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**National Tertiary Education Union (NTEU)  
Submission to the Productivity Commission**

**Review of National Competition Policy**

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## Introduction

The National Tertiary Education Union (NTEU) represents more than 28,000 staff employed in Australian tertiary education institutions. NTEU welcomes the opportunity to contribute to the public debate about the regulation of competition within the higher education sector as part of the Productivity Commission's Review of the National Competition Policy (NCP). It is our understanding that the Commonwealth specifically wants the Productivity Commission to examine the possibility of including certain public sector activities such as health and education, which were specifically excluded from the original NCP, within the future NCP framework, as outlined in the following Terms of Reference:

*5. In conducting this review, and in recommending changes, the Commission should take into account the desire of the Government:*

- a. to focus new review and reform activity on areas where there is clear evidence of significant potential gains, in particular where clear gains are possible in Australia's international competitiveness, in the efficiency of domestic markets or for Australian consumers; to ensure possible reform activity considers appropriately the adjustment and distributional implications and its contribution to achieving other policy goals.*

It is not the intention of this submission to provide a comprehensive analysis of the higher education sector in Australia, but rather to clearly identify higher education as a distinct and unique "market" which requires distinct and unique regulation. Therefore we would argue that including higher education in the NCP framework would be inappropriate.

### **Deregulation within the higher education sector**

Without going into all the detail, there has been extensive regulatory reforms of the higher education sector over the last decade<sup>1</sup>. The major reforms have aimed to increase the level of competition within the higher education sector, and/or improve the efficiency with which the sector uses its resources. The introduction of the Commonwealth's Backing Australia's Future (BAF) reforms to higher education at the end of 2003 has also introduced a number of significant regulatory changes. While it is too early to tell whether these changes will have the desired effect of increasing the level of competition within the sector, there is little doubt that this is their intent. The most important changes to higher education as part of BAF include:

- the introduction of purchaser (Commonwealth Government) provider (universities) model, with explicit funding agreements between the Minister and each university from 2005,
- the deregulation of student fees commencing in 2005, allowing each university to set fees between \$0 and HECS +25%, and
- increases in the number of full fee paying domestic students universities are allowed to enrol, from 25% of total undergraduate student load to 35% of student load.

Another important reform relates to changes in the way research funding is allocated. The majority of Commonwealth research funds are now allocated by, what is

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<sup>1</sup> A good summary of the pre-2003 changes to and support of government support and regulation of universities can be found in Productivity Commission (2003) **University Resourcing: Australia in an International Context** Final Report

effectively, a competitive tendering basis administered by an independent body, the Australian Research Council (ARC).

It is not the intention of this submission to argue the merits of the general thrust of deregulation within the higher education sector, but rather to question whether the regulation of competition within the sector should be part of the broader National Competition Policy. The distinctive nature of the products and services being supplied in higher education and other cases of market failure mean that it would be totally inappropriate to treat higher education (or education more generally for that matter) as a normal good or service, where questions of what to produce, how much to produce, what price to charge and who gets to consume it would be left to the dynamics of a competitive market.

These distinctive characteristics are outlined below.

### **Case for government funding**

There is no doubt that the provision of higher education (and education more generally) results in positive externalities to the broader community. That is, the social benefits derived from the supply of education are greater than those that accrue to the individuals directly involved. Under these circumstances, an unregulated market will result in a less than socially optimal quantity of the good or service being produced. This is a case of market failure that requires government intervention.

The only way to overcome market failure in the case of goods and/or services with positive externalities is for the government to provide some form of subsidy to participants in the market. Therefore, whether governments should subsidise higher education is not at issue. While it is beyond the scope of this inquiry to answer the question of how much governments should subsidise higher education, it is a relevant issue in so far as the Government places a cap on the level of funding it is prepared to provide to higher education due to budgetary considerations and fiscal constraint. Therefore, the level of government expenditure is not aimed at overcoming the case of market failure due to the divergence between private and social marginal benefits. This becomes a relevant question in relation to how the government allocates resources within the sector.

### **Allocation of university places**

The Government has a cap on its total level of expenditure on higher education, and the major costs associated with higher education relate to the provision of government-subsidised student places. The level of expenditure is therefore, largely determined by the number (and discipline mix) of government-subsidised places it is prepared to provide. In Australia the number of eligible students wanting to study at university (demand) exceeds the number of government-subsidised places (supply), and therefore an allocation mechanism is needed to match demand and supply.

In a competitive market for goods and services price adjustments act to bring demand and supply into equilibrium. Government-subsidised university places are currently allocated on the basis of academic merit, as measured by a tertiary entrance rank or score. If university fees were deregulated, the market would allocate these scarce places to those who are prepared to pay the highest price.

There are important educational and equity reasons why the principle of allocating university places based on merit should be maintained. Any move to further deregulate university fees would be in danger of severely comprising these principles.

### **Setting and maintaining higher education “Standards”**

Education is not something you can pick up and test prior to purchasing – it is an experience good. Under these circumstances potential customers (students) are not in a position to have sufficient information to make “good” decisions about choosing between courses and/or institutions. Therefore, in the interests of **consumer protection**, it is essential that educational standards are regulated.

In addition to potential students, both the broader community, and employers more particularly, require that a set of minimum “standards” be established in relation to the awarding of higher education qualifications. The community needs to have confidence in their public universities and employers need certainty in relation to the quality of students graduating from universities. It is therefore, also clearly in the **public interest** that higher education standards be regulated.

A third and increasingly important reason that education standards need to be regulated relates to Australian universities competing for international students. Declines in real government funding (see Figure 1) have forced Australian universities to broaden their revenue bases. This has largely been achieved by entry into the international student market. When Australian universities are competing in the international student market, the students are naturally enough highly sensitive about the reputation and credibility of the institutions they choose. Having university status and the ability to award degrees determined by and guaranteed by Government legislation is important to Australian universities in this market, given that many of the international institutions with which they compete enjoy similar status from their own governments<sup>2</sup>.

In Australia, the use of the term ***university*** and the capacity to award degree level qualifications is legislated by Commonwealth, State and Territory Governments. The standards required to achieve the status of being an accredited higher education provider are specified in National Protocols<sup>3</sup> that have been agreed to by the Ministerial Council for Employment Education Training and Youth Affairs (MCEETYA). Any corporation (existing or potential entrant) that meets the requirements set out in the National Protocols can be given university status (Melbourne University Private, for example) and the right to award degrees. In this sense, the higher education market is contestable, because there are no prohibitive barriers to entry stopping new entrants into the market. In the recent BAF package, the Minister has made funding for additional National Priority places in teaching and nursing available to private sector providers, for example.

The maintenance of standards is largely achieved by a series of rolling five year comprehensive reviews conducted by the Australian University Quality Agency (AUQA), an independent corporation established by Commonwealth, State and Territory Governments. Individual public universities are established by Acts of Parliament and subject to review by Auditors General in various jurisdictions. Therefore, not only are standards set but universities are highly accountable in maintaining them.

As noted above, the setting and maintenance of higher education standards is essential for a number of reasons, including protecting student’s rights, maintaining public confidence in the education system and ensuring Australian universities are internationally competitive. Any move to further deregulate the accreditation of

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<sup>2</sup> See Productivity Commission (2002)

<sup>3</sup> A copy of the National Protocols can be found at <http://www.mceetya.edu.au/pdf/protocols.pdf>

higher education providers has the potential to be detrimental not only to existing universities but to the reputation of the sector as a whole.

### **Research / Education nexus**

One of the criteria that institutions must meet in order to be accredited as a university in Australia, under the National Protocols, is they must demonstrate a commitment to and support of research activities. Universities are about the generation and dissemination of knowledge. Much research activity also provides substantial positive externalities and again requires government subsidisation. In addition, there is no incentive for private providers to engage in research that has no or little prospect of commercial success. Maintaining the nexus between higher education and research is essential for tertiary education and would be at risk of being lost if the sector was further deregulated.

### **Financial viability**

Students enrolling in higher education are investing in their own (and the country's) human capital. This involves a commitment of at least 3-4 years equivalent full-time study before any personal benefits through higher income will be realised. This means that students' not only require a guarantee of the standard of the programs they are enrolling in, they also need certainty that the institution offering the courses will be in existence to allow them to complete their course.

A lack of financial viability of higher education providers has been an issue the Commonwealth has had to confront on a previous occasion in relation to international students. The Education Services for Overseas Students (ESOS) Act 2000, requires course providers to guarantee financial assurances to potential students. This followed the collapse of a number of private providers in the late 1990s, leaving a number of international students in debt and unable to complete their courses. The best way to ensure this situation does not arise in the future is for the Government to provide secure financial support through funding agreements that guarantee universities a set number of government-supported student places and funding. Any suggestion of introducing a voucher system for higher education students would undermine the financial certainty of some existing institutions, especially those located outside the major metropolitan areas.

### **Student financial assistance with fees**

The level of debt Australian students have been accumulating in recent years is a matter of concern. Despite this, we strongly support the maintenance of the HECS-HELP scheme and the recently introduced FEE-HELP scheme to help students finance their university fees. HECS-HELP is a Government, interest free income contingent loans scheme for students who successfully gain a government-supported place at university. FEE-HELP is similar for students paying full fees, but with a 20% upfront administrative charge. These schemes are necessary because private financial markets are known to have deficiencies when it comes to providing funding for non-tangible investments, such as higher education.

### **Efficiency in the provision of higher education services**

Another important reason the government may wish to further deregulate higher education and increase the level of competition is because this is believed to be a way of increasing the efficiency with which resources are used in the sector. There is, however, no evidence to suggest that Australian universities are inefficient providers of higher education. Recent evidence suggests that there have been significant improvements in the efficiency with which universities use resources. Chart 1 shows that operating income per student has fallen substantially in recent years, and this might be taken as a proxy for the average cost per student place. Chart 1 also shows the cost to the Government has declined even further as a result of increased student contributions. Chart 2 shows that student : staff ratios, an a proxy for average labour productivity, has been increasing consistently over the last decade. These efficiencies have been brought about directly by cuts to government funding in 1997 and a failure to index university grants to cover cost increases, thus forcing universities to find productivity improvements and efficiency dividends.

The evidence collected by the Productivity Commission when examining the resourcing of Australian universities in an international context also failed to find any evidence that Australian universities were over resourced. Moves toward new funding agreements between the Minister and individual universities also have the potential to identify further efficiencies, especially if the Government wishes to achieve its objective of greater specialisation in the offering of courses with low student enrolments.

### **Potential for anti-competitive behaviour in the provision of education services**

Given the nature of education a deregulated market would lead to the potential for anti-competitive behaviour. So long as the majority of government funding is tied to the number of government-supported places there is little incentive for Australian universities to engage in anti-competitive behaviour. This is especially true where the government also imposes a price cap on university fees. Given that demand for university places is likely to be highly price inelastic, any moves to further deregulate university fees would result in profit maximising behaviour resulting in substantial fee hikes. This would have unfortunate implications for the participation of students from lower socio-economic backgrounds.

### **Competitive neutrality**

The issue of competitive neutrality in relation to the provision of student places arises in relation to which providers should be allowed to offer government-supported student places. At the moment these are restricted to established universities, with new private sector providers having limited access to growth places in the national priority areas of nursing and teacher education. In addition to private sector providers and TAFE colleges are also beginning to offer degree programs. As the number of providers and their backgrounds become more diverse, the task of setting and maintaining minimum standards becomes more difficult and costly. Therefore when considering the extent to which government places are open to additional providers, the administrative costs of regulating these providers should not be discounted.

As mentioned earlier any moves to introduce a voucher system for the allocation of government funded university places, is likely to threaten the financial viability of existing institutions. This would not be in the interests of the public or potential students where the future of these institutions could not be guaranteed.

Another way of increasing the level of competition in higher education might be through the introduction of competitive tendering for the allocation of government supported student places. This experiment has been used in allocating Job Search placements with the Jobs Network providers. The risk with this system however, is that profit seeking providers will tend to cut the quality of services offered in order to minimise costs. This not only has the potential of compromising the level of quality of higher education but also would be a real threat to reputation of the sector as a whole.

