

COMPETITION POLICY & HUMAN SERVICES: WHERE THEORY MEETS PRACTICE

Ensuring economic approaches
incorporate the realities of experience

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I. OVERVIEW AND KEY FINDINGS

The potential extension of competition policy principles into new areas of human services delivery is currently the focus of significant attention. ACOSS and CHOICE commissioned this report to examine what could be learned from Australia's experience to date of competition in human services.

This report begins by establishing a framework for analysis, then applies that framework to specified case studies. In order to marry theory to practice, the Australian experience is examined as it relates to two sectors in which various combinations of choice, contestability and competition have been significant in recent years. These are vocational education and training (VET) and employment services. Each sector is considered in detail in a stand-alone appendix which sets out the evidence upon which the key findings below are based. Chapter III seeks to link the detailed case studies back to the framework, before bringing the case studies together by synthesising the lessons to be drawn from each in order to determine whether a 'bigger picture' can be drawn.

Key findings from the case studies

The sectors the subject of the case studies demonstrate a number of common market features:

- First, a genuine 'market' generally does not exist. A principal-agent supply model generally pertains and there is frequently an absence (or at least suppression) of price signals and limited-to-no capacity for users to switch providers;
- Consequently, the 'market' is disciplined not by consumers/buyers substituting one supplier for another, but by government regulation and monitoring of supplier behaviour;
- To the extent a market may be said to exist, it is characterised by systemic failures, including information asymmetries, customer lock-in, under-servicing, externalities and an absence of price signals;¹
- Assessing quality is extremely problematic. Assessments are often made by reference to proxy indicators (e.g. the appearance of an aged care facility).

¹ Note, key economic terms including asymmetric information, externalities, competition and contestability are defined in the glossary.

This in turn can encourage gaming or cost-cutting measures which impact on quality but not access to funding.

In light of these common features, it is also possible to discern a number of common outcomes:

- Government responses to unintended outcomes tend to result in a constant state of regulatory flux. This in turn leads to risk management strategies (by both government and providers) which favour incumbents over new entrants and discourage innovation;
- There is a need for intermediaries to navigate and interpret information in order to assist users to make quality assessments. Such intermediaries, however, are not always best placed to provide advice. Where intermediaries are engaged by providers, there are clear conflicts of interest. Alternatively, they can be engaged privately by those users who can afford it or even financed by government. In any case, the need for such intermediaries is arguably inefficient and represents a cost that should be factored in when considering the overall benefits likely to flow from increased competition;
- An initial expansion of provider numbers has typically been followed by contraction. Exploiting economies of scale (some of which result from the complexity of the regulatory structure) is a key way in which 'effective' competitors can reap the benefits of their efficiency. For-profit providers face particular incentives to cherry pick, both on the basis of geography as well as customer segments;
- As concentration increases, large providers pursue strategies that mean they are being simultaneously less risky and more profitable;
- Where economies of scale do prevail, cherry picking is particularly problematic, as less profitable segments are left for not-for-profit and government providers. Absent specific financial support from government, such providers must engage in cross-subsidisation (rendering them less competitive in more profitable segments) or charge higher prices (if permitted);
- Providers are stymied in benefiting from their own effective delivery of services. This contributes to the strong disincentives to share information and best practices. While users of human services will commonly benefit from collaborative delivery approaches, providers are mostly motivated to support an integrated approach only to the extent it involves related businesses in adjacent sectors.

While such outcomes tend to be described as unintended or even perverse, they frequently reflect the intersection of the regulatory framework with the predictable incentives of profit-maximising firms.

Concluding Observations

On the basis of these outcomes, further observations can be made. First, improved access to better information will always be beneficial, although it need not occur within the framework of competition reform. However, user choice is *not* unambiguously beneficial (even assuming it is well-informed). There are times when other policy objectives may require user choice to be constrained.

As regards the government's general approach to policy reform, there appears a strong tendency to overestimate the benefits of competition, while underestimating the complexity of getting the right regulatory structure. To this end, the costs of 'learning by doing' are largely disregarded, even though it is extremely disruptive to have sectors in a constant state of policy flux. Nonetheless, there appears to be an unshakeable faith that, with the right regulatory framework, the benefits of competition will be delivered and will be worth the attendant costs (both to the community and individuals). On the basis of the case studies contained in this report, such faith appears to fly in the face of experience.

II. ASSESSING THE EFFECTIVENESS OF COMPETITION IN HUMAN SERVICES

Competition is not an end in itself. Rather, the benefits typically generated by competition are valued because of what they deliver to consumers and society as a whole. Accordingly, it is necessary to bear in mind this ‘bigger picture’ when considering whether service delivery is likely to be improved by the introduction of competition. To this end, below we set out a framework for analysis.

Framework for assessing utility and effectiveness of competition in human services

The difficulty for present purposes is how to present a representative framework for analysing human services and assessing the impact of (increased) contestability and competition. Sylvan suggests a schematic for considering the relationship between the objectives of consumer and competition policies. This recognised that in some instances implementation of one policy can reinforce the other but, in other circumstances, more competition may result in poorer outcomes for consumers and vice versa.²

This approach provides a useful way of addressing the issues posed by the recommendation from the Harper Report for more competition to be introduced into the delivery of human services. However, it should be noted that our approach is somewhat different from that of Sylvan. In Figure 1, movement upwards indicates increased competition, while movement from left to right represents improved consumer outcomes. An underlying assumption is that government funding remains constant, that is, changes in outcomes are not the result of changes in government funding of services.

Figure 1 sets out a consumer/competition assessment framework which shows, in general terms, the possible outcomes generated by combining different levels of competition with different consumer outcomes. The best outcomes in terms of both competition and consumer advances occur within Quadrant 2 (the upper right). In this quadrant, supply is efficient in that costs are minimised given the level of output, the nature of the service supplied is responsive to consumer needs, and

² Louise Sylvan, “Activating Competition: The Consumer – Competition Interface” (2004) 12 *Competition and Consumer Law Journal* 191.

supply is dynamically efficient (in that it is innovative both in terms of the nature of service supplied and the means by which it is supplied). The services are supplied at a price that reflects the cost of production, including a return on capital, and services are differentiated to meet the different needs of consumers, but remain of appropriate quality.

Contrasting with this, the worst outcomes occur in Quadrant 3 (lower left). In this quadrant, service delivery is inefficient – costs are high, service quality is inappropriate and there is little or no innovation either in the service delivered or the means of supplying it. Prices are higher relative to costs than in a competitive market.

Outcomes in the remaining quadrants fall between these two extremes. In Quadrant 1 (upper left), supply is cost-effective and possibly innovative, at least in terms of the means of supply, but prices are high, service quality is inappropriate and the needs of particular groups of consumers whose characteristics in relation to the service differ are not adequately addressed. Indeed, as a result of ‘cherry picking’, for some groups of consumers, such as those in remote areas or with different ethnic backgrounds, services may not be accessible or may be more difficult to acquire. Outcomes in Quadrant 4 (lower right) are similar to those in Quadrant 1 except that supply is not efficient (in this way they resemble Quadrant 3).

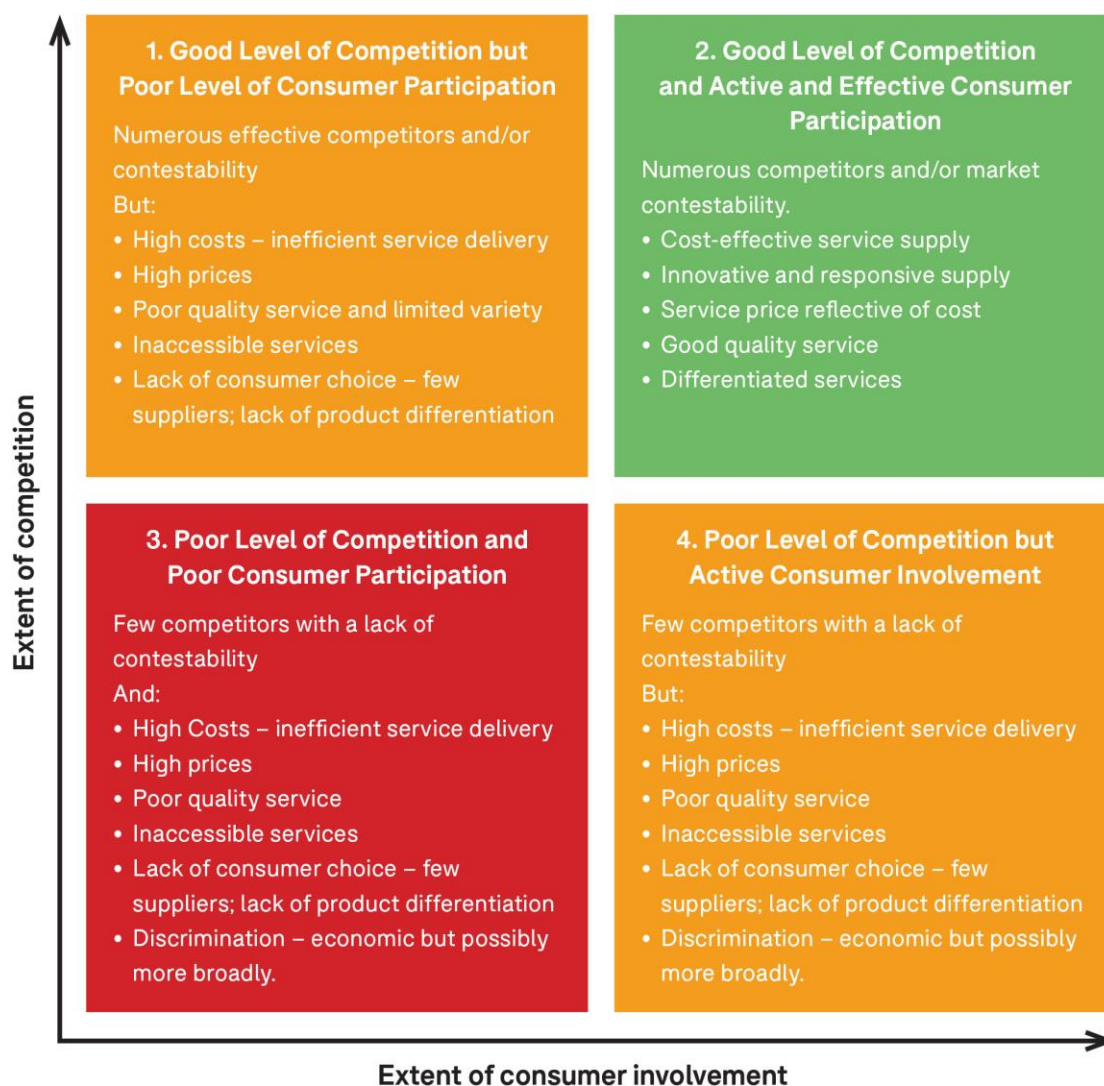


Figure 1: The consumer/competition assessment framework.³

³ Adapted from Louise Sylvan, “Activating Competition: The Consumer – Competition Interface” (2004) 12 *Competition and Consumer Law Journal* 191.

Factors responsible for good or bad service delivery outcomes

Having identified the outcomes associated with various levels of competition and consumer engagement in Figure 1, Figure 2 seeks to identify the factors responsible for these outcomes. Essentially these factors fall into two groups:

- the presence or absence of factors that limit competition; and
- the presence or absence of factors that result in poor outcomes for consumers.

In some cases, a 'market' is unable to support more than one (or only a small number) of suppliers due to limited demand (as may occur in regional or remote areas). Alternatively, there may be very significant economies of scale, such as high overheads and/or extensive administrative processes. In other markets, participation is limited due to barriers to entry. These include regulatory restrictions, high sunk costs and network effects. On the consumer side, the assumption that consumers are informed, able to engage and actually engaged may be inappropriate. A further factor that must be considered is the ability (or otherwise) for consumers to switch between existing rivals or, in the case of contestability, new entrants.

These various market failures combine in different ways in the four quadrants to indicate why, for some human services, it is difficult to obtain the benefits of competition/contestability while simultaneously ensuring good outcomes for consumers. It is only in Quadrant 2 that there are both actual and potential competition *and* good outcomes for consumers. For these services, there is plenty of actual competition and/or service delivery is contestable because entry barriers are low and there is sufficient demand to enable numerous suppliers to operate sustainably. Genuine contestability requires low sunk costs, access to relevant technology, access to consumers (that is, adequate uncontracted customers who are able to switch suppliers), and an inability on the part of the incumbent supplier to engage in strategic exclusionary strategies quickly enough to prevent entry. Meanwhile, consumers must be well informed, willing to use that information to make choices and able to switch service providers without too much difficulty or cost.

At the other extreme, outcomes in Quadrant 3 (lower left) are poor both from the perspective of competition and for consumers. There is a lack of competition due to high barriers to entry, including regulatory barriers, economies of scale and/or scope and network effects; and possibly due to limited demand for the service. If

economies of scale are significant (or if larger suppliers have better access to funding), diversity of service offerings may be reduced as larger suppliers crowd-out other suppliers, including community-based and not-for-profit suppliers. The low level of consumer engagement may result from information issues, switching costs (including lock-in contracts), and/or a lack of engagement with the market (e.g. by searching or effectively using the information available). This means that minimal pressure is placed on suppliers to improve their performance, in circumstances where competition for customers fails to provide this pressure.

In Quadrant 1 (upper left), like Quadrant 2, there are plenty of competitors and the market is contestable. However, for reasons similar to Quadrant 3, consumer engagement is poor. While in Quadrant 4 (lower right), consumers are well informed, engaged, and not subject to restrictions on switching, but the impediments to competition result in poor outcomes, similar to Quadrant 3. Subsequently, in this report, we consider potential movements between the quadrants in light of the case studies chosen.

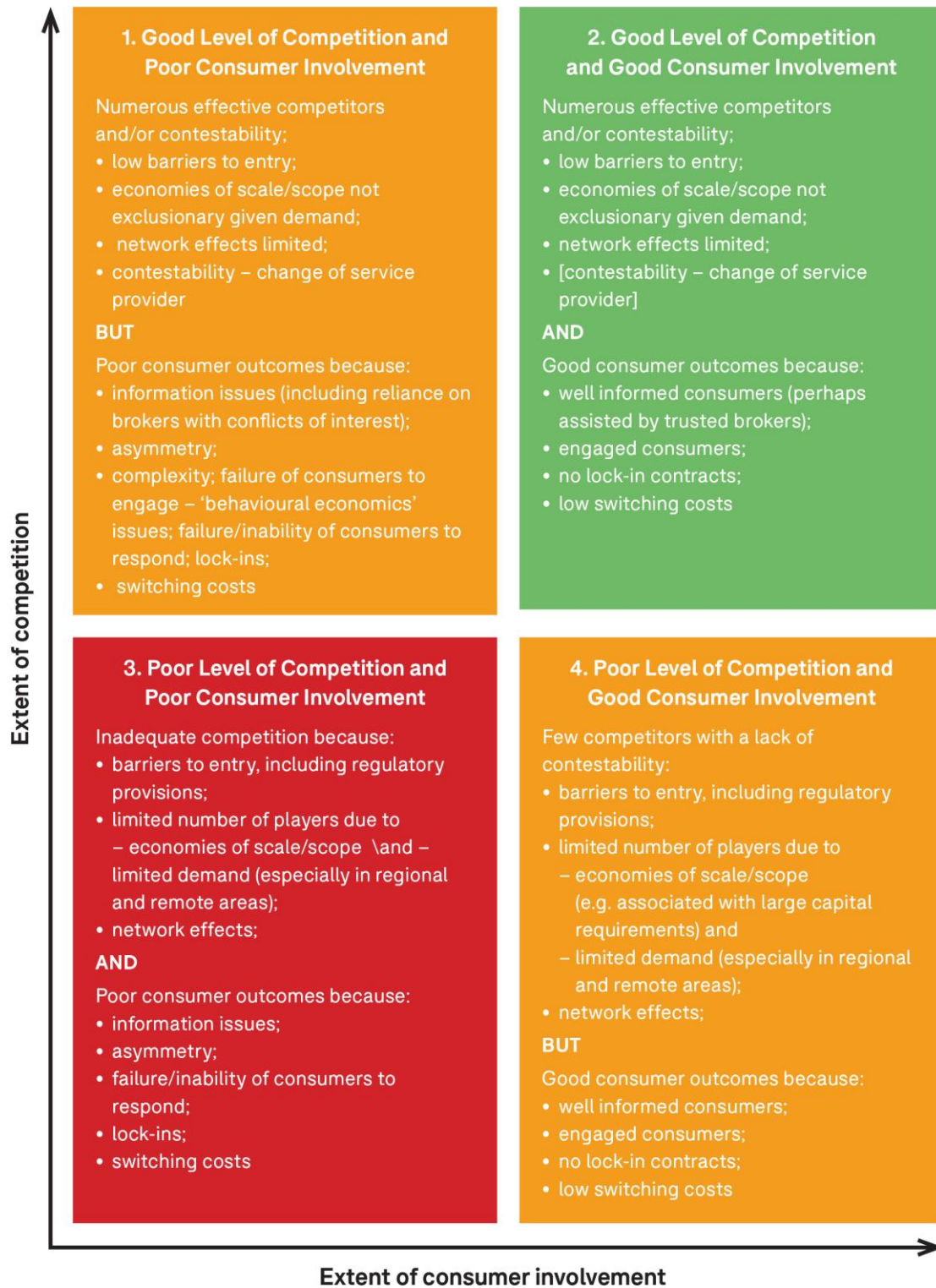


Figure 2: Factors influencing competition and consumer outcomes

Achieving better outcomes in service delivery

Given the observable characteristics of the various human services, it should be possible to decide for any particular human service the quadrant into which it fits. However, services within any given quadrant will still differ as to the extent of competition and consumer involvement – two services may be located in Quadrant 3 (poor competition and poor consumer engagement) but one may demonstrate more competition or one may have better outcomes for both competition and consumer involvement, but still fall short of the levels required for inclusion in Quadrant 2 (good competition and consumer engagement). If a particular service can be assigned to a particular quadrant, it is then more apparent as to whether increased competition and/or contestability will result in improved outcomes, or what is needed for this to occur.

Based on the situations depicted in Figures 1 and 2, the policy objective, as shown in Figure 3, is to shift services currently falling within Quadrants 1, 3, and 4 into, or at least towards, Quadrant 2. The aim is to introduce changes that result in a net increase in welfare, while avoiding making some groups of consumers worse off. In part this may be achieved by addressing the factors that inhibit successful consumer involvement and/or competition in service delivery. However, more will be required. This includes a reassessment of regulatory provisions relating to the supply of particular human services and reformulation of those regulations to ensure that they support and necessitate good outcomes for consumers, including providing an incentive for innovation in services offered and in delivery. The objective should not be simply to increase profits for private sector suppliers, or to reduce costs for government. In addition, accessible, low cost means of dispute resolution for consumers are essential in circumstances where the role of the private sector in providing services is to be increased.

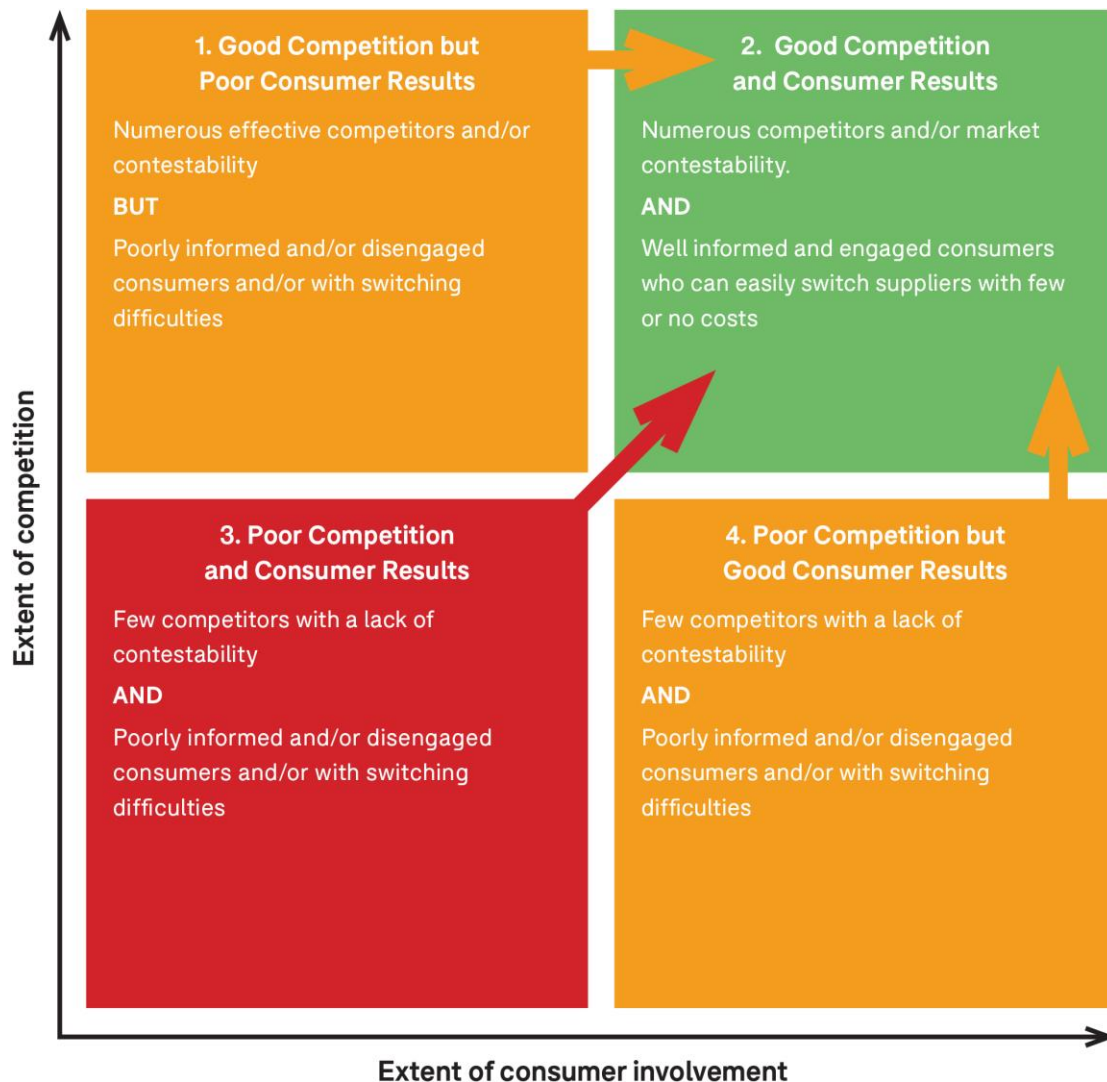


Figure 3: Movements between quadrants

Only for services that fall into Quadrant 4 (low levels of competition but a relatively high level of consumer engagement) will policies to stimulate competition alone, if successful, move those services into Quadrant 2. Two considerations arise. The first is to determine what is impeding competition. Structural changes may reduce barriers to entry – for example, technological change may reduce the significance of economies of scale (although it frequently has the opposite effect) or supply may become more contestable – for example due to a change in the way in which the government awards contracts for the supply of services. Second, and importantly, what effect will increased competition have on the nature and the quality of the service delivered? Outcomes for consumers may be adversely affected if: there are significant economies of scale/scope (large suppliers crowd out smaller suppliers and

reduce diversity in service offerings); demand is limited such that it is not profitable to provide service to, say, rural areas; service quality is inappropriately low for some groups (e.g. due to language or accessibility barriers); or if there are significant network effects.

To move services falling within Quadrant 1 towards Quadrant 2 does not require an increase in competition/contestability as this is already adequate. Indeed, an increase in competition may result in worse rather than better outcomes. It requires policies to improve successful consumer involvement in the relevant market. Unless this can be achieved, despite the market being competitive, outcomes for consumers will remain poor. Unfortunately, it is unlikely that this will involve a single solution for all relevant services. For services where there is inadequate, complex or asymmetric information, a requirement for disclosure of relevant information in plain language and possibly in a designated format may prove helpful. Such information must be readily accessible. Websites that provide comparisons across service providers are useful but it is important to ensure that the information is reliable and that the way in which these sites are financed does not limit or otherwise influence the information provided. Nevertheless, the issue of whether consumers will use the available information remains. This may be more likely where an agent acts on behalf of the consumer. Brokers acting as agents for consumers may enable better, more informed choice. Even here, issues arise as to the specific benefit of brokers – whether it is to gather information to enable the consumer to make better decisions or whether it is simply to negotiate terms on behalf of the consumer. In addition, broking services add to consumer search costs.

Even if the provision of information to consumers can be improved, enabling better decision-making, switching may remain very difficult. For example, consumers may have entered into a contract with a clause that locks them in for a considerable period. To the extent that consumers are subject to behavioural biases, including status quo bias and framing biases, these need to be carefully considered in relation to the information supplied to consumers. In other cases, switching will be limited by factors other than information and the financial costs involved – for example, elderly residents too frail to move from one residential facility to another. In such cases the solution may be to protect consumers through regulation.

Services in Quadrant 3 exhibit low levels of competition/contestability but also poor consumer engagement. Increased competition and/or contestability, as suggested in

Quadrant 4, will improve outcomes but only if this is coupled with action to increase consumer engagement, as for Quadrant 1.

Public vs private participation in human services

Assessing the efficiency of public sector delivery

The current debate stemming from the Productivity Commissions work assumes that competition is desirable because public sector delivery is inefficient. While this reflects some foundational economic theory, reality can be more complicated. It can be argued, for example, that the reason for this perception is because comparisons rely on the wrong cost base. If the aim is to deliver a service of given quality, adapted to the particular recipient, public providers may well be able to replicate the cost structures of the private sector. If the aim is simply to reduce cost, then inevitably, private sector supply will do that but it will do so by a poorer, less appropriate service. It seems “efficiency”, as brought about by competition, is largely going to be in terms of reducing costs to the maximum extent the ‘market’ will accept. Where there are no effective price signals and no capacity to assess quality prior to “purchase”, this inevitably means that quality will also reduce. So competition may indeed result in lower prices, but it will do so at the expense of quality (in large part because there is limited capacity to compete effectively on quality). It is open to question whether any regulatory structure could (realistically) facilitate such competition. And even if one could, there would still be competition based on low prices/poor quality, which begs the question whether that would really amount to an effective spend of public money.

The role of markets

Some of these issues reflect the absence of the typical factors which define market-based competition. Generally, assessments of competition in human services presuppose that human services are supplied and acquired in an economic market. Yet, for many of these services, there is no real economic market, or even a quasi-market. Rather, the government (as principal) pays for the supply of services and, directly or indirectly, determines what services will be supplied, the amount of service supplied, and the quality of service offered. Others, acting as agents for government, deliver services. Individual consumer preferences are largely ignored in this process.

In this purchaser-provider model, government replaces the pricing mechanism that in economic markets coordinates the independent decisions of buyers and sellers. Fiscal responsibility and concerns about the failure of the service provider to act in the way required by government (principal/agent issues) mean that service delivery is less responsive to competitive pressure than it is to regulatory pressure.

Economic markets function on the assumption that buyers and sellers operate at arm's length from each other, their decisions coordinated via the pricing mechanism. However, in the supply of human services, the government frequently mingles the role of buyer and seller and the key decision variables are either controlled by government or are circumscribed by government regulation. Risk is transferred to the provider in a way that can stifle innovation.

Many human services involve the establishment of long term relationships between the supplier and the recipient of the service and these relationships may take quite some time to become established. Switching from one supplier to another destroys that relationship. For that reason, switching may be limited. However, in competitive markets, if switching does not occur, or occurs only in response to extreme circumstances, an important constraint is removed. Indeed, in competitive markets, switching may be forced upon service recipients when businesses fail or withdraw their services. One of the accepted outcomes of competitive markets is that less efficient firms fail. This enables a reallocation of resources to firms that operate efficiently in the expectation that welfare will be increased. However, significant dislocation frequently accompanies the failure of businesses delivering human services such as child care and residential aged care. Not only is an established relationship destroyed, alternative equivalent placements are rarely available.

Ultimately, competition occurs in a market. Absent an economic market, or at the least, a quasi-market, increased competition is unlikely to deliver satisfactorily the benefits sought. Arguably, for many human services, there is the potential for competition in service delivery, although at present competition is largely in terms of winning supply contracts. If an effective market is to be established to facilitate competition, then consumers (or their representatives) need to be actively involved in making choices: right now, that is more the exception than the norm.

Ensuring good outcomes (indeed, achieving better outcomes) for consumers from introducing more competition/greater contestability into the delivery of human services first requires that the factors that result in poor outcomes for consumers can be addressed adequately. This is because competition/contestability alone is

likely to result in poor quality and possibly inappropriate services unless supply is highly regulated. If adequate consumer engagement can be facilitated, the issues that impede competition then will need to be addressed. Nonetheless, simply ensuring more information is available for consumers does not discharge this concern: it is essential that consumers have the capacity to access and interpret useful information in a timely fashion. Frequently, the circumstances under which human services are procured will mean that this is simply not possible.

Conclusions on the framework

As with any schematic, the proffered framework is necessarily simplified and, in some respects, 'two dimensional'. It cannot capture all issues and supports a tendency to view a given sector as an amorphous mass, failing to account for a range of variables (including different 'densities' of competitive tension, whether on the basis of geography, consumer profile or differentiated service). Consequently, as with any theoretical framework, its utility must be tempered and cross-checked by reference to practical experience. In the next chapter, we discuss the findings to emerge from the two case studies conducted as part of this report before applying the framework to the sectors in question.

III. LESSONS FROM THE CASE STUDIES

In order to marry theory to practice, we examined the Australian experience as it relates to two sectors in which competition (in one sense or another) has been significant in recent years. These were vocational education and training (VET) and employment services. Each sector is considered in detail in a stand-alone appendix which sets out the evidence upon which the conclusions in this chapter are based. In this chapter, however, we briefly describe each sector, before outlining its experience of competition to date. These findings are then linked back to the framework developed in Chapter II. Finally, the apparent lessons from each of these sectors are synthesised, to see whether broader conclusions can be drawn.

Vocational Education and Training

Over the last decade, Australia's VET sector has opened up considerably with government, not-for-profit and for-profit training organisations competing. The manner in which contestability and competition has been implemented, however, has been highly problematic, resulting in enormous budgetary blow-outs, considerable consumer harm and questionable results for industry. These outcomes have occurred against a background of ongoing policy refinements and occasional backflips.

The impact of increased competition

The introduction of user choice, contestability and competition has certainly delivered some benefits in the sector. Analysis demonstrates that there have been improvements in participation, accessibility and choice, due (in whole or part) to the increased role of contestability and competition. Students have access to a broader range of courses, delivered by a broader range of providers. In addition, there is evidence that increased contestability has encouraged greater efficiency and responsiveness by public providers.

But the introduction of contestability and competition intersected with a regulatory framework that created perverse incentives, distorting competitive outcomes. It gave rise to myriad problems (most of which will have long-term consequences). These problems include: predatory behaviour (with 'dodgy' marketing practices employed, principally by for-profit providers, often via their commissioned brokers); lower completion rates; substantially increased tuition fees (disproportionately affecting disadvantaged students); considerable concerns about the quality of the

courses offered; a failure to address skills shortages as identified by industry; and escalating student loans (and disproportionate increases in students loans by Government which are unlikely to be repaid), resulting in extraordinary funding blow-outs.

After an initial expansion in provider numbers, more recently the sector has seen increasing concentration, a trend which is expected to continue. This is likely to have broader consequences, undermining some of the initial benefits of competition experienced by the sector to date. As the diversity of providers reduces, the array of courses on offer is also likely to shrink – in essence, large providers are likely to rush to fill the ‘middle space’, offering the most popular (and least expensive) courses. As large players get bigger, economies of scale and scope are also likely to make smaller players (including not-for-profit providers) less competitive, eventually causing some – perhaps many – to exit, an outcome which is difficult to reconcile with their apparent significance as discussed below.

Against this backdrop, the impact on government and not-for-profit providers has been mixed. Such providers remain integral to the VET sector, to service ‘thin’ (i.e. unprofitable) segments. TAFE, in particular, is asked to be both a ‘first responder’ (i.e. innovate and offer new services) as well as a provider of last resort offering high investment/low return training needs, servicing non-commercial markets and simultaneously setting a competitive benchmark against which cherry picking private providers can be measured. Yet, without specific targeted government support, TAFE could only service the less attractive areas of the ‘market’ by cross-subsidising, thus meaning ‘popular’ courses are more expensive. This in turn would mean TAFE would attract fewer students (adversely affecting its economies of scale) and would be unable to provide the competitive benchmarking which appears to be required to discipline for-profit providers.

Applying the framework to VET

Returning to the framework discussion in Chapter II, VET sits comfortably within the description ascribed to Quadrant 1: prices are high, service quality is inappropriate and the needs of particular groups of consumers are not adequately addressed. The sector is characterised by ‘cherry picking’, meaning that, for some groups of consumers, services may not be accessible or may be more difficult to acquire.

In more recent years, reforms in the sector have resulted in movement *up* along the competition continuum, countered by a movement *down* along the consumer continuum. Notably, poor consumer outcomes have largely been a consequence of

greater user choice, accompanied by a regulatory framework which encouraged gaming of the funding system by profit-maximising providers. Overall, it is unclear whether the introduction of demand-led competition has resulted in a net gain, but when cost blowouts are factored in, one suspects not.

As discussed in Chapter II, moving services from Quadrant 1 towards Quadrant 2 does not require an increase in competition/contestability as this is already adequate. Indeed, an increase in competition may result in worse as opposed to better outcomes. Rather, it requires policies to improve successful consumer involvement in the relevant market.

Conclusions

The positive outcomes brought about by competition – increased participation, accessibility and choice – were the direct result of Federal Government policy. The less positive outcomes – described as “unintended or perverse outcomes”⁴ – were in fact completely in accordance with the basic economic tenet of competition theory: for-profit firms are expected to maximise profits. For example, there is a clear incentive for for-profit providers to encourage students to enrol in those courses which are cheapest to provide. Indeed, there is a broad range of strategies open to providers which can reduce costs without impacting on the allocation of government funding.

These strategies are open to both for-profit and not-for-profit providers alike. Where quality is not impacted, these lessons in efficiency (generally emerging from the for-profit sector) are one of the key benefits to flow from private participation and competition in a given market. In the case of VET, however, there was a clear impact on quality, as measured by the quality of course delivery, completion rates and the alignment between enrolments and industry needs.

But the debate about VET should also prompt broader consideration. Returning to the original reason for implementing contestable funding, it was “assumed that a competitive market will deliver better quality and better value outcomes by fostering more provider competition, lower fees and more innovative course design and delivery...”⁵ Other than the mere fact of more competition – which should never be an end in itself – this assumption could not have proven to be more

⁴ ACIL Allen Consulting, *Review of the National Partnership Agreement on Skills Reform: Final Report* (2015), xi.

⁵ Serena Yu and Damian Oliver, *The Capture of Public Wealth by the For-profit VET Sector* (University of Sydney, Workplace Research Centre, 2015), 30.

incorrect. The waste caused by the VET FEE-HELP debacle in just three years is estimated to be at least \$1 billion.⁶ Further, we are told that the government sector needs to be nursed to ensure it remains capable of filling gaps in the market, responding quickly to industry needs and benchmarking competitive prices.

Strangely, few of the recent inquiries and reports – many of them driven by government – have questioned the article of faith that competition *will* deliver the benefits promised or indeed that it is the only way to fix perceived problems of public delivery. As Noonan observes, the government’s discussion paper on VET FEE-HELP concludes that competition and contestability remain essential, simply subject to more and better regulation. As he states:

The market based funding and deregulated fee model proposed in the [discussion paper] fails to consider the Commonwealth’s own experience with VET FEE-HELP and the substantial problems experienced in some jurisdictions with demand and market based [funding models] in terms of quality, pricing and budget overruns.⁷

In designing reforms, policy makers have largely failed to consider the costs of the extraordinarily complex regulatory structure required and the waste that occurs with ‘regulation on the run’, as design flaws are exploited by companies intent on profit maximisation and regulators struggle to catch up. Even when such costs are taken into account, it is rare for consideration to turn to the individuals involved, for whom the early ‘mistakes’ of contestability are hard to rectify. The waste arising from the VET FEE-HELP scheme is of course an enormous drain on the public purse, but it also leaves a lasting legacy for many affected individuals who may be no more employable but now carry loans that – should they ever earn enough – will effectively garnish their prospects to flourish.

Competition does indeed have many benefits, but its costs should not be ignored, simply because such costs do not conveniently sit with preferences for choice and a blind belief that it is the best means to ensure efficiency and responsiveness. VET remains a work-in-progress when it comes to assessing the benefits of competition. At this point in its history, however, one would have to conclude that the costs of competition have almost certainly outweighed the benefits.

⁶ Martin Riordan, “The role of industry in VET” in Committee for Economic Development of Australia (CEDA), *VET: Securing Skills for Growth* (August 2016), 88.

⁷ Peter Noonan, *VET Funding in Australia: Background, Trends and Future Directions* (Mitchell Policy Paper, March 2016), 22.

Employment services

Employment services have, over the last decade, changed significantly due to the role they have increasingly played in implementing 'mutual obligation' policies. It is now two decades since the Federal Government began to withdraw from providing employment services and, on several occasions during that period, significant restructuring of the system has occurred. While there is competition to secure supply contracts (i.e. such contracts are contestable), there is no real competition in the actual delivery of service. For vulnerable groups and people in regional and remote areas the system performs poorly. Key difficulties are associated with measuring performance – the quality and appropriateness of service. The issues apparent with the current delivery of employment services in Australia also clearly demonstrate the significance of the funding model in determining outcomes.

The impact of increased competition

Based on evidence from both Australia and overseas, 'marketised' service delivery in employment services tends to result in an emphasis on job placement, with less focus on education and training. Thus, providers tend to focus their attentions on those who are job-ready rather than people who face greater labour market disadvantage.

Over time, there has been an increasing concentration of providers, with fewer small locally-connected providers. This is resulting in a loss of diversity in the sector, with large players tending to standardise services in order to minimise risks, rather than innovate as might be expected. Consequently, government continues to be required as a provider of last resort, particularly where there are gaps in the market or disadvantaged job seekers with particularly complex needs.

Again, employment services themselves are unlikely to be delivered within a genuine market, although there may be a managed market for the right to distribute employment services. The 'price' paid by the government to suppliers is set by government to reflect the expected cost of supplying the service (e.g. payments to place workers increase the longer they have been searching for work, which is taken to indicate the difficulty in placing them) and of providing some additional services (such as training). This 'market' is disciplined not by substitution by consumers/buyers of one supplier for another, but by regulation and monitoring of supplier behaviour.

There is not free entry into and exit from this quasi-market. Refinements to the regulatory structure now mean that providers have greater security provided they perform well, but at the cost of limiting access for potential new suppliers, thereby reducing contestability (and its capacity for promoting innovation).

Applying the framework to employment services

It seems likely that, as with VET, the provision of employment services, located in the first quadrant of the framework, that is, where there are numerous competitors but relatively poor outcomes overall for consumers (job seekers). However, while some consumer outcomes are really poor (for example, poor quality service and lack of differentiation), outcomes are quite good for job-ready job seekers (job seekers are moving into appropriate jobs quite quickly). However, viewed from the perspective of value for money in service supply, the outcome is less satisfactory as these job seekers would likely acquire a job relatively quickly without assistance.

Given this, to move employment services towards Quadrant 2 with good competition outcomes and good consumer outcomes, the issues that prevent competition from producing efficient and innovative outcomes need to be addressed. There are already numerous competitors at the aggregate level, but it is less clear whether there are numerous competitors in the various contract designated supply areas. Nevertheless, the method of awarding contracts means that generally they are contestable in response to poor performance.

In addition, further customisation of services to the particular needs of job seekers would be required. Job-ready job seekers appear to be well served by the remuneration incentives for providers of employment services contained in the current arrangements. Despite specifying that more workers facing disadvantages in the labour market must receive training, this does not ensure that they receive *appropriate* training. In short, this is a variation of the problem of assessing the quality of the service provider.

Conclusions

Given the absence of an economic market for employment services, it is not surprising that the outsourcing of employment services appears to have had little impact on job-ready job seekers but may have further disadvantaged hard-to-place job seekers, especially those in rural and remote areas. Benefits from increased efficiency and innovation seem to have been minimal. In part this reflects the shift of risk from the government onto the service provider.

Synthesising the Lessons

Common Features

The sectors the subject of the case studies demonstrate a number of common market features:

- First, a genuine 'market' may not exist. A principal-agent supply model generally pertains and there is frequently an absence (or at least suppression) of price signals and limited-to-no capacity for users to switch;
- Consequently, the 'market' is disciplined not by consumers/buyers substituting one supplier for another, but by regulation and monitoring of supplier behaviour;
- To the extent a market may be said to exist, it is characterised by systemic failures, including information asymmetries, customer lock-in, under-servicing, externalities and an absence of price signals;
- Assessing quality is extremely problematic. Assessments are often made by reference to proxies. This in turn can encourage gaming or cost-cutting measures which impact on quality but not access to funding.

Common outcomes

In light of these common features, it is also possible to discern a number of common outcomes:

- Government responses to unintended outcomes tend to result in a constant state of regulatory flux. This in turn leads to risk management strategies (by both government and providers) which favour incumbents over new entrants and discourage innovation;
- There is a need for intermediaries to navigate and interpret information in order to assist users to make quality assessments. Such intermediaries, however, are not always best placed to provide advice. Where intermediaries are engaged by providers, there are clear conflicts of interest. Alternatively, they can be engaged privately by those users who can afford it or even financed by government. In any case, the need for such intermediaries is arguably inefficient and represents a cost that should be factored in when considering the overall benefits likely to flow from increased competition;
- An initial expansion of provider numbers has typically been followed by contraction. Exploiting economies of scale (some of which result from the complexity of the regulatory structure) is a key way in which 'effective'

competitors can reap the benefits of their efficiency. For-profit providers face particular incentives to cherry pick, both on the basis of geography as well as customer segments;

- As concentration increases, large providers pursue strategies that mean they are being simultaneously less risky and more profitable;
- Where economies of scale do prevail, cherry picking is particularly problematic, as less profitable segments are left for not-for-profit and government providers. Absent specific financial support from government, such providers must engage in cross-subsidisation (rendering them less competitive in more profitable segments) or charge higher prices (if permitted);
- Providers are stymied in benefiting from their own effective delivery of services. This contributes to the strong disincentives to share information and best practices. While users of human services will commonly benefit from collaborative delivery approaches, providers are mostly motivated to support an integrated approach only to the extent it involves related businesses in adjacent sectors.

While such outcomes tend to be described as unintended or even perverse, they frequently reflect the intersection of the regulatory framework with the predictable incentives of profit-maximising firms.

Observations

On the basis of these outcomes, further observations can be made. First, improved access to better information will always be beneficial, although it need not occur within the framework of competition reform. On a related point, however, user choice is *not* unambiguously beneficial (even assuming it is well-informed). There are times when other policy objectives may require user choice to be constrained.

As regards the government's general approach to policy reform, there appears a strong tendency to overestimate the benefits of competition, while underestimating the complexity of getting the right regulatory structure. To this end, the costs of 'learning by doing' are largely disregarded, even though it is extremely disruptive to have sectors in a constant state of policy flux. Nonetheless, there appears to be an unshakeable faith that, with the right regulatory framework, the benefits of competition will be delivered and will be worth the attendant costs both to the community and individuals. On the basis of the case studies contained in this report, such faith appears to fly in the face of experience.

Concluding thoughts

In considering any policy change, it is usual to specify the objective of the proposed change. In relation to the supply of human services, it is difficult to know exactly what the introduction of increased competition is intended to achieve.

As observed in Chapter II, however, competition occurs in a market and for many human services, no market exists, or it does not exist as an interface between the service provider and the final consumer. Even where a market does exist, if there are substantial market failures, more competition may not deliver the expected increase in efficiency, especially where the means of addressing market failures is a high level of regulation that shifts risk onto the supplier and stifles innovation.

For those services where it may be said that a market exists, before considering increasing the level of competition (or contestability), it is important to consider whether the perceived problem is due to a lack of competition or whether it is caused by something else, such as disequilibrium in the market (deficient supply or excess demand). If the latter, then additional competition will not solve the problem.

Second, even if increased competition is appropriate, consideration needs to be given to any negative consequences of that increase in competition. These include a deterioration in the quality of service either because the for-profit-suppliers reduce the quality of inputs in order to reduce costs or because suppliers are inadequately funded on the assumption that a given level of funding is appropriate due to predicted efficiency gains. In addition, the potential for disruption of established relationships between service consumers and providers in more competitive and/or contestable markets may have significant adverse effects where consumers have an ongoing need for service.

Third, those needing to access human services often have a range of needs. In order to address those problems appropriately, it is not satisfactory to address the various issues on a stand-alone basis. A holistic approach is required.

Fourth, for markets to work effectively, it is important to have consumer engagement and this requires, as both the Harper Report and the Productivity Commission recognise, informed consumer choice. Not all consumers (or even their representatives) are capable of making informed choices. Nevertheless, some consumers in some circumstances are capable of making informed choices if provided with appropriate information, especially where service provision is linked to conditions (as, for example, where Centrelink is involved). Often, however, the

degree of complexity is such that businesses have been created to operate as intermediaries between users and service providers. The efficiency of such complexity must surely be questioned. However, as is now well established from behavioural economics studies, consumers do not always use, or use fully, the information available to them. They are subject to a range of biases in their responses and, particularly in relation to the supply of human services, frequently need to make decisions in circumstances where they are under considerable emotional and/or financial pressure. It is unclear how such biases should be factored in given the import of human services: choosing on the basis of poor decision-making has vastly different consequences when it involves a mobile phone plan as opposed to medical services, particularly if a third person (i.e. the Government) is footing the bill.

GLOSSARY

Asymmetric information: where one party is informed about some aspect of the product or service but the other party to the transaction is unaware of it. If the uninformed party had the information they would place different value on the product or service.

Barriers to entry: something that delays or deters new businesses entering a market. Barriers to entry lead to consumer harm as existing businesses can extract higher prices or set unfavourable terms due to a lack of market pressure.

Competition: the process of rivalrous interaction between firms to obtain sales or to avoid losing sales. The degree of competition in a market depends on the number of firms in a market and the extent of market concentration, the height of barriers to entry into the market, and the degree of countervailing power (power on the other side of the market), although other factors may also be relevant (such as long-term agreements). Competition, when used in a broad sense, encompasses informed user choice as well as contestability.

Contestability: a market is contestable if in response to anti-competitive conduct (an increase in price by a firm with substantial market power), other firms can enter the market quickly to offer additional supply, thereby lowering prices and eliminating monopoly profits. The factors required for highly contestable markets include access to technology, similar cost structure for the entrant/s and the incumbent, no or low **sunk costs**, ready access to customers (plenty of uncontracted demand), and an inability of the incumbent to deter entry by other firms.

Economic efficiency: it is important to be able to measure how well markets work. 'Efficiency' is the measure often used. Efficiency has various aspects. Dynamic efficiency— often known as innovation – relates to the speed and completeness of response to changes in market conditions.

Economies of scale: the reduction in the unit cost of production as output increases. In other words, as a business supplies more, if there are economies of scale, their costs will decrease.

Externalities: when a firm's conduct imposes costs (or benefits) on third parties which are not taken into account in its decision-making.

Free riding: when one supplier is able to use or benefit from something provided by another business, possibly a rival, without being required to pay for it.

Market failure: results in an inappropriate amount of product (including none at all) being made available by the market. Sources of market failure include externalities, free riding, **public goods**, and information asymmetries. A market failure may or may not have anti-competitive consequences.

Network effects: the advantage businesses gain when large groups of customers are connected through their propriety platform or service, for example through a social media platform or a telephone network. A network effect exists when businesses gain a larger competitive advantage as more people join their service.

Principal-agent problem: this problem occurs when one person or entity (the “agent”) is able to make decisions on behalf of, or that impact, another person or entity (the “principal”). This problem arises in circumstances where an agent is motivated to act in their own best interests, which may be contrary to those of the principal. In the case of human services, the Government is the principal. A provider or a consumer may be the agent: for example, in the health context, a consumer may take advantage of a bulk-billing service; subsequently, their general practitioner may refer that person for blood tests. In both cases, the decision to “consume” a given service is made by someone other than the party who pays for that service.

Provider of last resort: An entity, either a business, not-for-profit organisation or government, that agrees to offer services to people who aren’t or cannot be served by other market players.

Public goods: products which are non-rivalrous and non-excludable, that is, once they are made available, they are available to all and consumption by one person does not diminish availability to others (e.g. free to air television, street lighting, quality of the air).

Sunk cost: a cost that cannot be recovered if a business exits the market. This may be due, for example, to plant and equipment being highly specialised and so having no alternative use, the cost of marketing, training costs, and the cost of setting up administrative systems.

Transaction costs: costs incurred in order to undertake market transactions, excluding the cost of the good or service. Depending on the nature of the market failure, producers may underpay for inputs e.g. when there are externalities or free riding. Examples include the administrative and legal costs of specifying a contract and then enforcing it.

APPENDIX ONE: CASE STUDY

VOCATIONAL EDUCATION AND TRAINING

Over the last decade, the VET sector in Australia has opened up considerably with government, not-for-profit and for-profit training organisations competing. The manner in which contestability and competition has been implemented has been highly problematic, resulting in enormous budgetary blow-outs, considerable consumer harm and questionable results for industry. These outcomes have occurred against a background of ongoing policy refinements and occasional backflips. The discussion below outlines the key events in the VET sector that led to such outcomes, before considering whether and how competition may achieve better outcomes in the sector.

A short history of VET in Australia

Until the 2000s, the VET sector was primarily the domain of public providers.⁸ Government's role in VET was, essentially, a consequence of externalities. As Yu and Oliver explain, "market failure in the provision of vocational education justifies government intervention to ensure adequate investment".⁹ In short, the benefits of VET do not accrue directly to the training provider: rather, such benefits are shared amongst the students (who are more employable following such training), other employers (who reap the rewards of another's training efforts) and the general community (which benefits from a more skilled workforce). Thus, "[I]f left to its own devices, a free market results in under-provision of vocational education and training".¹⁰

The current delivery of VET in Australia has its genesis in the 1970s, with the establishments of Technical and Further Education (**TAFE**) institutes.¹¹ TAFEs operated under a joint State-Commonwealth funding model, with states managing the delivery of VET within their jurisdictions and historically providing around two-thirds of the funding.¹² In 1992, the Australian National Training Authority was established by an intergovernmental agreement that was renewed through to 2004.

⁸ Sarah-Jane Derby, "Overview" in CEDA, 16.

⁹ Yu and Oliver, 30.

¹⁰ *Ibid*, 30.

¹¹ For a discussion of the history of VET in Australia, see Noonan, 3ff.

¹² Productivity Commission, *Report on Government Services* (2016), 5.6.

There followed “Skilling Australia’s Workforce” (2004-2007), before the Commonwealth and states entered into various National Agreements and National Partnership Agreements, which still prevail today.

The current policy framework

The current system for VET delivery builds strongly on reforms from both 2008 and 2012. The former had the “aim of boosting VET student numbers, including via the promotion of contestability, which saw growth in private provider numbers”.¹³ Subsequently, VET FEE-HELP was introduced, extending the existing income-contingent loan system, HECS-HELP, to the vocational sector; at the time of its introduction, VET FEE-HELP was restricted to courses providing pathways to university.

The 2012 National Partnership Agreement on Skills Reform established a new era for VET. It set out the goals and structure of funding and reform up to and including 2016-17. It also established a national minimum training entitlement, granting all working-age Australians access to a Government-subsidised training place up to their first Certificate III level qualification. Students were able to enrol with the Registered Training Organisation (RTO) of their choice. As part of this “entitlement funding model”, VET FEE-HELP was expanded, now applying to various certificate courses which did not previously qualify.

In October 2016, the Federal Government announcement that VET FEE-HELP would be dismantled to be replaced with VET Student Loans. The VET Student Loans program commenced on 1 January 2017. As part of these reforms, students’ debt are incurred in line with course delivery (not at the time of enrolment), entry requirements are tightened, existing providers have their total loan limit frozen (with stricter entry requirements to apply to new training providers) and oversight of providers has been increased.¹⁴

Allocation of government funding

Pursuant to these arrangements, government funding for VET is now delivered via the following channels:

- State and territory funding to RTOs;
- Commonwealth funding to states and territories;

¹³ Derby, 17.

¹⁴ Australian Government Department of Education and Training, “VET FEE-HELP Reforms”, <https://www.education.gov.au/vet-fee-help-reforms> (accessed 5 November 2016).

Competition policy & human services

- Incentives and loans to individuals (including VET FEE-HELP and, VET Students Loans as of 2017);
- Skills development and incentives to employers; and
- Support for the National Training System.¹⁵

There is also funding provided to specific VET programs such as special needs funding and VET in schools.¹⁶

Much of this funding is provided through contestable processes (open to public and private providers). Contestable funding was favoured as it was “assumed that a competitive market will deliver better quality and better value outcomes by fostering more provision competition, lower fees and more innovative course design and delivery...”.¹⁷ Thus, “In 2014, \$2.4 billion (46.4 per cent) of government VET funding was allocated on a competitive basis... of which \$1.5 billion was allocated to non-TAFE providers”.¹⁸

As reported by the Productivity Commission, the processes used to allocate funds on a competitive basis include:

☐ *user choice – where the employer and apprentice/trainee choose an RTO and government funds flow to that provider. Nationally in 2014, 13.1 per cent of government funding was allocated on a user choice basis*

☐ *competitive tendering – where government and private RTOs compete for funding contracts from State and Territory training authorities in response to government offers (tenders)... Nationally in 2014, 2.4 per cent of government funding was allocated on a competitive tendering basis*

☐ *entitlement funding – combined aspects of user choice and competitive tendering with guaranteed government-subsidised training places for qualification... Entitlement funding programs in 2014 accounted for 30.9 per cent of all government funding allocated to VET...¹⁹*

Funding for the sector is fragmented. As of 2017, eight different approaches in force across the country.²⁰

¹⁵ Productivity Commission, *Report on Government Services*, 5.8.

¹⁶ *Ibid*, 5.9-10.

¹⁷ Yu and Oliver, 30.

¹⁸ Productivity Commission, *Report on Government Services*, 5.10.

¹⁹ *Ibid*.

²⁰ CEDA, 6.

Types of training providers

As observed by Yu and Oliver, the present demand-driven funding model “has been the primary means of opening up contestable funding to for-profit training providers, and forcing TAFEs to compete in a competitive market...”.²¹ The extent to which public providers are exposed to competition varies by jurisdiction, with states generally deciding their approach based on the apparent readiness of their TAFE institutes, as well as the capacity of private providers, particularly in regional areas.²²

At present, the main types of RTOs fall into the following categories:

- Government VET providers, such as TAFE and agricultural colleges, as well as multi-sector educational institutions (e.g. schools/universities) with an RTO arm;
- Community education providers, e.g. adult community education providers;
- Other registered providers, e.g. institutions (including private training businesses) specialising in VET delivery, industry/community bodies with an RTO arm, businesses/organisations/Government agencies with RTO status to train their own staff, Group Training Organisations that also provide VET services, and Australian Apprenticeship Centres (also known as Apprenticeship Network providers).²³

While two decades ago, VET was principally delivered by the TAFEs of each State and Territory, now the sector is extremely diverse. CEDA reports that “[i]n 2014, there were 2865 private providers, 960 schools, 497 community education providers, 210 enterprise providers, 57 TAFE providers and 15 university providers”.²⁴

In 2014, there were 3.9 million enrolments nationally, with private providers delivering more than half of the total training activity.²⁵ Indeed, as demonstrated by Figure V.1, private providers have made real inroads in terms of ‘market share’.

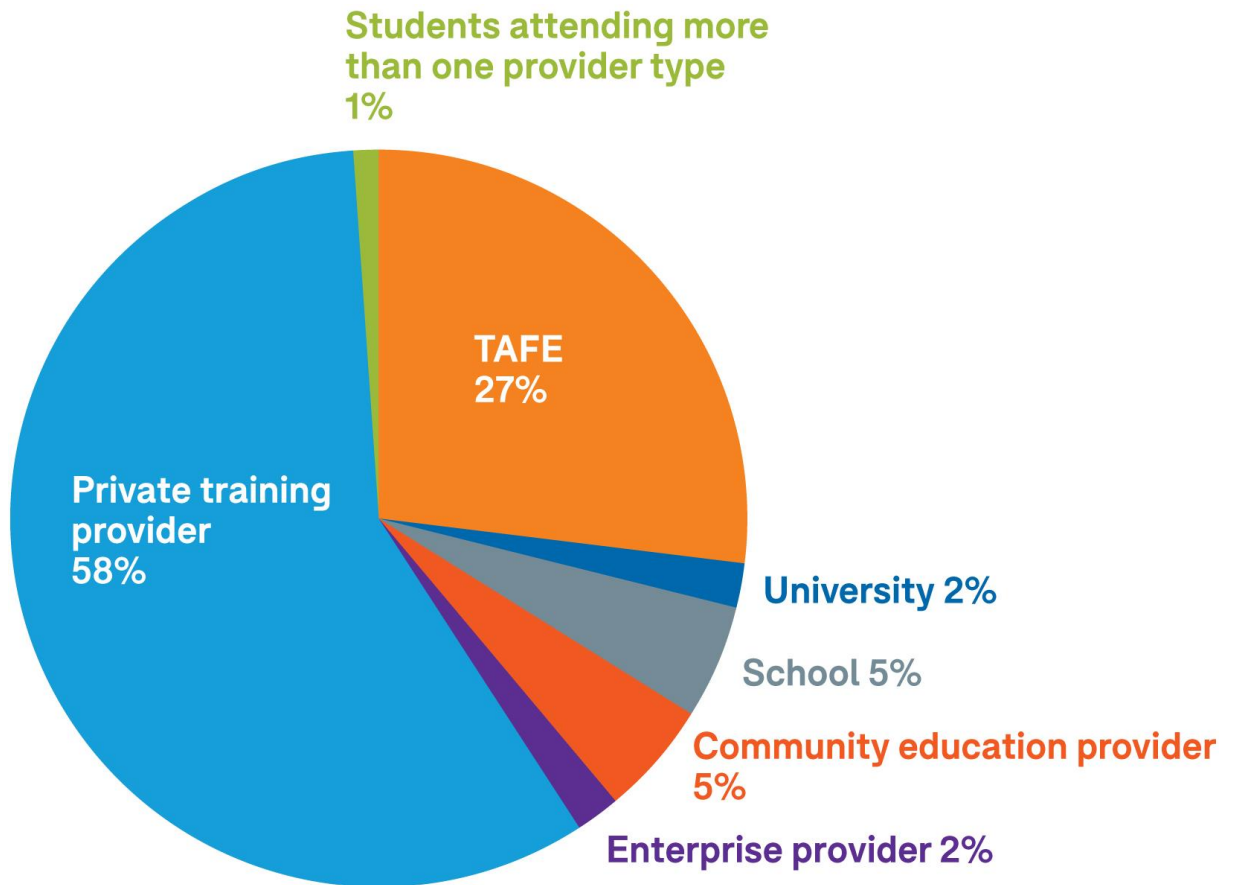
²¹ Yu and Oliver, 3.

²² ACIL Allen, 49.

²³ Productivity Commission, 5.3.

²⁴ CEDA, 6.

²⁵ Rod Camm, “Quality and Choice: Securing Australia’s Workforce Skills”, in CEDA, 62.



Share of student by provider type, 2014²⁶

The benefits of contestability and competition

At the end of 2015, ACIL Allen delivered a report into the National Partnership Agreement (NP), measuring the performance of the VET sector against the goals established pursuant to the 2012 NP.²⁷ The NP's objective was "A VET system that delivers a productive and highly skilled workforce which contributes to Australia's economic future, and to enable all working age Australians to develop the skills and qualifications needed to participate effectively in the labour market".²⁸ The NP instituted a review process, by which this objective was to be measured against the following outcomes:

More accessible training for working age Australians and, in particular, a more equitable training system, which provides greater opportunities for participation in education and training;

²⁶ Derby, 21

²⁷ ACIL Allen.

²⁸ National Partnership Agreement (available at: http://www.federalfinancialrelations.gov.au/content/npa/skills/national-partnership/skills-reform_NP.pdf), clause 20.

A more transparent VET sector, which enables better understanding of the VET activity that is occurring in each jurisdiction;

A higher quality VET sector, which delivers learning experiences and qualifications that are relevant to individuals, employers and industry;

*A more efficient VET sector, which is responsive to the needs of students, employers and industry.*²⁹

In reviewing the sector, ACIL Allen concluded that there were clear improvements (when measured against the benchmark year of 2008-09) in relation to participation, accessibility and increased choice. These improvements were all attributable, in whole or in part, to the increased role of contestability and competition in the VET sector, and the accompanying measures introduced to encourage them.

In terms of participation, the headline target of enrolments was achieved earlier than expected. Indeed, the training target of 375,000 completions by 2016 was exceeded in 2013. As Derby reports, Victoria in particular recorded increased participation by students from disadvantaged backgrounds (e.g. people from culturally and linguistically diverse communities, people with disabilities, people who are unemployed or otherwise outside the labour force).³⁰

ACIL Allen also found that student choice (measured by the number of provider-course combinations) increased over the review period. This indicated decreasing concentration of providers and, correspondingly, increasing competition. When measured across Australia, 'market'³¹ concentration was said to have decreased by approximately 40 per cent since 2008-09.³²

There was also some evidence that increased contestability (and accompanying regulatory reforms) had enabled "public providers to operate more effectively in an environment of greater competition, leading to improved efficiency and responsiveness."³³

Nonetheless, some of these improvements appeared less convincing on closer analysis. For example, ACIL Allen reported concerns that improved accessibility sometimes had the unintended consequence of students enrolling in courses for

²⁹ *Ibid*, Clause 21.

³⁰ Derby, 29.

³¹ ACIL Allen observed that it was using the term "market" loosely, as markets (in an economic sense) remained "relatively geographically discrete" – Australia does not constitute a single training market: 17. This issue is distinct from the question raised in Chapter II as to whether there exists a market in the first place.

³² *Ibid*.

³³ *Ibid*, 50.

which they were poorly suited. “.³⁴ There was also evidence of a funding blow-out and unscrupulous practices, as some private providers exploited the funding model.

The downside to contestability and competition

The introduction of contestability and competition intersected with a regulatory framework that created perverse incentives, distorting competitive outcomes. It gave rise to myriad problems, most of which will have long-term consequences. These problems have been the subject of various reports and inquiries and it is not the intention to consider them at length. Nonetheless, it is important to have a basic understanding of the significant adverse consequences which followed the introduction of competition into the VET sector.

To the extent possible, the resulting issues will be considered in the following order:

- Issues affecting consumers (students);
- Issues affecting industry;
- Issues affecting government.

Note, however, that there is significant overlap between these categories and a clear division is not always possible.

Predatory behaviour

As a Senate Inquiry found, there was evidence of widespread “predatory behaviour”³⁵ as providers sought to sign up students in order to get access to government funding. This included misleading marketing of courses (saying they were “free” or “government-funded”), offers of ‘freebies’ (ranging from meals to laptops) and cash incentives, and the use of high-pressure marketing techniques targeting disadvantaged people.³⁶ Students were sometimes encouraged to enrol in courses for which they were poorly suited (for example, those without computers, internet access or basic computer literacy being enrolled in online courses).³⁷

Indeed, while the significant growth in VET FEE-HELP take-up by disadvantaged students was one of the objectives of the scheme, it was accompanied by a range of ‘poor outcomes’:

³⁴ *Ibid*, iii.

³⁵ Senate Education and Employment References Committee (SEERC), *Getting our Money's Worth: The Operation, Regulation and Funding of Private Vocational Education and Training (VET) Providers in Australia* (2015), 2.48.

³⁶ *Ibid*, 3.6-3.7; Australian Government, *Redesigning VET FEE-HELP: Discussion Paper* (2016), 29.

³⁷ Australian Government, *ibid*, 24.

*One explanation for this is the proliferation of unethical actions by a small number of providers offering inducements such as iPads, cash and vouchers to prospective students to enrol in a course and request VET FEE-HELP. These behaviours specifically targeted vulnerable people through cold calling or door knocking neighbourhoods of low socio-economic status. Those targeted are signed up to a course which they may not have the academic capability to complete and may not understand the loan must be repaid.*³⁸

New standards were introduced in 2015, although evidence put before the Senate suggested that ‘dodgy’ practices had not been completely stamped out by 2017.³⁹ Notably, such standards applied to VET providers, but not to the intermediaries (‘brokers’) that many had engaged to boost their enrolments (as discussed below).⁴⁰

Lower completion rates

Unsurprisingly, given some of the enrolment tactics, completion rates fell, particularly for students using VET FEE-HELP. Camm reports, “students studying externally had a completion rate of seven per cent compared to 23.1 per cent for comparable students not studying with VET FEE-HELP support”.⁴¹ Across the VET sector as a whole disadvantaged students are said to be “faring much worse” than average, with completion rates for Aboriginal and Torres Strait Islander students sitting at around 13 per cent, and students with a disability at around 20 per cent.⁴²

Increased tuition fees

The funding structure also decoupled the purchasing and consuming relationship. Consequently, price signals were absent and providers were able to raise prices with little or no consequence in the market (particularly in light of the dodgy practices around the marketing of the loan arrangements). Average fees rose drastically, from \$4,060 in 2009 to \$14,108 in 2015, with most of the growth occurring since 2012.⁴³ As an extreme example, one of Australia’s largest private providers (Careers Australia) was reported to be charging an average tuition fee of \$18,276,⁴⁴ while a

³⁸ *Ibid*, 14.

³⁹ SEERC, 3.54 and 3.59.

⁴⁰ *Ibid*, 3.79.

⁴¹ Camm, 63.

⁴² Derby, 29.

⁴³ Australian Government, 16.

⁴⁴ SEERC, 3.25.

student enrolled in a degree course at a public university in 2015 would have been paying somewhere between a third and just over half that amount.⁴⁵

The Federal Government also observed that:

*While course costs have increased for all students as a consequence of VET FEE-HELP, disadvantaged students accrue higher fees/debts on average compared to their non-disadvantaged counterparts, particularly Indigenous and low socio-economic status students... For example, in 2015 the average annual tuition fee for Indigenous students was \$19,977 compared to only \$14,328 for non-Indigenous students... Similarly, in 2015 the average annual tuition fee for low socio-economic status students was \$16,193 compared to only \$12,835 for high socio-economic status students...*⁴⁶

Fees were also effectively raised by other means, with students being encouraged to enroll in higher level courses than they had initially sought or, indeed, was sometimes appropriate given a student's aptitude or their likely employment outcomes. The VET FEE-HELP scheme meant, for example, that while a Certificate II course would be subject to upfront fees, a higher level course such as a Diploma would fall within the loan scheme, thereby avoiding upfront fees altogether (and meaning more revenue for the provider).⁴⁷

Quality concerns

Such increases in fees, however, did not accompany improved quality. Subcontracted delivery, 100 per cent online delivery and low course hours resulted in courses which did not meet industry expectations. Indeed, with no objective standards in place for many courses, competition resulted in some providers 'racing to the bottom'. While training providers are paid according to "nominal hours", those hours need not be actually delivered as the training is competency-based as assessed by the provider.⁴⁸ For courses where the industry standard was 52 weeks of training, quality audits found that one third of providers offering aged care qualifications were allowing students to 'qualify' in less than 15 weeks, while one in five providers permitted completion of child care qualifications within 26 weeks.⁴⁹

⁴⁵ *Ibid*, 3.26.

⁴⁶ Australian Government, 18.

⁴⁷ ACIL Allen, 24.

⁴⁸ Organisation for Economic Co-operation and Development (OECD), *Investing in Youth: Australia* (2016), 166.

⁴⁹ Damian Oliver, "Getting Over Middle Child Status", in CEDA, 40.

Unsurprisingly, in some industries with external quality control, regulators have stepped in to revoke qualifications.⁵⁰

As the Senate heard, sometimes the consequences of poor training can be deadly. Stephen Bolton of the Australian Chamber of Commerce and Industry observed:

*[T]his is of incredible importance to public safety – not to mention the individual safety of particular workers. You have people who cannot read labels put into hospitals, you have people in charge of children who are not qualified to actually perform their function and you have people on building sites who cannot use the equipment. It is not just the question of being heartbreaking; it is actually much more serious...*⁵¹

Failures to address skills shortages

From the perspective of industry, students are enrolling in the wrong courses. As the Federal Government noted in its 2016 discussion paper, “data indicates a growing number of VET FEE-HELP loans are for courses other than those identified by states and territories as in demand”.⁵² Analysis suggests that TAFEs have more students enrolled in skills-shortage areas when compared with for-profit providers.⁵³ Rather, private providers tend to focus on high volume, high profit areas like business studies,⁵⁴ despite a relative absence of need from prospective employers.

Escalating VET FEE-HELP loans

Many of the concerns in the VET sector relate to loans granted to students pursuant to the VET FEE-HELP scheme. These income-contingent loans, which apply only to a small portion of the overall VET offering, allow students to enrol in courses at little or no upfront cost, with their loans to be repaid via tax once their income reaches a certain threshold. As tuition fees have risen, so have the accompanying loans: Camm reports that the average loan grew from just under \$6,000 in 2012 to more than \$14,000 in 2015.⁵⁵

⁵⁰ *Ibid*, 41.

⁵¹ SEERC, 4.47.

⁵² Australian Government, 46.

⁵³ Yu and Oliver, 25.

⁵⁴ *Ibid*, 5.

⁵⁵ Camm, above 63. See also Australian Government, 16.

The Federal Government notes that students have sometimes been misled about the nature of the loans, including their rights and obligations.⁵⁶ Thus, prospective students have been told courses are free or government-funded (which is true only to the extent that a student does not reach the income threshold necessary to trigger repayments). As reported to the Senate:

Several witnesses noted that the nature of the loan is further obscured by the relative ease with which it can be applied for. For example... the Canterbury Bankstown Migrant Interagency explained how easily students can obtain a VET FEE-HELP loan [for tens of thousands of dollars], without fully understanding the consequences of what they are doing...⁵⁷

In further evidence, “students were explicitly encouraged by the RTO or broker to think of the loan required to undertake a course as one that they would never have to repay...”⁵⁸

Unsurprisingly, therefore, early analysis suggests that the rate of “Do Not Expect to Recover” (DNER) loans is higher for VET FEE-HELP than for other education income-contingent loans. While the DNER rate for all HELP loans sits at around 20 per cent,⁵⁹ early estimates for VET FEE-HELP suggests the rate may be as high as 40 per cent.⁶⁰ As Noonan states, “Where excessive fees have been charged, and inappropriate enrolments undertaken, Commonwealth payments to VET FEE-HELP providers are never likely to be repaid representing a 100 per cent course subsidy from the Commonwealth to the provider”.⁶¹

Funding blowouts

While the average student loan has increased significantly (see above), combining that effect with higher enrolments in more expensive courses leads to staggering numbers:

After making VET FEE-HELP available to all in 2012, there was a sharp rise in VET FEE-HELP loans from \$26 million in 2009 to over \$2.9 billion in 2015, mostly driven by students enrolled in courses from private providers.⁶²

⁵⁶ Australian Government, 24.

⁵⁷ SEERC, 3.40.

⁵⁸ *Ibid*, 3.42.

⁵⁹ ACIL Allen, 26.

⁶⁰ *Ibid*, 27.

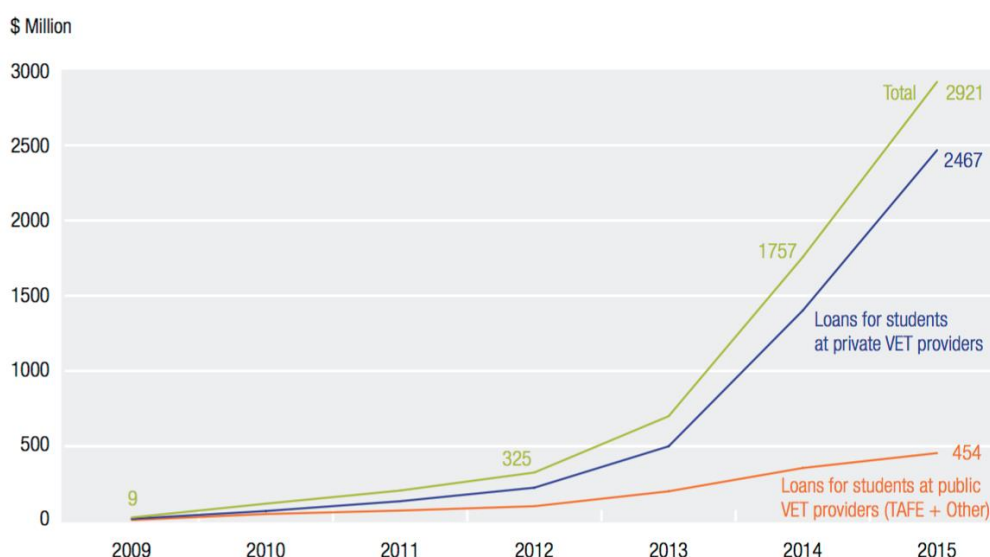
⁶¹ Noonan, 11.

⁶² Derby, 27.

Industry has been quick to point out that students enrolling pursuant to the VET FEE-HELP scheme only account for around seven per cent of total VET enrolments.⁶³ But VET FEE-HELP is certainly ‘punching above its weight’ when it comes to imposing on the public purse, particularly if the 40 per cent DNER estimate is borne out.

Further, as demonstrated by the graph below, most of the growth in VET FEE-HELP is concentrated on students enrolled by private providers. Again, the industry has noted that much of the funding blowout has been due to a few ‘bad apples’ (the top 10 providers account for almost 50 per cent of the loans on issue).⁶⁴ The Senate Committee questioned whether “the companies that benefit from an exploitative business model” could be considered “a *small* part of the industry” given the scale of change in the sector?”.⁶⁵

VET FEE-HELP LOANS YEAR-ON-YEAR



Source: Department of Education and Training 2016, *Redesigning VET FEE-HELP, Discussion Paper*.

Note: Loans are in nominal dollars. The funds paid to public VET providers are treated in the NCVER *Financial Information* as part of the revenue of the public system and included in the revenues in Figure 1. As shown here about 80 per cent of the loans have been made for students at private providers. They have been excluded from the revenues reported in Figure 1 as they apply to students who are excluded from Figure 1.

*Graph: growth in VET FEE-Loans, by year and provider type.*⁶⁶

When one also factors in the increased DNER risk, the VET sector has seen enormous pressure on funding. For Victoria, the pioneer of the entitlement funding model,

⁶³ *Ibid*, 23.

⁶⁴ *Ibid*, 28.

⁶⁵ SEERC, 3.18 (emphasis added).

⁶⁶ Source: *Burke*, 103.

public recurrent funding of VET rose more than 50 per cent from 2010 to 2012.⁶⁷ At a Federal level, “The extraordinary growth of the scheme since 2012 led to urgent action, with sixteen reforms introduced by the Government in 2016 to address unethical behaviour and abuse of student entitlements”.⁶⁸ These reforms were clearly considered insufficient, with the Federal Government announcing in October 2016 that VET FEE-HELP would be completely dismantled (replaced by VET Student Loans).

And what of government providers?

In the VET sector, government provision remains necessary. The role of TAFE, in particular, remains fundamental, for students, industry, and rural and regional areas. ACIL Allen’s summary of the public provider’s role clearly indicates the capacity of for-profit providers to cherry pick, leaving behind government providers to deal with the most complex, and least profitable, sections of the ‘market’:

Areas where there can be an important role of the public provider, both nationally and regionally, include:

- being the first responders to high investment-low return training needs*
- being the providers of last resort in marginal/non-commercial areas of training delivery*
- delivering on the social and equity objectives of government*
- as civic institution and providers of community infrastructure*
- providing a quality yardstick, particularly for long-established courses.*⁶⁹

This summary accords with a recommendation by a House of Representatives committee concerning the role of TAFE, but it also emphasised the capacity of TAFE to “set... a benchmark for price that ensures the market doesn’t simply drive prices up to meet either public or private funding maximum levels”.⁷⁰ Such a role, of course, would theoretically be sorted out by competition in a well-functioning market.

⁶⁷ Gerald Burke, “VET: finance and quality”, in CEDA, 101.

⁶⁸ Australian Government, 7.

⁶⁹ ACIL Allen, 75.

⁷⁰ House of Representatives Standing Committee on Education and Employment, *TAFE: An Australian Asset – Report of the Inquiry into TAFE and its Operation* (2014), xvii-xviii.

But from ACIL Allen’s analysis, the current framework doesn’t always balance well the policy objectives of enhanced competition (particularly via the emphasis on student entitlement and choice) and those of public providers:

*important community service and educational roles of the public provider were in some instances being eroded in pursuit of the efficiency and responsiveness measures within the NP. Transformation of the public provider role requires a steady, evolutionary process, otherwise there are strong risks of losing the value invested in the current capacity and capability of public provision.*⁷¹

Indeed, TAFE’s many diverse objectives – including ensuring equitable access, competitive benchmarking and addressing gaps in the market – cannot be achieved if for-profit providers effectively command the majority of contestable funding and the most profitable enrolments.

The pros and cons of competition: conclusions

In light of the above, it is easy to see why there is a public perception that private providers are “exploiting the system”.⁷² There is an increasing sense that rather than being demand-led, as was intended, the sector has been supply-driven. As ACIL Allen notes, “government funding through the student entitlement and VET FEE-HELP has... created strong supply-side incentives resulting in unintended or perverse outcomes”.⁷³ While the outcomes of student and employment satisfaction surveys appear ambiguous,⁷⁴ labour outcomes appear poor, particularly for lower level VET qualifications.⁷⁵ Generally, the various issues described above are said to be “unintended consequences”⁷⁶ flowing from flaws in the regulatory structure. While adjustments to the regulatory structure can certainly go some way to address the various problems identified, one should be careful in placing too much faith in regulatory reform as the answer. As described below, many of the identified issues are an obvious and even natural consequence of competition in a sector impacted by unavoidable market failure.

⁷¹ ACIL Allen, xii.

⁷² CEDA, 8.

⁷³ ACIL Allen, xi.

⁷⁴ See for example, *ibid*, 41-43 c.f. Derby, 29.

⁷⁵ Oliver, 39.

⁷⁶ CEDA, 8.

How did these issues arise? The business case of for-profit providers

The positive outcomes brought about by competition – increased participation, accessibility and choice – were the direct result of government policy. The less positive outcomes were an indirect (and unintended) consequence, but they were in fact completely in accordance with the basic economic tenet of competition theory: for-profit firms are expected to maximise profits. As Yu and Oliver observe, “The profit maximisation principles of [for-profit] providers (and the primacy of shareholder and owner interests) provide strong incentives to offer training which attracts the highest subsidy, at lowest cost”.⁷⁷ While it is not the case that all for-profit providers engage in dubious conduct in order to profit-maximise, providers without a profit motive tend *not* engage in this sort of conduct as they have far less incentive to do so.

Profit-maximising typically occurs by offering consumers more of what they want, more efficiently. Here, however, the for-profit providers were not competing for students, so much as they were competing for allocations of government funding. This dynamic is fundamentally different, and it is essential to understand its full ramifications.

Lowering costs

In accordance with basic business strategy, the for-profit providers needed to focus on lowering costs and increasing revenue. In particular, as discussed above, there is a clear incentive for for-profit providers to encourage students to enrol in those courses which are cheapest to provide. This is a point at which the incentives of the for-profit and not-for-profit providers can diverge: not-for-profit providers have no particular incentive to direct students towards such courses and indeed often have a specific interest in offering particular courses which runs directly counter to this strategy.

In addition to influencing course selection, providers have several other available strategies to reduce costs without impacting on the allocation of government funding: delivering training online; abbreviating the qualification period; minimising staffing costs by subcontracting course delivery and/or hiring less qualified teachers;

⁷⁷ Yu and Oliver, 26.

minimising rent by focusing on the virtual, not the physical; and investing less in equipment.⁷⁸

These strategies are open to both for-profit and not-for-profit providers alike. Where quality is not impacted, these lessons in efficiency (generally emerging from the for-profit sector) are one of the key benefits to flow from private participation and competition in a given market. In the case of VET, however, there was a clear impact on quality, as measured by the quality of course delivery, completion rates or the alignment between enrolments and industry needs.

Increasing revenue

The accompanying business strategy is of course to increase revenue. While increasing student numbers certainly assisted revenue, for providers playing a short-term game, the ability to exploit information asymmetries proved particularly profitable. Thus we see the extensive (and often exploitative) marketing practices discussed above. Intermediaries, in the form of brokers, were also introduced, as “an inevitable consequence of a competitive system”.⁷⁹ Where consumers face complexity and information asymmetries, information brokers can be expected to emerge, but RTO brokers (being attached to specific institutions) were even less likely to focus on consumer outcomes than brokers in the financial sector, where the conflict of interest issues are well-known. An intermediary’s business model is even more focused on the short-term than their client, meaning – for the broker as well as the RTO – long-term reputational damage is a secondary consideration. Yet, while brokers were responsible for many of the egregious marketing tactics described earlier, they fall outside current regulation (and indeed the revised standards do not apply to them).

In a broader context, providers also set about increasing revenue by acquiring smaller training providers (to increase their course offerings); scaling up (e.g. expanding across jurisdictions or via online platforms); offering ‘management services’ to smaller RTOs (essentially, selling their capacity to navigate the regulatory structure); and ‘cross-selling’, whereby already exploited students were then passed over to an RTO’s related labour hire/recruitment arm.⁸⁰

⁷⁸ *Ibid.*

⁷⁹ SEERC, 3.74.

⁸⁰ Yu and Oliver, 27.

Thus, the regulatory framework encouraged private providers to “skim low cost, high volume courses from the public provider”,⁸¹ with little thought given to educational factors (such as course quality), student welfare (e.g. course completion rates) or industry needs (skills shortages). Thus, “some providers base their course offerings on ease of access to government funding rather than on training students in areas where skill shortages exist”.⁸² As the majority report of the Senate Committee noted, “a fundamental problem with private provision of VET courses is that educational priorities are sometimes at odds with the profitability considerations central to the operation of a business”.⁸³

The role of VET FEE-HELP

These factors were underpinned by the role of VET FEE-HELP. Noonan observes that VET FEE-HELP “is not a source of funding for most VET providers or VET students”.⁸⁴ Nonetheless, one should not underestimate its significance to private providers. Currently, more than three-quarters of VET FEE-HELP funding goes to private providers.⁸⁵ The Federal Government, in its review of the VET FEE-HELP scheme, acknowledged the reality when it stated, “VET FEE-HELP should not be the foundation of a provider’s business model”.⁸⁶ VET FEE-HELP also allowed providers to take on students at high-risk of failing to complete with no risk to their business: “The risk of the loans never being repaid is borne by the Australian Government not the training provider”.⁸⁷ At this stage, it is difficult to predict what “unintended or perverse outcomes”⁸⁸ may arise from the new scheme.

Future concentration

A further natural consequence for the for-profit sector is increased concentration. As noted above, acquisition is indeed one means to increase revenue. But it is also a predictable outcome in a highly fragmented market. Yu and Oliver therefore conclude that “the sector will eventually comprise a smaller number of large providers, who will preserve profitability levels and deter new competitors (e.g. by

⁸¹ SEERC, 2.47.

⁸² Australian Government, 22.

⁸³ SEERC, 2.53.

⁸⁴ Noonan, 9.

⁸⁵ SEERC, 2.45.

⁸⁶ Australian Government, 31.

⁸⁷ Submission by the University of Melbourne’s Graduate School of Education to SEERC, at 2.86.

⁸⁸ ACIL Allen, xi.

being better equipped to manage compliance and reporting requirements, or by dominating certain industry areas)...”.⁸⁹

Concentration itself will have broader consequences. As the diversity of providers reduces, the array of courses on offer is also likely to shrink – in essence, large providers are likely to rush to fill the ‘middle space’, offering the most popular (and least expensive) courses. As large players get bigger, economies of scale and scope are also likely to make smaller players (including not-for-profit providers) less competitive, eventually causing some – perhaps many – to exit, an outcomes which is difficult to reconcile with their apparent significance in servicing ‘thin’ markets.

Solutions explored to solve problems caused by competition

In light of the myriad issues affecting the VET sector since the introduction of contestability and the student entitlement funding model, there have been numerous processes undertaken to consider what solutions should be implemented. These solutions essentially reduce to three propositions:

- tighter regulation;
- better price signals for students; and
- more information being made available to students and Government regarding RTO performance.

Tighter regulation

Derby concludes that, “many of the unintended consequences of the NP and other reforms of the VET system [were] primarily a failure of regulation”.⁹⁰ Thus, ‘tighter regulation’ may include closer regulatory oversight such as training requirements for VET teachers, the assessment and awards process and the granting of RTO status.

As Burke points out, Australia is “very unusual” in allowing new providers to enrol students, assess them and award qualifications.⁹¹ Assessment and award processes are, more typically, conducted externally. Indeed, this is one reason why universities – which are permitted to conduct their own assessment and award qualifications – are so tightly controlled. The designation of ‘university’ is a highly selective process; despite the enormous expansion of the Australian tertiary sector over recent decades, there are just 43 accredited universities in the country. On the other hand,

⁸⁹ Yu and Oliver, 29.

⁹⁰ Derby, 30.

⁹¹ Burke, 108.

RTOs now number in the thousands. Indeed, the expansion of a VET system, designed with universities in mind, to a sector with extremely low barriers to entry was inherently problematic.⁹²

Unsurprisingly, therefore, both industry and Government agree that provider selection needs to be more carefully managed. ACIL Allen states:

*The objective here is not to create an excessive additional regulatory burden and/or limit market entry or competition, rather to ensure that sufficiently stringent state-based criteria for RTO eligibility are in place as part of the initial selection and contracting process, and that state training authorities are in a position to monitor market behaviour.*⁹³

The benefits of competition cannot be delivered if only incumbents are allowed to play; accordingly, one must weigh up whether the benefits of fresh competition are outweighed by the risks. This issue is particularly relevant, given the ongoing emphasis which economic theory places on the discipline imposed by *potential* competition, a key premise underlying contestability theory.

Improved price signals

There have also been suggestions that re-instating price signals for students may be a way of minimising enrolments in inappropriate courses.⁹⁴ CEDA has suggested that a small upfront fee should be introduced, to provide a price signal for students.⁹⁵ Such a fee would, of course, run contrary to the stated objective of improving accessibility to VET for disadvantaged students, and there appears to be no attempt to reconcile these two competing goals.

More information

Better information for prospective students is said to be the other significant requirement, but is unlikely to naturally emerge in a competitive market. The OECD, in its recent assessment of the Australian VET sector, stated:

As the VET sector in Australia moves toward a more competitive model of provision it becomes crucial for students and their advisers to be able to evaluate the quality of training, not only based on ex ante certification of

⁹² Australian Government, 7.

⁹³ ACIL Allen, 62.

⁹⁴ Australian Government, 17.

⁹⁵ CEDA, 11.

courses (quality of the curriculum, quality of trainers etc), but also based on ex post training outcomes (e.g. completion rates, course satisfaction, adjusted employment and earning outcomes of former trainees). This is key also to create the right incentives for providers to improve their performance and make sure that the increase in the quantity of available training offers permitted by the quasi-market is also accompanied by an improvement of the quality of the service...⁹⁶

The OECD also effectively endorsed the use of intermediaries, albeit ones who answered to government rather than to RTOs. Specifically, the OECD considered there should be “counselling within the student voucher system”, particularly in order to assist disadvantaged students “to navigate the complex Australian VET system”.⁹⁷ In essence, the OECD is calling for advocates rather than brokers (although one has to ask at what cost). Camm argues that much of the required information is already held by regulators and government agencies, stating that “It’s time to get this information into the market in a way that is readily understood by students and other stakeholders”.⁹⁸

There are genuine reasons to conclude, however, that tighter regulation, better price signals and more information will not solve the issues currently besetting the VET sector. Yu and Oliver conclude:

The key design features of the current system – one hundred per cent contestable funding and risk-based regulation – will fail to deliver the assumed price and quality benefits of a competitive market because of two factors:

- 1. Education is an ‘experience good’ – no amount of information (for regulators or students) can overcome the fact that its quality can only be evaluated after its consumption, and*
- 2. The sector is characterised by imperfect competition between profit-seeking (and increasingly larger) providers whose business models have scant regard for educational standards.⁹⁹*

⁹⁶ OECD, 168.

⁹⁷ *Ibid*, 195.

⁹⁸ Camm, 66.

⁹⁹ Yu and Oliver, 5.

To date, government has principally relied upon ‘market forces’ to regulate the activities of for-profit providers, to ensure efficiency and productive use of public funds. Poor quality providers should be competed out of the market. But:

*the problem in tertiary education is not so much about information asymmetry as the assumption that more and better information can correct the market failure. In fact, no student or regulator can have the information that would enable them to judge the quality of an education or training service as they would a physical product, because it is an ‘experience good’...*¹⁰⁰

Similarly, ACIL Allen concludes that “consumer information cannot be expected to make up for issues in relation to regulation and market oversight”.¹⁰¹

Notwithstanding its abolition, the legacy of VET FEE-HELP will affect the sector for many years to come – the sheer waste of money involved (an escalating number, in light of the looming growth in DNER loans) is likely to impact adversely on funding in the VET sector in the medium, if not long, term. Further, dismantling VET FEE-HELP won’t, in itself, address the other key problems which have emerged in the sector, particularly as they relate to course quality, aligning enrolments with industry requirements, ensuring acceptable completion rates and increasing concentration within the sector. Nor will it address the ongoing degradation of government providers in circumstances where such providers are still expected to ‘fill the gaps’, be providers of last resort and provide competitive benchmarks for the for-profit sector.

Conclusions

Ultimately the utility of for-profit providers in the VET sector remains ambiguous. Camm argues strongly that:

*Clearly there will need to be a vocational education and training sector that, more than ever, can innovate and respond flexibly to the new challenges and opportunities that will confront the Australian workforce. This means more, not less, contestability and choice in the VET sector is required into the future.*¹⁰²

¹⁰⁰ *Ibid*, 29.

¹⁰¹ ACIL Allen, 32.

¹⁰² Camm, 64.

Likewise CEDA concludes that any response from government to problems in the sector must “find... the fine line between allowing the sector to continue to be competitive and adaptable to stay true to the spirit of contestability, and ensuring that there is enough oversight to prevent fraudulent behaviour”.¹⁰³ In Camm’s view, this requires strong “stewardship” from government.¹⁰⁴

Theoretically, the adaptability and responsiveness of the private sector should indeed be a factor driving contestability. This view, however, is hard to reconcile with the considered opinion that a strong TAFE sector is needed to be both a “first responder” as well as a provider of last resort offering high investment/low return training needs, servicing non-commercial markets and simultaneously setting a competitive benchmark against which cherry-picking private providers can be measured. Indeed, without specific targeted and (to this point) unoffered government support, TAFE could only service the less attractive areas of the ‘market’ by cross-subsidising, thus meaning ‘popular’ courses are more expensive. This in turn would mean TAFE would attract fewer students (adversely affecting its economies of scale) and would be unable to provide the competitive benchmarking which appears to be required to discipline for-profit providers.

It cannot be surprising, therefore, that some argue for-profit providers have no place in Australian VET. In light of the “massive transfer of wealth from taxpayers to the owners of for-profit training providers”,¹⁰⁵ Yu and Oliver argue that government should seriously consider prohibiting their operation – as is effectively the case for both school and tertiary education:¹⁰⁶

*The sustained profits of the for-profit VET sector, and their still limited contribution to broader social and economic goals, call into question the system of public subsidies and the distribution of public versus private benefits. Most importantly however, the research questions whether any amount of regulation or resources can overcome the fundamental difficulty of evaluating quality that cannot be observed in a timely way, in a product offered by hundreds of providers with opaque business models.*¹⁰⁷

¹⁰³ CEDA, 10.

¹⁰⁴ Camm, 65.

¹⁰⁵ Yu and Oliver, 3.

¹⁰⁶ While for-profit operators are not prohibited per se, they are ineligible for government funding.

¹⁰⁷ Yu and Oliver, 43.

Competition policy & human services

Facing yet more reform to the regulatory structure, VET remains a work-in-progress when it comes to assessing the benefits of competition. At this point in its history, however, one would have to conclude that the costs of competition have almost certainly outweighed the benefits.

APPENDIX TWO: CASE STUDY

EMPLOYMENT SERVICES

Employment services have, over the last decade, changed significantly due to their increasing role in the implementation of ‘mutual obligation’ policies. It is now two decades since the government began to withdraw from supplying these services and on several occasions during that period, significant restructuring of the system has occurred. While there is competition to secure supply contracts (i.e. such contracts are contestable), there is no real competition in the actual delivery of service. For easily placed job seekers, the system seems to work well but for other groups and in regional and remote areas the system performs significantly less well. Key difficulties are associated with measuring performance – the quality and appropriateness of service. The issues apparent with the current delivery of employment services in Australia also clearly demonstrate the significance of the funding model in determining outcomes.

Within the labour market, employers acquire workers and job seekers acquire jobs. The former use various means to acquire labour, including advertising in the media, word of mouth and privately operated employment agencies. Agencies are most likely to be used to source scarce skills, including senior management. Most job seekers are able to find work given time, especially when the economy is buoyant. However, some job seekers are unable to find employment independently or are unable to do so within any reasonable time period. This may be due to a lack of information (e.g. newly qualified workers and immigrants), skills that are structurally redundant due to changes in the economy, or disadvantages such as a low educational level, physical disabilities, mental health issues, and issues associated with drugs and alcohol.

A short history of employment services in Australia

Traditionally, government provided services to re-integrate job seekers into the labour market by preparing them for employment, by matching job seekers with employers, by gathering labour market information, through employment programs, and through the provision of job counselling and case management for the long term

unemployed.¹⁰⁸ Other agencies provided welfare assistance. government provision of employment services reflected the economic costs associated with unemployment, including loss of income, the need for welfare payments and lost production. In addition, there are significant social costs associated with long term unemployment. Equally important is the personal cost of prolonged unemployment which includes hardship due to loss of income, adverse effects on morale and confidence, and the erosion/dating of skills. There are significant positive externalities from securing appropriate employment quickly for job seekers: in other words, many people benefit from this, not just the parties immediately involved.

Previous Productivity Commission Inquiry into employment services

In 1998, the Federal Government began outsourcing employment services to the private sector with the stated objective of increasing efficiency and innovation in service delivery, while reducing costs. In doing this, it adopted a model that “separated the purchaser from the provider and steered performance using a payment structure that rewarded organisations that achieved better outcomes”.¹⁰⁹ The Federal Government ceased to be the provider of employment services and the Commonwealth Employment Service was consequently disbanded. Payments to private providers reflected outcomes. These arrangements were intended “to achieve the government’s social objectives through efficient and responsive markets, while retaining the equity and externality benefits of the traditional government system”.¹¹⁰

The Productivity Commission undertook an inquiry into employment services in 2002. The Terms of Reference for that inquiry directed it “to critically examine and comment on the framework for delivering labour market assistance arrangements”, including “the application of the purchaser-provider model to employment assistance”.¹¹¹ The Productivity Commission stated that “[t]he key advantages of a purchaser-provider approach entailing outcome orientation, competition and choice are that it sets out clear objectives, provides stronger incentives for finding better ways of achieving job outcomes and encourages cost efficiency”.¹¹² Nevertheless, it found that “programs have, so far, probably had only modest effects on job seekers’

¹⁰⁸ Andrew Saunders, “Are Quasi-markets Appropriate for Delivering Public Employment Services?” (unpublished thesis submitted in part fulfilment of the requirements for the Master of Politics and Public Policy, Deakin University, 2015), 5.

¹⁰⁹ *Ibid.*, 4.

¹¹⁰ *Ibid.*

¹¹¹ Productivity Commission, *Independent Review of the Job Network* (Report 21, June 2002). Available at: <http://www.pc.gov.au/inquiries/completed/job-network/report/jobnetwork.pdf>

¹¹² *Ibid.*, Overview.

chances of gaining employment”.¹¹³ It recommended that “a purchaser-provider model for employment services be retained, with a continued strong focus on outcomes, competition and choice”.¹¹⁴

Given the work of the Productivity Commission in 2002, below we set out a summary of the changes since that time. This provides a basis for assessing, whether, in light of these changes or for other reasons, it is still reasonable to expect that competition will result in better outcomes, both in terms of service efficiency and employment outcomes for people accessing the service.

Changes since 2002

The submission by Jobs Australia to the 2016 Productivity Commission Inquiry summarises recent changes in the delivery of employment services, including those since 2002.¹¹⁵ In 2009 the service was renamed Job Services Australia. The next changes occurred in 2015 when the Abbott Government re-named the program Jobactive. Under Jobactive, contract regions were enlarged and the contracts were lengthened from three to five years; the payments model was simplified; and service requirements for job seekers were also increased.¹¹⁶

In the 2016-17 Budget, the Federal Government announced a \$840.3 million youth employment package. This program, the Youth Employment Package, will operate over four years and is intended to assist up to 120,000 young people to acquire the skills required for employment (6 weeks intensive training), opportunities for work experience (job seekers to be paid \$200 per fortnight for a 4-6 week period; with employers to be paid \$1000) and to support individuals moving from welfare to work (with a bonus of up to \$10,000 to be paid over 6 months to employers).

The current policy framework

Centrelink is now responsible for payment of income support benefits, including unemployment benefits. Following a Federal Government decision to make unemployment benefits dependent on active job search, Centrelink became responsible for assessing job seekers and referring them to an employment service provider. The Department of Employment is responsible for contracting with not-for-

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*, Recommendation 3.1.

¹¹⁵ Jobs Australia, Submission to Productivity Commission, *Human Services: Preliminary Findings*.

¹¹⁶ There were, as Jobs Australia states, “requirements around frequency of contact with job seekers, requirements for job plans and the number of job applications that a job seeker must agree to and providing for mandatory activities such as Work for the Dole”: *ibid.*, 9.

profit organisations and with for-profit providers to provide these services in designated areas on behalf of government. Service providers are funded to secure employment for job seekers. Services that can be provided range from job matching through to training and intensive support, such as counselling and motivational support.¹¹⁷

The essence of the current framework is set out in the image below.

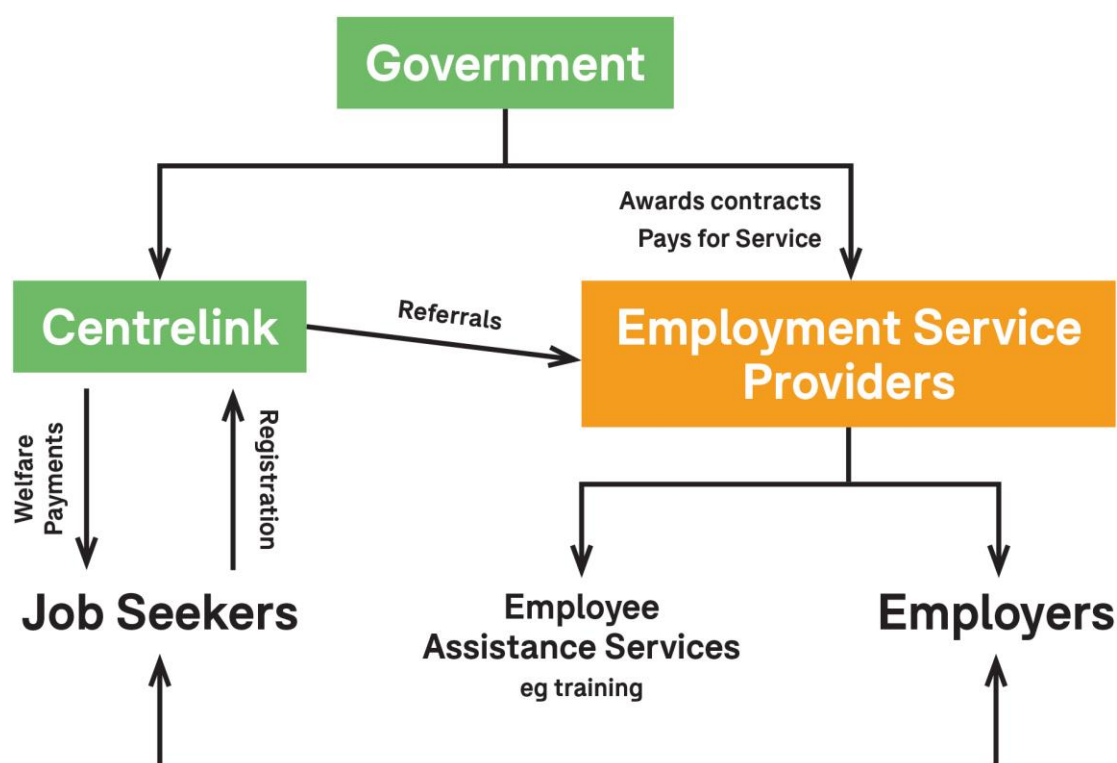


Image: Job services supply relationships

Allocation of government funding

Under the current funding arrangements, providers are paid for defined ‘outcomes’, a combination of short and long term employment outcomes. Payments to better performing service providers (as measured by the star rating system) are higher, and more disadvantaged job seekers attract higher payments.¹¹⁸ Specific funding exists for a variety of different programs, including for Aboriginal and Torres Strait Islander people and for those with disabilities which are beyond the scope of this paper

Finally, employment providers receive a small one-off Employment Fund credit for each registered job seeker on commencement, except for Stream A job seekers

¹¹⁷ Mark Considine, Jenny M Lewis and Siobhan O’Sullivan, “Quasi-Markets and Service Delivery Flexibility Following a Decade of Employment Assistance Reform in Australia” (2011) 40 *Journal of Social Policy* 811.

¹¹⁸ Jobs Australia, 4.

(those most ready for work) for whom Employment Fund credits are received after three months. These credits can be used flexibly to provide services for any job seeker or group of job seekers. Unused Employment Fund payments must be refunded to the government.

Types of providers

As in other service areas, employment services were progressively outsourced from around 1997 and the government withdrew from service provision. Funding was available not only to traditional service providers, the not-for-profit and community-based sector, but also to for-profit providers.

Assessing outcomes in employment services since the introduction of competition and contestability

Market mechanisms use price as a rationing device. Supplier-provider models also ration supply but they do so by limitations on funding. Thus,

*The Job Network and Job Services Australia have achieved lower cost per employment outcome but this has been achieved through creating a system that enables and requires rationing of resources at the front line. While these programs purport to invest resources according to need, and across the whole jobseeker cohort, their efficiency is in picking winners.*¹¹⁹

A significant problem in relation to the provision of employment services is how to assess performance. In part this is a measurement issue – for example, the difficulty of specifying service quality in a way that can be measured. However, it also relates to the adequacy and appropriateness of service supply for different groups of job seekers and for job seekers in different locations. Finally, because outsourcing the relevant services is intended to increase efficiency, it is necessary to consider whether this has occurred and particularly whether competition and contestability have provided an incentive for innovation.

Service quality

Currently, the government assesses performance based on the number of placements and the period during which the job seeker remains in the job. This

¹¹⁹ Centre for Policy Development (CPD), *Grand Alibis: How Declining Public Sector Capability Affects Services for the Disadvantaged* (2015) 35, quoting Lisa Fowkes. *Grand Alibis* is available at: <https://cpd.org.au/wp-content/uploads/2015/12/Grand-Alibis-Final.pdf>

causes providers to focus on the more easily placed workers and, despite changes to address this, to ‘park’¹²⁰ people facing labour market disadvantage.

The quality of service provided may be influenced by the additional fees that the service provider can charge for arranging training for a job seeker, even where such training does not improve their prospects of employment.¹²¹ In addition, the type of training arranged may be influenced by the other activities of the service provider. For example, some service providers own/operate or are linked to other organisations that provide training services. This creates the risk that they will have an incentive to refer job seekers to their related organisation for training even when that training is not the most appropriate option.

Job seekers are a heterogeneous group, and the quality of service needs to accommodate this. Job seekers vary significantly in the degree of difficulty associated with securing employment. Some are ‘job-ready’, while others may take a very long time or may never reach this stage despite the requirement to actively search and the additional assistance that may be provided to them.

*Some of those [disadvantaged] workers have never worked, some have low levels of education and some have outdated qualifications... [T]hey may be struggling with mental health problems, trauma, poverty, prejudice, drug and alcohol abuse, unstable accommodation, anxiety, mild physical and intellectual abilities, isolation, unreliable transport, care of dependents, complex peer and family issues and intergenerational labour market detachment.*¹²²

Furthermore, the ease with which jobs can be found is influenced by location. Typically, more job opportunities exist in urban areas than in regional and remote areas. This means that job seekers are harder to place in the latter areas and community-based service providers may be more aware than larger for-profit service providers of where job opportunities exist in such areas.

Evidence in relation to placements and the time taken to secure placement further suggests that the system has a poor record of finding secure, permanent employment for job seekers: in 2015-16, approximately 21% of these individuals were employed full-time three months after they participated in employment

¹²⁰ ‘Parking’ refers to leaving the harder to place job seekers with minimal service.

¹²¹ Emma Tomkinson, “Outcome-based Contracting for Human Services” (2016) 1 *Evidence Base* 1, 7.

¹²² Sue Olney and Wilma Gallet, “Social Service Futures Dialogue: Issues In Market-Based Reform of Human Services: Lessons From Employment Services” (4 July 2016), 2. Available at: <http://www.powertopersuade.org.au/blog/social-service-futures-dialogue-issues-in-market-based-reform-of-human-services-lessons-from-employment-services/4/7/2016>

services. Of these, department data does not make possible a breakdown to determine what proportion of this full-time work is on a temporary or casual basis. However, when considering both full-time and part-time work, the data shows that only 36% of job seekers employed have gained secure, permanent employment. A further 54% were employed in casual, insecure work. Casting further doubt on the efficacy of employment services, it is arguable that among these job seekers who gained permanent or insecure work, many would be likely to gain employment without assistance.

The system does not serve disadvantaged job seekers well, with 73.7% of jobseekers in Stream C not able to find employment after three months. This is despite government funding specifically recognising via increased funding the greater difficulty in placing those in this group

While the payments vary in recognition of different levels of job-readiness, the basic requirements do not. The effect of requiring people to attend interviews for jobs that they will not succeed in obtaining is demoralising and depressing, as well as imposing financial costs on those least able to bear it. These are the job seekers who may be sent to undertake inappropriate training courses and who are ultimately 'parked', a practice that regulatory oversight has attempted, but failed, to prevent. Rather, Olney and Gallet observe that:

*contracted organisations are required to demonstrate their competitiveness by achieving outcomes demanded by the purchaser. Failure to achieve the desired outcomes creates financial instability for these organisations and can ultimately result in a loss of business... That is a powerful incentive for providers to focus their efforts on activity most likely to help them meet or surpass their key performance indicators, and to minimise the cost of servicing jobseekers least likely to generate income, regardless of flow-on effects.*¹²³

All of this suggests that resources are not being appropriately allocated across services provided to job seekers. It appears that, despite changes to the funding structure, job-ready job seekers receive more funding than is needed to get them into work. However, the long term unemployed and other disadvantaged job seekers, including those in rural and remote areas, are under-serviced.

¹²³ Olney and Gallet, 4.

Efficiency and innovation

The stated aim of privatisation of the employment services system was and remains to improve efficiency and innovation in the delivery of employment services, thereby improving outcomes for job seekers. Most assessments of the success of this policy are qualitative. In 2011 Considine et al reported the results obtained from a survey first undertaken in 1998 and again in 2008 (before the 2009 changes to the system) which was designed to test whether the shift to private sector delivery of services had resulted in a more flexible and innovative approach. Respondents were frontline “staff who worked directly with jobseekers to help them become job-ready, or to assist them either secure, or retain, employment”.¹²⁴

Numerous aspects of service delivery were assessed, but overall it is clear from the results that, by 2008, when the second survey was carried out, the system was significantly less flexible and it was not innovative, irrespective of whether the service was delivered by a not-for-profit provider or a for-profit provider. In summary this was attributed to:

- Increased regulation to reduce poor quality service (including ‘creaming’ and ‘parking’) and fraud, and to enable recovery of expenditure judged to be unjustified. This in turn increased risk for providers and encouraged a conservative approach (known as the ‘principal-agent’ problem).¹²⁵ Nonetheless, ‘parking’ remains an issue with service providers collecting service fees for hard-to-place workers rather than engaging in the effort to attract outcome payments.¹²⁶
- Increased reliance on IT systems to standardise service delivery (which also contributes to risk management and avoidance by service providers in response to regulation and monitoring).

Considine et al concluded that:

[P]rivate agencies contracted to deliver public services do not generate different service delivery styles, their frontline staff do not exercise significant discretion in tailoring services and the trend over time is towards high levels of standardisation for both staff and jobseekers... [C]ontracting-out of social services does not produce a new industry of service innovators with new

¹²⁴ Considine et al, 7.

¹²⁵ In its submission to the Productivity Commission, CPD observe that a performance review process that focuses on recording inputs and process, stifles innovations by service providers: 10.

¹²⁶ Tomkinson, 6.

*approaches to working with clients, but a 'herd' of profit maximisers who are highly responsive to threats to their viability and who embrace standardisation of services as a way to minimise risks.*¹²⁷

Changes since 2008 are unlikely to have altered outcomes significantly. Subsequent to the study by Considine et al, Saunders states that one of the consequences of the marketised model has been “a shift away from education and training towards low cost support”.¹²⁸ Yet for many job seekers, their options will be extremely limited without additional relevant training.

These findings are supported by international research into ‘marketised’ service delivery. Shutes and Taylor, for example, analysed information from a number of countries which used market-based systems to provide employment services. They concluded that funding based on outcomes may limit the type and size of providers, and may limit the type and diversity of services. The emphasis was on job placement, with less focus on education and training. They concluded that this, in turn, meant unequal access to employment services for some type of job seekers.¹²⁹

Number of competitors

It is apparent that over time the number of service providers has decreased significantly. This does not necessarily mean that competition is deficient. Rather, given that contracts are awarded for particular areas, the relevant question concerns the extent of competition within those areas (or the willingness of job seekers/Centrelink to use/refer to service providers that are less local). The potential for competition has been increased by allowing providers to exceed their contract allocated caseload by up to 30 per cent.

Diversity of suppliers

Diversity in service providers is likely to help to address the diversity in the needs of job seekers resulting in better outcomes for them. Despite its decision to outsource employment services, the government-owned business, Employment National, won some supply contracts initially. However, this service was closed down in 2003. From this time, service providers were either for-profit businesses or, more heterogeneously, not-for-profit organisations, including community-based services.

¹²⁷ Considine et al, 16.

¹²⁸ Saunders, 2.

¹²⁹ Isabel Shutes and Rebecca Taylor, “Conditionality and the Financing of Employment Services – Implications for the Social Division of Work and Welfare” (2014) 48 *Social Policy and Administration* 204.

There is concern that the process for awarding contracts is such that for-profit providers are displacing not-for-profit providers who are more likely to be motivated by social concerns rather than profit. Access to contracts by smaller organisations is likely to be limited by the complexity of the tender documents and the time required to complete them. If this is the case, it raises a concern as these organisations often have better local contacts for seeking employment and possibly have greater commitment to securing successful outcomes. They are also more likely to pursue employment opportunities for job seekers whose characteristics are less mainstream, that is, they are more likely to supply niche services. If they cease to provide service, it is unlikely that they will be replaced by for-profit providers, or even by larger not-for-profit providers.

Whether this matters depends, of course, on whether there are real differences in service delivery by different types of providers. While Considine et al argues that there are not, others dispute this based on the philosophical and ethical values of the not-for-profit organisations versus the profit motive of the for-profit firms. Differences may also reflect the size and local focus (or otherwise) of a provider, as discussed above.

In its submission to the Productivity Commission, the Centre for Policy Development (CPD) claimed that:

the larger not-for-profit and for-profit organisations increase their market share in each new contract period, leading to an increasingly narrow and constrained marketplace where there are fewer of the smaller, locally-connected providers. In 1998, there were around 330 providers. This number gradually declined to 66 providers by 2015.¹³⁰

Thus, CPD states:

As noted by the NSW Parliament Community Service Committee in 2013, there is an essential and ongoing role for Government in directly providing services as a last resort, particularly “where there are gaps in the market due to geography or because of the complexity of a particular client’s need”. In service sectors with existing mixed markets, government providers already tend to take on the hardest cases.¹³¹

¹³⁰ CPD, Submission to Productivity Commission, 9.

¹³¹ CPD, *Grand Alibis*, 20.

Is there a market for employment services for people facing labour market disadvantage?

A market is characterised by transactions between buyers and sellers who in response to price signals, determine the type and amount of production. Provision of employment services does not involve a transaction between the employment service provider and the job seeker. Rather, it involves job placement, job search training and support, and customised assistance (which can include job matching, training, job search assistance, work experience and post-placement support).¹³² In addition, however, employment service providers are required “to partly manage the requirements of receiving benefits from the Australian government”.¹³³

The type of employment services that are funded by government are an input into the labour market, paid for by the government but provided to job seekers not serviced by privately funded employment services. This reflects the unwillingness of employers, and the inability of job seekers, to pay for the service. There is no relevant transaction, actual or potential, between the supplier of these employment services and those who ultimately receive the services. Although it has been described as a ‘managed market’ or a ‘quasi market’, in an economic sense there is no market. Nevertheless, as the Productivity Commission observed, the process for supplying employment services tries to mimic many of the features of normal markets by providing scope for competition, variable prices, some degree of choice for job seekers, flexibility in the way services are delivered, and rewards for good providers.¹³⁴

Unlike service delivery, at least potentially, there may be a relevant market for the right to distribute employment services, though at present it is more aptly described as a ‘managed’ market. In this market the government purchases services on behalf of the unemployed, generally via a competitive tender, and the suppliers are those providing employment services to job seekers on behalf of government. There is clearly a transaction between the parties as the government pays employment service providers to supply services. However, the nature and the amount of service provided is not a market outcome but a decision of government in response to various objectives, including budgetary objectives. The ‘price’ paid by the government to suppliers is set by government to reflect the expected cost of

¹³² Customised assistance accounts for more than 70 per cent of expenditure on employment services.

¹³³ Tomkinson.

¹³⁴ Productivity Commission, *Job Network*, 3.2.

supplying the service (e.g. payments to place workers increase the longer they have been searching for work, which is taken to indicate the difficulty in placing them) and of providing some additional services (such as training). This 'market' is disciplined not by substitution by consumers/buyers of one supplier for another, but by regulation and monitoring of supplier behaviour.

There is not free entry and exit from this quasi market. This is apparent from the need to secure a government supply contract and the way in which those contracts are allocated (the contract specifies the location within which service can be provided). Initially, as contracts expired they were put out to tender. However, for the third tranche of contracts under the Howard Government's Job Network program, 60 per cent of contracts were 'rolled-over' into new contracts for existing providers. Under this system, agencies were selected for an extended contract, based on their prior performance as assessed by the star ratings system.¹³⁵ This had the benefit of providing an incentive to perform well and provided greater security for providers but it also limited access for potential new suppliers, thereby reducing contestability (and its capacity for promoting innovation). Nevertheless, 40 per cent of the contracts were put out to tender and so were contestable.

Within this framework, potential providers compete to acquire contracts and those holding contracts compete to retain them. Jobs Australia opines that "providers compete not only at the time of each tender but throughout the contract, so as to (i) maximise payments, (ii) avoid business share being reallocated by the Department and (iii) to increase their chance of securing subsequent contracts".¹³⁶ In other words, there is already competition in a broad sense, reflecting the pressure created by contestability. The issue for the present purpose, however, is not simply whether there is sufficient competition but the circumstances in which it occurs and the effectiveness of service delivery.

Given the absence of an economic market for employment services, it is not surprising that the outsourcing of employment services appears to have had little impact on job-ready job seekers but may have further disadvantaged hard-to-place job seekers, especially those in rural and remote areas. Benefits from increased efficiency and innovation seem to have been minimal. In part this reflects the shift of

¹³⁵ Considine et al, 8.

¹³⁶ Jobs Australia, 5.

risk from the government onto the service provider.¹³⁷ These findings are particularly concerning as flexibility and innovation are essential to address those with “multiple and significant labour market disadvantages prepare for and find a job because of the diversity of those job seekers’ motivation and barriers to work”.¹³⁸ These outcomes appear similar to those of countries such as the United Kingdom, the Netherlands and Denmark where service supply has also been outsourced to the private sector.¹³⁹

Problems with competition in human services

Developing an effective ‘market’ or model

The question is whether it is possible to restructure service delivery in such a way as to enable competition to produce the outcomes that Government requires. As a prerequisite for this, it is necessary for ‘market failures’ to be reduced. A key problem is the asymmetry of information between the government as the purchaser of services and employment service providers (the principal-agent problem). It appears that this gives rise to regulatory intervention that stifles the very benefits of outsourcing, namely flexibility and innovation.

Improving consumer information

If job seekers (or those acting on their behalf) were able to assess reasonably accurately the quality of the employment services supplied by different service providers and were in a position to switch relatively easily between providers, as in normal markets, this substitution effect would help to discipline providers to provide appropriate service. At present this is not the case.

Job seekers are likely to be relatively poorly informed as to the quality of the service supplied by alternative providers. Generally, they are referred by Centrelink to a particular employment service provider and have limited ability to switch supplier thereafter. An additional reason why the service supplied may be inappropriate is due to asymmetric information – job seekers may be assigned to inappropriate programs because they have not provided full information about themselves.

¹³⁷ In relation to the United Kingdom Work Program, for example, it was stated: “Outcomes based contracts, properly managed, mean that the government can pay by results, so that contractors rather than the Department bear a greater share of the risk”. Quoted by Davidson.

¹³⁸ Olney and Gallet.

¹³⁹ See, for example, Thomas Bredgaard and Flemming Larsen, “Implementing Public Employment Policy: What Happens When Non-public Agencies Take Over?” (2007) 27 *International Journal of Sociology and Social Policy* 287.

In order for job seekers to judge the relative quality of the service provided to them by particular providers, they need more readily understandable and reliable information as to the nature of the assistance that they can expect to be provided to them. From July 2015, the Department of Employment introduced a new quality assurance framework. This required that service providers gain certification during 2015-16. This specifies the minimum level of service a job seeker can expect to receive. It defines the nature and frequency of services to be provided. Providers must publish job service plans setting out for job seekers and employers the additional services that they can expect to receive.¹⁴⁰

Experience of past interactions with providers should mean that Centrelink staff are better informed than job seekers about differences in the quality of service provided by different service providers. This would enable them to assist by placing job seekers with the provider best suited to their needs and with a reputation for providing quality service. However, staff turnover within Centrelink, lack of feedback from job seekers, and limited resources may mean that this is not usually the case.

A further issue affecting access to appropriate employment services is the high level of staff turnover within the service providers. On the one hand, this reduces the level of experience of staff providing service and encourages standardised service. It also means that relationships with long term unemployed job seekers are not established, or are less frequently established. Service quality may also be affected by the relatively low educational/training qualification of frontline staff.¹⁴¹

Accurately assessing individuals' employment prospects and support needs

For successful service supply, it is essential to find a means of accurately assessing individuals' employment prospects and support needs. For example, removing the obligation on those job seekers with little or no prospect of obtaining employment to actively seek work that is not available, may then enable a focus on their specific needs. To this end, there may be significant benefit in investigating how more integrated solutions (based on an interdepartmental approach) could be offered to such people.¹⁴² Hard to place job seekers often have multiple problems, including health issues. On the other hand, a more disaggregated approach to job seekers may enable a rollback in the extent of regulation and monitoring of service providers,

¹⁴⁰ Department of Employment, *Annual Report (2015)*, Section 1.1.

¹⁴¹ It is estimated that around 25 per cent have no post-school qualifications: Davidson, *ibid.*

¹⁴² CPD's submission refers to 'an islanded service' in which other departments are excluded. It observes that the system has minimal ability to offer integrated service solutions to stubborn and complex human services challenges: CPD, Submission to Productivity Commission,.

especially if job seekers or their agents are more active in moving between service providers but this requires employment services to be well-connected with other social services which is variable.

Competition may then result in more efficient, more flexible and more innovative outcomes. However, to the extent that cooperation is required between service providers, competition may discourage this. CPD observes:

*Competition amongst providers creates strong disincentives to share information and best practice. One industry stakeholder remarked to CPD that ‘the competitive nature of the marketplace makes sharing successes and best practice difficult – it is like asking providers to give away the 11 herbs and spices recipe’. Another told CPD that ‘the biggest barrier that is raised with us is getting our providers to share their expertise. We pay our providers big dollars to get outcomes for long-term unemployed. Lots of services want to get their hands on those payments. They might get the outcomes but they don’t want to share the money’.*¹⁴³

Assessing service quality

The current approach to employment services is far too blunt to measure service quality. New, multiple indicators need to be developed to assess service quality. These should assess not just placement, including period in employment, for job-ready job seekers, but should include indicators that are more applicable to hard-to-place job seekers such as their general satisfaction with the type of job secured and the hours of work available (e.g. full time or part time).

Conclusion

It would appear that regulation in the employment services sector has had the impact of making suppliers fairly risk averse. This in turn has resulted in relatively poor competition outcomes, particularly an absence of innovation. Pricing models have discouraged focus on hard-to-place job seekers, instead providing financial incentives for providers to concentrate on those who are job-ready. Nonetheless, the value of employment services for job-ready seekers is open to question. While ensuring job seekers are better informed as to the quality of service delivered by specific providers, such knowledge is almost useless in the absence of genuine user

¹⁴³ *Ibid.*

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choice prevails. Job seekers are effectively left only with the capacity to complain about a lack of quality service but little power to switch providers.