

12 November 2014

Professor Ian Harper
Chair – Review Panel
Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Professor Harper

MAV Response to Competition Policy Review Draft Report

The Municipal Association of Victoria submitted to the Discussion Paper in August and welcomes the opportunity to make a further submission in relation to the Draft Report recently released by the Review Panel.

As we outlined in the response to the Discussion Paper, we have focussed our attention in the main on human services, particularly those community services coordinated by local government and offered by councils and their community sector partners. Another area which we did not comment on in the discussion paper but which we wish to express concern is the potential for increasing harms to community from removing some restrictions to alcohol availability, affordability and promotion. These restrictions may be weakened by the application of the recommendations relating to planning and zoning for alcohol outlets, deregulating retail trading hours and reducing constraints on supermarkets and convenience stores being able to sell alcohol.

Thank you for the opportunity to make comment. The MAV trusts that the final report will build on the analysis in the body of the report and that final recommendations reflect the complexity in human service systems design and delivery and the need to continually balance the objectives of increasing competition whilst supporting strong and resilient communities, minimising harm and avoiding the unintended consequences as outlined in our submission.

For further information or to discuss any aspects of this submission please contact Clare Hargreaves, Manager Social Policy, chargreaves@mav.asn.au

Yours sincerely



ROB SPENCE
Chief Executive Officer

Municipal Association of Victoria Response to Competition Policy Review

Human Services

Our response to the discussion paper focussing on human services emphasised that poorly executed and siloed contestability processes can lead to unintended consequences of;

- Fracturing the 'value-add' that public sector services offer through integration and co-ordination of responses in a service system which is based on collaboration
- Reducing the sustainability of services and the continuity of service delivery
- Decreasing the sense of community connectedness and social cohesion.
- Poor outcomes and reduced choice for consumers and those most vulnerable.
- Reduced wages, tenure and conditions for frontline staff who deliver the services
- Discouraging volunteering and philanthropy
- 'Mission drift' from those most in need
- Reducing geographic coverage and accessibility to services
- Limiting services offered

There are key features of community services, such as long term community relationships, connecting and cross-referrals between networks of services, and links to other community capacity issues such as volunteering and staff retention that are important to the provision of services, especially for the more disadvantaged or vulnerable client groups.

Within the Competition Policy Review (CPR) Draft Report, some of these issues are canvassed and the complexities discussed, however, there does appear to be a degree of incongruence with the graduated reform process outcome flagged in Chapter 10 and the conclusions drawn in the Report's *Findings and Draft Recommendations*.

Nevertheless, there are aspects of the analysis contained in the CPR Draft Report about which the MAV wishes to make additional comment.

1. The Competition Policy Review is taking place against a background of fiscal constraint, deficit management, structural changes to government budgets and reduced government expenditure and these are likely to have a much more pervasive impact on the quantum and quality of human services provision than any of the competitive initiatives recommended in the Draft Report. The budgetary forces driving contemporary social policy, in addition to the demographic challenges ahead, mean that the search for cost savings is likely to be at least as important to government policy makers as the promotion of greater consumer choice.
2. The market analogue in its traditional formulation fails in community services and requires substantial modification to make any sense, or to be capable of being, even partially, realised in practice. At best it will be a *quasi-market*. The nearest practical approximates to a market in the orthodox sense in community services are *managed markets*, where the "invisible hand" of classical economic theory is replaced by the very obvious hand of government aimed at, among other things, directly influencing distributional and service quality outcomes.

3. Promoting user choice is a centrepiece of the Review's recommendations and this is a laudable policy goal. While the value of "improving consumer choice" is, at a philosophical level incontestable, the practical achievement of it in an area such as the community services is much more complicated. In the community services, for a range of reasons, the concept of choice will inevitably be circumscribed. These are listed below.
- The notion of choice in community services is often a heavily modified one. From the individual consumer's perspective, where as a result of incapacity, or disadvantage it can consist of *choice by proxy* (involving for example other members of the family), or what the CPR Draft Report describes as "mediated choice". This is a constraint on choice that has little to do with a lack of service options, or alternatives. However, another dimension of *choice failure* in community services is the absence of a repertoire of broadly similar services from which to choose. Historically this is the result of funding, cost and resource efficiency factors. Importantly there is no evidence that this funding brake on consumer choice will change in the short to medium-term.
 - The challenges of achieving greater consumer choice in community services, as the UK Experience illustrates (and cited in the CPR Draft Report), are magnified for disadvantaged groups and for consumers in regional and rural areas. In part this is because the operation of *market failure*, which undermines the efficacy of competition and market forces in community services generally, is more widespread and difficult to address in these localities and amongst consumers with complex problems. Geographical location and scale, as well as the dimensions and "technology" of the service in question will impact on the attractiveness, or otherwise, of particular community services "markets" to different providers.
 - "Informed choice" in the personal and often multi-faceted interventions of community services is difficult to obtain as the field is characterised by high levels of *information asymmetry*. At an individual agency level, as well as across an aggregated service system, consumers experience significant knowledge deficits. The existence of advocacy and brokerage agencies to neutralise the information disadvantages experienced by community services consumers is reliant upon government funding, which in itself has become increasingly rationed and scarce under constrained budgetary processes.
 - The extent to which choice is of primary importance to many consumers of community services is arguable: service quality, timeliness, reliability, stability, continuity and cost are likely to be least equally relevant.
 - In any case choice should not be the only, or even lead, policy driver in community services: service quality, the scope for individual agency and participation in decision-making, an integrated and easily negotiable service system, and service models that are locally referenced, that actively address disadvantage and identify changing social needs, as well as build community cohesion and community capacity, are integral to the functioning of an effective community services system. To a degree the CPR Draft Report recognises this (2014 p. 151) *..choice may need to be balanced against other factors including access to high-quality services and social equity.*

4. The CPR Draft Report envisages an extension to the principles of *contestability*, via government service *commissioning*, particularly where the conditions for establishing an individual *licensing-subsidy* (Davidson, 2011/12) ¹ system are not in place. In practice contestability can be driven by budgetary objectives as much as those aimed at creating consumer choice and service diversity. Human resources represent the major *cost of production* in community services and one instrument of cost-cutting, commonly used in Australia and overseas in the past, is that involving changes to the working conditions of staff employed to deliver community services programs. This in turn can have a negative impact on the service packages and/or service quality received by consumers:

"The quality of a service is critically dependent on the personal and professional skills of staff and the relationships they develop with users, and thus significantly reducing the number or quality of staff or the time that they spend with clients can fundamentally alter the nature of the service that is provided." Davidson in King & Meagher eds. (2009) p. 48 ²

Rather than contestability leading to more choice and better tailored services it can, in the worst circumstances, lead to the reverse. The cost imperative, with its attendant consequences for the staffing of human services (where new technology and "innovation" can in some instances lead to higher client-staff ratios), is hinted at in the CPR Draft Report:

"For-profit providers can bring particular strengths to human services markets. They are likely to face stronger incentives to minimise costs, including through the adoption of new technologies and innovative methods of service delivery. CPR Draft Report (2014) p. 158

5. The CPR Draft Report pays little attention to the fact that at a day-to-day, operational level *cooperation* fuels the planning, coordination and delivery of community services; and it will remain at least as important as competition in the design and delivery of human services into the future. In any extension of competition principles to the community services, measures will need to be adopted to ensure that cooperation remains at the forefront of local service delivery systems and inter-agency relationships.
6. "Capacity constraints" in community services are endemic rather than episodic, as the CPR Draft Report seems to imply; rationing and ever-tighter targeting are characteristics of the field and the constant battle for resources in community services limits service development, experimentation and innovation.
7. The *transaction costs* associated with the separation of funding, regulation, commissioning and service delivery, as well as with the management of information flows and the coordination and monitoring of a more diverse and changeable service system, is substantially ignored in the CPR Draft Report. Third party regulation (as recommended in the Draft Report) and new licensing and commissioning systems will incur considerable administrative costs. Additional claims on the budgets of governments will be required if the interests of vulnerable consumers are to be adequately protected.
8. The CPR Draft Report (2014 p. 157) acknowledges a place for government in the service system: "government, not-for-profit, private for-profit providers are likely to have different strengths, and there is a place for all of these types of providers in human services sectors." Government service providers constitute a program delivery alternative, a *mixed economy* comparator and, where relevant, a *best practice*

¹ Bob Davidson, "Contestability in Human Services Markets", Journal of Australian Political Economy, No. 68, Summer 2011/12, 213-239.

² Bob Davidson, "For-profit organisations in managed markets for human services", in Debra King & Gabrielle Meagher eds., 2009, Paid Care in Australia: Politics, Profits, Practices, Sydney University Press, Sydney NSW.

exemplar. If choice is to be at the forefront, then consumers should be able to choose government-provided services where desired. Government services can be perceived as more trustworthy, reliable and accountable compared to private-for-profit services. However, there is the danger that government service providers will be primarily allocated the function of providing the "default option" (alluded to in the CPR Draft Report) and hence required to carry the onus of an expensive residual role. In contrast other types of service providers, not constrained by the same "default option" obligations, will be free to "cherry-pick" their way through the service system.

9. The MAV welcomes the Review Panel's recognition of the need for a cautious, graduated implementation of its recommendations as they apply to the human services; at least as these are articulated in Chapter 10 of the CPR Draft Report. The recommendation for the use of targeted trials and pilot programs to test different models is an extremely important one. The MAV would argue that this should include the rigorous testing and evaluation of alternative approaches by independent research bodies with the results of research published in the public domain.

Alcohol

The adoption of recommendations relating to removing restrictions related the planning and zoning of alcohol outlets, deregulating retail trading hours and reducing constraints on supermarkets being able to sell alcohol may undermine the ability for state and local government authorities to respond appropriately and introduce controls on the sale and supply of alcohol to their local areas. These restrictions are both in the public interest and for the public's benefit.

An article in Australian Drug Foundation's Prevention Quarterly Review October 2012 *Under the Influence: What local governments can do to reduce the drug and alcohol related harms in their communities* noted that

"The volume of new liquor licences issued during the 1990s and 2000s had a dramatic impact on some Australian communities. In Victoria, the number of active liquor licences and BYO permits doubled between 1995 and 2009 to more than 19 000. This expansion was soon followed by a sharp increase in reported alcohol-related harms. Between 2000 and 2010, ambulance attendances in metropolitan Melbourne involving intoxicated patients increased by 219 per cent. At the end of that decade, there were 93 per cent more intoxicated people presenting at Victorian emergency departments, 87 per cent more intoxicated people being admitted into Victorian hospitals¹⁷ and over 50 per cent more people charged with driving with a blood alcohol concentration of more than 0.05 per cent. Victorian family violence and non-family violence assault offences during the hours of highest alcohol use also increased from 4697 offences in 2000–01 to an alarming 7850 offences in 2009–10..... in many cases, local governments bear a high proportion of the reputational and economic costs of the remedy. The outcomes of high levels of intoxication also jeopardise local governments' capacity to provide safe, health-promoting public environments for their residents and visitors. Alcohol-related harms also exert a significant financial impact on local governments and their communities."

Increases in the availability and affordability and promotion of alcohol are consistently demonstrated to increase alcohol consumption and increase social and health harms. Councils in Victoria, State Government, police and other key stakeholders have included minimising harm from alcohol in their health and wellbeing priorities and strategies. Providing greater flexibility or greater weight to competition policy would further limit the ability of councils, police and the State regulator to influence planning and licensing applications.

As the NCP Draft Report notes 'the nature of alcohol necessitates regulatory controls that override competition policy objectives' and we trust this principle is applied in practice in the final recommendations.