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Submission by the Justice and International Mission Unit, Synod of Victoria and Tasmania, Uniting Church in Australia to the inquiry into the management and assurance of integrity by consulting services

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The Justice and International Mission Cluster, Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes this opportunity to make submission to the inquiry into management and assurance of integrity by consulting services.

The fundamental tenant of the Christian faith, "to love the Lord your God with all your heart, soul and mind and love your neighbour as yourself" assumes a model of relationships and community. Thus, the Synod views privatisation of government services through contracting them out through the lens of if they contribute to the well-being of the community. The Synod of Victoria and Tasmania, at its meetings of the hundreds of representatives of congregations and presbyteries, has since 1993 expressed opposition to the privatization of some services.

In 2017 the Synod meeting expressed the view that privatization of human services should not be pursued unless it led to an improvement in the service for the same overall cost:

> *The Synod resolved by consensus:*
> *(a) To affirm governments have an important role in providing high quality human services that are accessible to all people;*
> *(b) To call on the Commonwealth Government:*
> *(i) to work from the starting point that changes to existing publicly run human services must always pursue the common good;*
> *(ii) not to privatise existing publicly run human services unless there is an assured improvement in the level of service quality and accessibility, with effective regulation and oversight; and*
> *(c) To write to the Prime Minister, the Treasurer, the Leader of the Opposition and the Shadow Treasurer to inform them of this resolution.*

In 1988 the meeting of the National Assembly, of Uniting Church representatives from across Australia, passed a resolution which in part expressed concern about privatization because of its possible negative impacts and it also expressed concern about policies that fostered maximization of profit at the expense of the vulnerable in the community:

> *(a) To request the Australian Government and State governments to adopt social justice policies and strategies which:*

(i) ensure the protection, development and equitable distribution of Australia's true wealth, giving serious consideration to the issues raised in the report "Economic Justice the Equitable Distribution of Genuine Wealth";
(ii) discourage business development and government programs which maximize profits at the expense of such wealth;
(iii) recognize that privatisation is not simple a matter of current budgetary decisions, but an issue of government responsibility for ensuring accessible services and equitable distribution of and access to wealth, and involving serious questions about the role of government in influencing the shape of Australian society;
(iv) reform the taxation system in ways which will ensure that taxation becomes a means of redistributing income and wealth so that all people gain a more equitable share, and so that those on lower incomes do not bear a disproportionate percentage of the taxation burden.

To ensure accountability to citizens for policy advice provided to government, transparency of government consultants should be a consideration in any use of consulting services. Wherever possible, government contracts for consulting services should be publicly available before the contract is awarded, so that citizens can know what arrangements are being entered into by government on their behalf.

The Cluster has been concerned about the increasing use of external consulting services by the Commonwealth Government. Overuse of consulting services results in the expertise being built up in the consulting service and not in the public service. It then becomes a self-reinforcing cycle where public servants are forced to go back to the consulting service that has built up the expertise funded by government revenue through the consulting contracts. In our view, it would be preferable to build up the expertise within the public service, where greater levels of accountability and transparency applies.

While advice from public servants to government is subject to Freedom of Information requests, it is much harder to gain access to advice provided by private consulting services if those services retain the intellectual property rights over the policy advice provided.

We note that five large consulting firms, Accenture, KPMG, Deloitte, PwC and EY, have between them contracts from the Commonwealth Government that deliver approximately $2 billion a year in revenue to them.[1]

The Cluster was deeply disappointed with the lack of sanction applied to PwC in the recent case of leaking of confidential tax policy information to staff in PwC. The Tax Practitioners Board found that Peter Collins divulged information about the Commonwealth Government's plans to address corporate tax dodging with others inside PwC. The leaked information was ultimately passed to PwC's clients and used to market to prospective clients.[2] The Tax Practitioners Board said that internal communications within PwC indicated that Mr Collins was aware the information he gained from the consultations with Treasury would be leveraged to market PwC to a new client base. Having the privileged information enabled clients to potentially influence the structures "in a manner that may be perceived to circumvent the intent of the proposed profit shifting provisions", according to the adjudication by the Tax

[1] Rex Patrick, "Rex Patrick: put PwC top of blacklist for government procurement payments", *Michael West Media,* February 6, 2023.
[2] Elizabeth Knight, "How PwC tax guru leaked government reform plans", *The Business Age,* January 24, 2023; and Edmund Tadros and Neil Chenoweth, "Tax Advisers 'on notice' after PwC breach", *The Australian Financial Review*, January 24, 2023, 3.

Practitioners Board.[3] It is reported that Mr Collins had signed confidentiality agreements with Treasury in December 2013, April 2016 and February 2018.[4]

The Cluster believes that where a consulting service engages in unethical conduct or breaches the required integrity standards a range of sanctions should be available. The sanctions need to include the ability to place a consulting service on a debarment list that applies across the Commonwealth Government and its agencies. As noted by the Global Suspension & Debarment Directory, "Australia does not have a government-wide exclusion framework at the Commonwealth level. Exclusions are generally rare, and any exclusions would be *ad hoc* depending on the agency involved."[5] They noted that each agency sets its own exclusion grounds and decides whether to follow another agency's exclusions. Exclusion decisions are entirely discretionary.

We note that Section 6.7 of the Commonwealth Procurement Rules prohibits covered Commonwealth Government agencies from entering into contracts with suppliers "who have had a judicial decision against them (not including decisions under appeal) relating to employee entitlements and who have not satisfied any resulting order."[6]

The Global Suspension & Debarment Directory reported that being excluded by a Commonwealth Government agency would not prevent a consulting service from then being a subcontractor to another consulting service that obtains a contract from the Commonwealth Government.[7]

The Cluster notes that the World Bank provides a model for debarment that could be modified for use by the Commonwealth Government.[8]

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[3] Elizabeth Knight, "How PwC tax guru leaked government reform plans", *The Business Age,* January 24, 2023
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[5] World Bank Office of Suspension and Debarment, IDB, Bureau de l'Inspecteur Général Ville de Montréal, and the International Bar Association, "Exclusion System Summary Australia. Global Suspension & Debarment Directory", July 2021, 1
[6] Ibid., 2.
[7] Ibid., 3.
[8] See https://www.worldbank.org/en/about/unit/sanctions-system-new/osd