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I am a National Teaching Fellow and Principal Fellow of Advance HE. Over the course of the last ten years I have been examining the means by which the relationship between the academy and learners can be strengthened. I am currently employed at Aston University in Birmingham, UK.

Can Adam Smith's invisible hand of the market effect the HE sector in the same manner as other, more traditional, market offerings and if so how does the Department and OfS manage financial risk? Here the fundamental question that supports the role of the Department and OfS is addressed - how would a marketized HE sector be operationalised? It is only by describing this first question that we can start to address the role that Department and OfS may have as effective oversight mechanisms.

The two main processes by which an effective market can function can be defined by the terms 'static' and 'dynamic' efficiencies. Increases in 'static efficiency', result in an increase in the ratio of outputs to inputs at any point in time while "dynamic efficiency" is higher growth over time through product and process innovation. Operationalisation of the core market processes in this manner enables one to examine the possible processes that underscore market success throughout HE.

Taking this on board, it remains to be clarified as to what goods a university produces. Early models defined these goods into three categories. First, "own self goods" this is the investment by individuals in their own intellectual development. Second, "training goods" i.e., investment in training of academic staff and then finally the "knowledge goods". Held within this category is the intellectual property that is purchased by various external stakeholders (Marginson, 1997). However, the modern-day university is far more complex beast and as such these categorical distinctions may not be appropriate for effective marketisation within academia.

More contemporary approaches at understanding a marketized HE sector focused on the development of a range of market freedoms that a university should develop to thrive in a competitive marketplace (Jongbloed, 2003).

Here, the freedom of entry refers to how institutions can enter the market. Freedom of supply and resourcing refers to both the ways that a university can specify the product that it delivers and the way it can deploy its main resource inputs i.e., students, staff and money. Rather than students being considered consumers of their learning, they are direct inputs to that learning. Paradoxically, the freedom of resourcing as stated by Jongbloed may be at odds with the current orthodoxy of student recruitment being driven by selective qualifications, which would, by definition, lead to a reduction in student numbers.

The final institutional facing freedom is by far the most significant and one that most HEIs will, quite paradoxically, fail to meet and that is the freedom of pricing.

Here the possible spectre of price elasticity driving consumer demand results in an almost blanket application of the maximum fee permissible under UK legislation. The fear that the product of a university would be deemed to be poorer quality due to the cheaper price rendered it almost impossible for an institution to exercise autonomy in deciding a price for its products.

In addition to the above the freedom to choose the university and the programme of study may seem like utterly unalienable rights for a student. A learner who can't study what and where she wants is effectively denied access to the sector which purports to herald the primacy of the student position. Next the test that the marketized sector faces is that of the freedom of information. How far do students have access to information that allows them to make a fully informed decision about their choices regarding higher education? Arguably this market test has driven the dominance of student focused metrics to clarify and simplify the complex and vast nature of institutional data that the students could access.

Yet even with such efforts to facilitate the flow of transparent institutional information there is still opacity. In the UK the National Student Survey (NSS) which annually measures the satisfaction of all final year undergraduate students across 300 institutions carries a significant weight on various league tables that rank the HEIs across the UK sector. The league tables are the tools by which students access information that they use to judge their quality of the provision at any given university (Eccles, 2002). But the NSS doesn't measure teaching quality at all but a range of factors that includes how well a given programme is organised (Senior et al, 2017; and see Burgess et al, 2018).

HOW TO PREVENT MARKET FAILURE AND ENSURE VALUE FOR MONEY

According to the above for a marketized higher education to be delivered the primacy of the student position would be clear as it is they would engage with the market freedoms stated above and utilise their significant market power to help shape, refine and ultimately remove unmarketable aspects of the provision. Here, the student's choice would be based on the efficient flow of transparent information regarding the price, quality, and availability of relevant programmes. However, no university can yet fully meet these criteria – we are therefore faced with the potential for 'market failure'.

The emergence of a diverse portfolio within contemporary academia ensures that HE now faces a fundamental problem. How can the ready expansion of the portfolio and the rise of market principles be supported? Furthermore, how can effective oversight mechanisms continue to operate in such a way as to protect the marketized HE sector? The emerging narrative is to frame the student as a consumer of an educational product and not just a learner (e.g., Bunce et al, 2017). The 'Dearing Report' in 1999 clearly initiated the movement away from the traditional didactic

arena and towards a more market structured environment. Yet how far does a university have to go to embrace this consumer-centric narrative and still be effective in its core role?

There is no doubt that consumer expectations *are* indeed central to a positive service encounter so an ambiguous attitude towards the relationship that the student and their university enjoys will lead to anything but a positive experience (Goldney, 2008). Here the university brand remains a vital component of its efficacy in the marketplace (Parameswaran & Glowacka, 1995) and any reconsideration of this would start to impose financial risk.

CONCLUSION

Here it is argued that the rise of consumerist HE is inevitable and as such the Department and OfS must be wary of issues that may cause market failure. The current narrative of framing students as consumers within an active market is problematic as the sector operates under too many restrictions to be an effective marketplace. Yet, despite this a positive service encounter is beneficial for the sector to thrive. This positive service encounter can be facilitated by supporting the so called Jongbloed model that frames the relationship between a university and a student as one existing along a number of freedoms. Here the Department and OfS could play a central role in supporting individual universities to develop and showcase their own 'brand' while championing the primacy of the student position throughout.

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