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Chair, Childcare Inquiry Board
Australian Consumer and Competition Commission
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RE: FDCA Submission to the ACCC Childcare Inquiry Interim Report

Dear Commissioner

Family Day Care Australia (FDCA) welcomes the opportunity to provide a submission in response to the draft findings and recommendations outlined in the September report for the ACCC's inquiry into childcare services ("the inquiry").

In this submission, FDCA seeks the ACCC's assurance that the important role of family day care is adequately considered and clearly recognised in the inquiry's Final Report, and recommendations are made that will support the continued growth and viability of the sector.

We note that in this important inquiry the ACCC is tasked with examining and considering matters including:

- costs and availability of labour
- the use of land and related costs
- finance and administrative costs
- regulatory compliance costs
- the costs of consumables
- the prices charged since 2018 and how these have changed following changes in childcare policy settings.

In addition, we understand the ACCC will also examine how costs and prices differ across type of provider and size, type of childcare service, age and characteristics of the child in care, geographic location, level of competition, the quality rating of the childcare services provided, and how these factors impact childcare provider viability, quality and profits.

1. About Family Day Care Australia

FDCA is an apolitical, not for profit, national member association representing approximately 10,000 family day care educators and approximately 400 approved family day care services. Our mission is to represent, support and promote the family day care sector in delivering high quality 5. early childhood education and care (ECEC) to more Australian children.

FDCA supports the National Quality Framework (NQF) governing the ECEC sector and, as the national peak body for the family day care sector, shares many objectives in common with Australian governments and regulatory agencies including:

- ensuring the ECEC sector is affordable, accessible and flexible;
- promoting continuous improvement in the provision of quality ECEC services;
- reducing regulatory and administrative burden for ECEC services, whilst simultaneously improving the efficiency and cost effectiveness of the regulation of ECEC;
- supporting measures to build a highly skilled workforce; and
- increasing workforce participation and women's economic security.

2. About the family day care sector

The family day care sector is an essential part of the ECEC sector, providing flexible, affordable and accessible education and care for more than 40 years. Regulated under the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations*, it plays a vital role in meeting the diverse and changing child care needs of a significant proportion of Australian families, while at the same time also responding to many parents' choice for a 'home-based' and 'family-like' environment for their children.¹

According to the latest edition of the *Child Care in Australia* quarterly report published in September 2023 by the Commonwealth Department of Education (the Department), the family day care sector supports more than 56,370, or almost 6% of families across Australia. Of the 1,403,850 children who attended approved ECEC services in the December quarter 2022, 79,640, or 5.7% %, attended family day care.

While educators are registered with approved services, they effectively run their own small business, working from their own homes with small groups of no more than four children under school age, with the option to care for an additional three school aged children outside of school hours. This provides educators with a unique opportunity to personalise learning programs and to develop strong connections with children and families.

Greater flexibility and non-standard hours care

Importantly, the family day care sector offers significantly higher levels of flexible sessions than centre based day care. For example:

- 84.7% of family day care services offer shorter sessions (up to 6 hours) compared to only 17.2% of long day care services.²
- 94% of family day care services also offer longer sessions (7-12 hours).
- 65.3 % allow for the swapping of days/sessions or sessions to be added or changed at short notice, compared to 51% and 50.2% of long day care services respectively.³

¹ Pascoe, S. Brennan, D. (2017) *Report of the Review to Achieve Educational Excellence in Australian Schools through Early Childhood Interventions*

² Baxter, J., Budinski, M., Carroll, M., Hand, K., Rogers, C., Smart, J., Bray, J.R., Gray, M., Blaxland, M., Katz, I., & Skattebol J. (2019) *Child Care Package Evaluation: Early monitoring report*. (Research Report). Melbourne: Australian Institute of Family Studies.

³ Ibid.

This flexibility is critical to catering for the current and future needs of Australian families, especially in the face of changing work patterns, where casual, contract and part-time work is common, and women form 68.1% of the part-time workforce.⁴

Family day care also offers considerably higher levels of non-standard hours care, compared to the long day care sector:

- 88.2% of family day care services offer sessions of care on weekdays before 7am or after 6pm, compared with 45.7% of long day care services.
- 85.5% of family day care services offer care on weekends, compared with a mere 0.5% of long day care services.
- 47.5% of family day care services offer overnight care, as compared with 0% of long day care services.⁵

Availability of responsive ECEC services during non-standard hours is absolutely key to supporting a range of employees and contractors who work casual and on-call shift work, split shifts and irregular hours in a range of occupations including nurses, paramedics, police officers, FIFO workers, cleaning contractors, factory workers, farmers and those that work in the hospitality industry.

Supporting families in areas of least advantage

Furthermore, as the ACCC research has confirmed,⁶ the family day care sector provides much needed ECEC for Australian families in areas of least advantage. FDCA's own research shows 24% of educators provide family day care in areas that are ranked in the two highest deciles on the SEIFA index and over half of educators (54%) being located in areas ranked in the first five deciles of the SEIFA index.⁷ Furthermore, 27.6% of family day care takes place in regional, rural and remote areas of Australia.⁸ In some of these areas, family day care is the only option available for child care.

Supporting culturally and linguistically diverse (CALD) families and communities

Recent evidence⁹ also shows that family day care is playing a significant role in supporting children from CALD backgrounds and their families. Indeed, the *2021 ECEC National Workforce Census* shows around half of the total number of children attending child care services during the reference week from (or had parents / guardians from) a refugee or special humanitarian program background, attended family day care services. This compares to only 3,343 in centre based services, a sector over 10 times the size of family day care.

The ACCC inquiry has also confirmed that compared to other childcare types, family day care is preferred by families where other languages other than English are spoken.¹⁰

⁴ www.wgea.gov.au/data/fact-sheets/gender-workplace-statistics-at-a-glance.

⁵ Baxter, J., Budinski, M., Carroll, M., Hand, K., Rogers, C., Smart, J., Bray, J.R., Gray, M., Blaxland, M., Katz, I., & Skattebol J. (2019) *Child Care Package Evaluation: Early monitoring report*. (Research Report). Melbourne: Australian Institute of Family Studies.

⁶ ACCC: Childcare Inquiry, Interim Report, June 2023

⁷ FDCA, Family Day Care Sector Profile, June 2022

⁸ Department of Education, Child Care in Australia report, June Quarter 2022

⁹ Social Research Centre: 2021 ECEC National Workforce Census, August 2022

¹⁰ ACCC: Childcare Inquiry, Interim Report, June 2023

3. Parent's options constricting through a sector in decline

As the ACCC has already identified, the family day care sector has experienced a sustained period of decline. This fact was also evident in the *2021 Early Childhood Education and Care National Workforce Census* report which revealed that, since 2016 the family day care sector nationally has lost 59% of its educators. Furthermore, more than half of this loss, 30% (over 6,000 educators) has come since the introduction of the Child Care Package in July 2018.

As would be expected, the decline in educator numbers correlates with a comparable decline in the number of children and families able to access family day care. In September 2018, there were 131,600 children and 89,160 families utilising family day care nationally. By December 2022, there were 79,640 children and 56,370 families using family day care. This represents declines of 39.5% and 36.8% respectively.¹¹

Over 40 years ago our sector pioneered the 'sharing economy', leveraging the capacity and capabilities of communities to deliver a unique and innovative approach to supporting the diverse ECEC needs of Australian children and families. What evolved was a thriving network of early childhood education professionals, mostly women in small business, that was the global benchmark in home-based ECEC approaches.

However, sadly, through more than half a decade of neglect, 'blunt instrument', compliance focused regulatory reform, and inequitable market intervention from governments, our sector is facing immense viability strain and the resulting outcome for children and families will be catastrophic. Despite common misconceptions, this decline is no longer a function of governments justifiably cancelling the approvals of unscrupulous operators but is in fact the demise of many of our sector's oldest and most respected services. Equally, the decline is not a product of waning demand, in fact, demand for family day care services has never been higher. Data from FDCA service members indicates that over 2,500 new educators are needed immediately just to meet current confirmed child waiting lists.

Without prompt intervention the family day care sector faces collapse, and in turn, the families and children for whom family day care is, for so many reasons their option of choice, or in many cases, their only choice, will be left stranded.

4. FDCA response to the findings and recommendations of the Interim Report

FDCA supports the overall finding of the ACCC's second Interim Report, that "market forces alone have failed to meet community expectations government objectives for childcare services and policy".¹²

However, we are disappointed that several key issues affecting viability and affordability for the family day care sector specifically have not been addressed in the report. Additionally, the first Interim Report (ACCC, June 2023) indicated that there would be further analysis of "the declining trend of family day care and in home care services and the implications for households living in areas of least advantage and regional and remote areas, respectively" (p.69). This further analysis is also absent from the September report.

¹¹ Department of Education, Child Care in Australia report, June Quarter 2022

¹² www.accc.gov.au/media-release/review-of-childcare-policy-to-better-meet-the-needs-of-families

Given the survey for collecting stakeholder responses on the Interim Report appears mainly focused on CBDC, we provide our feedback below. We trust it will be taken into account in compiling the final report for the ACCC Inquiry into Childcare.

4.1 Failure to include family day care sector recommendations in the interim report:

The acknowledged omission of findings and recommendations specific to family day care in the September Interim Report is completely unsatisfactory, given the report is intended as the primary consultation document to inform the final report for the ACCC's Child Care Inquiry.

While the ACCC makes clear at the outset that it is continuing its analysis of family day care and in home care services costs and will report its findings for these services in the final report (p.8), this represents a failure of the consultation process in our view.

Family day care is a unique and essential part of the ECEC landscape in Australia. As the ACCC's own research has shown, parents and guardians with children in family day care often choose this form of care because of the type of service offered. That is, they highly value the home-based, small group environment provided by family day care.¹³

Furthermore, the family day care sector provides much needed ECEC for Australian families in areas of least advantage. This means the decline in family day care services is likely to impact households in vulnerable situations and areas disproportionately, because they rely more on these care types than other households. Family day care is also preferred by families where other languages other than English are spoken.¹⁴

As such, and given that the ACCC's inquiry into childcare will feed into the Productivity Commissions' broader inquiry into ECEC, FDCA expects:

- there will be key findings and recommendations in the ACCC's Final Report that recognise the essential role of family day within the current landscape, the unique structural elements of the model that underpin its key strengths, and the significant capabilities beyond existing utilization, as well as specific recommendations to support the sector's growth and viability; and
- an early draft of the Final Report will be shared with us so that FDCA can respond to relevant findings and recommendations before they are made final.

4.2 Current calculation of CCS rate cap for family day care

The lower CCS rate cap applied to family day care than centre based care is a hugely significant issue affecting the sustainability and viability of the family day care sector.

The inappropriate hourly CCS fee cap that applies to family day care has been a key advocacy priority for FDCA since inception and our long-standing position is that the assumptions underpinning the calculations leading to the current CCS fee cap rates were never, or are no longer accurate/applicable. We have constantly advocated that the hourly CCS cap rate for family day care should be raised, at least in line with the

¹³ ACCC: Childcare Inquiry, Interim Report, June 2023

¹⁴ Ibid

calculation afforded to centre based care services so that it more accurately reflects the cost of providing family day care; and an additional loading of 20% to the recalculated CCS fee cap for non-standard hours family day care to adequately reflect the cost of providing such care.

In particular, FDCA has repeatedly challenged and refuted the 'lower overheads' assumption underpinning the calculation of the inadequate CCS cap rate for family daycare. Consultation and evidence from our members show that, while family day care can be more agile and efficient in meeting and responding to variable demand especially in 'thin-markets', the 'dual-layered' overheads for both family day care services and family day care educators are fundamentally comparable¹⁵ to those in centre based care.

As sole traders / independent contractors, family day care educators have significant overheads including, but not limited to, relevant play equipment; property maintenance and cleaning costs; ongoing training and maintenance of mandatory qualifications; mortgagees or rent; insurances (e.g. home and contents, public liability, health, personal accident/income protection, car), bookkeeping and accounting expenses, IT equipment and software licenses and so on.

Furthermore, following sustained and extensive regulatory reform, specific to family day care,¹⁶ overheads for family day care services, acting as 'co-regulators' to support compliance and continuous improvement by educators, have increased significantly.

FDCA notes that one proposal under **Draft Recommendation 2** suggests "*changing the hourly rate cap to align with the relevant pricing practice for the service type*" and that "*this could include consideration of a daily fee cap for centre based day care*".

While the Interim Report specifically acknowledges that a daily rate cap "*may not be appropriate for other service types where fees are not generally advertised at a daily rate*", FDCA must state up front that such a measure may inadvertently create disincentives to supply. While daily rates are not common in the family day care sector, a capped daily rate will likely act as a barrier to enter the sector and further threaten its the viability. It is absolutely vital that any proposed action in this area be carefully considered to avoid unintended consequences and take into account the views of the whole sector following a thorough consultation process.

4.3 Workforce challenges and the need for innovative solutions

While the workforce challenges facing family day care and the wider ECEC sector are multifactorial, family day care must be considered as an integral part of any solution to address these challenges. Due to its unique structure, family day care has the capacity to provide innovative solutions to both the ECEC workforce and supply crises.

As noted in the Australian Children's Education and Care Quality Authority's (ACECQA) submission to the Productivity Commission Inquiry into ECEC:

¹⁵ This was confirmed in the Interim Report for the NSW IPART Review of Early Childhood Education and Care (October, 2023). See p 179: "*The costs we calculated for family day care are comparable to long day care, which is the position outlined by the Family Day Care Australia in a submission to the Productivity Commission.*"

¹⁶ For example, in a survey of our service members about implementing the changes to EFT CCS gap fee collection from 1 July 2023 as per the recent amendment to Section 201(B) of the Administration Act, almost two thirds (63%) of respondents reported experiencing either "very high additional admin burden" or "significant additional admin burden"(33% and 30% respectively).

“As governments expand access to education and care, provision needs to remain flexible to ensure services are accessible and available for the hours required to support diverse family circumstances and workforce participation. Family day care services, for example, have flexible hours and are often the best option for children and families who are seeking a home environment, including shift and emergency workers and those based in regional and remote areas.”

As such, governments should support the implementation of a range of measures to better leverage the capabilities of the family day care sector in boosting access to quality, flexible and affordable early ECEC across areas of limited supply, in turn supporting increased women's workforce participation, and importantly, ensuring families have choice in selecting an ECEC type that suits their diverse and individual needs.

Innovative solutions are especially required in the family day care context, given that the sector faces additional workforce and recruitment challenges with the removal of the “working towards Certificate III” provision in the National Regulations.

In relation to **Draft recommendation 4**, FDCA would support governments further considering how the existing regulatory frameworks support and influence the attraction and retention of ECEC educators and workforce, as long as it is also inclusive of the family day care sector.

FDCA is experiencing strong interest from both industry and governments in exploring innovative options for increasing the provision of family day care in regional areas and/or thin markets within existing regulatory frameworks.

We are currently trialling innovative educator and service incentivisation measures with industry in several mining towns in North West Queensland, and we are in similar discussions with the Department of Defence, the South Australian Government, the NSW Government, the Queensland Government and the GrainGrowers Association of Australia.

FDCA also notes that on p. 33 of the second Interim Report, the ACCC refers to *“the impact of training requirements on childcare educators and early childhood teachers, and whether paid placements and scholarships would be appropriate.”*

Among other options being explored, FDCA proposes a paid practicum for Working Towards family day care educators be considered to work in partnership with a qualified family day care educator (and in turn increase ratio and thereby supply). FDCA is currently in consultations with several states and industry partners to explore innovative solutions such as this, with a focus on boosting supply in regional and remote areas.

In relation to **Draft recommendation 6** which proposes that a market stewardship role should be considered for both Australian and state and territory governments in identifying under-served areas and vulnerable cohorts, FDCA would support this, as long as it is inclusive of the family day care sector. From the experience working with our industry and government stakeholders as outlined above, the childcare needs, strategic objectives and child care context vary greatly from state to state, and across geographical areas and need to be addressed by targeted solutions.

Finally, we note that under **Draft recommendation 7** the ACCC supports further consideration of supply-side subsidies and changes to policy settings such as a shift to

direct price controls supported by operating grants for regulated child care providers. Again, this would need careful consideration and thorough consultation to ensure any such measures did not have unintended consequences that might undermine further the viability of the family day care sector.

4.4 Operational costs and the contractor model of FDC

In the analysis of the family day care costs and issues affecting viability in the Interim Report, the ACCC makes some general observations that do not reflect FDCA's evidence, experience or views. As stated above, one of the most significant issues affecting the sustainability and viability of the family day care sector is the lower CCS rate cap applied to family day care compared to centre based care.

While family day care services do, for the most part, derive all or most of their revenue by way of 'levies', the ACCC's assertion that levies are primarily 'educator levies' is an inaccurate generalisation. In practice, levies may also include a combination of family levies, service levies, administrative levies, etc.

In context, declining educator numbers do place viability pressure on services given the levy-based revenue structure, hence the need for consideration of additional supports, like operational funding, in recognition of the critical role of services as 'co-regulator' and in underpinning quality and viability in family day care.

FDCA also disputes the observation the ACCC makes that services face "challenges retaining educators due to the contractor model and find that educators leave the sector for more stable, ongoing employment" (p. 157). This may be the case in some contexts, but it is a vast and inaccurate generalization to allude to this being a key factor in attracting and retaining family day care educators.

In fact, to the contrary, previous research¹⁷ undertaken on behalf of FDCA by independent research agency, Survey Matters, and published in 2019 indicates that the primary motivations for educators to enter the family day care sector is to be able to set up their own business and work from their own home with their own children, choosing the hours that suit their situation. In addition, the research showed a significant proportion of family day care educators had prior experience in the long day care sector and entered family day care to seek the autonomy it provides (as an independent contractor) and the satisfaction of tailoring programs to children's needs and interests as well as incorporating their own educational approaches.

FDCA recently commissioned Survey Matters to conduct research on our behalf on the reasons why family day care educators have left the sector. Preliminary qualitative findings point to financial barriers in setting up a family day care business, the increase in regulatory and administration burden and (the residual impact of) COVID as being significant factors.

4.5 StartingBlocks.gov.au website

A key issue that has been overlooked in the second Interim Report, regarding the Starting Blocks website is that, currently, it does not include individual family day care educators

¹⁷ FDCA, *Attracting the next generation of family day care educators* This research is available at <https://www.familydaycare.com.au/supporting-you/nextgen>.

(10,000+), listing only family day care services (approximately 400, which may have anywhere between 1 – 150 educators registered with them).

Therefore, in relation to the proposals put forward under **Draft recommendation 3**, FDCA maintains that for StartingBlocks.gov.au to fulfill its objective of empowering families to make informed choices with regard to child care services, the information needs to be comprehensive and reflective of the whole ECEC sector, **including family day care educators.**

In its current state, while also inequitably under-representing the family day care sector, information on the Starting Blocks website fails to present a true and accurate picture to families of the available child care options in their local area to allow them to make an informed decision and/or to compare the options of services offered.

5. Conclusion

In closing, thank you again for the opportunity to provide comment on the ACCC's Interim Report and draft recommendations. I trust that our feedback will assist in developing the ACCC's Final Report.

As outlined in the Interim Report, *"the interconnectedness of government supports and policies mean consideration needs to be afforded to the impacts of changes across the sector and relevant markets, and on different cohorts of parents, guardians and children."*

As we have emphasised herein, this should mean considering *the whole* of the ECEC service landscape, in its entirety, including of course family day care. I therefore reiterate my earlier point, that the ACCC recognize and make recommendations that account for the essential role of family day within the current landscape, the unique structural elements of the model that underpin its key strengths, and the significant capabilities beyond existing utilization, and which ultimately support the sector's growth and viability.

Given its very unique capabilities, family day care should be central to all recommendations seeking to improve choice and flexibility for families, and similarly for strategies seeking to improve access to non-standard hours ECEC, across regional, rural and remote Australia, and for specific cohorts of vulnerable and disadvantaged children and families and those with additional needs.

I would appreciate an opportunity to discuss the findings and recommendations relevant to the family day care sector further with you, or one of your team on the Child Care taskforce, to ensure the ACCC's Final Report is accurate and representative of the issues affecting the viability of family day care.

Yours faithfully



Andrew Paterson
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Family Day Care Australia