regulation is achieving its desired purpose.

Robust regulation also requires good data collection and transparent reporting. However, systematic data collection is not very well developed in regulation of human services and this impedes identification of poor performers.⁸

1.6 Affordability

Reform of human services must ensure that services are affordable to all who need them but, competition can undermine this goal. In childcare, unfixed pricing and poor regulation under a competition model has led high prices that have restricted access for disadvantaged families and increased government spending.

Fixed pricing, on the other hand, has a benefit of containing costs for government as well as ensuring affordability for service users (if there is a user pays component). These circumstances force service providers to compete on quality rather than price. However, fixed pricing can lead to a two-tiered system of service provision if government-funded services are of a poor quality due to insufficient funding. A good example is home care packages in aged care, where the lack of government funding has resulted in rationed services that fail to meet need. This has led to higher user co-payments as well as some users missing out because of an inability to pay for services that exceed the funding allocation.

1.7 Universal access

Universal access to services is a core part of many areas of human services and it greatly depends on government involvement to address issues such as thin markets and market failure. However, government involvement can conflict with a competition policy approach.

⁸ See the submission by the COSS network to the Productivity Commission's other current inquiry into data on these issues.



Without government involvement, many areas in Australia would not receive essential services. Healthcare, for example, is dominated by government providers particularly in regional, rural and remote areas. However, in other areas of service delivery, there are no government providers (such as disability services in NSW).

In thin markets, the risk to service users is that providers exploit a lack of competition, often manifest in inflated prices and poor service delivery. Where there are no or few government providers, market failure poses another challenge that could have considerable impacts on service users. This occurred in the Netherlands in the aged care sector, where several private providers have gone into administration. One of the largest providers, Meavita, had 20,000 employees who lost their jobs and entitlements and 100,000 clients who had to be transferred to alternative services.

It is difficult to see how these issues could be overcome without substantial government involvement (including government service provision and/or regulation to avoid market monopolies) and illustrates the importance of government service delivery in ensuring universal access.

There is also a broader need to address the problem of inequality in outcomes amongst disadvantaged communities, including Aboriginal and Torres Strait Islander people and people with CALD backgrounds. Inequality experienced by these groups extends beyond equity of access to services, demanding a more comprehensive approach to achieving equality than ensuring access to services.

Key principles

For ACOSS there are several key principles that must be considered when thinking about reform of the human services:

1. What are we trying to achieve?

People have a right to high quality human services wherever they live and whatever their income. High quality and efficient services that respond to people's needs must be the key aim of any reform to the human services sector.

2. What approach is most likely to improve service provision?

It cannot be assumed that competition will improve the quality of service delivery or efficiency and cost effectiveness. Any reform must be trialled and evaluated before being broadly implemented to avoid the type of market failures and perverse outcomes we have seen in past attempts at competition.



3. The uniqueness of human services must be recognised, as well as the strengths of community-based, non-profit providers

There must be recognition of the unique nature of human services, particularly its role in building social capital in communities across Australia. The capacity in the human services to foster cooperation and collaboration, diversity in service delivery, and involvement of not-for-profit organisations should be considered a great strength and something that is nurtured. While competition alone is not a bad thing, there are substantial risks that these strengths in the human services could be lost if competition policy is poorly implemented.

4. Reform should facilitate cooperation and responsiveness to users and communities

Cooperation between providers must be facilitated in order to respond effectively to users and their communities. Community development must also be fostered. Competition in the human services can work against these principles and fail to serve communities' interests as a result.

5. User control and service flexibility to individual need should be maximised

Service users must have control over the services they receive to ensure that services are tailored to individual need and services are responsive to users and communities. Competition is not a precondition to increased user control.

6. Individual and systemic advocacy must be supported and resourced

Service users must be enabled to exercise user choice and control with the assistance of advocacy services. Systemic advocacy is essential to improving overall service delivery and policy settings governing human service delivery.

7. Services should be delivered cost-effectively

Human services must be cost effective, but this does not mean they should be provided at the lowest price. Services must aim to achieve the best outcomes for the funding they receive.

8. Accountability to the community and Parliament

There must be transparency in service provision and government and the community should know what services are being provided by the non-government providers they fund, as well as their impact. Services must be accountable to Parliament and funding should have a legislative basis.



9. Individualised services and innovation must be complemented by accountability

Services must be encouraged and incentivised to innovate and respond to users' needs. However, they must still be held accountable to government (notably those receiving public funding) as well as to service users.

10. Affordability

Human services must be affordable to all who require them and free for those who cannot afford to pay.

11. Universality and equity of access to essential services

There must be universal access to essential services and avoidance of two-tiered systems of service provision based on income and other resources. ACOSS supports universal service guarantees to ensure the Australian public has access to essential services, regardless of their income or where they live.⁹ Equally, services must respond to need, with careful and consistent (independent) assessment of providers, who are accountable to both government and service users in terms of the funding they receive and the outcomes they achieve.

⁹*Fit for purpose: a federation that guarantees the services people need 2015* http://www.acoss.org.au/wp-content/uploads/2015/10/COSS-federation-framework_FINAL.pdf