

Inquiry into human services

ACTU submission to the Productivity Commission

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INTRODUCTION

The Australian Council of Trade Unions (ACTU) welcomes the opportunity to make a submission to this Productivity Commission Inquiry into human services.

The ACTU is the peak body for Australian unions, made up of 47 affiliated unions. We represent almost 1.8 million working Australians and their families. The ACTU and affiliated unions are active participants in debates around the vital role of the public and community sectors in the delivery of quality publicly-funded services to the Australian community. Throughout this submission the term 'publicly-funded services' will be used. It refers to human services, those delivered by government and through the community sector, which are primarily funded through government grants or appropriations.

The ACTU has significant concerns about an inquiry of this nature, as previous programs to inject 'competition, contestability and user choice' into publicly-funded sectors have often resulted in nothing less than the large-scale outsourcing of previously public or community sector industries to for-profit private providers. This has meant job losses for public and community sector workers, lower quality services and higher costs to consumers. The ACTU has noted that conservative state governments, particularly the NSW state government, are already pursuing an agenda of privatisation by stealth through the use of Social Impact Bonds. These bonds have been used to essentially outsource previously government-delivered services to private providers. The ACTU sees this inquiry as an extension of this trend in the absence of credible evidence demonstrating that quality services are delivered at a lower cost to the community by for-profit providers.

Over the last few decades there has been a steady establishment of a policy orthodoxy that states that profit-driven businesses are always more efficient and better able to deliver outcomes than a well-run public or not-for-profit system. This orthodoxy has developed largely at the will of both conservative governments seeking to reduce outgoing expenditure and of the large businesses that tend to benefit from such arrangements. It is evident in the Terms of Reference that this inquiry eschews an evidence-based approach as to how reform to the publicly-funded services sector might be achieved, and indeed even if it is required, and instead is based on the assumption that the public interest is best served in all circumstances through increased use of the for-profit private sector and of market mechanisms.

The ACTU has long been concerned about this policy approach, not merely because of its significant deleterious effects on the workforce in sectors to which it is applied, but because it typically fails to deliver positive outcomes. Competition, contestability and user choice are not magic wands which can be waved at every sector, they are a set of policy tools among many and yet they are often used with no regard to alternatives or to their suitability for the task. The ACTU does not believe that any publicly-funded services sector would benefit from either the application of these principles to its operation or from the introduction of additional for-profit competition in sectors already operating competitively in the not-for-profit sector. There is ample evidence that competition, contestability and user choice not only fail to deliver the outcomes their proponents promise, but that they also introduce predictable and, at times, disastrous negative outcomes. Even the Harper review on competition, based though it was on the desirability of competition in most avenues of human activity, acknowledged that

'A number of human services serve important social objectives (for example, equal access to education and health services) and users of human services can be among the most vulnerable

and disadvantaged Australians. Because of these characteristics, the scope to use competition or market-based initiatives may be more limited than in other sectors.’¹

This submission will examine the typical outcomes of the application of these principles and the introduction of for-profit providers to publicly-funded services or similar industries. It will also explore both the failure of these policies to achieve their stated aims and the negative outcomes that often are part and parcel with their implementation in these types of industries when private for-profit enterprises are involved.

The submission will then explore a number of Australian case studies of publicly-funded industries where these principles have previously been applied, in whole or in part, and explore in detail the outcomes achieved. The two major case studies will be the Vocational Education and Training (VET) sector, beset by sharp practices and declines in service quality, and the Early Childhood Education and Care (ECEC) sector – where both market failure and poor allocation of resources by private providers are rampant.

The ACTU does acknowledge that there are sectors in community services where not-for-profit providers are delivering effective services in a competitive environment. It is our view, reinforced by the evidence below, that market principles introduce perverse incentives into human service sectors to which for-profit providers invariably respond. It would be as inappropriate, in our view, to introduce for-profit competition into existing competitive not-for-profit sectors as it would be to introduce these market principles into publicly-funded sectors where they do not currently exist. Some examination of why this is the case will also be provided. There is clear evidence from these sectors that for-profit enterprises will focus on the maximisation of profit at the expense of quality and effective services.

It is the ACTU’s submission that no publicly-funded sector would benefit from an increased application of competition, contestability or user choice, either through the application of these market principles to previously public sectors or through the opening up of existing not-for-profit community services sectors to for-profit competition.

COMPETITION, CONTESTABILITY IN PUBLICLY-FUNDED SERVICES

Competition, contestability and user choice are often introduced in sectors where proponents believe they will drive innovation, increase quality and give service users and tax payers better value for money. The relentless pressure on for-profit organisations to compete for customers, revenues and profits, it is argued, makes such firms highly efficient, innovative and responsive to customer demands. This has been the dominant paradigm around privatisation, which is what this process represents, since the 1980s. However, the actual experiences of sectors to which these reforms have been applied has been markedly different. The ideal model of profit-maximising behaviour differs from the real dynamics of how firms often behave when performing work for government.

There is an ever-increasing body of evidence which shows that increased outsourcing to for-profit providers simply fails to achieve the aims for which it is implemented both in the public and private sectors. Deloitte has conducted research into the real experiences of corporations who have adopted an outsourcing business model. Figure 1, below, summarises some of their key findings. The body of their report includes the following observations:

¹ Harper, Ian, Anderson, Peter et al, *Competition Policy Review*, Australian Government, March 2015. pp. 320

a) In many cases outsourcing simply fails to deliver. Deloitte concludes that

‘...contrary to the optimistic portrayal of outsourcing by vendors and the marketplace, outsourcing is an extraordinarily complex process and the anticipated benefits often fail to materialise...The world’s largest organisations in this study are calling into question its efficacy in today’s economy.’²

b) Many corporations report similar types of problems: loss of power, skills and control to the vendor; unexpected costs and charges after contracts have been finalised; significant cost inflation if standardised processes are tailored to particular business needs; operational rigidity imposed by long service contracts; further sub-contracting by vendors that undermines service quality; lack of cost and performance transparency making the benefits of outsourcing difficult to quantify and the contracts difficult to manage; vendors become complacent about quality and targets once a contract is in place.

Figure 1: outsourcing – expectations versus experience



Source: Deloitte³

c) Some corporations have found themselves ‘trapped’ in outsourcing relationships with vendors who underperform and charge more than expected, partly because the costs and risks involved in switching suppliers are regarded as being too great.

d) As a result of these problems two thirds of the large corporations that took part in the Deloitte survey decided to bring outsourced functions back in-house.

A subsequent research report by Deloitte confirmed this trend toward ‘insourcing’, particularly in the field of IT services.⁴ The key drivers that were leading a growing number of corporations to insource their IT included:

1. Cost reduction. Because of unexpected costs and charges, and the additional expenditures generated by dealing with poor quality performance, 77 per cent of survey respondents stated it

² Deloitte (2005), *Calling a Change in the Outsourcing Market: the realities for the world’s largest organisations*, Deloitte Consulting LLP, New York, p. 2.

³ Ibid

⁴ Deloitte (2013), *From Bangalore to Boston: the trend of bringing IT back in-house*, Deloitte Consulting LLP, New York.

was cheaper to bring their IT back in-house.

2. Improve customer service. Voice-based functions, such as customer-facing call centres, had been widely outsourced over the past 20 years. However, service quality declined generating a loss of custom. For some corporations having a high quality in-house call centre function was viewed as a valuable means of cultivating customer loyalty.

3. Improve controls. Loss of control over key business processes was found to have undermined the operational and strategic capacities of companies. They became increasingly uncomfortable that important and commercially sensitive aspects of work were subject to rigid contractual relationships over which they have little direct control.

In the business world outsourcing a function, thereby applying competition and contestability to its delivery, fails to deliver on either the quality enhancements or the cost reductions envisaged. In fact many businesses seem to be reversing those changes in pursuit of those very goals. This has been particularly evident the last few years in the Australian superannuation industry.

The same conclusion has been reached, again by primarily economic or quantitative organisations, regarding publicly-funded services. In many publicly-funded sectors where market based principles have been applied, they have failed to achieve their aims of improved quality or cost-effectiveness.

For example, the OECD has warned that competition between schools can have a negative effect on equality of outcomes, stating in a 2012 report that

‘School choice advocates often argue that the introduction of market mechanisms in education allows equal access to high quality schooling for all...However evidence does not support these perceptions, as choice and associated market mechanisms can enhance segregation.’⁵

The 2009 Programme for International Student Assessment (PISA) results also found that countries that create a more competitive education market, in which schools compete for students and funding, do not systematically produce better results.⁶

In another report, focussed on the introduction of market mechanisms, including competition, to a publicly-funded services sector in multiple countries over 2-3 decades the OECD concluded that there is little evidence that the introduction of market mechanisms is more effective at achieving outcomes than other policy options.⁷

The employment services market was intended to be competitive, with service providers competing to provide the best service to attract job seekers to sign up for their services. What has instead occurred is that providers have consistently delivered the contracted-minimum services to most job seekers and relied on a steady stream of the unemployed entering the system to provide their income. The only true competition is for contracts, each provider spending their effort trying to attract the business of the Department of Employment, rather than the job seekers themselves. The fact that only 1 in 5 jobseekers have, in the past, chosen to

⁵ OECD, *Equity and Quality in Education – Supporting Disadvantaged Students and Schools*, OECD, 2012, pp 64

⁶ OECD, *PISA 2009 Key Findings*, OECD, 2009. pp. 15

⁷ Waslander, S., C. Pater and M. van der Weide (2010), *Markets in Education: An Analytical Review of Empirical Research on Market Mechanisms in Education*, OECD Education Working Papers, No. 52, OECD Publishing, p68.

exercise their right to choose their provider is evidence of the lack of competition within that market.⁸

As will be discussed later in this submission, the introduction of competition and contestability has also resulted in real reductions in quality in VET and in some public hospitals that have been privatised. Even in Early Childhood Education and Care, where quality has improved, this is not considered to be significantly attributable to the introduction of competition and contestability, instead largely being due to the National Quality Framework. These market-based measures appear incapable of delivering the advertised benefits when applied to publicly-funded services, as in VET, ECEC and employment services, when for-profit providers are involved.

USER CHOICE

User choice is equally problematic when applied to a sector in which competition or contestability has been introduced. The ACTU notes that the issues paper which accompanies stage one of this inquiry highlights that user choice only functions in the interests of services users when

‘they are willing and able to make informed decisions about alternative services and providers.’

The issues paper goes on to seek recommendations about which sectors of publicly-funded services might contain such users. This approach by the Commission simultaneously represents an acknowledgement of the weaknesses of choice in a publicly-funded services market and a concerning unwillingness to realise the implications of those weaknesses.

The key issue is the ability of service users to make an informed choice, which requires not only detailed information about the services on offer to be available, but also assumes users have both the time and resources to consider this information and make the optimal decision. The Commission’s attempt to find a sector of publicly-funded services wholly, or even primarily, comprised of these individuals is unlikely to be a fruitful endeavour.

Many publicly-funded sectors, such as education and healthcare, are made up of Australians who cover the full socioeconomic spectrum. Many other sectors, such as community services, are made up primarily of vulnerable and disadvantaged Australians. Any system which relies on the capacity of the users themselves to gather information, analyse that information and then make the best choice is unavoidably biased against vulnerable people. Low-income households often lack the resources to gather all available information, or the time to assess that information properly. Those with limited mobility or access to transportation are often required to select the expedient over the optimum and members of marginalised groups, such as Indigenous Australians or the Culturally and Linguistically Diverse (CALD) often have access to a much smaller range of both information and services from which to choose. This also assumes that it is known what information should be provided to allow consumers to make the best choice – something few sectors so far appear to achieve. A system based on ‘choice’ leaves people experiencing disadvantage either without choice or with limited ability to exercise their choice fully. This is an unacceptable outcome in publicly-funded services, which provide the most needed services to Australians experiencing disadvantage. All this is before we consider the impact that price points, which have appeared in contestable markets such as VET, ECEC, schools, healthcare and aged care have on the ability of people experiencing disadvantage to exercise choice.

⁸ Productivity Commission 2002, *Independent Review of Job Network*, Report No. 21, AusInfo, Canberra.

There is also evidence, particularly from the Australian schools sector, that those most able to make effective use of available information, the well-educated and wealthy⁹, often fail to make optimal choices when given the opportunity to do so. Research has shown that when selecting between public and private schools, the most important factors influencing private school-selectors was the ‘traditional values’ of the school, wearing of a uniform and the traditions of the school.¹⁰ Those selecting private schools were, according to the same study, generally better educated and had a higher career status.¹¹ Yet when presented with all the information available and with the resources to make the best possible choice, school performance was not their top consideration.

The promotion of user choice in a market-based system is often advertised as allowing for the best possible outcome for service users, but in reality it often leaves behind those for whom publicly-funded services are most needed.

PREDICTABLE NEGATIVE OUTCOMES OF COMPETITION, CONTESTABILITY AND USER CHOICE IN PUBLICLY-FUNDED SERVICES

As the previous section showed, the application of these principles often fails to achieve their purpose. In this section we will explore the predictable series of negative consequences for service users, government and communities that occur when for-profit enterprises are allowed to become involved in these sectors through competition and contestability. These negative impacts would occur both in government sectors newly exposed to competitive markets and in pre-existing competitive not-for-profit sectors. Negative outcomes have been experienced both within the Australian context and internationally – primarily the United Kingdom. Privatisation and outsourcing has been applied extensively across the UK public sector since 1980. It has also been subject to repeated examination by academics, research organisations and think-tanks. Through this process, as well as Australian experience, a number of predictable behaviors undertaken by for-profit providers to distort or exploit the competitive market have been identified.

Sharp practices, the deliberate gaming or rorting of a system by service providers, often accompany the introduction of competition and contestability to publicly-funded services markets. This has been evident in a number of previously privatised publicly-funded services sectors, but none more publicly than in VET and employment services. Under Job Services Australia, there was such widespread gaming of a particular payment type, and therefore fraudulent claiming of public money by the organisations involved, that the entire payment classification (Provider-Brokered Outcomes - PBO) was removed from the system in July 2012.¹² A 2012 Department of Employment review found that when employment services providers were asked to review their own claims, they admitted that 17.4 per cent of their PBO claims had ‘not met the requirements’ for payment.¹³ This already staggering figure is dwarfed by the Department’s own numbers which, although claiming they had reviewed only those claims most at risk of being fraudulent, found that 73 per cent of the reviewed claims were either invalid or lacked documentary evidence and were unable to be confirmed.¹⁴ The Department, through this

⁹Australian Council for Education Research, *Why parents choose public or private schools*, ACER, 2004

¹⁰ Ibid

¹¹ Ibid

¹² Department of Education, Employment and Workplace Relations, *Job Services Australia Brokered Outcomes*, Australian Government, 2012.

¹³ Ibid

¹⁴ Ibid.

limited audit (only 2375 claims) and the larger self-audit by providers (13,595 claims) recovered over \$5.5 million in tax-payer dollars.¹⁵ These issues occurred under Job Services Australia, since replaced by jobactive, although with no real evidence that provider audits have been increased. Jobactive has also been identified by some stakeholders as incentivising providers to ‘cream’ job seekers most likely to achieve outcomes while ‘parking’ the most disadvantaged people at the lowest service level. In this way providers will make the largest possible profit from the ‘easy’ cases and ensure they spend as little as possible on job seekers who need the most assistance but who are unlikely to be profitable.¹⁶ The short time jobactive has been in operation has made judging whether this is indeed occurring difficult. UK employment services have also had issues with both ‘creaming’ and ‘parking’ and found that when fee and incentive structures are changed to better align policy intent with outcomes, strong incentives are then created to game the system in other ways, such as falsifying claims, overcharging and misreporting costs.

These issues have been, if anything, rife in the VET sector. There have been innumerable reports of private VET providers pressuring vulnerable students to sign up to courses they have no capacity to finish¹⁷, using incentives (such as laptops and Ipads) and unscrupulous agents to encourage people experiencing disadvantage to take out VET-FEE HELP loans they are unable to repay¹⁸, providing low quality training to students¹⁹ and allegedly using the VET system as a method to line their own pockets at the expense of students and workers.²⁰ These issues will be more fully explored in the case study of the VET system later in this submission.

Sharp practice have also been identified as a common issue in the UK, such as the deliberate underpricing of tender bids in the expectation of charging excess costs at a later date. Other aspects of ‘contract gaming’ involve using contract opacity and complexity to disguise additional costs and charges that will only become apparent once the contract is fully operational. Another is relying on changes in government policies, and the resulting need to vary contract terms, to charge high variation fees well in excess of the real cost of implementing such variations. In sum, the UK has shown that experienced corporate contract negotiators rely on the relative inexperience of public sector managers to insert loopholes and ambiguities in contract provisions that will significantly increase profitability once a degree of vendor dependency has been established. The experience of introducing for-profit competition and contestability to publicly-funded services markets can perhaps best be summarized through evidence a contracted employment advisor gave in the UK to *The Institute for Government*.

‘If providers cannot make money by doing the thing you expect them to do, then they will make money by doing the things you don’t want them to do.’²¹

¹⁵ Ibid

¹⁶ Brotherhood of St Laurence, *Reponse to Employment Services 2015-2020 exposure draft*, BSI, 2014. pp23

¹⁷ Atkins, Michael & Branley Alison, *Careers Australia: Whistleblower claims private college paid him ‘hush money’*, ABC News Online, July 2016. <http://www.abc.net.au/news/2016-07-14/whistleblower-claims-careers-australia-paid-him-hush-money/7626322> accessed 18 July 2016

¹⁸ Bachelard, Michael, *Dodgy Vocational College using laptop lure despite government crackdown*, SMH Online, Nov 2015, <http://www.smh.com.au/national/dodgy-vocational-colleges-using-laptop-lure-despite-government-crackdown-20151120-gl47bq.html>. Accessed 15 July 2016

¹⁹ Bita, N., “Childcare colleges marked as failures”, *The Australian*, 10 November, p. 3

²⁰ Bagshaw, Eryk, *Unique International College: CEO Amarjit Sing Transferred \$22m to family account in a day, court told*, Canberra Times Online, July 2016

<http://www.canberratimes.com.au/national/education/unique-international-college-ceo-amarjit-singh-transferred-22m-to-family-account-in-a-day-court-told-20160713-gq4wtv.html>. Accessed 14 July 2016

²¹ Gash, T. et al (2013) *Making Public Service Markets Work*, Institute for Government, London, pp. 50

Vendor dependency arises when the bargaining power in a contract shifts toward the contractor. This occurs for a number of reasons. Over time, as the contract matures, it is common for the government department to lose the internal skills and knowledge it needs to effectively monitor, check and evaluate the activities of the contracted service provider. This can make it difficult for the government to challenge the alleged necessity of cost increases or other changes to the original contract terms.

Vendor dependency is not a natural or accidental by-product of privatisation and outsourcing; it is actively cultivated by vendors. It has become common to under-price bids for government tenders, on the basis that once they are won and the government department becomes reliant on the service provider, costs can be significantly increased at a later date. In the words of one public sector contract manager in their evidence to the Institute for Government research:

'After two years of contracts, the costs go ballistic.'²²

Contracts often make it difficult to question claimed changes to cost structures, and government managers are often wary of incurring the additional expenses and risks to services and reputation that can accompany the early unilateral termination of contracts.

In the UK, experience has shown that government departments, when faced with escalating costs and poor performance, persevere with established service providers, partly because they have become reliant on the knowledge and goodwill of their agents and do not believe changing providers is a practical or cost-effective option.

Related to vendor dependency is the tendency toward the **concentration of service provision**: the reduction in the numbers of firms able and willing to participate in markets for particular government contracts over time. This effect also tends to occur first in thin markets, such as regional and remote areas, where the market is not sufficiently large to support more than a single provider, or is so small that it relies on a provider to have the ability to offset local losses in other areas. This makes this a particular concern in publicly-funded services, on which people across Australia rely.

Despite widespread expectations among policymakers and economists that privatisation and outsourcing would result in government simultaneously promoting and benefiting from competition the reality has been the emergence of oligopolistic markets dominated by a small number of large and powerful corporate providers. In the UK the markets for a wide range of 'back office' and 'frontline' services has become dominated by four multinational corporations: Atos, Capita, G4S and Serco.

A recent assessment of the power of these corporations by the UK National Audit Office (NAO) found that many within government who had come to rely on their knowledge and scale now regarded these major providers as 'too big to fail'.²³ These companies have become so central to the provision of services that government now has an interest in ensuring their viability and profitability as providers, substantially weakening the bargaining power of public sector contract managers and effectively ensuring the continuous renewal of major contracts.

²² Gash, T. et al. Op. Cit. pp. 13.

²³ National Audit Office (2013) *The Role of Major Contractors in the Delivery of Public Services*, The Stationery Office, London, p. 10.

The NAO also found that it was impossible for contract managers to judge if these companies were receiving a reasonable fee for their work because they refuse to supply the information needed to reach informed conclusions. There was a pervasive lack of transparency which made it impossible for contract managers to negotiate and manage contracts in the interests of taxpayers and service users.²⁴

This is the logical result of contracting to profit-maximising companies. On the government side, a key driver of contracting is to secure lower immediate costs. This generates strong preferences for large contractors who can offer significant economies of scale. On the provider side, all profit-maximising corporations routinely implement product, pricing and acquisition strategies with the intent of reducing or eliminating competition. Such trends are common for all major for-profit providers of publicly-funded services, reducing competition for contracts while enhancing their status as being ‘too big to fail’.

THE NOT-FOR-PROFIT SECTOR

As acknowledged at the beginning of this submission, the ACTU recognises that there are a number of areas in the community services sector where not-for-profit providers are operating effectively and delivering quality services in competitive environments.

The ACTU believes that these sectors are able to operate effectively, and avoid the poor outcomes outlined above, due to the nature of the not-for-profit organisations of which these sectors are primarily comprised. Without the drive for profit, these providers are not susceptible to the perverse incentives that competitive markets create. However the ACTU does not believe that these sectors are a success due to the market environment in which they function; instead it is due to the work and dedication of the staff of these organisations. While their not-for-profit nature means that these sectors avoid the negative repercussions observable in sectors experiencing for-profit competition, it is questionable whether competitive markets benefit either these organisations or users of the sector.

Competition and contestability introduce additional costs through expensive tendering processes, increased administration and contract audit costs, and a need to undertake marketing activities. This moves resources away from service delivery and towards marketing and administration. This issue is particularly prevalent in sectors such as aged care where community sector providers have already been forced to compete with for-profit organisations. In these sectors the for-profit providers engage in all the behaviour identified above to enhance their market share and not-for-profit providers are required to spend money to attract business instead of providing care. Not-for-profits in the community sector continue to deliver quality and effective services in spite of the difficulties created by competitive markets, not because of them.

If for-profit providers were introduced to these markets or rules were changed to allow them a greater share of the market, they would react to the perverse incentives introduced by market principles and these sectors would begin to see the drops in quality and negative outcomes outlined above. These sectors provide services to the most disadvantaged and vulnerable Australians and need protection from hawkish for-profit providers. The ACTU would absolutely oppose the introduction or increase of for-profit competition in these sectors, as it does the introduction of competition and contestability to any currently government-delivered sectors.

²⁴ Ibid

For additional information on the effect the introduction of profit-seeking private enterprise would have on the community services sector, as well as responses to the specific queries raised in the issues paper, the ACTU would direct the Commission to the submission from the Australian Services Union, which we fully support.

SUMMARY

The introduction of for-profit providers and market principles to publicly-funded services has shown in the past, both in Australia and internationally to be ineffective and misguided. Expected outcomes are not delivered, as governments find cost savings are not realised and foreseen increases in quality fail to materialise due to perverse incentives and a 'race to the bottom' ideology amongst for-profit providers. Meanwhile sharp practices defraud the tax-payer and for-profit private contractors work to increase vendor dependency and supplier concentration to ensure that government, once its mistake is realised, is unable to reverse its direction.

Further application of these principles to publicly-funded services sectors or the addition of for-profit competition to already 'marketised' sectors would represent nothing less than the triumph of ideology over evidence. Any perception about the need for reform in these sectors, achievable in many cases through the re-funding of the public or community institutions providing services, should not be seen as an opportunity to attempt to continue to implement a failed agenda of marketisation and reliance on for-profit providers.

CASE STUDIES

The case studies below are examples of Australian public service industries that have already suffered from the application of 'competition, contestability and user choice'. They are by no means the only examples, merely those chosen to illustrate the broader points outlined above.

VET

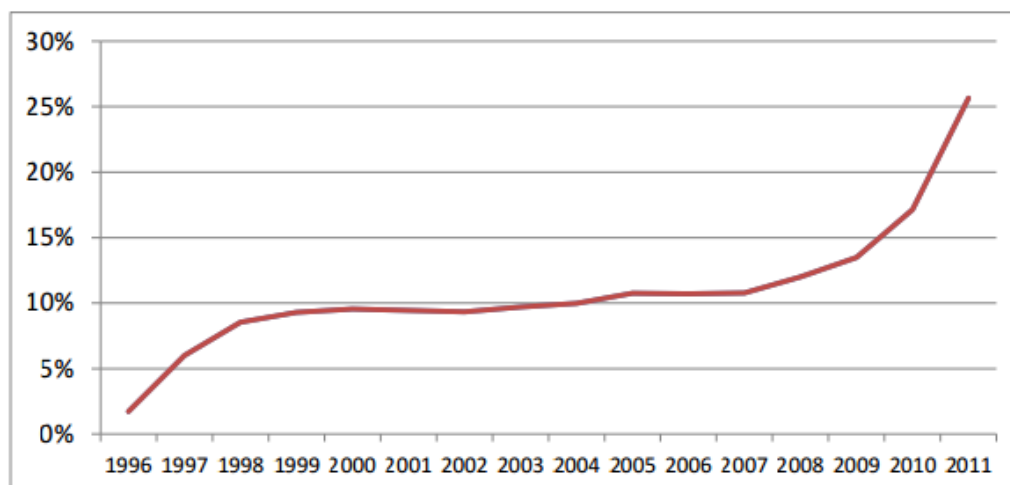
Government policy in VET over the last 20 years has encouraged the proliferation of private, for-profit training providers as access to public training dollars has opened up. As at 30 June 2014, there were a total of 4664 registered training organisations in Australia, with more than 2000 delivering publicly-funded VET.²⁵ This includes the 59 public TAFE Institutes.

The long-term shift to private VET provision is demonstrated by the graph below that is drawn from work by Dr Phillip Toner.²⁶ The graph shows that from 1996 to 2011 the share of enrolments in publicly funded VET in the 'other provider' category, which is 80 per cent private providers, increased from 1.7 per cent to 26 per cent. There were around 400 000 publicly funded students in private providers in 2011, which Dr Toner estimates to represent around \$900m in public funding. Each of the major inflection points corresponds to a change in public VET policy which increased the scope for private delivery of publicly funded VET.

²⁵ Australian Skills Quality Authority Annual Report 2013-14, Commonwealth of Australia, 2014, p. 18; 2013 Students and Courses, NCVET, 2014, p.7.

²⁶ Toner, P., Contracting out publicly funded vocational education – a transaction cost critique; An unpublished paper delivered to a Political Economy Department Seminar 25 March 2013

Figure 1: Proportion of annual publicly funded VET student enrolments in 'Other registered training providers'. Australia.



Source: NCVET (2011) *Historical time series of vocational education and training in Australia from 1981*, Table 10 and NCVET (2012) *Australian vocational education and training statistics: Students and Courses*, Table 15. Note, similar trends apply whether student enrolments or hours of publicly funded training delivered is used.

The shift to private VET provision has become more pronounced in recent years, combined with the move to entitlement funding models and VET Fee-Help arrangements. There have been a number of disturbing implications that flow from this increasing access, and the ease of access, that private training providers have to the pool of public funding.

The first, clearly, is that the access to public funding has attracted a number of unscrupulous providers motivated by the opportunity to make money, rather than any genuine focus on education and skills development. Mitchell describes well the thought process of opportunistic training providers:

“Together with a few cashed-up mates, none of whom need to be educators, we will create a registered training provider that offers courses only online, enabling us to maximise our profits by eliminating expensive infrastructure such as classrooms and libraries. Also, we can save on teachers’ salaries because the online training program needs to be prepared only once, with very occasional updates if the training package changes. And the programs can be designed to minimise the need for active interaction between a teacher and student”.²⁷

In order to attract the students who in turn attract the public funding, private providers are encouraged to focus more on the marketing of courses and signing-up students, rather than serious attention to the quality and rigour of the training being provided.²⁸ In some reported cases, these marketing efforts become predatory behaviour targeting vulnerable students.²⁹

²⁷ Mitchell, J., “Web of deceit”, *Campus Review*, 24 February 2014.

²⁸ For example, the Productivity Commission Discussion Draft: *Impact of COAG reforms*, December 2011, at paragraph 36 notes that increased competition does: “imply a need for greater investment in marketing and advertising to appeal to students, increasing the importance of staff associated with these functions within the workforce...While the VET sector already comprises professional with such skills, it may require proportionally more of these workers in the future...”

²⁹ See for example, evidence from the 2014 House of Representatives Inquiry – *TAFE: an Australian Asset*, pp. 126-130,133; and Bitá, N., *Carpetbaggers targeted by private training probe*, *The Australian*, 26

The costs to students have also risen significantly under the market model. There are regular reports of courses being offered up to five times more the cost of equivalent courses at TAFE.³⁰ Reports of courses costing upwards of \$30 000 are becoming more commonplace. To take just one example, a quick scan of a sample of private RTO websites shows that a Diploma of Hospitality of 1.5 years duration can cost up to \$20 000, a Certificate IV in Commercial Cookery \$15 000 and \$10 000 for a certificate III in Commercial Cookery. Price increases were evident from the early experience in Victoria where VET-Fee Help was first introduced. Standard fees for diplomas tripled to \$2500 when loans were introduced there from mid-2009, while government subsidised diplomas in other jurisdiction were less than half that amount in most cases (\$990 a year in Tasmania, \$1212 in Western Australia, \$1350 in the ACT and \$1570 in NSW).³¹ Between 2012 and 2014 VET student fees and charges increased 14.3 per cent.

Moreover, the evidence from organisations like the Consumer Action Law Centre is that students are not being properly informed about the debt they would incur or about the course they are being sold.³² Only later do many find out they have undertaken a course they are either not suited to and/or does not give them the skills they need in the labour market. By then, they have a large debt hanging over them even if they never reach the salary threshold for repayment.³³ The Workplace Research Centre report makes the point that many VET qualifications lead to occupations where wages fall below the current threshold so there is little realistic prospect of repaying the loan.³⁴

This is particularly damaging when considered in the context that VET participation tends to be highest in low socio-economic areas and also that VET educates a large contingent of Indigenous students, students with a disability and CALD students.³⁵ Increasing course fees raises the prospect of low-paid and vulnerable Australians, many of whom are understandably averse to taking on a large debt, being deterred from undertaking further education and training.

The marketisation of the VET sector has also resulted in a significant increase in costs to the federal government for little tangible benefit. In 2009, \$25 million was spent on VET Fee-Help payments across 37 providers; by 2014, that figure had blown out to \$770 million across 194 providers eligible to offer VET Fee-Help. The evidence is that more than 75 per cent of the expenditure under VET Fee-Help in 2014 has gone to private providers and 72 per cent in total over the five years the scheme has been running.³⁶ The budget papers forecast the number of students with VET Fee-Help Loans to treble from 87 700 to 263 500 in 2017-18.³⁷ An expansion of the market would be viewed positively if it was resulting in higher number of graduate of

November 2014, p. 5, *Bachelard, Micael Dodgy vocational colleges using laptop lure despite government crackdown*, Sydney Morning Herald, 22 November 2015

³⁰ Ross, J., and Loussikian, K., "Vocational loans go through the roof", *The Australian*, 1 October 2014, p. 31, see also evidence from the 2014 House of Representatives Inquiry – TAFE: an Australian Asset, pp. 126-130,133

³¹ Ross, J., and Loussikian, K., "Vocational loans go through the roof", *The Australian*, 1 October 2014, p. 31; and Yu, S., & Oliver, D., "The Capture of Public Wealth by the For-Profit VET sector: a report prepared for the Australian Education Union", Workplace Research Centre, 2015, p. 16.

³² Jacks, T., "Concern at online course dropouts", *The Saturday Age*, 17 January 2015, p. 17.

³³ Commonwealth Treasury have predicted that one in four will never pay back the taxpayer loans – Bitá, N., "Cash for trade skills used for hypnotherapy", *The Australian*, 27 November 2014, p. 5.

³⁴ Yu, S., & Oliver, D., "The Capture of Public Wealth by the For-Profit VET sector: a report prepared for the Australian Education Union", Workplace Research Centre, 2015, p. 15.

³⁵ 2013 Students and Courses, NCVET, 2015, p.6

³⁶ Answer to Question on Notice, Industry Minister Ian Macfarlane

³⁷ Ross, J., and Loussikian, K., "Vocational loans go through the roof", *The Australian*, 1 October 2014, p. 31

quality training, but this does not appear to be the case in many circumstances. Nationwide approximately 20 per cent of VET-fee help students complete their qualification, partially due to private-providers whose completion rates can be as low as 6.5 per cent.³⁸

Quality has also proven to be a significant issue in the 'marketised' VET system. The model of market-driven contestability, combined with entitlement funding and VET fee-help, has created the conditions giving rise to low quality provision of publicly-funded VET.

One of the most commonly reported problems is that of courses that are clearly too short, being delivered in a fraction of the time they are delivered by reputable providers. In the construction industry, ASQA investigated the delivery of the introductory safety training for the industry – the 'white card'. It found the 12 RTOs delivering the vast bulk of white card training all delivered and assessed the training online. The Industry Skills Council for the sector recommended six hours for the white card training, but ASQA research found the RTOs using online delivery all had training and assessment strategies of four hours duration or less, with most people completing training and assessment in less than one hour, some as little as 30 minutes. In total, some 75 per cent of White Card training providers were found to be not compliant with the standard relating to assessment practices. The result of all this, the review found, was industry has lost confidence in the value of the White Card to assure workplace safety for new entrants to the construction industry.³⁹ Similar findings were made in aged care, where 70 per cent of RTO providing less than the recommended hours of training. Over 50 per cent the courses provided less than half the recommended hours.⁴⁰

Quality issues are not confined to single qualification or area however. The 2013-14 ASQA annual report provides further evidence of poor quality provision. It found that three out of four training colleges have given students sub-standard training or questionable assessments i.e. non-compliance with the core regulatory standard for quality training and assessment. More than one in 5 still could not comply after a further 20 days. Only 20 per cent of 1515 colleges audited complied fully with national standards in 2013-14. The remaining 80 per cent had at least one case of non-compliance, ranging from minor concerns through to serious failures with training and assessment.⁴¹

The VET market, since the introduction of competition, contestability and user choice has seen significant drops in quality, cost increases to students, tax payers and government and innumerable accounts of sharp practices from private VET providers. The introduction of market principles has had a corrosive effect on the system and on service users. There is little in this experience to recommend the application of these principles to other areas of publicly-funded services.

ECEC

The ECEC sector has, over the last 30 years, increased in size significantly. Along with the size increase, there has also been a shift from an industry which was largely serviced by the community sector to one in which for-profit organisations hold significant market share. The

³⁸ Bagshaw, Eryk, Op. Cit

³⁹ AQSA, *Training for the White Card for Australia's Construction Industry*, Australian Skills Quality Authority, 2013

⁴⁰ AQSA, *Training for aged and community care in Australia*, Australian Skills Quality Authority, 2013

⁴¹ Australian Skills Quality Authority Annual Report 2013-14, pp 26-28

experience ECEC in Australia is salutary, illustrating the impacts of marketisation of publicly-funded services.

Up until the 1970s, childcare was essentially a voluntary service delivered predominantly by non-profit entities. The Federal Child Care Act 1972 was a response to women's increased presence in the workforce and the conception of childcare as a feminist issue, and allocated \$6.5 million in its first year to non-profit organisations to deliver centre-based day care for "children of working and sick parents." A community child care movement emerged, which offered care that was federally funded, community-controlled and regulated at the state-level.

From this period on, a number of changes occurred in the ECEC sector that significantly increased the rate and scale of the sector's marketisation.

- In 1991, reforms under the Hawke government offered government subsidies to private for-profit operators. No caps were placed on the number of centres that private operators could set up nor on the subsidies they could claim. This resulted in community-based services losing nearly 30 per cent of market share.
- In 1996, the Howard government abolished operational subsidies for non-profit operators and in 2000 a Child Care Benefit (CCB) payable directly to centres, was introduced. This saw an increase in fees and a stagnation of wages and conditions for the workforce.
- Also in 2000, the for-profit corporation, ABC Learning, was listed on the ASX. Its rise was meteoric: going from 43 centres in 2001 to 660 centres in 2005, and 1,084 in 2007. By 2006, at its peak, ABC operated 25 per cent of all childcare services in Australia. ABC also placed downward pressure on the regulation of the sector, pursuing extensive lobbying and waging expensive litigation against paltry fines issued for alleged breaches to the Children's Services Act to avoid liability over incidents in its centres.
- In 2007 the company nosedived, unable to service its \$1.8 billion debt. ABC went into receivership in November 2008 and was delisted. At the time of its receivership, it was responsible for the education and care of 120 000 Australian children, the employment of 16 000 educators. Just before its collapse the company released a statement for the year ending 30 June 2008 which revealed losses in excess of any profits ever made by the company. A federal government buy-out was required.

The policy settings designed to foster marketisation led to vulnerability, drove down standards and investment, caused fees to increase, endangered children's care, and cost the taxpayer millions. While ABC Learning has ceased to exist, the environment that allowed it to exist continues.

Quality has not been increased through these changes, largely due to failures of the market principles. Choice is unable to function, or 'drive quality', in a system where undersupply is a chronic problem, particularly in metropolitan areas, and thus parents are unlikely to change providers. Changes are also reduced by reluctance on the part of parents to disrupt their children's relationship with their ECEC educators. High real estate costs also function to prevent smaller services from competing in metropolitan areas, meaning that parents often have a choice between a few similar corporate operators. There have been improvements in quality over the last few years have been gained through the introduction of the National Quality Framework in spite of, not because of, privatisation.

Efficiency, often the primary attribute ascribed to corporate providers, has also failed to eventuate. This sector continues to experience significant supply and demand issues, with over-

supply in regional areas and supply shortages in rural and metropolitan areas. For-profit private operators run centres in areas in which they can secure high occupancy rates and high fees, resulting in the need for the government to provide additional subsidies such as the Budget Based Funded Programme (BBF) to fund remote and mobile services. For-profit operators feel no obligation to service the needs of the community and deliver only the most profitable services, which in light of low staff-to-child ratios in lower age groups, means that families often struggle to secure a place for babies between 0 and 2 years of age.

The market has also shown no interest in reducing costs, either for government or for the service user. For example, in 2008, when the Australian government announced that it would lift the CCR from 30 per cent to 50 per cent, ABC responded by lifting fees by \$12/day – ten times the typical increase. Government expenditure on ECEC increased from \$1 billion in 1999 to \$2 billion in 2007 during the peak of ABC Learning. In 2016-17, we will spend more than \$8 billion on ECEC, an amount that will likely exceed \$11 billion in 2018, if not earlier. This increase in spending has shown that transitioning to a competitive market with for-profit providers has not delivered cost savings in this sector.

Marketisation of the ECEC sector has failed to deliver any of its touted benefits, leaving the government with increasing costs in a sector over which it exercises little real control and service users and workers significantly worse off.

Short case study - Port Macquarie Base Hospital

In July 1991 the NSW Government announced that the new Port Macquarie Base Hospital would be designed, built and administered by a private company. This would be a private hospital that treated public patients. The experiment of privatising health care was not a successful one and the NSW Government was forced to buy the hospital back (at a significant loss) in 2005.

During its 20 year operation, the State Government paid a monthly 'availability' charge to the hospital, totalling about \$243 million, plus capital servicing and other charges. In 1996, after just two years of operating, the Auditor-General claimed 'the government is in effect paying for the hospital twice and giving it away'.

Not only did the economics of the privatised hospital not add up, the services provided to the people of Port Macquarie suffered. The NSW Nurses and Midwives Association noted that the hospital was not built to the Australian hospital standards and had smaller rooms, narrower corridors and fixtures that could be removed and used as weapons.

Staffing at the hospital was subjected to cost-cutting. Nurses had their salaries cut and eventually the registered nurses were replaced with enrolled nurses. It was clear to patients, the community of Port Macquarie and the Government that the private owners weren't interested in patient care as much as they were in making profits.

Issues of accountability and transparency also arose in the hospital. The independent board that was set up to oversee the operations of the hospital became more of an advisory committee and community voices were not acknowledged.

In 2005 the hospital was bought back by the Government at the cost of \$29 million plus \$6 million of employee liabilities.

The original decision of the NSW Government to privatise the Port Macquarie Base hospital was driven by ideology and a belief that it would be more cost effective to the Government. The failed

experiment of a privatised Port Macquarie Base Hospital was an example of the quest for 'financial efficiency' clouding the best interests of service users.