

Submission in Response to the Competition Policy Review Draft Report

We greatly appreciate the opportunity to make this submission on the Draft Report.

About the Council of Private Higher Education

The Council of Private Higher Education (COPHE) is a peak body representing higher education institutions that are not public universities. The private sector has increased from less than 3% of higher education enrolments in 2000 to about 10% now. The COPHE 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 several thousand and include not-for profit and for-profit operations. Courses offered range from pathway diplomas, where members provide the backbone for the critical international student market in the universities, through bachelor and master's degrees, often linked to professions and employment, and on to research degrees, including PhDs.

Many COPHE members have been delivering higher education since the 19th century and we would observe that many components of public universities were originally private. What we have in our university 'system' is essentially the creation of the then Education Minister Minister John Dawkins in the late 1980's which clumped together a range of institutions that became universities. The outcome has been that Australian universities are very large by world standards, with supposed benefits of scale, and the characteristics of the incumbent universities that have developed dominate everything in higher education. Australia's sole model of university is the research intensive institution.

Furthermore, as noted in the Bradley Review, the public/private divide is no longer sensible. We suggest it is an artefact of the Dawkins changes.

Response to Draft Report

We welcome the recognition of higher education as an important sector within human services that has so far been neglected in competition policy debates and by competition regulators.

As we argued in our initial submission (COPHE 2014, and also Oslington 2014b), reform in higher education is likely to yield particularly large savings for government and productivity gains for the nation through improved efficiency in the sector, as well as flow-on productivity effects through a better educated workforce. As the draft report points out in relation to human services "even small improvements will have profound impacts on people's standard of living and quality of life" and the "presumption of choice could have significant benefits in many human services sectors".

The guiding principles in Draft Recommendations outlined on page 26 of the Draft Report, and the implementation proposed that follows, is reflected in the current approaches to higher education regulation and indeed the higher education reform legislation (the Higher Education and Research Reform Amendment Bill 2014), that is currently before the Senate. It provides the prerequisites for competition reform. The Kemp-Norton Review (Kemp and Norton 2014) also highlighted the positive equity effects of competitive neutrality reforms in higher education through greater participation of low socio-economic status groups.

The extensive public debates around the higher education reforms however, have demonstrated very clearly the entrenched and vehement opposition from the incumbent universities to the application of competition policy principles in higher education. (For instance Craven 2014, but Oslington 2014c).

The reform legislation proposed centres on Commonwealth support of students and would improve equity for students enrolling with our member institutions. The universities have turned the debate around to issues of institutional funding, reflecting the mindset and culture of a sector that until 2005 was block funded by the Commonwealth, so the arguments are about institutional survival rather than improving student opportunities and outcomes.

The public universities exert a dominant influence in the market and the determination of public policy. An example is the committee advising the Minister (the Dewar Committee) on the reform legislation recommending that students attending non-university providers should receive only 70% of the Commonwealth support paid for students enrolled with universities. The committee was comprised of six university vice chancellors, one TAFE representative and one representative from the private sector. The existence of a major conflict of interest had not apparently occurred to anyone.

It is inconceivable that the approach to private sector competition undertaken by universities, especially the exaggeration of risk and continued denigration of non-university institutions by some, would have escaped the attention of the ACCC if it was in the banking, retailing or telecommunications sector. Universities have pervasive influence in our society, most of it for good, but their treatment of competitors in education has not been consistent with competition policy – and there is no sound reason for them to be an exception.

The stakes are high for Australian students and for the future our nation. COPHE is under no illusions about the political difficulty of the Competition Policy Review taking a stand for competition principles (p26-27 and Recommendation 2) in higher education. However for the sake of students and our nation, higher education must not be allowed to quietly drop off the competition policy agenda.

Another example is the issue of access to the title “University” raised in the draft report (p143). This is a central competitive neutrality issue in higher education, with implications for the viabilities of our education exports (given overseas competitor institutions for the Australian private sector have access to university title – for instance US institutions where the title is essentially unregulated). In Australia there is even less reason why the incumbent providers should have exclusive access to this title as we have an independent quality regulator for all higher education providers in TEQSA and extensive publicly available information about different institutions (government higher education information sites, Graduate Destination Surveys, Good Universities Guides etc).

Use of the title ‘university’ by incumbent providers of higher education gives an unfair branding advantage to and not others, despite them all being approved by the same regulator. This unwarranted restriction is particularly damaging to COPHE members capacity to compete in higher education export markets. It should be noted that many of the incumbent providers only became universities as a result of the so called Dawkins reforms relatively recently, and some such as Australian Catholic University are no different in their governance arrangements to many members.

The prerequisites to reaping the benefits of implementing competition policy principles are in place in higher education. It is a thick market, with a large and diverse set of providers. Rich information about providers and graduate outcomes is readily available to consumers. Importantly, the Commonwealth committed in the 2014 Budget to the development of a new and sophisticated higher education information system Quality Indicators in Learning and Teaching (QILT) that will collect and publish extensive survey data on student outcomes and include all higher education institutions. The web portal will ensure students are able to access extensive information based on objective data.

Barriers to choice discussed in the draft report do not seem strong in the Australian higher education market. There is a rigorous quality regulator, TEQSA, which utilises standards established by the Higher Education Standards Panel which is independent of TEQSA. The effectiveness of the quality regulation is indicated by the universities exerting considerable market and political influence over the regulator and fighting tooth and nail over being subject to it.

Examples raised in our initial submission and neglected in the draft report include competitive neutrality between universities and private providers in the support of students undergraduate degree programs, student support for accredited research degree programs, and in access to research funding (such as ARC grants - Oslington 2013a) and teaching development grants such as Office of Learning and Teaching grants.

Appropriate corporatisation of incumbent university providers as discussed in our previous submission will help minimise the negative effects on students of failure of uncompetitive providers, facilitating appropriate mergers, renewal of university management or even takeover of universities by private providers.

We hope that, as the Competition and Consumer Act is redrafted in response to the review, there will be attention to ensure anti-competitive practises in higher education are encompassed by the legislation.

As well as reform of the law, our institutions need to be enhanced to promote competition in higher education. Higher education needs to be part of the proposed review of competitive neutrality policies to be overseen by the Australian Council for Competition Policy (Recommendation 13 on p 35) and it is particularly important for higher education that there be a complaints mechanism independent of government and as independent as possible of the incumbent university providers (Recommendation 14 on p 36).

We believe that for competition principles to be extended to higher education and to be adequately enforced by bodies such as the Australian Competition and Consumer Commission, there needs to be a substantial investment in higher education expertise in these bodies. This investment needs to be carefully managed to avoid conflicts of interest as many higher education 'experts' are either directly employed by incumbent university providers or have other conflicts of interests.

In conclusion, we have a significant sector in private higher education that had a turnover of more than \$2.2 billion in 2012 (TEQSA Data Published SEP 2014), with government funded competitors having a clear advantage through support of their students which is denied to students attending non-university institutions. Notwithstanding the challenges, we are hoping that the Review can accelerate the change that is required if Australia is to have a strong, competitive and innovative higher education sector.

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References

- Australian Government** (2014). *Competition Policy Review Draft Report* Canberra September.
- Bradley D, Noonan P, Nugent H and Scales B** (2008) *Review of Australian Higher Education: Final Report*, Department of Education Employment and Workplace Relations, Canberra.
- Chew J. and B. Parmenter** (2014). "Competition a Minefield for Unis." *Australian Financial Review* Oct 12.
- Council of Private Higher Education** (2011) *Private Higher Education for a Smarter Australia* Issues paper available at cophe.edu.au
- Council of Private Higher Education** (2012) *Support Should Follow Student Choice*. Issues paper available at cophe.edu.au
- Council of Private Higher Education** (2014) *Submission to Competition Policy Review*
- Craven, Greg** (2014) "Deals Disguise a Looming Disaster" *The Australian* 28 May 2014
- Hilmer, F. and Independent Committee of Inquiry into Competition Policy in Australia** (1993). *National Competition Policy* Canberra, Australian Government. AGPS cat. no. 9321328.
- Hilmer, F.** (2014). "Competition Policy from 1992 to 2014." Presentation at Business Council of Australia Forum, 13 February.
- Kemp, D. and A. Norton** (2014). *Review of the Demand Driven Funding System*. Canberra.
- King, S.** (2003). "Competition Policy and Regulation" in *The Cambridge Handbook of Social Sciences in Australia* edited by I. McAllister, S. Dowrick and R. Hassan, Cambridge: CUP.
- Oslington, P.** (2011) "Improving University Efficiency: A Property Rights Approach" Presentation at Academomics session at Economic Society Conference of Economists, Canberra.
- Oslington, P.** (2012) "The Approaching University Degree Bubble." *Quadrant* 491(Nov): 50-2.
- Oslington, P.** (2013a). "The Place of Religion and Theology in the National Research System." Presented at CHASS Forum in 2012 and the basis of a Workshop on ARC and Theologian Canberra February 2013. A supporting Excel spreadsheet of ARC grants in religion and theology with benchmarks is available from the author.
- Oslington, P.** (2013b). "Decent Colleges Will Provide Competition for Unis." *Australian Financial Review* 30 September.
- Oslington, P.** (2014a). "Religion and Australian Universities: Tales of Horror and Hope." *The Conversation* February. Based on Lecture at the Centre for Independent Studies, Sydney.
- Oslington, P.** (2014b) "Competition means Productivity in Higher Education" *The Conversation* September
- Oslington, P.** (2014c). "Advanced Degrees in Condescension." *Quadrant Online* October.