

The People's Inquiry into Privatisation in Australia

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CONTACT PERSON											
Organisation name (if applicable) ACTU											
First name		Ged		Surname		Kearney					
Phone		03 9664 7324		Mobile		Email		cwatts@actu.org.au			
Street address			365 Queen Street								
Suburb		Melbourne		State		VIC		Postcode		3000	

The failure of for-profit privatisation

ACTU submission to the People's Inquiry into
Privatisation

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The Australian Council of Trade Unions (ACTU) is the peak body for Australian unions. We represent almost 1.8 million working Australians and their families. The ACTU and affiliated unions are active advocates for the vital role of the public and community sectors in the delivery of quality publicly-funded services to the Australian community. The ACTU welcomes the opportunity to make a submission to this inquiry.

Over the last few decades there has been a steady implementation of the conservative policy orthodoxy that profit-driven businesses are always more efficient and better able to deliver outcomes than a well-run public or not-for-profit system. This orthodoxy has been repeatedly proven incorrect, resulting in job losses for public and community sector workers, lower quality services and higher costs to consumers. The reality has been that private, for-profit organisations have shown time and time again that profit will always be their primary aim – not the provision of quality services. The ACTU notes that conservative state governments, particularly the NSW state government, are pursuing an agenda of privatisation by stealth through the use of Social Impact Bonds. These bonds have been used to essentially outsource previously government-delivered services to private providers. The ACTU is concerned that the privatisation trend is being implemented in the absence of any evidence that quality services are delivered at a lower cost to the community by for-profit providers.

The ACTU has long been concerned about this policy approach, not merely because of its significant deleterious effects on the workforce in sectors to which it is applied, but because it typically fails to deliver the outcomes promised for the Australian community. Equally concerning is the attitude towards government investment in citizen wellbeing and services that these changes indicate. This orthodoxy has developed largely at the will of both conservative governments seeking to reduce outgoing expenditure and of the large businesses that tend to benefit from such arrangements. These decisions don't happen in a vacuum, they are shaped by the ideologies and values of the people making those decisions. Privatisation is often the result of policy-makers with conservative ideologies willing to deplete the health, education, infrastructure and public services our community depends on for short-term financial gain. Focus should also not be lost on the impact that these privatisations often have on workers. Public sector workers often see long-term drops in wages and conditions under for-profit providers in newly privatised systems and many new workers in these fields face low pay and poor working conditions.

“I have worked as a Registered Nurse for over 20 years and have grave concerns for those clients who receive a service from this Department when it is privatized. Providing care to an individual that suffers from an intellectual & physical disability, challenging behaviour and complex medical needs requires highly skilled & educated staffs that are regulated. Privatization of disability services in the UK has been a dismal failure. These services belong to the people of NSW.”

- Health worker

Among the many sectors privatised in Australia over the last half-century have been essential services, such as electricity or water provision and local government services. The effects of the privatisation of these sectors, as examined by John Quiggin^[6] in *electricity privatisation in Australia*, have been:

- increased prices being paid by consumers, particularly in states where privatisation has taken place ;
- increased consumer dissatisfaction about the quality of the privatised services
- declining reliability and;
- failure to deliver efficient investment

All of this has occurred within a context of a myriad of other concerns including foreign ownership of essential services, significant undervaluing of public assets prior to sale, ignored environmental concerns, compromised transparency and an eroded regulatory framework. What has been observed in these sectors, and in many others, is the steady erosion of the public good they once provided and significant damage to workers, communities and the public as a whole.

In this submission we briefly explore a number of Australian case studies of publicly-funded sectors where privatisation has been applied, in whole or in part, and explore in detail the outcomes achieved. We look at two major case studies - the Vocational Education and Training (VET) sector, beset by 'sharp' practices and declines in service quality, and the Early Childhood Education and Care (ECEC) sector – where both market failure and poor allocation of resources by private providers are rampant. While these sectors have been selected as the foci of the submission, they are just examples of the impact that privatisation continues to have in countless other sectors including disability services, aged care, health, education, community services and transport or the threat posed by the looming privatisation of other sectors.

CASE STUDY: VOCATIONAL EDUCATION AND TRAINING

As at 30 June 2014, there were a total of 4664 registered training organisations in Australia, with more than 2000 delivering publicly-funded VET.¹ This includes only 59 public TAFE Institutes. Due to government decisions to open the market to private providers, from 1996 to 2011 the share of enrolments in publicly funded VET in the 'other provider' category, which is 80 per cent private providers, increased from 1.7 per cent to 26 per cent. There were around 400 000 publicly funded students in private providers in 2011, which is estimated to represent around \$900m in public funding.²

This shift has resulted in a number of concerning outcomes for government, workers and for the students which rely on the VET system.

The first 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. In order to attract the students who in turn attract the public funding, private providers are encouraged to focus more on marketing courses and signing-up students, rather

^[6] John Quiggin Opinion and Consulting, *Electricity Privatisation in Australia: A Record of Failure*, Report Commissioned by the Victorian Branch of the Electrical Trades Union, February 2014

¹ Australian Skills Quality Authority Annual Report 2013-14, Commonwealth of Australia, 2014, p. 18; 2013 Students and Courses, NCVER, 2014, p.7.

² 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

than serious attention to the quality and rigour of the training being provided.³ In some reported cases, these marketing efforts become predatory behaviour targeting vulnerable students.⁴

These same fly-by-night providers are often poor employers, under-paying staff who are asked to work in conditions where there are insufficient resources or time to provide a quality education. This puts the professional educators they employ in impossible positions and means they are forced to provide extra assistance to students in their own time. These providers also often go out of business with no warning and with no effort made to pay workers what they are owed or ensure their entitlements are paid out. It is important to note that these privatised systems fail workers just as comprehensively as they do service users.

Under the private VET system, the costs to students have risen significantly. There are regular reports of courses being offered up to five times more the cost of equivalent courses at TAFE.⁵ Reports of courses costing upwards of \$30 000 are becoming more commonplace. Price increases were 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 jurisdictions 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).⁶ Between 2012 and 2014 VET student fees and charges increased by 14.3 per cent. Moreover, 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.⁷ 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/qualifications they need in the labour market.

Quality has also proven to be a significant issue in the 'marketised' VET system. The model of market-driven contestability, combined with entitlement funding and VET fee-help, has given rise to low quality provision of publicly-funded VET. One of the most commonly reported problems is that courses are clearly too short, being delivered in a fraction of the time they are delivered by reputable providers. Investigations of training in the construction and aged care sectors particularly found egregiously high levels of shoddy, too-short training. Quality issues are not confined to single qualification or area however. The 2013-14 ASQA annual report provides further evidence of poor quality provision. 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 per cent of 1515 colleges audited complied fully with national standards in 2013-14. The remaining 80 per cent had at least one case of non-

³ 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..."

⁴ 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, *Bachelard, Michael Dodgy vocational colleges using laptop lure despite government crackdown*, *Sydney Morning Herald*, 22 November 2015

⁵ 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

⁶ 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.

⁷ Jacks, T., "Concern at online course dropouts", *The Saturday Age*, 17 January 2015, p. 17.

compliance, ranging from minor concerns through to serious failures with training and assessment.⁸ As one participant in the People's Inquiry has already noted:

"[Privatisation has caused] the NSW & national destruction of TAFE- campuses closed and defunded, TAFE made much less accessible to public via huge fee rises and put in competition with expensive, incompetent and corrupt private providers. All done with the full intention, knowledge and blessing of the NSW Government. Privatisation is never done in the public interest, is never supported by the majority of the public and is anti- democratic"

All of this has occurred within the context of a significant increase in costs to the federal government. 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. The evidence is that more than 75 per cent of the expenditure under VET Fee-Help in 2014 has gone to private providers and 72 per cent in total over the five years the scheme has been running.⁹ The budget papers forecast the number of students with VET Fee-Help Loans to treble from 87 700 to 263 500 in 2017-18.¹⁰ The introduction of for-profit providers, through a process of privatisation, has resulted in a sector delivering low-quality and expensive training to Australian students. In addition to disadvantaging students, this means that industry cannot rely on the VET system to provide workers with the skills they need to build the economy and create jobs. The Business Council of Australia have, in the past, referred to VET as the 'poor cousin' of the education sector and have described the sector as unable to meet the skill development needs of large enterprises.¹¹ Industry, the community, students and government are all losers in the current system. The only winners? The owners of private education colleges.

CASE STUDY: EARLY CHILDHOOD EDUCATION AND CARE

The Early Childhood Education and Care (ECEC) sector has, over the last 30 years, increased in size significantly. Along with the size increase, there has also been a shift from an industry which was largely serviced by the community sector to one in which for-profit organisations hold significant market share. During that time, policy settings designed to foster marketisation led to market vulnerability, drove down standards and investment, caused fees to increase, risked children's access to care, and cost the taxpayer millions. The meteoric rise and fall of ABC Learning Centres between 2000 and 2007 has become emblematic of the damage that privatisation of this sector is capable of doing – resulting in the imperilment of the education and care of 120 000 Australian children and the employment of 16 000 educators.

Workers are often the first victims of the profit-seeking and cost-cutting approach taken by for-profit providers in this sector. Many workers in the industry are underpaid, particularly when compared to people undertaking similar tasks in other sectors (e.g. pre-school education) and are often expected to work long hours or to put in free time after work. Corporate ECEC providers desire for profits often lead to workers being overworked, underpaid and regularly left without sufficient support to provide the highest quality of care. These factors have combined to create an environment in which workers doing critical work remain amongst the lowest paid in Australia and turnover within the industry continues to be unacceptably high.

⁸ Australian Skills Quality Authority Annual Report 2013-14, pp 26-28

⁹ Answer to Question on Notice, Industry Minister Ian Macfarlane

¹⁰ Ross, J., and Loussikian, K., "Vocational loans go through the roof", *The Australian*, 1 October 2014, p. 31

¹¹ Business Council of Australia, *Changes needed to VET Systems*, BCA, March 2004

Under the privatised ECEC regime, access to quality ECEC has largely failed to increase. Undersupply is a chronic problem, particularly in metropolitan areas, and thus parents are unlikely to change providers, reducing any perceived incentive for providers to deliver a better service. High real estate costs also function to prevent smaller services from competing in metropolitan areas, meaning that parents often have a choice between a few similar corporate operators. There have been improvements in quality over the last few years have been gained through the introduction of the National Quality Framework in spite of, not because of, privatisation.

Efficiency, often the primary attribute ascribed to corporate providers, has also failed to eventuate. This sector continues to experience significant supply and demand issues, with oversupply in regional areas and supply shortages in rural and metropolitan areas. For-profit private operators run centres in areas in which they can secure high occupancy rates and high fees, resulting in the need for the government to provide additional subsidies such as the Budget Based Funded Programme (BBF) to fund remote and mobile services. For-profit operators feel no obligation to service the needs of the community and deliver only the most profitable services, which in light of low staff-to-child ratios in lower age groups, means that families often struggle to secure a place for babies between 0 and 2 years of age.

The market has also shown no interest in reducing costs, either for government or for the service user. For example, in 2008, when the Australian government announced that it would lift the CCR from 30 per cent to 50 per cent, ABC responded by lifting fees by \$12/day – ten times the typical increase. Government expenditure on ECEC increased from \$1 billion in 1999 to \$2 billion in 2007 during the peak of ABC Learning. In 2016-17, we will spend more than \$8 billion on ECEC, an amount that will likely exceed \$11 billion in 2018, if not earlier. This increase in spending has shown that transitioning to a competitive market with for-profit providers has not delivered cost savings in this sector. This point was made by a People's inquiry participant, who commented:

“Privatisation of basic necessary health and education is something we need to avoid at all cost. It increases cost to families who are already struggling. It is the right of every citizen to be entitled to basic health care and education, which makes this country prosper. If we have sick, unemployed and disadvantaged people we cannot have a sustainable economy.”

Marketisation of the ECEC sector has failed to deliver any of its touted benefits, leaving the government with increasing costs in a sector over which it is able to exercise little real control and service users and workers significantly worse off.

PREDICTABLE NEGATIVE OUTCOMES OF PRIVATISATION OF PUBLICLY-FUNDED SERVICES

Privatisation often fails to achieve its purpose. This is due to a series of flaws, inherent in a privatised for-profit system which we believe are largely unavoidable when services to the community are sold to private businesses. These issues can be manifest in three particular ways: sharp practices, vendor dependency and concentration of service provision.

Sharp practices, the deliberate gaming or rorting of a system by service providers, often accompany the introduction of competition and contestability to publicly-funded services markets. This has been evident in a number of previously privatised publicly-funded services sectors, but none more publicly than in VET and employment services. Under Job Services

Australia, there was such widespread gaming of a particular payment type, and therefore fraudulent claiming of public money by the organisations involved, that the entire payment classification (Provider-Brokered Outcomes - PBO) was removed from the system in July 2012.¹² A 2012 Department of Employment review found that when employment services providers were asked to review their own claims, they admitted that 17.4 per cent of their PBO claims had 'not met the requirements' for payment.¹³ This already staggering figure is dwarfed by the Department's own numbers which, although claiming they had reviewed only those claims most at risk of being fraudulent, found that 73 per cent of the reviewed claims were either invalid or lacked documentary evidence and were unable to be confirmed.¹⁴ These issues occurred under Job Services Australia, since replaced by jobactive, although with no real evidence that provider audits have been increased. Jobactive has also been identified by some stakeholders as incentivising providers to 'cream' job seekers most likely to achieve outcomes while 'parking' the most disadvantaged people at the lowest service level. In this way providers will make the largest possible profit from the 'easy' cases and ensure they spend as little as possible on job seekers who need the most assistance but who are unlikely to be profitable.¹⁵

These issues have been, as mentioned earlier, even rife in the VET sector. There have been innumerable reports of private VET providers pressuring vulnerable students to sign up to courses they have no capacity to finish¹⁶, using incentives (such as laptops and Ipads) and unscrupulous agents to encourage people experiencing disadvantage to take out VET-FEE HELP loans they are unable to repay¹⁷, providing low quality training to students¹⁸ and allegedly using the VET system as a method to line their own pockets at the expense of students and workers.¹⁹ These issues will be more fully explored in the case study of the VET system later in this submission.

Vendor dependency arises when the bargaining power in a contract shifts toward the contractor. This occurs for a number of reasons. Over time, as the contract matures, it is common for the government department to lose the internal skills and knowledge it needs to effectively monitor, check and evaluate the activities of the contracted service provider. Vendor dependency is not a natural or accidental by-product of privatisation and outsourcing; it is actively cultivated by vendors. It has become common to under-price bids for government tenders, on the basis that once they are won and the government department becomes reliant on the service provider, costs can be significantly increased at a later date. Contracts often make it difficult to question claimed changes to cost structures, and government managers are often wary of incurring the additional expenses and risks to services and reputation that can accompany the early unilateral termination of contracts.

¹² Department of Education, Employment and Workplace Relations, *Job Services Australia Brokered Outcomes*, Australian Government, 2012.

¹³ Ibid

¹⁴ Ibid.

¹⁵ Brotherhood of St Laurence, *Reponse to Employment Services 2015-2020 exposure draft*, BSI, 2014. pp23

¹⁶ Atkins, Michael & Branley Alison, *Careers Australia: Whistleblower claims private college paid him 'hush money'*, ABC News Online, July 2016. <http://www.abc.net.au/news/2016-07-14/whistleblower-claims-careers-australia-paid-him-hush-money/7626322> accessed 18 July 2016

¹⁷ Bachelard, Michael, *Dodgy Vocational College using laptop lure despite government crackdown*, SMH Online, Nov 2015, <http://www.smh.com.au/national/dodgy-vocational-colleges-using-laptop-lure-despite-government-crackdown-20151120-gl47bq.html>. Accessed 15 July 2016

¹⁸ Bitá, N., "Childcare colleges marked as failures", *The Australian*, 10 November, p. 3

¹⁹ Bagshaw, Eryk, *Unique International College: CEO Amarjit Singh Transferred \$22m to family account in a day, court told*, Canberra Times Online, July 2016 <http://www.canberratimes.com.au/national/education/unique-international-college-ceo-amarjit-singh-transferred-22m-to-family-account-in-a-day-court-told-20160713-gq4wv.html>. Accessed 14 July 2016

Related to vendor dependency is the tendency toward the **concentration of service provision**: the reduction in the numbers of firms able and willing to participate in markets for particular government contracts over time. This effect also tends to occur first in thin markets, such as regional and remote areas, where the market is not sufficiently large to support more than a single provider, or is so small that it relies on a provider to have the ability to offset local losses in other areas. This makes this a particular concern in publicly-funded services, on which people across Australia rely.

Despite widespread expectations among policymakers and economists that privatisation and outsourcing would result in government simultaneously promoting and benefiting from competition the reality has been the emergence of oligopolistic markets dominated by a small number of large and powerful corporate providers. In the UK the markets for a wide range of 'back office' and 'frontline' services has become dominated by four multinational corporations: Atos, Capita, G4S and Serco. This has often occurred through a process by which underfunded community sector providers are steadily replaced by for-profit companies – often after the community sector is blamed for being unable to deliver a service they have not been funded adequately to provide.

A recent assessment of the power of these corporations by the UK National Audit Office (NAO) found that many within government who had come to rely on their knowledge and scale now regarded these major providers as 'too big to fail'.²⁰ These companies have become so central to the provision of services that government now has an interest in ensuring their viability and profitability as providers, substantially weakening the bargaining power of public sector contract managers and effectively ensuring the continuous renewal of major contracts.

The NAO also found that it was impossible for contract managers to judge if these companies were receiving a reasonable fee for their work because they refuse to supply the information needed to reach informed conclusions. There was a pervasive lack of transparency which made it impossible for contract managers to negotiate and manage contracts in the interests of taxpayers and service users.²¹

This is the logical result of contracting to profit-maximising companies. On the government side, a key driver of contracting is to secure lower immediate costs. This generates strong preferences for large contractors who can offer significant economies of scale. On the provider side, all profit-maximising corporations routinely implement product, pricing and acquisition strategies with the intent of reducing or eliminating competition. Such trends are common for all major for-profit providers of publicly-funded services, reducing competition for contracts while enhancing their status as being 'too big to fail'. The continued decision to sell citizen-owned assets to private, for-profit providers often represents nothing less than a victory of private shareholders over the interests of the citizenry. As one People's Inquiry participant put it:

“As our public services are sold off, so too is any chance of holding government accountable for those services. Failure becomes a legal game by the new owner, and money is the primary target for every decision. Including decisions to alter levels of service available to our community. Selling public sector services is selling our democracy.”

²⁰ National Audit Office (2013) *The Role of Major Contractors in the Delivery of Public Services*, The Stationery Office, London, p. 10.

²¹ Ibid

THE ALTERNATIVE TO PRIVATISATION

Despite the lack of any substantive discussion about alternatives to privatisation in the political discourse, an alternative exists. The alternative is simply the proper funding of government or community sector delivered services, which has proven time and time again to deliver higher quality services to the community and ensure that workers are paid adequately and treated fairly.

The ACTU believes that the governments of Australia must prioritise repairing the damage that privatisation has done to the VET and the ECEC sectors used as examples in this paper – as well as other similarly afflicted sectors. While it may not be possible to fully return these sectors to public or community sector control, steps must be taken to shield students, children, families and the community from the damaging impacts of for-profit privatisation. In the VET sector, TAFEs must be re-funded and restored as the public provider of quality VET across the country, especially in regional areas. Similar steps must be taken in the ECEC sector, to ensure that people across Australia have access to quality and affordable childcare and to ensure the workforce is adequately remunerated so that experienced, professional educators stay in the industry.

The entire agenda of privatisation also needs to be re-examined and re-considered in light of the evidence that nearly 40 years of practice has provided. While there are cases where, through the use of the not-for-profit community services sector, positive outcomes can be achieved, this is by no means guaranteed. At the very least, where government intends to pursue a privatisation agenda, there should be a process of ensuring that privatisation, or contracting of government services delivers positive outcomes for workers, service users and the government. An example of one attempt to codify this process can be found in Canada, where some public service sectors have pre-set parameters that must be met before a service can be privatised. These parameters require government to demonstrate that privatisation would result in higher quality, cheaper services and that no workers would experience loss of employment or income in the process. If these requirements cannot be met, then why privatise at all? Public and community services are central to the health and wellbeing of a cohesive community and to supporting a strong Australian economy. These services should be driven by a desire to meet the needs of the country, not by profit margins. We must now repair the damage that privatisation has already done to public and community infrastructure and ensure that all Australians continue to enjoy the best services, not the cheapest or most profitable to run.

ADDRESS

ACTU
365 Queen Street
Melbourne VIC 3000

PHONE

1300 486 466

WEB

actu.org.au

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