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To: National Commission of Audit
From: Adam Johnston, Proprietor, ADJ Consultancy Services
CC: Not Applicable
Date: 20 November 2013
Re: Phase 1 - Scope of government; Efficiency and effectiveness of government expenditure

*In the old days charity was a virtue instead of an industry.*¹

Voltaire (François-Marie Arouet 1694 - 1778) writer, philosopher, poet

As someone who has been confined to a wheelchair for all of my 40 years by cerebral palsy, I have noted a worrying and seemingly unchecked growth in the size and scope of all levels of government. This has certainly been led by the Commonwealth, which has the leverage to do so, by virtue of the vertical fiscal imbalance; but it is happening at all levels. The Centre for Independence Studies (CIS)² has done extensive research on the growth of government.³

The growth of welfare

The growth of public welfare is a key factor in this growth and, this aligns with my own personal experience. Even as a recipient of the Disability Support Pension (DSP) one readily acknowledges that this allowance and other welfare payments are unsustainable, given the ageing of the population and the commensurate shrinking of the tax base.

Despite this, governments continue to launch new programs and initiatives, with accompanying administrative and compliance burdens. The disability services sector is a case study of a self-perpetuating exercise in public waste and mismanagement. I have told the Commonwealth Parliament and numerous other inquiries conducted by bodies including the Treasury, that:

¹ See http://www.just-quotes.com/charity_quotes.html as at 24 October 2013

² I am a member of the Centre for Independent Studies

³ See Target 30 Research Papers - <http://www.cis.org.au/publications/target30-research-papers?cid=20> as at 12 November 2013



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(Many) employment agents and many of the workplaces they service actively perpetuate welfare, particularly when it comes to people with a disability, while calling the outcome work. The Government funds agents via the Commonwealth State Territory Disability Agreement, based on factors including the number of job seekers on their books. While there may be bonuses for getting people into work, those with disabilities are often placed in jobs under a program called the Supported Wages Scheme.

This calculates the wages that a person is entitled to earn, based on the assumption that the bulk of a person's income will continue to be the taxpayer funded Disability Support Pension. Admittedly, we are also dealing with people who, due to their impairment, cannot fulfill all the requirements of a job. However, rather than let businesses and employees work out job-sharing arrangement or case-by-case pro rata arrangements, the (Fair Pay) Commission ordered a \$64 per week increase in the Special Wage Scale despite at least one disability advocacy group warning that such an across the board rise, unrelated to hours worked, would disadvantage those least able to compete in the job market.

Is this welfare to work or welfare to more welfare? While the Special Federal Minimum Wage put a floor under earners, the system necessarily puts a pension-linked ceiling on wages and aspirations. Should workers with disabilities, their families or the wider taxpaying public be forced to accept this contrived system of subsidised wages and industries? Where will it end, and where is the incentive to introduce new capital and invest for business growth, if you are geared to look to the next government funding round to supply both income and employees. Where indeed is the honesty and integrity in calling any of this welfare to work?⁴

If the Commonwealth Government is serious about improving efficiency, it needs to abandon many programs which simply attempt to generate activity for the low-skilled, disabled and, unemployed. In doing so, bureaucrats and Members of Parliament need to be honest with themselves and with the rest of us. This honesty pertains to two ludicrous concepts; the first of these is that government can create jobs – and trying to pass off publicly subsidised “work for the dole” schemes as

⁴ Adam Johnston, Submission to the AFTS Architecture Report

http://taxreview.treasury.gov.au/content/submissions/pre_14_november_2008/Adam_Johnston.pdf as at 12 November 2013



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examples of gainful employment.

Certainly, governments can and do hire public servants. However, having been one of these employees myself, I know that employment these days often comes via temporary contracts, as departments manage staffing and other budgets on a quarterly basis.

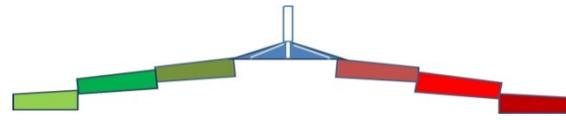
I have been hired, discontinued and re-hired multiple times over the past decade. The time and money which all of these processes involved would be considerable. In the process, government undermines a key long-term social and economic policy: superannuation. Contributing to the Productivity Commission's recent *Default Superannuation Funds* inquiry, one argued that the policy seemed to rely on an assumption of continuous employment; this may still have been a viable concept in the late 1970s and early 1980s, but is definitely not true of the public or private sectors now. When temporary and/or casual employment is the norm, superannuation cannot be called an investment; or at least not a *rational investment*.

Many of us in this situation will never have enough money to invest, nor are we considered 'sophisticated investors'; although as I argued in my submission, the declaration of people as 'unsophisticated' was condescending.⁵ Most of us know when we are being conned, particularly when a mandatory scheme makes us all market speculators, in a process that will leave only a lucky few with sufficient funds to live the lifestyle we all want in retirement; while the rest of us have reduced purchasing power in the here and now, creating a *Paradox of Thrift* scenario. I for one want my money back, before my superannuation fund erodes it all in fees and charges.

Growth of the State

The second absurd concept is that creating another government agency will fix a problem, regardless of what the problem is and, whether it was of the government's making. This is best exemplified by the enactment of the *National Disability Insurance Scheme Act 2013 (Cth)*; a law whose fiscal impact never had the prominence in the public debate over the NDIS that it deserved. In this light, the comments by Dr. Maurice Newman AC, Chairman of Prime Minister Abbott's Business Advisory Council are welcome. Dr. Newman has been reported in the *Financial Review* as saying:

⁵ See generally, *Submission to the Productivity Commission: Default Superannuation Funds in Modern Awards* at http://www.pc.gov.au/data/assets/pdf_file/0009/116685/sub054-default-super.pdf as at 13 November 2013



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Labor's commitments to its "better schools" plan, and the National Disability Insurance Scheme, which alone [would] come to \$22.5 billion in 2019/20, were made in the clear knowledge of a budget already under serious and continuing pressure. Worthy though the causes may be, in the circumstances, it was reckless.⁶

I endorse Dr Newman's words and applaud his courage in stating them publicly. They echo my largely unheeded critique of the NDIS, outlined in three submissions to the *Productivity Commission*.⁷ It is an unaffordable and ill-advised proposal,⁸ which subjects the disabled and infirmed to another layer of bureaucracy we do not need. The fact that to receive services under the NDIS, people with disabilities have to make fresh applications (as if our *Centrelink* or State-based care services records are insufficient) to the National Disability Insurance Authority, is a clear example of Commonwealth waste and duplication.

ADJ Consultancy Services is a micro-business which came into existence as the result of one of those continuing round of training courses that employment agents send the unemployed to, in order to obscure the fact you are still unemployed.

Nonetheless, the consultancy stands ready to assist the thousands of individuals and families who are likely to be seriously underwhelmed with what the NDIS delivers, while being overwhelmed by the paperwork. So, despite the fact that it is clearly in my potential business interest to see the NDIS proceed and then collapse under its

⁶ Maurice Newman, *It will take 10 years to repair Labor's damage*, PUBLISHED: 12 Nov 2013 00:05:00 | UPDATED: 12 Nov 2013 09:21:13, Financial Review,

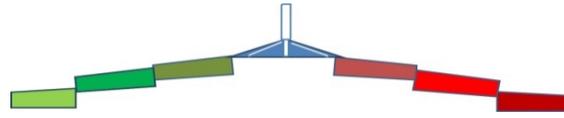
http://www.afr.com/p/opinion/it_will_take_years_to_repair_labor_1p7wKxjqQwdALyAa7tiFL at 13 November 2013

⁷ See my first submission - http://www.pc.gov.au/data/assets/pdf_file/0009/99486/sub0055.pdf; Second submission -

http://www.pc.gov.au/data/assets/pdf_file/0016/100726/sub0186.pdf; Third submission -

http://www.pc.gov.au/data/assets/pdf_file/0007/108664/subdr0716.pdf; my appearances at the Sydney public hearings were equally ineffectual at halting the NDIS juggernaut <http://www.pc.gov.au/projects/inquiry/disability-support/public-hearings> as at 14 November 2013

⁸ It is probably true that much the same can be said of the Better Schools proposal, though I cannot claim to have followed that debate with anything like the interest with which I have pursued the question of the NDIS



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own bureaucratic weight, I recommend you call on the Government to abandon it.⁹

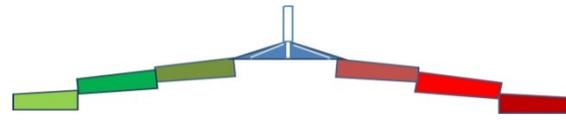
Plugging the revenue hole

The mention of employment agencies also raises more areas of waste and mismanagement the Commission of Audit should consider. During the term of the Howard Government, the functions of the Commonwealth Employment Service were outsourced to the not-for-profit (NFP) sector. This has resulted in many unemployed and disabled people, including myself, being churned through one government subsidised employment scheme after another, run by various charities, looking for their next round of bloc-funding. Never mind benevolence; this is business through and through, as Voltaire astutely noted some time ago.¹⁰ The Government should be prepared to tax these entities, including churches, as corporations.

This is something for which I have long advocated, as both Commonwealth and State revenue collection systems are inefficient. Furthermore, with an almost innumerable number of transfer payments handed out to individuals, families, business, churches and other alleged NFPs, it's a wonder any government in this country can balance its books, when the revenue base has the consistency of Swiss cheese. Regardless of the

⁹ The NDIS has been likened by many of its advocates to the equivalent of Medicare for the disability sector. On closer inspection, this may not be as impressive as it sounds. Medicare and your local Area Health District will treat you promptly upon presentation at an Accident and Emergency Ward in a serious and/or deteriorating condition. On the other hand, have a non-life threatening condition or require surgery deemed elective and be prepared to wait, sometimes for an extended period. I made this point to the Productivity Commission's *Inquiry into Disability Care*, but have now concluded that whole process had a pre-determined trajectory

¹⁰ See footnote 1



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inquiry though,¹¹ no government has had the gumption to really reform taxation to the point where allegedly benevolent organisations like churches and charities are presented with a tax bill and told to *render unto Caesar*.¹² I note that one recommendation coming out of the Victorian Parliament's recently tabled report into systemic child abuse was that:

It (the Parliamentary Committee) also wants to see churches and other organisations incorporated so they can be sued.¹³

Incorporation not only provides entities which victims of truly horrendous crimes can finally seek redress from; it is also a means for the wider community (via State and Commonwealth Governments) to clearly and legitimately levy taxes on. Ideally, governments across the nation should retrospectively seek land, commercial income and capital gains back taxes (to name but a few taxes others are routinely obliged to

¹¹ The problems caused by some of the many and varied holes in the tax system were discussed in my submission to the Henry Tax Review http://taxreview.treasury.gov.au/content/submissions/pre_14_november_2008/Adam_Johnston.pdf; see also my submission to the Super System Review http://www.supersystemreview.gov.au/content/submissions/downloads/Adam_Johnston_091224.pdf ; with specific references to charities, please see my submission to Treasury's *Discussion Paper on the Governance of Not For Profit Organisations in Australia* <http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20Reviews/2011/Review%20of%20not-for-profit%20governance%20arrangements/Submissions/PDF/Johnston%20Adam.ashx> ; my submission to the Treasury *Discussion Paper on the Definition of Charity* <http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20Reviews/2013/A%20statutory%20definition%20of%20charity/Submissions/PDF/Johnston%20Adam.ashx> ; and there are others, as at 17 November 2013

¹² Matthew 22:20-22 <http://www.biblegateway.com/passage/?search=Matthew+22%3A20-22&version=KJV> as at 20 November 2013

¹³ *Catholic Church slammed by Vic child abuse inquiry*, Updated Wed 13 Nov 2013, 9:58pm AEDT, ABC News, PM with Mark Colvin (Reporter: Samantha Donovan), <http://www.abc.net.au/news/2013-11-13/catholic-church-slammed-by-vic-child-abuse-inquiry/5089916> as at 17 November 2013



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pay), particularly from large bodies like the Catholic Church.

Furthermore, if individuals want to continue making donations to these bodies, then may that persist, but no-one should expect a tax deduction in return. And the capacity to give should be limited to real persons.

Proper accounting for public funds

All governments should stop giving grants to the NFP sector with the intent of having the NFPs deliver services government are no longer willing to directly provide themselves. If legislators and policy makers are intent on continuing down this path, the NFPs in receipt of public funds should be required to meet all the legislative requirements of an equivalent public provider and, their staff should be counted amongst the ranks of public servants, so the true size and scope of government can be accurately determined.

This is also important so that the “vulnerable” citizens who will be placed (or have been placed) in the care of NFPs continue to have clear, legal access to public complaint and investigative bodies like police and the State and Commonwealth Ombudsman offices.¹⁴ While supporting a reduction in the size and scope of government, people who are (or become) dependent on the State for care and support should not have their citizenship denuded or privatised, by being placed with the NFP sector.¹⁵ As I told the Senate in my submission to the inquiry into the NDIS legislation, the denuded, privatised citizen has been of growing concern to me because:

(The) view appears to hold that *“Thou shalt not criticise the charitable sector,*

¹⁴ I made this argument in a submission to the NSW Public Accounts Committee during its investigation into the *Efficiency and Effectiveness of the Audit Office of NSW (Inquiry)*

<http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/BDEEDC83E0A9FF20CA257BCF000C442C>; I was thrilled to find the Committee’s Final Report recommended the extension of the State Auditor’s jurisdiction so that he could examine the conduct of NFPs in the possession of public funds:
http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/7A16B6D80EF9244CCA257BEA0023D739?open&ref_navid=x as at 17 November 2013

¹⁵ I draw your attention to my submission to the NSW Premier’s *Inquiry into Recall Elections* at http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0008/131120/06_Johnston.pdf which concentrated on developing a capacity to call NFPs to Parliament and, holding them directly to account for goods and services that may or may not be delivered. The final report is available at http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0013/134221/Panel_of_Constitutional_Experts_-_Review_into_Recall_Elections.pdf as at 17 November 2013



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because it is staffed by such wonderful people doing marvellous things that surely such Saintry types would not be doing anything improper?" While I do not deny that many big-hearted and well-intentioned people enter the so-called Third Sector for the right reasons, this cannot be taken to be universal. I see a worrying parallel with the store many people used to place in the authority and apparent trustworthiness of Catholic priests; look where this has brought us: e.g.: *Establishment of the Royal Commission into child sexual abuse*, Commonwealth Attorney General's Department <http://www.ag.gov.au/About/RoyalCommissions/Pages/default.aspx> as at 24 December 2012. Less than a decade ago perhaps, many Australians may have felt the allegations and abuse the Commission is set to hear were incredible and unbelievable.

I am determined to do whatever is within my power to ensure the same does not happen in the disability sector. Yet, if the Government succeeds in herding people with disabilities under the (National Disability Insurance) Agency, then you bring together the three elements of a large, unwieldy bureaucratic system, third sector/charitable service providers and, a vulnerable community of need. Add just a few people of malicious intent and, you have the makings of another heart-wrenching, hideous and horrendous Royal Commission of the future.¹⁶

No government should let this happen lightly. Yet as the capacity and willingness of all governments to provide basic goods and services (not to mention major infrastructure) appears to dwindle, its desire to micro-manage the life of the individual citizen increases.¹⁷ This must stop; our nation has appeared to exchange liberal democracy for social welfare. If for no other reason than fiscal responsibility, we should desist from declaring every social ill as something requiring a government response. I pursued this matter in a submission to Father Frank Brennan's Human Rights Inquiry, conducted several years ago. This submission is self-explanatory and, is included as Appendix 1.

Appendix 2 is a submission to the Inspector General of Taxation on the Australian Taxation Office's (ATO's) administration of refunds. In a similar vein to Appendix 1, it

¹⁶ See my submission to the Senate <https://senate.aph.gov.au/submissions/comittees/viewdocument.aspx?id=dc64c892-b41d-48b5-9916-7f4b90e71ee3>. HTML cache at 17 November 2013 – p. 8 and footnote 14

¹⁷ See for instance, my submission to the Senate inquiry: *The administration and purchasing of Disability Employment Services in Australia* <https://senate.aph.gov.au/submissions/comittees/viewdocument.aspx?id=a6fa4e6a-eb31-49de-bb0f-c9f11849c86c>. (cache HTML) at 18 November 2013



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asks about the true costs and benefits of how the ATO in particular, conducts its business. A number of the recommendations are pertinent to this Commission's consideration of revenue questions.

Recommendations:

1. The Commonwealth Government needs to abandon many programs which simply attempt to generate activity for the low-skilled, disabled and, unemployed.
2. The Commonwealth needs to review the economic viability of mandatory superannuation for many workers. When temporary and/or casual employment is the norm, superannuation cannot be called an investment; or at least not a rational investment. The reduction in income and spending also has a potential to reduce receipts to government
3. All governments should stop giving grants to the NFP sector with the intent of having the NFPs deliver services governments are no longer willing to directly provide themselves and, any NFP delivering such services should be legally regarded as a Department of State, with its staff counted as public servants
4. All NFPs, churches and charities should be subject to taxation and, no charitable gift should attract a tax deduction; donations should only be lawfully made by real persons
5. That all governments temper the social interventionist/social welfare model of public administration, recognising budgetary constraints and, other adverse consequences¹⁸ outlined in Appendix 1
6. The taxation administration and compliance system should be greatly simplified, as suggested by Appendix 2

Yours faithfully,



Adam Johnston

¹⁸ This is not to mention downright silly ones – for example, see *Canadian school rejects mum's homemade lunch, gives crackers instead*, November 20, 2013 12:19PM, <http://www.news.com.au/lifestyle/parenting/canadian-school-rejects-mums-homemade-lunch-gives-crackers-instead/story-fngqim8m-1226764173038> as at 20 November 2013