Contestability and Social Justice:
The limits of competitive tendering of welfare services.

Word length: 3,678 (excluding references)

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Abstract

This paper critically analyses competitive tendering as a model for the provision of welfare services. Competitive tendering, driven by National Competition Policy and other imperatives for greater efficiency and a smaller public sector, is now used extensively by governments to fund welfare services. However, the suitability of this funding model to welfare services generally, and specifically welfare services in non-metropolitan areas, can be criticised on both theoretical and empirical grounds. Competitive tendering is grounded in economic rationalist, urbocentric assumptions that are largely inappropriate for welfare provision, and have limited validity in rural areas. There is little rigorous empirical evidence of improved efficiency and effectiveness of service delivery under this model. Conversely, there is mounting evidence about the negative impacts. In rural areas this includes the erosion of community service obligations, less collaboration and greater secrecy between agencies, the reduction of choice, limited opportunities for local planning, cost shifting, and threats to continuity of care. This paper concludes with a call for greater application of the ‘public benefit’ test under the provisions of the National Competition Policy, and the development of more sophisticated frameworks for assessing the contestability of welfare services. Social workers have a leading role to play in challenging the dominant ideology of competition-oriented welfare reforms.

Key words: Competitive tendering, rural, welfare services

INTRODUCTION

Several different models are used to fund welfare services in Australia. These include the 'government as philanthropist' model, the submission model, the planning model and the

quasi-voucher model (Lyons 1995). Over the past decade, governments have increasingly used contracting out and competitive tendering (House of Representatives Standing Committee on Family and Community Affairs 1998; Nevile 2000). Contracting out devolves public sector functions to the private and/or community sector. Competitive tendering occurs when the government prescribes the types, levels and locations of services and invites organisations to tender to provide those services for a fixed period.

The imperatives for contracting out and competitive tendering can be traced to the Council of Australian Governments' (COAG) adoption of the Hilmer Report on National Competition Policy (1994); the Industry Commission's investigation into Charitable Organisations in Australia (1995); and the Commission's report on Competitive Tendering and Contracting by Public Sector Agencies (1995). These reports conclude that all government activities should be considered for competitive tendering, unless they can be shown to be core operations. National Competition Policy (NCP) covers the set of reforms agreed to by the Commonwealth, State and Territory governments under agreements signed in 1995. While NCP does not require contracting out and competitive tendering of welfare services, the reforms affect: competitive neutrality between government businesses and private sector competitors; reform of the structure of Commonwealth and State public utility monopolies; and reviews of legislation which restrict competition. The impact of National Competition Policy on rural Australia has been of considerable public and political interest (Productivity Commission 1999).

This paper critically analyses competitive tendering as a model for the provision of welfare services, with particular reference to rural and remote areas of Australia. It will be argued that competitive tendering is inappropriate, and that there is little evidence of improved efficiency and effectiveness under this model. On the other hand, there is increasing evidence about the negative impact of this approach for clients, agencies, and communities. The challenge for the social work profession in improving social justice is threefold: to

exploit the existing provisions of the National Competition Policy, to press for alternative funding models, and to contribute to the development of more sophisticated frameworks for assessing suitability for competitive tendering.

COMPETITION AS THE DISTRIBUTIVE MECHANISM

There is little doubt that competition is the dominant distributive mechanism in the Australian economy (Webster 1995, Valentine 1999). Competition policy is one of the key policy levers used in the implementation of economic rationalism. The rise of the ideology and policies of economic rationalism over the past 20 years has been well documented (Pusey 1991), and the nexus between it and competition has been extensively discussed. The rationale for competition follows this formula: competition is believed to promote greater efficiency; greater efficiency will lead to improved economic performance; and improved economic performance will lead to rises in incomes, employment and living standards (Productivity Commission 1999). The formula is frequently reiterated by leading politicians and public sector officials:

Reducing the structural rigidities in the economy and developing a competitive market environment enables Australia to increase its level of productivity growth. Increases in productivity growth are the best means of achieving higher real incomes and greater employment opportunities (Federal Treasurer 2000)

Competition generally promotes efficient allocation of resources and ultimately economic growth which benefits all participants in the economic process. ... there is a presumption in favour of competition unless it can be shown that efficiency or some other public policy goal overrides it (Fels 1998).

What is the connection, then, between NCP and competitive tendering? Various government reports have taken pains to point out that NCP does not *require* competitive

tendering. In other words, NCP is claimed to be not directly responsible for a range of (state) government policies such as compulsory competitive tendering and contracting out (see, for example, National Competition Council 1999). However, it is clear that decisions about contracting out and competitive tendering are being made in the context of National Competition Policy (Commonwealth Department of Health and Family Services 1998; House of Representatives Standing Committee on Family and Community Affairs 1998). Further, contracting out and competitive tendering are intended to improve the efficiency and effectiveness of service delivery. In this respect, they are aligned with the imperatives and objectives of NCP.

The following section summarises the main criticisms and evidence regarding the appropriateness of competitive tendering as a funding model for welfare services.

COMPETITIVE TENDERING OF WELFARE SERVICES: CRITICISMS AND EVIDENCE

Many critiques of competitive tendering (and, more broadly, privatisation, competition policy and economic rationalism) have appeared over the last five years (see, for example, Ernst, Glanville and Murfitt 1997; Harris 1999; Hodge 1996; Webster 1995; Valentine, 1999). The central concern is that competitive tendering is underpinned by an ideology which marks a paradigmatic shift from a society intent on enhancing the general social well being of its citizens, to a market-driven economy comprising competitive, individualistic consumers. The former is based on notions of civil, political and social rights, and obligations which each of us has to the collectivity. Consumers, by contrast, are seen as self-interested, autonomous individuals who enter into contractual relationships for the purchase and sale of commodities. Individuals are valued according to their contribution to the economy, rather than how they enhance the public good, among other things. Competitive tendering, it is argued, erodes equity, and undermines the reliability of supply of essential services. Profit motives corrupt

community service interests, and market forces divide society into winners and losers. The messages behind competitive tendering are clear:

Competition rewards efficiency but not collaboration. A competitive system sends providers a clear signal: reduce costs; treat more patients; value personal strategy over collaboration. A feature of competitive models is self-interest, which is a principle that does not sit comfortably with providing services for the public good (Braithwaite 1997).

The exposure of public and private sector activities to market forces through competitive tendering is presumed to produce more efficient, effective and flexible service delivery. There is, however, little convincing evidence of these presumed advantages. Concerns about the negative impact of competitive tendering is indicated in the decision of some government departments to maintain long-established funding relationships in the interests of stability of service provision, and to protect capital investments in infrastructure (Commonwealth Department of Health and Family Services 1998).

Research on the competitive tendering of welfare services has revealed disadvantages at four levels: service users, individual agencies, the service system, and local communities. Drawing principally upon data from interviews with service providers (Ernst et al. 1997; Neville 1999; Neville 2000), analyses of the research literature (Quiggin 1996), and submissions by a range of people and organisations to government inquiries (House of Representatives Standing Committee on Family and Community Affairs 1998; Commonwealth Department of Health and Family Services 1998; Productivity Commission 1999), the results indicate that:

Service users experience poorer access to welfare services, together with a loss of choice as a result of the defunding of some agencies. Tightened eligibility criteria has excluded some service users, and others report that they are increasingly required to subsidise costs of the service. Concerns have been expressed about compromises to the continuity of care following

the transfer of contracts from one agency to another. Finally, consumer advocacy groups report disenfranchisement because there is less opportunity to provide input into service planning, and fewer mechanisms for genuine consultation with larger funded agencies.

Individual agencies say that competitive tendering increases administrative costs, both in preparing tenders (whether successful or not) and in meeting the onerous reporting requirements of a contract. This has forced many small agencies to divert their resources away from direct service provision. There are concerns about the impact of competitive tendering on service quality. Agencies have reduced autonomy to develop innovative programs to meet local needs. Finally, competitive neutrality can not always be achieved where services are supported by volunteers and donors.

The service system has been greatly affected by competitive tendering processes. Staff report a fragmentation of services. Agencies have become more secretive and less collaborative as they attempt to protect their competitive advantage. It is often beyond the capacity of centralised government planning processes to effectively determine the type, level, mix and location of services on a regional or local basis. Many smaller, community-based agencies have been amalgamated or wound up because they cannot compete with larger service providers. One of the consequences of this has been a reduction in the level of volunteerism. In an attempt to address the fragmentation of the service system, some governments are now overlaying competitive tendering with collaborative, regionalised, planning models (such as Victoria's Primary Care Partnerships program). There is little evidence yet of the effectiveness of such approaches; the rhetoric of partnerships will likely have minimal impact on a funding system based upon competing interests.

Local communities have also been disadvantaged. Competitive tendering has reduced the level of public accountability, and weakened community service obligations. Local governments report that competitive tendering has increased economic disparity, contributed to the closure of industries, and has hastened population decline.

These findings are supported by Hodge's (1996) comprehensive review of international empirical evidence about privatisation. His meta-analysis of the research challenges many of the taken-for-granted assumptions about the benefits of privatisation. He identified that many of the evaluations of privatisation have been concerned solely – or at least principally – with financial measures. Critical analysis revealed that, in any case, the cost savings from privatisation are modest or non-existent. Consideration of the political, social, democratic and legal outcomes have been lacking. This highlights the need to move beyond narrow financial considerations when assessing the consequences of competition-oriented reforms.

COMPETITIVE TENDERING IN RURAL AREAS.

Competitive tendering can be criticised for its urbo-centric assumptions. In other words, it is built upon assumptions about service delivery in metropolitan areas. It assumes the existence of a competitive market of service providers, and a critical mass of service users. In the more rural and remote areas of Australia, multiple (or potentially competing) service providers simply do not exist. Further, given the imperatives for reduced costs and greater efficiency, a formula-driven funding model such as competitive tendering may lead to a decision that there are insufficient service users to warrant the service in these areas. Competitive tendering also often overlooks the need for innovative and flexible models of service delivery in rural areas (Taylor 1999). Inter-sectoral collaboration, resource-sharing and creative responses to the needs of service users have been hallmarks of rural service provision (Cheers 1998). Contracted unit costs often ignore the extra costs (such as travel time and transport costs) incurred with service delivery to rural and remote areas. Finally, service providers based in rural and remote areas are usually integral to the economic and social livelihood of the local community. The range of benefits (difficult though they are to quantify) will be lost if the services do not continue to be delivered by locally-based providers

(Ernst et al. 1997; Taylor 1999). Moreover, the problems of attracting and retaining professionals to rural areas will be even more difficult without security of employment.

At a broader level, recent inquiries into the impact of competition policy on society and the economy (National Competition Council 1999), as well as on rural and regional Australia (Productivity Commission 1999) confirm that the benefits flowing from NCP have favoured metropolitan areas. The remainder of this paper considers a number of responses the social work profession can make about the competitive tendering of welfare services.

CONTESTABILITY FRAMEWORKS

The competitive tendering of welfare services should be preceded by an assessment of the appropriateness of this funding model. The concept of contestability refers to "mechanisms for assessing the suitability and desirability of exposing welfare services to competitive pressures in the first place" (House of Representatives Standing Committee on Family and Community Affairs 1998, p. 63). A key recommendation of the inquiry by the above Standing Committee was that no further contracting out of welfare services take place until a continuum of contestability framework is developed. Some of the key indicators in assessing contestability are described in the report:

Contestability should be considered where potential providers have the expertise to meet the tender specifications, the amount of money involved is large, the purchasing power of customers is high, the support needs of customers is low, and where there are no regulatory barriers to entry on 'public interest' ground. Where a service falls on the continuum will determine whether it should be contested or quarantined from contestability (House of Representatives Standing Committee on Family and Community Affairs 1998, p. 63).

Additional factors useful for assessing contestability were identified as:

- Congruence of service objectives with contestability

- Risks of service failure, service delivery changes, and interruption to continuity of care
- Number and credibility of alternative providers
- Degree of public acceptance of competitive tendering or outsourcing
- Predominance of disadvantaged people in the client base
- Level of purchasing power and market knowledge of clients
- Need for confidentiality, public accountability, security, and equity considerations, and
- Centrality to an agency's objectives (pp. 63-69).

Clearly, there are many instances where it would be considered inappropriate to proceed with competitive tendering of welfare services. However, the House of Representatives Standing Committee's (1998) recommendation regarding contestability was not endorsed. Further, there appears to have been very little further work on developing more sophisticated contestability frameworks (Productivity Commission 2000). This is an area where social workers can and should have significant input.

PUBLIC BENEFIT TESTING

Where privatisation or competitive tendering for welfare services is introduced through National Competition Policy, one can apply for public benefit testing. The Productivity Commission explains that:

NCP recognises that it is not always possible, or sensible, to promote competition in each and every market. Consequently, the NCP includes provisions which endorse restrictions on competition where such arrangements can be shown to be in the 'public interest'. NCP places the onus on those seeking to retain or introduce potentially anti-competitive practices to demonstrate that they are in the public interest (Productivity Commission 1998 p. 5).

While the policy is designed promote public interest generally, the costs and benefits of individual reforms can be assessed on a case-by-case basis. The public interest test,

described in Clause 1(3) of the Competition Principles Agreement, allows for a range of indicative factors to be considered when assessing the merits or demerits of particular initiatives. These factors include ‘...social welfare and equity considerations, including community service obligations; government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity; ...(and) the interests of consumers generally or of a class of consumers...’ (National Competition Council 1999, p. 103). While it is claimed that all factors - environmental, social, and economic - are presumed to have equal weight (National Competition Council 1999, p. 97), there is no legislative definition of the meaning of ‘public benefit’. In effect, financial interests take precedence: ‘The goal of economic efficiency is often central in defining whether a public benefit arises, although there may be other benefits in its absence’ (National Competition Council 1999, p. 101).

Public interest assessments are required to focus on the net community benefit, rather than providing special treatment for certain groups, industries or regions. This is particularly problematic because, as discussed above, there is strong empirical evidence that programs of privatisation and competitive tendering disadvantage the poor and oppressed. Therefore, the criteria laid down for public benefit testing is at odds with social values based on equality of opportunity and support for disadvantaged members of our society. In addition, public benefit is defined primarily in terms of financial gains; there is little room under the legislative provisions to assess the non-monetary effects of competition. This presents a Catch 22 for social workers: public interest tests recognise welfare considerations, but are primarily concerned with whole community, rather than the needs of particular groups traditionally the focus of social work, such as unemployed, poor, disabled or isolated.

There are several implications for social workers in this. Social workers may need to take a leading role in regional communities in raising awareness about the local implications of National Competition Policy, and about the provisions of the public interest test. This may

extend to accessing training to conduct public benefits assessments. As Crimeen and Wilson (1997) argue, the choice is between working within an economic rationalist or a social justice paradigm. The former incorporates social workers in to managerialist functions and policing social deviancy; by contrast, social justice involves advocating for changes that benefit the most disadvantaged and vulnerable.

This is all the more challenging because competitive tendering pits agencies against agencies, and workers against workers; social workers must use their skills to mobilise common interests across regional communities. It is particularly challenging for rural social workers because of the multiplicity of roles played out in non-metropolitan settings. Social workers may find themselves pitted against dominant interests in arguing for restrictions on competition in the community interest. However, social workers are ideally positioned to articulate the social consequences of government policy.

ALTERNATIVE FUNDING MODELS

Competitive tendering is generally reported to produce a number of improvements, principally in accountability and transparency in decision-making (House of Representatives Standing Committee on Family and Community Affairs 1999; Nevile 1999). Clearly, competitive tendering is neither a sufficient nor necessary condition for achieving these improvements. Better service specification and performance monitoring is possible without recourse to competitive tendering. Rather than pursuing competitive tendering, one government department has indicated that "continued benefits are more likely to come from better management approaches under current funding arrangements, with the aim of improving the cost effectiveness and customer focus of services, and ensuring more rigorous monitoring and evaluation" (Commonwealth Department of Health and Family Services 1998, p. 2). There are alternatives to the competitive tendering of welfare services if the primary aim of reform is to improve the administration of service provision.

Alternative funding models include establishing forums through which local community representatives are empowered to work alongside governments in planning, developing and implementing innovative solutions. Such a model, described by Taylor (1999), has been used very effectively to fund child care services for Aboriginals and Torres Strait Islanders. The lessons for service provision in rural areas are:

... services now require flexibility in order to meet local needs, require collaborative action and must be locally acknowledged, owned and valued. Overall, community members must have an opportunity, if they wish, to demonstrate their commitment to their community through service provision (Taylor 1999, p. 24).

Social workers have a leading role to play in advocating for allocative welfare mechanisms that embody social justice. New models must move beyond narrow definitions of 'public benefit' and assessments of individual worth in terms of 'economic productivity'. Funding mechanisms must articulate how the model will contribute to service quality and better outcomes for service users, as well as considering the implications for individual agencies, the service system and local communities. As Braithwaite (1997, p. 43) argues, there has been too much "vague theorising" about the purported benefits of competition-oriented reforms, and too little reliance on objective evidence about effectiveness and outcomes.

CONCLUSIONS

There is now substantial evidence that there are limited benefits to be gained through the competitive tendering of welfare services. It is antithetical to values based on social justice, and to meeting the needs of disadvantaged people. The mounting evidence indicates that it has significant disadvantages for service users, agencies, the service system and local communities. However, rooted as it is in the dominant ideology of economic rationalism and

legitimised by National Competition Policy, competitive tendering maintains a strong hold on welfare policy.

There have been numerous calls for social workers to broaden their concerns beyond practice issues, and to engage actively in changing the structures that reinforce economic and social disadvantage. Becoming more influential in the policy environment is one avenue (Pawagi 2000). There are various barriers to this. Crimeen and Wilson (1997), for example, argue that economic rationalism and the marketisation of human services in Australia has marginalised the functions of social work and reduced it to a self-protecting, conservative role. In so far as it does this, social work legitimates economic rationalism and thus contributes to maintaining inequality. Competitive tendering itself has thrown agencies into conflict with one another, and short-term, precarious employment contracts make it more difficult for social workers to unite to challenge economic rationalist, competitive funding models (Jones and May 1992; Webster 1995). However, it is imperative that the social work profession overcomes these challenges:

If we are not to engage an analysis that sets markets up as essentialist, Australian policy analysts will need to use what they know about more equitable and just allocation mechanisms in their own domains of policy to counter conservative market essentialism (Wearing and Bereen 1994, p. 249-250).

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