

Intelligence MEMOS



From: Åke Blomqvist

To: Canadians Concerned about Healthcare

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Re: **BC RULING SHOULD SPARK A REAL CONVERSATION ABOUT PRIVATE HEALTHCARE**

The long-awaited ruling in the Cambie case, Dr. Brian Day's challenge to British Columbia's *Medicare Protection Act*, has upheld the rules that effectively bar private provision of publicly covered medical services.

But it does not say whether suppressing privately funded care, as the act seeks to do, is good policy. It is not. Absent some degree of competition from private care, the Canadian healthcare system will continue to be both expensive and mediocre in comparison with those in peer countries other than the United States.

Like the courts in the 2002 Chaoulli case, the judge in this case, Justice John J. Steeves, found that long wait times for care could be considered inconsistent with the Charter of Rights and Freedoms' guarantee of "the right to security of the person." But he also found that even if the act does deprive some patients of that right, it is not "contrary to the principles of fundamental justice": governments believe it is necessary in order to attain two objectives that the public wants. The first is to ensure that "access to necessary medical services is based on need and not the ability to pay." The second is to protect the publicly funded system, which might not be "sustainable" without laws to suppress "duplicative private health care."

While most Canadians would certainly agree on the point about access, it is not clear whether such a consensus should be taken to imply that suppressing private care is an end in itself. Suppose we have a public system that is well enough resourced and managed so that every Canadian has access to necessary medical care within a reasonable time. Should we still have laws that prevent anyone from buying care privately? In his ruling, Justice Steeves concludes that, based on the wording of the *Medicare Protection Act*, the BC government's answer is "yes." That is, he concludes that suppressing private care is an end in itself, though he recognizes that some observers have interpreted the wording differently.

Is this what Canadians want? Some people do unconditionally support the principle of not allowing privately funded care, as an end in itself. There is, after all, an ideology that holds that access to all goods and services should be strictly according to need, not ability to pay.

But I believe most Canadians take a less extreme view and see the principle as a means to an end: they support a single-payer system because they think that without it those with limited ability to pay might not have access to needed care. If universal access to such care were guaranteed, I suspect most people would not object to allowing rich people to pay for care privately.

The quantity of healthcare is not fixed: Canada has more than enough resources to produce both all the care doctors think is medically necessary as well as additional or faster care for those willing to pay for it.

The argument about sustainability, on the other hand, is based on political assumptions. It suggests that allowing more privately funded care (to go along with the private funding and insurance that already exist for drugs and dental and optometry services) would cause our public system to collapse. Government pays for the public system with tax revenue. The case for suppressing private care rests on the idea that taxpayers will not be willing to support a universal public plan unless it is the only legal channel for anyone, rich or poor, to get healthcare.

The logic of this argument is clear, but it is not true in general. There are many countries, such as Australia, the Netherlands, and even the U.K., in which a government plan guarantees universal access but private care and insurance are available and widely used. Moreover, other programs that help the poor (subsidized housing and cash transfers to low-income groups, for example) are sustainable without the kinds of restrictions that supporters of the single-payer system claim are necessary for healthcare. Australia's mixed model of public and private insurance finances a healthcare system that costs significantly less per capita than Canada's and typically ranks higher in international comparisons. If we left as much scope for privately funded healthcare as the Australians do, there is no reason to believe the result would be a worse system.

Bottom line? We should take the ruling in the Cambie case, not as the last word on public-private competition in healthcare, but as the beginning of a more serious debate about what scope it should take.

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A version of this Memo first appeared in [The Financial Post](#).