

# NATIONAL COMPETITION POLICY REVIEW

Of the

## *AMBULANCE SERVICES ACT 1986*

### GOVERNMENT RESPONSE

#### PART 1 – INTRODUCTION

In 1995, all Australian governments agreed, through the *Competition Principles Agreement*, to a comprehensive process of review, and where appropriate, reform of legislation that restricts competition. As part of the Agreement, all governments adopted the following guiding principle:

*Legislation should not restrict competition unless it can be demonstrated that:*

- *the benefits of the restriction to the community as a whole outweigh the costs; and*
- *the objectives of the legislation can only be achieved by restricting competition.*

To give effect to this principle, governments agreed to review, and where appropriate reform, all current legislation against this principle.

The *Ambulance Services Act 1986* (“the Act”) was identified as potentially containing competitive restrictions and listed for review by the Department of Human Services. The Allen Consulting Group was engaged by the Department in 1998 to conduct an independent review of the *Ambulance Services Act 1986* (‘the Act’). The Allen Consulting Group was given a brief to:

- advise on the need for reform of legislative restrictions on competition contained in the Act (as required by National Competition Policy); and
- undertake a broader review to make recommendations on other legislative reforms that would enhance the quality, responsiveness and efficiency of ambulance services.

After extensive industry consultation, the independent review was completed in May 1999, and the final report provided to the Minister in November 1999. The review recommended significant changes to the structure of the ambulance services industry, particularly in the provision of emergency ambulance services. Those recommendations and the Government’s response to them are discussed below. Prior to examining the recommendations of the Allen Consulting Group and the Government’s response to them, it is helpful to have a general understanding of the structure of ambulance services in Victoria.

## **PART 2 - OVERVIEW OF AMBULANCE SERVICES IN VICTORIA**

### **Structure of Ambulance Services**

The provisions of the Act determine the current structure of ambulance service delivery. It is under the Act that the Metropolitan Ambulance Service (MAS) and Rural Ambulance Victoria (RAV) were created and it is pursuant to the terms of the Act that the Minister and the Department of Human Services derive their powers to regulate the provision of ambulance services. The Act includes special provisions in relation to the Alexandra and District Ambulance Service which is a voluntary ambulance service serving the areas of Alexandra, Eildon and Marysville. MAS, RAV and the Alexandra and District Ambulance Service are referred to collectively as Ambulance Service Victoria.

Emergency ambulance services are provided exclusively by MAS, RAV and the Alexandra and District Ambulance Service and are available to all Victorians who are seriously ill or severely injured due to accident or illness. There is no need for authorisation by a doctor for calling an ambulance under these circumstances. To obtain help in an emergency, a person dials 000 on a telephone. This activates a series of events that lead to the dispatch of an ambulance where one is required. Once a request for an emergency ambulance is received, the relevant dispatcher determines the most appropriate type of ambulance(s) to dispatch and the priority to be given to the request. This decision is based solely on the medical needs of the patient as determined from the information received from the caller.

For RAV the call taking and dispatching functions are performed by ambulance officers and call takers in five communication centres located throughout Victoria in the areas of the five former regional Ambulance Services. In 1995 Intergraph Public Safety Pty Ltd was engaged to undertake call-taking and dispatch for MAS. Recently Intergraph has indicated it will not seek to extend this contract beyond 2002.

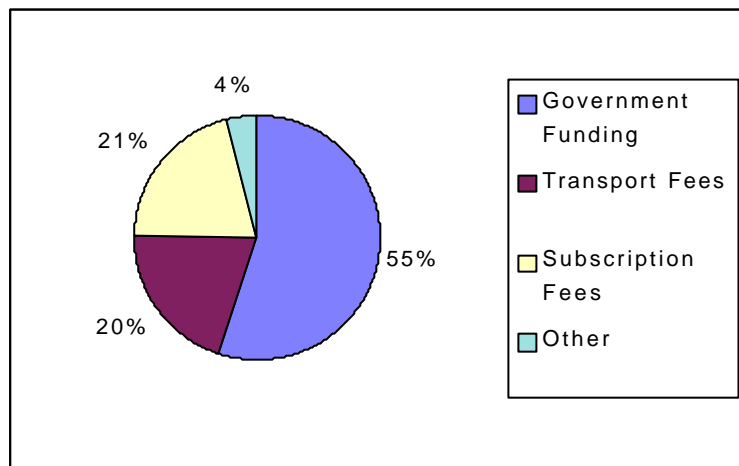
In addition to their primary role as providers of emergency ambulance services, MAS, RAV and Alexandra also provide nonemergency patient transport services. While these services are available to all Victorians, their use is restricted to those whose medical need for them has been certified by a doctor. There are approximately 14 private providers of nonemergency patient transport services operating in Victoria. Major purchasers of private non-emergency transport services include hospitals, the Transport Accident Commission and the Victorian Workcover Authority as well as the Metropolitan Ambulance Service and Rural Ambulance Victoria. While the transport component of these businesses is regulated under the *Transport Act 1988*, the clinical expertise offered is largely unregulated.

### **Funding for Ambulance Services**

The majority of funding for ambulance services is provided through Government grants, although a substantial portion of their revenue is generated from the subscription scheme as well as through fees

charged for services. The revenue generated by charging fees provides approximately one quarter of the funds required to run the ambulance services.

While ambulance services are available to all members of the community, they are not free services to most members of the public. Ambulance services provided to pensioner concession card holders, health care card holders, patients with a psychiatric illness who are classified as involuntary, and “wards of the state” are paid for by the Government through the funding provided to the services. In addition, the Department of Veterans Affairs pays for ambulance transport for eligible veterans, the Victorian Workcover Authority pays for ambulance transport required as a result of an injury received at work, the Transport Accident Commission pays for ambulance transport required as a result of a motor vehicle accident, and hospitals pay for the cost of interhospital transports.



A fee is charged to the patient for all other services if the patient has not elected to be a member of the ambulance subscription scheme. The ambulance subscription scheme is open to all members of the public. The cost of subscribing is consistent across the State and there are no health checks required before joining the scheme although there is a short qualifying period for nonemergency services. To manage membership renewals and encourage new memberships, MAS has entered into a contract with United Telecommunications Pty Ltd to undertake various call taking, revenue collection, data processing and marketing functions for the scheme.

The fees set for ambulance services must be reasonable, consistent with any directions given by the Secretary and in accordance with the guidelines set by the Government for fees and charges.

### **PART 3 - THE RECOMMENDATIONS OF THE ALLEN CONSULTING GROUP IN RELATION TO THE RESTRICTIONS ON COMPETITION AND THE GOVERNMENT'S RESPONSE**

The final report of the Allen Consulting Group's review of the Act was released in May 1999. The review recommended wide ranging changes to the structure of the ambulance services industry. A principal focus of the review was to examine the application of competition policy to the delivery of emergency ambulance services. In respect of the Metropolitan Ambulance Service, the review recommended disaggregation, corporatisation, and phasing in of 'controlled competition', allowing for a number of independent provider businesses within a single system. Under a central control system for call taking and dispatch, providers would be geographically based but could be deployed across 'boundaries'.

The review recommended that contestability in rural emergency ambulance services only be considered following consolidation of the recent rural services amalgamation process, and in light of lessons learned from any metropolitan experience in introducing competition. The review also argued for a careful design of a regulatory and purchasing framework, and a phased approach to development of the industry and market testing, with initial competition possibly for expansion in growth areas of Melbourne.

The review recommended that as a prerequisite for competition, the MAS emergency operations management function be structurally separated from its higher level functions, and that an authority be established to perform specialist regulatory and detailed purchasing roles. Such an authority would not be the provider of ambulance services. The Allen Consulting Group recommended a model encompassing Minister and Department as high level purchaser, setting the broad policy and regulatory environment, and providing funding subject to conditions. A separate statutory authority, at arms length from the Department, would be established to perform specialist regulatory and detailed purchasing roles, with key responsibilities including: purchasing a mix of ambulance services for the community; central call taking and dispatch arrangements; overseeing the ambulance subscriptions scheme; price regulation; setting conditions on contracts; development and implementation of industry standards; licensing of ambulance services; and coordination of emergency management.

The Allen Consulting Group also recommended that, under a competitive model, consideration be given to the option of a single statewide subscription scheme covering public and private providers. It is worth noting that the current subscriptions scheme operates on a statewide basis, covering MAS, RAV and the Alexandra and District Ambulance Service.

#### **The Government's Response**

The Government has determined that Victoria's emergency ambulance services will continue to be provided as a public service. In accordance with Government policy as set out in *A Better Ambulance System*, the Government rejects the recommendations for disaggregation of emergency ambulance services and the introduction of competitive units in emergency ambulance services. In

light of the Government's rejection of competition in emergency ambulance services, the Government also rejects the review recommendation to establish a new statutory body to purchase services from emergency providers and the question of the recommended subscription scheme covering both public and private providers does not arise.

### **The Public Benefits Test**

The Government's decision is consistent with the Competition Principles Agreement, which provides that governments may retain legislation that has the effect of restricting competition, where the public interest is best served by so doing. National Competition Policy does not require the removal of anti-competitive legislation, or the privatisation of any public entity. Specifically, subclause 1(3) of the Agreement provides that social welfare and equity considerations, including community service obligations, shall be taken into account where relevant.

Following receipt of the final report by the Allen Consulting Group, the Department of Human Services analysed the report and the 16 submissions received in response to it. The Department of Human Services concluded that the introduction of competition between private providers of emergency ambulance services was unlikely to achieve significant benefits and could result in a loss of public confidence and efficiency in the delivery of emergency ambulance services. In accordance with the National Competition Policy Guidelines, the analysis by the Department of Human Services included "a public benefits test". The National Competition Policy Guidelines require that such a test include:

- the identification of the restriction on competition;
- the identification of the objective intended to be achieved through the restriction;
- an assessment of whether the restriction is necessary to achieve the objective;
- an assessment of the costs to the community caused by the restriction;
- an assessment of the community benefit of retaining the restriction on competition; and
- an assessment of whether the benefits outweigh the costs.

Applying these criteria, the Department concluded that the continuation of the restriction on competition in relation to emergency ambulance services was justified under the public benefits test. The Government has endorsed this conclusion. The application of this test to emergency ambulance services is described in more detail below.

#### *Identification of the restrictions on competition*

The report by the Allen Consulting Group notes that "the Act does not contain an outright ban on persons other than an ambulance service delivering emergency response services" but that the Act, in concert with other legislation, does have the effect of "severely restricting entry to this market". The report notes the effect is to give "the Government the opportunity to establish ambulance services as legislative monopolies."

#### *Is the restriction necessary to achieve the objective?*

The fundamental objective of emergency ambulance services is to provide a rapid response to a medical emergency, including specialised medical skills and transport facilities. Emergency ambulance services are an integral part of the health care system and their efficient operation is essential to protect the health of those members of the community who require an emergency response as well as the confidence of the broader community in health care services.

The report by the Allen Consulting Group includes a detailed assessment of the alternative means to achieve this objective, rather than restricting competition. The report considered in detail six alternative structures for the provision of emergency ambulance services. All of the models include the retention of some restrictions on competition to ensure that public safety is maintained. The report recommends, at a minimum, the transition to a “detailed purchaser and provider” model which includes the creation of an additional layer of regulation through the establishment of an independent statutory authority.

Thus while the report notes that “emergency ambulance services in metropolitan areas are potentially contestable”, the establishment of such a competitive model of service delivery would still necessitate the retention of some restrictions on competition. The Department of Human Services does not accept this recommendation by the Allen Consulting Group and believes that the objectives of public safety and confidence can only be achieved if the emergency ambulance services remain as public services.

The Department of Human Services is not persuaded that the proposed new structure would result in significantly fewer restrictions nor is it satisfied that the primary objectives of public safety and confidence could be achieved under this new structure. It is important to note that the report itself notes that

- “complex industry structures cannot be implemented overnight”;
- change “will not be without risks”; and
- a significant transition period would be required to implement this proposal.

The Department is concerned that:

- Access to appropriate levels and standard of service for all Victorians could not be ensured, in particular services to people in regional and other less densely populated areas could be at risk.
- It would not be possible to develop contractual specifications that ensure high quality and otherwise appropriate services, in particular, there would be difficulties in managing a time critical service against a contract, and specifications to ensure that community service obligations for non-fee paying patients are met but not over serviced.
- Tensions would arise from conflicting management objectives where an emergency health service is operated as a profit making enterprise. The recommended corporatisation through the creation of Government Business Enterprises is considered an inappropriate model for the provision of emergency ambulance services, and would not provide additional benefits beyond current accountabilities.
- The fragmentation of existing public emergency ambulance services could result in diminishing operational effectiveness, destabilising service personnel and an eroding of public confidence.

It is noted that the current Metropolitan Ambulance Service Royal Commission is inquiring into public safety aspects of the call taking and dispatch services currently undertaken by a private provider.

In conclusion, the objectives of public safety and confidence cannot be achieved without maintaining the current restrictions on competition.

#### *Assessment of the Costs to the Community Caused by the restriction*

The Department of Human Services is unaware of any significant costs to the community arising from the restrictions on competition in the provision of emergency ambulance services. While the report by the Allen Consulting Group suggested that a competitive model would have “greater incentives for efficiency” it did not quantify any savings through the introduction of competition nor did it put forward a systematic or detailed cost benefit analysis to support its key recommendations for disaggregation and introduction of competition.

The history to date with privatising and contracting out in ambulance services also demonstrates that theoretical projections of potential reductions in costs and gains in efficiencies do not eventuate. In his 1997 report on the Metropolitan Ambulance Service (Special Report number 50), the Auditor General concluded, “Most of the projected savings from outsourcing arrangements have not eventuated, further contributing to the Service’s poor financial position and necessitating an increase in annual government contributions of almost 300 per cent to \$47 million since 1993 – 94.” (page 3). The Auditor General also concluded “the capacity to achieve further efficiency gains leading to internal savings was found to be very limited.” (page 5)

In addition, implementing the new competitive model would require the establishment of new public authorities to purchase, regulate and monitor the private providers, the costs of which would have to be borne by the Government or those who use the ambulance services.

#### *Assessment of the community benefit of retaining the restriction on competition*

The community benefits of public safety and confidence are difficult to quantify with precision. The Report on Government Services 1999/00 noted that public confidence in emergency ambulance services in Victoria is relatively low for people who have not used the service. This is due to the level of media interest in the contracted provision of call taking and dispatch services and is indicative of the susceptibility to loss of public confidence in regard to the provision of emergency service provision. The Auditor General in his review of the Metropolitan Ambulance Service noted that within its financial and resource constraints, MAS was “providing a high quality service to the community.” The Report on Government Services 1999/00 noted that the per capita cost of Victoria’s ambulance services is comparable to that in other states.

#### *Assessment of whether the benefits outweigh the costs*

Given the analysis above, it is considered the benefits of retaining the current restrictions on competition outweigh potential cost savings, in terms of achieving greater efficiency through controlled competition.





## **PART 4- OTHER RECOMMENDATIONS BY THE ALLEN CONSULTING GROUP IN RELATION TO THE STRUCTURE OF AMBULANCE SERVICES**

The Allen Consulting Group's brief from the Department of Human Services included a review of the overall operation of the Act and structure of ambulance services in Victoria. As a result, a number of the recommendations of the consultants go beyond the requirements of national competition policy. Nonetheless, the Government has considered these further recommendations and has endorsed those that are consistent with its policy for *A Better Ambulance System*. These further recommendations are summarised below along with the Government's response to them.

The Allen Consulting Group supported the establishment of a strong central call taking and dispatch system. The Government has adopted a whole of Government approach to maintaining and strengthening central call taking and dispatch for emergency services.

The consultants supported the establishment of an ambulance officers registration board on the basis that it was necessary for public protection if competition was introduced into the provision of ambulance services. As the Government has rejected the introduction of such competition, this rationale for the creation of a registration board does not apply. Further consideration will be given to the question of whether, in a public ambulance service, there is merit in establishing a system to recognise the professional qualifications of paramedics.

Government supports the consultant's recommendation that occupational training for ambulance officers should be managed under the same general framework as applies for other health professionals, and that clinical experience be accessible to employees of service providers. The recommendation is consistent with the current approach to training of paramedics where, under 1998 amendments to the Act, the former Ambulance Officers Training Centre was abolished, and education and training was mainstreamed to the education sector. The Department of Human Services has entered arrangements for the delivery of ambulance officer education through Monash University Centre for Ambulance and Paramedic Studies. As well, Victoria University conducts ambulance officer education courses.

The Allen Consulting Group's recommendation for the introduction of a licensing system to regulate the private nonemergency sector is consistent with Government policy. Options for both legislative and non-legislative responses to address the issue of standards in the non-emergency patient transport sector will be explored with the ambulance services, the providers and purchasers of this transport and the union.

The Allen Consulting Group's recommendation regarding promotion of closer integration between ambulance services, the broader health sector and other emergency services is supported. Promotion of closer service integration to achieve improved services is a key aspect of Government policy.

The Allen Consulting Group's recommendation that careful consideration be given to the scope for and impact on community engagement in any key developments in the provision of ambulance services is supported. It is noted that community engagement is particularly important in rural areas.