

## **Regulating Universities: an assumption and three propositions**

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### **Unsettled Times**

Periods of stability then moments of sudden change. A world that seemed settled and predictable abruptly becomes hazardous. Our frame of reference, clear for so long, becomes unreliable.

For Australian universities, the last great upheaval occurred in 1988, when federal Education Minister John Dawkins overturned one policy framework to substitute another. He abolished the long settled divide between universities, which by then were expected to be comprehensively engaged in research, and institutes of technology and teaching colleges collected under the deceptively unitary rubric of colleges of advanced education. Henceforth there would be only one type of tertiary institution in Australia – sizeable universities, comprehensive, research-focused and funded at a similar rate. A long chain of amalgamations followed, producing the standard Australian university of 2005 – large, multi-campus, offering a mix of undergraduate degrees and professional qualifications, aspiring to research greatness.

The Dawkins paradigm persists, entrenched as national protocols that define a single model for Australian tertiary education. By requiring a 'sustained culture of scholarship', including the 'creation of new knowledge through research' the protocols rule out teaching-only universities along the lines of America, where half of all bachelor students enrol in institutions that do not award doctoral degrees.

Yet recent events suggest the Dawkins model is losing its hold on the imagination of policy makers. One marker of disquiet is the number of reviews. In times of stability, reviews are rare. A settled policy is adjusted incrementally, quietly finding a new equilibrium in response to minor changes. Only when the future no longer looks quite so clear does the search for alternatives begin. Starting in 1997 with the West Review, and accelerating sharply on the appointment of Brendan Nelson as Education Minister, the stream of higher education policy reviews has been remarkable. Since the *Crossroads* consultations of 2002, there have been parliamentary inquiries, state and federal, ministerial discussion papers requiring submissions and a growing stream of legislative amendments and foreshadowed bills. The pace is quickening. The federal government has introduced four amending bills to the *Higher Education Support Act 2003* this year alone, an average of one per sitting week.

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There is no single reason for the pending demise of the Dawkins approach. Rather, a series of related pressures undermine the foundations of the model. These include reluctance by the Commonwealth to meet the cost of expanding student demand, a resulting financial crisis that forces universities to seek revenue elsewhere, a desire by government to challenge the near monopoly currently enjoyed by public universities, and the aspirations of private providers keen to find a place in the lucrative export business created by public institutions over the past 15 years. Individually these pressures might be contained within the model; taken collectively, they press for radical change. Only the absence of a viable and acceptable alternative sustains the current policy framework.

The central dilemma for Canberra is cost: having created a mass university system through dissolving the binary divide, governments slowly realised the potential fiscal burden threatened by improving school retention rates and growing demand for university places. Successive cabinets found ways to shift costs from Treasury to individual students. In 1986 the Hawke government opened the higher education system to full fee paying international students. The result proved spectacular – a huge export industry created in less than twenty years, attracting more than 210,000 international students in 2003 and earning \$5.030 billion. Later domestic students began paying too, first through the Higher Education Contribution Scheme, later through fees for postgraduate qualifications, loan schemes, increases in HECS charges and, most recently, through allowing fee-paying domestic students.

These trends produce tensions within the policy framework. They break down the notion of tertiary education as a public enterprise – the Commonwealth now provides on average only 40 percent of the total income of Australia's universities.

More importantly, the establishment of a large and successful tertiary market within Australia has drawn private players keen to participate. Some have entered the industry through service contracts with existing public universities, but others find themselves locked out by the national protocols. By requiring a research culture and facilities, these rules outlaw teaching-only universities, as at least two failed attempts to start private institutions have demonstrated.

The Commonwealth is a signatory to rules that allow only one model of university in Australia, that of comprehensive institutions with a research mission. Yet recent Commonwealth decisions challenge this approach by extending university loan schemes and, in the 2004 budget, allocating university places to private providers that do not meet the protocol standards. The language of Commonwealth announcements has begun resemble schools policy – a preference for private provision. Yet the extant policy framework for tertiary education reflects an earlier era in which only public universities operated and governments worried about equity of provision and comparability of standards.

The Dawkins model was invented for a world without the Internet, which allows international universities to operate within Australia without seeking local accreditation. The policy framework was developed before a vast global trade in students developed. It predates a new generation of American institutions, such as the University of Phoenix, which are unapologetically teaching-only, relying on

communications technology and local non-academic staff to deliver programs at modest cost to students.

Faced with the reality of diminishing public subsidies, a growing private market and the prospect of international competition, Minister Nelson has announced an intention to pursue new policy directions. In his first term, policy change was substantial but often hard to read – a mix of deregulation and tighter ministerial controls, all nominally within the prevailing Dawkins framework. Now a ministerial discussion paper, *Building University Diversity* (March 2005), asks whether a single model of a university is still appropriate for Australia. It is not a question the Minister can answer alone, since regulatory authority on this issue rests with the States and Territories. But in making diversity central to his policy agenda, Minister Nelson challenges directly the Dawkins model for the first time.

This is an important debate, and probably unavoidable given the confluence of domestic and international circumstances. Similar pressures have promoted microeconomic reform elsewhere in Australia, and tertiary education is likely to experience the same break down in older patterns of state control and regulation. The challenge for the university sector is to propose not just oppose – to be vocal in a debate that needs lots of voices, ideas competing for attention. As a contribution to that end, this paper sets out an assumption and three propositions about a new regulatory regime for Australian higher education.

### **Assumption : Diversity is the key**

Australia is in principle a federation of states and territories, a standing experiment in local policy innovation. In theory, this means different approaches in each jurisdiction, with a chance for governments to learn from what works elsewhere. This is the pattern among universities in America, for example, where regional differences in regulation create a wide array of institutional types.

Yet, at least in higher education, Australia does not operate as federation. While regulatory authority is held by the States and Territories, financial power rests firmly with the Commonwealth. The central role of Canberra has enforced consistency. Changes in government policy soon show up in institutional practice. A Commonwealth pronouncement soon sweeps across the entire higher education sector, transforming every institution in similar ways. Successive Commonwealth ministers complain about the lack of diversity among universities, yet the monoculture of Australian tertiary institutions is the legacy of ministerial intervention. A public university is whatever the federal funding agency and its minister decide a university is – and hence, not surprisingly, they are all much the same at any given moment.

This is not a good outcome for Australia. Offering 37 variants of essentially the same product does not accommodate meaningful student choice. Nor does it encourage institutional specialisation. Since private universities are forced by national protocols to embrace research, they too emulate the single model promoted by ministers.

Not surprisingly, therefore, innovation happens on the margins of the system. Some public universities have found ways to circumvent the ban on teaching-only operations, creating inner city or off-shore campuses that offer a narrow range of popular programs without the usual infrastructure of a university setting. Non-university private providers have found ways to fill specialist interest in education, offering courses outside the academic mainstream.

This paper assumes that diversity is a worthwhile objective. This was not the view of those who designed the Dawkins model nor until recently the focus of Commonwealth policy. It remains a concept little explored in detail. Frustratingly, when diversity appears in public debate it is discussed only in narrow terms – as a stark choice between research or teaching-only universities. Yet diversity can be realised across a range of categories – institutional size, mission, student mix, course offerings, mode and language of instruction. Diversity is good not for its own sake but because it allows choice – for students in choosing a university, for academics in deciding where and how to work, for the community in the returns from its investment in higher education.

A minister cannot legislate for diversity. Rather, policy settings must encourage choice by students and by institutions. The three propositions that follow are designed around this principle.

### **Proposition 1: Regulatory Reform**

System regulation is the logical starting point for system change. If diversity is the object, then a way forward is to acknowledge different styles of tertiary education. In a future Australia, students should be able to choose from a range of institutions – the familiar large, comprehensive research universities we know already but also new, smaller and specialised players teaching undergraduate business and IT, media or liberal arts, offering a religious perspective, or local branches of an international player, web-based universities or industry-specific institutions, attending to aviation or film, to banking or software engineering. Such institutions could be defined in regulation and monitored, as now, to ensure a minimum standard of quality without such rules imposing a single model.

While a number of configurations are possible, a familiar model is three broad tiers of tertiary institution.<sup>2</sup> In the first tier would be colleges, the most numerous providers. Colleges offer diplomas and associate degrees and cover vocational fields. If states and territories agree, the college tier would include the TAFE sector. Indeed the college sector is already largely in place, with privately owned higher education providers and the possibility of new public institutions called community colleges, closely linked to a senior school. The tier sector is lively and responsive, covering a range of fields not found within universities. For many Australians, colleges provide a first exposure to post-school education, a sound grounding in vocational skills, and a pathway to further study.

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<sup>2</sup> This discussion draws on G. Davis, 'Tiers or tears? The regulation of Australian higher education' The Inaugural Melbourne Politics Lecture, The Department of Political Science, The University of Melbourne, Monday, 22 November 2004.

A second tier would embrace teaching focused universities, public and private. These might also appear in variety, some ranging over many disciplines while others focus on a particular industry or faith community. Some teaching focused universities would be single-campus, identifying with a region, while others would use advanced teaching technologies to reach across the nation. Academics in such institutions would be eligible for competitive research grants, though institutional funding would not assume a research infrastructure. Like colleges, all teaching-focused universities would be accredited against national standards.

The third and final tier comprises a smaller number of research universities, public and private. These institutions must also meet national teaching standards, and maintain strict standards of research excellence and performance. Research universities would be the only institutions qualified to award research higher degrees.

Many students might hope to experience all three tiers during their life long learning journey – perhaps first completing an associate degree at a community college, upgrading later to a full degree at a teaching university and eventually undertaking higher degree study at a research institution.

Such a regulatory framework requires an independent accreditation body. This autonomous body, modelled on contemporary financial regulatory organisations such as the ACCC or ASIC, would set and monitor standards before an organisation could call itself a college, teaching or research university. By embracing the whole range of institutions contributing to the Australian Qualifications Framework, an independent regulator could ensure consistent minimum standards across each tier without imposing a single model.

An independent accreditation body is a regulator, not a policy maker. This must remain the prerogative of government, which can decide how much to invest in higher education and where to support university places. Further, the regulatory framework is not tied to the funding system. The framework could operate whatever rules govern access to a student place in a public or private university.

If this regulatory approach seems an idealised model, it has nonetheless worked with conspicuous success for half a century in California. The three tiered Californian system has nurtured some of the best universities in the world, public and private. It provides Californians with access to a wide array of institutions while guaranteeing basic quality. It allows the Californian legislature to decide the mix of places it will fund, and where the places will be located, and invites Californian residents to choose the type of institution that meets their education needs. The mix of public and private means both merit and payment options for university entry, and fierce competition for repute through excellence.

A new national protocol, flowing from a fresh agreement between the Commonwealth, states and territories, could establish a similar regulatory framework for Australia. Such an approach would accommodate the aspirations of private and international players while reinforcing the reputation and basic standards of higher education in this country.

## **Proposition 2: Diversity Within Public Universities**

Overall regulatory reform can produce over time a much broader spread of institutions across Australia. Yet the bulk of the system will still comprise the existing 37 public universities. Each makes a substantial contribution, and none should be forced into an unwelcome future. How then to encourage diversity within the public sector? Again, the answer lays not in ministerial fiat, but in offering incentives that encourage specialisation.<sup>3</sup> One approach is found in a 2002 response to Minister Nelson's *Crossroads* discussion paper. Beyond standard payments for teaching public students and institutional infrastructure, Griffith University argued for three pools of additional funding available to public universities, in teaching performance, research and community outreach.

Under the Griffith model, universities could bid for funds in a pool designed to reward teaching excellence. This is roughly analogous to planned practice, with the National Learning and Teaching Performance Fund due to commence shortly. Institutions that perform most strongly in teaching would expect to enhance overall funding through the teaching fund, providing them with a financial incentive that to date has been absent.

The Griffith submission advocated the present system of research allocations through independent, peer assessed funding bodies. It looked, though, for a substantial increase in funds for community outreach, including student access and equity programs. A community outreach fund would recognise contribution to professional and regional activity, the cost of training special needs students, engagement with economic and social development. It should be possible to develop performance measures for some of these activities, balanced with periodic qualitative assessment.

In the original Griffith proposal, a public institution could only bid against two out of three funding sources. This was designed to encourage specialisation. However, a forced choice may unduly discourage institutions from achieving in each domain of performance. Just the creation of alternative pools of funding would probably be sufficient to change behaviour. Instead of all competing for a single measure of success and additional funding – research grants – universities could now make strategic choices. Since each pool would be purely competitive, based on performance ranking, a public university must think carefully about which competitions it should enter. To do well, a university must play to its strengths – or develop some. A pool model creates incentives to specialise, with potential financial rewards for those institutions willing to rethink their essential mission.

## **Proposition 3: More flexible allocation and funding of places**

A three tier regulatory system allows a range of qualified players to enter the higher education system, and informs the market what is on offer within a particular style of institution. It may also encourage diverse price points, as different tiers of institution configure for the market they wish to serve.

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<sup>3</sup> This discussion draws on 'The Griffith Model', a submission to the Nelson Crossroads review, September 2002. While an institutional document, Gavin Moodie was principal author of the pool funding concept.

A three pool funding system would further expand the options available to students within the public sector. Some universities may choose the path of a liberal college in the American sense, calling on the new teaching pool to offer small classes, great teachers and a strong community focus. Others may shape their profile around research objectives, creating an Australian equivalent of the California Institute of Technology, Caltech, with its relatively narrow range of technology-focused disciplines.

Yet a three tiered system, with differentiation within the public sector, would sit uneasily with the current method of allocating student places and setting subsidies. The final change required for a more diverse system, therefore, is greater flexibility over places and pricing. This is an area of intense ideological contest, as governments grapple over whether to fund individual students or, as at present, institutions.

At present, student places are allocated to universities and funded at rates chosen by the Commonwealth Minister. This is a rigid system in which government controls the supply of public places. Through the Department of Education, Science and Training, the federal government sets precise targets for Commonwealth-funded student load in each university, with financial penalties should an institution deviate from its allotted profile by more than five percent. In some 400 cases during 2004, the Commonwealth allocated new student places at a narrow discipline level and by campus. Nearly 140 of these interventions concerned 10 student places or fewer.

This level of political micro-management is inimical to institutional innovation. Such centralisation raises the spectre of a public university system frozen into historic student allocations, with only minor, cost-neutral, DEST-approved fiddling around the edges permitted.

Yet government motives in seeking to control the allocation of places are not hard to discern. Governments – rightly – see public universities serving constituencies wider than the current student body, and so are reluctant to turn over the allocation of places to a market. Universities make a significant contribution to spheres beyond teaching, and carry important industrial, medical and social resonance. A university campus matters for social equity and regional economic development. Just as other services are subsidised to ensure broad access, so universities are expected to work in communities that could not support such an institution.

Further, though Canberra struggles to predict labour market needs, it understands that Australia should train professionals in a wide array of fields, even when the market is not buying. Government knows some public sector skills are not attractive to private providers, yet shortages harm society and the economy. It costs a great deal to establish and maintain teaching infrastructure. Intellectual capital, once lost, is hard to rebuild. Our universities are, in every sense, a public good.

Hence the reluctance by government to rely on voucher models, in which consumer sovereignty alone would shape the higher education sector. Government wants a wide array of courses on offer, not just the popular options. More importantly, it seeks a geographic distribution of skills, in a nation with a dispersed population and chronic shortages of many professions outside the capital cities. For much of regional

Australia the university campus is among the largest employers around, and the one hope for keeping the next generation local. The price of central allocation rather than student choice, however, is an extraordinary degree of government control over the allocation and price of public supported places, with all attendant inefficiencies.

Assuming government does not choose a market solution, how can it move away from inflexible central allocation of places to allow greater diversity, while preserving some capacity to pursue public goals?

One option is to vest teaching funds with the independent regulator, and create a transparent process in which public universities bid for Commonwealth supported places against government-specified criteria. Another is to allow greater flexibility within university profiles. A university that performs poorly in a particular field should be able to abandon that discipline to better placed competitors, and concentrate its strength in areas of comparative advantage. If the Commonwealth is concerned about under or over supply in a particular discipline, it should vary prices and subsidies to influence the attractiveness of particular courses to universities and students, rather than regulate supply with such rigidity.

Allied to greater institutional flexibility is the question of who pays and at what price. The current system is not easy to grasp. Funding for higher education is a combination of direct public subsidy to universities and student contributions, in a mixture that varies by discipline. Government sets a rate of support for a public place and then requires students to make up the balance through HECS payments. How much the student pays is arbitrary, set by precedent rather than logic. Thus an undergraduate in law must pay 84 percent of the nominal cost of their education while a dental student pays just 34 percent.

The complications do not end there. Since subsidies paid by the Commonwealth are not correlated in rigorous ways to the real cost of teaching a course, universities cross-subsidise within. Further, because the overall Commonwealth teaching contribution is insufficient, universities must support teaching Commonwealth supported students through income earned from international and domestic fee-paying students.

The present funding arrangements are hard to defend as fair or desirable. The system has neither the virtues of consistency nor the efficiency of market mechanisms. It is instead a historic legacy, a triumph of cumulative ad hoc decision making in which the indefensible neatly props up the irrational.

The propositions advanced in this paper – a three tiered regulatory system, diversity within the public sector and more flexibility for institutions in choosing their teaching profile – would require a review of the current price mechanism. This would be painful for the Commonwealth, but is a likely prerequisite of any sector reform. A review would make explicit the arbitrary pricing and tangle of cross-subsidies imposed on those occupying public places. A pricing review might reveal that fee-paying students are the last hope and salvation of institutions which cannot survive on their Commonwealth teaching grants. Is it good policy, the review might ask, to make a public system so dependent on private income?

## **Conclusion**

Be careful what you wish, goes the saying, in case you get what you asked for. To propose changes in higher education policy is to invite, at best, a difficult set of questions.

Yet with the Dawkins paradigm set to break down, new proposals are required urgently. These three propositions for reform, flowing from an assumption about diversity, offer one way forward. A more diverse system, I suggest, can support excellence in teaching and community outreach, sustain present levels of research, encourage institutions to adapt to local opportunities, and allow students a greater choice of learning options.

This proposal is still tied to public investment in the university system. It assumes government funds to extend teaching and community outreach opportunities for public universities. The proposal also maintains a key role for government as policy maker, though one that works through transparent processes and an independent regulator with greater institutional autonomy. The market retains a secondary rather than primary role in allocating public places and funding.

Through a national agreement, these three propositions could be realised without change to the federal balance of power, and with only modest additional public cost. Such a framework would allow strengthen and diversify the public sector, allow private players access to the Australian market, and impose a consistent quality assurance regime to support Australia's reputation for excellence in the export of education.

So much for the upside. The problems for any new regulatory proposal are many – uncertainty, a potential shortfall between aspiration and delivery, the sour law of unintended consequences. So difficult questions are welcome, and better ideas even more so. The only thing worse than new ideas is no ideas. A university sector that approaches a public debate without suggestions for a way forward will find itself irrelevant.