



28 May 2015

Mr Ben Dolman  
General Manager  
Small Business, Competition and Consumer Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

WORKING FOR  
A FAIR AND EQUITABLE  
AUSTRALIA

By email: [competition@treasury.gov.au](mailto:competition@treasury.gov.au)

Dear Mr Dolman,

#### **RE: COMPETITION POLICY REVIEW – FINAL REPORT**

As the CEO of Jobs Australia, the national peak body for non-profit organisations that assist unemployed and disadvantaged Australians into work, I welcome the Final Report of the Competition Policy Review and congratulate all involved.

I would like to make a few comments on the Final Report, particularly in relation to Chapter 12 – Human Services. These comments are informed by the experience of Jobs Australia's members in delivering outsourced employment services.

The story of this system bears many lessons for policy-makers who look to outsource human services competitively.

In 2013, Jobs Australia developed a *Blueprint for Reform* that drew on an analysis of competition in the employment services market to recommend significant changes to the way the Commonwealth purchases employment services. Our recommendations influenced certain features of the *jobactive* model, but the Government missed the opportunity to pursue the more competitive system we had recommended.

#### **THE EMPLOYMENT SERVICES MARKET**

Since the first iteration of the Job Network, the employment services system has undergone multiple reviews and reform processes, but the fundamentals of the system have remained largely the same.

Competition in the system is fostered through two main mechanisms:

- Firstly, a tender process to award contracts; and
- Secondly, mid-contract business reallocations based on provider performance (measured through the Star Ratings).

Jobs Australia Limited  
ABN 17 007 263 916  
708 Elizabeth Street  
Melbourne Victoria 3000  
PO Box 299 Carlton South  
Victoria 3053  
Tel 03 9349 3699  
Free Call 1800 331 915  
Fax 03 9349 3655  
[ja@ja.com.au](mailto:ja@ja.com.au)  
[www.ja.com.au](http://www.ja.com.au)

Government fixes the fee structure in its Request for Tender and specifies minimum servicing requirements, so that providers submit tenders that compete on the basis of the quality of services proposed (above the minimum requirements).

Successful tenderers are then offered contracts to operate in set areas with a set proportion of the job seeker caseload in that area. The number of providers in each area can vary but there is always more than one, so as to foster an ongoing competition within each area.

The Star Ratings then measure performance of providers according to the performance indicators set in the contract, the most important of which is always employment outcomes. The star ratings are underpinned by a regression model that controls for variations in labour market conditions and caseload characteristics to enable a comparison of the relative performance of providers across Australia.

Providers that score low in the Star Ratings are subjected to mid-contract business reallocations, which can result in a proportion or all of a provider's caseload allocation being re-allocated to another provider in their area. Providers can be (and have been) put out of business entirely in this process.

Importantly, business reallocations are not automatic but involve Departmental officials exercising a decision-making power. When caseload is reallocated away from a poor-performing provider, higher performing providers will be offered an increased business allocation but the Department determines which providers they offer the increased allocation to, and the extent of the increase. Providers may then negotiate with the Department, but the process is not automatic and there is not a competitive process to win the additional market share that is up for reallocation.

Not surprisingly, this model has seen the number of employment services providers consolidate significantly over time. When the Job Network was first outsourced, there were around 300 contracted providers; this had reduced to around 100 at the start of Job Services Australia in 2009 and by the beginning of July this year, there will be just 44 providers of the new *jobactive* contracts.

Along with this trend there has also been a consolidation of market share to a handful of very large providers. In the new *jobactive* model, one provider has been awarded contracts in 29 regions, giving that provider an enormous share of the market compared to the rest. The next largest provider has contracts in just 13 regions.

Although this description focuses on the mainstream employment services model, the Disability Employment Services model works in largely the same way and has had a similar effect.

It is debatable whether the employment services market can even be described as a market. Some have called it a 'quasi-market' but there is very little semblance of a market in the system. I would describe it as more of a series of semi-competitive monopoly contracts awarded by the Commonwealth.

## PROBLEMS

A number of problems have arisen over time. Remarkably, most of these were identified in the first major review of the system, conducted in 2000-2001 by the Productivity Commission.

Every competitive element of the system relies on Government decisions. The tender process is enormously complex and expensive, both for Government and for providers. It is also highly disruptive to services – in the transition to *jobactive* that is currently taking place, thousands of employment services staff have been made redundant and we understand that around 380,000 job seekers will need to choose a new provider because their existing provider is shutting its doors. Even high performing providers have failed to win business in the latest tender.

Moreover, the same Department has responsibility for designing the programme, purchasing the services and policing ongoing compliance with the contract. The conflicted roles result in over-specification of administrative requirements and routine variations to the contract. Providers have been complaining about ‘red tape’ for more than a decade and, despite some notable attempts to reduce complexity at certain points over the years, there are no real signs that the trend will reverse any time soon.

Consolidation has not only reduced the diversity of provider organisations but also diversity of the service offerings. Providers are now large organisations with their own bureaucracies, which are generally centralised. The minimum service requirements are very detailed and cost pressures have resulted in providers delivering little more than the minimum required. To a job seeker charged with the task of choosing a service provider, there is little basis on which to differentiate and job seekers choose largely on the convenience of location. This fact has seen providers respond by competing fiercely for real estate close to Centrelink.

Innovation in service delivery, meanwhile, is difficult to identify and where it has occurred, it has usually been funded either by Government or by philanthropic funds. The performance framework discourages risk-taking by providers because an experiment that fails will inevitably affect performance and put the provider at risk in the next business reallocation.

There has also been some negative innovation – that is, innovation in maximising income from the payment model. On the whole, the system is very tightly policed and recoveries amount to less than 1% of the funding in the system, but there have been some notable scandals through the life of the system. The most recent example is an allegation of outright fraud levelled at a provider in an episode of *Four Corners* which aired earlier this year.

In the non-profit sector, mission drift has altered the way that organisations see themselves and their purpose. In some cases, local community organisations that have had a historic connection with a particular area or community have been forced to sever that connection, either through a tender round or as a result of business reallocations.

Other non-profit organisations have had to adjust their purpose to fit with the contract – for example, organisations that have historically serviced a specialist cohort (such as the homeless, young people, or migrants and refugees) have been required to extend their services to all job seekers.

This ‘mission drift’ phenomena can result in organisations that once had a clear focus on their objects and their community existing purely to deliver a contract. When that happens, something significant is lost – which is difficult to describe but it involves a sense of community connectedness, and an ability to leverage the altruistic motivations of staff and volunteers.

## **WHAT JOBS AUSTRALIA HAS RECOMMENDED**

In our landmark *Blueprint for Reform*, Jobs Australia made recommendations to move towards a licensing model with features that are highly consistent with the principles identified in the Final Report of the Competition Policy Review.

The relevant features included:

- Greater choice and control over services for job seekers;
- An independent regulator, separating funding and regulation;
- Licensing of providers to create a more market-like system, reduce barriers to entry and increase diversity of providers; and
- Creating room for providers to experiment and innovate.

The full details of our proposal are available at

<http://www.ja.com.au/2015/blueprint>.

## **LESSONS AND IMPLICATIONS FOR OTHER HUMAN SERVICES**

It is notable that the original architects of the Job Network envisaged a system with a diverse market of providers, job seekers exercising choice and competition driving up service quality. The fact that it evolved along a different path is, with the benefit of hindsight, entirely predictable.

Jobs Australia believes that outsourcing is desirable for some types of human services. Staying true to competitive principles is the best way to ensure that efficiency is maximised – and in the case of human services, that means better quality services at a lower overall cost.

The experience of employment services suggests that Governments, in an effort to maintain a tight control over the programme, can undermine the principles that drive that efficiency and cost saving.

The observable trends in employment services – such as for fewer providers, larger providers, less diversity and convergence towards the minimum required service quality – have no

natural end-point. They will continue until Government determines that it wants to change the direction of the system.

In the end, the key lesson from employment services is that Governments face pressures, both internal and external, that can lead them to respond to challenges in ways that undermine their original intention. Government set out to create a less bureaucratic, competitive market for employment services and ended up with a highly bureaucratic system where competition is hard to recognise.

The Competition Policy Review provides an excellent framework for the extension of competition and choice into human service delivery. Jobs Australia supports the greater use of outsourced organisations, and particularly community sector organisations, to deliver better services. With the right settings, outsourcing can shift decision-making closer to communities, helping to ensure services are more responsive to the needs of the service users and helping to foster diversity and innovation.

It takes vigilance, however, to ensure that the pressures that all governments face do not prompt policy responses that undermine the principles and basis for outsourcing in the first place.

Thank you for the opportunity to comment on the Final Report of the Competition Policy Review.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Thompson', with a small flourish at the end.

**David Thompson AM**  
**CEO, Jobs Australia**