

Recalibrating regulation of colleges and universities: adapting to a new landscape in higher education

Inez von Weitershausen highlights the limits of national regulatory approaches towards higher education

The times in which universities ruled the waves in higher education are long gone. Among the many new players, three groups are particularly influential: so-called alternative providers that have expanded their activities beyond their traditional focus on professional qualifications, such as in law and accounting, to other disciplines; education-focused companies producing bespoke (online) courses that allow students to acquire those skills that they are interested in; and big companies, including Google and Amazon, that have discovered higher education as a profitable business opportunity and a way to address the undersupply of qualified personnel in areas that are of importance to them.

In addition to pressures from new competitors, changes on the demand-side also challenge the position of universities. On the one hand, students and parents are becoming increasingly reluctant to pay ever increasing tuition fees, especially as the large number of free or affordable online alternatives becomes more and more accepted by employers. On the other hand, universities face growing dissatisfaction from faculty members who are exposed to accelerated work pressure and are disillusioned by a lack of career progression opportunities given the decreasing chances of ever obtaining one of the few coveted tenure positions.

Taken together, these developments give rise to a number of questions:

First, what will the *market for higher education* look like in the future? In other words, are we going to see an ever more crowded and diversified space, characterized by a growing number of new education providers that act alongside traditional higher education institutions (HEI)? Or will there be a consolidation of players, where a few powerful companies co-exist alongside existing universities that are trying to make up for lost market share by constantly searching for new business opportunities? Or are commercial companies eventually going to take over the higher education market, with the exception of a few outstanding universities that serve as national status symbols? The answer will – at least in parts – depend on the measures taken by politicians and regulatory agencies.

A second set of questions, then, relates to how *individual universities* will react to these changes. Which ‘coping strategies’ will prove to be particularly effective? Common responses, in particular by US universities which have been facing increasing economic pressure, include the commercialization of existing activities on the one hand, and the expansion

of business activities on the other. The former category includes services such as bespoke curricula and programmes for wealthy individuals or groups, the design and distribution of new learning technologies, or assistance to foreign governments in setting up new universities. Activities that extend the core business of universities include universities effectively turning into real estate developers, startup incubators or financiers. While some particularly prestigious universities with sufficiently large resources might even be able to pursue all of the above strategies simultaneously, one may wonder what these activities will eventually do to the original vision, mission and *raison d’être* of universities.

It is important to note that a small number of universities has taken an alternative path already. Rather than focusing on the commercialization or expansion of their activities, these institutions have established themselves as community anchors and entities with a strong commitment to the city or region in which they are physically located. Seeking to actively contribute not only to the latter’s economic development, these universities focus on aspects such as social cohesion, inclusion, diversity, and integration, and foster outreach and engagement activities as well as a ‘culture of volunteerism’ that extends beyond the campus.

This trend then leads to a third question, namely ‘What can and should society expect from universities – as opposed to alternative actors in the higher education space – especially when the former are recipients of public resources and beneficiaries of protective measures? Are high standards of quality assurance, both with regard to teaching and research enough, or should universities deliver more these days? Before we can address this question, however, we must acknowledge that already in the area of quality assurance, universities frequently underperform.

In the United States, for instance, we see not only some of the best universities in the world, but also a high number of disastrous ‘education experiments’, including the President’s very own ‘Trump University’. This is due to the fact that in the US regulatory oversight has traditionally been situated at the very liberal end. A reflection of the belief that institutional diversity fosters innovation, promotes creativity, and allows everyone to pursue their individual version of the American Dream, the regulatory system has been unable to prevent the emergence of institutions of inferior quality and the exploitation of people’s beliefs in the value of a college degree. Despite these negative effects the current administration has made further





deregulation part of its crusade against ‘big government’ and is thereby responding to long-held calls for a reduction of regulatory oversight. Indeed, it was already in 2015, that the Task Force on Federal Regulation of Higher Education issued a report entitled ‘Recalibrating Regulation of Colleges and Universities’.¹ This report argued that universities and colleges were faced with ‘a jungle of red tape’ and ‘rules that are often confusing and difficult to comply with’.²

The fact that the document was later endorsed by the Association of American Universities (AAU), a highly reputable organization of more than 60 leading research universities in the United States and in Canada, suggests that the current changes do not solely reflect the attitude of the current government. Rather, they appear to be symptomatic of a regulation-critical attitude among the US universities themselves and society more broadly, and this has been increased further by the growing number of ‘non-traditional leaders’, i.e. university and college presidents who have taken office without having gone through the full-time tenured faculty track. Of course, one may argue that the rise of non-tenured academic leadership is not necessarily bad. After all, individuals who have proven to be effective and responsible managers elsewhere may be more qualified to navigate universities through the changing higher education landscape than academics who are forced out of their ivory towers to reluctantly preside over committees dealing with questions such as how to ensure an institution’s financial viability, create an effective human resource strategy, or design a plan for the use and protection of data. At the same time, however, one may worry about this trend as experiences with hospitals, schools and even religious organizations, have indicated how the initial mission of an organization can be hybridized, if not corrupted, by an increased focus on efficiency and outputs and the deep-rooted scepticism towards quality control through governmental

regulatory agencies that many business people share.

Trying to understand the direction in which universities and the higher education sector are heading these days thus requires an in-depth analysis of the following factors: overall market dynamics in the context of potentially ever more restrictive immigration controls, universities’ specific ‘coping strategies’ in the context of digitalized learning technologies, and attitudes towards market regulation and quality control (and the balance between these two). How these factors will be addressed represents a fundamental challenge to any system of national higher education; furthermore, it is questionable whether these can be resolved within the national boundaries of higher education. Addressing these factors requires moving beyond established regulatory boundaries and perspectives.

REFERENCES

- 1 https://www.nccpsafety.org/assets/files/library/Task_Force_Regulation_Report.pdf Accessed 5 October 2018
- 2 The report raised a number of important issues. It suggested that the accounting standards applied by the Department of Education with regard to university endowments were outdated and, therefore, partly responsible for the failure of ‘financially viable schools’ in the context and aftermath of the 2008 financial crisis. Other points of criticism had to do with the authorization of distance education programmes, rules concerning verification of financial aid eligibility, and the responsibilities of accreditation agencies as well as the accreditation process itself. Arguing that the Department of Education had ‘increasingly imposed unnecessarily bureaucratic procedural requirements on accrediting agencies’, such as reviewing institutional compliance with fire codes and Title IV regulations on stu-

dents returning funding, the Task Force suggested that accreditation agencies were not able to focus on their primary duty of holding institutions accountable for educational quality, student learning, and institutional innovation due to an overload of responsibilities.

- 3 Beardsley, S. (2018) ‘Shaking up the leadership model in higher education’, McKinsey Quarterly (February). According to this recent study, this is currently the case for about a third of the ‘presidential population’ in the US. <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/shaking-up-the-leadership-model-in-higher-education> Accessed 27 October 2018).

AUTHOR

Inez von Weitershausen is a **carr** visiting fellow and a postdoctoral associate at the Industrial Performance Center at MIT.