

DISSENTING REPORT BY THE AUSTRALIAN LABOR PARTY

Introduction

The Health Insurance Commission (Reform and Separation of Functions) Bill 1997 has two purposes. The main purpose is to separate Medibank Private from the Health Insurance Commission (HIC) and establish a separate corporation to be known as Medibank Private Ltd.

The second purpose is to allow the HIC to take on additional functions, specifically health payment services and provision of health information.

The specific details of the legislation and the nature of the evidence presented to the Committee by the various witnesses are adequately summarised in the majority report.

With respect to the proposal to widen the role of the Health Insurance Commission we are not opposed in principle to such changes provided they do not in any way threaten the existing role of Medicare and the Pharmaceutical Benefits Scheme (PBS).

However, the ALP Senators cannot agree with the majority recommendation that the Bill proceed. We are not convinced that the main purpose of the legislation is either desirable or in the public interest. In our view the evidence provided to the Committee during the inquiry supports the maintenance of the current arrangements namely that Medibank Private remain within the HIC.

The "Perception" of Competitive Advantage

The major reason advanced by those supporting the separation of Medibank Private from the HIC is a "perception" that Medibank Private enjoys a market advantage over other private health insurance funds.

Mr Schneider, representing the Australian Health Insurance Association, explained it in the following terms:

...Ever since the introduction of Medicare, the private health insurance industry has been concerned about the existence of a conjoint operation in which Medibank Private has shared operations with a government program, Medicare. We have historically believed that led to an unfair marketplace situation, so our concern in relation to this legislation is principally to ensure that it does achieve a level playing field as between Medibank Private and the private health insurance sector. (Hansard *Transcript of Evidence*, p 1)

and,

There are two other aspects that we would wish to comment on. One is retail activity on the part of Medibank Private. As we have pointed out, there has been much concern about one-stop shopping in joint Medicare and Medibank Private offices, which has led to the perception of commercial advantage, whether real or not. We would certainly hope that from fund transfer day, as I believe it is called, that operation would cease and that the Medicare transactions would take place in offices separate from those operated by Medibank Private. Alternatively, of course, it would be appropriate to offer a similar service via the private health insurance industry. (Hansard *Transcript of Evidence*, p 2)

It is interesting to note that the concern of the AHIA is with the "**perception**" that Medibank Private has some advantage. During the hearing the AHIA was unable to provide any data or evidence that the private health insurance funds had suffered as a result of the co-existence of Medicare and Medibank Private. Rather they acknowledged that such evidence was anecdotal and that it had, in any event, been disputed by Medibank Private and the HIC on many occasions.

In his evidence Dr Loy, on behalf of the Department, acknowledged that:

The aim of the government in putting forward the bill to separate Medibank Private and the Health Insurance Commission was, as has been mentioned several times during the hearing today, to address the issue of the perception and reality of competitive neutrality, first. (Hansard *Transcript of Evidence*, p 13)

However Dr Loy then went on to say:

That is not to say that the government accepted that there was any real cause for concern. The arrangements that were made between the government programs side of the Health Insurance Commission and Medibank Private were as sensible and robust as could be desired. Nonetheless, there was a perception and a reality of being able to establish Medibank Private on a competitively neutral basis with other funds. (Hansard *Transcript of Evidence*, p 13)

In his second reading speech the Minister stated that:

Through the separation, the government will ensure that Medibank Private cannot be perceived to have any competitive advantage over other private health funds through its association with Medicare or other government program functions of the HIC.

This issue of competitive advantage has been examined previously. As the majority report notes the Joint Committee on Public Accounts in 1992 stated that it was "not persuaded by evidence that cross-subsidisation occurs" and the Committee specifically noted that Medibank Private, Medicare and the HIC were all subject to audit by the Australian National Audit Office (ANAO).

Given that no real evidence has been presented to prove that Medibank Private gains an actual competitive advantage by virtue of co-existence within the HIC we are not persuaded that there is any good policy reason to separate Medibank Private from the HIC and corporatise it. The concerns of the private health insurance industry about "perceptions" are not a sound basis for such significant change in the structure and administration of a successful public enterprise.

Impact Upon Medibank Private Members

The ALP Senators believe that members of Medibank Private, and indeed, members of other funds, may be disadvantaged as a result of the legislation.

Firstly the Government has previously announced that 43 Medicare Offices will be closed. This reduces the number of Medicare offices throughout Australia from 269 to 226. Whilst this decision was a separate matter it nevertheless results in fewer offices providing dual services for Medicare and Medibank Private.

It is further proposed, as a result of this legislation and the separation of Medibank Private and the HIC that, in future, Medicare offices will no longer provide services or facilities for Medibank Private. Rather Medibank Private will be required to open their own new office locations. Whilst the HIC was unable to state how many such offices would be opened, and that the matter was still under discussion, the Community and Public Sector Union indicated that their understanding was that 70 offices would be established. This was not refuted by the HIC.

Thus, the net result of the government's changes will mean that the number of Medibank Private outlets will be reduced from around 269 to approximately 70. Given that reduction and the fact that Medicare Offices will no longer provide the facility members of Medibank Private will no doubt suffer a significant diminution in the availability of over the counter service. We do not accept that such a change can be simply overcome by greater use of telephone or electronic lodgement facilities.

Customers of Medibank Private have enjoyed the availability of co-location with Medicare and from their own evidence the other funds have not found this to be a difficulty for their fund members. In an era when the virtues of the "one-stop shop", especially in respect of government business enterprises and services, are being recognised it seems incongruous that customers of Medibank Private and Medicare should be affected by such disruption.

Further, these changes will have a significant impact in rural and regional areas as customers will be unable to use their local Medicare office and may have to travel long distances to any new Medibank Private office.

Secondly, whilst the Government says that this legislation has no financial impact on the Commonwealth, and the HIC claims that it can manage the separation so as there is no increase in costs, we are concerned that ultimately there could be increased costs to the fund members.

It has been acknowledged that the establishment and success of Medibank Private has had a beneficial impact upon the private health insurance industry. It has increased competition. It has reached number 1 and this has been achieved under its present structure. Nothing has been put forward to suggest that this would not continue or that the proposal to separate and corporative will dramatically improve it.

The establishment of new offices will inevitably involve costs. In answers provided after the hearing the HIC estimated that the fit out cost of an office will be around \$80,000. If 70 new offices are opened that is a total cost of \$5.6 million. Additional establishment costs can be expected for new computer systems, rentals or purchase of property, advertising, administration, etc.

Such costs together with the loss of economies of scale and reduced competitive force may lead to increases for members of Medibank Private and across the industry generally. Even if such establishment costs are ultimately absorbed by closures or transfers it still seems unnecessary to implement such changes for no real public benefit.

Privatisation

This legislation will, if enacted, make it much easier for Medibank Private to be privatised.

The private health funds, who strongly support this bill, have in the past advocated that Medibank Private should be privatised. In its submission to the Industry Commission in 1996 the AHIA expressed the view that "the Commonwealth has no more role in operating a private health insurance organisation than in running an airline". (Industry Commission, Report No. 57, February 1997, p. 92)

The Industry Commission's Report also noted that National Mutual Health Insurance "considered that Medibank Private should be de-linked from Medicare and privatised" and that Australian Unity "considered that Medibank Private could first be corporatised and then ultimately privatised". (Industry Commission, Report No. 57, February 1997, p. 92)

The Government has stated that it does not intend to privatise Medibank Private and that the legislation will ensure that it remains in government ownership. During the hearing the Chairman of the Committee also stated on a number of occasions that the Government intended to tighten the provisions to prevent future privatisation in the absence of parliamentary approval. However despite these assurances the Government is no longer proposing to amend the bill to this effect.

Given such an about-face this bill must increase the prospects of privatisation.

Impact on Employees

The CPSU gave evidence of the concerns of the Union and its members employed by the HIC particularly in Medicare/Medibank Private offices.

These were outlined by Mr McKenna as follows:

Of considerable concern to our members has been that section of the legislation which deals with the forcible transfer power of the minister, or his or her delegate, to transfer someone against their will to Medibank Private Ltd. Staff turnover in the Health Insurance Commission is not high and there has always been a very enjoyable mix of work between the government program work and the Medibank Private work. It is fair to say, for example, that someone who may have only just joined the Medibank Private operations of the Health Insurance Commission will be forcibly transferred against their will, if they do not wish to transfer, by virtue of the section in the legislation which gives that binding power to the minister or his or her delegate.

The second major concern we have in relation to the industrial aspects of the legislation is the 12-month mobility right. There is a standard, if you like, in the Australian Public Service of three years mobility for someone who has left the Public Service to be employed by a Commonwealth owned statutory authority; they have what is called a three-year mobility right back into the service. We cannot see any real reason why that standard does not apply in relation to the separation of Medibank Private from the Health Insurance Commission. We would specifically point you to section 28(4) of the bill which we would seek to be changed from a 12-month mobility right to a 36-month mobility right.

In conclusion, we would say that this legislation is unnecessary. There is nothing here to be fixed. The Commonwealth ownership of the Health Insurance Commission and, thereby, Medibank Private Ltd has been a very

positive development in the private health insurance industry over the past couple of decades. (Hansard *Transcript of Evidence*, p 8)

The CPSU also expressed concern that, whilst they did not expect big job losses as a result of this legislation, eventual privatisation could lead to redundancies.

Mr McKenna summed up the concerns in the following comments:

Senator Forshaw – Mr McKenna, can you see any advantages in this proposal at all for either Medibank Private or the Health Insurance Commission generally or the public?

Mr McKenna – Frankly, no, for all those three parties. This is going to be a very disruptive exercise over the next 12 months to separate 1,200 staff and establish them, not only in a different business entity but also physically move them. In some states, they even have to go to the expense of physically relocating staff into new Medibank Private buildings, and that seems to be an unnecessary cost and an unnecessary change on the working lives of our members. We are still looking for the rationale that underpins this legislation.

I point to the minister's original media release from 10 April and, again, the second reading speech just recently where he uses the word 'perception' repetitively, that there is a perception of competitive advantage through co-location. That might be the perception of the private health insurance industry, but if you go through the quite rigorous statutory cost apportionment guidelines and the minister's own cost apportionment guidelines which must go through Treasury, above and beyond the statutory ones, there is no real basis for that perception. It seems an unnecessary piece of legislation in response to a perception. (Hansard *Transcript of Evidence*, p 10)

The ALP Senators agree with this analysis. Medibank Private has proved over the years to be a successful health insurance fund. Its current structure as part of the HIC is adequate and appropriate. We do not believe that separating it from the HIC and establishing it as a separate corporate entity will advance either the public interest generally or the interests of the fund members. **The legislation is unnecessary and should be rejected.**

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