



**National Tertiary Education Union (NTEU)**

**Response to the**

**Draft Interim Report from the Productivity  
Commission Inquiry into the National Agreement on  
Skills and Workforce Development**

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## **The National Tertiary Education Union's response to the Draft Interim Report from the Productivity Commission Inquiry into the National Agreement on Skills and Workforce Development.**

The National Tertiary Education Union (NTEU) represents over 31,000 people working in Australian tertiary education and research including professional administrative, clerical and technical staff working at Victorian TAFE institutes.

The Union has been an active campaigner in the vocational education section in Victoria, advocating on behalf of our member's for improved industrial conditions and in promoting their interests more broadly.

The NTEU notes that this Inquiry is based on the premise that the National Agreement for Skills and Workforce Development (NASWD) is overdue for replacement and governments at both state and federal level want to increase participation within the various vocational education and training (VET) systems. The NTEU supports the goal of boosting participation in the sector; we believe that vocational education has an important role within Australia's tertiary education system and is integral in our approach to workforce training and skills development. For this reason, we are deeply concerned at the Commission's predilection in the discussion paper for a 'free market' solution for VET. Our view is that a market based approach ignores the multiple failed experiments of a competitive VET system that numerous governments have introduced over the years; each time resulting in the undermining of public TAFEs, a fall in both course quality and skills production and the outrageous roting of both students and government funding with unscrupulous providers charging excessive fees, and either under delivering or not delivering at all.

While the discussion paper poses a number of specific and technical questions, the NTEU believes that the premise for these questions needs to be addressed before the details can be debated. As such, the Union has four main points that we will make in our submission:

- The market driven approach to VET is dangerous and has failed in the past.
- There needs to be a revision of the regulatory framework that sees consistency across both the VET and higher education sectors
- Any funding model for the VET sector should prioritise TAFE at the centre of the training system.
- All students should have the right to attend a well-funded, high quality public provider, and funding should reflect this objective.

### **The need for reform and past approaches**

As noted, the NTEU is in agreement that vocational education reform is long overdue. However, we are disappointed to see that the Commission's proposal, once again, centres around a competitive market, when evidence has been that this approach simply does not work.

In 2018, Professor John Quiggin in an examination of the state of Australian vocational education and training (VET) concluded that it "is in crisis". As evidence he cites:

- declining enrolments in traditional on-the-job training through apprenticeships and traineeships,
- the slashing of public funding for Technical and Further Education (TAFE) resulting in the closure of many TAFE campuses and large-scale job losses,
- billions of dollars being wasted on ideologically driven experiment in market competition and provision by for-profit providers and
- the rorting of the VET-FEE HELP scheme where some for-profit providers “have been exposed as essentially fraudulent, exploiting government subsidies and leaving students with worthless qualifications”.

We are alarmed at the seemingly endless attempts to further cement a market driven approach to vocational education system, when it is obvious that this, quite simply, does not work.

According to Anne Jones, writing for the Centre for the Study of Higher Education (CSHE) at Melbourne University:

*The crisis in Australian vocational education is more than a funding, marketisation or system design issue: it is a question of the fitness of our vocational education model for our times.*

She reminds us that the current market based approach to VET funding and regulation is a direct descendant of the Training Reform Agenda introduced in the 1990s. Jones notes that this followed what she refers to as the ‘golden age’ for TAFE as a result of the 1974 Kangan Review of Technical and Further Education which she says “*envisaged what was then, largely, TAFE as an education sector, equal to universities and colleges of advanced education, focusing on access and lifelong vocational education to enable individuals to fulfil their potential and for the broader benefit of society.*”

The Training Reform Agenda (TRA) was not limited to the regulation and funding of VET but also involved significant changes to the philosophy and pedagogy underpinning VET. Jones notes that the:

*“TRA worked to reduce the influence of teachers and educational thinking through deliberate suppression of educational language and oversight of curriculum development. Curriculum was replaced by training packages, learning outcomes became elements of competence, assessment criteria became performance criteria, responsibility for the development of qualifications was transferred from educators to industry”.*

The other overarching theme underlying the changes in VET from the mid-1990s was the move toward a national training system (noting of course, that the Productivity Commission has determined that the current National Agreement for Skills and Workforce Development (NASWD) is now in need of revision). According to an overview article of various jurisdictional approaches to VET, Bowman and McKenna said this involved “*the development of three strategic elements: national frameworks for vocational education and training (VET) products; national standards for providers; and the development of a national training market.*”<sup>1</sup>

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<sup>1</sup> Kaye Bowman and Suzy McKenna (18 January 2016) [Jurisdictional approaches to student training entitlements: commonalities and difference](#). NCVET Research Report

The move to a national training system was accompanied by the provision of some Commonwealth growth funding which was made available on the condition that a certain portion of funding be made available to private non-TAFE providers, thus opening the door to private, for profit training providers receiving public funding. The emergence of the fully contestable funding framework between TAFE and private providers, under the guise of student entitlement model, came into full fruition under the Victorian Brumby Labor government's *Securing Jobs for Your Future* reforms in 2008. This full contestability was further encouraged and facilitated by the Commonwealth Labor government expanding access to income contingent loans (VET-FEE-HELP) that allowed more VET students to enrol with private providers by removing the necessity for these providers to have credit transfer arrangement with universities. As Bowman and McKenna document, this framework has now migrated, in one form or other, to all States and Territories.

In summary, the current state of VET has evolved over last three decades with a shift in emphasis to a market based regulatory and funding framework together with competency based training.

However, all the evidence shows this market based experiment to have been an unequivocal policy failure.

The NTEU has undertaken an extensive analysis of the impact of the introduction of fully contestable markets in the VET sector, with particular reference to Victoria. Below we outline the Victorian experience as a case study on why opening the VET sector to a fully market driven model fails to deliver the outcomes that were intended; namely a competitive system that provides students with more choice and improved quality of training, with better skills outcomes.

### **CASE STUDY: The failed Victorian experiment - a fully deregulated VET market**

The Victorian Government's 2008 *Securing Jobs for Your Future* policy introduced a student-demand driven system in which public funding was fully contestable between public TAFE institutes and private providers for the delivery of VET. The primary objective of the Victorian policy was to increase the number of people undertaking training in areas and at levels where skills are needed for the Victorian economy.

On one measure, the policy was successful. According to data from the National Centre for Vocational Education Research (NCVER), the total number of students enrolled in VET in Victoria increased by 31.8% between 2008 and 2012, compared to 7.3% for the rest of Australia over the same period.<sup>2</sup> Crucially, virtually all of this expansion was a result of increased enrolments in non-TAFE providers, whose market share increased from 10% to

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<sup>2</sup> NCVER Student and Course data, 2008 – 2012. See <https://www.ncver.edu.au/research-and-statistics/collections/students-and-courses-collection>

almost 40% over the same period. In comparison, for the rest of Australia the non-TAFE share rose from 16% to 23% during that time.<sup>3</sup>

As a result, state expenditure also grew. The 2014 *Productivity Commission Report on Government Services* shows that between 2008 and 2012 recurrent government VET expenditure in Victoria grew by 79.6% which was more than three times higher than for the rest of Australia (26%). However, in line with the increase in student enrolments, the vast bulk of this additional expenditure in Victoria went to non-TAFE, private for-profit providers, who accounted for almost 80% of the \$863 million increase in expenditure between 2008 and 2012. This resulted in an unexpected budget blow-out on tertiary education of some \$400 million in 2011-12.

While the increased and unbudgeted expenditure was a problem for the State Government, the fundamental problem with the Victorian experiment was that record student enrolments and levels of expenditure on VET did not result in a reduction of the skills shortage gap. This is at least partly because private providers – which saw the bulk of growth in enrolment numbers – were offering courses that would both appeal to the competitive market and would generate the greatest profit margins. There was also evidence of the proliferation of low grade certificate 1 and 2 courses being offered, rather than the higher level offerings (including certificate 3 apprenticeships) as the profit margins for these longer and more intensive courses was considerably less.

The *Vocational and Education Training Market 2013* report produced by the Department of Education and Early Childhood Development perhaps summarises the failures of this strategy best when it says:

*The significant growth in government subsidised training activity up to 2012 was not always in areas of industry and economic need.*

Or, as a Per Capita report entitled *Training Day* summarises, the extent of market failure in relation to VET policies in Victoria was that:

*... while market design in the VET sector has met one of its primary policy objectives – increased training completions – it is now getting poor value for its public investment as funds are directed to private providers in areas of skills surplus.*

There were also other failures brought about by the free market experience in Victorian vocational education. Two reports by the Victorian Auditor-General's Office (VAGO) found that the VET participation gap between metropolitan and rural Victorian students widened from 2008 (*Access to Education for Rural Students*) and there was a failure to increase the numbers of people undertaking apprenticeships and traineeships compared to the decade prior (*Apprenticeship and Traineeship Completions*). Nor were there improvements in participation by most disadvantaged or at-risk student cohorts, including Aboriginal students.

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<sup>3</sup> Victorian Training Market Reports – see <https://www.education.vic.gov.au/training/providers/market/Pages/reports.aspx>

### ***Impact of the Victorian failed market experiment on TAFEs***

The budget blow-out associated with this rapid increase in non-TAFE enrolments promoted a policy response from the Victorian Government (under Baillieu) which in 2012 introduced a \$300 million per annum funding cut to public TAFEs – noting that the primary area of growth had in fact been with the non-TAFE private providers. The immediate impact of these devastating and misguided cuts included:

- Significant increases in student fees.
- The loss of at least 2,500 TAFE jobs.
- The closure of many campuses and cessation of many courses.

According to the front page of *The Age* of Tuesday 8 April 2014 (*TAFE Funding in crisis*), a leaked Victorian Auditor General's report showed that half of Victoria's 14 TAFE institutes made an operating loss in 2013 and that several were considered to be in doubt 'as a going concern'.

In other words, the policy not only delivered substantial resources to non-TAFE private providers to deliver courses that students wanted rather than courses the economy needs, but it has also resulted in punishing funding cuts that undermined the financial viability of many Victorian TAFEs.

The funding cuts had a disproportionate impact on TAFE support and technical staff and on regional communities. The removal of the full service (which included community services for TAFE institutes) funding resulted in TAFE institutes having to fund library and student support services from other revenue, namely teaching funds. Unsurprisingly, there were also massive cuts to library and student support services, which were particularly felt at regional institutes and their communities. The NTEU is aware that a number of these institutions – who provided important services to their communities - more than half the library staff were made redundant and many in fact closed.

The reduction of library and student support staff numbers also had a flow on effect on student retention and completion rates for the public TAFEs. What is not always understood is that library staff play a significant role in student retention through provision of information literacy training and general support, particularly in regional and rural areas where access to other learning support services is limited (if available at all). At both VET as well as in the university sector, information literacy skills, including critical thinking, are essential for positive student learning outcomes and ensuring student retention. Although many students are at ease with technology, this doesn't mean they are capable of finding, analysing and using information. The cuts to TAFE funding not only saw a reduction in staff numbers and course offerings, but also undermined the quality of the educational experience and skills outcomes.

### ***Market dynamics in the failed Victorian experiment***

A Victorian Essential Services Commission report published in 2012 (*VET Fee and Funding Review; Volume II Technical Analysis*) captured the dynamics of a fully contestable demand driven model as it has evolved in Victoria in observing that:

*... it is the student who ultimately decides what (if any) training they will undertake. If students' training choices do not align with the skills needed by the economy, there will be an under- or over-supply of skills in particular sectors. (p. 49)*

In other words, under the free market model, training from predominantly non-TAFE providers was modified by these providers offering courses with high levels of student demand, which preferably could also be offered at reasonably low costs. Non-TAFE providers effectively cherry-picked the market, leaving it up to TAFEs to continue to offer less popular, high cost or what they saw to be generally unprofitable courses.

One of the most disturbing aspects to the Victorian free market' model were the often outrageous, highly questionable and even aggressive marketing practices undertaken by usually for-profit private providers. Numerous examples of predatory behaviour have been documented, including examples of students being promised 'free laptops' to sign on to courses, not always aware of what they were signing up to, and that they in fact would be incurring often significant and on-going debts through the VET-Fee HELP system.

Research in 2013 undertaken by the Australian Skills Quality Agency (*Marketing and advertising practices of Australia's registered training organisations (RTOs)*) also questioned the marketing practices of private VET providers. They concluded that up to half of the RTOs it examined are potentially misleading consumers, including numerous examples of:

- Students being guaranteed a qualification without any need for assessment.
- Claims that qualifications could be achieved in unrealistically short time frames and in contraction to the Australian Qualifications Framework on volume of study.
- Students being guaranteed a job on completion where the RTO was not in a position to do so.
- Websites advertising superseded qualifications.
- Online upfront payment of fees in contravention of national standards.

### **Collapse of the VET market – in Victoria and more broadly**

Data from the National Centre for Vocational Education Research shows VET FEE-HELP cost taxpayers \$7.5 billion in government funds between 2009 and 2016, most of which went to private colleges.

The extreme examples of rorting by opportunistic providers publicised by the media, together with the virtual collapse of the public TAFE system and the findings of the VET regulator that course quality was being undermined and skills training not being delivered by the free market system, finally led governments to intervene.

The national VET regulator and the Victorian Government sent clear signals to the sector when they stripped Vocation education's Bawm and Aspin colleges in 2014 of their federal registrations and state government funding following complaints about the quality of the training courses the colleges provided. A year later, up to 12,000 vocational education students across Australia were left in limbo after the collapse of Vocation Ltd. The collapse

was also a blow to the Victorian government with Vocation's annual report showing the company owed around \$8 million to the Victorian Department of Education and Training.

The Federal Government also was forced to act. While the worst impact of a completely deregulated market was felt most in Victoria (and hence this case study) it should be noted that all other states had some form of deregulation, primarily due to the nature of the VET FEE-HELP system.

As such, in 2015 following numerous reviews, the Federal Government began to rein in the VET FEE-HELP scheme. Over the following two years stronger measures were implemented, including prohibitions on aggressive marketing practices, banning the use of brokers and cold calling. Students wishing to apply for a loan needed to undergo literacy and numeracy screening. Rules around provider approval were tightened and the National Training Complaints Hotline was established, giving students recourse to appeal. Measures were also taken to improve the capacity for information sharing between Commonwealth agencies, giving the regulator, ASQA greater access to VET provider data.

Not surprisingly, however, there was a collapse in the VET market, worst of all in Victoria. A 2018 report by Francesca Saccaro & Robyn Wright entitled *VET FEE-HELP: What went wrong?* summed up the effects of the regulatory crack down:

*The 2016 changes resulted in numerous private providers 'going to the wall' as their business models broke down. Unethical or even sometimes, illegal behaviour of private VET sector providers became even more evident. The Department of Education and Training and the Australian Competition and Consumer Commission (ACCC) launched action in the Federal Court of Australia against four former VET FEE-HELP providers that are alleged to have breached various provisions of the Australian Consumer Law by engaging in misleading, deceptive and unconscionable conduct. These are Unique International College, Cornerstone Investment Australia Pty Ltd trading as Empower Institute, Australian Institute of Professional Education Pty Ltd (AIPE) and Phoenix Institute of Australia Pty Ltd. Other spectacular falls include Vocation and Careers Australia, which is facing a class action from its investors. The ACCC site provides a litany of actions being taken against private VET providers.*

*However, good as well as poor providers were caught up in the fallout, and the whole VET sector appeared to have been brought into disrepute, or at least tarnished. The collapse of some providers left students unable to complete courses. The course and tuition assurance that had been mandatory for all providers, was often found to be ineffective or insufficient. In some cases, students were unable to retrieve documentation of their study record.<sup>4</sup>*

The boom, and bust, of the Victorian VET market appeared complete. Clearly, the effects of this failed experiment would be felt for many years afterwards. Yet, even with the regulatory changes that followed, which were intended to prevent a reoccurrence of the extremes that

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<sup>4</sup> Francesca Saccaro & Robyn Wright *VET FEE-HELP: What went wrong?* University of Melbourne 2018 [https://melbourne-cshe.unimelb.edu.au/data/assets/pdf\\_file/0012/2845776/Final-VET-FEE-HELP-.pdf](https://melbourne-cshe.unimelb.edu.au/data/assets/pdf_file/0012/2845776/Final-VET-FEE-HELP-.pdf)

proliferated under a deregulated market and VET FEE-HELP, there remain inherent flaws in the VET system, which is still subject to a free market ideology.

### **The ramifications of the failed free market experiment**

The federal VET FEE-HELP program was replaced on January 1 2017 with a much stricter model known as VET Students Loans. Providers faced far more stringent entry requirements and student loans were capped to limits of \$5000, \$10,000 and \$15,000, depending on the cost of delivering a qualification.

There are also fewer courses for which these loans were approved, with hundreds that were unsuited to industry needs wiped from the approved skills list, (including high fee courses in sound and vibration therapy, circus arts, and butler services).

Yet even with these changes, there have been problems. Providers who remained in the student loans scheme faced both increased administrative burden and financial risk. Not surprisingly, student loan uptake reduced, and the bulk of enrolments (previously under fee-for-service places) shifted back to state government subsidised places. This was, in part, caused by the loan caps imposed on each qualification, which often made it uneconomic to deliver a course without substantial, additional out of pocket expenses for students. Price inhibitors returned to the VET market; yet the consequence of this was to drive students away from VET, as students found it easier to opt for university (especially with the proliferation of University Colleges). As a result, the sector remains in crisis, both in terms of funding and enrolments, particularly for the public TAFEs, who are still offering the higher cost/necessary courses, while private providers cater to the low cost/high return popular courses.

Furthermore, the damage of the free market experiment – which was most extreme in Victoria but occurred nationally - to both the structure and the reputation of the VET sector has been long term.

In December 2019, the Federal Government announced that it would forgive approximately \$500 million in dodgy debt accumulated by unsuspecting students as part of the most disastrous education rort in Australia's history.

Three years after the government scrapped the botched vocational loan scheme known as VET FEE-HELP, the defunct program is continuing to have an enduring impact as more people discover they were duped by shonky private providers.

### **NTEU Proposal for a VET system**

The experience of deregulating VET education, seen at its most extreme in Victoria but also reflected nationally, has been anything short of absolute policy and market failure. Our submission has highlighted the folly of relying on market mechanisms to drive the goals of a more efficient system that improves student choice and deliver a broad suite of training options. Indeed, Victoria's failed experiment resulted in budget blow-outs, massive increase

in student fees, cuts to funding for TAFEs which undermined their viability, and no improvements to the skills gap.

The failed experiment reaffirms the NTEU's position that education is far too important to be left to the market and that the market-based framework should be abandoned for the provision of public education in Australia. We note that the Commission's proposal would see a new principles-based agreement established in place of the National Agreement for Skills and Workforce Development.

The NTEU agrees that a new agreement would present opportunities to rectify many of the current problems and inconsistencies that are undermining the viability of the VET sector. However, the proposal by the Commission to base the new agreement on principles that entrench a market driven system even further is highly problematic. Furthermore, the suggestion of relaxing current loan caps and course and qualification restrictions – as a preferred option – is risking a repeat of the disastrous VET loans debacle.

Before contemplating the technical details of any subsidy arrangements (where, we note, the problematic student voucher idea has been raised, yet again) what needs to be resolved is a coherent and consistent policy and funding framework which covers both higher education (HE) and VET.

### ***Regulatory and funding framework***

The NTEU believes that there needs to be a consistent and coherent regulatory and funding framework covering both VET and HE. Furthermore, the COVID-19 related funding crisis for tertiary education, and the subsequent increase in domestic student demand for places, make this the opportune time to implement such a consistent regulatory and funding framework, which would allow for a nationally consistent and targeted tertiary education sector which could assist in the post COVIDF recovery.

However current anomalies and inconsistencies in regulation and funding have resulted in much regulatory shopping by providers and cost shifting between different levels of government and from government to students. An example of regulatory shopping has been the spike in applications for higher education accreditation with the Tertiary Education Qualifications and Standards Agency (TEQSA) from Registered Training Organisations (RTOs) traditionally involved in the delivery of VET courses. This is a direct response to the abandonment of much exploited VET-FEE-HELP scheme which was replaced by the far more tightly regulated VET Loan Scheme, and the shift to university colleges (as already noted).

Cost shifting between different level of government and from the government to students has also been evident in Australian tertiary education. The HELP loans schemes, while allowing access to both university and VET studies, have also allowed governments, both Commonwealth and State/Territory, to shift a greater proportion of the costs of tertiary education (VET and HE) onto students and their families over time. Even now, the Federal Government is proposing yet another shift in the debt burden to students at universities; it remains to be seen if there would be a similar push at VET level.

## ***NTEU's funding framework proposal – Public Accountability Agreements (PAAs)***

The NTEU's 2015 Budget submission sets out our plan for the introduction of a coordinated and flexible approach for tertiary education funding, based on the use of Public Accountability Agreements (PAAs). Under our proposed framework, the only institutions who would be eligible to offer government-supported places (those attracting a direct public subsidy) and therefore covered by PAAs, would be public universities and in case of VET, public TAFEs.

PAAs are intended to make public institutions more directly accountable to government and their communities by ensuring they continue to meet their public and community service obligations, including ensuring greater equity, as well as delivering unpopular but necessary courses or training. As is currently the situation in higher education, private providers might be invited to provide a strictly limited number of government-supported places in identified areas of shortage or need.

Under PAAs the government would not strictly limit the number of students an institution could enrol in any particular course, but rather ask them to demonstrate they have the capacity to do so. For example, in a situation where a public university or TAFE wanted to increase its enrolments in a particular program by more than a specified amount (10% for example) it would be required, through the negotiation of its PAA, to demonstrate it has the capacity and capability to ensure that every student enrolled has the opportunity to successfully complete their studies or training. Depending on the course, this might require an institution to demonstrate, amongst other things, that they have the appropriate:

- physical capacity,
- learning and pastoral support,
- practical or clinical placements, and
- number of qualified staff.

In addition to ensuring that individual providers have the demonstrated capacity to ensure students have the opportunity to succeed, PAAs would also provide an opportunity for the commission or authority to track and respond to changes in quantity of education on offer in certain areas. PAAs would be used in conjunction with labour market data as way of monitoring the match between education and training and skills/qualifications requirements. For example, if in any given year all providers seek to increase enrolments in information technology qualifications by 15%, the commission or authority could act as conduit between institutions to consider the sustainability of proposed increases.

In summary, PAAs would give institutions the capacity to respond to changes in student demand, but would do so in a way that does not compromise the quality of education or training offered. They would also allow governments to be able to better plan and manage the quantity quality of training and education provided with the industries' and the broader community's needs.

### **Other issues to note**

The NTEU notes that the Commission's discussion paper raises a number of additional issues which go to the fundamental structures of the VET system. We respond to those briefly below:

## ***VET and HE or Tertiary Education***

The discussion paper queries the role of both state and commonwealth governments in relation to vocational education, particularly in relation to setting tuition costs. The NTEU believes a more appropriate question is whether differences in the type of qualifications, education and training and style of learning and assessment between VET and HE remain sufficiently distinct to justify separate regulatory and funding frameworks, or whether they should be brought under the same umbrella.

## ***National tertiary education regulator***

The NTEU agrees that there should be established an independent statutory authority or commission with regulatory and funding responsibilities. Under our model, such an authority or commission would incorporate the risk based regulatory functions of both TEQSA and the Australian Skills and Quality Agency (ASQA). It would also have responsibility for the negotiation, monitoring and enforcement of Public Accountability Agreements (PAAs) which would form the basis the proposed framework.

## **Conclusion**

It is the NTEU's view that all students have the fundamental right to attend a well-funded, high quality public provider, be that at VET or university level. Australia's tertiary education system – in both its structure and resourcing – should ensure this is possible.

The Productivity Commission's inquiry into the National Agreement on Skills and Workforce Development is obviously far broader than an examination of the Agreement itself; it goes to the funding, structure and regulation of the VET system in its entirety. While this Review presents the opportunity for the Commonwealth to be involved in important and desperately needed reform, the apparent active consideration by the Commission to once again head down the road of VET market deregulation is both alarming and frustrating, given the obvious examples of this failed approach that we have endured time and time again.

To summarise, the NTEU's submission argues:

- The market driven approach to VET is dangerous and has failed in the past.
- There needs to be a revision of the regulatory framework that sees consistency across both the VET and higher education sectors
- Any funding model for VET sector should prioritise TAFE at the centre of the training system.

Until these issues have been resolved, the NTEU believes that the other issues raised by the Productivity Commission will be little more than papering over what are considerable cracks in our current VET system.