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Regulation and markets

Margaret Gardner and Julie Wells

There has been much critical comment in recent years about the tensions between the regulation imposed on public universities and the flexibility needed to compete effectively in international and national markets for students and funding. In the partisan world of politics each side points the finger at the other as the author of “too much” regulation. And yet there is a shared set of underlying assumptions about the interplay between regulation and markets that has led to more regulation without necessarily improving the outcomes for or from universities.

What are these assumptions about the relationship between universities and government? First and fundamentally, there is consensus that government has the right and the responsibility to determine the outcomes it seeks for the funding it provides. Second - and related to the first - it is expected that universities have a responsibility to maintain in part the intellectual and cultural fabric of the nation and of society generally. Third, universities are also expected to contribute to the economic outcomes of the nation through meeting industry and student needs. Finally, universities are expected to be effective and efficient organisations, managing their funds wisely and generating sufficient revenue to maintain their operations and infrastructure.

These assumptions are each eminently reasonable. It is their enactment in policy that has increased competition, intensified regulation and driven down government funding to public universities while increasing it for private providers. They have been accompanied by an emphasis on competition and market-like settings - usually created through regulation - to encourage universities to be efficient and responsive to economic needs. They include a further range of regulations that seek to ensure that universities meet the policy objectives that government has defined as providing for the public good.

The impact of these changes has not been all negative. Australia has created a vibrant international education presence, now recognised as a major contributor to the economy as the

third largest export earner in Australia. Australian universities have also become more flexible and responsive to changing student and industry needs. However, difficulties have been created by increasing competitive pressures between institutions while at the same time requiring more detailed regulation of what is done and how it is done.

Government funding support to private providers has encouraged greater competition in the space dominated by public universities. However, public universities are constrained by their enabling Acts and government and community expectations to maintain a range of capabilities that provide expertise and facilities in the areas that do not attract private providers or private funding. Limits on the capacity of universities to compete are embedded in funding agreements with government. Universities can only change the site of delivery (and the range of programs offered to outlying campuses) with explicit permission from government, while a private provider can choose what, where and how it delivers. It is no accident that private providers are concentrated in areas of high demand and profitability, such as Business, and located in major metropolitan centres. Private providers can bid for government funds in profitable areas, while remaining free to direct their core activity as they choose. Meanwhile, declining government funding for public universities has meant that maintenance of quality of education, research and infrastructure in the areas expected to provide a long-term contribution to the public good must come from private contributions by students or others.

This has given rise to two outcomes that run counter to government's stated objectives. First, building regulatory frameworks around market forces leads to homogeneity of behaviour in our institutions. In the vocational education and training sector, where competition between public and private providers has a longer history, Anderson argues that their missions are converging. Public and private providers are increasingly competing in similar markets and are similarly reliant on public funds for their operation, while the government's role

in planning provision has given way to that of a market facilitator and purchaser of services.¹ In higher education, the line between private and public universities is also blurring to the point of disappearing, and more salient distinctions may be drawn between those that are explicitly operating on a 'for profit' basis and those who are not. The implications of this are not adequately recognised or addressed in our current regulatory frameworks.

Second, declining funding for the public good activities of public universities and the need to cross-subsidise these particular activities from private funding means increasing focus on ways to attract private funding. Legislators implicitly encourage such cross-subsidisation, but they commonly decry the removal of small and specialised programs or campuses, for example – even when those decisions are dictated by efficiency considerations. More regulation is suggested or imposed to deal with domestic concerns, whether they involve the access of particular groups of students or of regions or professions and occupations. In this case, regulation operates to protect governments' interests in the context of the markets they have encouraged.

How might regulation and financing arrangements be redrawn to help achieve better outcomes from and for Australian universities? Policymakers need to reconsider the whole regulatory framework for higher education. Currently most debate around regulation centres on the activities of public universities. There are explicable reasons for this focus, since universities remain the dominant segment of higher education and the overwhelming majority are 'public' universities.

Yet while private providers remain a relatively small part of the Australian higher education landscape, their numbers are increasing, as changes to the MCEETYA protocols on higher education accreditation smooth the way for new domestic and international providers. Under the ALP's current policy proposals, the competitive advantages for private institutions in enrolling students into high-demand, high-return programs would increase.² The ALP would abolish full-fee-paying domestic undergraduate student places – presumably replacing them with publicly-subsidised places – while offering a public subsidy to private providers by extending a government-underwritten loans scheme to their fee-paying students. Australian undergraduates would be able to pay fees to a small domestic private provider (or an overseas university) but not to an Australian public university. The ostensible policy objective is to maintain 'merit-rankings' in Australian undergraduate places in public universities. However, making public universities entirely responsible for merit-based entry ignores the issues of merit, equity and quality across the sector as a whole.

The trend in Australia has been to encourage growth in numbers of higher education providers, and increasingly to allow private providers access to public funding. When private providers are compared to public universities we find that both

rely on a mix of public and private funding. However, the overall objectives being sought from a mixed public/private higher education sector are not clear.

One of the stated objectives of current policy – for which there is bipartisan support – is greater diversity and (supposedly in consequence) a higher degree of specialisation. Yet there is no necessary link between specialisation and diversity. Private providers individually tend to be more specialised, but viewed as a totality they do not give a more diverse suite of higher education offerings since they are concentrated in particular fields and locations. And yet policy discussion is focused on urging public universities to specialise, as if that in itself will create greater diversity in the higher education sector. Public universities could concentrate on their strengths, and yet – following the model of the private sector – the overall choice and diversity in the higher education system could become more limited as a result. In thinking about diversity, therefore, the objectives for the whole sector must be considered, not just the outcomes being sought from public universities.

Another focus of higher education policy is quality. There needs to be clarity about objectives which are necessary for the public good, and which the higher education sector as a whole should deliver. In the United States, where a mixed system of private and public higher education provision is well entrenched, the accreditation of universities and other higher education providers is coming under increasing scrutiny. In the face of concerns about falling participation rates among younger Americans and complaints of declining graduate skills, lawmakers are questioning whether the current emphasis in accreditation on probity and financial viability is sufficient.

The Draft Report of the US Secretary of Education's Commission on the future of Higher Education notes that 'accreditation, once primarily a private relationship between an agency and an institution, now has such important public policy implications that accreditors must continue and speed up their shifts towards transparency where this affects public ends.'³ These 'public ends' include recognition of qualifications by employers, graduate outcomes and student satisfaction. So, an important step in policy would be outline the regulatory framework required for the whole sector, now that institutions are supported by a mix of public and private funding.

There is also a need to apply a whole-of-government perspective to international education and research. Because universities are key components in the emerging knowledge economy, governments' stake in their work has never been higher. As Etkowitz writes, '[the] ... "capitalisation of knowledge" ... is the heart of a new mission for the university, linking universities more tightly to users of knowledge and establishing the university as an economic actor in its own right'.⁴ Therefore, it is in government's interest to forge active partnerships with universities, not as public sector agencies but as significant players in a large and increasingly significant global service industry.

In the international arena, the international student experience is increasingly being subjected to a consumer protection regulatory focus. In this context compliance regimes are the same for public and private providers. Yet, if international education is seen as a separate domain and not as part of the overall quality of education in Australia, then there is little hope of building sound policy settings for the long-term. Around us are countries with higher education policies that set aspirations for their role in the region and back that with investment.

Yet in Australia, where public universities have been very successful in international education, there is no such sense of national aspiration. Major policy shifts, such as voluntary student unionism, were undertaken apparently without consideration of the impact on the quality of campus life for international students, who typically spend many more hours than domestic students on campus.

Finally, there is a need to reconsider the underpinning logic of the current regulatory framework. At present it uses competition or market-like settings to induce greater efficiency and responsiveness in public institutions. Then it uses a mix of consumer-related regulation and compliance to deal with any perceived market failure or excess in privately funded areas, international and domestic. And it reserves the right

to direct public universities to serve specific economic and social goals. While the policy rhetoric is about diversity and quality, the interaction between these policy drivers may not facilitate either of these objectives.

Until regulation moves away from selective interventions and an over-concentration on directing the behaviour of our 'public' universities, the benefits of an increasingly internationalised and significant sector for the future of our society and economy will not be realised.

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The big changes are yet to be seen

Ian Young

Over the last ten years, I have given many presentations to staff on university or faculty directions. Although many items have come and gone over that period, one comment which seems to be constant in all of these presentations is that 'Higher Education in Australia is undergoing change'. Yet in many respects, the really big changes are yet to occur. Change is not the exclusive preserve of the present Coalition Government. I suspect a Labor Government may even hasten the pace of change.

Two major changes are about to impact our universities. Firstly, we are running out of students! By 2010, Australia's demographics dictate that the number of Year 12 leavers will start to decline. At the same time, our large international market will come under increasing pressure. I am an optimist concerning international education, but the growing inter-

national competition and the increasing capacity to provide high quality education in many of our source countries will place our market dominance in international education under threat. At the same time as student demand will be easing, private providers will be increasing competition.

Such providers will not attempt to go head-to-head with universities in their traditional programs. They will selectively target areas where they have a strategic advantage, such as short courses and some business programs. Australia's universities would make a serious mistake if we arrogantly assumed that such providers will be, by definition, low quality. High quality, low cost and highly efficient competition will become common in the future.

There is no doubt that the present situation warrants attention. We presently have a situation where some universities