

**Response to the**  
**Human Services: Identifying Sectors for Reform**  
**Productivity Commission Issues Paper June 2016**

COPHE welcomes the opportunity to participate in this inquiry as there are constraints on competition arising from inconsistencies in public policy in the higher education sector that have been identified but not yet addressed.

### **The Shape of the Higher Education Sector**

The higher education sector has, since the beginning of 2012, been regulated by the Tertiary Education Quality and Standards Agency (TEQSA). TEQSA effectively replaced State higher education agencies that maintained separate entities for domestic and international education although public universities had not had significant engagement with standards prior to TEQSA. We welcomed a single national regulator and note the steady improvement in quality assurance processes plus the enhanced confidence evident in our Members on the basis of what they achieve for students in higher education.

The power to establish the national regulator arises from the powers the Commonwealth has to regulate corporations. All higher education institutions must be corporations and must be registered by TEQSA in order to deliver higher education in Australia.

Standards for delivery of higher education are established by the Higher Education Standards Panel (HESP) and the Australian Qualifications Framework (AQF) against the both of which TEQSA regulate. This means that all Australian degrees must meet the same standard irrespective of whether they are delivered by a university or another provider.

The sector consists of 37 'public' universities (Table A), 4 'private' universities, 2 overseas universities and 135 other higher education providers (TEQSA Data 2014). The latter include a diverse range in institutional focus extending from higher education 'pathways' into bachelor degrees to specialist and professional colleges with courses that are post-graduate through to PhD. In comparing public and private, the key characteristic of Australian public sector universities is that they are very large by world standards with enrolments averaging 34,000 students yet in the private sector the 138 institutions typically enrol hundreds of students. All our universities are required to be research intensive and, unlike most other jurisdictions across the world, an institution that is teaching focused cannot include the term university in its name.

The shape of the higher education sector reflects the creation of the unified system in higher education by Education Minister John Dawkins in 1988 which took it from a two-tier sector with 19 universities and 46 colleges to a 'unified' one with 36 public universities, following many mergers over the ensuing decade. We note the inclusion of private institutions that had merged with universities and colleges of advanced education even before that. COPHE was originally formed from private institutions that were not included in the Dawkins 'reforms'.

The sector in 2014 enrolled 1.28 million students. The 'public' universities have a 90.4% share and the others 9.6%. The latter had a 2.3% share in 2000 and will be over 10% now.

## Support of Students in the Higher Education Sector

The key issue for higher education institutions, that are not public universities listed in Table A of the Higher Education Support Act 2003 (HESA), is that the Commonwealth discriminates against their students by denying them the same support provided to those students if they enrolled in public universities.

The HESA makes provision for the Commonwealth to provide benefits for students and reflects powers given to the Commonwealth in the Constitution. Under the HESA, which curiously requires that eligible institutions must make benefits and opportunities available equally to all students, benefits are only available to those students enrolling in an institution listed in Table A of the Act. The universities listed are, in fact, all the public institutions that have been around for the last 25 years or more. The so called 'demand driven system' is blind to demand from outside the public universities.

The outcome is that students undertaking undergraduate degrees at public universities currently receive an annual subsidy of ranging in 2015 from \$2,059 for law and business to \$22,472 for medicine and agriculture towards their tuition and, on top of this make a contribution that is capped between \$6,256 and \$10,440 with the latter supported by the Higher Education Loan Program (HELP) but commonly still called HECS. They pay no administration fees on their income contingent student loans.

Students undertaking similar undergraduate degrees at institutions that are not public universities receive no subsidy and pay a 25% fee on top of their loan, which means their debt is doubled or trebled.

We submit that this is inequitable and diminishes choice which leads to optimum outcomes for students as well as limiting diversity of institutional type.

It is important to recognize that we are not proposing institutional subsidies but simply the application of the same public policy treatment for all students irrespective of where they undertake an accredited course that meets their needs.

## Public and Private in the Higher Education Sector

In the executive summary of the *Review of Australian Higher Education* (the Bradley Review) in 2008 it was noted that "*The public-private divide is no longer a sensible distinction*".

The need for reform that would remove the inequity described in the preceding paragraph is evident in the recommendations of the many reviews of higher education conducted over the past twenty years.

The West Review, published in 1998 - *Learning for Life: review of higher education financing and policy* it was noted that one of the problems with the higher education sector was: "*Barriers to competition: entry into the market for higher education remained heavily restricted, with access to government grants and income-contingent loans limited to public university students. This was a major disincentive for students wishing to study at private institutions, as they had to pay the full cost either up-front or through commercial loans. Private institutions also had limited access to self-accreditation, which gave existing universities a competitive edge.*"p.15

The West Review panel made 38 recommendations. The most notable was a gradual move towards a 'student-centred' approach, including access to government grants and income-contingent loans for students at both public and private providers.

Following the *2002 Review of Higher Education in Australia* (the Nelson Review), the Howard Government, under the higher Education Support Act 2003, extended Fee-HELP loans to students enrolling with approved

higher education providers. This was a major breakthrough at the time for institutions that were not public universities. However the imposition of a loan fee, later increased from 20% to 25% by the Gillard government, highlighted the inequity.

The Bradley Review made 46 recommendations including the establishment of a national regulatory body and quality assurance framework and in Recommendation 29 proposed:

*“That the Australian Government introduce a demand-driven entitlement system for domestic higher education students, in which recognized providers are free to enroll as many eligible students as they wish in eligible higher education courses and receive corresponding government subsidies for those students. The arrangements would:*

- *apply initially only to public universities (Table A providers under the Higher Education Support Act 2003), but would be extended to other approved providers when new regulatory arrangements are in place;”* (page xxiii). TEQSA was subsequently established.

In 2014, the Kemp/Norton *Review of the Demand Driven Funding System* observed in the covering letter to the Minister: *“We have also concluded that there are significant further benefits to be obtained by extension of the demand driven system into the sub-bachelor level, and to private universities and to non-university higher education providers in TAFE and the private sector.”* And on page 9 in the Overview: *“Inclusion of private higher education providers and TAFEs within the demand driven system in their own right would give greater scope for new models of higher education delivery, and create more competition with the public universities.*

Equity in support for students choosing private higher education is not a new idea.

## **Improving Equity in Participation**

Discussion about equity in the higher education sector is generally focused primarily on participation by students from disadvantaged backgrounds. Private institutions do make a strong contribution to this both directly and indirectly.

Another aspect, which is counter intuitive given students at private institutions receive no subsidies, is that 16% of students (2014 data) in private institutions are from low SES backgrounds (the figure for low SES is 17.5% at public universities). If private institutions can enrol such a high proportion of students from low SES backgrounds, it is highly likely that equal treatment in student support would encourage a significantly higher percentage.

## **Identifying the Services Best Suited to Reform**

The higher education sector is dominated by 37 public universities that exhibit a sameness arising from favourable government policy that has followed over the decades since the creation of the ‘unified system’ of 36 universities created by Minister Dawkins in 1988.

## **Defining Human Services**

Higher education, indeed each sector of education, is clearly significant in terms of human services.

The Commonwealth Government has already highlighted the higher education sector as an area in need of reform in the 2014 and subsequent budgets and the search for savings and efficiencies as this sector continues.

## **The Roles for Government in Human Services**

Government has long supported higher education and support and development of public universities may arguably be the most important legacy of Sir Robert Menzies. The Hawke Government, in establishing the income contingent loans scheme, commonly referred to as HECS, created a student loan scheme that has been emulated, but not bettered, across the world.

In identifying policy options to improve service provision, with a particular emphasis on using competition, contestability and user choice, student choice and institutional diversity are central.

There are clearly both public and private benefits in higher education and as participation has increased dramatically together with cost to the taxpayer outstripping population growth, sharing costs equally between the Commonwealth and student is a reasonable policy objective.

## **The Benefits and Costs of Competition, Contestability and User Choice**

Higher education, in the context of consideration as a human service already has experience of competition, contestability and user choice.

In the higher education environment where a single regulator assures quality and accountability, equitable support of students will encourage smaller institutions that focus on student outcomes and a level of responsiveness to new opportunities that is restricted under current policy.

Taking into account that private institutions would not call on public funding for capital or access the public funding stream beyond support of student tuition, pressure on the taxpayer would decrease.

## **Informing User Choice**

Information available for students is improving steadily, giving them the opportunity to make informed choices.

In the 2014 Budget the Government introduced funding for the first national and independent survey of all higher education student outcomes called Quality Information for Learning and Teaching (QILT). The first report, surveying student course experience, which included students from private institutions, was released in May 2016 and after September 2016, we anticipate the first measures of employment outcomes for students graduating from private institutions.

An intriguing case study arises from the provision of HECS places in teacher education to four of our member institutions following teacher education and nursing being designated as a national priority in the late 90's. They are something of an anomaly as subsidised places are not available outside this group and then only for teaching and nursing. Their outcomes are interesting however and support the position that students enrolled in smaller institutions, with access to the subsidy provided to students in public universities, will deliver good employment results. Early indications, ahead of the survey results from QILT due later this year, suggest that employment outcomes for teacher education graduates completing their training with our members will exceed those graduating from public universities.

These four institutions receive support (HECs) for their education students but no institutional funding.

## **User Characteristics**

This is covered elsewhere however, essentially private institutions are relatively small, established with private capital that must achieve outcomes for students or they cease to exist as their enrolments sink. Public universities are very large, depend on extensive public investment and have complex missions.

Graduates make a similar contribution to society irrespective of where they study.

## **Supply Characteristics**

Competition between providers can be beneficial because it gives students more choice and increases pressure on providers to achieve student outcomes. There are acknowledged benefits to teaching in smaller cohorts.

In our regulated higher education sector there are only 175 registered providers which is a modest number for our population.

## **The Commonwealth and Higher Education Transactions**

In terms of the nature of transactions, there is little difference in process complexity for the Commonwealth between public and private students and students enrolled in private institutions are already “in the system”.

## **University Title, Regulation and Impediments to Competition**

In Australia we have one model of university, as the Higher Education Standards mandate that all our universities are research intensive. In the name of protecting quality and reputation, our public universities, have ‘circled the wagons’, made sure others cannot access university title and therefore restricted new and innovative competitors.

We do have a classification in the higher education standards for University College, but have not seen even one established in 20+ years. This is because the definition effectively restricts university college title to an institution that is capable of becoming a university with a research profile within five years and means that the use of university in the name of an institution such as a university college is illegal.

Creation of a university college category that means a high quality ‘teaching focused’ institution that embraced scholarship would start to wind back the competitive advantage held by universities.

A further issue is that universities operate under a significantly lighter regulatory regime than non-university institutions. Public universities are autonomous and self-accrediting institutions however to simplistically assume they are low risk models to follow, always meet the Higher Education Standards and represent the gold standard is naïve in the extreme yet they represent the model against which private institutions are judged. While supporting quality assurance under a national regulator, we need to be sure that we are actually delivering what is best and innovative for students which may look different to a main stream university. If the regulator does not appreciate the difference our members face an impediment to competition.

## **Vocational Education and Training and the FEE-HELP Scheme**

It is important to understand that in the period since FEE-HELP support for students in the private higher education sector was legislated in the HESA 2003, and subsequently rolled out to the majority of private

institutions over the ensuing twelve years, there has been no institutional failure displacing students or scandals.

There is simply no parallel in the higher education sector for the policy failures, rorts, regulatory failures and funding disasters evident following extension of FEE-HELP to the VET sector and, in particular, the later removal of the requirement for eligible providers to have documented credit transfer agreements into bachelor degrees at a registered Higher Education Provider.

Any suggestion that support for students in private higher education pose risks, simply reflects university and union self-interest in maintaining competitive advantage. There is no evidence-based research to support such claims. Higher education course design and regulation is very different to the VET sector.

## In Summary

(The following points are a shortened version of those originally made in a submission to the Harper Review)

- The sector is now well placed to benefit from removal of government-induced barriers to competition. The demand driven system that followed the Bradley review has given universities experience of competition for students and the market has become thicker with more private providers entering the market. We now have a national regulator TEQSA which applies equally to both public and private providers.
- There appears to be substantial monopoly rents earned and inefficiencies in existing public universities. Evidence is the cost data assembled for DEWR in 2011 by Deloitte Access Economics.

Evidence is provided by the contracting-out of teaching programs by Swinburne University to a private provider which was able to apparently deliver quality teaching at approximately 20% less than the cost of in-house delivery, with the private provider still making a profit. It is unclear how much of this is due to the (debateable) greater research and community engagement performance of Swinburne and how much is due to inefficiencies flowing from Swinburne's management practices (including adherence to work practices in a union negotiated enterprise agreement) and rents extracted by university managers and other employees (in the form of higher salaries and benefits, etc).

The ability of private providers to enrol students, despite lack of access to government subsidies for their students, additional loan imposts in administration fees plus the infrastructure provided by the government to universities gives the sense of monopoly rents and inefficiency and ineffectiveness in the public universities.

- A very large quantum of resources in contemporary Australian universities is currently wasted through rent-seeking behaviour as a result of the heavy, often unpredictable, and malleable government involvement in the sector. Much of the time of senior management of our universities is currently devoted to trying to guess and influence government policy, game the various government funding schemes and obtain special deals for their institution. This senior management focus is supported by large administrative staffs and expensive information systems. A study by University of Queensland economist Professor Paul Frijters estimated that only approximately 28% of funds allocated by the Commonwealth to higher education reach frontline staff to teach students and carry out research.
- The economic literature on innovation suggests that most productivity improvements and product innovation comes through the entry of new firms. This has been the case in higher education. For instance the now-dominant research university model (at least as far as Australia is concerned) was

introduced into the United States by German trained or influenced university leaders who founded new institutions such as Johns Hopkins University and were followed by more established Universities such as Harvard. Mass undergraduate higher education was introduced into the United States by new land grant colleges such as the University of Michigan or Ohio State University.

- Higher education is a key sector for the Australian economy because improvements in the quality of education or increases in its accessibility create large spill-over benefits for other industries which employ graduates. Education is recognised around the world as being crucial for future competitiveness and national living standards.
- The successful international student market in Australian higher education, a relatively recent development and a great achievement noted world-wide, where 25% of the students in our universities are internationals, is strong evidence of competition driving positive outcomes.

## About COPHE

The Council of Private Higher Education (COPHE) is a peak body representing higher education institutions that are not public universities. The membership is diverse and includes private universities and institutions operating from more than 80 campus locations across Australia. Members vary in student enrolments from under a hundred to a few thousand and include not-for profit and for-profit operations. Courses offered range from pathway diplomas, where non university operation underpin the backbone of the critical international student market in our public universities, through bachelor and master's degrees, often linked to professions and employment, and on to research degrees, including PhDs.

Some COPHE members have been delivering higher education since the 19<sup>th</sup> century and we would observe that many parts of public universities had their origins in private institutions.

COPHE appreciates the opportunity to make this response.

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