

# ACTU SUBMISSION

## Senate Inquiry into private training providers

13 February 2015

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## INTRODUCTION

The ACTU welcomes the opportunity to make a submission to this inquiry into the operation, regulation and funding of private vocational education and training providers in Australia.

The ACTU is the peak body for Australian unions, made up of 46 affiliated unions. We represent almost 2 million working Australians and their families, many of whom rely on the VET system to deliver the skills and qualifications they need for their current jobs and for future employment opportunities.

This inquiry comes at a critical time.

The operation of a contestable training market for the organisation and delivery of VET has been plagued by ongoing problems that show no sign of abating.

Every second day it seems there are stories of private training providers delivering sub-standard training, as well as a range of other questionable practices. The benefits of competition that were promised with the influx of large numbers of private training providers have not materialised. The role and position of TAFE, the public provider of quality VET, has been needlessly and recklessly undermined.

In the end, it has been students and workers receiving poor quality training that does little or nothing to help them in the job market who have been penalised.

In short, the experiment with a contestable training market has not worked.

Governments cannot in all good conscience continue blindly down this path. This inquiry provides the committee with an opportunity for a fundamental rethink and overhaul of the market-driven approach to VET and to set out the beginnings of a new approach.

Among other things, this should include a 30% cap on the amount of funding that is contestable, and a commitment to at least maintaining TAFE funding in real terms.

In the submission that follows, we first provide an overview of the ACTU position on the issues relevant to this inquiry. We then address specific terms of reference for the Inquiry.

The ACTU endorses the submissions made to the Inquiry by our affiliated unions and commend them to the Committee. We also note and endorse the findings and recommendations of the recent report from the Workplace Research Centre, *The Capture of Public Wealth by the for-profit VET Sector*.

## OVERVIEW OF THE ACTU POSITION AND POLICY RECOMMENDATIONS

The ACTU and affiliated unions have a long-standing interest and commitment to the national skills agenda and the operation of a high quality, nationally consistent vocational education and training (VET) system.

It is a system that has many strengths, not least its diversity and extent of coverage. Each year, close to two million students from all walks of life are enrolled in the VET system. The student profile is incredibly diverse, as is the type of training and skills development that is delivered. Other key strengths include:

- TAFE as the public provider of quality VET;
- A strong vocational focus on ‘skills for jobs’ as well as second chance learning and skills that enable greater participation in society generally;
- The industry-leadership of the VET system, including the network of Industry Skills Councils;
- National training packages that identify the vocational standards to be met by a fully qualified worker; and
- A national system based on nationally recognised, portable qualifications.

However, despite these underlying, enduring strengths of the VET system, the reputation of the VET sector has been hit in recent years and confidence in the value of a VET qualification has suffered.

In our submission, much of this problem is due to policy choices taken by successive governments at all levels to organise the delivery of VET through a contestable training market based around a student entitlement to ‘free’ government-funded training and, more recently, the availability of VET Fee-Help for students on a ‘train now, pay later’ basis.

The construction of this training ‘market’ has led to the proliferation of private, for-profit, training providers attracted by the ready availability of government funding to provide high-volume, low-cost training, and the lack of proper standards and regulation governing providers wishing to enter and continue operating in that market.

There is no evidence to suggest that the economy or individuals are benefiting from these developments. Measuring success by enrolment numbers alone (which have actually started to drop now) fails to factor in the quality of the qualifications and whether they have led to genuine vocational and employment outcomes or benefit to individuals and the wider economy. That is, whether the qualifications have led to more productive skills being deployed in the economy.

In our submission, the market-driven approach to VET has led to many of the problems and weaknesses that continue to plague the sector, such as:

- qualifications being delivered in unrealistically short timeframes - the ubiquitous five day or weekend diploma;
- the cases of 'tick and flick' online training;
- the inordinate attention and resources directed by RTOs into often misleading advertising and marketing practices, in order to attract students and the funding that is attached to them;
- teachers and trainers with inadequate qualifications and skills;
- the rapid growth of training in areas like fitness instructing, with enrolment growth driven more by marketing campaigns than genuine labour market demand and solid employment prospects. Skills Victoria, for example, reported a marked increase in training in a small number of occupations where graduates were reporting that training had little or no vocational benefit.<sup>1</sup>
- in the end, industry often reporting that VET graduates cannot actually do what the qualification says they can do and students effectively wasting their once-only entitlement to a subsidised qualification.

There are no signs of these problems abating. Further evidence in recent months of the negative impacts and consequences of a poorly regulated contestable training market includes:

- The recent annual report by the training regulator, ASQA, that showed almost 75% of training providers were unable to demonstrate compliance with the key, regulatory standard for quality training and assessment.<sup>2</sup>
- An audit by ASQA that found 80% of training providers offering childcare qualifications were providing substandard 'fast and cheap' training.<sup>3</sup> This follows similar findings from ASQA in the aged care and construction industries.

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<sup>1</sup> Productivity Commission Discussion Draft: Impact of COAG reforms, December 2011, p. 36

<sup>2</sup> Australian Skills Quality Authority Annual Report 2013-14, Commonwealth of Australia, 2014, p. 26.

<sup>3</sup> Bitu, N., "Childcare colleges marked as failures", The Australian, 10 November, p. 3.

- Recent reported cases of RTO brokers attempting to entice vulnerable people to sign up to VET courses of dubious value, with offers of ‘study now, pay later’ through VET Fee-Help arrangements that leave the individuals with a debt to pay off<sup>4</sup> – during Senate Estimates in late 2014, the regulator, ASQA, admitted it did not have the powers under current regulatory standards to pursue such brokers.
- Evidence that private providers have been the main beneficiaries of growth in VET Fee-Help, claiming more than 75% of total expenditure, with courses being offered up to five times more expensive than equivalent TAFE courses.<sup>5</sup>
- Media reports that EVOCCA, one of the main private providers benefiting from VET Fee-Help, graduated only 19 students in 2012, despite the college enrolling 14, 000 students that year.<sup>6</sup>
- Recent financial information for the sector that shows:
  - State government contributions to VET declining 7.2% since 2012
  - Students’ fees and charges increasing 14.3% since 2012
  - From 2009 to 2013, payments to non-TAFE providers to deliver VET programs increasing by 160%.<sup>7</sup>
- Victorian regulatory authorities released a damning audit of a major new private provider, Vocation, including evidence of poor quality training and over-reliance on brokers to refer students.
- The new chair of the private training provider peak body, ACPET, admitting there is a problem and calling an ‘emergency summit’ in response.<sup>8</sup>

This Inquiry has an important role in documenting the nature and extent of these types of problems; problems that are the outcome of a contestable training market. Under this market-driven approach, too many students and workers have been badly let down by poor quality training providers. It remains the biggest blight on the VET system and the Inquiry has the opportunity to bring these issues to wider public attention.

Even more importantly is what the Inquiry can recommend in response to these problems.

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<sup>4</sup> Bitá. N., “Carpetbaggers targeted by private training probe”, The Australian, 26 November 2014, p. 5.

<sup>5</sup> Ross, J., and Loussikian, K., “Vocational loans go through the roof”, The Australian , 1 October 2014, p. 31.

<sup>6</sup> Evocca College defends graduation figures after concerns raised about course quality: training council to investigate”, ABC News online, 29 January 2015.

<sup>7</sup> 2013 Financial Information: Australian vocational education and training statistics, NCVET, Commonwealth of Australia, 2014, p. 6.

<sup>8</sup> Dodd, T., “Private colleges will hold talks over ratings downturn”, Australian Financial Review, 30 October 2014, p. 9.

As we have previously submitted, if governments are not prepared to step away from the policies of contestability, at the very least there need to be better regulation of that training market, more support for ASQA, the regulator, tighter access to government funding, as well as greater support for the ongoing viability of TAFE as the public provider.

We note that some small steps have been taken in this direction, with a modest funding increase for ASQA and another set of new regulatory standards coming into operation from 1 January 2015, and recently, the announcement of a new national complaints hotline.

Such measures are welcome and supported as far as they go, but they fail to go to the heart of the problem.

In our submission, what is required is a fundamental rethink and overhaul of the market-driven approach to VET.

It is time to say that this model is not working in the interests of students, or employers, or the wider economy.

As analysis by Dr Phillip Toner referred to later in the submission demonstrates, the conditions for efficient contracting out of VET through a competitive training market simply do not exist.

Tinkering with the contestability model is not enough. Continuing to rectifying problems of sub-standard training after they have already occurred is not a long-term solution.

As VET analyst and researcher, Dr John Mitchell has stated:

*“Opportunists don’t care about finicky rule or standards, or safety on work sites; they care about finding loopholes and increasing their profits. To completely stamp out these rogues, we need the policymakers to go beyond tinkering with regulations and national standards. We need decision-makers to overhaul the poorly designed market-based policies that have exposed consumers to exploitation over the last five years”.*<sup>9</sup>

As a starting point, we support and recommend the introduction of a 30% cap on the amount of funding that is contestable, as advocated in the recent report by the Workplace Research Centre.<sup>10</sup>

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<sup>9</sup> Mitchell, J., “Web of deceit”, Campus Review, 24 February 2014.

<sup>10</sup> Yu, S., & Oliver, D., “The Capture of Public Wealth by the For-Profit VET sector: a report prepared for the Australian Education Union”, Workplace Research Centre, 2015.

This would give appropriate recognition and support for the critical role of TAFE and provide a brake on the unsustainable and counter-productive size and growth of the private training market. Alongside this, there must be a guarantee that contestable funding will not go to poor quality providers.

We also reiterate our previous calls for state and territory governments to demonstrate their support for TAFE by stopping the cuts and – as a minimum - maintaining TAFE funding in real terms.

As recommended by the bipartisan report of the 2014 House of Representatives Inquiry into TAFE, funding for TAFE should take into account TAFE capital requirements, as well as its particular role in providing opportunities for those in positions of disadvantage and vulnerability. A comprehensive review should be undertaken to establish future levels of guaranteed funding for TAFE taking such factors into account.

We also support a requirement that the national entitlement to a guaranteed training place is offered only at TAFE, at least until there is clear evidence the training market is stable and mature, without the quality problems that continue to plague it at present.

ASQA also has a critical role to play and it must have the resources it needs to effectively audit and regulate the performance of training providers and enforce rigorous standards for entry and continued operation in the 'market'. The recommendations from ASQA in relation to problems it has identified with marketing and advertising practices, and problems with sub-standard training and assessment, should be given fresh impetus by this Inquiry

Based on the evidence from ASQA and elsewhere, we agree that stronger measures need to be in place through training packages, regulatory standards, and audit activity to ensure mandatory requirements developed by industry for volume of learning, amount of workplace exposure, and assessment requirements are specified and adhered to.

Further discussion of recommended policy responses is provided later in the submission.

We turn now to address individual terms of reference.



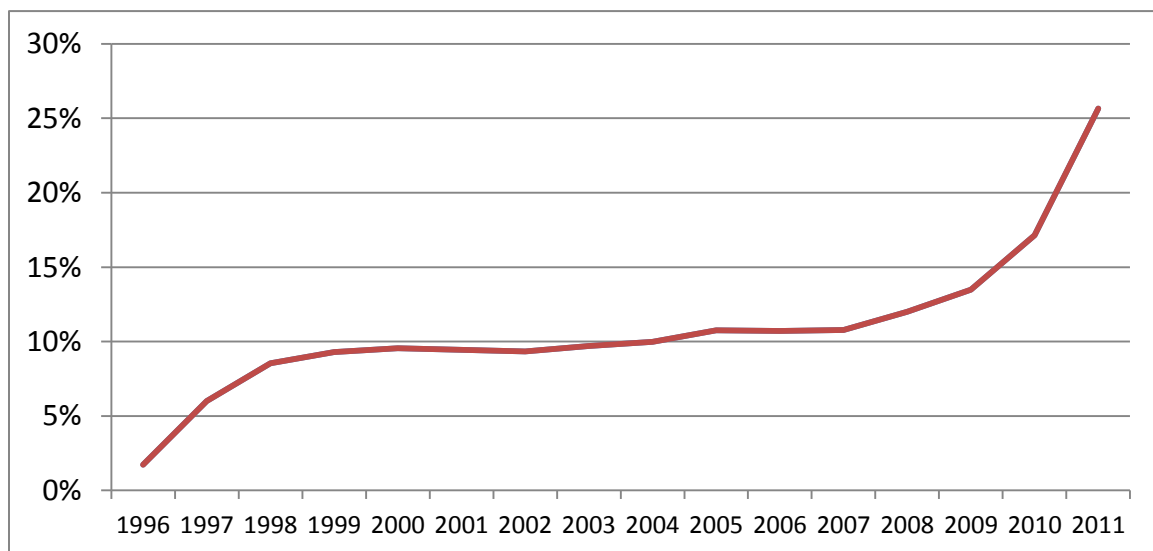
## THE ACCESS PRIVATE VET PROVIDERS HAVE TO COMMONWEALTH AND STATE PUBLIC FUNDING

Government policy in VET over the last 20 years has encouraged the proliferation of private, for-profit training providers as access to public training dollars has opened up. As at 30 June 2014, there were a total of 4664 registered training organisations in Australia, with more than 2000 delivering publicly-funded VET.<sup>11</sup>This includes the 59 public TAFE Institutes.

The long-term shift to private VET provision is demonstrated by the graph below that is drawn from work by Dr Phillip Toner.<sup>12</sup>

The graph shows that from 1996 to 2011 the share of enrolments in publicly funded VET in the 'other provider' category, which is 80% private providers, increased from 1.7% to 26%. There were around 400 000 publicly funded students in private providers in 2011, which Dr Toner estimates to represent around \$900m in public funding. Each of the major inflection points corresponds to a change in public VET policy which increased the scope for private delivery of publicly funded VET.

**Figure 1: Proportion of annual publicly funded VET student enrolments in 'Other registered training providers'. Australia.**



Source: NCVET (2011) *Historical time series of vocational education and training in Australia from 1981*, Table 10 and NCVET (2012) *Australian vocational education and training statistics: Students and Courses*, Table 15. Note, similar trends apply whether student enrolments or hours of publicly funded training delivered is used.

<sup>11</sup> Australian Skills Quality Authority Annual Report 2013-14, Commonwealth of Australia, 2014, p. 18; 2013 Students and Courses, NCVET, 2014, p.7.

<sup>12</sup> Toner, P., Contracting out publicly funded vocational education – a transaction cost critique; An unpublished paper delivered to a Political Economy Department Seminar 25 March 2013

The shift to private VET provision has become more pronounced in recent years, combined with the move to entitlement funding models and VET Fee-Help arrangements.

The latest Productivity Commission reports on government service provision show the growth and extent of contestable funding and private provision, as well as the impact on TAFE and its share of available funding.<sup>13</sup>

Key findings of relevance to this inquiry include:

- In 2013, \$2.5 billion (42.9%) of total commonwealth and state government recurrent funding on VET was allocated on a competitive basis (including user choice arrangements, competitive tendering and entitlement funding). This compares to 2009 when just 3.3% was allocated competitively. The growth would be expected to continue given that most of the growth to this point has been attributable to Victoria predominantly, and also South Australia, where entitlement and contestability policies were most advanced.
- In 2013, \$1.4 billion or 23.5% of total recurrent expenditure was allocated to non-government providers. This compares to 2009 when the non-TAFE providers' share of government funding was \$570 million or 11.2%. Payments to non-TAFE providers to deliver VET programs increased by around 150% over that period.

We refer the Committee also to the report of the Workplace Research Centre which sets out in detail the massive transfer of wealth from taxpayers to the owners of for-profit training providers, including case studies of three of the largest for-profit providers.<sup>14</sup>

The shift of public funding to private providers has had a marked impact on TAFE, particularly in states where contestability policies are most advanced.

For example, in Victoria, the state at the forefront of the move to full contestability, there has been a massive shift in training with TAFE market share slumping from 75% in 2008 to only 45.6% by the first quarter of 2012. In that same period, the number of private providers grew from 225 to 528 and their market share increased from 14% to 46%.<sup>15</sup>

Recent information in the public domain indicates that TAFE market share has continued to fall to just 26% of total student training numbers in 2014. 8 out of 12 TAFEs are forecast to run deficits for 2014, with combined losses of up to \$71 million.<sup>16</sup>

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<sup>13</sup> Report on Government Service Provision 2015, Volume B, Chapter 5, Vocational Education and Training, Productivity Commission, 2015, p. 5.12, table 5A.1, 5A.7, 5A.8.

<sup>14</sup> Yu, S., & Oliver, D., "The Capture of Public Wealth by the For-Profit VET sector: a report prepared for the Australian Education Union", Workplace Research Centre, 2015, pp3-4,10,26-28.

<sup>15</sup> Victorian Training Market Quarterly Report Q1, 2012

<sup>16</sup> Preiss, B., "Heavy operating losses forecast for Victorian TAFEs", The Age, 12 January 2015 p. 4.

It is also worth noting that the declining share of contestable funding available to TAFE comes also within the context of a long period of funding neglect of the VET sector as a whole. The recent Productivity Commission report on government service provision found Government expenditure on VET per hour of delivery had fallen 25% since 2004.<sup>17</sup> Furthermore, the rate of Commonwealth and state funding for VET per full time student has fallen dramatically since 1999 compared to the primary, secondary and higher education sectors.<sup>18</sup> We take the view that Skills Australia, later the Australian Workforce and Productivity Agency, expressed in Australian Workforce Futures that the fall in public funding per student contact hour in VET raises concerns about the quality of the sector and the ability to attract a more diverse body of learners.<sup>19</sup> The \$2 billion worth of cuts to skills programs in the 2014-15 budget only exacerbates these issues.

As later sections of the submission describe further, there are a number of disturbing implications that flow from this increasing access, and the ease of access, that private training providers have to the pool of public funding.

The first, clearly, is that the access to public funding has attracted a number of unscrupulous providers motivated by the opportunity to make money, rather than any genuine focus on education and skills development.

Mitchell describes well the thought process of opportunistic training providers:

*“Together with a few cashed-up mates, none of whom need to be educators, we will create a registered training provider that offers courses only online, enabling us to maximise our profits by eliminating expensive infrastructure such as classrooms and libraries. Also, we can save on teachers’ salaries because the online training program needs to be prepared only once, with very occasional updates if the training package changes. And the programs can be designed to minimise the need for active interaction between a teacher and student”.*<sup>20</sup>

In order to attract the students who in turn attract the public funding, private providers are encouraged to focus more on the marketing of courses and signing-up students, rather than serious attention to the quality and rigour of the training being provided.<sup>21</sup> In some reported cases, these marketing efforts become predatory behaviour targeting disadvantaged and vulnerable students.<sup>22</sup>

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<sup>17</sup> Op cit., p.5.31, table 5A.19.

<sup>18</sup> *Future Focus: 2013 National Workforce Development Strategy*, Australian Workforce and Productivity Agency, Canberra, p. 130.

<sup>19</sup> Australian Workforce Futures: A national workforce development strategy, Skills Australia, 2010, p. 6.

<sup>20</sup> Mitchell, J., “Web of deceit”, Campus Review, 24 February 2014.

<sup>21</sup> For example, the Productivity Commission Discussion Draft: Impact of COAG reforms, December 2011, at paragraph 36 notes that increased competition does: “imply a need for greater investment in marketing and advertising to appeal to students, increasing the importance of staff associated with these functions within the workforce...While the VET sector already comprises professional with such skills, it may require proportionally more of these workers in the future...”

<sup>22</sup> See for example, evidence from the 2014 House of Representatives Inquiry – TAFE: an Australian Asset, pp. 126-130,133; and Bitá, N., “Carpetbaggers targeted by private training probe”, The Australian, 26 November 2014, p. 5.

The fact that private providers have access to public funding can also distort the choices made by students of what and where to study. The choices students make are often driven by the fact these private providers are government funded (and the enticements of 'free training' or 'train now, pay later' that come with that). Private providers often use their government funded status prominently in their advertising and students, quite understandably, assume that if the provider is accessing government funds (and is registered in the first place) then they must be of high quality. Essentially, the access to government funding gives providers the appearance of credibility.

Ultimately, the primary concern is that private providers are receiving public funding for training that has not been of any benefit to their students, and often has only made things worse.

It is a waste of public money and the impact in many cases has fallen on those students who received inadequate, poor quality training (or no genuine training at all). Those students have ended up with a qualification that has little value in the labour market, essentially wasting their once-only entitlement to government funding for training. In the case of those using VET Fee-Help, they are left with a debt hanging over them, which many will never pay off.

Some of these students are among the most vulnerable in society and their experience in poor quality, government funded vocational education could mean they are reluctant to gain qualifications for work in future, particularly if they are required to pay for it themselves.

## THE COST OF EDUCATION AT PRIVATE VET PROVIDERS

The increasing cost of courses run by some private providers is signalling the end of the tradition and reputation of the VET system for providing quality education and training at a modest, affordable cost to the student.

There are regular reports of courses being offered up to five times more the cost of equivalent courses at TAFE.<sup>23</sup> Reports of courses costing upwards of \$30 000 are becoming more commonplace. The VET Fee-Help scheme makes allowance for loans of up to \$96 000 to cover the cost of VET courses.

To take just one example, a quick scan of a sample of private RTO websites shows that a Diploma of Hospitality of 1.5 years duration can cost up to \$20 000, a Certificate IV in Commercial Cookery \$15 000 and \$10 000 for a certificate III in Commercial Cookery.<sup>24</sup>

The argument from a pure market perspective would be these fee structures reflect the value of the course and if they do not then students will simply look elsewhere for a lower-cost option.

One of the many flaws with this argument is that students are being enticed to enter the courses on the basis of 'zero upfront fees' under VET Fee-Help, and other inducements such as free laptops. There is no incentive for providers to lower course fees when they can attract students on this basis.

Moreover, the evidence from organisations like the Consumer Action Law Centre is that students are not being properly informed about the debt they would incur or about the course they are being sold.<sup>25</sup> Only later do many find out they have undertaken a course they are either not suited to and/or does not give them the skills they need in the labour market. By then, they have a large debt hanging over them even if they never reach the salary threshold for repayment.<sup>26</sup> The Workplace Research Centre report makes the point that many VET qualifications lead to occupations where wages fall below the current threshold so there is little realistic prospect of repaying the loan.<sup>27</sup>

In the discussion of the rising cost of course fees, it should also be remembered that notwithstanding the diversity of the student profile, the VET system still largely caters for working-class people.

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<sup>23</sup> Ross, J., and Loussikian, K., "Vocational loans go through the roof", *The Australian*, 1 October 2014, p. 31, see also evidence from the 2014 House of Representatives Inquiry – TAFE: an Australian Asset, pp. 126-130,133

<sup>24</sup> As an example see <http://www.ace.vic.edu.au/>

<sup>25</sup> Jacks, T., "Concern at online course dropouts", *The Saturday Age*, 17 January 2015, p. 17.

<sup>26</sup> Commonwealth Treasury have predicted that one in four will never pay back the taxpayer loans – Bitu, N., "Cash for trade skills used for hypnotherapy", *The Australian*, 27 November 2014, p. 5.

<sup>27</sup> Yu, S., & Oliver, D., "The Capture of Public Wealth by the For-Profit VET sector: a report prepared for the Australian Education Union", Workplace Research Centre, 2015, p. 15.

Low-paid workers make up a large proportion of VET students, with two thirds of 2007 graduates being employed in low paid occupations (defined as those earning less than two thirds of median earnings six months before their training).<sup>28</sup>We also note the large numbers of apprentices and trainees who make up around 20% of the VET student population and are typically low-paid, particularly those who rely on the award rate of pay.

This prevalence of low-paid workers is consistent with earlier research by the NCVET which found VET participation was greatest in low socio-economic areas (12.7 students per 100 population), compared to the national participation rate of 10.8%. This study also found that over-representation of students from low socio-economic areas is partly due to the high participation of students from regions outside the capital cities, which tend to be lower socio-economic areas. Students from remote (16.4%) and rural (13.8%) areas have significantly greater VET participation than students from non-capital metropolitan centres (10.6%) and capital cities (9.5%).<sup>29</sup> Similar trends were confirmed by a Productivity Commission report covering the VET sector.

It is also the case that the VET system continues to take large numbers of students from groups most at risk of being marginalised from economic and social life in Australia. For example, of the total VET student intake of 1.9 million in 2013, there were:

- 86, 100 indigenous students, or 4.6% of the total VET student population;
- 127, 200 students with a disability (6.4%); and
- 322, 500 students of non-English speaking background (17.2%).<sup>30</sup>

Increasing course fees raises the prospect of low-paid and vulnerable Australians, many of whom are understandably averse to taking on a large debt, being deterred from undertaking further education and training.

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<sup>28</sup> Pocock, B., et. al., Work, life and VET participation amongst lower-paid workers, NCVET monograph series 05/2011, Commonwealth of Australia, 2011.)

<sup>29</sup> Foley, P., The socio-economic status of vocational education and training students in Australia, National Centre for Vocational Education Research, Commonwealth of Australia, 2007).

<sup>30</sup> 2013 Students and Courses, NCVET, 2014, p.9.

## THE REGULATORY REGIME PRIVATE VET PROVIDERS OPERATE WITHIN

The ACTU submission relies on and endorses the summary and analysis to be provided by the AEU submission on this term of reference.

## THE OPERATION OF VET-FEE-HELP

The ACTU opposed the introduction of income-contingent loans in the VET sector and unfortunately the operation of VET Fee-Help has shown many of our concerns to be well-founded.

The overriding concern we have is that income-contingent loans such as VET Fee-HELP accelerate the shift in responsibility for funding training and skills development away from government and employers and onto individual students, many of whom are amongst the most disadvantaged in the Australian community.

Invariably, they also result in course fees being increased. This was evident from the early experience in Victoria where VET-Fee Help was first introduced. Standard fees for diplomas tripled to \$2500 when loans were introduced there from mid-2009, while government-subsidised diplomas in other jurisdiction were less than half that amount in most cases (\$990 a year in Tasmania, \$1212 in Western Australia, \$1350 in the ACT and \$1570 in NSW).<sup>31</sup>

One of the risks, as unions highlighted at the time, has always been that states would remove subsidised places altogether for higher level courses and this has proved to be the case. For example, recent media reports refer to Queensland having removed its funding for 170 high-level vocational courses on the basis that students can now use VET Fee-Help to pay their fees<sup>32</sup> – a case of cost-shifting on two counts: from government to individuals, and from state governments to the commonwealth government.

Above all, the key problem that has surfaced is that the availability of VET Fee-Help has led to unscrupulous training providers enticing students with the lure of ‘zero upfront fees’ or ‘train now, pay later’ for courses that prove to have no value to them. In some cases, this has involved providers engaging third party brokers to aggressively market their courses to vulnerable individuals in our community.

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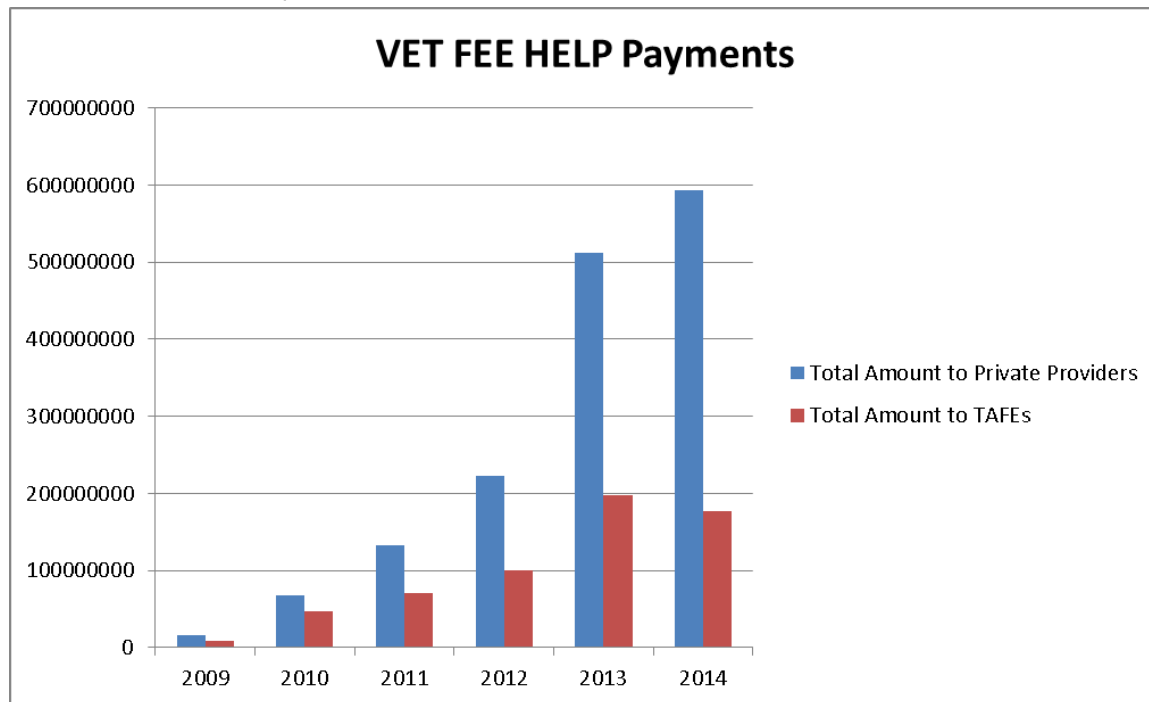
<sup>31</sup> Forward P., TAFE at the Crossroads: What's the future under Skills for All? AEU presentation, 22 November 2011

<sup>32</sup> Ross, J., and Loussikian, K., “Vocational loans go through the roof”, *The Australian*, 1 October 2014, p. 31; and Yu, S., & Oliver, D., “The Capture of Public Wealth by the For-Profit VET sector: a report prepared for the Australian Education Union”, Workplace Research Centre, 2015, p. 16.

In this sense, the availability of VET Fee-Help has created the same problems as the entitlement model of 'free' training up to certificate III has; the easy availability of government funding in a poorly regulated market has attracted a large number of providers whose primary motivation is profit, and, in some cases, with little or no genuine interest in providing quality education and training. With the entitlement model, students are left with a wasted entitlement for receiving poor quality training; with VET Fee-Help they are left with a debt hanging over them.

The figures available on the operation of VET Fee-Help point to its massive expansion since it was introduced in 2009. In 2009, \$25 million was spent on VET Fee-Help payments across 37 providers; by 2014, that figure had blown out to \$770 million across 194 providers eligible to offer VET Fee-Help. As table 1 shows, the evidence is that more than 75% of the expenditure under VET Fee-Help in 2014 has gone to private providers and 72% in total over the five years the scheme has been running. The budget papers forecast the number of students with VET Fee-Help Loans to treble from 87 7000 to 263 500 in 2017-18.<sup>33</sup>

**Table 1 VET Fee-Help payments 2009-14**



Source: Answer to Question on Notice, Industry Minister Ian Macfarlane (note 2014 figures are up to 28 July 2014).

<sup>33</sup> Ross, J., and Loussikian, K., "Vocational loans go through the roof", The Australian , 1 October 2014, p. 31.



It would be one thing if this increasing expenditure on VET Fee-Help payments to providers was producing quality, skilled graduates moving into productive, well-paid work of benefit to themselves, employers and the wider economy. The shifting of costs to the individual would still be a major drawback, but on those other grounds a legitimate case could be made for the scheme. However, it appears increasingly that the scheme is not producing these benefits. In many cases, it is in fact counter-productive and damaging to the interests of students and workers getting poor quality training. This is highlighted by a number of recent reports and examples.

- The large private training college, EVOCCA, the leading recipient of VET Fee-Help payments in 2014 with \$131m in the 7 months to July 2014, had just 19 graduates in 2012, according to media reports quoting the My Skills Website. We note that Evocca has disputed the figures, but different figures supplied by Evocca still show low graduation rates around 32%.<sup>34</sup>

A scan of the Evocca website shows 'study now pay later' prominently placed on front page of its website complete with a \$ sign, and it is promoted as part of the 'Evocca Difference', the fact that

*'At Evocca College every course can be funded by the Australian Government VET FEE-HELP scheme. That means you don't have to pay anything up-front and you don't start paying back the cost of your course until you make \$53,345 per year'.*

There is no suggestion there is anything necessarily misleading in this description and it could be said the website is simply advertising that the assistance is available. However, it is clear the concept of 'train now, pay later' is central to attracting students – in some cases, to get them to sign up to courses five times as expensive as the equivalent TAFE course.<sup>35</sup>

- The rising number of complaints about inadequate online courses driven by the availability of VET Fee-Help at private colleges, with completion rates as low as 7% for online courses done through VET Fee-Help. As noted earlier, consumer advocates are finding that students are not being informed about the debt they would incur or about the course they were being sold.
- Evidence of courses and qualifications that attract VET Fee-Help funding but which appear to be of doubtful value for the overall economy and which are not linked to any assessment of current and future skill priorities and job opportunities. This includes courses in hypnotherapy, aromatherapy and Christian proselytising.<sup>36</sup>

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<sup>34</sup> Evocca College defends graduation figures after concerns raised about course quality: training council to investigate", ABC News online, 29 January 2015.

<sup>35</sup> Ross, J., and Loussikian, K., "Vocational loans go through the roof", The Australian , 1 October 2014.

<sup>36</sup> Jacks, T., "Concern at online course dropouts", The Saturday Age, 17 January 2015, p. 17.

- The peak body for private providers acknowledging the problems of misuse of the Fee-Help scheme, of misleading advertising, of colleges soliciting students for unsuitable courses and inappropriately using brokers to recruit students and to deliver courses.<sup>37</sup>

We note that the Opposition wrote to the Auditor-General last November following a significant number of media, industry and ASQA reports on unscrupulous behaviour and the misuse of VET Fee-Help in the VET sector, and commend them for doing so. As a result, a performance audit of VET Fee-Help will be included in the ANAO 2015-16 work program. This is a welcome development, although this Inquiry should take the opportunity to deal with these problems before then.

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<sup>37</sup> Bitu, N., "Cash for trade skills used for hypnotherapy", The Australian, 27 November 2014, p. 3.

## THE QUALITY OF EDUCATION PROVIDED BY PRIVATE VET PROVIDERS, VOLUME OF LEARNING REQUIREMENTS AND GRADUATE OUTCOMES

The submission above has already pointed to some of the problems and complaints about the quality of education provided by private VET providers.

Undoubtedly there are a number of good quality private providers, but where serious problems with quality arise it is more often than not private providers who are the issue. While TAFE may face complaints and criticism from time to time, deserved or not, on grounds such as its 'responsiveness', the problems involving seriously sub-standard training and unscrupulous behaviour appear to be the sole domain of private providers.

Again, this comes down to the fact that the model of market-driven contestability, combined with entitlement funding and VET fee-help, has created the conditions giving rise to low quality provision of publicly-funded VET.

One of the most commonly reported problems is that of courses that are clearly too short, being delivered in a fraction of the time they are delivered by reputable providers. In some reported cases, there is virtually no training at all, as training and assessment is done on a 'tick and flick' basis.

To its credit, ASQA has produced a series of reports that start to set out the extent of the problem and the damage this is causing across a number of sectors. The Committee of course has access to the full public reports<sup>38</sup> but a brief summary is provided below.

In the construction industry, ASQA investigated the delivery of the introductory safety training for the industry – the 'white card'. It found the 12 RTOs delivering the vast bulk of white card training all delivered and assessed the training online. The Industry Skills Council for the sector recommended six hours for the white card training, but ASQA research found the RTOs using online delivery all had training and assessment strategies of four hours duration or less, with most people completing training and assessment in less than one hour, some as little as 30 minutes. Some had no actual training at all, with only a knowledge test. The potential for identity fraud with online training was another key finding, as none of the online delivery RTOs were adequately assuring the identity of students.

In total, some 75% of White Card training providers were found to be not compliant with the standard relating to assessment practices. The result of all this, the review found, was industry has lost confidence in the value of the White Card to assure workplace safety for new entrants to the construction industry.

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<sup>38</sup> Report: *Training for the White Card for Australia's Construction Industry*, Australian Skills Quality Authority, 2013; Report: *Training for aged and community care in Australia*, Australian Skills Quality Authority, 2013; see also Mitchell, J., "Web of deceit", *Campus Review*, 24 February 2013.

In the aged care sector, ASQA was following in the steps of a 2011 Productivity Commission report that found a number of issues raised about training quality in the sector. ASQA found that many RTOs were offering programs too short to ensure people gained the necessary skills and competencies. Up to 70% of RTOs offered a certificate III in aged care in less than 1200 hours, even though AQF guidelines indicate a benchmark of 1200 hours or more. Over half the programs involved delivery time of less than 500 hours and a number delivered it in less than 200 hours.

The ASQA Chief Executive Chris Robinson made the point that:

*“...one-third of the courses were under four months and we think most of them would not be adequate unless the learner has experience in the competencies required... the short courses are particularly concerning because people aren't getting the skills they should be getting and it puts pressure on everyone else to cut their costs and cut their course times.”<sup>39</sup>*

The ASQA report also found a significant variation in the provision of work placements, with many providing insufficient on-the-job or work-based training that is critical in learning to care for the aged. Most RTOs had difficulty complying with basic assessment requirements, for example, failing to assess in the workplace as required, and failing to observe skills across a number of assessment situations. Up to 80% of RTOs offering aged care and community care training had compliance issues with assessment at the initial audit, and 87% were found not to be compliant with one or more of the national training standards. 20% still remained non-compliant after the opportunity to rectify deficiencies.

ASQA found the problem of short courses was of wide application and not confined to just these two sectors. The fact that so many RTOs were offering programs of such short duration means people were not getting the skills development and workplace experience they needed to go on and work safely and effectively in the workplace. It did not find that all providers were falling short, but this itself is part of the problem. It means that providers trying to provide high-quality programs are facing unfair competition from those who are reducing training and delivery effort to cut costs.

This is a particular problem for those providers making the commitment to use face-to-face training and assessment methods and finding it hard to compete with the online providers. Clearly, online delivery has its place in the range of delivery methods that can be used but it must be fit-for-purpose. Many of the disadvantaged students being targeted by online providers would benefit much more from face-to-face delivery.<sup>40</sup>

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<sup>39</sup> Bitá, N., “Most vocational colleges are failing quality standards”, The Australian, 7 November 2014.

<sup>40</sup> Jacks, T., “Concern at online course dropouts”, The Saturday Age, 17 January 2015, p. 17.

The latest ASQA annual report provides further evidence of poor quality provision.<sup>41</sup> It found that three out of four training colleges have given students sub-standard training or questionable assessments i.e. non-compliance with the core regulatory standard for quality training and assessment. More than one in 5 still could not comply after a further 20 days. Only 20% of 1515 colleges audited complied fully with national standards in 2013-14. The remaining 80% had at least one case of non-compliance, ranging from minor concerns through to serious failures with training and assessment.

The ASQA annual report also provides details of a review it conducted in November 2013 in relation to asbestos removal training. The review found just four out of 31 providers were complying with national standards relating to training and assessment, and marketing and advertising. 8 providers were still not compliant after being given 20 days to rectify the problems. Of major concern given the critical nature of this work, the review found a number of providers were not conducting direct observations of tasks in real or appropriately simulated work conditions. Only six of the providers were complying with minimum vocational competency requirements for trainers and assessors.

The scandalous element to all this described above is that poor quality providers delivering sub-standard training continue to benefit from public funding and funding appears to flow to them as easily as it does for more reputable providers delivering quality training.

The answer as we set out at the start of the submission must lie in governments putting a brake on the policies of contestability.

Stronger measures also need to be in place through training packages, regulatory standards, and audit activity to ensure mandatory requirements developed by industry for volume of learning, amount of workplace exposure, and assessment requirements are specified and adhered to.

The respective ASQA reports provided a number of important recommendations to address the problems identified, particularly around training and assessment practices, and volume of learning requirements. This Inquiry provides an opportunity to refocus attention on those recommendations and reinvigorate efforts to implement them.

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<sup>41</sup> Australian Skills Quality Authority Annual Report 2013-14, pp 26-28

## MARKETING AND PROMOTIONAL TECHNIQUES EMPLOYED BY PRIVATE VET PROVIDERS AND EDUCATION BROKERS BOTH DOMESTIC AND INTERNATIONAL

For some time now, the VET system has been awash with anecdotal stories of students being offered free IPADS, laptops, even free holidays, to sign up to VET courses and qualifications. This submission has already identified the inordinate amount of effort and resources that training providers now direct into marketing. Marketing and promotion based around offers of 'free training', 'zero upfront fees' or 'study now, pay later' are commonplace in the sector, and clearly visible on public billboards, websites, and television and radio advertising.

In our submission, these developments are a direct outcome of a contestable training market with large amounts of government funding available.

In late 2013, ASQA released a report into the marketing and advertising practices of RTOs.<sup>42</sup> The report found a range of misleading behaviour and poor practices from many RTOs that are disadvantaging and penalising the students and workers who rely on the VET system. The problems identified in the report include:

- Almost half of RTOs were marketing and advertising misleading or deceptive information (eg. guaranteed job or migration outcome on completion).
- The offering of inducements or incentives to purchase training.
- Courses and qualifications being offered in unrealistically short timeframes.
- RTOs offering superseded or obsolete qualifications.
- RTOs collecting fees in advance beyond the prescribed limit of \$1000 and not offering, or making public, any fee refund policy.
- Non-RTOs acting as brokers for RTOs - or purporting to be RTOs - and marketing training services, leading to confusion for students.
- Consumers, including students and employers are often provided with ambiguous and/or insufficient information to make informed training choices.

The findings confirm many of the issues with RTO behaviour that unions have been warning about for many years.

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<sup>42</sup> Report: Marketing and advertising practices of Australia's registered training organisations; Australian Skills Quality Authority, 2013.

In the context of this Inquiry, the ASQA report highlights the quality problems that continue to plague the VET sector and therefore the importance of investing in the proven record of TAFE, the public provider, rather than an over-reliance on the market and poorly performing private providers. It reaffirms the call we made to previous parliamentary inquiries for a single, high standard for entry into the training market and rigorous enforcement of those standards.

The ASQA report also demonstrates the perverse effect a competitive training market has in directing scarce resources into advertising and marketing efforts, rather than a clear focus on quality training and assessment.

To rectify the problems identified, the ASQA report made eight recommendations including increased scrutiny from ASQA; tighter regulatory standards, particularly around marketing and advertising practices; and the establishment of a working group to develop a benchmark for the minimum volume of learning for different AQF qualifications. ASQA indicated it was also taking further direct action in relation to specific cases of non-compliance identified during the review. The ASQA recommendations are broadly consistent with those the ACTU have made to previous inquiries and this Inquiry should give them fresh impetus.

However, since the report in late 2013, concerns about dubious marketing and promotional techniques continue to be reported,<sup>43</sup> reinforcing our view that a more fundamental rethink of current contestability approaches is required.<sup>44</sup>

This includes more reports of third party brokers, in receipt of 'spotters fees' from private providers, visiting housing estates and caravan parks and targeting vulnerable individuals, including the unemployed, newly released prisoners, and those with drug dependency issues to sign up to courses.<sup>45</sup> Generally, the courses are 'free' to the student under entitlement models or can be done on a 'train now, pay later' basis. Many students never finish the course, but the provider retains the funding.

The problem of course is not that vulnerable individuals are being given the chance to undertake vocational education and training; it is that these individuals are being targeted by those 'who may not have the best interests of student at heart' – as described by Ewen Jones MP, the committee chairman of the 2014 House of Representatives Inquiry into TAFE.

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<sup>43</sup> See for example, further evidence and findings of unscrupulous marketing and other questionable practices from the 2014 House of Representatives Inquiry – TAFE: an Australian Asset, pp. 126-130,133.

<sup>44</sup> For more on this point, see also <http://www.campusreview.com.au/blog/2014/02/web-of-deceit/>

<sup>45</sup> Bitá, N., "'Carpetbaggers' targeted by private training probe", The Australian, 26 November 2014, p. 5.

This means students are being signed up to courses but with no attempt to ensure they are doing a course that suits their needs and abilities, that is linked to local employment opportunities, and that necessary support services are available. Or, as the Consumer Action Law Centre has reported, ‘...not being properly informed about the debt they would incur or about the course they were being sold.’<sup>46</sup>

The problem with predatory marketing and promotional practices such as these could well become more acute if the Government continues to pursue its Earn or Learn policy.

This is the policy announced in the 2014-15 budget that would require individuals under 30 years of age to either be in work or study – ‘earning’ or ‘learning’ - or they will lose any access to income support for periods of up to 6 months at a time. As we have submitted in other forums, these are punitive policy measures that will only force the unemployed further into poverty and not help them find work or develop real skills.

In itself, ‘learn or earn’ is a perfectly laudable objective and concept. No one with an interest in this issue would object to the basic principle that young people should, where possible, be either working, or studying with an eye to future employment. However, in our submission, the punitive approach adopted by the Government through the Budget and related measures is completely counter-productive, especially when those looking for work far outweigh the number of job vacancies.

From the skills or ‘learning’ side of the ‘earn or learn’ equation, this policy raises a number of concerns for vulnerable, young unemployed people, and could lead to unproductive ‘training for training’s sake’. For example, as the Brotherhood of St Laurence have pointed out, “...if they [young job seekers] are not offered good vocational advice, they can also be at risk of falling victim to unscrupulous training organisations offering courses that don’t lead to real job opportunities”.<sup>47</sup>

In that type of situation, a young person may study and complete a government subsidised VET qualification at a poor quality training provider and through no fault of their own be left with a qualification that has little value in the labour market and does not help them find work. Under current ‘entitlement model’ policy settings in the VET sector, that person could then be left to pay full fees for any subsequent VET qualifications they do in order to satisfy the ‘earn or learn requirement’, or else they are left with no income support.

The problems with the Earn or Learn policy are amplified by the quality problems that have continued to plague the VET sector. As described earlier, the market-driven approach of organising and delivering VET through a ‘contestable’ training market has led to the rapid growth of private, for-profit, training providers attracted by the ready availability of government funding for high-volume, low-cost training. In too many cases, this training has

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<sup>46</sup> Jacks, T., “Concern at online course dropouts”, The Saturday Age, 17 January 2015, p. 17.

<sup>47</sup> “Denying Help to Young Jobseekers would be harsh”, The Australian, 15 May 2014, p.16.



been skewed more towards courses that are commercially viable, rather than those addressing areas of genuine skill and labour market need. As a result, students and workers have been left with qualifications that do not actually help them find a job. As highlighted above, those people would be penalised under the Government's Earn or Learn policy by the loss of any income support.

Workers from overseas are also being exploited by offers of training, along with promises of various job and visa outcomes. One case reported to the ACTU involved 21 Chinese nurses recruited by an immigration agent based in China to come to Australia on a temporary training visa, with the promise of work for them in the residential aged care sector and a 457 visa after completing a three-month English language program.

Each nurse entered into a contract and paid an initial \$12,000 for training fees, agent fees and other expenses. Following their training in Tennant Creek, none were offered jobs or were able to get a 457 visa. When their original 442 visa expired, the migration agent organised three month tourist visas, and offered the prospect of employment in a nursing home in Adelaide. Several nurses took up the offer and moved to Adelaide at their own cost, where they found that there was no job, just another training centre with a \$7,000 fee attached.

Other nurses were offered employment by a migration agent in Perth which turned out to be the same deal; more training and costs but no job. After this about half the nurses returned to China and around 10 remained in Tennant Creek. They had no job, no money, visas which were soon to expire and many were unable to pay for their flight home. A number of businesses in Tennant Creek ran raffles and other fund-raising activities in order to buy their return air tickets and, in the meantime, the nurses were housed and fed by the generosity of people of Tennant Creek

**Any incidents or allegations of non-compliance with regulation and funding arrangements at private VET providers**

We refer to our response to the two previous terms of reference, including the ASQA reports of high levels of non-compliance with national regulatory standards.

**Political donations made by private VET providers**

The ACTU makes no submission on this term of reference.

**International comparisons to the Australian funding and regulatory regime.**

The ACTU makes no submission on this term of reference.

## THE OPERATION, REGULATION AND FUNDING OF PRIVATE VET PROVIDERS SPECIFICALLY OFFERING COURSES IN AGED CARE AND EARLY CHILDHOOD EDUCATION AND THEIR LABOUR MARKET OUTCOMES.

Aged care and child care are clearly critical areas of interest for so many in the community and quality training for those workers with the responsibility for caring for the youngest and oldest people in our community is absolutely non-negotiable.

Our submission dealt earlier with evidence from ASQA about quality problems with training in the aged care sector, particularly with courses the ASQA Chief Executive has described as ‘ridiculously short’.

Similar problems have been reported in the early childhood sector.

A recent audit by ASQA of 77 colleges offering childcare qualifications found that 80% were providing substandard, ‘woefully inadequate’ training. A fifth remained substandard even after being given a chance to rectify problems.<sup>48</sup>

The most common failures related to assessment methods and the use of ‘recognition of learning’ to fast track students.

The substandard training has led to a complete lack of confidence from the sector itself in the quality of graduates from many private training providers.

David Byrne, the National Secretary of the childcare union, United Voice, put it plainly:

*“Some of these qualifications are not worth the paper they’re written on. It’s really exploitation and robbing of the system. These companies are getting funding from the federal government for no gain to the economy or industry”.*<sup>49</sup>

It has got to the point where childcare centres are refusing to employ graduates from certain ‘black-listed’ training providers who are delivering qualifications in just a few weeks.

While we understand and support the focus on aged care and childcare, problems with private training provision are clearly not confined to a single sector or two. Other sectors like construction and security are also the subject of regular complaints, including qualifications

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<sup>48</sup> Bitá, N., “Childcare colleges marked as failures”, The Australian, 10 November 2014, p. 3.

<sup>49</sup> Bitá, N., “Childcare centres shun ‘unqualified’ workers”, The Australian, 14 November 2014, p. 7.

being offered with little or no genuine training, people being signed up for qualifications that are not required to work in the industry, and courses that are too short.<sup>50</sup>

ASQA is also investigating complaints about underqualified foreign plumbers using 'tick and flick' training course to register in Australia, with apprenticeships that require off-the-job training of 1000 hours being done in as little as 40 hours.<sup>51</sup>

## ANY RELATED MATTERS

### The need for a fundamental rethink of the contestability agenda

An issue which goes across the entire terms of reference for this Inquiry is the impact and implications of a contestable training market. As this submission has explained, this issue is central to the problems that continue to beset the VET sector and it needs to be addressed head-on.

While steps around better standards and better regulation can help to improve the quality of a VET system based around contestability and associated policy settings such as entitlement funding and VET Fee-Help, there is also an opportunity for this Inquiry to scrutinise the whole policy approach that has been taken in the VET sector over a number of years.

The ACTU and unions are strong supporters of the national VET system, industry training packages and the provision of nationally recognised and portable qualifications. However, we believe there are good reasons to question the market-driven approach based on the experience of over more than a decade and particularly in recent years in jurisdictions such as Victoria.

We refer the Inquiry in this respect to a paper by Dr Phillip Toner at the University of Sydney, who has researched and written extensively on the VET system for much of the past two decades.<sup>52</sup> The paper by Toner makes the argument that the conditions for efficient contracting out of VET via a competitive training market do not exist given the weight of publicly available evidence that demonstrates the risk of poor quality VET delivery and corruption resides overwhelmingly with private RTOs. The published evidence that Toner referred to (before the recent spate of cases) includes:

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<sup>50</sup> See Loussikian, K., "Caught off-guard by dodgy courses", The Australian, 5 November 2014, p. 35, and <http://www.abc.net.au/news/2012-08-08/dodgy-trade-schools-on-the-rise/4186382>; <http://www.abc.net.au/7.30/content/2012/s3596989.htm>

<sup>51</sup> Bitu, N., "Childcare colleges marked as failures", The Australian, 10 November 2014, p. 3.

<sup>52</sup> Toner, P., Contracting out publicly funded vocational education – a transaction cost critique; An unpublished paper delivered to a Political Economy Department Seminar 25 March 2013

- three NSW Independent Commission against Corruption Inquiries into private RTOs over the past 10 years.
- the hundreds of suspensions and cancellations of private VET providers by state regulatory authorities and the Australian Skills Quality Authority.
- the foreign student debacle, as detailed by the review by former MP Bruce Baird, including the necessary payment of refunds to overseas students and associated costs to compensate for provider failure and to protect the reputation of Australia as a reliable provider of quality education and training services.
- publicly expressed concerns by major employer groups such as AIG and ACCI about declining quality, the integrity of qualifications being issued, and reputational damage to the system.
- regular exposes by the media of poor quality provision and of robbing of the public purse.

To start with, the paper makes the note, as we do, that there are many high quality non-TAFE providers, but the concern is that the model of market-driven contestability has created the conditions giving rise to low quality private provision of publicly-funded VET.

The Toner paper traces the evolution of the case for contracting out of VET to the 1990 Deveson report.<sup>53</sup> The gradual extension of contracting out to most aspects of publicly funded VET subsequently began with the introduction of User Choice and public subsidies for traineeship training from the late 1990s.

As Toner explains, the original case for contracting out was that on the demand side it would provide students and/or employers with greater choice of training providers so they can more closely align training provision to their needs. On the supply side, contracting out would increase competition among providers and establish incentives to be more responsive to student needs, to be more innovative in their delivery and to increase efficiency as private providers seek to maximise profits by minimising costs.

However, as Toner notes, the many official reports over the years do not justify the case for contracting out with specific examples or rigorous evaluations showing poor provision by public providers, or, conversely, excellence in private provision. The case for increased competition is argued from simple economic assumptions that it will achieve flexibility, responsiveness and efficiency in VET training provision and is a means to realise broader labour market goals.<sup>54</sup>

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<sup>53</sup> Deveson, I., Training costs of award restructuring: report of the Training Costs Review Committee: Volume 1, Australian Government Publishing Service Canberra, 1990

<sup>54</sup> Toner, op. cit. pp. 3-4

The proponents of the contestability agenda are quite open as to the impact it could have on TAFE. The Productivity Commission itself for example observes that ‘there is a tension between promoting competition and the viability of TAFE and recommends TAFE adopt what it terms ‘contemporary human resource practices’.<sup>55</sup> In practice, this amounts to increasing managerial prerogative through decentralised industrial relations bargaining, extension of workforce casualisation and use of performance based pay, which together are designed to increase functional and numerical flexibility in the use of labour.<sup>56</sup>

Toner identifies a range of risks and costs arising from contracting out that will arguably negate, and possibly exceed, any anticipated benefits from outsourcing,<sup>57</sup> including:

- the costs of specifying and defining the performance indicators for VET provision;
- the cost of Government having to intervene in the case of provider failure, in the form of refunds for students and other associated costs; and
- the increasing requirement for both public and private VET providers to use taxpayers’ dollars to fund an increase in their advertising and marketing budgets and the proportion of non-teaching staff, in order to attract students.

Toner then goes on to identify a range of general and specific aspects of VET that make it unsuited to contracting out either through competitive tendering or student voucher, entitlement-type models.<sup>58</sup> These include:

- the importance of the good or service being contracted out i.e. publicly funded vocational education and training;
- the economic and social cost of delivery failure on individuals, society and the economy;
- the potential for low quality providers to undercut high quality providers as they are not incurring the expense of delivering a quality service – under these conditions, competition is not a guarantee of either effective pricing or quality;
- effectively, the imposition of a contingent liability for Government to make provision for the financial failure of VET providers if training is not delivered;

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<sup>55</sup> Productivity Commission, Vocational Education and Training Workforce, Draft research Report, November 2010, paragraph 4.16 and 7.38.

<sup>56</sup> Toner, op. cit., p.5

<sup>57</sup> Toner, pp. 7-9

<sup>58</sup> Toner, pp. 10-18

- ‘important and infrequent transactions’ i.e. the onus is on individuals who bear the risk of their choice of training provider, and the investment that goes with it, for what is often a once in a lifetime decision. Individuals therefore have little opportunity to learn from their direct experience and improve their outcome from such transactions, as occurs when market exchanges are frequent;
- The low barriers to entry and exit for training providers in many VET courses e.g. low mandated formal entry qualifications for teachers and minimal amount of physical infrastructure and assets required to teach, reduces the fear or cost of adverse action by regulators and shortens their investment horizon;
- The considerable latitude available to training providers in terms of training delivery and actual training hours that allows providers, if choosing to act in bad faith and exploit short-term economic gains, to supply a low quality service, and
- By their very nature, private for-profit providers are motivated to improve the financial performance of the firm by increasing revenue and minimising costs. These goals may not always be compatible with the provision of quality VET. By contrast, TAFE was established to overcome market failure and promote social equity, subject to externally imposed budget constraints.

Aside from occasional academic papers like the one cited above from Dr Toner, and now most recently the report from the Workplace Research Centre, there has been no serious scrutiny in recent years of the policy rationale and assumptions underpinning the operation of the competitive training market and its practical implications. An opportunity exists for the Committee to fill this vacuum.

## Discussion and analysis of key policy issues

In our view, governments and all parties with an interest in quality VET should be learning from the experience in Victoria before seeking to replicate this across the country.

In this respect, unions share the concerns raised by the former Australian Workplace and Productive Agency (AWPA) and others that access to entitlement funding should not have been provided to private providers at least until new national quality assurance bodies are well established and working properly to ensure quality and identify and deal with poor performance. Unfortunately, this advice has not been heeded.

At the very least, a number of things need to happen before going any further down this path. As discussed, investment in quality and compliance is critical. As noted above, the ACTU has supported concerns raised by AWPA that private providers should not have access to entitlement funding at least until the regulatory framework is well established. The experience of our affiliates is that while the framework may be in place and AWPA is doing a good job with the resources it has, the regulatory framework cannot yet be said to be working to the extent required for public and stakeholder confidence in the quality of the VET system. If anything, the work being done by AWPA in uncovering poor quality training and other questionable practices highlights further the need to not continue down the path of contestability.

In our submission, states need to be providing at least a second chance at a guaranteed entitlement in recognition of the problems that occur when there is a first entitlement only. If they elect not to do this, states should be more far transparent about the implications of the guaranteed entitlement on first qualifications only. As a show of support for TAFE and quality VET, it also our position that states should require entitlement places to be offered only at TAFE, which they are able to do under the terms of the National Partnership Agreement.

As well, the ACTU is concerned that while the Federal Government has required state and territory governments to include additional criteria specific to each state for access to public subsidy funding, it has no control over the way in which these criteria will be applied, monitored or enforced. These criteria will be applied outside the national regulatory system, effectively handing a key mechanism for ensuring quality delivery as a condition of access to public funds back to the states. This will leave governments open to criticisms that they have increased the regulatory burden on VET providers. Unions support an approach which ensures that access to public funds, and the capacity to offer national VET qualifications, are tied to rigorous quality standards. However, adding another layer of state-based scrutiny to the regulatory process could be seen as undermining a consistent national approach to VET regulation.

In any event, the qualification standards that the system must meet are the same regardless of whether the delivery has an element of public funding. Having different barriers to entry make no sense.

It is vital that ASQA has the resources required to oversee the operation of thousands of RTOs and be able to undertake audits and other regulatory activity of sufficient quality, frequency and intensity, as well as its program of strategic reviews. ASQA needs to have a highly visible presence, with a regular program of audit in place that does not occur only at the point of initial and continuing registration. While it is accepted that RTOs need to be able to get on with their work, they should not be doing this secure in the knowledge they will never be audited or held to account for the training and support services they deliver to their students. This includes greater regulatory control to ensure all VET is provided by an appropriately qualified and registered workforce. The program of strategic reviews must also be continued.



As this submission has noted, ASQA has made a number of important recommendations to address problems it has identified through its strategic reviews in terms of dubious marketing and advertising practices, and sub-standard training and assessment. This inquiry provides an opportunity to assess where those recommendations are at and, where necessary, to reinvigorate efforts to implement those recommendations. We agree that stronger measures need to be in place through training packages, regulatory standards, and audit activity to ensure mandatory requirements developed by industry for volume of learning, amount of workplace exposure, and assessment requirements are specified and adhered to.

We also agree with AWPA that mechanisms need to be in place – caps and quotas for example – to ensure entitlement-funded training is linked to identify industry skill needs and jobs outcomes.

The point is often made that students in a competitive market and entitlement system will need to have adequate information to inform their choices about providers and the course and qualifications they offer. We support the case for more and better information and transparency and have made submissions on this in other forums.

However, while information can assist students to make decisions, our concern is that a focus on information and transparency requirements diverts attention from the more critical issues around quality and compliance. Creating websites to give students more information about providers will not solve the problems experienced in Victoria.

Students should of course have necessary information to help them make decisions, but far more importantly they should be able to have confidence in the quality of the providers they are enrolling with and the course and the qualification they are undertaking. Responsibility for this lies squarely with the relevant standard-setting bodies, regulatory agencies, the providers themselves and the governments that fund them; the responsibility should not be shifted to individuals on the basis of ‘buyer beware’.

As noted earlier, the choices students make are often driven by the fact these private providers are government funded (and the offers of ‘free training’ that come with that). Private providers use their government funded status prominently in their advertising and students are entitled to assume that if the provider is accessing government funds (and is registered in the first place) then they must be of high quality. Instead, what has happened in Victoria is that students are being held responsible for choosing a poorly performing government funded provider and being told that the solution is that the government will put more information about these providers on a My Skills Website. This unfairly put the focus on students to come up with the right decisions, when the onus and accountability should be on providers and regulators to improve standards and improve quality.

The other under-discussed issue is the nature of the choices that students are offered. The market is gravitating to those programs that are commercially viable, rather than those the economy needs to meet social and skill shortage needs. Students can only be informed and demanding consumers of that which is on offer.

We support the need for increased investment in VET to accommodate enrolment growth and fund the support services required to help completion rates so that students are not 'wasting' their entitlement. Among other things, this requires a commitment to adequate levels of funding for TAFE. However, improving completions is not the answer alone. The critical point in ensuring the entitlement is not wasted comes down again to the quality of the provider and the value of the qualification they are delivering. Enrolment growth and more qualifications is one thing, but the qualifications must be of value to the individual and industry.

A further critical issue is the quality of the TAFE and VET workforce and the support that is provided to them to deliver quality vocational education and training. The various targets set by the COAG reforms to improve the number and level of skills and qualifications cannot be met without a VET workforce that is well-skilled and qualified to teach, train, and assess a diverse learning population, particularly disadvantaged learners.

This requires a serious look at a number of issues, which in our view should form part of a national workforce development strategy for the TAFE and wider VET teaching workforce. As set out in previous ACTU submissions to the Productivity Commission study into the VET Workforce and to the AWPAN National Workforce Development Strategy, these include the level and quality of teaching qualifications in the sector, opportunities for professional development and stronger links with industry, and measures to address the unacceptably high levels of casual employment. The apparent pre-occupation of the Productivity Commission and others with 'flexibility' and removing the 'obstacles' caused by public sector employment conditions distracts from these core priorities for TAFE.

There is a misdirected focus at present, we submit, on governance arrangements for public providers to allow for greater autonomy and capacity to compete with other providers. This is not a genuine reform if it is simply code for reducing the wages and conditions of TAFE workers, and for contestability based on price, rather than quality and fitness for purpose. We refer again to our submissions to the VET workforce study for further treatment of these issues.

The increased risk to individuals associated with the rapid expansion of the VET system – an expansion which has seen hundreds of private RTOs enter the market in a relatively short period of time – must be accompanied by governments taking responsibility for failed provision by poor providers. As more and more stories come to light of thousands of students receiving inadequate vocational education and training, governments must accept responsibility for the funding and provision of retraining for those students who have wasted their once only entitlement to government funded training by providers that have been registered and monitored by the governments' own regulatory systems. It is entirely immoral

to require these students to pursue their own claims, even where they are aware that their training has been of poor quality and questionable value. These students are often amongst the most vulnerable in society, and their experience in poor quality, government funded vocational education could mean that they resist attempting to gain qualifications for work in the future, especially if they are then required to pay for it themselves.

Finally, much of the above discussion concerns ways in which to alleviate or soften the adverse impacts that are too often associated with the operation of a contestable training market. Our view is that the time has come for a more fundamental reassessment of the whole approach of contestability and associated policy settings such as VET Fee-Help; a recognition that this approach has not worked and is not working in the best interests of students, employers and the wider economy. For this reason, we support and recommend the introduction of a 30% cap on the amount of funding that is contestable and available to private providers to ensure that TAFE remains able to perform its historic role as the public provider of quality vocational education and training to all fields of education, all student backgrounds and all areas of Australia.

## Recommendations

In summary then, key recommendations for the Committee include:

1. The Government conduct a full public examination and review of the consequences of market-driven policies of contestability, including the impact on educational quality of VET, levels of student support and teaching infrastructure, and a fundamental reassessment of the case and justification for a competitive training market.
2. The introduction of a 30% cap on the amount of government vocational education funding that is contestable and a guarantee that contestable funding will not go to poor quality providers.
3. Renewed effort and attention to implement the recommendations of the ASQA strategic reviews, particularly around better regulation and enforcement of marketing and advertising practises of RTOs, assessment practices, and volume of learning requirements.
4. Ensuring ASQA has the resources it needs to effectively audit and regulate the performance of training providers and enforce rigorous standards for entry into and continued operation in the training 'market'.

5. The introduction of more stringent measures through training packages, regulatory standards, and audit activity to ensure mandatory requirements developed by industry for volume of learning, amount of workplace exposure, and assessment requirements are specified and adhered to.
6. The Government work with the states and territories to ensure the ongoing viability of TAFE as the public provider of quality VET. These measures to include:
  - A commitment by all governments to maintain TAFE funding in real terms, with a full and immediate reinstatement of TAFE funding cuts.
  - A comprehensive review to establish adequate future levels of guaranteed funding for TAFE. The funding model for TAFE must provide a strong and increased funding base for capital works, maintenance, infrastructure, and equipment, and properly recognise the important role of TAFE as the public provider in providing access to training and re-training in areas of high and low demand, and, particularly, in rural and remote areas and in support of improved access and participation for disadvantaged learners.
  - The federal Government to scrutinise rigorously the implementation of the national partnership funding agreement to ensure further Commonwealth funding does not flow to any state or territory, unless it has met conditions of that funding agreement to develop and implement strategies to enable public providers to operate effectively in an environment of greater competition.
  - State and territory governments to demonstrate their support for TAFE by requiring that the national entitlement to a guaranteed training place is offered only at TAFE, at least until there is clear evidence the training market is stable and mature, without the quality problems that continue to plague it at present.
  - Development of a national workforce development strategy for the TAFE (and wider VET) workforce. that addresses the level and quality of teaching qualifications in the sector, and the unacceptably high levels of casual employment, and which specifically includes the allocation of adequate resources to enable TAFE teachers and institutes to develop and maintain close liaison with industry and local communities to assist them to meet their vocational skill needs

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