

## CHAPTER 3

### Private Vocational Education: Business models, marketing practices and unethical practices

#### Unscrupulous marketing techniques employed by private providers

3.1 Few issues in the VET sector attracted as much community concern as the conduct of providers marketing their courses to potential students. The committee received a swathe of evidence from students, staff and advocates that high pressure sales pitches aimed at securing students involved practices such as promises of equipment, downplaying the level of debt the students would incur and providing deceptive impressions of the qualifications to be earned or employment opportunities which would follow. These will be discussed more fully in this chapter.

3.2 Concern about marketing and advertising practice of private RTOs in Australia's VET sector is entrenched. In 2013, ASQA undertook a review of the marketing and advertising practices of RTOs in Australia's VET sector, prompted by what they described as:

serious and persistent concerns raised within the training sector about registered training organisations and other bodies providing misleading information in the marketing and advertising of training services.<sup>1</sup>

3.3 This review found that 45.4% of RTOs investigated could be demonstrated to have breached the national RTO standards and/or consumer and fair trading legislation, ranging from:

relatively minor concerns that can and should be rectified quickly and easily, to more serious breaches that could involve major sanctions being applied, including a loss of the RTO's registration.<sup>2</sup>

3.4 Specific breaches of the standards found in ASQA's review of marketing practices amongst RTOs examined in this review included:

- 53.9% marketed qualifications in 'unrealistically short time frames or time frames that fell short of the volume of learning requirements of the Australian Qualifications Framework';

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1 Australian Skills Quality Authority, *Marketing and advertising practices of Australia's registered training organisations*, Report, September 2013, p. i, [http://www.asqa.gov.au/verve/resources/Strategic\\_Reviews\\_2013\\_Marketing\\_and\\_Advertising\\_Report.pdf](http://www.asqa.gov.au/verve/resources/Strategic_Reviews_2013_Marketing_and_Advertising_Report.pdf).

2 Australian Skills Quality Authority, *Marketing and advertising practices of Australia's registered training organisations*, Report, September 2013, p. viii, [http://www.asqa.gov.au/verve/resources/Strategic\\_Reviews\\_2013\\_Marketing\\_and\\_Advertising\\_Report.pdf](http://www.asqa.gov.au/verve/resources/Strategic_Reviews_2013_Marketing_and_Advertising_Report.pdf).

- 32.3% had websites which enabled the collection of tuition fees in advance; half of a sample of these websites allowed RTOs to collect fees in excess of the amount allowed by the national standards and 60% did not mention the RTO's refund policy;
- 11.8% advertised superseded qualifications; and
- 8.6% engaged in 'potentially misleading or deceptive advertising such as guaranteeing a qualification from undertaking their training irrespective of the outcomes of assessment and guaranteeing a job outcome from undertaking training even though an RTO is in no position to ensure someone will get a job as a result of their training'.<sup>3</sup>

3.5 Notwithstanding reforms introduced since the commencement of this inquiry, marketing practices in the private VET sector remains a key issue for students, staff and advocates.

3.6 Throughout the inquiry, the committee received evidence about specific strategies commonly used by private RTOs in marketing courses to potential students, including:

- Marketing of courses as 'free' or 'government-funded';
- Promises of free equipment; and
- High-pressure marketing techniques and targeting of disadvantaged people.

3.7 In addition to these, the committee received evidence about practices such as door-to-door sales, and is aware of practices such as television advertising and cold-calling. The committee also notes the practice of promising a certain income or qualifications. Each will be outlined in this chapter.

3.8 The committee has first considered why this has emerged. Much of this has to do with the emergence of demand driven student loan schemes like VET FEE-HELP which have been misused mercilessly by some players in the industry. The design, and flaws in VET FEE-HELP were covered in chapter 2.

### ***Unsustainable and unscrupulous? The private vocational education business model***

3.9 The introduction of entitlement demand driven funding programs has created an unprecedented environment in the vocational education sector.

3.10 As noted in chapter 2, the poor design of state based contestable funding regimes and the VET FEE-HELP program has led to a situation where students and taxpayers are the victims of a provider-led feeding frenzy.

3.11 Public providers, not for profit providers, and small, quality for profit providers have lost market share. For profit providers have – in order to maintain

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3 Australian Skills Quality Authority, *Marketing and advertising practices of Australia's registered training organisations*, Report, September 2013, p. viii, [http://www.asqa.gov.au/verve/resources/Strategic\\_Reviews\\_2013\\_Marketing\\_and\\_Advertising\\_Report.pdf](http://www.asqa.gov.au/verve/resources/Strategic_Reviews_2013_Marketing_and_Advertising_Report.pdf).

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profitability and market share against rivals –pursued opportunities in government funded markets where volume of enrolments, rather than quality or outcomes has become the determinant for funding, revenue and profitability.

3.12 A number of media reports in recent times have described the business model that has arisen through allowing more open access by private providers to Commonwealth and state government programs. At the Commonwealth level these have been VET FEE-HELP and the Tools for Trade programs.

3.13 In September 2015, *The Age* and *Sydney Morning Herald* published articles outlining the business model in the vocational education industry.

3.14 Chapter 5 will deal with issues of regulation, but reports that only 6 or 7 percent of applications to become a RTO have been rejected by ASQA raises the question of whether the bar has been set too low.<sup>4</sup>

3.15 VET FEE-HELP has seen the evolution of a business model that is described as such by Michael Bachelard, writing in *The Age*:

The industry, by design, is "demand driven". But it's colleges, not students, driving the demand. They employ an army of salesmen (known euphemistically as "brokers") who earn millions in profits from taxpayer subsidies.

The dodgy brokers, such as some of those working for Melbourne's Phoenix Institute, specifically target people living in public housing, the intellectually disabled, the drug addicted and non-English speakers.

They offer a free laptop as an incentive to get the signature of a new "student", then fill out the literacy and numeracy test themselves (or coach the client through it).<sup>5</sup>

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4 'Abuse of VET fee-help scheme shows regulation has its place in education sector', *The Age*, 19 March 2015, <http://www.theage.com.au/comment/abuse-of-vet-feehelp-scheme-shows-regulation-has-its-place-in-education-sector-20150319-1m2qzv.html>, accessed 7 October 2015.

5 'Vocational education: how the shonks and shysters took control', *The Sydney Morning Herald*, 26 September 2015, <http://www.smh.com.au/national/vocational-education-how-the-shonks-and-shysters-took-control-20150924-gjujt5.html>, accessed 7 October 2015.

## How it works

The dodgy side of vocational education

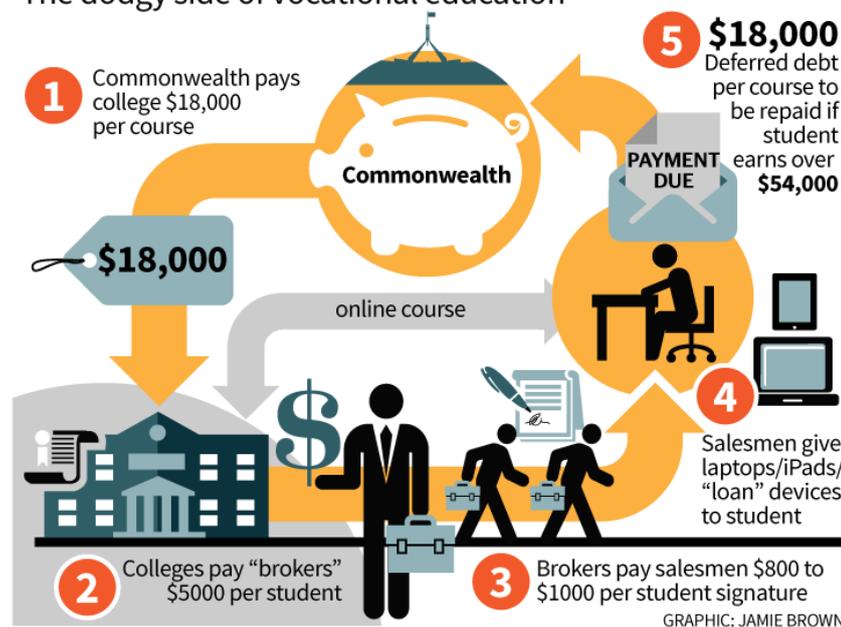


Image from 'Vocational education, the biggest get-rich quick scheme in Australia', *The Sydney Morning Herald*, 16 September 2015, <http://www.smh.com.au/national/vocational-education-the-biggest-getrich-quick-scheme-in-australia-20150916-gjqw.html>, accessed 7 October 2015 and reproduced with the kind permission of Fairfax Media.

3.16 The picture painted is one of problems at the margin of the private vocational education sector. According to Mr Rod Camm, from ACPET,

I certainly believe that there are quality issues, but they are at the margins of the industry. If you look at numbers of providers, the majority are delivering a quality product and are doing the right thing. But that is not to say that there have been no problems. It is on the public record that there have been major problems.<sup>6</sup>

3.17 Media reports, which highlight the activities of brokers who almost exclusively come from multicultural backgrounds, serve to reinforce the impression of problems that exist at only at the margins of the industry.

3.18 But such has been the scale of change in the private vocational education industry in recent years, can it be accurately said that the companies that benefit from an exploitative business model are now a small part of the industry?

### ***Growth, change and the rise and fall of education stocks***

3.19 One major feature in the private vocational education sector has been the scale of growth and change in recent years. According to the submission by the Australian Education Union:

6 *Committee Hansard*, 16 July 2015, p. 11.

The remarkable expansion of the VET “market” has taken place very quickly. Between 2008 and 2013, expenditure on payments to non-TAFE (private) providers increased by \$839.4 million, or 160 percent.<sup>7</sup>

3.20 At the Melbourne hearings on 2 September, Ms Pat Forward, Federal TAFE Secretary and Deputy Federal Secretary of the AEU, advised the committee of updated figures showing the scale of change in the sector:

So the market share, if you like, of TAFE nationally in 2014 was 52 per cent down from 75 per cent in 2007. Private provider share of government funded students has increased to 40 per cent up from 15 per cent in 2007. This basically means that TAFE is perilously close now to falling below 50 per cent of share nationally, but it also highlights the rapid shift in the market and the unprecedented rates of growth in the private sector. Private market share has increased by 159 per cent since 2007 and by 248 per cent since 2003...

In three states in Australia TAFE market share has dropped below 50 per cent and in two of those states TAFE is now a minority provider.<sup>8</sup>

3.21 This is in spite of declined spending on vocational education – both public and private - as a sector,

Vocational education continues to be the worst funded education sector with funding declining by 26 per cent since 2003. A recently released report by the Mitchell Institute confirms that VET is surely the poor cousin of education sectors with spending on schools and higher education far outstripping spending on vocational education and training according to the authors of *Expenditure on education and training in Australia*.<sup>9</sup>

3.22 Sector wide growth rates have been mirrored by individual companies. Mr Patrick McKendry revealed that his company, Careers Australia, had grown significantly in just four years - from 5,000 students in 2011 to 20,000 students in 2015:

**Senator KIM CARR:** That is an extraordinary growth rate. Tell me where else does that occur in the education system—a growth rate of what appears to be 400 per cent?

**Mr McKendry:** I am not sure it is something that is exclusive to Careers Australia, I just do not know what the growth rates of other organisations have been.<sup>10</sup>

3.23 These figures are extraordinarily similar to that of publicly listed company, Australian Careers Network. Its June 30 financial report boasted that its student

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7 Australian Education Union, *Submission 62*, p. 23.

8 *Committee Hansard*, 2 September 2015, p. 1.

9 *Committee Hansard*, 2 September 2015, p. 1.

10 *Committee Hansard*, 2 September 2015, p. 15.

numbers had increased by 417 per cent from 4990 students in 2014 to 25,784 students in 2015, with an "average revenue yield per student" of \$3,303.<sup>11</sup>

3.24 Figures for VET FEE-HELP payments show that the growth in payments for some private companies has been dramatic. Careers Australia has had payments increase from \$3.539 million in 2011 to \$108.172 million in 2014. Evocca College, trading as ACTE Pty Ltd grew from \$1.831 million in 2011, to \$24.958 million in 2012, to \$131.25m in 2014.<sup>12</sup>

3.25 The business model employed by these providers sees average fees charged to students – through VET FEE HELP – at extraordinarily high levels. For example, while in 2013 the average VET FEE-HELP loan was \$10,621,<sup>13</sup> the average tuition fee at Careers Australia was reported to be \$18,276 in 2013. At Evocca College, it was \$16,878 in 2013.<sup>14</sup>

3.26 By comparison, a student studying at a public university is liable for a loan of between \$6,152 and \$10,266 in 2015.<sup>15</sup>

3.27 The committee heard evidence that some private providers are making high profit margins on students and the Commonwealth. The Workplace Relations Centre estimates that in 2013 Earnings Before Interest and Tax (EBIT) margins were between 21 percent (for Vocation Limited) and 51 percent (for Australia Careers Network).<sup>16</sup>

3.28 Mr McKendry of Careers Australia revealed that on average the profit margin of that company was 20 percent:

We generally operate and have operated on the basis of about a 20 per cent margin across our business. We do not get there all the time, but generally we believe that 20 per cent represents a fair profit that enables us to keep reinvesting in the business.<sup>17</sup>

3.29 These companies also have an extraordinary dependence on revenue from government sources. Mr McKendry of Careers Australia revealed the high dependence of his business on government revenue:

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11 Australian Careers Network, *2015 Annual Report*, p. 17, <http://www.asx.com.au/asxpdf/20150928/pdf/431mhjr9kn719n.pdf>, accessed 7 October 2015.

12 Senate, 44<sup>th</sup> Parliament, Question on Notice 759, pp. 572-82.

13 Department of Education and Training, Budget Estimates 2015-2016, Question on Notice, SQ15-000361.

14 Department of Education and Training, Budget Estimates 2015-2016, Question on Notice, SQ15-000359.

15 StudyAssist, Student contribution amounts, Table 3, <http://studyassist.gov.au/sites/studyassist/help-paying-my-fees/csps/pages/student-contribution-amounts> (accessed 7 October 2015).

16 Workplace Research Centre, commissioned by the Australian Education Union, *Submission 62*, appendix p. 4.

17 *Committee Hansard*, 2 September 2015, p. 15.

**Senator KIM CARR:** How much of your revenue actually comes from government sources?

**Mr McKendry:** It would have to be over 80 per cent. If I exclude fee-for-service and international student income across the five or six states and the federal government, it would be around 80 per cent.<sup>18</sup>

3.30 The annual report of Australian Careers Network also shows a high level of dependency on government funding:

A significant proportion of the Company's revenue is derived from Government funding sources, including grant or subsidy programs.<sup>19</sup>

3.31 The Workplace Research Centre has estimated that up to 95 per cent of revenue of the larger private providers may be dependent upon government sources.<sup>20</sup> This amounts to an extraordinary level of risk for investors to change in government and policy settings in education more generally, and vocational education more generally.

3.32 This has been demonstrated recently by two examples. One, the extraordinary decline in the value of Vocation Limited following well publicised regulatory issues in Victoria. Vocation's share price which was \$3 in early September 2014 fell to a low of 8c in September 2015.<sup>21</sup>

3.33 Another example of the damage that can be caused by exposure of poor behaviour relates to ASX listed company Australian Careers Network (ACN). In early September 2015 Fairfax media reported allegations of bad practices at Phoenix Institute, owned by Australian Careers Network. Following these reports ACN suffered a fall in its share price of 12 per cent.<sup>22</sup>

3.34 Ashley Services has suffered a similar fate after the cessation of the Commonwealth Tools for Trade program following the 2014-2015 Budget. Ashley listed on the Australian Securities Exchange in August 2014, after an initial public offering priced at \$1.66 a share. Following the latest profit downgrade, the company's share price fell to 38c, and is subject to a class action lawsuit.<sup>23</sup>

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18 *Committee Hansard*, 2 September 2015, p. 16.

19 Australian Careers Network 2015 Annual Report, p. 30, <http://www.asx.com.au/asxpdf/20150928/pdf/431mhjr9kn719n.pdf>, accessed 7 October 2015.

20 Ms Pat Forward, *Committee Hansard*, 2 September 2015, p. 1

21 'Vocation executives raking it in, despite share price plunge', *The Australian*, 23 September 2015, <http://www.theaustralian.com.au/business/companies/vocation-executives-raking-it-in-despite-share-price-plunge/story-fn91v9q3-1227539351865>, accessed 8 October 2015.

22 'Australian Careers Network shares plunge 12pc', *Australian Financial Review*, 17 September 2015, <http://www.afr.com/news/policy/education/australian-careers-network-shares-plunge-12pc-20150917-gjorg3>, accessed 8 October 2015.

23 'Education: Ashley Services misses profit forecasts', *The Australian*, 6 October 2015, <http://www.theaustralian.com.au/business/profit-loss/education-ashley-services-misses-profit-forecasts/story-fn91vch7-1227558059147>, accessed 7 October 2015.

3.35 As will be discussed later in this chapter and in this report, the ownership structures of larger providers is opaque, the persons responsible for the businesses is unclear and subcontracting arrangements further clouds accountability.

3.36 It is hard to escape the conclusion that amongst larger private providers, and indeed in some brokers, extraordinary profits are being made at the expense of the taxpayer, and at the expense of students these providers claim to be assisting. Such activities have heavily damaged the reputation of the vocational education sector as a whole, and if left unchecked, could affect Australia's international education industry through reputational damage.

### ***Misleading marketing of courses as 'free' or 'government-funded'***

3.37 A number of submitters and witnesses raised concerns about the prominent marketing of courses which attract VET-FEE-HELP support as being 'free' or 'government-funded'.<sup>24</sup> Such language may serve to hide from students the fact that they are in reality signing up for large loans from the government, with the expectation that these loans will be repaid.

3.38 In addition, if students are unable to repay the loan because their income never crosses the repayment threshold, they may have a debt against them for the rest of their life. Once this consequence becomes clear to those unaware when they signed up for the loan, the knowledge of it may also result in a psychological burden on those already living with a limited income.

3.39 The Consumer Action Law Centre expressed concerns about this marketing practice, noting:

'study now pay later' slogans that fail to highlight the actual cost of study, and marketing VET FEE-HELP loans to students who are unlikely to be able to repay their loans. These sorts of slogans draw upon behavioural biases such as myopia and over-confidence, and are more likely to result in students enrolling in courses that are inappropriate to their needs.<sup>25</sup>

3.40 Several witnesses noted that the nature of the loan is further obscured by the relative ease with which it can be applied for. For example, in its submission, the Canterbury Bankstown Migrant Interagency explained how easily students can obtain a VET FEE-HELP loan, without fully understanding the consequences of what they are doing:

The common denominator is that consumers do not understand what they are signing up for and are routinely unaware that they have in effect taken out a loan for tens of thousands of dollars. The process for obtaining consent and VET-FEE-HELP loans is in stark contrast to the stringent

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24 TAFE Directors Australia, *Submission 12*, p. 2; Consumer Action Law Centre, *Submission 13*, p. 15.

25 Consumer Action Law Centre, *Submission 13*, p. 15.

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framework of responsible lending obligations incumbent upon commercial creditors.

Clients have given us permission to see and keep record of their 'Request for VET FEE-HELP assistance' form. Name, date of the birth and Tax File Number are the only personal information that is required on the form; and this very simple form is the ONLY mechanism which a student has to go through to incur tens of thousands of dollars of VET FEE-HELP debt.<sup>26</sup>

3.41 Similarly, ACPET, the national industry association for private VET providers, registered their concern over the lack of transparency for students applying for VET Fee-Help loans about the extent of that loan:

On examination of the request for VET FEE HELP assistance form, it was found that an applicant is not made aware of the VET tuition fees loan amount they will be committing to as part of the application process. ACPET recommends that such information should be made clear to the student to as part of the loan application process to help inform the decision to assume such a liability.<sup>27</sup>

3.42 In other cases, students were explicitly encouraged by the RTO or broker to think of the loan required to undertake a course as one that they would never have to repay, as in the following case study presented by the TAFE Community Alliance:

An older woman in her early 70s was at the Bankstown Central shopping centre having lunch with her bible group when they were approached by a young man asking them if they would like a free laptop and a "free" Diploma in Community Services. He assured them that though they had to sign up for a government loan they would never have [to] repay it as they would need to [earn] over \$50,000 (and this was a group of pensioners) and they agreed they would never be earning that much. The whole group signed up and got their laptops.<sup>28</sup>

3.43 Similarly, the Canterbury Bankstown Migrant Interagency reported:

In March 2014, a group of senior citizens from Bankstown (all from Culturally and Linguistically Diverse background and little English) were talked into enrolling in 'computer classes' with Unique International College in Granville and Aspire College in Parramatta. It turned out that there was no computer class and they were all enrolled in different diploma courses and filled out forms to take out VET FEE-HELP. They were each offered a free computer/ipad or \$1000 cash by taking out the loan. They were told there no need to come to class, but if they wish, they could come and free lunch will be offered. They alleged in Aspire College, they had a canteen that could accommodate a couple of hundred people and on the day it was packed with senior citizens enjoying their free lunch.<sup>29</sup>

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26 Canterbury Bankstown Migrant Interagency, *Submission 55*, p. 3.

27 Australian Council for Private Education and Training, *Submission 28*, p. 13.

28 TAFE Community Alliance, *Submission 31*, p. 8.

29 Canterbury Bankstown Migrant Interagency, *Submission 55*, p. 5.

3.44 Providers prominently advertising that their courses are eligible for VET FEE-HELP access for students is not, in and of itself, misleading. For many students, VET would not be a viable option if they were not able to access VET FEE-HELP. However, the ACTU notes that the option of paying late can lead to students paying more for private a private course:

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>30</sup>

3.45 It was also argued that the process for students to keep track of their VET FEE-HELP debt was overly complicated and did not incorporate warnings that a debt was being accumulated. For example, in their evidence to the committee, the Redfern Legal Centre noted the pitfalls of such a system, particularly for those who do not regularly file tax returns.

3.46 In response to the committee's question about how students could obtain information about their debt, the Redfern Legal Centre stated:

They have to make inquiries with the tax office. That is really the only time that most of our clients will have any engagement with that sort of information.<sup>31</sup>

3.47 It was noted by the committee that a considerable proportion of the legal centre's clientele would not regularly be submitting a tax return. This being the case, the Redfern Legal Centre suggested that it could be 'some years before the full scope of the risk becomes clear'.<sup>32</sup>

3.48 The evidence received by the committee regarding the ease with which some students are trapped into incurring VET FEE-HELP debts by the unscrupulous practices of some RTOs is a matter of deep concern and suggests that further strengthening of the regulations under which RTOs operate is a necessary step.

### ***Inducement-based marketing***

3.49 Although banned by the new Standards which came into effect in 2015, numerous submitters noted the use of inducement-based marketing amongst private VET providers.<sup>33</sup>

3.50 Of particular concern was the practice of offering students 'free' iPads or laptops upon their enrolment. Notionally provided as a study aid,<sup>34</sup> these devices

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30 Australian Council of Trade Unions, *Submission 38*, p. 17.

31 *Committee Hansard*, 16 July 2015, p. 25.

32 *Committee Hansard*, 16 July 2015, p. 25.

33 Redfern Legal Centre, *Submission 16*, p. 4; Canterbury Bankstown Migrant Interagency, *Submission 55*, p. 4; Australian Council for Private Education and Training, *Submission 28*, p. 13.

34 Evocca College, *Response to Submission 73*, p. 3.

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featured heavily in some RTO's advertising, and would appear to have been the deciding factor for some students in choosing to enrol in a particular course or with a particular provider.

3.51 Mr Dwyer, solicitor for the Redfern Legal Centre, explained to the committee the problem caused by the use of iPads and other such inducements in private VET providers' marketing practices:

The particular issue of using a laptop or iPad as an inducement was a critical one because vulnerable people were being told, 'Here is a free laptop. All you have to do is sign on the dotted line.' They did not have any understanding of the true cost of that.<sup>35</sup>

3.52 Ms Julie Skinner, a former tutor with Evocca College, expressed her concerns about seeing this technique in practice in the college's marketing, particularly as it focused on people for whom a 'free' computer or tablet would be a significant drawcard:

I found the approach taken to recruit and screen students inappropriate. Promotional stands were set up in shopping centres during business hours, with iPads being the main promotional tool to attract students. Disadvantaged, unemployed people appeared to be Evocca's main target audience.

I'm sure many people signed up because they were delighted to be getting a "free" iPad when in fact they didn't really understand they were signing up for a \$20,000 iPad/debt.<sup>36</sup>

3.53 In discussing this issue, the Consumer Action Law Centre provided evidence that it is aware of this practice and suggesting that it is another marketing technique that helps to mask the fact that a VET FEE-HELP debt will be incurred by the student:

We are also aware of private VET providers offering incentives to consumers to study at their institution, for example offering 'free' laptops or iPads. These incentives tend to detract from the fact that consumers will incur significant VET FEE-HELP debts following the course census dates.<sup>37</sup>

3.54 The committee recognises that a ban on RTOs offering these inducements was introduced in the 2015 Standards, but notes with concern the evidence received from the Consumer Action Law Centre which suggested that this practice has not been stamped out:

We hope these reforms will help to stamp out some of the most unscrupulous practices that have resulted in complaints to our centre. However, it is critical that these reforms are actively and publicly enforced by relevant regulators. We have received a number of complaints about potential breaches of the new laws including reports of door-to-door

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35 *Committee Hansard*, 16 July 2015, p. 23.

36 Julie Skinner, *Submission 73*, p. 1.

37 Consumer Action Law Centre, *Submission 13*, p. 19.

salespeople offering free laptops and tablets. These complaints have been forwarded to the department.<sup>38</sup>

3.55 While the new Standards explicitly forbid inducement-based marketing, the committee notes that their introduction has not had the effect of eliminating this behaviour by all RTOs. The committee therefore suggests that more rigorous enforcement and tighter regulations around RTO marketing practices are required.

### ***High-pressure marketing techniques and targeting of disadvantaged students***

3.56 The committee heard from several witnesses who highlighted the marketing techniques employed by some RTOs, or brokers on their behalf, which rely on high-pressure tactics, and which often are targeted at vulnerable customers, including those with English as a Second Language, Indigenous people, the unemployed and those on Centrelink payments.<sup>39</sup>

3.57 The Redfern Legal Centre recounted their experience dealing with disadvantaged students, targeted outside Centrelink offices or via door-to-door selling in public housing blocks:

[W]e have a very vulnerable consumer base. They sometime find the only way to get a door-to-door salesperson out of the apartment is to agree to whatever is there. There are hard-sell techniques that encourage people to sign up. They are told it is free and will not cost them anything. There is also the instance of people being sold up for things like management courses when they have absolutely no hope of doing that, and being told they have to do more than they want to do. They want to do hairdressing and they are signed up to managing a hairdressing salon. So there is a range of reasons. We have seen it before in the maths tutoring programs and things like that that were sold through shopping centres—that kind of technique. People want to engage, they want to get trained, and they are signed up without any consideration of whether that person could actually ever do that particular course.<sup>40</sup>

3.58 Similarly, the Consumer Action Law Centre expressed their concerns:

We are particularly concerned about VET providers and education brokers that appear to target vulnerable consumers. These consumers include Indigenous people, non-English speakers, unemployed people, and people reliant on Centrelink income. We are deeply concerned about aggressive marketing tactics that target consumers who do not have the aptitude or ability to complete VET courses. When offering courses, we have seen providers and brokers exaggerate the ongoing support available to students and reassure computer illiterate consumers that they will be able to easily complete a course online. We have received reports of education brokers in

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38 *Committee Hansard*, 2 September 2015, p. 9.

39 Redfern Legal Centre, *Submission 16*, p. 18.

40 *Committee Hansard*, 16 July 2015, p. 20.

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particular cold calling or door-knocking potential students and pushing them to enrol in unsuitable courses over the phone or on their doorstep.<sup>41</sup>

3.59 The Yarraville Community Centre, working with the Consumer Action Law Centre, presented evidence to the committee that these tactics had continued to be utilised by some RTOs even after the new Standards were brought into effect early in 2015:

One of our largest programs at the centre is English as an additional language and we have approximately 250 students studying at any one time across eight different venues across the city of Maribyrnong. We work with the most vulnerable and disadvantaged in our community.

In late April, one of our volunteers brought staff from the Health Arts College into the centre during the teabreak and enrolled seven of our students who were studying certificate I and II in English as an additional language, which is very low level, into a diploma of business. They were told to go to a particular chemist in Footscray and to take their passports, visa and tax file numbers for certification. In one case, a taxi was provided by the RTO to get there. The students were told the course was free. They were told they would get an iPad or an iPhone for undertaking the course. Additionally, they were told that if anyone asked them, to say they had enrolled in a diploma in March. They attended the first class on Sunday, May 3.

The following week's class was cancelled and then the next week they were all cold-called and advised they would have a debt. They were told they would need not to worry about it as they would not have to pay unless they earned more than \$55,000 annually. They all requested to withdraw from the course after attending one session.

The first time we were aware of this was when the students came to staff visibly upset and showed us a letter stating that they had a VET FEE-HELP debt of \$13,200. The students all rang to withdraw from the course between 12 and 18 May. They all received letters on 20 May outlining their debt and the census date was 14 April, two weeks before they were enrolled. We then called the community law action centre for advice to see if they were able to help to get those debts removed and, fortunately, they have taken on the case for these students. We have many more students who are being contacted by phone, text, doorknocking and sometimes they are being harassed multiple times to enrol in inappropriate higher diploma courses.<sup>42</sup>

3.60 The committee is particularly concerned that the introduction of new Standards, designed in part to eliminate these unscrupulous tactics, has not prevented some RTOs from targeting some of the most disadvantaged people in the Australian community, as they were no doubt designed to do.

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41 Consumer Action Law Centre, *Submission 13*, pp. 18-9.

42 *Committee Hansard*, 2 September 2015, p. 9.

3.61 Another section of the community targeted by unscrupulous providers is that of people with disabilities. Inclusion Australia, an advocacy group for people with intellectual disability, criticised the approach of those VET providers who:

prey on the vulnerability of youth with intellectual disability to gain access to government VET funding in return for little, if any, benefit to the student.<sup>43</sup>

3.62 Inclusion Australia provided evidence about a specialist disability provider whose facilities had been targeted by such marketing practices:

We have spruikers for VET outside our building looking to pick up youth with significant intellectual disability and sign them up for very expensive and totally unachievable qualifications.<sup>44</sup>

3.63 This targeting of young people with disabilities by unscrupulous providers causes numerous problems, according to Inclusion Australia:

Abuses of training programs including the offer of inducements to sign up for unnecessary or inappropriate training is rife at the moment — these waste taxpayers money, saddle people with disability with debt they will never repay, do not contribute to employment that leads to economic independence, and tarnishes the reputation of education, training and employment programs.<sup>45</sup>

3.64 Women in Adult and Vocational Education (WAVE) also commented on this practice, noting the affect it can have on women:

some of the aggressive marketing practices currently adopted by private providers or their brokers, are targeted at women. For some women who have not had previous opportunities to study for a career, the enticement of a Diploma (and maybe the promise of a job) would appear very attractive, especially if they were led to believe it would cost them nothing and could be achieved over a matter of months. It is important that this type of marketing is stopped, given the negative impact it will have on many women.<sup>46</sup>

3.65 Adult Learning Australia reported knowledge of private RTOs engaging in high-pressure, inducement-based or targeted marketing practices in order to increase enrolments:

Some of the behaviours reported by our members include:

Sales staff going door to door in public housing estates and spruiking outside Centrelink offices and in outer suburban shopping malls frequented by impoverished and socially marginalized people,

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43 Inclusion Australia, *Submission 61*, p. 1.

44 Inclusion Australia, *Submission 61*, p. 2.

45 Inclusion Australia, *Submission 61*, p. 3.

46 Women in Adult and Vocational Education, *Submission 33*, p. 2.

Offering impoverished and socially marginalized people iPads, Coles Myer vouchers and other incentives for enrolment,

Offering cash bonuses to neighbourhood house staff or other community workers in poor neighbourhoods for each learner they encourage to enrol,

Enrolling early school leavers with low literacy and numeracy in high level courses with no literacy and numeracy support and limited or no face to face class time,

Enrolling early school leavers with low literacy and numeracy in multiple low quality courses.<sup>47</sup>

3.66 While not focused on disadvantaged students, the Victorian Automobile Chamber of Commerce (VACC) reported that it was aware of private RTOs 'falsely stating to VACC members that a particular qualification must be undertaken for their trade due to legislative changes'.<sup>48</sup>

3.67 A related practice which gained some media attention was the practice of some RTOs exploiting their links with job search websites to focus recruitment efforts on the unemployed:

We are particularly concerned about the use of students' personal information for direct marketing purposes. There have been reports in the media of education brokers mining personal information from job advertisements to identify job seekers and potential students. We have received reports of details being harvested through the broker's own "free" job advertisement website, without the job hunter's knowledge. It appears that clear and express consent to use personal information for direct marketing purposes is not always being obtained before contacting job seekers about courses. Job applicants are cold-called by course sales representatives and subjected to high pressure sales tactics.<sup>49</sup>

3.68 Having received this wealth of evidence suggesting that high-pressure marketing techniques continue to be used to entice vulnerable sections of the community, the committee is of the view that it is appropriate to consider whether steps are required to enforce the Standards.

### ***Misrepresentation of likely outcomes or qualifications received***

3.69 Less prevalent a practice than those discussed so far, but worth noting, is the practice raised by some submitters of potential students receiving guarantees of employment after the completion of their course, for a specific, often unrealistic, salary range. Additionally, the practice of potential students being assured that their graduation from a particular course would result in the appropriate qualifications to find employment in their chosen field.

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47 Adult Learning Australia, *Submission 35*, pp. 7-8.

48 Victorian Automobile Chamber of Commerce, *Submission 39*, p. 5.

49 Consumer Action Law Centre, *Submission 13*, p. 19.

3.70 For example, in its submission, Speech Pathology Australia provided evidence about this kind of marketing practice, noting that they were aware of providers who used this approach.

At least one provider who is advertising the Certificate IV in [Allied Health Assistant] course in a manner that implies that students will be studying 'speech pathology' without any explanation that upon graduate they will be competent to act as an AHA and will not be a 'speech pathologist'.<sup>50</sup>

3.71 This practice was also raised by ASQA in its review of RTO marketing practices, noting that this type of advertising falls into the category of 'misleading or deceptive marketing and advertising'. Such advertising found by ASQA in their review of RTO websites included statements such as '100% pass rate and a guaranteed job'.<sup>51</sup>

3.72 It is concerning that students may be investing both time and money into courses with the expectation of a particular financial and perhaps professional return, which in reality they are unlikely to achieve. Such a practice may lead not only to disappointment for students, but also to financial hardship, both because of the debt incurred and because they may require more training to meet their professional goals.

### ***The role of brokers***

3.73 The committee heard evidence about the role of third party marketing and recruitment agents in recruiting students to the private VET sector, generally referred to as brokers. The role of brokers is to market various courses or providers to potential students, referring them to a provider. Brokers are generally paid on commission for those students who enrol in a course.

3.74 While some witnesses described brokers as an inevitable consequence of the competitive sector, there was considerable agreement about the need for greater transparency and regulation of brokers to ensure a higher standard of integrity in recruiting students to the private VET sector.

3.75 Mr Martin Powell, Victorian Executive Officer for ACPET, noted both sides of the issue:

It is a sales force. It is better reach. They are mobilised to get to parts of the market that providers have struggled with. In that sense, that is a positive, but of course there needs to be integrity around the information that potential students are provided with.<sup>52</sup>

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50 Speech Pathology Australia, *Submission 25*, p. 4.

51 Australian Skills Quality Authority, *Marketing and advertising practices of Australia's registered training organisations*, Report, September 2013, p. 13, [http://www.asqa.gov.au/verve/resources/Strategic\\_Reviews\\_2013\\_Marketing\\_and\\_Advertising\\_Report.pdf](http://www.asqa.gov.au/verve/resources/Strategic_Reviews_2013_Marketing_and_Advertising_Report.pdf).

52 *Committee Hansard*, 16 July 2015, p. 13.

3.76 This comment acknowledges that third party brokers are valuable to the sector because they perform the essential sales function that helps private VET providers meet their student goals and therefore continue to function as a business. On the other hand, it also acknowledges the need to protect students from those less scrupulous brokers who may not provide all or correct information to prospective students.

3.77 The tightening of regulations around third-party brokers early in 2015 – after many of the submissions to this inquiry had been received – was generally seen as a necessary but not sufficient step in reframing the marketing practices common in the VET sector.

3.78 Making this point, for instance, was Mr William Dwyer of the Redfern Legal Centre, who commented favourably on the new Standards but noted that a significant problem still remained:

Currently the standards and the regulations apply exclusively to RTOs, but it is the conduct of the brokers and the marketing agents which really leads to this whole mess in the first place. They are the ones with the incentive to get high volume sales without any real focus on what happens after that. I think at the moment they are causing a lot of the problems but without much skin in the game. They can pass the buck and just keep generating their commercial profits without much care for what happens to the individual students afterwards.<sup>53</sup>

3.79 The lack of direct regulation over brokers was also noted by the TAFE Community Alliance, who expressed their concern that the new Standards introduced in 2015 apply only to the providers themselves, and not to brokers working on their behalf:

Whilst ASQA and the Government refer to the new standards that will more strictly control marketing and advertising, including that RTOs cannot claim that students will get a job, the same regulations do not appear to apply to brokers. The growth in the number of brokers, some involved in what are unethical practices, including door-knocking in the western suburbs of Sydney to persuade residents to sign up to courses with the enticement of free iPads and the promise that there are no fees (due to being entitled to VET FEE-HELP). It is not good enough for private providers to claim that they did not know what was being claimed by the brokers they used.<sup>54</sup>

3.80 Noting this, the Consumer Action Law Centre drew attention to the unclear responsibility regarding the regulation of brokers in the VET sector and suggested that ASQA be empowered to act on this front:

It is not clear that ASQA has sufficient mechanisms to respond to non-compliance by private VET providers and education brokers. As such, in

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53 *Committee Hansard*, 16 July 2015, p. 24.

54 TAFE Community Alliance, *Submission 31*, p. 11.

our view ASQA needs enhanced enforcement powers to ensure that ASQA can respond swiftly in the event of noncompliance.<sup>55</sup>

3.81 ASQA themselves noted in their submission that the new Standards do not directly regulate the actions of brokers and that further legislation may be required if ASQA is to be able to address this problem:

While these new requirements go some way to addressing the current concerns about the operations of brokers, it is not clear that such measures will, on their own, effectively control unscrupulous brokers.

Significantly, the Assistant Minister for Educational and Training, Senator the Hon Simon Birmingham, announced on 25 February 2015 that legislation was being introduced to further crack down on unscrupulous VET providers and improve training quality. The National Vocational Education and Training Regulator Amendment Bill 2015 will, amongst other things, require anyone, including brokers and other third parties, who is marketing a VET course to clearly identify which RTO is providing the qualification.

Such an amendment to the NVETR Act, combined with the strengthened new Standards will help respond where poor broker behaviour is suspected and are welcomed by ASQA.<sup>56</sup>

The committee notes that currently, brokers are not regulated directly, but only through making providers responsible for the actions of the brokers they subcontract to. Greater and direct regulation of these agents is required.

### **Recommendation 5**

**3.82 The committee recommends that urgent and concerted efforts are made to further raise awareness of the rights of students and existing Standards relating to providers in the VET sector. This effort should focus on advocacy groups dealing with the most vulnerable members of the community, including the long-term unemployed or disadvantaged, migrants and people with disabilities.**

### **Recommendation 6**

**3.83 The committee recommends that the Department of Education and Training and the Australian Skills Quality Authority conduct a concerted and urgent blitz of all providers to ensure that they are consistently complying with the national standards, especially those relating to student recruitment. This blitz should be aimed at defending the interests of students, enforcing adherence to AQF volume of learning standards and removing non-compliant RTOs as VET FEE-HELP providers.**

### **Recommendation 7**

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55 Consumer Action Law Centre, *Submission 13*, p. 9.

56 Australian Skills Quality Authority, *Submission 60*, p. 16.

**3.84** The committee recommends that the government, where there is evidence to do so, provides a brief to the DPP to launch prosecutions against providers engaged or benefiting from fraud and take steps to recover monies lost.

**Recommendation 8**

**3.85** The committee recommends that the Australian Skills Quality Authority be given powers to directly regulate brokers or marketing agents in the VET sector, and to protect students.

**Recommendation 9**

**3.86** The committee recommends that the government caps or otherwise regulates the level of brokerage fees paid for VET FEE-HELP students to maximum amount of 15 percent the amount of the loan.

