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GOVERNMENT REGULATION OF THE PRIVATE SECTOR IN HIGHER EDUCATION OF UKRAINE

The world is experiencing a global economic crisis that has the great impact on the education sector provision. Governments are recognizing that investing in post-secondary education at all levels can contribute to a more skilled and knowledgeable workforce, but at the same time, it is coming under considerable pressure to respond to the financial crises through investment in other sectors. However, history suggests that education, particularly post-secondary education, fares well through economic downturns as people use the opportunity to re-train and re-skill in the hope of having an added advantage when the economy revives. Public funding is simply inadequate to meet the growth in demand for education at all levels, and thus, non-public provision is expanding.

The literature on private higher education clearly demonstrates that market demand means that private providers (be they for-profit or not-for-profit) can move far more quickly to meet demand than public institutions [1; 2; 5; 7]. This has led to criticism, at times, with the argument that some providers offer only a limited number of courses, mostly in market friendly subject areas where they are able to charge a premium and where there is greatest demand (such as business studies and management, marketing and promotion). A further argument is that they typically do not undertake research and, therefore, should not be considered as higher educational institutions. While examples to support these stereotypes can certainly be found, there are also examples where private higher institutions are established by individuals and philanthropic organizations who see a failing public sector and are ideologically and financially willing to try to redress the lack of quality education available.

In past decades higher education in Ukraine has been characterized by increasing globalization, market-orientation and the privatization of public and growth of private institutions [3; 6]. But the difference between the public and private sectors is not as obvious

as one might think, with the former looking increasingly like the latter. For instance, public higher education institutions are enrolling more tuition-paying students within the limits of its license, establishing subsidiaries of large public institutions in smaller towns, while private institutions do not receive public funding. Historically private institutions are seen as mediocre institutions. Ukrainian people, therefore, are concerned that any partnership would extend the mediocrity to the private-public partnership and dilute the quality of higher education in the entire system. This underlies the call for quality assurance whenever private participation in higher education is placed on the agenda. Finally, it needs to be recognized that the future of higher education lies in developing reliable alliances between the public and private sectors. The distrust and competition between these two sectors should be replaced by mutual trust and co-operation in order to contribute to higher education and national development.

This article is aimed at exploring the role of government in the development of private provision in higher education and producing guidance to policymakers as they examine the role of private provision in Ukraine. There is no definite solution in terms of how government responses might be devised to address such provision, and thus, policy-makers should use a coordinated approach to higher education development that takes into account both the public and private sector, initiates steps to regulate the expansion and operation of the private sector, and devises measures to improve the quality of education provided in both public and private institutions.

The decision of the Ukrainian government to regulate private provision in education is framed by issues of access and quality. Perceiving private institutions as partners in meeting the country's overall demand for education, government want to provide increased access to education opportunities, while at the same time ensuring such opportunities are of equal or even higher quality than that found in the public sector.

Ensuring the quality of the educational experience is a central tenet on which the Ministry of Education and Science, Youth and Sports of Ukraine (MESYSU) policies rest. Certainly the regulatory and monitoring frameworks play a key role in setting out the basic structure for institutions to follow which provides some comfort that quality provision will be in provided. The Scientific Activity and Licensing Department (SALD) of the MESYSU, staffed by ministry clerks and representatives of the most influential public institutions, supervise this process. Accredited private institutions confer ministry-endorsed diplomas that are identical to those conferred by public higher institutions.

In carrying out its mission of ensuring the uniform quality of higher education, the SALD does not differentiate between private and public institutions. It applies uniform standards for curriculum, teaching, research, and organization of the study process, and these standards are difficult even for many well-established public higher institutions to meet. Moreover, the procedures for licensing and accreditation are generally considered to be bureaucratic, complicated, corrupt, and biased against private institutions [2, p. 9]. Because the minimal standards for accreditation are very high, institutions have been known to cheat by, for example, exaggerating data on student performance or the number of full-time faculty with scientific degrees [4]. The financial burden of a tough tax environment and demanding accreditation standards and procedures has resulted in a decrease in the quality of research, faculty, and facilities at some private higher institutions.

Once a new private higher institution is operational, the role of the state's regulator

isn't less demanding and usually involves three aspects:

- Oversight on the quality of the delivery, delegated to a national quality agency. In between accreditation years, the State Inspection of Educational Institutions of Ukraine (SIEIU) controls the quality of public and private institutions through planned and unannounced visits each year. During these visits, inspection representatives check various aspects of institutional work at random and can be as demanding as accreditation committees.

- Review of the financial and operational performance, which is usually obtained through a requirement to receive annual reports and professionally audited financial statements. Institutions are also subject to regular checkups by various state agencies, such as the State Prosecutor's Office, Fire Security Controller, and State Tax Service of Ukraine.

- Collection of basic statistical information on staff and student numbers. The State Statistics Service of Ukraine, for example, publishes tables of statistics for public and private institutions, covering enrolments, staff numbers, staff grades and qualifications.

So, in this article the term regulation is used to embrace all aspects of the state's relationship with the private sector. Regulation begins with a decision to allow a private provider to plan or develop a campus, continues with the procedures of licensing and accreditation, and then includes regular monitoring together with the collection of information on financial and academic performance.

It is argued, and rightly so, that higher education should not be left to the vagaries of market forces. Markets are more reliable in ensuring efficiency than equity, while their role in ensuring quality is debatable. An unregulated free market in higher education may lead to investments in the sector by low-quality providers that adversely affect the best interests of the ultimate consumers [1]. There have been instances when fraudulent practices have come to light in which admission rules are relaxed, the evaluation process is distorted and examinations are faked in different ways. It is easy to create a new university in name only, and there are many ill-informed and naive potential students desperate for higher education who may sign up to study at a private institution without knowing its credentials and quality.

Governments can protect students from fraud in two ways:

- 1) To fight fraud and corruption, it is preferable to establish autonomous, non-government-affiliated quality assurance agencies. State agencies tend to be bureaucratic, biased against private institutions, and influenced by politics. Independent agencies with fair and transparent quality assurance criteria can be more efficient in identifying and curbing corrupt practices [4].

- 2) If a government is hesitant to turn over the responsibility for quality assurance to an independent agency, it can establish a performance funding mechanism. With this mechanism, the government can reward or penalize institutional performance. Performance funding is typically used with public institutions, but it can be applied to the private sector as well, for example, by requiring institutional accreditation or certain quality standards before distributing student financial aid or research grants to private institutions [2, p. 21].

So, one of the prime motives for Ukrainian state's regulation in the sector of higher education is therefore, that of consumer protection. Another key motive for regulation is to allow the collection and dissemination of information for decision-making by the public. If governments are able to publish reliable and up-to-date information on the programmes and results of private higher institutions, everyone will benefit: consumers will be able to

choose more confidently, the state will know the scale of what is being provided and the private institutions themselves will have a publicly approved mechanism for informing the public about what they offer.

The third motive for regulation is to ensure that public policy is based on accurate information about the activities of the private sector. On friendly co-existence of public and private sectors it is essential that the state knows what is happening. Studies show that the aim of a government must be to achieve a regulatory system that provides the right balance between protecting the public and encouraging private providers to invest [1; 2].

So, the role of state regulation of private provision in higher education remains opens and contested in some quarters and is now well-established in others. This is part of the evolution and development of the educational sector and will serve to ensure that, as policies are developed, policy-makers will become increasingly aware of the options available to provide both barriers and incentives to the growth of this sector as appropriate to the needs of Ukraine.

Thanks to an emerging trend favouring the participation of the private sector, policy-makers accustomed to handling public institutions must now learn how to engage a private partner. The state must provide a framework and mechanisms to:

1. Encourage the development of public and private higher education in accordance with European Union and national targets.

2. Honour the private sector as a respectable partner. This includes: appreciating the advantage of the private sector over the public sector; fully exploiting the strengths of the market; and learning from the private sector, that is, in terms of efficiencies.

3. Formulate an inclusive policy framework where the private sector has an active role to play. This could include creating the necessary legislation to legitimize the position of private institutions; providing government direct subsidy to students and teachers, generally in the form of student loans but sometimes as subsidies to qualified teachers; and providing a level playing field for the private institutions to receive competitive grants, that is, for research grants or matching grants for donations.

4. Supervise private higher education activities and thus contribute to its greater effectiveness, efficiency and transparency. It can be attained by means of facilitating and developing private institutions as a major thrust in higher education expansion; facilitating the establishment and development of elite institutions in the private sector; encouraging private philanthropy towards higher education, like in Hong Kong (China), Singapore, and the United Kingdom where there are matching funds programmes [1, p.80-87]; introducing elements in the tax system so as to create incentives for private sector participation in higher education; and actively creating innovative ways to involve the private sector.

5. Change the paradigms in governance and administration in order to positively derive benefits from the market. This would mean moving away from the civil service ideology, where procedures, rules and regulations prevail; creating concepts and systems of accountability alternative to public sector administration; and tolerating temporary and minor chaos due to the market, to the same extent as tolerating bureaucracy.

It is clear that a regulatory framework is a rapidly changing field and that Ukrainian government is under pressure to strengthen its regulatory mechanisms and adapt them to the changing marketplace. Private higher education is developing rapidly throughout the globe and is expanding faster than the public sector. At the same time, the challenges faced

by regulators are growing. Not only is the private higher education sector growing more diverse, but it is also becoming increasingly complex - the old boundaries between public and private institutions are blurring, hybrid entities are evolving.

Higher education should do its best to follow the OECD recommendation that its future lies in a reliable connection between the public and private sector, and that distrust and competition between them should be replaced by mutual trust and cooperation. State regulation of private providers now needs to move to the centre stage, and requires more commitment and funding from policy-makers and politicians. Only then will higher education be able to provide access to quality education and contribute to the development of Ukrainian society.

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