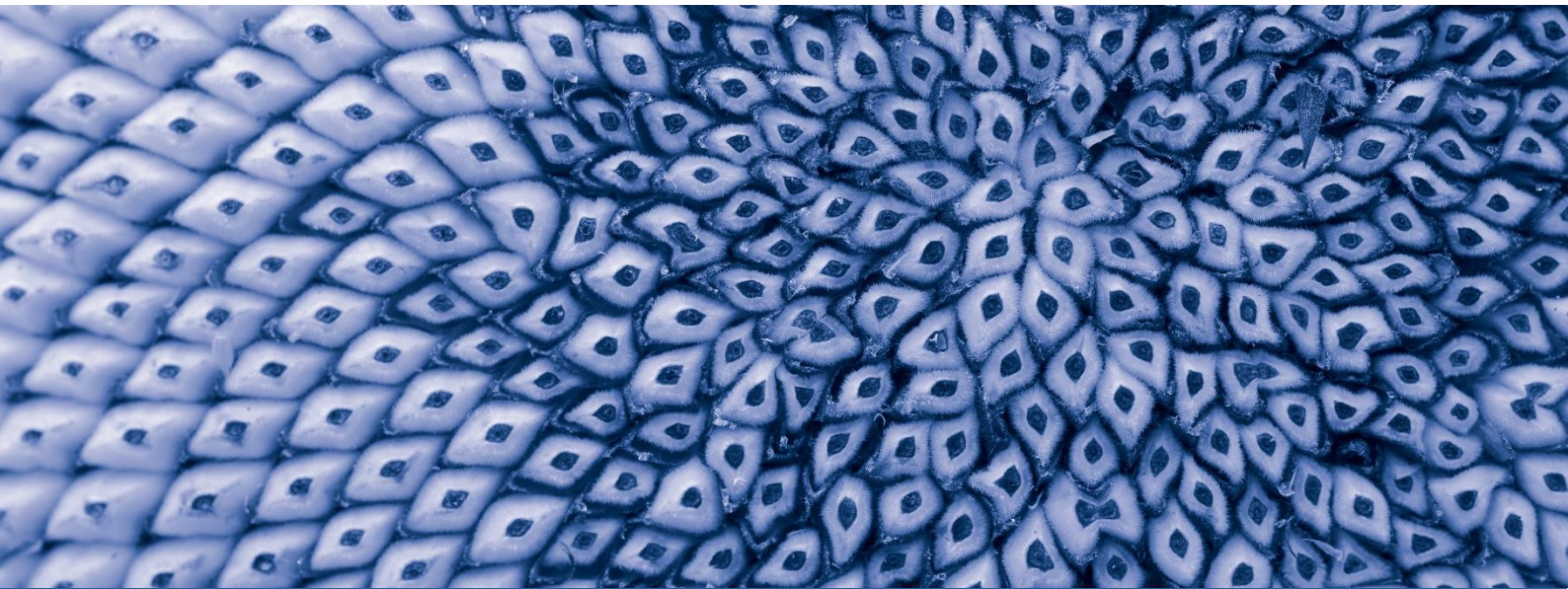




Competitive care: Why, when and how competition can improve human services

Conference paper

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Competitive care: Why, when and how competition can improve human services¹

Introduction

Human services and the care economy

The Care Economy involves services such as health, aged persons, child and disability care.² It is a significant part of 'human services', a broad range of social support services and programs that aim to improve the well-being of individuals, families and communities. However, neither 'care economy services' nor 'human services' is well-defined.³

At the broadest level human services deal with well-being. However, 'well-being' can relate to almost any service provided to individuals and families, such as home maintenance, gardening, food preparation, accommodation and so on. Most of the time these services are privately purchased by individuals or households and represent private consumption. However, each of these services *might* be considered part of 'human services' and the 'care economy' depending on context.⁴

The context that defines a 'human service' is the provision of a service to a specific individual or their family/carers, that aims to improve human well-being where government is directly involved through funding, oversight and, potentially, service provision.

Table 1 provides a *selective* list of human services compiled by the Productivity Commission (PC). Many of these could also be considered part of the care economy. However, the boundary between human services and the subset of 'care economy' services, is unclear. For example, childcare is generally considered part of the care economy. But what of early years schooling? Corrections is often listed as a human service, but it is rarely considered part of the care economy despite the fact that it involves 24-hour per day services that care for people who are forcibly incarcerated.

In this paper we will avoid tight definitions of the care economy. Rather, we will focus on human services more broadly. There are three reasons for this:

- Having a pedantic debate about what exactly is or is not in the care economy is a pointless exercise.
- There are lessons that can be drawn from government involvement across many long-standing human services particularly health and school education. These lessons apply to all human services, including those that are defined as the 'care economy'.
- Regardless of the exact boundaries on both the care economy and human services, these services make up a large part of the Australian economy. Human services such as health, education, age care, childcare, and disability services make up about 20% of the Australian gross domestic product. They include a wide

¹ This paper was prepared for the *Competition policy for the modern economy Conference*, H.C. Coombs Conference Centre, November 11-12, 2024. I would like to thank Ritaja Das for excellent assistance in preparing this paper, and my colleagues who commented on an earlier version of this paper. The views expressed here are those of the author alone and should not be attributed to the Productivity Commission.

² For example, see Maltman and Rankin (2024, p. 1) and Fels and Cullen (2024, p. 1).

³ See for example Wiles (1998) for an early discussion of the definition of 'human services'.

⁴ For example, gardening or meals services funded by government for an individual who is unable to perform these services due to disability would be considered part of the care economy. But most privately purchased gardening services or restaurant meals would not be in the 'care economy'.

range of disparate services that are provided across the country. All Australians access care economy services – and often multiple services – over their lifetime.

Table 1 – A selective list of human services⁵

Aged care (including residential)	Employment services	Maternity services
Alcohol and drug services	End-of-life care	Mental health services
Allied health services	Family support services and out-of-home care	Public dental services
Child and family health services	General practitioners (GPs)	Public hospital services
Community health services	Higher education	Primary and secondary schooling
Corrective services	Home-based aged care	Primary health networks
Disability employment services	Homelessness services	Social housing (including emergency housing)
Disability support services	Human services in remote Indigenous communities	Vocational education and training
Early childhood education and care		
Emergency payments		

What are the roles of government in human services markets?

As noted above, human services are distinguished from more general ‘services’ by the involvement of government.

First, human services are partially or fully government funded. Consumers may receive services at no direct cost, with services fully paid for by the government, or may receive a partial subsidy for the service. For example, treatment in a public hospital as a public patient in Australia involves no direct cost to the patient.⁶ In contrast, visits to a general practitioner may involve a gap-payment from the consumer to ‘top up’ the government subsidy.⁷ However, human services always involve some level of specific government funding.

Second, there is the *potential* for direct government service provision. Consumers receive human services from a range of government-owned, private for-profit and private not-for-profit providers, including cooperatives, mutuals, and sole traders, who work in systems that are largely designed by government.⁸

For example, school education may be provided by a government owned and operated school or an independent not-for-profit school. Approximately 64% of students in Australia attend public schools,⁹ but choice of public schools is limited in all states and territories with students ‘zoned’ to a particular local public school.¹⁰

In contrast, private for-profit providers, including many for-profit sole traders, operate in allied health and disability services. Urban-based consumers often have a wide choice of alternative allied health suppliers. This choice may be limited, or non-existent in rural and regional areas.

Third, there is the government role as market designer and steward. Market design is the set of rules established by government for the operation of the market. The first step in market design is for the government to clearly spell out the objective(s) it is trying to achieve by its involvement in the market. Once the objective is

⁵ Modified from the PC (2016, table 1, p. 13).

⁶ See <https://www.healthdirect.gov.au/understanding-the-public-and-private-hospital-systems>. Note that there may be a charge for non-treatment services such as ‘prescribed discharge medicines that you take home with you’ (<https://www.alfredhealth.org.au/patients-families-friends/while-you-are-here/will-i-have-to-pay-for-any-services>) although these outpatient medicines will usually be subsidised by the government through the pharmaceutical benefits scheme (<https://m.pbs.gov.au/about-the-pbs.html>).

⁷ <https://www.healthdirect.gov.au/bulk-billing-for-medical-services>.

⁸ PC (2017a, p. 62).

⁹ <https://www.acara.edu.au/reporting/national-report-on-schooling-in-australia/student-numbers>.

¹⁰ For example, see <https://www.vic.gov.au/school-zones>.

clear, then the government needs to develop a set of rules to enable market interactions between consumers, providers and the government to meet that objective. These rules, at a minimum, include:

- Should there be competition in a market for the supply of the service or is an alternative institutional structure, such as competition for the market, preferred?
- If there is competition in a market, which individuals or organisations are allowed to compete and provide the relevant service?
- What are the minimum standards that apply to both the service that is provided and to the behaviour of the providers? How are these standards enforced?
- Which consumers are eligible to receive the human service?
- How is government funding organised? Who receives the funding, how is it received and what are the obligations on both consumers and providers when they receive government funding?
- How are vulnerable consumers supported and protected from exploitation, noting that some human services, such as medical care, can involve stressful interactions where all consumers might be considered vulnerable?
- What if any role will the government have in the day-to-day provision of the service?
- What information is provided to drive effective market competition? What is the role of government in making this information accessible and useable for consumers and providers?
- What are the reporting requirements for service providers and consumers? What data is made available and who can access that data? How does the government use this data to ensure that the market is operating effectively and to improve the market over time? In particular, how are poor performing providers sanctioned and removed from the market?

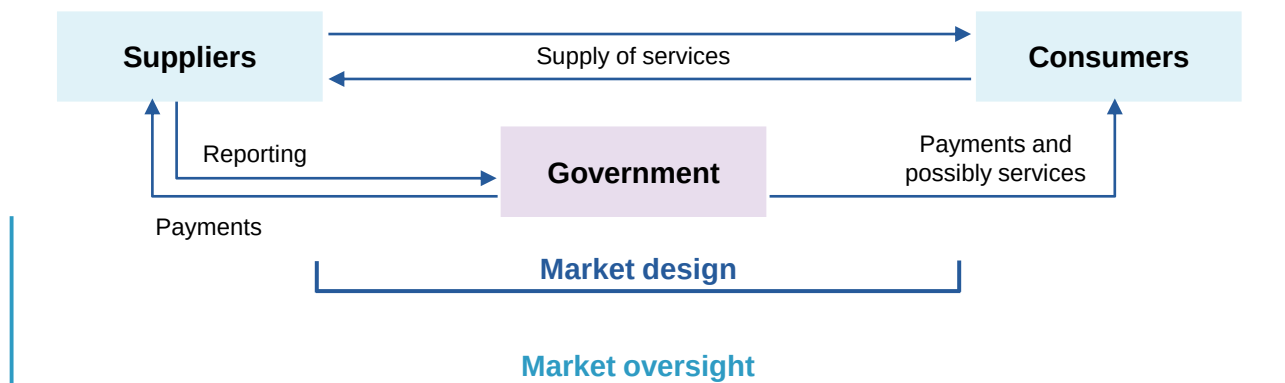
As this (incomplete) list indicates, market design is bespoke. There is no ‘one size fits all’ approach to market design that will work for all, or even most, human services. Indeed, even a single human service may require different rules of market design that apply to different consumer groups or geographic locations.

Further, given the breadth and options for market design, government needs to actively ‘steward’ human services markets. It cannot ‘set and forget’ the market rules but will need clear feedback loops to ensure on-going market evaluation and improvement over time.

Governments will (or should) always have the role of system stewards to help to ensure service provision is effective at meeting its objectives. The stewardship role is broader than overseeing the market and includes understanding the population and its service needs, policy design, regulation, oversight of service delivery, monitoring of provider performance, and developing ways for the system to learn and continuously improve. Stewardship also includes developing institutional and regulatory arrangements to underpin service provision that is responsive to users, accountable to those who fund the services, equitable, efficient and high quality.¹¹

The roles and relationships between consumers, suppliers and government in human services provision is summarised in figure 1.

¹¹ PC (2017a) at p. 63.

Figure 1 – Human services and government stewardship

The problem

Human services markets will only be successful if government recognises and actively engages in its roles, particularly its role as market designer and market steward.

Unfortunately, while market design is critical to the delivery of effective and efficient human services, it is often done poorly, on an ad hoc basis. This has two direct implications:

- At the micro-level, while some human services markets have been planned most have evolved over time with little if any deliberate design to ensure that appropriate services are received by consumers at minimum cost to taxpayers (e.g. social housing¹²). Even where markets have been planned, the outcomes have often differed from expectations due to poor incentives and poor outcomes created by the market design (e.g. the National Disability Insurance Scheme¹³). Active government stewardship is often missing, or reduced to hurried and ill-conceived interventions when ‘things go wrong’. The result is often limited competition with both government and consumers paying more, and stagnant services with little innovation.
- At the macro-level, measured productivity gains in the provision of human services are low to non-existent. Human services make up most of the non-market sector in Australia.¹⁴ However, as figure 2 illustrates, labour productivity in the non-market sector has been negative over the past decade, largely accounting for the Australia’s zero measured labour productivity growth since 2016. This suggests that the lack of productivity growth in human services has been a drag on growth across the economy.^{15,16} Put another way, improving productivity, service standards and innovation in the care economy is a key part of improving Australians’ living standards.

¹² See the discussion of social housing in PC (2016) and PC (2017a).

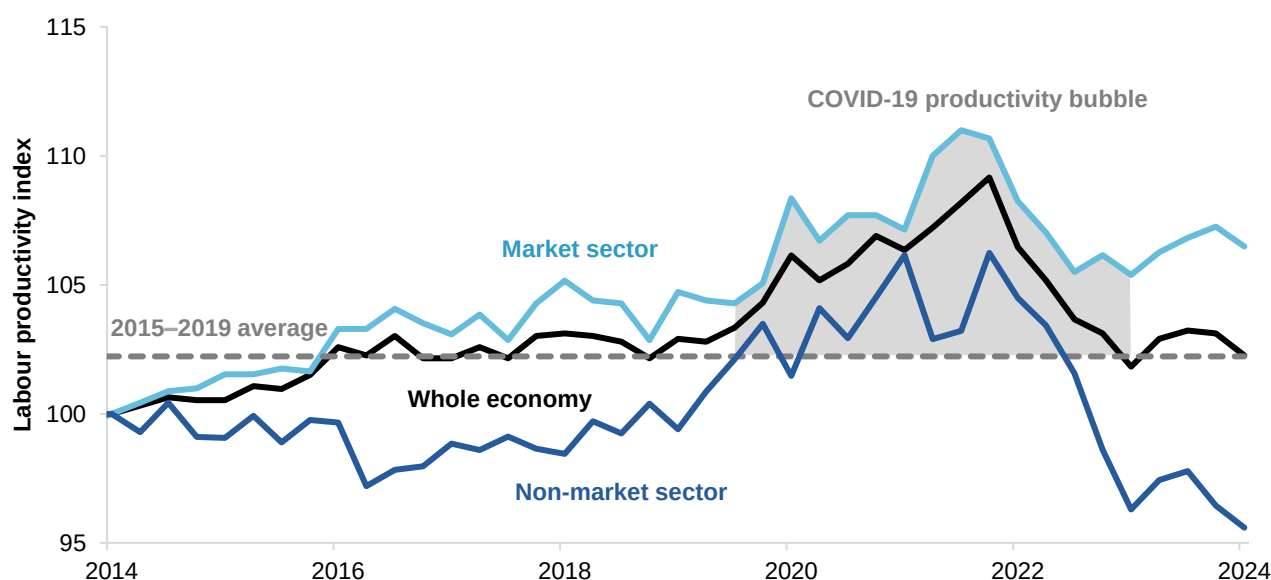
¹³ See <https://www.ndisreview.gov.au/resources/reports/working-together-deliver-ndis>.

¹⁴ The Australian Bureau of Statistics (2019) notes that ‘[n]on-market economic activity occurs when goods and services are provided to consumers free of charge, or at highly subsidised prices’.

¹⁵ Maltman and Rankin (2024) provide a more formal analysis of the productivity impacts across the economy due to the growth and poor productivity of the medical, aged, child and disability care sectors.

¹⁶ Of course, it could be the case that measured productivity in human services is misleading. It is often hard to adjust for quality. For example, allowing for quality improvements over a small set of disease treatments, the PC estimated that in Australia ‘healthcare productivity grew at a healthy 3% per year between 2011-12 and 2017-18 and Australia’s healthcare sector was amongst the most productive in the world between 2010 and 2019’. See PC (2024a). However, it is unlikely that unmeasured quality improvements explain all, or even most, of the decline in labour productivity across the non-market sector.

Figure 2 – Labour productivity (index, June 2014=100) between June 2014 and June 2024¹⁷



Source: PC estimates using ABS 2024, *Australian National Accounts: National Income, Expenditure and Product*, June 2024, Cat. No. 5206.0., tables 1 and 6, and ABS 2024, *Labour Account Australia*, June 2024, Cat. No. 6150.0.55.003, industry summary table.

In this paper, we consider the role of market design in the provision of human services and the role of competition as part of market design. What human services and situations can benefit from competition and how can competition be created or encouraged? What lessons can policy makers learn from attempts over the past decade to create competitive human services markets?

Competition is a 'supply side' feature of a market. It directly involves service providers. However, it is equally important for government, as market stewards, to consider how consumers interact with providers, including the availability of government funds that directly impact the demand-side of the market. However, consideration of the demand-side is sometimes skipped over when considering human services competition. In contrast, our discussion below considers both the supply and demand-side features of the market.

The discussion in this paper is not comprehensive. Rather it provides a brief and highly selective introduction and overview for a complex topic. For more details see the references provided at the end of this chapter, particularly PC (2017) which includes a range of competition reforms for specific human services.

¹⁷ From PC (2024b, figure 1).

What is the objective of market design?

The first step for government when designing the rules for a human services market is to ask ‘why?’. What is the government trying to achieve by its intervention in the supply of the specific service? What are the government’s objectives?

The objectives chosen by the government will necessarily drive key features of market design. For example, suppose that ‘equality of consumption of the service’ is the government’s key objective. In other words, all consumers who meet the relevant government requirements to receive the (government-subsidised) service should receive the same service, regardless of income, location or personal preferences.

If the objective of the government is strictly ‘equality of consumption’ then there will be little (if any) role for direct competition between service providers. If all consumers receive the same service, then ‘competitors’ cannot distinguish themselves based on service, price, quality, or variety. In theory consumers could ‘choose’ between different suppliers but the choice would be meaningless. Competition at the individual consumer level would be pointless.

In practice, however, equity of consumption is likely to be impossible. Because consumers’ circumstances differ even if the ‘same’ service is being supplied, it will often be different in terms of experience. For example, if a service is provided at a particular physical location, such as a clinic or a school, then consumers will experience different costs and quality of the service, due to travel time differences, depending on the location of their home.

Further, equality of consumption would require that consumers who are eligible to receive the service but who do not wish to consume the service are forced to do so. While such compulsion often holds for child education, incarceration, and for some parts of the mental health system, it is rare. It would require that a consumer receives the service even if they consider that they are harmed by the service.

In practice, ‘equality of consumption’ is often replaced by the less specific objective of ‘equality of opportunity’.¹⁸ This tends to mean that individual consumers should be able to receive the same service regardless of whether they differ in certain specified ways that are deemed ‘irrelevant’. These often include consumer attributes such as income, wealth, or gender. For example, when considering education, ‘equality of opportunity’ may be interpreted as meaning that the (subsidised) education available to a child does not depend on their parents’ circumstances. ‘If individuals *A* and *B* have the same tastes and abilities, they should receive the same education, irrespective of factors that are regarded as irrelevant’.¹⁹

Equality of opportunity requires the government to determine which consumer attributes are to be deemed irrelevant. Often these relate to fairness. ‘Equity as fairness implies that personal or socioeconomic circumstances, such as gender, ethnic origin or family background are not obstacles to educational success’.²⁰

Equality of opportunity divides the population of potential consumers into groups only based on ‘relevant’ characteristics, then requires that each member of a particular group have identical access to a service, if the individual chooses to access the service.

The objective of equality of opportunity is clearly easier for the government to achieve than equality of consumption. It does not require that a consumer is required to consume a certain level or type of service, just that they have the opportunity to do so in a way that does not depend on irrelevant attributes (as defined by the government). For example, a government may deem a consumer’s income or wealth as an irrelevant attribute but not the consumers location. Thus, medical care subsidies and services may differ by region while satisfying equality of opportunity in health care.

¹⁸ See Fels and Biggar (2017) for a brief overview in the context of education.

¹⁹ N. Barr, quoted in Fels and Biggar (2017).

²⁰ OECD (2012, p. 15).

As with ‘equality of consumption’, it is unclear what, if any, role competition between alternative suppliers could play if ‘equality of opportunity’ was strictly required.

Equality of opportunity may, however, be difficult in practice. Even if the government specifies the level of service that is available for a consumer, and employs all people who provide the service, the service will be provided by different individuals or groups. Doctors differ, as do teachers and other service providers. It is impossible to ensure that all services provided to a particular group of consumers are actually the same despite rules on qualifications of providers or rules around what they can and cannot provide.²¹

Equality of opportunity in the provision of a service may also be difficult to achieve if income or wealth are deemed ‘irrelevant’, but private suppliers offer the same or substitute services. An individual may consume the government provided service then top up that service through a private market. Even if private supply is deemed illegal it may be difficult to enforce, allowing those with more income or wealth to buy more of the service, potentially on a ‘black market’.²²

As objectives, both strict ‘equality of consumption’ and ‘equality of opportunity’ have practical limitations. They also avoid the key issue of cost. If the human service is fully or partially funded by government, then a key element for government and taxpayers will be to get the best outcome from limited government funds.

An alternative government objective when designing a human services system will be to ensure that all eligible consumers have equal access to a minimum level of a service at a minimum total cost to taxpayers. This ‘safety net’ objective is practical and makes both service outcomes and taxpayer costs central to the human service system design. It is also amenable to competitive supply of the service. It can recognise innate differences between different suppliers, subject to minimum standards, and allow consumers to choose the suppliers that they prefer. It can also allow for competition in either full-service provision or in services that ‘top up’ a government provided service. Importantly, it can efficiently use competition and consumer choice to leverage taxpayer funds. Once a base level of service and government subsidy is established, a safety net approach can allow a consumer to consume more of the service, a higher quality of the service, or a substitute type of service that they prefer, *if they forgo some of the relevant government subsidy*. This allows government to fund the service at a reduced cost to taxpayers. This approach to funding services, where the size of the subsidy depends on choices made by the consumer, is called second degree price discrimination.

In Australia, government rules around health, education, childcare and most other human services in Australia are broadly consistent with this objective.²³

‘Eligibility’ means that government funding for the service may only be provided to identifiable subgroups of the population. For example, access may depend on factors, such as age, existence of a particular health condition, or level of disability. Eligibility may also depend on income or wealth. As part of its role in stewarding the system, the government needs to establish procedures for checking eligibility.

Note that the rules around access for the same service may differ across subgroups. For example, government may stratify consumers by income groups. The lowest income group may be able to access the relevant service with no co-payment while subgroups with higher levels of income may be required to make a co-payment if they access the service. Such stratification with different payments based on an observable characteristic is known as third-degree price discrimination.

Having funding eligibility differ, for example on the basis of ability-to-pay, can help ensure that all consumers can access a human service while limiting the cost burden to taxpayers.

²¹ For example, rules around curriculum or ‘what must be taught’ in schools does not eliminate the differences between boring and engaging teachers!

²² For example see <https://www.scmp.com/yp/discover/news/asia/article/3237050/deep-dive-why-chinas-profit-tutoring-industry-persists-two-years-crackdown-aimed-reducing-student>

²³ For example, when considering access to GPs, Taylor *et. al.* note that ‘[t]he goal appears to be more about universal access to care rather than universal free care’.

‘Equal access’ means that all eligible consumers in a particular subgroup would face the same constraints on access. For example, consumers may face specified minimum co-payments or eligibility criteria (such as an activity test) to be eligible for government funded services.²⁴ Equal access means that all consumers in a particular eligibility subgroup face the same constraints, even though these may differ across subgroups.

In general, access will need to be consistent with consumer choice. For most services (school education and corrections being obvious exceptions) consumers have the choice not to access a specific human service, even if they are eligible for that service at zero cost. Government may want to create ‘sticks’ or ‘carrots’ to ensure that most consumers do choose access. For example, it is not legally compulsory for parents to vaccinate their children in Australia. However, most vaccines are provided free of charge to the parents (the carrot) and parents who choose not to have their children vaccinated may find that they lose their eligibility for other benefits or government-funded human services (the stick).²⁵

A ‘minimum level of service’ means that the government supported human service must meet at least a minimum level of standards. As part of its stewardship role, government must set and enforce these minimum standards. As already noted, this is a critical part of market design and an area with a large existing literature. We do not cover it in detail here but recommend readers with an interest in this area consult PC (2017) and other references provided at the end of this paper.

In general, governments do not set down a single explicit objective for their involvement in a human service market. Rather, they refer to vague goals such as efficiency and financial sustainability, improved outcomes and equitable access.²⁶ To analyse market design and competition on human services, however, we require a well-specified objective. For this paper, we will use the ‘safety net’ objective as this best fits a range of actual human services provided in Australia. However, as noted above, the objective of human services intervention by government and the role of competition are necessarily connected.

Why competition?

Market-based competition is a key driver of growth and consumer prosperity in Australia. Strong competition, in goods and services markets where multiple suppliers actively compete for consumers, drives lower prices, higher quality, and greater variety. It ‘encourages innovation, growth in productivity and average income levels, and ultimately the number and quality of Australian jobs’.²⁷

The benefits of market competition are so significant that they are protected by law. The *Competition and Consumer Act 2010* (Cth) prohibits a wide variety of behaviour by business, such as price fixing, cartels, and anti-competitive mergers, that has the purpose or effect of substantially lessening competition.

Market based competition enables consumers to choose suppliers that best meet their personal preferences.

More competitive markets ... improve our quality of life by delivering greater variety and more freedom in our everyday choices. Having more choices open to us, along with greater capacity to exercise informed choice, improves our lives, individually as well as communally.²⁸

Concerns about a broad reduction in competition across the Australian economy has led to calls for policy reform.²⁹

²⁴ See PC (2024a, p. 79)

²⁵ See for example <https://www.healthdirect.gov.au/immunisation-and-vaccinations-for-your-child>

²⁶ See Addendum to the National healthcare reform agreement, 2020–2025, available at: <https://www.health.gov.au/our-work/2020-25-national-health-reform-agreement-nhra>

²⁷ Harper *et. al.* (2015, p. 20).

²⁸ Harper *et. al.* (2015, p. 20).

²⁹ See Leigh (2022).

Competition can have the same impact in the delivery of human services. '[C]ompetition between multiple service providers for the custom of users can drive innovation and efficiencies.'³⁰ It can improve service quality and reduce prices to both government and consumers.

Competition can also empower consumers.

User choice has meaning to people *for its own sake*, independent of whether it drives changes in price or quantity, or drives innovation and efficiencies. People benefit from having increased control over their own lives.³¹

We have seen the benefits of competition in human services supply across Australia. For example, most allied health services are provided in competitive markets. Physiotherapists, pharmacists, optometrists and counsellors compete for consumers' business, directly or indirectly receiving some government funding, or competing directly with other services providers who receive government funding.³² Consumers benefit by the ability to choose the allied health professionals that best meet their personal preferences and requirements.

Similarly, we see active competition in other human services markets, including in childcare, care for older Australians, and disability care. None of these human services markets is perfect. But history shows us that the alternative, where government determines who services a consumer and what services the consumer can receive, on a one-size-fits-all, take-it-or-leave-it basis, is significantly worse. Competition replaces government paternalism with consumer choice and empowerment and creates incentives for providers to meet consumers' needs rather than bureaucratic mandates.

Competition with its associated benefits can only be incorporated into human services provision through deliberate market design. When competition between motivated and efficient providers is effectively embedded as part of a human services market, both consumers and taxpayers win.

When is competition beneficial for human services?

Because of the potential benefits to both consumers and government, competition between multiple, active providers should be the default for human services markets. The government will need to set rules around market participants, including rules on funding and service standards. However, starting with the mindset of 'competition if feasible' will help ensure that human services are delivered in a way that mimics the efficiency and effectiveness of the broader economy.

In other words, market design should start from a rebuttable presumption that supply should be through a competitive process. This does not mean that a competitive market will always be preferred. But it does mean that consumer choice and empowerment are the starting points when designing human service delivery. These benefits of competition should only be removed if necessary to ensure safe and effective human service delivery.

This reflects that, when designing markets for human services, competition is a tool. It is not an end in itself, but one way to potentially achieve better outcomes from government designed human services markets. As the PC has noted:

Competition ... is an approach to market design. Competition is desirable in the provision of human services when it leads to improved outcomes for consumers with lower costs to tax

³⁰ PC (2016, p. 8).

³¹ PC (2017a, p. 66).

³² For example, while psychologists receive government funding under Medicare, this funding is not available to counsellors even if they provide similar services and actively compete with psychologists for clients. However, some counsellors may receive government funding through other human services programs, for example through Primary Health Networks.

payers. While competition can be an effective tool to deliver more efficient and effective human services, it is not always the best approach to market design.³³

There will be situations, for example when consumers are highly vulnerable or when the market is too small, where '[c]ompetition between multiple service providers is not always possible or desirable'.³⁴ However, even in these cases, the benefits of competition should be recognised and these benefits should be built into market design where possible.

Natural monopolies

Some markets will involve a natural monopoly, where the service is most efficiently supplied by one provider. This may be the case in rural and remote areas, where the population of consumers is small and the costs of service delivery are high. But it may also arise in other areas, where the relevant service is highly specialised so that even an urban area has few consumers.

Competition may still be feasible and desirable in these situations by redesigning the market rules. For example, are there market rules that artificially create the 'natural monopoly' such as excessive entry barriers for providers or rules that unnecessarily escalate providers' costs? Or are there rules around consumer choice, such as making subsidies only available if a particular type of provider is used, that constrain competition? If so, can the rules be altered to allow competition without compromising service quality?

It may be the case that only part of the service provision involves a natural monopoly. For example, it may only be viable to have a single clinic in a country town, even though there is potential active competition between suppliers using that clinic. As noted by the Hilmer report,³⁵ in that situation the government can separate the competitive and natural monopoly elements of service delivery, allowing competition between service providers.

The presence of natural monopoly does not mean that competition is impossible or undesirable. Rather, it can change the nature of competition. Government can use competition *for* the market rather than competition *in* the market to ensure high quality service delivery at minimum cost. If the market is contestable, in the sense that there are a number of alternative providers who could operate as a monopoly service provider, then the government can create a competitive tender where alternative providers bid for the right to be the monopoly. This is second-best to active competition in the market. A government tender will never be able to replicate the dynamic impacts of consumer feedback that exist through day-to-day competition. However, by using appropriate tender processes, governments can use contestability to improve outcomes for both consumers and the government.³⁶

Contestability will not work for natural monopoly markets where there are few if any alternative suppliers who can respond to a tender or where a chosen supplier will have incentives to act against consumers' interests despite the best efforts for the government to avoid this behaviour through the tender process and on-going market oversight. For example, consider services that can only be effective if they are culturally specific, for example for certain ethnically diverse communities, or for first nations communities. In such a situation, the preferred approach may involve government working with the community, potentially looking at a community-controlled service delivery model, such as a local cooperative.³⁷

³³ PC (2016, p. 8).

³⁴ PC (2016, p. 8).

³⁵ Hilmer *et. al.* (1993, p. 217).

³⁶ The PC (2020, p. 838) has noted that contracting when done well, can facilitate competition between bidding organisations, encourage innovation and create the potential for bids by consortia.

³⁷ As PC (2017a, p. 68) notes, '... even when user choice is not desirable, a focus on users can be achieved through other approaches ... Examples include increasing 'user voice' and co-design so a person's (or community's) preferences are taken into account when others make decisions on their behalf'.

Incentive barriers to competition

All competition involves a set of rules and regulations to ensure that competitive behaviour flourishes in the interests of consumers. But for some services, including parts of the production and delivery of human services, the ability to regulate day-to-day competition may be so limited that it is better to not allow competition, or to limit competition to certain types of providers.

For example, for some human services, it is desirable for a consumer to be able to interact with an ‘agent’ who can help that consumer find the services that best suit their requirements.³⁸ However, agents may have incentives not to act in consumers’ interests. Providers and agents can have strong incentives to direct consumers to particular providers, possibly with the agent receiving a kick-back from the relevant providers.³⁹ In such a situation, the conflicts of interest and regulatory problems that arise with agent services may require limits on who can compete to provide services. In the extreme, the best approach may be to have agent services provided through government employees.

How to design human services competition

As noted above, market design requires the government to consider a wide range of issues. Allowing competition may lead to better care economy outcomes but it does not reduce the scope of the government’s stewardship task.

In this section we *selectively* consider some of the issues government must consider when stewarding a competitive human services market. In particular, we will consider some of the issues of funding and competitive neutrality that can underpin competition while minimising taxpayer costs.

The discussion, however, is necessarily both incomplete and brief. For example, setting and enforcing minimum standards for human services markets is a key part of government stewardship. There is a huge literature, including the economics of regulation and incentives, which addresses this issue. We cannot comprehensively consider this, and many other topics, in this chapter.

Who should be allowed to supply?

Human services are often experience goods. The quality of service can only be determined by the consumer after they experience the service. In this situation, it can be in the consumers’ interests to limit supply of specific human services to appropriately qualified providers. For example, consumers’ interests can be best served if education services are delivered by qualified teachers and assistants; and aged care services are provided by staff with suitable training and checks.

At a minimum, providers of human services who receive government funding need to be registered to ensure accountability.⁴⁰

At the same time, provider restrictions should be no greater than those needed to ensure consumers receive suitable services. For example, restrictions on scope of practice for medical professionals, such as nurses and pharmacists, can excessively restrict consumer choice, while likely increasing costs to government.⁴¹

³⁸ See the PC’s discussion on benefits of using plan managers in mental health (2020, p. 838).

³⁹ For a discussion on these issues for mortgage brokers see PC (2018). On the presence of these practices, and difficulty of eliminating them, in US real estate markets, see The Economist (2024).

⁴⁰ See PC (2017b, p. 422).

⁴¹ See PC (2017b, p. 219–220).

What types of organisations should be allowed to compete?

While restrictions may be appropriate on who can provide a specific service, in general there should not be restrictions on the types of organisations that those providers use to supply the service.

As noted above, there are a range of different organisational forms that can actively compete in human services markets. These include private for-profit and not-for-profit organisations, or cooperatives and mutuals where consumers have an active role in the organisation that provides the services. Competition may also involve public organisations, owned by the government.

In general, there is no reason to believe that one of these ownership forms will be preferred to another.⁴² That said there may be specific instances where limitations on competition are such that one form of organisation is preferred. For example, as discussed above, in natural monopoly circumstances where markets are not effectively contestable, either a government organisation or cooperative organisation may be the second-best method of supply. However, these situations are relatively rare. For most human services, most of the time, there is no reason to favour one type of organisation over another.

Similarly, just as with individuals, it can be important to ensure that organisations that are eligible to provide human services satisfy regulatory requirements for governance, quality and the ability to safely supply the relevant service. In practice, these regulatory criteria may limit the types of organisations that can act as providers.

This means that when designing competition in human services markets it should be competitively neutral. Competition is competitively neutral if a (specific) consumer receives the same government subsidy regardless of their choice of eligible provider, and all eligible providers face the same rules for eligibility to provide services to consumers, regardless of their ownership structure.

For example, the school education market in Australia is not competitively neutral. Even if they provide identical education services, the amount of funding a school receives when it enrolls a particular student depends on whether the school is government-owned or independent not-for-profit.⁴³ The rules for funding also differ depending on ownership. Independent schools, but not government-owned schools, can charge students compulsory fees.⁴⁴

If a human services market is designed not to be competitively neutral then competition will systematically favour some types of providers based on factors that are disconnected from the service being provided. The market will evolve over time towards the favoured type of provider, even if this type is not the most efficient, does not provide the best services for consumers, or does not minimise the cost for taxpayers.

Competitive neutrality is particularly relevant for government-owned providers. Without competitive neutrality, these providers may be systematically favoured simply due to their government ownership. For example, they may receive biased funding, say through implicit cross subsidies from other areas of government operations, such as receiving an implicit government guarantee on any debt, or by not facing the same tax liabilities as their private sector counterparts. All governments in Australia have agreed to follow the principles of competitive neutrality when their government owned businesses engage in competition.⁴⁵ However, both adherence to these principles and ability to investigate breaches of the principles has been limited.⁴⁶

Allowing a wide variety of organisational forms to provide human services does not mean that there are no restrictions. Human services providers, including government providers, are subject to standard laws such as competition and consumer protection laws.

⁴² See PC (2017a, p. 100; 2024c, p. 76).

⁴³ Note that if they provide different services then differential funding may be used by government to reduce taxpayer costs. This is not a violation of competitive neutrality, but is second degree price discrimination, as discussed below.

⁴⁴ This funding distinction has a long history going back to the 1870s. For details see <https://digital-classroom.nma.gov.au/defining-moments/free-education-introduced> and Hunt (2021) at chapter 1.

⁴⁵ See Council of Australian Governments (1995).

⁴⁶ See PC (2014, p. 34).

Outcomes based funding

Competition in human services will be driven by the incentives for both producers and consumers. When designing a system, the government should recognise that it will get what it pays for. In particular, it will only achieve high-quality service outcomes if providers are rewarded for these outcomes.

For example, in Australia 'GPs are paid under a fee for service (FFS) model, and can either accept the [Medicare benefits Schedule] payment as full compensation, or can charge out-of-pocket fee'.⁴⁷ GPs actively compete for consumers and this competition underpins price (to avoid excessive out-of-pocket fees) and quality competition. There is high degree of consumer choice.

However, there are concerns that fee-for-service remuneration creates incentives for GPs to focus on episodic care rather than preventative care.⁴⁸ Also to avoid paying out-of-pocket fees, some consumers choose to go to hospital emergency departments that involve no (monetary) charge, rather than attend a GP. This can cause overcrowding in emergency departments and increased cost for taxpayers.⁴⁹

Funding systems will also change incentives to innovate in human services. For example, in healthcare, '[e]xisting funding structures, which are largely based on the volume of healthcare services delivered, do not encourage investment in quality improvement'.⁵⁰ The PC noted that innovation in the health system to improve outcomes would require funding reform so that health care providers had incentives to invest in innovation and to enable successful innovation to be evaluated and diffused to other providers.⁵¹

No system of funding in human services will be perfect. But, at a minimum, when designing competitive markets for human services, governments should consider how innovation and experimentation can be rewarded rather than stifled by funding mechanisms.

More broadly, a human services market will only deliver good outcomes for consumers if funding rewards those outcomes. If the quality of outcomes can be directly measured, then rewarding providers based on outcomes can drive effective competition.

Often direct outcome-based payments will not be possible. In such situations, funding services on the basis of consumer choice can be used to drive outcomes that consumers value.

Consumer choice and funding

Effective competition requires both a range of alternative service providers and consumers who can choose across those providers.

Consumer choice involves a range of factors. First consumers must have access to relevant information to guide their choice. This is lacking, for example, in Australian healthcare markets where patients who use the government-subsidised 'private' system for a hospital procedure rarely have information about the past performance of the hospital or specialist they are engaging, or even the amount of out-of-pocket costs they will incur.⁵² Competition cannot be effective in situations where even basic price and quality information is absent.

The PC (2017, chapter 11) outlines a range of reforms to improve consumer information in the health system. It notes that, making public, information about individual provider's service levels and consumer satisfaction, helps consumers to choose the service that best meets their need. It can also lead to service

⁴⁷ Taylor, *et. al.* (2016).

⁴⁸ Attwooll, J. (2023) 'Government flags shift in fee-for-service model', *newsGP*, 23 January, available at: <https://www1.racgp.org.au/newsgp/professional/government-flags-shift-in-fee-for-service-model>

⁴⁹ Hendrie, D. (2019) 'Why do patients go to emergency rather than to their GP?', *newsGP*, 12 July, available at: <https://www1.racgp.org.au/newsgp/professional/why-do-patients-go-to-emergency-rather-than-to-the>

⁵⁰ PC (2021, p. 1).

⁵¹ PC (2021, p. 1).

⁵² See Private Healthcare Australia (2024).

provider improvement, as providers who are underperforming face strong incentives to improve their performance when this information is public.

Second, as noted above, many human services are experience goods, so often government oversight is needed to ensure consumers can evaluate quality when making choice and to ensure services meet minimum quality standards. Government will need to set and enforce minimum quality standards to ensure that consumers can choose with confidence and drive competition.

The choices available to consumers and the benefits that flow from choice will depend on how services are funded. If services have guaranteed 'block funding', so that they receive the same level of funding regardless of the number of consumers they serve or the quality of service, then consumer choice will have little if any impact. Consumers may prefer a particular service provider, but the provider gets no benefits from serving them! Effective choice and competition require that funding for providers, at least to some extent, 'follows the consumer'.

More broadly, a consumer may be able to choose between a range of appropriately qualified providers. But market design can undermine effective choice. Market location rules, rules around the type of service that can be provided, and government funding rules can each undermine both choice and competition.

For example, as noted above, in school education location rules limit effective consumer choice. Multiple government-owned schools may be realistic options for a student, but zoning often limits the ability of schools to compete for students and for students to choose their preferred school.

In pharmacy, location and ownership rules mean that some consumers in rural towns face no effective choice. All pharmacies are controlled by the same owners and no other pharmacist can set up in competition and be eligible for the relevant government medicine subsidies.⁵³

Similarly, both GPs and pharmacists are eligible to administer certain vaccines. But the remuneration received by a pharmacist from the government can be significantly less than that received by a GP.⁵⁴

Competition is most effective in human services when government funding for a consumer is fully portable across providers and where appropriately qualified providers are free to vary their service to best suit the needs and preferences of different consumers.⁵⁵

A fully 'portable' funding scheme may not always be desirable. For example, if there are significant fixed costs associated with providing a particular human service, and constraints on private funding to cover those fixed costs,⁵⁶ then it may be desirable for government to help fund these fixed costs, say through a targeted loan or, if that is not possible, a grant. However, even in these situations, marginal funds, covering the incremental costs of serving consumers, can 'follow the consumer', leading to choice and competition 'at the margin'.

Using innovative funding to ensure consumer access while controlling government costs

Third-degree price discrimination can help ensure that relevant services are provided at a *minimum cost to taxpayers*. However, as noted above, under a 'safety net' approach to human services provision, government can further reduce cost by engaging in second-degree price discrimination: allowing consumers to purchase either more or a different quality of service, but with a lower level of government subsidy. This is the situation in school education, where students attending independent private schools can receive different

⁵³ PC (2023a, p. 371–8).

⁵⁴ For example, in late 2021, a pharmacist administering a first dose COVID-19 vaccine received between \$16 to \$19 in government funding compared to at least \$31.05 for a GP. See: <https://www.psa.org.au/pharmacists-remuneration-for-covid-19-vaccinations-must-be-addressed/>

⁵⁵ This type of fund portability is sometimes referred to as a 'voucher program' although a better descriptor is funding that 'follows the consumer'. See Cave (2001).

⁵⁶ Possibly due to lenders being unsure about future government policy intentions.

services, such as religious instruction, but receive a lower level of government funding on a per student basis. It is also the case in health, where individuals who want to receive hospital treatment sooner can choose to ‘skip the line’ and avoid waiting times as a fully-funded public hospital patient by receiving a lower government subsidy and paying out-of-pocket costs as a ‘private’ patient. In theory, these types of second-degree price discrimination should reduce the total cost to taxpayers. It is beyond the scope of this chapter however to verify that this is actually the case for schooling or hospital care in Australia.

Protections for vulnerable consumers

Human services market design needs to recognise that ‘[s]ome recipients of human services can be vulnerable, with decisions often being taken at a time of stress’.⁵⁷ In Australia, the Australian Consumer Law has provisions that help protect vulnerable consumers, including provisions against false and misleading representations, unfair contract terms, harassment and coercion. However, in human services markets, where there can be a concentration of vulnerable consumers such as children, the elderly or those facing mental stress, and where consumers may be spending government sourced funds, these protections may need to be strengthened. Additional safeguards may restrict the types of services that can be provided or the ownership structure of providers. For example, in school education, while private schools are allowed, only not-for-profit providers can receive government funding.⁵⁸

Vulnerable consumers may have an agent to assist in decision making. Checks are required to ensure that the agent is acting in the best interests of the consumer. Potential issues with third-party agents were discussed above. However, even where the agent is a family member or designated carer, checks are required to ensure that vulnerable consumers are not exploited.

Safety nets and ‘providers of last resort’

Market design with competition needs to allow for provider failure. While competition allows more efficient and effective providers to thrive, underperforming providers can fail. Failure can be due to insolvency, or a result of the government removing a provider’s ‘license’ to operate and receive government funding, for example where the provider fails to meet appropriate standards.

Similarly, when there are few providers or consumers have complex and idiosyncratic needs, competitive providers may be unwilling to provide relevant services.

When designing the market, the government needs to consider the safety net for consumers either when a provider fails or there is no appropriate provider in the market. If not dealt with as part of market design, the ‘provider of last resort’ responsibility will fall on government – or on government-owned service providers – by default.⁵⁹

Creating feedback loops to ensure system improvement

Competition can create significant benefits in human services delivery including innovation, reduced taxpayer burden, and greater consumer choice. However, no human services market design will be perfect. A key element of government stewardship in human services markets is creating feedback loops for market improvement. Without this process of on-going improvement, flaws in market design can grow over time, potentially leading to poor outcomes for both consumers and government.

⁵⁷ PC (2016, p. 7).

⁵⁸ See for example s83C of the *NSW Education Act 1990*.

⁵⁹ ‘Governments face risks associated with being a “provider of last resort” if, for example, a provider goes into bankruptcy or liquidation (NT DTF, sub. 261). In such cases, governments may need to step in and take over an underperforming or failing provider, or set up arrangements for a “provider of last resort” as part of the reform process.’ See PC (2016, p. 48).

The National Disability Insurance Scheme (NDIS) provides a recent example.⁶⁰ The NDIS has been lifechanging for many people with disability. It is based on allowing consumers a wide range of choice across alternative providers within a fixed budget, to allow consumers to access the services or products that best meet their needs. Providers can compete on price (subject to price caps) and quality. Consumers can evaluate whether they are getting value for money, making the system outcomes based – where consumers determine the outcome that best suits them.

The NDIS has shown the significant benefits for consumers from empowerment, choice and competitive supply. When started, the NDIS represented state-of-the-art system design. However, as with any complex market design, it is flawed. One of the core flaws is the lack of effective systems to enable the NDIS to be modified and improved as design limitations became apparent.

For example, the NDIS is based on a one-size-fits-all approach to cover all disabilities acquired from early childhood to age 65, and all parts of Australia. However, different people have different capabilities and requirements.

One limitation in the NDIS design relates to service navigation. Some NDIS participants can require significant support to choose services. As discussed above, and as has become clear through the NDIS experience, this support can create conflicts if ‘competitively’ supplied.

Different people live in different parts of Australia with different levels of service access. There is little point in empowering consumers when there are no providers, and the relevant market is too thin to support providers. The original NDIS design paid too little attention to thin markets. It also paid too little attention to ensuring culturally appropriate services. These issues of ‘natural monopoly’ are discussed above.

The NDIS involves no co-payment by consumers. While those with disability often have little ability to co-pay, the blanket rule covering copayments removes most of the incentive for consumers to choose based on price and providers generally price at the price cap.

The NDIS is an uncapped scheme. While evaluation for eligibility is undertaken through the independent National Disability Insurance Agency (NDIA), system designers underestimated the incentives for consumers to show that they were eligible for the scheme, particularly when children were involved.

The NDIS also does not fully consider service delivery and the needs of consumers, particularly children with disabilities. These children, and their families, often require support in a range of settings, including at home, in childcare, and in school. However, the services available to children often are not designed with these settings in mind, meaning that service delivery is compromised.

The NDIS did not fully consider the benefits of service coordination, whether for children with similar needs attending the same school or NDIS participants sharing accommodation. Individualised budgets has meant that service coordination does not occur even when this would reduce cost and improve outcomes.

While these limitations on NDIS market design have become apparent over the past decade, there has been no mechanism to ensure they were adequately analysed and rectified in real time. As a result, the NDIS has grown to a point where it is creating pressure on government funding that is considered unsustainable. The lack of adequate feedback loops in the original system design has meant that reform to improve the NDIS has been delayed until a point of crisis.

More broadly, a key element of market design in the care economy is designing processes to regularly review the outcomes of the market, and to address any limitations and issues as they develop, rather than letting them build to the point where service delivery is undermined.

⁶⁰ This section draws broadly on Department of the Prime Minister and Cabinet (2023).

Data

The government can only be an effective steward if it has access to the data that it needs to both plan a human services market and to evaluate that market over time. It also requires data to be able to inform market participants to enable the market to operate effectively.

In general, government (at best) has only partial oversight of critical data for human services. For example, in health, governments have limited access to the data across the health system that is needed for system planning and service evaluation. In disability services, government lacks data about individual provider performance and consumer satisfaction. In some situations, the government is not even able to determine who has provided a specific service, despite the government funding that service through the NDIS.

Without access to data, governments cannot fulfil their stewardship role. Data needs to be identified and collected. This collection should be as seamless as possible for providers. For example, government data collection systems, wherever possible, should be compatible with existing software systems used by providers to avoid the need for duplicative data entry.

Once data is collected, it needs to be used. This means that governments need systematic ways to evaluate individual human services markets. Evaluation is key for system improvement, the spread of best practice and provider accountability.⁶¹

Where possible, data needs to be used to both drive consumer choice and provider quality, including by assisting best practice innovation and adoption across human services markets.

The implications of human services reform for national competition policy

Human services, and the care economy in particular, are key parts of the Australian economy. Competition policy is central to the effective delivery of these services. So what lessons can we draw for national competition policy?

1. Governments, at all levels, across Australia, need to consider how they can design markets for specific human services to foster innovation, productivity growth and sustainability in the interests of consumers and taxpayers. Experience shows that this needs government coordination: no level of government can 'go it alone' and be successful.
2. As part of national competition policy, the Commonwealth, State and Territory governments should establish processes to review human services markets, focussing on using competition to improve the sustainability of the markets and the value for taxpayers. While reforms will need to be on a market-by-market basis, the focus should be on integrating market design across jurisdictions, while also allowing for market experimentation, innovation and evaluation.
3. When reviewing individual services under national competition policy, governments should focus on their role as market stewards aiming to allow effective and efficient competition where practical and desirable. Market design should focus on:
 - i. Making sure that funding mechanisms create incentives for providers and consumers that are in line with achieving the best outcomes while limiting the burden on taxpayers. Funding will often involve co-payments and explicit price discrimination between consumer groups where these tools improve outcomes while reducing cost to government.
 - ii. Funding systems should be outcomes based. Funding based on inputs such as activity, or that involves input mixes such as provider/consumer ratios, will drive service provision in ways that conflict with innovation and consumer welfare.

⁶¹ See PC (2021) and (2023b) for more details.

- iii. Restrictions on competition should be reviewed to ensure they are improving service delivery and protecting service quality. This includes restrictions on both individual practitioners and organisational forms. For example, overly restrictive job definitions can limit labour movement by providers and reduce consumers' ability to access services.
4. Governments should establish and coordinate on feedback loops for all human services. This should involve an on-going process of regular review of the performance of each human services market with the aim to improve market performance in the interests of consumers and taxpayers over time.
5. Governments should work together and with providers and consumer groups to establish processes to collect and use the data that is needed for effective stewardship, and to make relevant information available to empower consumers and drive competition.
6. Where competition in the market is not the best way to deliver a human service, governments should actively consider the alternatives that will deliver the best outcomes for consumers and taxpayers. These may involve:
 - i. Separating out service elements where competition is not appropriate while allowing competition in related services. For example, while competitive provision of service navigation may not be appropriate, competition can still operate for the specific services themselves.
 - ii. If there is a natural monopoly, then competition for the *market* may still allow consumers and taxpayers to gain some of the benefits of competition while ensuring high quality service delivery at minimum cost to taxpayers.
 - iii. To ensure that culturally competent services are available in 'thin markets' governments should work with communities, potentially considering innovate forms of service delivery such as community cooperatives or community-controlled services.

This is necessarily a partial and incomplete list. The key point, however, is that human services, and the care economy services in particular, should be at the heart of national competition policy.

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