A community campaign to save medibank

Submission

Senate Finance and Public Administration Committee

Submission by the Community and Public Sector Union (PSU Group) / Save Medibank Alliance

Re: Provisions of the Medibank Private Sale Bill 2006

October 2006

Key Recommendation

CPSU contends that the provisions of the Medibank Private Sale Bill 2006 are not in the public interest and should be rejected as they:

- Give the Commonwealth Government too much flexibility and not enough accountability in determining how it sells its interest in Medibank (a trade sale is still possible)
- Fail to ensure the sale treats Medibank Private employees in a fair manner
- Increase concentration of 'for-profit' market share to over 43%
- Fails to ensures that a 'for-profit' Medibank will not significantly increase premiums
- Increase pressure for market de-regulation and open access to 'competition' with Medicare for non-hospital cover
- Fail to introduce regulatory changes to make health funds accountable for taxpayer subsidies

Other recommendations

- The Government needs to commission an independent, external report to assess and examine how Medibank members' rights will be affected by the proposed sale
- Health funds be prohibited from increasing premiums more than once a year
- Community rating rules remain to ensure that health funds cannot discriminate against older Australians or people with illness
- Medicare remains the centrepiece of Australian health system to ensure control over health costs and access to quality health care for all.

CPSU strongly recommends against the proposed sale of Australia's largest, not-for-profit, national health insurer. Any form of sale will result in Medibank Private focussing solely on bottom-line profits and the interests of shareholders – and away from member benefits.

Introduction

By way of introduction the Community and Public Sector Union (CPSU) is the union that represents the staff employed by Medibank Private. This submission details CPSU concerns regarding the provisions of the Medibank Private Sale Bill 2006. Medibank Private has 1500 staff engaged across over 100 retail service centres, call centres, and administrative areas.

CPSU founded the 'Save Medibank Alliance' in August 2006 to provide a voice for Medibank employees, policy holders and the broader community. Save Medibank brings together an informal alliance of organisations and individuals who share a common goal to improve and reform our existing health care system.

Representing the broader community

CPSU conducted a Save Medibank Survey which generated over 1500 responses. A large majority of those were from CPSU members who are also Medibank policy-holders. Of those who filled out our survey in August – 96% believed the Government had not made a case for the selling of Medibank Private.

CPSU / Save Medibank submission

This submission considers the effect of the sale on current Medibank members & staff, competition and efficiency in the private health insurance sector particularly premiums, health and insurance markets across the states and territories and the overall access and equity implications for healthcare.

In Australia we have an overly complex and highly regulated system of private health insurance. But it is beyond doubt that the Government entities – Medibank and Medicare are the bedrock of that system. CPSU believes it is important for Medibank Private members that the organisation remain a publicly owned and not-for-profit health fund.

Transmission of business

One of the Government's stated objectives of the sale of Medibank is

> *"to ensure the sale treats Medibank Private employees in a fair manner, including through the preservation of accrued entitlements".*

CPSU is concerned that the Bill does not include any legislative protection of existing employment conditions or accrued entitlements. Nor are there provisions to ensure the ongoing maintenance of those conditions.

The redundancy provisions that currently apply to Medibank Private employees have been put at risk at the same time as their ongoing employment is uncertain. The Government asserts that by the Bill requiring both the majority of directors to be Australian citizens and the headquarters to remain in Australia that this will somehow provide stability for Medibank Private employees. A majority Australian board does not provide employment protection or stability for Medibank employees.

The requirement that Medibank maintains substantial business and operational presence in Australia and incorporated under Australian law only lasts for 5 years. Australian Unity managing director Rohan Mead has warned that breaking up and selling off Medibank could lead to job losses for both Medibank Private and the insurer that buys it, as the new owners streamline their operation[1]. We question whether the rationalisation of staff will produce better outcomes and choice for consumers in the quality of the service they receive.

Trade sale still a possibility

CPSU believes the Bill gives the Commonwealth too much flexibility and not enough accountability in determining how it sells its interest in Medibank Private. The option of a trade sale remains open because a sale scheme is defined as any scheme the object of which is to transfer the whole of the Commonwealth's equity in Medibank Private to one or more other persons or to transfer the whole of the Commonwealth's equity to a wholly-owned Commonwealth company, to act as a holding company, and then transfer the equity into the holding company to one or more other persons.

The Minister for Finance will make a determination setting out the rules that are to be complied with by a Medibank Private sale scheme. That determination will in essence provide the detail of how the sale will actually take place, the bill gives the Minister discretion in deciding how the sale will actually take place. The determination is a legislative instrument, but it is not disallowable.

If Medibank is sold by trade sale, operating costs will have to increase because they will have to cover the cost of capital to purchase all or part of the business and the cost of infrastructure to manage the private health insurance of the 3 million people covered by Medibank Private now.

Increase concentration of ‘for-profit’ market share to over 43%

The Bill also allows the Commonwealth to modify the constitution of Medibank Private so it can operate on a 'for-profit' basis. 43% of Australians are covered by private health insurance, with 8.8 million people divided amongst ‘open’ and ‘closed’, ‘for-profit’ and ‘not-for-profit funds’. Although there are 42 health funds operating in Australia, 80% of the market is dominated by four players.

The only significant ‘for profit’ fund operating in Australia is HBA – part of the UK-based for-profit health group BUPA. ‘For profit’ insurers need to provide dividends for investors, and the dividends will need to be high enough to attract investors to a high risk, low profit business.

In most states, either BUPA or MBF dominate the market (MBF has 19.1% market share in NSW, QLD, NT and Tas, BUPA has 10.2% market share in SA and Vic). However, Medibank Private provides substantial competition.

If Medibank becomes ‘for-profit’ the health fund markets in Victoria and South Australia will be dominated by the ‘for-profit’ sector, with in excess of 60% of the market share. A share float will result in Medibank Private focusing more on bottom-line profits and the interests of shareholders – and away from member benefits.

The Government expects a return on assets of between 8 – 10% and Super funds could expect to provide returns of above 7% gross for their members. Its unknown what reasonable dividend prospective shareholders could expect from Medibank Private shares. There will undoubtedly be a tension between paying dividends to investors and maintaining current ratio of member contributions to benefits.

Medibank Private, market share and ranking, 2004-05					
State/territory	Market share	Position	Contributors	Coverage (persons)	Other major fund
Australia	29%	1			
New South Wales/ACT	23%	1	404,333	834,544	MBF 20.4%
Victoria	38%	1	418,926	843,454	BUPA 22.8%
Northern Territory	44.5%	1	13,169	28,921	MBF 33.1%
Queensland	36%	2	286,554	592,305	MBF 36.5%
Western Australia	20%	2	101,673	219,391	HBF 63.9%
South Australia	21%	2	87,052	171,338	BUPA 43.6%
Tasmania	36%	2	39,476	77,696	MBF 36.6%

Public ownership efficiency

In making its case for the sale the Government has made several assertions – that there was ‘no good public policy reason’ for the government to own a health fund, and that ‘a privately-owned fund would be able to be more efficient’, with the possibility that this may lead to ‘less upward pressure on premiums’.

Medibank Private's running costs are below industry average and below the majority of private funds. In 2005 the largest 'for profit' fund - BUPA - had lower management costs than the industry average.

Importantly, low cost does not equate with good service. BUPA had less success in retaining members, had a higher proportion of complaints to the industry Ombudsman compared to market share, and returned a lower percentage of benefits to members as a percentage of contributions.

Generally speaking administration costs account for less than 10% of health fund expenditure, with the majority being paid out to hospitals for patient services. Medibank Private's management expense ratio is 9.2% (less than PHI fund average of 9.8%). This includes all costs associated with the administration of the fund, eg. costs incurred while processing claims, advertising, staff salaries, office space etc.

In the overall scheme of things running costs aren't going to have a big effect on a fund's efficiency. It is worth noting that universal health funds such as Medicare only spend about 3% on administration.

In its annual report, the industry regulator PHIAC details management expenses per average contributor for each fund:

Industry	$190
MBF	$206
Medibank	$176
BUPA	$166

Both Medibank and MBF are 'not-for-profit'. Administration costs account for less than 10% whereas the majority of expenditure is money paid to hospitals, BUPA saves money by paying lower member benefits.

However, the cost of private health cover is driven by numerous factors, including the higher ratio of older Australians aged over 65 with greater health care needs; increasing price of services purchased; advances in medical technology; and increase use of services by members. It is much less a case of administrative efficiencies[2].

Private ownership can only increase premiums

It is the CPSU's belief that the Government's privatisation of Medibank will cause health costs to rise and provide less value for money to consumers. The sale of Medibank Private is not in the interests of members, the private health insurance industry, or the broader community:

Sale of Medibank Private by float will increase the cost of health insurance to cover the cost of:

- dividends for investors (will need to be high to attract investors to this high risk business)
- 'sweetener' for current customers to become investors (3 million covered)
- brokerage for sale $40-$60 million (2-3% of $2 billion expected sale price)

'For-profit' vs. 'not-for-profit'

Both Medibank Private and MBF are 'not-for-profit' funds. Under the National Health Act all 'not-for-profit' funds are prohibited from giving dividends to shareholders or any financial return to members. Every cent of any surplus is reinvested in the fund for the benefit of members.

If we take a look at the International & Co-operative Mutual Insurance Association survey of 97 insurance companies in Europe – not-for-profit also had better premiums-to-payments ratio.

After 30 years Medibank Private members have accumulated close to a billion dollars in cash and equity. The only equity that belongs to the Federal Government is a cash injection of 85 million dollars made in 2005.

Medibank Private's market share

Of the nine million Australians covered by private health funds, three million are covered by Medibank Private. Medibank Private is the leading insurer in NSW, Victoria, ACT, and the Northern Territory and number two elsewhere.

The size of the fund and its dominant market position allows Medibank Private to use its bargaining power to put downward pressure on the cost of hospital services. In one recent example, Medibank Private entered into a provider agreement with Ramsay Healthcare that excludes private hospitals from Medibank's 'Member's Choice' framework if they're considered too expensive, such as Epworth Hospital in Richmond.

Medibank Private uses its market strength and rewards private hospitals that provide cheaper quality services with more business. That's where the competition exists, the balance of power between hospitals and health funds – one provides a service and the other pays for that service.

The management of Medibank Private expressed it best itself to a 1996 Productivity Commission inquiry – when it admitted the interests of members are best served when funds "view their members as 'shareholders' for whom the delivery of lower prices is a dividend."

The American Way ……

We only need to look at the two-tiered system that operates in America to see the impact on the community of a health care system where the private sector dominates.

For the 45 million Americans who can't afford private health insurance, some 18,000 die prematurely every year from treatable illness because they can't afford health cover, medication or care. Illness is also the biggest cause of individual bankruptcy.

Americans pay a high price for not having a universal health care system, instead they have an unregulated private market where premiums are increasing at a rate of five times the increase in wages.

Premiums for those with the greatest need become unaffordable because health funds can choose who they cover and the risk of that potential member. Premiums for men aged 55-65 are around $US10,000 per annum. Younger men pay around $US1000.

We're already starting to hear calls from the private health insurance sector for the Government to change the 'community rating' system. Health funds cannot discriminate between their members on the basis of risk, can't charge different premiums on basis of age, gender, state of health or anything else (conditions of registration of health funds and National Health Act.)

The US leads the world in health care expenditure at around 15% of GDP but falls into the bottom five out of 30 OECD countries on measures such as infant mortality and life expectancy. The same report shows Australians live more than two years longer than Americans.

The Journal of the American Medical Association reports wealthy Americans only fare as well as working class English in a comparative analysis of American health outcomes. A health sector dominated by the private market forces doesn't promote greater efficiency or better health outcomes even for the highest spending nation.

Misperceptions of choice and competition

Does greater choice increase competition? There is no evidence to suggest Australian consumers exercise choice in a way that leads to increased competition that in turn brings market forces to provide better services for members. With 42 health funds Australians are already spoilt for choice and reports show retention rates of over 85% for the bigger funds. Consumers don't tend to shift between health funds. There are three reasons for this:

- the rules such as waiting periods are overly complicated;
- with over 1000 health fund products to choose from the range of health cover on offer is too complex to compare and shop around for a better deal; and

- choice of fund is a false choice because it does not determine the medical services or treatments available.

Three million Australians are covered by Medibank Private. 70% of fund holders have been with the company more than five years, and a third of fund holders have been with the company more than ten years.[3]

The real competition is between funds and service providers

Consumer choice between health funds does not equate to competition because consumers don't exercise any collective power and can't influence premiums. It is hospital costs that are the biggest driver of premiums. The competition exists between hospitals trying to maximize their profits and Medibank Private using its market power to drive down hospital costs.

For example, Medibank Private recently entered into a Hospital Purchaser-Provider Agreement with Ramsay and excluded private hospitals from their 'Member's Choice' framework if they were considered too expensive. Medibank rewards private hospitals that provide cheaper quality services with more business.

Medibank Private can continue to use its market share to increase competition and restrain health care costs in the absence of shareholders or private entity.

Rising premiums

Premiums are a real issue for a large section of the community. Medibank Private itself confirms this through their consumer research which has shown an overwhelming majority of members believe that premiums will significantly increase if Medibank Private is privatised.

Private health insurance costs roughly 3-4% of the average family income and people with chronic illness pay up to 20% of their income on health related expenses.

Premiums have increased 40% over the past five years at a rate double CPI, higher than wages growth and indexation on grants to run public health services. Premiums in 2005 increased by an average 7.6%.

CPSU is opposed to any changes that allow health funds to increase premiums without the Health Minister's approval or that permit increases more than once a year.

Although membership rates of funds appear to remain steady at 43%, Australian Consumers Association report in 2005 - 477,000 people aged between 0 – 54 years left funds and 445,000 over 55 joined.

If anything, there needs to be tighter control on premium increases, as the current system is already beyond the reach of some groups, as demonstrated by the number of younger people in the ACA figures that left funds in 2005.

If funds are able to increase premiums more than once a year this would raise further concerns about affordability. For example, an average couple without children already pays an average $2500 per annum or maximum cover $4170.

Deferring a public float until after T3 still leaves Medibank Private members and staff in limbo. And it does nothing to relieve community concerns about higher premiums.

Is the government entitled to sell Medibank Private?

Medibank Private has become attractive to potential investors because of the massive contribution of members resulting in the build up of cash assets worth approximately $1 billion. A Parliamentary Library report released on 1st September 2006 poses the question – "Does the government own Medibank Private?" and suggests that members have rights that are protected under the Constitution.

The report concludes Medibank Private, though owned legally and beneficially by the government, is a vehicle used to facilitate the operation of the fund for the benefit of the members; and that the assets of Medibank Private, including the fund itself, are held in trust for the members.

The only equity that belongs to the government is the $85 million cash injection from 2005. Opinions vary, but a common theme is that government's claim of ownership of Medibank Private's $1 billion in assets is a legal artifice, and in fact the assets are owned by the members.

Any sale of Medibank Private should not be considered without first agreeing on fair compensation for those who've contributed to the fund over the past 30 years and an independent inquiry into the rights of policy holders.

It should be noted that a second Parliamentary Library Report challenges the assertions made in the legal advice commissioned by the Government from Blake Dawson Waldron in regard to the rights of Medibank members.

Conclusion

To conclude, we suggest the sale of Medibank Private is not in the interests of the Australian public, both in terms of producing better health outcomes for the population and in terms of health care costs and premiums.

The Government has not allowed consumers and staff members the information and opportunity to comment on the proposed sale. Selling Medibank Private to either a single health insurance company or as a trade sale break up will result in a lack of competition in the marketplace for consumers.

Without a Government-backed not-for-profit private health insurance fund, we believe premiums will rise and jobs will have to be cut. Thus, we believe the sale of Medibank Private will not result in a greater choice for consumers either in price, quality or service.

APPENDIX – additional information about the CPSU *Save Medibank Alliance*

1. The Save Medibank Alliance includes private health insurance experts - former Commissioners of Health Insurance Commission – Mr Ray Williams, Professor John Deeble, Emeritus Fellow, National Centre for Epidemiology and Population Health, The Australian National University, and Dr Robert Marr, Sandy Halley, former Commissioner, Private Health Insurance Administration Council and Dr Ken Harvey from Latrobe University's School of Public Health, Professor Carla Lipsig-Mumme, Director of the Centre for Work and Society in the Global Era, Monash University.

The Alliance includes trade unions – national federations Liquor Hospitality and Miscellaneous Workers Union, Australian Nurses Federation and Health Services Union. Individual Branches AMWU (NSW), IEU (NSW), Unions NSW, Nurses (NSW), Nurses (SA), Health and Community Services Union (TAS), CFMEU (NSW).

The Alliance includes community organisations - Doctors Reform Society, Australia Chronic Illness Alliance, Combined Pensioners & Superannuants Association of NSW Inc.

2. Statement of principles

Save Medibank Alliance supports the following statement of principles:

- A universal, equitable and cost-effective system of health care providing access to a full range of quality services, including preventive care, primary health care, public hospital and ancillary health services (Medicare).
- A fair balance between public and private resources where private health insurance (such as Medibank) supplements the services provided by Medicare.
- The need to reform the Australian health care system, in particular to provide greater support for primary health care and interventions that improve lifestyle and social determinants of poor health.

Save Medibank supports:

1) Medibank members and staff having a voice in the sale, future direction and policies of Medibank.
2) Medibank remaining 'not-for-profit'.
3) Medibank to take a leadership role as a publicly-owned health fund in keeping health costs down.
4) Medibank to encourage active member participation in preventative health programs.
5) Regulatory changes that make health funds accountable for taxpayer subsidies and enable them to negotiate better deals for their policy holders such as providing services which substitute hospital care.

Save Medibank opposes:

1) The current poorly formulated Federal Government plan to privatise Medibank.
2) Any changes that allow health funds to increase premiums without the Health Minister's approval.
3) Any increases in premiums that are unrelated to the provision of cost-effective health care, such as higher salaries for executives in a privatised Medibank or costs that exceed industry norms.
4) Any changes to funding arrangements of the Australian health system that would force those who can afford it to leave the public health system and be treated privately – creating a two-tiered system.
5) A trade sale in whole or part to any of the three other biggest health funds as that would result in reduced competition.

3. CPSU Save Medibank Survey - The following is an extract of survey responses and comments:

What people are saying...

- "I have been a Medibank member for the last 7 years. I am shocked and appalled that this is the first I have heard of this. The money invested in Medibank is members' money, not the Government's! How can they do this without any consultation?"
- "This Government would sell their mothers if they thought they could get any money for them."
- "Having endured the Telstra debacle I'm dreading the proposed sale of Medibank Private - it will surely result in degraded service at a higher price."
- "When will politicians learn that the assets of the Nation belong to the people - not the politicians. People-power saved the Snowy... let's hope it can save Medibank!"
- "My family own some of the assets of Medibank already by being members and paying premiums. We want a say in what happens to our assets and the ownership of the company."
- "Telstra was sold, services didn't improve... What is going to happen when there is nothing else to sell? Government should manage their assets and budget better instead of selling out."
- "Medibank reserves belong to its members. The balance of the fund's value should be returned directly to members in the same way as mutual floats like NRMA."
- "Selling Medibank is just ideology gone mad - business as usual for Howard"
- "It's selling off the farm again and it certainly won't result in a better health service"
- "If Medibank was to be sold off the price of premiums would skyrocket ... privately owned funds will have no competition and would be free to increase premiums at will."
- "How about the govt fixing up the health system before taking more away from us. Aren't the health system and Medicare inter-related?"

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[1] the Age, 28th March 2006 by Annabel Stafford
[2] Dr Ken Harvey of La Trobe University New Matilda article "The Sale of Medibank Private" March 06
[3] Medibank Private. 26 April 2006. "Government announces intention to privatise Medibank Private". [http://www.medibank.com.au/aboutus/pressreleases_display.asp?id=243].