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The Secretary
Senate Standing Committee on Community Affairs
Parliament House
Canberra ACT 2600

By Email: to community.affairs.sen@aph.gov.au

Submission to Inquiry into the *Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018*

I wish to provide a submission to the Senate standing Committee on Community Affairs Legislation Committee Inquiry into the above Bill.

Many of the issues of concern with the Bill applied also in relation to its predecessor, the *Social Services Legislation Amendment (Cashless Debit Card) Bill 2017* ("CDC"). I provided a submission to the Committee in relation to that Bill, and as the issues apply here also, I have attached a copy of my earlier submission for your reference, to avoid repetition and enable me to focus on a number of key issues that I consider to be very important in relation to this latest proposal.

In this submission, I will focus on targeting, human rights and cost issues associated with the CDC.

Targeting Issues:

The Bill does not change the objectives of the CDC trial. The objectives of the CDC remain as:

Section 124PC Objects

The objects of this Part are to trial cashless welfare arrangements so as to:

(a) reduce the amount of certain restrictable payments available to be spent on alcoholic beverages, gambling and illegal drugs; and

(b) determine whether such a reduction decreases violence or harm in trial areas; and

(c) determine whether such arrangements are more effective when community bodies are involved; and

(d) encourage socially responsible behaviour.

The object, then, is to reduce gambling, alcohol and drug abuse, and encourage socially responsible behaviour in the set of welfare recipients exhibiting undesirable behaviour in these areas.

The logical expectation is that the target of this trial measure would be the set of welfare recipients exhibiting these behaviours. Instead, we find that, in each of the trial areas, the target group is not as one would logically expect. Indeed, not only is it not as we would logically expect, it is also different in each of the trial areas. In the case of the current proposal, the target group is narrowed to all recipients aged 35 years or less. There is no evidence to suggest that the undesirable behaviours in question are confined to this age cohort. It is an arbitrary metric designed to produce a given number of clients in the identified area, and little else.

For welfare recipients in the trial areas, then, age (and not behaviour) is the determinant of whether they are caught up in the CDC net. What I find particularly objectionable is the fact that in each case, the application of the CDC to an individual has no regard whatsoever to whether or not the individual exhibits the problem behaviours identified. The limitations of the CDC are applied to all caught in its arbitrary net.

The Explanatory Memorandum states that "any limitation on the right to social security" (caused by the CDC) "is reasonable and proportionate", "given the objectives of the CDC and the prevalence of social harm" in the Bundaberg/Hervey bay area. However, the statistics quoted in relation to drug use are neither substantially worse than average, nor related to the CDC target group, (rather, they are related to the general population in the region). In the case of the quoted youth unemployment rate, this is selectively measured in a subset of the Hinkler boundary. This asymmetry between purported evidence relating to the objectives of the CDC and the group

actually targeted by the proposed trial undermines the credibility of the claimed "reasonable and proportionate" nature of the proposal.

The Explanatory Memorandum introduces a further factor that is not a part of the statutory objects of the CDC – so called "intergenerational welfare dependency". It cites issues in Hinkler of "youth unemployment, intergenerational welfare dependency and families who require assistance in meeting the needs of their children" as factors to be addressed by the proposed trial – all of which lie outside the objects of the CDC. It also incorrectly states that "the Cashless Debit Card has the objective of.... reducing the likelihood that welfare payment recipients will remain on welfare and out of the workforce for extended periods of time". This extended set of objects reveal something of the real thinking behind the CDC – it is clearly intended as a measure designed to attach strings to the receipt of welfare benefits and by doing so provide an added incentive for recipients to get off benefits. It is in my view a punitive measure applied to all in a trial area irrespective of whether they exhibit the characteristics that the CDC purports to address. It is indeed ironic that the Explanatory Memorandum states "This applies to all persons..(in the proposed target group).., such that the Cashless Debit Card is not intended to be a punitive measure", and "the card applies to participants across the communities, in order to impact on the availability of discretionary cash. It does not apply punitively to individuals experiencing harmful addictions, financial instability or other forms of hardship". In other words, it suggests that the proposal is not a punitive measure because it doesn't discriminate between people who exhibit the targeted behavioural problems and those who do not! This leads us to a consideration of whether the measure is rationally connected to, and proportionate to, the statutory objectives of the CDC.

Human Rights Issues

I note that the Parliamentary Joint Committee on Human Rights ("PJCHR") Report #6 of 26 June 2018 raises a number of concerns in relation to the current proposal and has outstanding concerns in relation to previous implementation of the CDC in existing trial areas. I would hope that the Standing Committee on Community Affairs will treat these concerns with the gravity that they deserve.

The PJCHR questions whether the CDC trial measures are rationally connected to (i.e. effective to achieve) and proportional to the Objects of the CDC. I share that Committee's concerns and note

that there is a substantial disjunct between the objects of the CDC and the majority of persons on whom it is being imposed. The statistics used to attempt to justify the imposition of the CDC on the proposed target group do not relate to that target group, there are persons outside the target group who exhibit behaviours that are the object of the CDC, and most importantly, there are many – indeed the majority – within the target group who do not exhibit the behaviours that are the object of the CDC. In my view it is not feasible to state in these circumstances that there is anything like a rational connection between the objects of the CDC and the target group proposed here. It follows that the proposal is not reasonable and proportionate to the objects of the CDC.

The Explanatory Memorandum makes many bland and clearly questionable statements about the limitations imposed by the CDC on human rights, the right to privacy, self-determination and a private life, being reasonable and proportionate, on the basis that it will help to resolve issues for that element of the target group which exhibits the behaviours that are the object of the CDC. These claims completely ignore the impost that the CDC represents on the majority in the target group who do not exhibit such behaviours.

The current proposal seeks to extend the limitations imposed on the use of the CDC to encompass gift cards and the like, where such facilities could become substitutes for cash. There is, of course, a huge hole in the reasoning behind the application of the CDC that cannot be addressed. This is the ability of those affected by the CDC to trade use of their card on allowable purchases, made on behalf of others not subjected to the CDC, in return for cash. I would suggest that this course will inevitably become a common practice amongst those determined to thwart the intent of the CDC, and is one that cannot be regulated by government. The tragedy here will be the emergence of sharks charging extortionate fees for the privilege of trading cash for goods purchases, further damaging the welfare of a group that is already highly vulnerable. This inevitable development, in conjunction with poor targeting and extremely high costs of administration (see below) must ultimately lead to the demise of the CDC as a social engineering tool.

Cost of administering the CDC

The cost to taxpayers of the welfare net is substantial, as is the cost of administering the entitlements of eligible persons through the department of Human Services and Centrelink. This is to be expected. Clearly, however, the cost of administering entitlements does not fall in the ballpark

of the cost of the entitlements paid. This is not true of the CDC, according to the very few references one can find to the cost of administering the CDC. I have seen unattributed references to costs of $10,000+ per person for the administration of the CDC mechanism. With costs of this order, the cost of administering the CDC is approaching the level of benefits that are payable to recipients. This surely must signal that the CDC is not a cost-effective option, particularly when implemented in a manner that is poorly targeted, sweeping up recipients who do not exhibit the behaviours that the CDC seeks to address, and by its structure capable of being circumvented – potentially to the detriment of those it seeks to assist.

Yours Truthfully,

Hans P Bokelund
Chief Executive Officer