Submission to consultation on NDIS thin markets

Thin Markets ARC Linkage Team

Associate Professor Gemma Carey, University of New South Wales

Eleanor Malbon, University of New South Wales

Professor David Gilchrist, University of Western Australia

Professor Satish Chand, University of New South Wales

Professor Anne Kavanagh, University of Melbourne

Dr Damon Alexander, Swinburne University

Contact: gemma.carey@unsw.edu.au

Executive Summary

This submission draws on a review into the stewardship of public service markets and the application of these findings to the NDIS[1].

Definition of thin markets

The Productivity Commission, in its report on the '*National Disability Insurance Scheme (NDIS) Costs*', notes that the market (i.e. number and activity of providers and participants) for some types of disability support will be "too small to support the competitive provision of services", and the resulting thin markets for disability support will remain a persistent feature of this sector (PC, 2017; page 36). The definition of thin markets used here, while very broad, is synonymous with 'market gaps'.

In attempting to measure the thinness of the disability support market, Earnest and Young (2017) have deemed thin markets to be present wherever there is "a gap between the needs of participants and the services available in the market" (EY, 2019; page 2).

We submit that the above definition is too broad to be helpful in identifying thin markets, which is essential for remedial interventions. This is because a void in the marketplace for a designated service is a function of how narrowly the service is defined in the first place. One could, for example, define a support service so narrowly that it would lead to a gap in supply. This is an apt issue for the disability support market as explained next.

The needs of a client for a particular disability support is likely to be unique to, and probably known only by, the client. Furthermore, the bundle of services in need is in all likelihood multidimensional (see Figure 1). In contrast, the supply of the requisite services may be indivisible across segments meaning that the consumer is unable to bundle the available segments to satisfy their unique needs. There may also be economies of scale in providing a specific (homogenous) type of support which may not necessarily match with the demands of the consumer. Further, the market mechanism is less likely to apply in thin markets where the needs of participants are usually non-elective and non-substitutable. These issues make the identification and resolution of thins markets critical.

Our proposed solution to assessing the thinness of a market is to proceed in four sequential steps: (i) define the support services; (ii) demarcate the spatial boundaries of the market (iii) enumerate the number of suppliers for each of the defined services; and, (iv) collect data on the price charged for the predefined service within the given spatial location. As an example, one could count the number of providers of 'Hearing Services" (see Figure 1) within the ACT.

Introduction

The NDIS has been designed as a quasi-market system from the ground-up, rather than introducing an element of competition into funding arrangements for an existing scheme. It is not one market for a single broad type of service, but rather a complex structure of markets for different supports. The scheme covers all people with significant and permanent disability and aims to cover all their reasonable and necessary support needs (other than those covered by public or private insurance schemes or Australia's universal health system). These exemptions ensure that the NDIS a significant part of the whole disability services system rather than the entire scheme. Thus, the NDIS quasi-market (and thin markets as relevant here) is also impacted by other elements of the system.

This complex market structure may produce hidden market deficiencies, such as supply side gaps (a lack of meaningful alternatives and/or a situation where potential participants choose not to participate or fully utilise their funded package) and thin markets (economically inefficient markets). As a national scheme, its geographical reach is considerable, presenting unique challenges in responding to needs of participants in regional and remote areas. Under the design of the scheme, the NDIA can only intervene to commission services where market failure has been demonstrated. However, the NDIA can modify its funding model where the interests of the participant are better served (for instance, in providing different supply-side procurement arrangements to support sustainability). Finally, the NDIS predominantly uses fixed prices, which inform actuarial modelling, in the allocation of resources to citizens, conducted through a Commonwealth statutory agency – the National Disability Insurance Agency [2,3]. This means that interventions and potential levers are different in the NDIS than international counterparts.

Market stewardship of quasi-markets

The growth of the quasi-market funding solutions for human services generally and the NDIS particularly has led to interest in 'market stewardship' roles for government. At the most basic level, governments are expected to create the conditions upon which quasi- markets can work effectively. This expectation arises because policy frameworks, like the NDIS, are developed in an environment where the demand-side is inelastic, the price and production description are set by a third party (separate to the supply-side and demand-side) and the supply-side needs to be incentivised to respond to the profile of demand. In other words, the market mechanism cannot work to drive outcomes without significant modification of the framework.

Attempts to manage quasi-market problems have variously been referred to as 'market shaping' [4], 'market stewardship' [5–7] and 'market steering'. Gash provides a neat overview of market stewardship responsibilities, saying governments must:

- engage closely with users, provider organisations and others to understand needs, objectives and enablers of successful delivery
- set the 'rules of the game' and allowing providers and users to respond to the incentives this creates
- constantly monitoring the ways in which the market is developing and how providers are responding to these rules, and the actions of other providers
- adjust the rules of the game in an attempt to steer the system (much of which is, by design, beyond their immediate control) to achieve their high-level aims [6]

While these principles are informative, they tell us little about the actual practice of what might be best described as quasi-market stewarding – the specific actions government agencies take to shape their policy frameworks and implementation in order to better manage outcomes generated by quasi-markets. Indeed, despite increased efforts to undertake and support quasi-market stewardship for care and welfare services, there is no systematic knowledge of what approaches have been tried, what problems they have sought to address, and what works.

This submission synthesises what is known about effective market stewarding activities and interventions, and applies this to the case of the NDIS. Briefly, Carey et al. (forthcoming) searched both the peer-reviewed and grey literature in order to understand what quasi-market stewarding activities have been empirically studied and to detect patterns in what is, and is not, effective in care and welfare contexts. While meta-analyses often rely on statistical analysis, they took a thematic approach – synthesizing qualitative insights from empirical case studies - to answer the questions:

- What market stewardship efforts for quasi-markets have been shown to be effective in care and welfare contexts?
- What different attempts have been made to intervene in thin quasi-markets in care and welfare contexts?

The table below provides an overview of market-stewardship interventions and the associated evidence. For promoting robust markets generally, Carey et al. (forthcoming) found that providing supply and demand information was the most frequently suggested intervention in the theoretical literature and is somewhat supported by empirical evidence[8,9]. With regard to equity-related interventions, they found evidence for ensuring flexibility in price setting[10,11]. This is in contrast to the traditional centrally-set prices that many quasi-market schemes favour, particularly in cases of personalisation[5]). Encouraging the use of third party management and brokering for identifying services was also found to be effective for targeting niche market problems with regard to vulnerable groups[11].

The findings from the research are summarised in Table 1. The interventions are analysed against the goals of the NDIS markets (Figure 1) (NDIA, 2016a). We added section on market stewardship for equity.

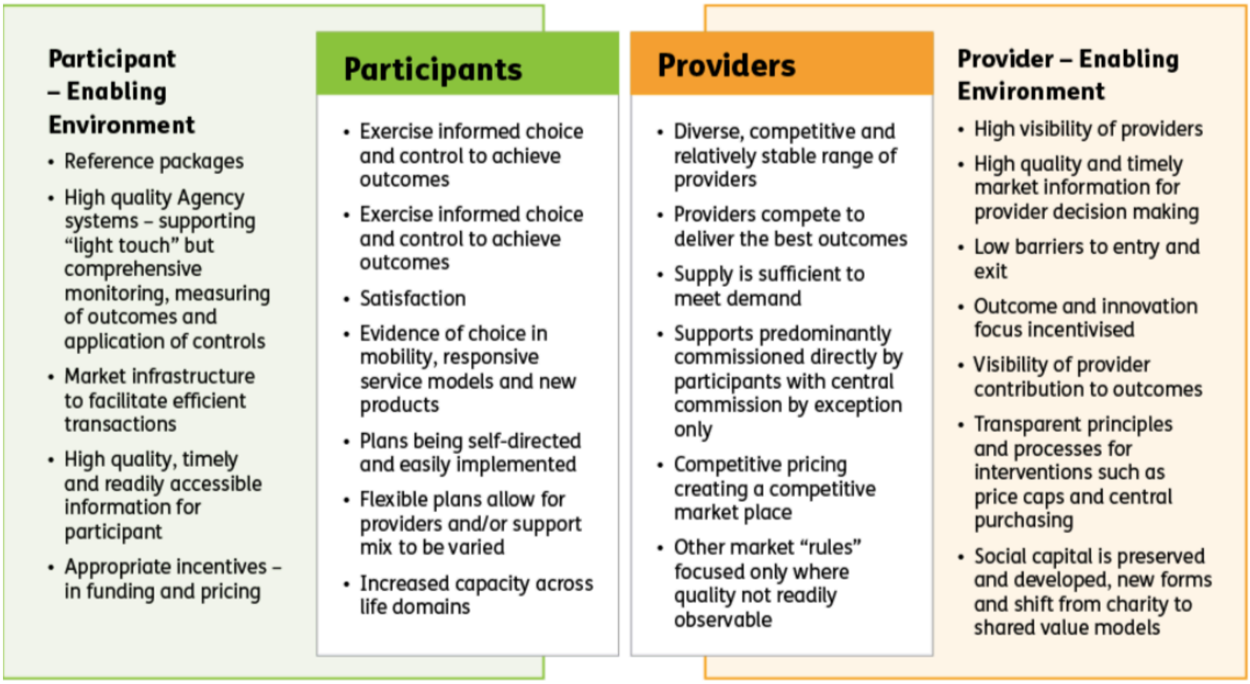

Figure 1. NDIS Market Goals

NDIS MARKET GOALS	SUCCESFUL INTERVENTIONS	FAILED INTERVENTIONS	THEORETICAL INTERVENTIONS (Not empirically tested)	POTENTIAL ACTIONS FOR THE NDIS
		Users		
Exercise informed choice and control to achieve outcomes	Use of and funding of brokerage organisations can boost choice and control [11]	Using third party providers was not successful in boosting choice and control[10]. Sheaff [12] found that brokers tended to work towards the needs of the third party not the client	Skilled independent brokers [13]	**Evidence for brokers is mixed, considered use of brokerage organisations with mechanisms in place to ensure they are responsive to clients not to the NDIA**
	Web-based platform to support client decision making [9]			**NDIA could develop a web-based client platform**
Satisfaction	More regulation boosted quality (but reduced numbers of			**Quality and Safeguards commission could tighten regulation. It would need to manage flow on effects for competition (and therefore choice and control)**

	providers and competition) [14]			
			Creation of league tables [15,16]	**NDIA could create and promote league tables**
Evidence of choice through mobility	Web-based platform to support client decision making [9]		Creation of league tables [15,16]	**NDIA could create and promote league tables**
	Use of and funding of brokerage organisations can boost choice an control [11]			**Evidence for brokers is mixed, considered use of brokerage organisations with mechanisms in place to ensure they are responsive to clients not to the NDIA**
			Creation of e-market place and provider promotion events [17]	**NDIA could create e-market and hold provider promotion events in localities with low mobility between providers**
Responsive service models	Demand-side policy that decreases patient sharing costs. Decreasing the cost meant patients sought			**Enable cost sharing across organisations to help create economies of scale**

	more services, which drove innovation [18]			
			Use information from individual assessments and reviews to build knowledge of market gaps [17]	**NDIA could collate information on service needs and gaps through planning and review consultations, and include these in market statements.**
			Actively solicit bids from other markets/areas [19]	**NDIA or LACS could support clients to source bids from diverse providers**
New products	Demand-side policy that decreases patient sharing costs. Decreasing the cost meant patients sought more services, which drove innovation [18]			**Enable cost sharing across organisations**

	Nurturing and mentoring providers [20]			**NDIA could take on a greater role with providers, LACS resourced to do this**
			Use financial incentives for innovation [17]	**NDIA could provide innovation seed funding or higher prices for innovation. Must be careful to ensure the innovations have market demand (some evidence that incentives can produce products that have no demand in the market)**
			Create target product/service profiles (i.e. that govt knows there is a demand for and the market can then provide) [17]	**NDIA could create profiles of new products and indication of demand**
Plans being self-directed and easily implemented				**No evidence identified**
Flexible plans allow for providers and/or				**No evidence identified**

support mix to be varied				
Diverse, competitive but stable range of providers			Using price to encourage new market entrants [16]	NDIA could use price to incentivise new market entrants
			Financial sustainability checks [22]	Quality and Safeguards Commission could require finance reporting of key organisations
Providers compete to deliver best outcomes				No evidence identified
Supply is sufficient to meet demand	Provide consistent information on supply and demand [11]		Provide consistent information on supply and demand [4,17,23–26]	NDIA could release market data on supply and demand through accurate market position statements.
Supports predominately commissioned directed by participants	Web-based platform to support client decision making [9]			NDIA could develop a web-based client platform

			Creation of e-market place and provider promotion events [17]	**NDIA could create e-market and hold provider promotion events**
Competitive pricing creating a competitive market place	Flexible price setting [10,11]			**Expanding criteria for changing price to include considerations of market performance and service accessibility**
Market rules that boost quality	More regulation boosted quality (but reduced numbers of providers and competition) [14]			**Quality and Safeguards commission could tighten regulation. It would need to manage flow on effects for competition (and therefore choice and control)**
			Creation of league tables [15,16]	**NDIA could create league tables of providers**
	Fixed prices boost competition over quality [27]			**Need to ensure enough providers to compete on quality. Fixed prices may be effective in some markets but create perverse outcomes in others (e.g. market gaps emerge where prices are not financially sustainable for providers)**

Equity interventions	Additional subsidies for vulnerable groups [11]			**More money put in plans so clients can pay more or use brokerage funds. This would require the NDIS to deregulate prices or allow some geographical variation in prices or for specific groups**
	Government was able to direct payments to particular geographical areas to build up staff and expertise through increased demand (also supported by providers being able to take clients from anywhere). [28]			**Allow different prices for specific geographical areas or service needs** **Guarantee of demand for rural/remote providers**
			Provider of last resort [29]	**NDIA to undertake micro-commissioning**
			Greater funding given to people in areas of more need. This ultimately reduced	**NDIA to allow local discretion regarding funding and to decentralise decision-making concerning price**

			quality and can lead to the creation of services that have no demand. Suggesting that decisions should not be made centrally and a decentralised system is needed. [30]	
			Force organisations take on contracts in different areas [19]	**Does not translate into the NDIS**

Table 1. Interventions and their application to the NDIS

Note: Interventions assign responsibility to the NDIA because of the NDIS Act and Productivity Commission Report outlined at the introduction to this article. This does not mean that the NDIA is the ideal actor but, rather, the only one who has authority to act

Price and price setting

Price is one of the major levers for quasi-market shaping in the NDIS environment. The NDIA utilises a complicated system of price setting. Firstly, there are different pricing rules depending on the sort of budget administration that a participant undertakes. NDIS budgets can be administered by the participant ('self-managed'), be managed by the NDIS, or a combination of both [3]. If an NDIS participant chooses to 'self-manage' then they can negotiate prices directly with a service provider, using NDIA prices as a guide. However, the price agreed cannot be in excess of the published price guide—that is, the negotiated price can be lower than the price guide but not higher. Presently, there are no incentives for providers to charge a price lower than that provided for in the price guide. When a participant's budget is administered in conjunction with NDIA, the prices are far less flexible and at times fixed[2]. The price is still regulated in terms of a ceiling. The majority of participants are NDIA managed or co-managed, with self-managed participants making up just 7% of NDIS participants[31], meaning that the majority of the NDIS quasi-market operates under fixed prices. Secondly, these prices are set by the NDIA Markets Group and informed by the NDIA actuaries, a body separate to both the NDIA and to the Department of Social Services. According to the NDIA,[32] expenditures must 'represent value for money' and ensure the 'long term sustainability of the Scheme'[32] (section 34).

Many of the interventions examined in our review require there to be flexible pricing arrangements that are responsive to local market conditions. At this stage, it is (at best) unclear whether the NDIS can take local market conditions into account when determining local prices. We suggest expanding the criteria for price setting in the NDIS Act (2013), or finding another way to ensure that pricing can be responsive to local market failures and thin markets through devolution. Evidence suggests that this should include devolving price setting responsibilities to those with more market intelligence (i.e. local level actors such as regional NDIA offices).

Information sharing

Significantly, information sharing about local quasi-market conditions (supply and demand information) was found to be key to ensuring market effectiveness. The NDIA could release data or more detailed position statements on supply and demand at a local level across Australia (e.g. LGA level nationwide). This will enable service providers to position themselves to meet gaps in the market where service provision is dangerously low or absent. This is particularly important in the context of thinness of markets, where remedial action is required. Given there has been concern that such detailed market position statements will pave the way for 'profiteering' providers, we recommend coupling detailed market position statements with powerful regulation over the quality of service provided through the NDIS Quality and Safeguard Commission. We also note that the NDIA is reconsidering the extent of geographic areas declared to be remote and expanding these. The classification of urban, rural, remote etc is a also a critical framework for guiding procurement model development, implementation and assurance.

Promoting Equity—Choice and Access

Market stewardship must go beyond ensuring minimum protections and efficient use of resources and extend to ensuring that public good is fairly distributed. As a national policy, the Australian government is ultimately accountable for maintaining equity of choice and access to the NDIS[34,35]. Simultaneously, we also know that problems of equity in access are arising in many areas of the NDIS. In our review, a number of interventions were tested or suggested for increasing equity in quasi-markets[11,19,28,30]. The recommendations from these papers include:

- Additional subsidies for vulnerable groups (regarding those who are geographically remote, boosting transport funding)
- Direct higher payments to particular geographical areas to build up staff and expertise through increased demand
- Ensure a provider of last resort
- Greater funding in areas where more need is identified
- Incentivise organisations take on contracts in different underserviced areas

Additionally, modes of service delivery consonant with the cultural and other priorities of participants in remote areas must also be developed in order to ensure this accessibility. Not only do providers need to be able to financially sustainable, financial risk needs to be removed in order to incentivise service delivery. Additionally, capital is required in order to invest to ensure that these providers are "remote-ready" in terms of service provision.

Building capacity for market stewardship

Above all, our review points to the significant capacity required within the main implementation body for the NDIS (the NDIA) in order to carry out such a diverse array of market stewarding actions across the many quasi-markets and quasi-sub-markets nationally. A lack of capacity has been noted by several high profile reviews of the agency[29,36,37]. Greater resources and lifting the staffing cap are critical to securing effective market stewardship.

Many principles for effective quasi-market stewardship have been developed in an effort to ensure quasi-markets meet their diverse policy goals. This review has sought to go beyond these principles and collate actual evidence of what governments and government agencies can do in practice to steward quasi-markets.

We have made a range of recommendations regarding the stewardship of the NDIS, research on adaptive governance highlights that interventions need to shift as implementation shifts[38]. That is, an approach that may work well at one stage of the implementation of the NDIS could over time become a constraint. There is a need for responses to be as adaptive as the market they seek to influence[39].

Conclusion

Overall, we argue that viewing markets for public services through the lens of classical economic theory is not the way to enhance public sector stewardship. Theories that conceptualise markets as complex adaptive systems, and approaches that recognise the dynamic nature of submarkets engaged in delivering public services and shift responsibility and power closer to the point of service delivery, offer more effective tools for public sector managers to balance the benefits of market models with risks of market-produced inequities. Thin markets, and market gaps in vital public services, undermine the legitimacy of outsourced public services and reflect badly on public managers charged with providing those services.

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