



Children's Services  
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# Senate Education, Employment and Workplace Relations Committee Inquiry into the Provision of Child Care

## KU Children's Services: Supplementary Submission

### Additional responses to Terms of Reference

#### a. the financial, social and industry impact of the ABC Learning collapse on the provision of child care in Australia;

#### **ABC: The fat lady hasn't sung yet**

KU is concerned that there seems to be some feeling by governments and the community that the ABC issue is now behind us and the financial, social and industry impact has washed through.

We do not believe this to be the case: the manner in which this issue has been handled has not only confirmed KU's fear that the Government has missed the opportunity to rebalance the policy levers, but has in fact allowed a situation to occur where there are likely to be more closures in the future.

Despite a submission from major not-for-profit providers in NSW, including KU, the Government allowed ABC to be broken up into vertical tranches of:

- the viable centres (ABC1 Group of approximately 720 centres which remain with Receivers McGrathNicol and have kept trading)
- the non-viable centres (ABC2 Group of 261 centres, including the Defence Child Care Centres, which, with support of the Government, were placed in the hands of the court appointed receiver PPB, and funded with \$34m in December 2008)
- the 55 failed centres (which were closed in December 2008)

KU believes that if the Government had been serious about wanting to reduce the dominance of one company and ensuring the sector was rebalanced by enabling the not-for-profit sector to gain greater market share, ABC should have been divided horizontally into financially viable tranches which included both viable and non-profitable centres. This would have enabled not for profit providers, which work on the basis of cross-subsidising centres in lower socio-economic areas to keep them both high quality and affordable, to come into the market in a sustainable way.

Instead, KU believes major issues of concern remain in 3 areas.

### **ABC1: the 800 pound gorilla**

Almost every commentator on the collapse of ABC identified that having one player with around 25% of market share was the key reason that its failure caused so much concern. This situation of market dominance by a private child care provider does not exist anywhere else in the world.

KU is concerned that despite this, no action has been taken by the Government to prevent its recurrence and it now appears certain that when McGrathNicol sells the ABC1 group of centres later this year, it will do so as a single business (*Australian Financial Review* 9 July 2009). This means that one large corporate operator will still completely dominate the market, just as ABC did before its collapse.

The AFR has speculated that potential bidders will include private equity groups as well as two of New Zealand's largest child care operators. There would appear to be no Australian child care provider who will be able to purchase the ABC1 Group. This means that the ownership of around 20% of the national child care industry will be in the hands of one operator and may well go offshore, along with the profits and dividends which will be funded by the Australian taxpayer through the Commonwealth's CCB and CCR.

This would be a sad reflection on the failure of the Government to learn the lessons of the ABC collapse by ensuring that large corporate companies may not own child care centres.

If this indeed happens, the Government will have spent \$56m in enabling ABC to restructure, get rid of its unviable centres, and re-emerge under new ownership, in the dominant market position in the sector, just as before.

However, while the Receiver may hand it over to the new owner in a viable position, we should all remember that ABC was also viable once and that the commercial pressures to put shareholders and profits first, instead of children and families, caused its downfall.

KU believes that unless the sector is restructured to ensure no company can ever again dominate, another collapse of the magnitude of the ABC failure will always remain a possibility, the taxpayer will continue to fund private profits instead of high quality early childhood education and care and may again be forced to bail out large companies which fail.

### **The 241 unviable centres: where are not-for-profit providers?**

The Government provided \$34m to prop up the 241 centres in the ABC2 Group, which had been deemed unviable by McGrathNicol, until they could be sold by PPB. There was quite a deal of optimism expressed by the Government that the not-for-profit sector would be able to purchase some of these centres. However this

optimism was never shared by the not-for-profit providers and KU and others said this publicly many times.

So it is worthwhile asking: *Why has no major, established, not-for-profit child care provider become the owner of any of these centres?*

Where are KU, SDN, C&K, UnitingCare, Anglicare, Lady Gowrie in the list of successful tenderers?

Could it be that all these organisations, all of which are successful, respected child care providers and three of which have been operating continuously for over 100 years, agreed with McGrathNicol in its assessment that all these 241 centres were unviable?

In this context it is instructive to consider which organisations were successful, whether they are not-for-profits, and whether they are already established child care centre operators.

In fact, according to Mr Michael Manthorpe (Senate Estimates Committee, 3 June 2009, pp 11-12), only 35 of the approximately 216 centres which were sold went to just 5 not-for-profit organisations. This includes Mission Australia with 29 centres, and 6 centres presumably distributed between "a couple of local government authorities" and two other community-based not-for profit providers.

This is an exceptionally poor result in terms of rebalancing the for-profit/not-for-profit balance in the sector.

When we consider the experience of these organisations, it appears that the other major players are private companies, 3 of which are brand new entities not operating any centres at the time of the tender. One of these (Kids in Care) was set up by a person with close ties to Eddy Groves and includes former top ABC executives (Courier Mail, 16 April 2009). Another 3 which won a large number of centres were very small current private operators (less than 8 centres).

Given that every major, credible, experienced child care operator, especially not-for-profit and local government providers, appears to have declined to participate in the tender process, or to have been unsuccessful, KU is concerned that the Government's decision to "prop up" the 241 centres with \$34m was highly questionable.

We consider that it may have been preferable to have closed any of these centres which were in fact unviable due to such factors as oversupply in their market, unsustainably high rents, low occupancy levels and being located in areas where fees that were affordable for parents would not cover costs. Others which also ought to have been closed are those in premises which are of such poor standard and are so unsuitable as environments in which to deliver high quality early childhood education and care that one wonders how they could ever have been licensed.

KU believes that it is likely that many of the companies which have been “successful” in gaining ABC2 centres may have seriously underestimated the actual costs of operating them.

If so, then over the next 12 -18 months we are likely to see a number of these centres close and the companies operating them fold. Indeed KU understands that at least one successful tenderer has already asked the centres it has acquired (many of which are in lower socio-economic areas where affordability is key) why they are not viable and told them they will be closed if they don't fix it.

If this occurs then the Government, which was working closely with the Receivers and had access to all the necessary information, will have a lot to answer for.

### **The 21 Defence Child Care Centres: a flawed process and outcome**

KU believes that there are serious concerns regarding the decision to award the Defence Child Care Program (DCCP) contract to B4Kids. These 21 Defence Child Care Centres were deemed unviable by McGrathNicol and placed in the ABC2 Group.

KU was approached by the Department of Defence on 23 December 2008 regarding whether we would be interested in novating ABC's DCCP contract. We were advised that we were one of two companies being invited to do so and were required to put in what was essentially a full tender submission by 9 January 2009.

KU entered into this process in good faith however we believe that both the process and the assessment undertaken by the Department were seriously flawed in that:

- the process was neither transparent nor accountable
- KU was not advised that B4Kids had already been contracted by the Receivers to manage the DCCP
- crucial financial information which was available to the Department and to B4Kids was not provided to KU, thus disadvantaging our response
- the timing was inappropriate and disadvantageous to KU as the response had to be prepared over the Christmas period and, due to the Defence business closedown, no-one was available to answer questions from the day we received the documentation (24 December 2008) until 5 January 2009, four days before the response period closed
- the process has resulted in Defence contracting the DCCP to the very people who have previously not been able to operate the centres in a viable manner
- KU's financial modeling (provided to the Department and drawn from a detailed budget prepared for each of the Defence Child Care Centres, based on our comprehensive knowledge of their operation gained over many years) substantiates our contention that it is not possible to operate the DCCP in compliance with the contractual requirements without a subsidy from Defence.

In addition, the statements in the press release by Minister Snowden (15 April 2009) announcing the appointment of B4Kids as the successful contractor contained major inaccuracies and misleading inferences and raises a number of concerns regarding the history and provenance of B4Kids. It said:

“The new contractor is B4Kids Pty Ltd (B4Kids) – a team with over 10 years’ experience in the management of corporate child care programs with previous clients including Westpac, ANZ, Tyco and Optus. Since 2007, B4Kids has been engaged as independent contractors to manage the Defence contract between ABC and Defence, and since October 2008 it has been managing the contract on behalf of the Receivers.”

However KU understands that in fact:

- The team’s “10 years experience” was actually gained as part of ABC Learning
- The clients listed are all ABC corporate clients, not clients of B4Kids and these centres remain in the ABC1 Group under the receivership of McGrathNicol
- As ABC did not go into Receivership until 6 November 2008, B4Kids could not have been managing the DCCP on behalf of the Receivers since October 2008
- B4Kids was not registered as a company until 9 December 2008 so could not have held contracts with either ABC or the Receivers before that date

These inaccuracies could only serve to mislead both the public and the Defence parents into assuming that B4Kids is a credible and successful independent child care provider of some 10 years’ standing, and separate to ABC Learning, when in fact this was not the case.

KU therefore considers that the novation of the DCCP contract to B4Kids represents a considerable risk and that the DCCP will in fact prove to be unviable (which was the view of the Receivers McGrathNicol and, presumably the Deputy Prime Minister who included these centres as part of the group of “loss making ABC centres which would otherwise have closed” in her Budget Statement of 12 May 2009).

If so, the Government will be required to provide additional funding to support yet another failed child care provider (which is simply part of ABC Learning reconstituted) and which it has appointed to provide services to itself, after what purported to be a thorough process.

### **Waiting for the fat lady to sing**

KU is concerned and disappointed that the underlying policy positions which allowed the problems stemming from the ABC collapse to happen in the first place have still not been addressed.

At the end of this process, and after the expenditure of \$56m by the Government, we believe:

- There will still be one huge company dominating the market ,with government subsidies being channelled to shareholders/investors, who may not even be in Australia
- The number of not-for-profit operators in the sector has increased only marginally
- A number of the 216 centres sold by PPB are likely to prove unviable and to close
- Supply and demand will remain unregulated, leading to continuing over and undersupply issues and consequent utilisation and viability problems
- Child care will still be seen as a commodity, to be bought and sold like a hamburger, rather than as an essential community service.

This is already proven to be a failed model and there is no guarantee at all that in a few years we won't be back in exactly the same place.

**b. the role of governments at all levels in:**

**i. funding for community, not-for-profit and independent service providers**

The recently released *COAG National Early Childhood Development Strategy* (NECDS) and *COAG Consultation RIS for Early Childhood Education and Care Quality Reforms* (RIS) recognise the importance of high quality early childhood education programs in improving outcomes for young children and propose that:

- governments must ensure there is affordable access to a preschool program for all children in the year before school
- it must be delivered by a university-qualified early childhood teacher
- all staff working in early childhood education and care centres must have a qualification
- services with more than 25 children must employ a full time university-qualified early childhood teacher
- child:staff ratios need to be improved, especially for babies

This has raised the need for a clear policy position on the role and function of early childhood education and care in Australia. The Government must decide:

*Is early childhood education and care an essential part of the education system, and thus affordable and accessible to all, with funding provided by Governments direct to both public and private sector providers?*

*Or is it an optional extra, paid for by parents, with some support from government subsidies paid to the parents (in long day care) or to providers (in preschools in some states), and available only to those who can afford it?*

While KU strongly supports initiatives which will improve the quality of early childhood education and care across the sector, we ask: *who is going to pay for this access and quality?*

KU believes these admirable reforms cannot be implemented without considerable government funding being provided direct to the service providers, in a similar way to the funding of primary education.

There are only two places funding for early childhood education and care comes from: parents and governments.

Parents are already reporting that cost is becoming a barrier to child care. Further increases in fees, especially in lower socio-economic areas, will result in them dropping out of early childhood education and care altogether. Providers have no other sources of funds to implement these costly reforms on top of budgets which are already thinly stretched.

If the Government is committed to increasing the quality of early childhood education and care by requiring child care providers to implement these reforms, then the Government is going to have to provide funding to enable us to do so.

KU believes that as a matter of policy, it is time for early childhood education to be seen as part of the government responsibility to provide free universal education and to be funded accordingly.

- ii. consistent regulatory frameworks for child care across the country,**
- iii. licensing requirements to operate child care centres,**

KU welcomes the proposals contained in the COAG papers to implement consistent, regulatory and licensing frameworks across Australia and to address the issues of complexity and fragmentation that apply to all aspects of early childhood education and care provision at present.

We hope that this will be done in such a way which is more transparent and accountable as well being less onerous and costly for providers.

## **End of Submission**

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KU Children's Services

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