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Submission to the Competition Policy Review

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About this submission

The Business Council of Co-operatives and Mutuals (BCCM) is an association of the chief executives of Australia's leading member-owned and member-based businesses.

The BCCM brings together the entire range of co-operatively and mutually owned enterprises across many industry sectors from agriculture, motoring and retail, to health, housing and financial services. The BCCM engages with government on the benefits of the co-operative business model for building, a strong competitive economy, prosperous local communities, high-quality sustainable employment, and community-initiated self-help solutions to shared needs.

The BCCM acknowledges the Government's steps to consult with a broad range of stakeholders and we appreciate the opportunity to make a submission outlining why co-operatives and mutuals benefit a competitive economy.

This submission sets out the importance and potential of the co-operative and mutual sector to achievement of an innovative, resilient and competitive economy.

The BCCM submission:

- Proposes ways of improving the simplicity and cohesion of the regulatory framework for co-operatives;
- Identifies costly and unjustified differences in regulatory requirements for co-operatives compared with companies;
- Identifies the gaps in education and training and public information provision in relation to co-operatives and mutuals; and
- Presents the potential for co-operatives and mutuals to deliver Australian public services.

Please direct all queries with regard to this submission to the Business Council of Co-operatives and Mutuals.

Yours sincerely,



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1. Introduction

The Business Council of Co-operatives and Mutuals welcomes the Competition Policy Review and the opportunity to provide a submission.

The review is timely, as much has changed in the 20 years since the National Competition Policy was agreed.

In relation to co-operatives and mutuals, there has been a surge of interest in recent years. Reflecting this interest and further stimulating it, the United Nations declared 2012 as the International Year of Co-operatives. The declaration followed the evidence of the considerable resilience of co-operatives during the Global Financial Crisis, and increasing recognition of the participatory culture of enterprise, innovation, and consumer choice and diversity benefits offered by the co-operative business model.

With 13.5 million Australians members of co-operatives and mutuals, the sector is part of the fabric of our economy and society. Section 2 of our submission provides an overview of Australian co-operatives and mutuals. Section 3 presents the competition policy framework that underpins the submission. This framework focuses on the need to ensure that regulatory barriers treat like as like and that compliance costs are minimised.

The submission then addresses two of the matters identified in the Issues Paper. These are:

- Regulatory impediments to competition (discussed in Section 4); and
- Government-provided goods and services (in Section 5).

We note that the Review intends to make more detailed proposals for change only where issues have been previously tested and debated. Accordingly, as the co-operatives and mutuals sector has not been subject to this kind of investigation, in addressing the regulatory impediments to competition and government-provided goods and services, the submission focuses on two high level policy propositions:

(i) co-operatives should be subject to the same regulatory requirements as companies, unless there is a good reason for differences in treatment.

Co-operatives legislation, including the recently commenced Co-operatives National Law, reflects the paternalism of an earlier time, and is out of step with the regulatory principles of corporate law. Furthermore, the sector is subject to differing state and territory regulatory requirements that constrain competitive opportunities for co-operatives.

(ii) the co-operative model can be a compelling option for service delivery when governments withdraw as providers.

The UK Government has a considerable body of successful experience using the co-operative model for delivering public goods and services. It is suggested the co-operative model should be an option examined by Australian policy makers.

The case for policy action in relation to information and education market failures is presented in Section 6. The submission concludes with suggestions for the next steps that follow from the proposals it presents.

2. Overview of Co-operatives and Mutuals

2.1 The size and strength of the co-operative and mutual sector

Co-operatives and mutuals play a significant role in the economic and social life of Australia. They have been part of the Australian economy since the 1850s and continue to play a significant economic role across the spectrum of industries and endeavours.

There are 1,700 registered co-operatives in Australia. As might be expected, they operate a highly diverse range of for-profit business and not-for-profit enterprises. This includes book sales, licensed clubs, cotton growing, dairy produce and processing, fishing, fruit marketing, grain handling, labour hire, plumbing supplies, property sales, recycling, taxis, tourism, supermarkets and liquor sales.

Co-operatives vary greatly in size, from very large entities like Co-operative Bulk Handling (CBH), with an annual turnover of \$2.87 billion, Namoi Cotton, with a turnover of \$400 million, and Dairy Farmers Milk Co-operative, with a turnover of \$500 million, to small entities such as food retailing co-operatives that service a local market, which have annual turnovers of less than \$500,000.¹

The mutual sector comprises a range of customer owned banking enterprises, such as credit unions, building societies, community banks, superannuation funds, health funds and roadside assistance organisations.

¹ “Who knew Australians were so co-operative? The size and scope of mutually owned co-ops in Australia,” The Australia Institute, Dennis, R. & Baker, D, October 2012
<http://www.tai.org.au/node/1902>

2.2 What are co-operatives and mutuals?

Co-operatives and mutuals are incorporated business organisations with a focus on membership. They exist to provide goods and services to their members and are owned by their members.

Co-operatives are regulated by state and territory legislation to operate according to internationally mandated co-operative principles.

Mutuals are regulated under the Corporations Act, with special provisions regarding membership and mutual capital. Mutual providers of financial and banking services are also regulated by the Australian Prudential Regulation Authority.

Other mutuals are regulated under the Corporations Act as unlisted public companies limited by guarantee and operating within a mutual code of governance

As market participants in the supply of goods and services, co-operatives are the same as companies. Like companies, co-operatives stand or fall in the market: their efficiency and consumer demand for their goods and services determine if a co-operative fails or flourishes.

The formal differences between a company and a co-operative lie primarily in their member focus, internal governance and the nature of their share capital.

Profits are reinvested to develop the business or are returned to members in the form of improved services or lower costs. Co-operatives can distribute dividends. However, only members can be shareholders. This member focus results in a cost structure that does not need to satisfy dividend seeking by external investors.

Co-operatives rely on strong member engagement through their democratic control mechanisms and active membership requirements. Democratic control of major management decisions lies with the membership and serves to retain their member focus.

Co-operative and mutual share capital has no capital gain dimension. Their share capital cannot be traded on a securities market and therefore does not attract the level of regulatory control normally attached to share capital of companies. It is the 'buy in' cost of membership and, for co-operatives, the indicator of commitment by members to the enterprise.

The practical consequences of the differences between co-operatives and companies are profound. Co-operatives are a means of individual participation that builds community cohesion. They provide a way of marshalling the social and economic

contributions of people, who may not be able or inclined to strike out on their own. In doing so, co-operatives are innovators and enhance the diversity of market offerings.

Their closer engagement with members enables them to focus closely on the needs of members and customers for high quality products and services at least cost prices rather than the interests of investing shareholders. Mutuals and co-operatives, particularly those established to serve particular industries or communities are able to offer special or tailor-made services that investor owned counterparts cannot because they have a lower profit threshold to stimulate innovation. They will provide what people want because that is why they are formed.

In these ways, co-operatives and mutuals can be important providers of alternative goods and services, even in markets that are dominated by a small number of very large firms, such as retail groceries.

Examples of innovative co-operatives:

- Hepburn Wind Farm Co-operative - the first community developed and owned wind farm in Australia, raised \$10 million in venture capital from community investors. Hepburn Wind generates an average of over 900 kWh each month.
- Reverse Garbage – innovators in recycling waste, with growing markets in providing services to local councils.
- Norco – The farmer owned dairy co-operative in Northern NSW has achieved a breakthrough in fast-track exports of fresh milk to China, achieving record prices for its suppliers.

Co-operatives and mutuals can adopt longer-term strategies and sustainable principles contributing positively to Australian prosperity by reinvesting surpluses in the business for the benefit of the members or directly and indirectly back into the local economy.

The presence of these mutual businesses creates a strong competitive force in many markets in the economy that can drive all firms, regardless of ownership structure, to price their products competitively and to provide consumers with choices about goods and services. In markets for health insurance and financial services, mutuals and co-operatives already provide strong competition on price and product diversity. Co-operatives provide competition in retail markets for a range of products such as books, plumbing supplies, motor vehicle spare parts, liquor and real estate services. There is potential for co-operatives to compete in the retail food market notwithstanding the current supermarket duopoly in Australia.

Recent research by the International Labour Organisation on the impact of the global financial crisis demonstrated that co-operative and mutual businesses proved more

resilient during the economic downturn and the following austerity measures. The unique combination of member ownership, control and benefit is at the core of their resilience.

The absence of the need to meet short-term expectations of shareholders and financial analysts permits these entities to pursue business strategies aimed at long-term sustainability whilst meeting their members' needs.

Accordingly, co-operatives and mutuals have been able to withstand the financial downturn better than listed firms. This resilience has flow on benefits in terms of protecting jobs and livelihoods.

The sector has the potential to protect economies from the stock market fluctuations, bolstering stability in the wider economy.

The BCCM believes that co-operatives have much to offer in a competitive market. Co-operatives marshal local creativity and innovation, respond to members and consumers' preferences, provide diversity and choice that is especially valuable in markets that are dominated by a small number of suppliers, and strengthen regional communities and build a sense of community in cities. However, the full potential of these benefits is encumbered by an inefficient regulatory framework and out-dated and inequitable regulatory requirements compared with those that apply to companies.

2.3 Co-operating to compete

Co-operatives provide a legal structure for consumers to gain advantages of scale and increase their bargaining power in the market (e.g. bulk buying from suppliers to gain volume discounts). In producer co-operatives self-employed members and member businesses or community groups band together and find strength in numbers.

Co-operatives enable businesses involved in different parts of the value supply chain to jointly purchase programs and services (e.g. access to marketing, manufacturing and export facilities) improving value for money and access to expert advice. The co-operative model enables competing businesses to organise so that the surplus generated from trading with the co-operative is reinvested to improve the common services or returned to the members as patronage payments. This structure can have positive benefits in building a strong competitive sector so that all members' businesses benefit (e.g. dairy co-operatives, bulk handling, market trader co-operatives).

HunterNet

HunterNet has safeguarded the region's small manufacturing and engineering (SME) sector since it formed in 1992. HunterNet was formed as a response to the shifting economic climate of the 1990s, which saw many of the smaller manufacturing and engineering companies competing in a more limited market. Small to medium enterprises needed to create new opportunities for themselves and the region in order to survive. By combining their skills, expertise and the power of many, these companies were able to compete globally.

Formed as a non-trading, not-for-profit co-operative, it involves over 200 small and medium-sized manufacturing, engineering and consulting companies active in national and international markets in defence, power generation, mineral processing, transportation and major resource projects. HunterNet markets the combined capability of the members, provides business development and training opportunities, and promotes the Hunter as a manufacturing and engineering region of excellence. The success of HunterNet members in winning work from major projects in areas such as ship building, aerospace, rail and mining on an individual and collective basis in the past, will be a key factor in providing economic wellbeing for the Hunter.

AusNovus Co-operative Group

The newly formed AusNovus Co-operative Group is a Victorian farmer co-operative comprising 12 egg producers with 1.5 million birds. These producers account for about 32 per cent of the state's egg production.

AusNovus received \$50,000 from the Victorian Government to help cover costs associated with establishment, including business planning and feasibility studies, technical advice and legal fees under the Food and Fibre Marketing Co-operatives program. The grants are to assist Victorian food and fibre businesses to increase production levels and achieve greater market access, whether domestic or overseas.

By forming a co-operative, farm businesses can work as a collective rather than individuals when marketing and supplying their product. This provides greater bargaining power. Where one farm business on its own can experience fluctuations in production, a group of farms working together can ensure greater consistency of supply.

This is appealing for major buyers such as supermarket chains and large international importers when they know there will be a consistent, quality supply of produce.

The Victorian Government has set a target for food and fibre producers to double production by 2030 and supporting the establishment of marketing co-operatives will help to achieve that goal, by both opening new markets and reducing farm costs through bulk purchasing.

3. Competition Policy framework

Competitive markets secure allocative and dynamic efficiency through which the economy provides society with the least cost supply of the goods and services people want, and the innovation and productivity growth through increases in material standard of living.

Securing, maintaining and enhancing competitive markets require a set of policies and laws, embodied in government's competition policy.

Competition policy should seek to ensure:

- there are no barriers to entry, other than those that can be justified by a public benefit test. The easy entry of new firms, and the prospect of entry, to a market are critical to maintaining the market competition that yields least cost production and generates innovation. The entry of new firms to a market is very often the way in which innovation occurs in the market.

A key objective of competition policy in regard to minimising barriers to entry should be to treat like as like. This means that all prospective new entrants should be treated in the same ways, be subject to the same regulatory requirements, unless there is a good public policy reason for treating some of them differently;

- that the costs of compliance are minimised for new entrants and incumbents.

Minimising compliance costs is a matter of ensuring that each regulatory role is performed at least cost; that there is a clear allocation of roles between regulatory agencies; that these roles are consistent and complementary; and that the regulatory regime is transparent and certain.

Competitive markets do not always achieve desirable outcomes. These are the cases of market failure, which occur principally with public goods, such as information, and with externalities, such as education. A competitive market will under-provide these goods and services. Addressing this problem requires policies tailored to the needs of the specific market.

4. Regulatory Impediments to Competition

There are three regulatory impediments that constrain the competitiveness of markets by encumbering co-operatives. The first is that co-operatives are subject to differing state and territory regulation and regulators; the second set of impediments relates to the entry of new co-operatives to a market and the third is in relation to existing co-operatives.

4.1 Different regulatory requirements for co-operatives between States and Territories

Companies are enabled under the Corporations Act to carry on business in any jurisdiction of Australia under one regulatory framework.

Legislation for co-operatives is a matter for states and territories, as provided by the Corporations Agreement 2001. Until recently, each state and territory had different Co-operatives Acts. Moreover, each jurisdiction required costly separate registration for a co-operative to operate outside its 'home' jurisdiction.

An intergovernmental agreement between states and territories provided for uniformity through a legislative scheme called the Co-operatives National Law (CNL). The CNL provided an opportunity for the modernisation of co-operatives legislation and the removal of barriers to interstate trade.

While the CNL presents a major improvement on co-operatives legislation, once all States and Territories adopt it, more is required to remove the regulatory inequities facing co-operatives.

The intergovernmental agreement to achieve uniform legislation was signed by jurisdictions in 2007. However, seven years on, only two (NSW and Victoria) of the eight jurisdictions have implemented the Co-operatives National Law. Western Australia passed alternative legislation in 2009, but it is not yet consistent with the Co-operatives National Law.

This means that not only is there still a requirement for co-operatives to apply for multiple registrations to carry on business in other jurisdictions (except as between NSW and Victoria) there are different laws applying in the six remaining jurisdictions.

The different legislative regimes make participation in a national market complex and costly.

There is as yet no clear indication when the remaining six jurisdictions will come within the CNL scheme.

As well as the need for a uniform legislative environment for co-operatives, there is a need for uniform administration of the CNL.

There is a paucity of administrative or regulatory guidance from state and territory regulators. Moreover, it has not been possible to achieve uniform administration as between NSW and Victoria, the only states to implement the CNL.

By comparison, the Australian Securities and Investments Commission publishes policy and regulatory guides that provide clear direction on the policy and criteria to be used by ASIC when making decisions under the Corporations Act.

Co-operatives legislation, including the CNL, contains numerous instances where the Registrar must give an approval or otherwise exercise discretion. State and territory regulators do not publish any policy guides or criteria to assist co-operatives to understand the basis upon which the regulator will make such decisions.

The publication of regulatory or policy guides would not only assist entities to prepare any necessary applications for the exercise of discretion by a regulator, but would also provide certainty and consistency of administration of the legislation.

Examples of jurisdictional administrative differences

Section 60(2) CNL requires the Registrar to give prior approval for amendments to certain rules. The Registrar determines which rules require prior approval.

In NSW prior approval is required for amendments to the following rules for all co-operatives:

- the active membership rule

In Victoria prior approval is required for amendments to the following rules:

- the active membership rule
- the primary activity rule
- winding up rule
- rule relating to the issue or sale of shares and CCUs

In neither jurisdiction is there any publicly available guideline to advise co-operatives of what criteria the relevant Registrar will use when determining whether to approve the proposed amendments.

Nationally uniform regulation and administration could be achieved by establishing a single national regulator to administer the legislative regime that provides specifically for this business model.

4.2 Barriers to the entry of new co-operatives to a market

Formation requirements for co-operatives are out-dated and more complex, costly and time consuming than for companies.

The following are three instances of where the requirement for a new co-operative is not appropriate or where the differences in the requirements for new co-operatives compared with new companies are not justified. These instances could be remedied by amendments to relevant co-operatives legislation in each state and territory.

4.2.1 Co-operatives must seek the Registrar's approval for their internal governance rules prior to formation

All corporate entities are required to have a set of internal governance rules. Both the Corporations Act 2001 and co-operatives legislation provide a set of corporate governance rules to be used to assist in incorporation. These rules ('model rules' for co-operatives and 'replaceable rules' for companies) can be substituted in whole or in part by specially drafted rules or constitutions.

Whereas a co-operative must gain the approval of the Registrar for its rules prior to formation, a company is not required to obtain approval from ASIC for its internal governance rules, be they the basic rules or specially drafted rules.

A key element of the rules of a co-operative is the requirement for an active membership rule linked to its purpose. The active membership rule is the basis upon which a member agrees to co-operate with others and the co-operative. As each co-operative has a different purpose, model rules can only provide guidance. However, the policy justification requirement for approval by the Registrar is questionable.

No other business organisation type (partnerships, trusts or companies) is subject to an approval process for the agreement between its members.

Both legal and regulatory policy holds paramount the freedom for parties in business to negotiate their terms of engagement or contracts. The requirement for approval for co-operatives is a paternalistic anachronism.

Further, there are no stated criteria or policy guides for the approval of this rule in the legislation. The legislation makes provision for the factors and considerations that a board of the co-operative must take into account when deciding the active membership requirements, but the Registrar's role in approving rules is unsupported by any policy criteria.

The need for these approvals and the uncertainty about the approval criteria lead to additional costs for professional advice required to draft rules that are likely to be approved.

Companies may voluntarily seek professional drafting services to draft their constitutions, but they are not required to have their constitution or any subsequent amendments to it, approved by the regulator.

The cost of professional assistance to draft rules for a co-operative varies according to the complexity of particular co-operative endeavours and active membership requirements. The additional cost is in seeking the Registrar's approval and the accompanying time delay of 28 days or more to secure approval from the Registrar. These are significant disincentives for any small business.

4.2.2 Co-operatives must prepare and obtain the Registrar's approval of a disclosure statement prior to formation

Co-operatives legislation requires that an approved disclosure statement be presented to incorporators at their formation meeting.

Apart from the restatement of provisions in the approved rules the disclosure statement must also include the financial costs of formation and projected or estimated costs for the first year of operation. This information is readily available in the rules or would be known by the incorporators as a result of the incorporators agreeing to form their co-operative.

There is no requirement for disclosure at formation for incorporators of a company or for partners proposing to enter a partnership. Disclosure for companies is required only when the company intends to seek funds through the issue of securities to the public.

The BCCM believes that there is a clear policy basis for disclosure at the time when a co-operative proposes to seek new members or to issue securities to the public and notes that this is already mandated in co-operatives legislation. However, there is no policy basis for a disclosure statement as between incorporators prior to formation.

The time taken to prepare and the professional costs in preparation of a disclosure statement can be significant, depending upon the complexity of the co-operative's proposed operations. There is evidence that the combined professional costs for the preparation of rules and a disclosure statement prior to formation can be as much as \$60,000. These costs are not borne by companies as mandatory prerequisites to formation.

4.2.3 The requirement for a minimum of 5 members to form a co-operative

Co-operatives require a minimum of five members for formation unless the Registrar approves a lesser number.

Whilst co-operation of itself requires the existence of two or more persons (individuals or corporate entities) there is no policy rationale for the requirement of at least five people. It is possible to form a company with one member, a partnership with two partners and certain types of co-operatives with two members.

Settling an agreement between five people as a precondition for incorporation is more difficult than settling an agreement between two people. Whilst the legislation permits the formation of a co-operative with fewer than five persons, there is no legislative or policy criteria to inform potential incorporators of the basis upon which the Registrar would give such an approval, nor what lesser number would be likely to be approved by the Registrar.

By way of comparison with another relevant jurisdiction, UK legislation governing the formation of co-operatives (the Industrial and Provident Societies Act, 1965) has no requirement for the pre approval of rules, no requirement for an approved formation disclosure statement and only three persons are required as a minimum for incorporation. The relevant authority in the UK examines an application for registration to determine whether the entity is designed to be a bona fide co-operative.

4.3 Additional regulatory requirements for existing co-operatives

Once incorporated, co-operatives must comply with regulatory requirements not imposed on companies.

4.3.1 Dual regulatory requirements for fundraising by co-operatives across a State or Territory border.

A co-operative seeking to issue securities across a State or Territory border must lodge disclosure statements with two different regulators: the Registrar in their 'home' jurisdiction and ASIC. Both lodgements attract a fee: \$2,200 in NSW and \$2,290 under the Corporations Act.

Dual regulatory requirements for issuing securities by co-operatives could be removed either by amending s708(20) of the Corporations Act 2001 to exempt co-operative securities, regardless of where they are issued. Alternatively, a co-operative should only be required to lodge a disclosure statement under the regulatory regime designed for co-operatives.

4.3.2 Financial Reporting requirements

Co-operatives and companies must present financial information in accordance with Australian Accounting Standards. In 2005 Australia adopted International Financial Reporting Standards (IFRS) regarding the classification of securities. Under IFRS co-operatives must record their share capital as a liability.

The impact of this development on co-operatives was to make radical changes to their net balance sheet positions, which in turn, made financing from lenders very difficult.

The experience of the Yenda Producers Co-operative Society Ltd provides a telling example of the issue. Yenda is a long established fresh produce merchant and agricultural service provider.

Yenda Producers Co-operative Society Ltd

Under the changes to accounting standards from the adoption of AIFRS, shareholders capital was re-allocated from the equity section of the balance sheet to a liability. In terms of their net position, the balance sheet went from \$7,549,080 on 30th June 2005 to \$1,267,553 on 1st July 2005. This change had a significant negative influence on the ability to borrow money as a co-operative from commercial lenders.

The application of IFRS to Australian co-operatives produced an immediate disadvantage for co-operatives compared with companies.

The IFRS change to share capital classification hinges on the circumstances in which an entity might repay its share capital. Repayment of share capital by companies and co-operatives is subject to similar principles to protect financial viability and creditor protection. However, the application of IFRS by the Australian Accounting Standards Board does not recognise the protections in co-operatives legislation or the ability of co-operatives to issue Co-operative Capital Units as a substitute for repayment.

The application of this standard is inconsistent and produces inequities between companies and co-operatives.

This problem could be addressed by a review of the application of standards to Australian co-operatives. The Australian Prudential Regulation Authority recently undertook a similar review on international capital adequacy requirements for mutual banks.

5. Market failure and Co-operatives

It is fair to say co-operatives and mutuals are under-represented in professional education and training programs and in publicly provided information about the options for new business ventures.

The Australia Institute (2012) report, 'Who knew Australians were so co-operative?', revealed that while eight in ten Australians were members of at least one co-operatively or mutually owned business, only 16 per cent were aware of the existence of these businesses. There is an acute lack of awareness of the co-operative business model as a successful, contemporary business practice.

According to the BCCM commissioned report: "A Comprehensive National Education and Training Strategy for the Co-operatives and Mutuals Sector." (University of Sydney, June 2014), the gap between the social and economic contribution of co-operatives and their national visibility adversely impacts the capacity of the sector to access relevant education and training and to therefore grow and reach its potential. It is also critical for professionals in the legal, accounting and financial services areas to study the co-operative model of business in order to equip them with sufficient information to assist the sector.

The way to address the current gap in education and training programs would be to include co-operatives and mutuals as part of the mainstream teaching of business law, management and accounting courses. This would recognise that co-operatives sit alongside companies in the Australian market. Co-operatives, just like any other business organisation, need legal, financial and management skills to flourish as they face the issues of operating and competing in the Australian economy. Professionals with skills in solving these issues for all business organisational types will better be able to serve an economy comprised of diverse legal structures.

The BCCM recognises that an articulated and relevant education and training system is important to the further development of the sector, Furthermore, the BCCM believes that increasing awareness and understanding of member owned business in academia and the public arena will not only be of great benefit to co-operatives and mutuals but to the whole of Australian society.

6. The role of Co-operatives and Mutuals for delivering Australian public services

Over the past 20 years, Australian governments have found new ways of delivering services that had traditionally been government responsibilities. These have included privatisation, corporatisation, and contracting out. Hitherto the co-operative model has not been considered as an option for service delivery. It has much to offer. This has been reported on by the BCCM in a paper entitled “The roles for co-operatives and mutuals in delivering Australian public services”, released in November 2013 and more recently by the release on 6 June 2014 of a Green Paper: “Public Service Mutuals: The case for a third-way for delivering public services in Australia”.

The UK has considerable experience in the use of the co-operative model for delivering public services. The UK government has recognised and encouraged the formation of co-operatives and mutuals to provide certain public services. The instrument has been Public Service Mutuals (PSMs), which are the delivery mechanism for a policy of spinning out services to independent employee-owned social enterprises. In July 2013 there were 71 PSMs employing 35,000 people and delivering over \$2 billion of public services. They have been established across a wide range of services in the UK, including health, disability services, emergency services, education, justice and housing.

A recent example of the use of the mutuals model in the UK is the sale of the Royal Mail, an iconic public enterprise. The sale has been undertaken through a partial mutualisation of the post office business and a public float of the mail business. It is an instance of the creative way in which the mutuals model can be applied.

Examples:

In the UK

- Sunderland Home Care Associates

Sunderland Home Care Associates (SHCA) is a “for profit” employee owned and operated organisation. SHCA provides high quality affordable care and shares its profits with their several hundred low income, mostly female, staff. SHCA has high levels of engagement with and between employees and clients that has contributed to its growth and success in terms of both commercial and social value and has won awards for quality service provision.

It began in 1994 and is now owned by over 300 care workers from the local area. In 2009 its annual turnover was £2.33m.

Stakeholder benefits:

- Improved access to high quality care services for vulnerable members of the community.
- Reducing admissions of community members to residential care facilities.
- Meaningful jobs for people who live in an area of high unemployment and deprivation, and related outcomes such as increased self-esteem, confidence and career development.

In Australia

- National Health Co-operative

The National Health Co-operative (NHC) is a consumer co-operative established to provide affordable and accessible medical and health services to the local community. It provides primary care services such as general practice, podiatry, psychology, asthma and diabetes education, mental health, physiotherapy, child, teen and aged health, dietetics, counsellors and social workers.

The co-operative formation was initiated by the local community in the ACT and supported by governments (Australian and ACT) and businesses. Viability is achieved through GP bulk-billing, fees for other services and rental income from co-located services.

NHC now has more than 24,000 patient owners (representing nearly 7 per cent of the ACT population), 24 medical staff and 24 administrative and clerical staff. Since the opening of the original site in 2010, six more sites have been developed. Their membership is growing at a rate of more than 10 per cent per quarter.

Stakeholder benefits:

- Shared risk and reward
- Consumer trust
- Holistic service delivery
- Affordable and accessible high quality general practice and health services within the local community.

7. Next Steps

The BCCM submission:

- Proposes ways of improving the simplicity and cohesion of the regulatory framework for co-operatives;
- Identifies costly and unjustified differences in regulatory requirements for co-operatives compared with companies;
- Identifies the gaps in education and training and public information provision in relation to co-operatives and mutuals; and
- Presents the potential for co-operatives and mutuals to deliver Australian public services.

Progressing each of these matters would need targeted follow-up work. There is currently no single locus of responsibility in the Australian Government for the co-operative and mutuals sector. We suggest that it would be highly desirable to identify such a responsibility and that a logical fit would be in the portfolio of the Minister for Small Business.

8. Conclusion

Co-operatives and mutuals can make an important contribution to the competitiveness of markets. However, the regulatory framework is constraining that contribution. The proposals presented in our submission would foster the competitiveness of markets by improving the cohesion of the jurisdictional regulatory framework and ensuring that co-operatives, mutuals and companies are treated equally.

Co-operatives can have an important role in delivering public services. There are strong precedents for this in the UK, and we urge the Review to explore the creative role co-operatives can have in the often vexed matter of government devolving the provision of goods and services to the private sector.

The result of the reforms we propose would be to facilitate the formation of new co-operatives and strengthen the position of existing co-operatives. This would yield the market diversity, resilience and real opportunities for people to participate in economic enterprises that co-operatives and mutuals provide.

References

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