

Parental Choice

as an Education Reform Catalyst:

Global Lessons

JOHN MERRIFIELD



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ABOUT THE AUTHOR

John Merrifield is a professor of economics, University of Texas at San Antonio and a senior research associate at the Education Policy Institute. He is the author of *The School Choice Wars* (Lanham, MD, Scarecrow Education Press, 2001) and *School Choices* (Oakland, Independent Institute, 2002). He can be contacted at: john.merrifield@utsa.edu.

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EXECUTIVE SUMMARY

In recent decades, a number of countries and jurisdictions have introduced school choice programmes. These include countries such as Chile, New Zealand and Sweden, as well as the US state of Florida, and US cities such as Cleveland (Ohio), Edgewood (part of San Antonio, Texas) and Milwaukee (Wisconsin). The move toward increased choice and competition in these countries and jurisdictions has generated considerable attention and discussion amongst both advocates and opponents of these policies.

The ongoing mix of euphoria and alarmism about school choice programmes could cause many reform advocates and activists to forget that few people are aware of such programmes, and that most of the advocates are over-reacting to small changes in funding and governance policies. Choice programmes introduced to date are much closer to policy adjustments than the institutional transformation suggested by serious, systemic core education problems. In some countries, the changes affect only a small fraction of families with school-age children. In each jurisdiction, restrictions on potential school choices and those who can choose without changing their residence guarantee little alteration in the system, and thus only modest adjustments in the nature of primary and secondary schooling practices. The sometimes fiery discussions of restriction-laden parental choice programmes are a potentially devastating distraction. Broken, reform-resistant school systems that short-change nearly everyone need a public debate focused on policy changes capable of transforming every family's menu of schooling options.

For parental choice to qualify as a transformation catalyst, the freedom of parents to choose a school, and producers to define the schooling options, must be sufficient to foster a dynamic, broadly accessible, diverse menu of autonomous schooling options. It means that government funds targeted for primary and secondary schooling must follow children to the school preferred by their parents. There must be no preferential treatment of children enrolled in government-run schools, or formal entry barriers to education entrepreneurs, non-profit or for-profit. School operators, unable to attract

enough students to finance themselves, must yield their facilities and staff to other education or non-education uses. Private accreditation is preferable to licensing by the government.

An often overlooked but critical element is market-determined tuition prices. Market-determined prices are absolutely necessary to maximise innovation and the rate of improvement, to optimise the overall level of investment and to promote the development of school choices as diverse as the children who live within an area. So that market forces can determine tuition prices, parents must be free to supplement government tuition payments with tuition co-payments, often referred to as add-ons.

Especially prominent in the current climate are the parental choice programmes of Chile, New Zealand, Sweden and the United States. Unfortunately, each of these programmes lacks many of the critical elements necessary for the policy changes to qualify as transformation catalysts, or even as very insightful experiments. Indeed, most of the critical elements are completely absent in the programmes of these countries. It is too soon to rule out gradual, evolutionary progress to a parental choice reform catalyst. However, it is apparent that the existing programmes will yield a rate of evolutionary policy reform that is, at best, slow. Key constraints appear to be quite stubborn. In certain countries, even the direction of incremental change is not encouraging. Some of the choice initiatives were accompanied by tighter central control of schooling practices, including an extension of politics and regulation to what were formerly independent schools.

To a still unknown extent, those modest, restriction-laden programmes are typecasting parental choice programmes as just limited escape valves for the most disadvantaged children in the worst public schools. Escape-valve versions of parental choice create the false impression that the education problems are isolated rather than systemic.

Choice advocates need to prevent limited choice programmes from being perceived as 'real reform', and advocate policies that represent a genuine reform catalyst. The minimum starting point may be well short of separation of school and state, or even the elimination of government-run schools, but it appears to be well beyond the scope of the policy changes made by Chile, New Zealand, Sweden and some places in the United States. It seems that the minimum starting point must remove proponents of the status quo from positions that allow them strong influence over the rules that define the

schooling options and limit the amount of choice granted by new programmes. It is true that “school choice policies are sweeping the globe”.¹ But, so far, “the center holds”.²

¹ Plank, David N and Gary Sykes (2003) *Choosing Choice: School Choice in International Perspective*, Teachers College Press, New York, p vii.

² Gauri, Varun (1998) *School Choice in Chile*, University of Pittsburgh Press, Pittsburgh, p 26.

I

THE ISSUES

Modern discussions of choice-based reform proposals trace their origins to 1962 when Milton Friedman published the widely read book *Capitalism and Freedom*. In a chapter on education, Friedman advocated universal school vouchers as the best way to allocate public education funding.³ During subsequent decades, especially after the election of Margaret Thatcher in England and Ronald Reagan in the United States, a wide variety of market-oriented reforms swept the globe,⁴ and reform of primary and secondary schooling became a top priority in many countries. However, the general worldwide rise in the role of market accountability was less important to the school reform debate than repeated, costly disappointment with ostensible reforms that maintained the public funding monopoly of the government-operated schools.

Because of that and the general popularity of ‘parental choice’, some countries managed to enact school choice programmes. However, only quite limited programmes emerged. Because the pro-choice consensus that exists in the abstract disappears as soon as school choice becomes a specific policy proposal, all of the enacted programmes, and most of the proposed programmes bore little resemblance to the original Friedman concept to transform schooling with market forces. One approach was to loosen school zoning restrictions (attendance areas). When New Zealand adopted this policy, it widened the schooling options to include additional government-operated schools. That assisted those families who were pursuing improved academics to the extent that some schools resisted uniformity, or managed to execute shared policies more effectively than others. Some US states fund chartered public school alternatives to traditional public schools. Chartered public schools are autonomous, and they enjoy freedom from some regulations that apply to traditional public schools. Chartering policies vary widely among

³ Friedman, Milton (1962) *Capitalism and Freedom*, University of Chicago Press, Chicago, chapter 6.

⁴ Yergin, Daniel and Joseph Stanislaw (1998) *The Commanding Heights: The Battle for the World Economy*, Simon and Schuster, New York.

US states. Tuition vouchers increase access to private schools, but the impact of vouchers on school choices depends on several factors. These include the number of vouchers available, eligibility rules for both voucher users and the schools that cash them, the monetary value of the vouchers and whether families can add on (that is, combine voucher funds with their own money to buy schooling that costs more than the value of the voucher). Tax credit approaches also vary widely. They vary in terms of the resulting drop in net tuition cost per child, and the conditions attached to the credits. In some proposals and actual programmes, tax credits encourage donations to a fund that disburses vouchers to students who are academically or socio-economically disadvantaged.

Naturally, such a diverse array of possibilities, all bearing a school choice label, can create a lot of confusion. Which it has. When does evidence from one programme apply to a proposed programme? What kind of differences invalidate comparisons? When is a programme a meaningful experiment – not just a trial of something new, but also a relevant tentative procedure?⁵ Unfortunately, these questions are not asked very often.

Certainly, the objective of a policy should determine whether it is a tentative procedure, and which past experiences qualify as evidence. For example, suppose we want to know whether parents can determine if their children will get improved test scores at another school. We could do that by offering opportunities to attend the other school, randomly granting it to half of the applicants only, and then comparing the test scores of the successful and unsuccessful applicants. The comparison would convey information about some parents' ability to identify a better alternative for their child, and whether some existing schools work better than others for some children. However, does that amount to an experiment – an evaluation of a tentative procedure – if the policy issue is a low-performing system and the policy objective is a transformation of that system? Absolutely not. But some lobbyists, scholars, and journalists believe that the effects of small shifts within the system inform decisions about how to transform primary and secondary schooling. Hopefully, some well-placed reality checks will get the school reform debate back on the right track. Failure to do so could have devastating consequences.

The next chapter makes the case for a 'reality check'; that parental choice debates need to reconnect to relevant theoretical and empirical evidence. Chapter 3 explains the reform imperative, and the resulting need to focus clearly

⁵ 'Tentative procedure' is one of the *Webster Dictionary* definitions of 'experiment'.

on whether school choice proposals qualify as reform catalysts; that is, policy revisions capable of effecting a fundamental transformation of the system. Chapter 4 describes the reform avenues, and the conditions that choice programmes must establish to stimulate transformation of the system by one or more of those avenues. Chapter 5 describes the key elements of the Chile, Cleveland, Edgewood, Florida, Milwaukee, New Zealand and Sweden school choice policies. It compares the resulting conditions with those outlined in chapter 4 to explain the current circumstances of each school system. Chapter 6 addresses the critical 'minimum starting point' issue. What does the initial school choice law have to achieve so that, if necessary, incremental change will eventually establish the critical conditions described in chapter 4? Chapter 7 contains a summary and concluding remarks.

2

REALITY CHECK AND ROADMAP

Objective criteria like school zoning boundaries determine what school a child will attend less often than they once did. Lower financial barriers for some families now allow them to choose a privately owned school, while other policy changes allow choice from a set of government-operated schools without families having to move to another zone. Those exceptions to school assignment by zone – expansions of parental choice opportunities collectively termed ‘school choice programmes’ – are a growing global phenomenon. However, because none of the programmes even approach a fundamental transformation of the education system, they are not worthy of the mix of euphoria and alarmism that typically accompany them. For example, Chile and New Zealand eliminated school zoning (known as attendance areas in the United States), but continued the central micro-management of schooling practices. Central control severely stifled or distorted the effects of the various parental choice programmes. William Ouchi noted the potential to mislead: “If all schools have the same schedule, program, and staffing, what does choice mean?”⁶

The school choices of the great majority of US families are exactly the same as decades ago, although access to home schooling has increased in most states. Many families still ‘choose’ a public school by picking a home, or they pay their taxes, plus tuition to use a private school. Very few Americans have even heard of charter schools or vouchers.⁷ In New Zealand, new restrictions make it more difficult than it was in the early-to-mid-1990s to use a school outside a family’s designated zone. Chile is tightening the regulatory vice that narrows the possible differences between the choices, and tilting the playing field with new municipal-school-only subsidies.

Among the proponents of school choice programmes, some preoccupation with the novelty of the new choices, as well as excitement about gains for desperate families, is inevitable, and indeed appropriate. Because progress is

⁶ Ouchi, William G (2003) ‘Making Schools Work’, *Education Week*, 3 September, p 56.

⁷ Education Policy Institute (1999) ‘New Poll Finds Public in Dark About Charters and Vouchers’, *EPI-Update*, 19 November and Moe, Terry (2001) *Schools, Vouchers, and the American Public*, Brookings Institution, Washington, DC.

often incremental and sporadic, maintaining morale and momentum requires celebration whenever possible. Besides, with new programmes, description and data collection must precede analysis and interpretation. The real challenge for reform advocates is to broaden the debate to include what the new programmes cannot do, including compelling reasons why some choice programmes often cannot address key reform issues. Reform advocates also eventually need to reach a much wider audience. However, so far, the failure to be widely heard is probably more of a blessing than a liability. To date, much of the available school choice programme information has been more confusing and misleading than instructive, and it is much easier to inform people than to dispel their misconceptions.

Because it is difficult to enact novel programmes, prominent analysts often overlook or downplay limitations and liabilities. They may be reluctant to ask questions that might sound like complaints and thus alienate key political supporters. Tough questions could even discredit their own previous claims about results or insights that novel programmes were expected to produce. Trapped in the context and inertia of a longstanding system, some analysts have even lost sight of the critical reform issues, or generalised findings far beyond the circumstances that generated them. A key aim of this report is to identify and explain such mistakes and, to the extent possible with one document, correct the key mis-impressions. Mis-impressions that are largely seen as stylised facts already seriously impair the school choice policy debate.

The overriding purpose of this report is to stimulate a frank discussion of the world's most prominent school choice programmes, both as immediate avenues to improved schooling and as potentially insightful experiments to inform evaluation, policy revision and the programme adoption decisions of other places. Key limitations are an especially critical issue. Extensive discussion of those limitations is one of the top aims of this report. However, the focus on the limitations of current school choice programmes should definitely not be seen as an assault on the authors of those programmes. That tens of millions of children could benefit from a parental choice programme that transforms the school system does not detract from the gains already realised through the more modest programmes that are feasible now. Few people will achieve in their lifetimes what prominent choice advocates have already achieved in several countries around the world. They have greatly improved millions of young lives.

However, much more can be achieved, and, in many countries, desperately needs to be. Existing programmes should be seen as early milestones toward

real and substantive reform, not destinations, or even indefinite rest stops. Because the 'fog of war' obscures the view from the trenches, it is time to step back and take a fresh look at some prominent school choice programmes and what has been said about them. I have selected Chile, Cleveland, Edgewood, Florida, Milwaukee, New Zealand and Sweden because of prominent discussions of the parental choice programmes established in these places, and the mismatch between the scope of these school choice programmes and the reform agendas there and elsewhere. As I argue below, much of the discussion of these programmes has been false, misleading, or largely irrelevant.

3

SCHOOL CHOICE AND THE REFORM IMPERATIVE

Fundamental school reform is a hot topic in many countries. Even on opposite ends of the globe, the issues prompting demands for reform and intense debate of competing proposals are remarkably similar. The claims, counter-claims and political combatants are remarkably alike across countries. The similarities in the reform issues are consistent with the David Plank and Gary Sykes observation that “there has been a dramatic decline in variation across countries in the structure and organisation of national school systems”,⁸ and William Baumol’s likely related observation that “education faces cost crises in all industrialised countries”.⁹

The appropriate school policy issue under debate is which governance and funding processes most efficiently promote the intellectual development of children. It is not difficult to find solid arguments for fundamental reforms based on parental choice and market forces that do not resort to apocalyptic language about imminent political and economic disaster if the typical outcomes of primary and secondary schooling are not drastically improved.¹⁰ Market forces are widely applauded for their ability to minimise cost, address diverse tastes and preferences efficiently and maximise the rate of innovation. As demonstrated in *The School Choice Wars* (Merrifield, 2001), competitive industries have an impressive track record, and school-level education should

⁸ Plank and Sykes, above n 1, p xii.

⁹ Baumol, William (2003) ‘Baumol’s Disease: No Cure as Yet, but It Isn’t Fatal’, *Wall Street Journal*, 26 November.

¹⁰ See Harrison, Mark (2004) *Education Matters: Government, Markets and New Zealand Schools*, Education Forum, Wellington; Walberg, Herbert J and Joseph L Bast (2003) *Education and Capitalism*, Hoover Institution Press, Stanford; and Merrifield, John (2001) *The School Choice Wars*, Scarecrow Education Press, Lanham, Maryland and Friedman (1962) above n 3.

respond to competition at least as well as other parts of the economy. The direct evidence includes the education system of the pre-1840 United States and experience with competitive education markets in other countries.¹¹

Given that evidence, and the predominance of free enterprise and consumer sovereignty in developed nations, the typical primary and secondary schooling arrangements, not market-based alternatives, should seem radical. Defenders of school funding and governance arrangements that strongly favour government-owned schools and who prefer political accountability mechanisms ('democratic control' over market accountability) should have to explain why market forces should be excluded from primary and secondary schooling. Instead, choice advocates have had to make the case for market accountability. And the economic case for increased choice and competition is harder for many people to understand because the education system fails to educate effectively.¹²

Inefficient use of education resources by politically controlled systems is readily apparent without resort to general evidence of market efficiency or education-specific evidence that market accountability typically works better than political accountability. In the United States and Chile, most private schools operate with less money per child than their public sector counterparts, yet achieve similar to slightly better test scores. That is true even though the small, largely non-profit private school sector of most countries lacks many of the cost-minimising incentives common to true market settings. The considerable private-public cost disparities should be sufficient to demand far-reaching change in at least public schools.

However, it is the unacceptably low level of academic achievement, and wide disparities in achievement, not concern about unnecessary or poorly allocated expenditure, that underlies the call for reform. Without the appalling statistics, shocking anecdotes of illiterate, innumerate adults oblivious to key political institutions, citizen responsibilities, and historical facts, the calls for fundamental reform would get much less attention than they currently receive. Former US vice president Al Gore put the politically galvanising role of crisis

¹¹ Blumenfeld, Samuel (1981) *Is Public Education Necessary?*, The Paradigm Company, Boise, Idaho and Coulson, Andrew (1999) *Market Education: The Unknown History*, Transaction Publishers, New Brunswick, New Jersey.

¹² Lieberman, Myron (1993) *Public Education: An Autopsy*, Harvard University Press, Cambridge, p 160.

quite succinctly when he said, “Scandals are front-page news, while routine failure is ignored”.¹³

Indeed, the United States is a leading example of crisis and the common symptoms of huge reform opportunities. Consistent with that, opting out of the assigned school is more costly in all but a few parts (discussed later) of the United States than anywhere else. Spending is high, achievement levels are low and harsh criticism is abundant. The existing debate, even among supporters of the present governance and funding processes, is whether US public schools are simply a disaster¹⁴ or a gold-plated disaster.¹⁵

A bipartisan 1983 national commission dubbed the United States a “Nation at Risk” and argued that “if another country had done to us what we had done to ourselves it might well have been considered an act of war”.¹⁶ Equally serious, but less widely publicised concerns predate the 1983 report.¹⁷ Although some improvements have resulted from the reform frenzy that followed the 1983 *A Nation at Risk* report, there has not been significant, sustained academic improvement anywhere in the United States. The intervening 21 years have only heightened the perception of crisis. Frightening anecdotes are commonplace, and the United States has seen periodic formal reaffirmations of the 1983 *A Nation at Risk* conclusions.¹⁸ Plus, despite decades of policy overhaul and significant growth in real spending, reform of primary and secondary schooling was still the avowed top priority of both 2000 US presidential candidates and every state governor.

The statistics are so shocking that citing them to general audiences jeopardises the speaker’s credibility. Many people simply refuse to believe the

¹³ Sarason, Seymour (1996) *Revisiting the Culture of the School and the Problem of Change*, Teachers College Press, New York, p 346. Inefficiency includes failure to pursue improvement relentlessly.

¹⁴ California governor Gray Davis quoted in Broder, David (1999) ‘Reforming Education a Tough Assignment’, *San Antonio Express-News*, 2 March, p 7B.

¹⁵ See Kirkpatrick, David (1997) *School Choice: The Idea That Will Not Die*, Bluebird Publishing, Mesa, Arizona.

¹⁶ National Commission on Excellence in Education (1983) *A Nation at Risk: The Imperative for Educational Reform*, US Department of Education, Washington, DC.

¹⁷ Rickover, Hyman G (1959) *Education and Freedom*, EP Dutton and Co, New York and Ravitch, Diane (2000) *Left Back*, Simon and Schuster, New York.

¹⁸ See for example Coeyman, Marjorie (2003) ‘Twenty Years After “A Nation at Risk”’, *Christian Science Monitor*, 22 April and Hirsch, ED, Will Marshall and Diane Ravitch *et al* (1998) ‘A Nation Still at Risk’, *Policy Review* 90, July–August.

appalling data. For example, in the 2002 and 2003 National Assessment of Educational Progress (NAEP) test data for fourth and eighth graders, no US state had even half of its students attaining proficiency (defined as a level NAEP expects all students to be capable of reaching) in any subject at any grade level.¹⁹ In contrast with market-generated improvement throughout the economy, and despite much pursuit of ostensible reform, the big picture for measures of core academic skills has been fairly static.²⁰

The NAEP exam that yielded those shocking results is vulnerable to criticism, but it is consistent with other indicators. Indeed, it is the breadth of the statistical evidence (other test scores, international comparisons, complaints by employers and remediation of high-school seniors trying to enter college), and indirect evidence, that screams the 'Nation at Risk' reform imperative in many countries.

The indirect evidence includes the disappointing results from much increased education spending, and the enormous political pressure that came from the school system's longstanding status as the nation's number one political issue (until '9/11'). Prominent education author and analyst Eric Hanushek pointed out that, "we have been in the midst of reform for decades",²¹ and long-time author and analyst Seymour Sarason found that, "whatever remedial measures were taken ... the system seemed intractable to change".²² Activists describe reform efforts with terms like "decades of frustration".²³

The disappointing results of countless past reform efforts are strong evidence that the current funding and governance system will continue to resist repair, and will therefore deteriorate further. Plus, the general findings of Clayton Christiansen and Michael Overdorf also suggest pessimism about prospects for substantial improvement in the effectiveness of the current system.²⁴ They found that even business organisations that are used to

¹⁹ National Assessment of Educational Progress data from 2002 and 2003, *Education Week* ('Quality Counts' – 1 August 2004), p 100.

²⁰ Wall Street Journal Editorial Board (2004) 'What Money Can't Buy', *Wall Street Journal*, 30 July.

²¹ Hanushek, Eric A (1997) 'Why True Reform of Schools Is So Unlikely', *Jobs and Capital*, Winter, pp 23–27.

²² Sarason, Seymour (1997) *How Schools Might be Governed and Why*, Teachers College Press, New York, p xii.

²³ White, Kerry A (1999) 'Ahead of the Curve', *Education Week*, 13 January, p 34.

²⁴ Christiansen, Clayton M and Michael Overdorf (2000) 'Meeting the Challenge of Disruptive Change', *Harvard Business Review*, March–April, pp 66–76.

competitive markets seldom fundamentally change themselves. With very few exceptions, pressure for change caused new organisations to replace them.

Another troubling symptom of a broken, reform-resistant education system is its hostility or indifference to exemplary results. The government typically fails to expand popular programmes, or extend them to other schools. Instead of the system expanding such programmes and seeking to improve them further – something obvious to any entrepreneur – shortages persist. That failure is also obvious to parents. As Kirkpatrick (2003) has noted, “parents must line up days in advance seeking to have their child accepted, or hope for the luck of the draw in a lottery”. Worse yet, administrators often see standout programmes as sore thumbs and eliminate them because “they are too disruptive”.²⁵ Those people with vested interests prefer that such embarrassing examples of what is possible either not arise, or vanish quickly. Success stories embarrass the system’s leadership because they hint at what is possible, and typically demonstrate that ‘the system’ was in the way.

Getting the system out of the way is not an option for the people who believe their power and income depends on the existing governance and funding practices. Therefore, they focus on a narrow range of system-friendly policies. The recycling of system-friendly ostensible reform options even has a catchy name that captures its persistent futility: “More-of-the-Same-Harder – the MOTS-H approach”.²⁶ Richard Sherlock puts a somewhat optimistic spin on the same point: “This [system-friendly-only approach to reform] is a no win game that will continue its divisive spiral until the exhausted parties recognise the solution that lies before them: true [universal, full] school choice”.²⁷

The rapid growth in home schooling is another indirect sign that reform is an urgent priority. At about 1 percent of New Zealand school-age children and 2 percent, and growing, of US school-age children, these trends suggest that large numbers of families in both countries have incurred enormous expense and inconvenience to substitute themselves for thousands of dollars worth of prepaid education services. Those parents, often without any formal education and training, routinely out-perform the team of education specialists at their children’s schools. United States home schooled children

²⁵ Kirkpatrick, David W (2003) ‘What Will it Take’, *School Report*, 6 November.

²⁶ Jennings, Wayne B (1998) ‘Let’s Ride the Wave of Change’, *Enterprising Educators*, Vol 6, Issue 2, p 1.

²⁷ Sherlock, Richard (1996) ‘Choice v. Conflict in Education’, *Sutherland Institute Policy Perspective*, 27 August.

are widely sought-after college recruits, and they are well represented in national academic competitions.

Choice opponents argue frequently that parental choice programmes amount to public school abandonment. That bizarre claim amplifies largely the same message as home schooling decisions. It is another declaration that what the education system produces is worth much less than the large amount most countries spend; for example, \$9,354 in the United States and \$6,300 (equivalent to US\$4,000) in New Zealand.²⁸ The claim implies that public schools generally are not going to be choiceworthy without the huge, zero-tuition price advantage of forced prepayment through taxation. Choice opponents are basically saying that without the high opportunity costs of home schooling and private school tuition, hardly anyone would send their children to taxpayer funded public schools that are 'free'.

Statements like "the education standards movement is gaining momentum"²⁹ are another indirect sign of serious systemic problems. It means that in a system with a notoriously bad track record there is still considerable resistance to 'higher' standards, and that you have to establish semi-permanent political organisations to lobby for them. And a political struggle over standards suffers severe limitations. The struggle will create a relatively static, politically defined academic standard for the great majority of children, probably based on a single set of easy, standardised tests. The latest US result of the ongoing standards struggle is the 2001 No Child Left Behind Act that, "seeks to ensure that all students meet minimum standards".³⁰ A political accountability approach to defining standards implies that quality should be narrowly defined and that you should not be able to shop for the specialised standards that best suit your children.

It also implies that a relatively static, narrowly defined, uniform minimum standard is acceptable. For example, in New Zealand, the same detailed curriculum structure is imposed on all subjects, from physical education to physics. As Hames (2002) has noted, "The idea that different types of learning

²⁸ The US figure is total expenditure per pupil in average daily attendance in 2002, 'Florida's Experience May Aid Argument for School Vouchers', *Wall Street Journal*, 4 November 2003. The 2003/04 New Zealand figure includes capital spending. Neither figure includes spending on central administration.

²⁹ Price, Hugh B (1999) 'Establish an Academic Bill of Rights', *Education Week*, 17 March, pp 54-55.

³⁰ DeLacy, Margaret (2004) 'The "No Child" Law's Biggest Victims?', *Education Week*, 23 June, p 40.

need different types of curricula seems to have escaped the architects of the framework".³¹ In contrast to the formal, top-down, political accountability process, the market's bottom-up, subjective accountability continuously elevates informal, specialised standards.³²

Political accountability also directly drives up government spending. The US public school system diverts an enormous amount of resources from classrooms to political and administrative processes – more than the other members of the Organisation for Economic Cooperation and Development (OECD), which typically allow more parental choice and school-based decision making than the United States. According to 2001 OECD data for full-time equivalent staff per 1,000 students, among the 13 OECD countries reporting enough data to make the calculations, the US ratio of non-teaching staff per instructional personnel ranked third behind only the Czech Republic and France.³³ The resulting high demand for good administrators has meant increased difficulty filling administrative positions, and the need to cast a wider net has reduced the quality of practising administrators.³⁴

Similar problems exist in much of the rest of the world. Beare and Boyd (1993) document extensive misgivings with schools in Australia, Canada, Japan, New Zealand, the United Kingdom and the United States.³⁵ William Ratliff compares several Asian and Latin American education reforms, and has especially harsh words for the latter.³⁶ Two books published by the Education Forum describe similar problems in New Zealand's primary and secondary schools. Hames (2002) argues that illiteracy, innumeracy, ignorance and ill-discipline "are too widespread for comfort".³⁷ Harrison (2004) is less blunt, but makes essentially the same point, arguing that, "The current [New

³¹ Hames, Martin (2002) *The Crisis in New Zealand Schools*, Dunmore Press, Palmerston North, p 77.

³² Pisciotta, John (2001) 'School Accountability: Top-Down or Bottom-Up?', *Veritas*, October, pp 19–25.

³³ OECD (2003) *Education at a Glance*, 2003, Paris, Table D2.3

³⁴ Olson, Lynn (2000) 'Policy Focus Converges on Leadership', *Education Week*, 12 January, pp 16–17.

³⁵ Beare, Hedley and WL Boyd (1993) *Restructuring Schools*, The Falmer Press, Washington and London.

³⁶ Ratliff, William (2003) *Doing it Wrong and Doing it Right*, Hoover Institution Press, Stanford.

³⁷ Hames (2002) above n 31, p 13.

Zealand] education system is not good at fixing or closing bad schools, and they endure, despite decades of efforts to improve them".³⁸

Considerable dissatisfaction with school effectiveness exists even in countries that fare relatively well in international comparisons, including some that recently implemented major changes and achieved noteworthy academic gains. Because resistance to reform favoured tinkering over fundamental reform, much of the debate in those countries is about whether the changes constitute reform, and whether the most productive changes were made. Because of resistance to reform, many programmes became escape valves for the most desperate and symbolic actions and so lacked much of their intended substance. It all means that a low or even mediocre rank in an international comparison of academic outcomes is probably a cause for serious concern. In addition, because of universally strong resistance to reform, especially market accountability-based reform, a top rank is achievable with much room for improvement remaining.

Despite large declines in pupil:teacher ratios, increased time in school and increased funding, there is little evidence that this has led to improved educational outcomes for New Zealand children. It is difficult to gauge progress in New Zealand education outcomes because of the absence of national testing. Nonetheless, anecdotal and international survey evidence suggests that the performance of the New Zealand school sector has been mixed. While New Zealand students performed well in international surveys such as the 2000 Programme for International Student Assessment (PISA), their performance in the Third International Mathematics and Science Study (TIMSS) and the more recent Progress in Reading Literacy Study (PIRLS) showed room for improvement.³⁹ According to the most recent (2003) PISA survey, achievement levels of New Zealand students did not improve over 2000 (and New Zealand's international ranking fell), despite a 32 percent increase in the education budget 1999/00 and 2003/04.⁴⁰

According to UNICEF, New Zealand has one of the poorest rankings for bottom-end inequality – a measure of the difference in achievement between children at the bottom and middle of each country's achievement range.

³⁸ Harrison (2004) above n 10, p 9.

³⁹ For a brief discussion of New Zealand's performance on international and other surveys, see Education Forum (2003) *A New Deal: Making Education Work for all New Zealanders*, Wellington, pp 7–13.

⁴⁰ Brash, Don (2004) *Labour fails young NZers*, National Party Media Release, 7 December.

Among the 24 countries examined by UNICEF, only Belgium had a larger disparity between the lowest and middle performing children than did New Zealand.⁴¹ Furthermore, surveys from the past 25 years show that New Zealand is the only country where the performance of the bottom 20 percent is getting worse.⁴²

Other indicators are worrying. For example, 17 percent of school leavers in 2001 had no qualifications – more than in 1989.⁴³ Some of these students would have continued their education elsewhere, but such alternatives speak of the irrelevance of the state schools to many. According to a New Zealand Ministry of Education interpretation of the 1996 International Adult Literacy Survey, only around one in five New Zealanders is operating at a highly effective level of literacy.⁴⁴

The similarities between the political struggles in the United States and what prevails in the other countries discussed in this report are striking. The principal arguments and political protagonists are almost identical. For example, in Chile, New Zealand and the United States, teacher unions and the education establishment argue for the funding and governance status quo of political accountability, detailed rules and uniformity. They claim that problems exist because of too little funding, inequities in the distribution of funding and impediments to learning that result from dysfunctional home environments. They insist that parental choice will further widen existing large disparities and intensify the already significant isolation of children by race and socio-economic status (SES). On the other side of the issue, a coalition of businesses, parents, and low SES groups argue for genuine choices to address the diversity of children, to provide an escape hatch for children assigned to improvement-resistant schools, and increased market accountability to drive innovation and efficiency, and to prompt the replacement of under-performing schools.

⁴¹ UNICEF (2002) *A League Table of Educational Disadvantage in Rich Nations*, Innocenti Report Card, Issue #4, November.

⁴² Hattie, John (2003) Presentation to Knowledge Wave 2003 – the Leadership Forum, Auckland, www.knowledgewave.org.nz (last accessed 4 April 2005), p 2.

⁴³ Harrison (2004) above n 10, p 103.

⁴⁴ Ministry of Education (undated) *Adult Literacy in New Zealand – Results from the International Adult Literacy Survey*, Wellington.

4

CHOICE AS A REFORM CATALYST

PATHS TO SYSTEM TRANSFORMATION

Former US president Ronald Reagan once said if you cannot make them see the light, make them feel the heat. Heat influences behaviour when there is a possibility of getting burned.

So, a policy change might become a reform catalyst by showcasing an innovation, causing educators and policymakers to ‘see the light’. Seeing the light is the avenue to system transformation when modest trials hint at the larger benefits of a full-blown system, or when the positive effects of a full-blown system implemented in one area prompt other places to adopt it. That can work when the governance institutions are capable of acting on compelling demonstrations of innovation. A positive demonstration followed by widespread adoption is what Milton Friedman meant when he said that enactment of a single, real parental choice programme would quickly cause the concept to “spread like wildfire”.⁴⁵

Many activists pursue a similar strategy of repeated, incremental enlightenment. The aim is for each modest policy adjustment to whet the appetite for further changes, leading ultimately to a full-blown system reform. While such an incremental approach may eventually yield all of the change that occurs – swift system transformation may be politically infeasible – it is at best a slow route. It is difficult to maintain a winning political coalition and a focus on a particular final objective for the long time it can take to enact, evaluate and debate successive pieces of legislation.

System transformation through parental choice would require significant government down sizing, and history does not provide much encouragement to those who would pursue a strategy of incremental retrenchment. It has been known since at least the time of Thomas Jefferson that incremental government expansion is commonplace: “The natural progress of things is for liberty to

⁴⁵ Friedman, Milton (1995) ‘Public Schools: Make Them Private’, *Washington Post*, 9 February.

yield and government to gain ground". Evan Osborne's contemporary empirical findings for economic policy reform make the same point: "Overall the evidence strongly indicates the superiority of radical reform".⁴⁶

An unnamed "successful superintendent" said that, "school systems don't change because they see the light. They change because they feel the heat".⁴⁷ So, because cautious, incremental enlightenment efforts probably will not produce genuine reform, the second avenue to system transformation is to pressure the school system to maximise the rate of academic improvement.

Effective pressure for change exists when there are major consequences, which at one extreme must include the possible replacement of existing schools, public or private, with new schools, often in the same buildings. So, 'feel the heat' means thrive through effectiveness and continuous improvement, or lose the education resources to another school operator. Transfer of resources to someone producing more highly valued services – a process sometimes called creative destruction – is exactly how most of the economy moves forward at sometimes breathtaking speed. No doubt many existing schools are up to the challenge, while others are not. That is a normal effect of relentless change. Some producers adapt, while others yield to innovative newcomers. In other words, on this route to system transformation, managers and educators more in tune with contemporary education realities (costs, what works with whom) and client demand would replace the less diligent and dynamic educators.

ESSENTIAL ELEMENTS OF A REFORM CATALYST

Through the pursuit of reform without significant parental choice, many countries still emphasise political accountability approaches that exemplify the triumph of inertia and hope over experience. Contrary to the underlying assumptions of the typical, recycled MOTS-H political accountability approaches, competing producers create better results than monopolies, incentives matter, all children cannot and should not be taught the same things in the same way, and political control of the curriculum produces divisive, weak policies. Because of the poor track record and the implausible

⁴⁶ Osborne, Evan (2004) 'Measuring Bad Governance', *Cato Journal*, Winter, p 415.

⁴⁷ Kernan-Schloss, Adam and Andy Plattner (2003) 'Tipping Toward Parents', *Education Week*, 5 November, p 41.

assumptions of the political accountability approaches that prevail in most countries, this chapter discusses the key elements of parental choice-based, market accountability approaches to reform. The market forces that result from real competition require more than the limited rivalry effects that characterise public school choice, modest tax credits and narrowly targeted vouchers. A market accountability-based approach to system transformation requires the following:

- Appropriate regulation of private schools. This involves formally defining the term ‘school’ sufficiently to disburse subsidies and curb fraud, but:
 - avoiding creating formal entry barriers; and
 - not diminishing opportunities to specialise.
- Low informal entry barriers. This involves:
 - ensuring that public funding per child does not depend on school ownership (non-discrimination);
 - minimising uncertainty about the scope of the market; and
 - avoiding price control by allowing private tuition co-payments (add-on private spending).

These points are discussed in turn.

Appropriate regulation of private schools

To prevent fraud and promote efficient disbursement of taxes levied to support schooling, governments must establish school eligibility criteria. Recognition of private accrediting organisations is probably sufficient. The details, although beyond the scope of this report, are not trivial issues.

It is critically important that such administrative necessities not lead to regulatory strangulation of the parental choice reform catalyst. Certainly, political-administrative strangulation in the form of detailed national curricula, and even detailed physical descriptions of approved schools, is a key cause of many countries’ strong interest in reform. It is important that decision makers and activists recognise the serious consequences of going beyond the bare minimum of oversight needed to disburse funds and deter fraud efficiently, and separately to manage government-owned schools. To prescribe in detail what the majority of families will generally demand anyway achieves little, but eviscerates parental choice as a reform catalyst. It even sacrifices much of its value as an escape valve. An escape to a very similar school is not helpful. Politically defined uniformity and politically correct curricula are very costly.

Neglect of socially valued subject matter by some families, and tolerance of unpopular differences in what is taught, is much less costly.⁴⁸

There is little systematic evidence that private schooling promotes extremist behaviour, but a few scandalous anecdotes – even hypothetical examples – are politically potent. Therefore, the formal definition of ‘school’ should ban the advocacy of unlawful behaviour. In addition, a modest minimum size rule may be a political necessity as a least-cost deterrent to extremist behaviour that avoids violating the letter of the law, but violates its spirit.

A well-designed minimum size rule can achieve its aims without harmful side effects. To minimise the school size lower limit required to discourage the establishment of ‘extremist’ schools without banning those that are small because they focus on a limited age cohort, the minimum size rule should probably specify an age cohort minimum, for example, 20 children per two-year age cohort. In sparsely populated areas, significant percentages could substitute for absolute numbers per age cohort. A carefully crafted minimum size rule, the pressure to specialise, and inability to reject applicants on the basis of race or ethnicity, would make it very difficult to recruit enough staff and students for an extremist school.⁴⁹

Such a minimum size rule would also keep families from earning income from educating their own children. That concern may seem inappropriate, but it is a noteworthy policy outcome because paying people more than actual education expenses to educate their own children can produce some significant, unintended side effects. Paying parents to teach their children is very similar to a large rise in the per child income tax deduction. A large family, combined with payments in the order of the existing education funding per child that prevails in many countries, would yield a significant annual ‘income’. For example, the United States spends around \$10,000 per child per year.⁵⁰ That amount, multiplied by, say, five school-age children would push a family halfway to the statistically wealthy, top 10 percent of income earners. Such possibilities could substantially increase the size of some families and population growth. Much smaller tax policy changes have produced significant

⁴⁸ Arons, Stephen (1997) *Short Route to Chaos: Conscience, Community, and the Re-Constitution of American Schooling*, University of Massachusetts Press, Amherst.

⁴⁹ Lieberman (1993) above n 12, pp 290–292.

⁵⁰ Total expenditure per student in 2001/02 was estimated at US\$9,354, excluding state and federal administrative spending.

changes in birth rates.⁵¹ Lucrative home schooling enterprises could also reduce labour force participation. Either or both could be unwanted side effects of school choice programmes.

Unbiased, low formal entry barriers

To accelerate and maximise the development of specialised forms of schooling, freedom to enter the arena – start a school – on formally equal terms with other school operators is one of the essential elements. ‘Formally equal terms’ means identical treatment by the government. Indeed, freedom to enter the market is the most essential element. Freedom to enter is more important than having a large number of schools, each with trivial market shares. Limited forms of rivalry can exist without freedom to enter, but the genuine competition that is the norm in the mixed economy capitalism that characterises the world’s developed countries cannot. Without freedom to enter, a parental choice programme cannot qualify as a reform catalyst. Freedom to enter reinforces the ability to specialise, and it fosters rivalry sufficient to compel specialisation. To maintain enrolments against existing and potential rivals, operators of existing schools will have to concentrate on their strengths and pursue continuous improvement.

Note that even without formal entry barriers, incumbent school operators have significant informal advantages like name recognition, reputation, established networks, and probably less debt. Potential school operators must persuade philanthropists or venture capitalists that something unproven, at least in that area, and perhaps an entirely new educational approach by someone that has never run a school before, can attract enough students to cover expenses. Short of major neglect by incumbent purveyors of popular specialisations, it will take a major innovation or cost advantage for an education market newcomer to gain some market share. The significant informal advantages of incumbency are among the critical reasons why potential competitors must be on formally equal terms with incumbents.

To create that strong incentive to build a reputation, and to facilitate replacement of the schools that fail to do so, regulations must not favour some school operators over others. That, plus funding children on the same basis no matter which school they attend (avoiding the informal barrier discussed

⁵¹ Whittington, Leslie A, James Alm and Elizabeth H Peters (1990) ‘Fertility and the Personal Exemption: Implicit Pronatalist Policy in the United States’, *American Economic Review*, 80, No 3, pp 545–556.

above), establishes the freedom to enter as well as the basis for exit.⁵² Schools that fail to attract enough students will have to change management, or close.

Freedom to enter or exit, the potential financial imperative to exit, and the pressure to innovate and create a reputation is especially relevant to profit-seeking entrepreneurs. Non-profit school operators have different funding sources and incentives – for example, to serve a particular clientele or promote a certain curriculum. Coulson (2004), for example, notes that:

The importance of profit making can easily be grasped by looking at the different responses that non-profit and for-profit schools have to pent up consumer demand. Even the most highly regarded non-profit schools, such as Philips Exeter and the Laboratory School at the University of Chicago, serve only about a thousand more students today than they did a century ago. They have expanded their waiting lists instead of opening new facilities [because] they lack an incentive (profits) sufficient to overcome the risks of expansion; and second, they are funded in significant measure by alumni who seek to perpetuate a tradition rather than to commercialise a popular service.⁵³

In combination with the price movement discussed in greater detail later, freedom to enter and exit allows profit-seeking school entrepreneurs to serve as all-important barometers of changing costs, schooling preferences and related competing investment opportunities. Absent debilitating entry–exit barriers and entrepreneurs will innovate to create new market niches, or seize additional market share in existing niches by cutting costs. Likewise, they will exit market niches where changing costs are not in synch with changes in demand.

Newcomer freedom to enter the arena on formally equal terms underlies the relentless pressure to minimise costs. Freedom to enter is also especially important in the areas that are too sparsely populated to support a large number of schools. Economists have shown that market share contestability with only a few actual sellers at the same time, although not as good as many buyers and sellers, still produces reasonably competitive behaviour.⁵⁴

⁵² This definition of ‘formally equal’ does not preclude more taxpayer funding for some children, such as older children or those with special needs.

⁵³ Coulson, Andrew (2004) *Forging Consensus*, Mackinac Center Report, Midland, www.mackinac.org (last accessed 4 April 2005), pp 13–14.

⁵⁴ Morrison, Steven A and Clifford Winston (1987) ‘Empirical Implications and Tests of the Contestability Hypothesis’, *Journal of Law and Economics*, 30, April, pp 53–66; Borenstein, Severin (1992) ‘The Evolution of US Airline Competition’, *Journal of Economic Perspectives*, 6, Spring, pp 45–74; and Baumol, William J, John C Panzar and Robert D Willig (1982) *Contestable Markets and the Theory of Industry Structure*, Harcourt Brace Jovanovich, Inc, New York.

Freedom to enter insures against long-term imbalance between the space at certain types of schools and the demand for it that leads to waiting lists, and lotteries or 'highgrading' – a fisheries term that aptly describes the tendency for schools to address excess demand by keeping only the best 'catches' and tossing the rest back. The government-operated schools that dominate in most countries would probably not be allowed to eliminate waiting lists by charging substantially more. Likewise, non-profit schools probably cannot easily charge substantially higher tuition.

In addition, allowing school operators to use tuition hikes to eliminate waiting lists simply amounts to highgrading according to ability and willingness to pay, which many people would object to unless it is properly understood to be just the temporary, although essential, part of the market response to popularity. Indeed, higher prices are a natural response of profit-seeking entrepreneurs to increased demand. However, with freedom to enter, the price increases that prevent shortages of popular products also attract copycat entrepreneurs. The resulting increased production at least partially reverses the initial price increase. The extent of reversal depends on how market growth changes production costs. United States Federal Reserve chairman Alan Greenspan described this critical general process in recent congressional testimony: "That increase in competitive pressure, as history has amply demonstrated, with time, returns mark-ups to more normal levels".⁵⁵

So, freedom to compete for market share leads to imitation of popular schooling practices by newcomers. That ends the opportunities to high grade through permanently higher tuition, and it avoids the inefficiency of waiting lists and tuition levels that overstate production costs. Freedom to form new schools would also pressure schools to limit denial of enrolment requests to what a school finds necessary to pursue its specialisation. As a result, freedom to form new schools would reinforce society's determination to discourage racial and ethnic discrimination. Because freedom to enter the market would quickly eliminate most waiting lists, bigots would see bigotry become more costly. In the current system, the waiting lists that result from entry barriers and price control allow bigoted operators of popular schools to practise bigotry for 'free' if they discriminate quietly enough to avoid prosecution. A waiting list means that rejection of an applicant costs over-subscribed bigots nothing. The school stays full. Waiting lists also tempt producers to save money by letting product

⁵⁵ Greenspan, Alan (2004) *Semiannual Monetary Policy Report to the Congress*, Testimony Before the Committee on Banking, Housing, and Urban Affairs, US Senate, www.federalreserve.gov (last accessed 4 April 2005).

quality deteriorate. Quality deterioration can also result from price control (discussed later), and price change is an essential partner of freedom to enter and exit in fostering innovation and curbing waiting lists.

Opportunity to specialise

Specialisation should be seen as more than the likely result of competition and diverse schooling preferences. Indeed, the opportunity for schools to differ in what they teach and how they teach it allows educators to address preference diversity better.⁵⁶ Parental choice legislation has little direct relevance to parents unless there are noteworthy differences between the schools. However, the opportunity to specialise also underpins the exploitation of producer comparative advantage, and the ability to experiment, innovate and adjust to changing costs.

School operators must be free to exploit the many important differences in educators and address student diversity with specialised schooling options, and be strongly motivated to do so. If regulation or price control curbs significant specialisation, a school system can offer only worse and better versions of a relatively uniform service – what Plank and Sykes (2003) call “standardised public education provision” and Brown (1992) calls “comprehensive uniformity”.⁵⁷

These terms describe the great majority of choices in the school systems of several countries, including at least Chile, New Zealand, Sweden and the United States. Naturally, everyone wants the best available version. The limited pressure to emulate the best version produced some benefits, for example, pressure to improve the less popular schools, and copycat market entry in Chile, as well as parts of Sweden and the United States. However, a chance to specialise would have greatly increased those benefits, and also avoided some of the problems inherent in widespread agreement on which school is best for most children.

When parents pick from a menu of schools with largely uniform policies, there will be over-subscribed, good schools, and unpopular schools that contain the children excluded from the good schools. A mix of over-subscribed and unpopular schools exists throughout New Zealand, and in the United States

⁵⁶ Differences in what is taught include extracurricular programmes. Differences in how it is taught include cost, staff qualifications, uses of technology, approach to discipline and opportunities for parental involvement.

⁵⁷ Plank and Sykes (2003) above n 1, p x; and Brown, Byron (1992) ‘Why Governments Run Schools’, *Economics of Education Review*, 11, No 4, pp 287–300.

in the rare instances of genuine public school choice. For example, recently, after “a fairly sizeable [US] school district opened enrolment at all of its public elementary schools to district parents, 85 percent of the parents applied to one school”; a school that had adopted a more effective ‘back-to-basics’ approach to the district curriculum.⁵⁸ District-wide policy uniformity may have foreclosed even more productive avenues of specialisation, including areas of specialisation of greater interest to some, but not all, of the parents that preferred the back-to-basics approach of the popular school to the present alternatives. Genuine opportunity to specialise allows every school to be the most popular with a subset of families large enough to generate sufficient financial support. Such specialisation would have eliminated the New Zealand combination of over-subscribed popular schools and under-utilised schools that prompted the partial re-imposition of school zoning.

Because of the inevitable correlation between income and the ability to pursue the best available schooling, uniformity plus choice yields the socio-economic sorting or ‘stratification’ of student peer groups decried by many analysts of school choice programmes.⁵⁹ Indeed, stratification is a predictable result of parental choice among highly regulated, relatively uniform school choices. Recall William Ouchi’s question: “If all schools have the same schedule, program, and staffing, what does choice mean?”⁶⁰ It means that remaining differences like student body composition will dominate school choices.

A menu of specialised school choices would decrease stratification by increasing the number of dimensions along which schools differ. For example, because parents consistently value academics above student body composition, students will typically cluster together on the basis of similar subject and pedagogical interests available at a particular school rather than cluster according to SES. Some stratification on the basis of school location and the occasional availability of high and low ‘grade’ versions of particular topics and pedagogical specialty areas at different schools is still possible. However, several different versions of each popular topic or teaching method

⁵⁸ Kirkpatrick, David W (2003) ‘What Will it Take’, *School Report*, 6 November.

⁵⁹ For example, Epple, Dennis and Richard Romano (2003) *Neighborhood Schools, Choice, and the Distribution of Education Benefits* and Figlio, David and Marianne Page (2003) ‘Can School Choice and School Accountability Successfully Coexist’, in Caroline Hoxby (ed), *The Economics of School Choice*, University of Chicago Press, Chicago.

⁶⁰ Ouchi (2003) above n 6, p 56.

specialty area are much less likely to exist than several different versions of a single, centrally defined approach to schooling.

If school entrepreneurs were allowed to be competitive by duplicating the most popular of the relatively uniform schools (No, in New Zealand, Yes, in Chile) it would be helpful, but it would not eliminate the problem of having a mix of over-subscribed and unpopular schools. It would only change which schools are popular and which are not. It can only alter which direction the one-way traffic will go as parents try to move their children from the schooling options that are widely agreed to be worse to the schooling options that are widely agreed to be better. The longstanding presence of forced uniformity, and recent history of restriction-laden choice programmes, explains why a stampede from worse to better is already a well-known and widely alleged drawback of parental choice in general. However, if regulation does not prevent competing school operators from specialising – offering a menu of genuine school choices – a stampede from worse to better is only certain in the early, transitional stages of a new parental choice programme, and unlikely thereafter.

Legislation capable of fostering a competitive, specialised education industry cannot instantly transform the menu of school choices. It will take some time for specialised offerings to develop and for parents to perceive 'best available school' as depending upon the characteristics of their children. Indeed, some families would eventually shun the specialised approach of a particular school for one of their children, but prefer it for another. Specialisation to the extent warranted by the unique skills of educators and the diverse interests and learning styles of children, or the absence of significant specialisation, will determine whether widespread agreement on the most desirable school gradually disappears.

The widespread assumption that every school will pursue the brilliant children and shun the rest also results from the tradition of school uniformity and the resulting one-dimensional ranking of student ability. If you aim to teach nearly every child the same things in the same way, it is easy to overlook that many children are a mixture of brilliant, ordinary, and slow, depending upon the subject matter and teaching method. Uniform, low expectations also reinforce that assumption. In contrast, when you aim to exploit each child's academic potential fully, rather than meet uniform objective standards, the smartest children (on one dimension or many) are definitely no longer the cheapest to educate; likely the opposite.

Attempts to reconcile student diversity with school zoning have led to specialisation within large schools. *The Shopping Mall High School* explains why

that specialisation policy is inferior to specialisation by separate, autonomous, smaller schools.⁶¹ The impersonal nature of large schools overwhelms many children. The variety of deceptively labelled choices makes it easier for children to succumb to peer pressure and other temptations to opt out of challenging courses. In addition, large, complex schools lack the flexibility to address change, and they struggle to develop cohesive staff united behind a clearly defined, compelling mission. The complexity that results from failure to specialise also greatly exacerbates the shortcomings of the compliance accountability element of the political process. For example, “as new programmes were added, districts had to hire more classes of employees, negotiate with a wider variety of vendors, and bargain with more unions”.⁶²

Programmes that stymie the normal inclination to specialise in areas of comparative advantage will produce much smaller benefits than programmes that foster specialisation. Regulation is not the only policy that influences the opportunity and propensity to specialise. Potential informal entry barriers like preferential funding of public school users, uncertainty and price control influence the ability to specialise, and which types of specialisation will actually be present.

Low informal entry barriers

School policies that indirectly limit the formation of new private schools are typically at least as devastating as formal barriers to new private schools and explicit limits on what schools can do. For example, existing parental choice programmes often undermine competitive pressures by subsidising children that attend public schools more generously than children who attend other schools. Smaller subsidies for private school users diminish the incentive to start a private school, and make it more difficult to attract students to new private schools. Uneven subsidies mean that private schools can only survive if they can produce a competitive service with a smaller per student budget. Rules that discourage private spending on schooling limit the kind of private schools that can form.

⁶¹ Powell, AG, E Farrar and DK Cohen (1985) *The Shopping Mall High School: Winners and losers in the educational marketplace*, Houghton Mifflin, Boston.

⁶² Segal, Lydia (2004) *Battling Corruption in America's Public Schools*, Northeastern University Press, Boston, p 49.

Non-discrimination: per child funding for all schools on the same basis

A key requirement for system transformation is universal school choice on a level playing field. Unfortunately, parental choice eligibility in most jurisdictions has been narrowly targeted at low SES families and children enrolled in especially bad public schools. It has meant a slightly less tilted playing field for a select few. Among the key reasons for preferential treatment of some children are the political imperatives to safeguard existing arrangements and the widespread fallacy that the better schools are necessarily good; that only the disadvantaged children assigned to isolated awful schools are not well served. Also, by excluding the students enrolled already in private schools, or funding public school children at a higher level than those who do not attend their assigned public school, limiting the school choices to a subset of the student population can appear to save taxpayer money.

Targeting also avoids some 'churn'. Churn is the additional cost incurred when the government pays for something that at least most middle and upper income families would have bought anyway. The high cost of churn includes the economic distortions that result from tax avoidance and tax evasion. However, using taxpayer funding to pay the schooling costs of middle and upper class families also has a major advantage. Direct private payment of tuition would concentrate the cost of schooling during the relatively few years that children are in school, and that largely precede most adults' peak earning years. If taxes are used to pay for schooling, it spreads the cost of educating children over entire lives. That avoids a major cash flow problem that would severely reduce private spending on schooling, and sharply bias many family economic and political decisions in favour of 'free' public schooling.

So, targeting reduces churn and might reduce government spending. But means-testing, and otherwise limiting eligibility for parental choice programmes, has bigger disadvantages. As noted in *The School Choice Wars*:

Varying benefits by income makes the policy an income redistribution program, not an education program, and it raises a compelling practical issue. The political process typically ensures that 'programmes for the poor (when low-income families contribute relatively little and receive relatively more per capita) become poor programmes'.⁶³

⁶³ Merrifield (2001) above n 10, pp 50-51.

Means-testing also has the potential to curb the social mobility that comes with the pursuit of increased earnings. Prospective loss of benefits like vouchers for children of low-income families could greatly elevate effective marginal tax rates. High marginal tax rates could stifle a considerable amount of highly beneficial movement from lower to higher income levels. For example, according to Thomas Sowell:

Only a fraction of the [American] people who are in the bottom twenty percent in income at any given time will be there for more than a few years. Most of those in the bottom twenty percent of income earners are also in the top twenty percent at some other time in their careers.⁶⁴

The biggest disadvantage of targeting select groups of children is that it makes the education market less competitive. Because targeting means selective reduction in the financial impact of choosing a private school, fewer families will opt for a new school. That reduces the incentive of the incumbent school operators to identify and correct problems, and the incentive of potential school operators to develop new schooling choices. In other words, targeting is a major, informal market entry barrier. Indeed, the primary entry barriers of most countries are the increased subsidies for children that attend schools operated by the government. In the United States and New Zealand, the majority of taxpayers must pay tuition on top of their required school taxes to opt for an alternative to the assigned government-owned school. The availability of pre-paid, government-operated schools supported by an average of US\$9,553 per child per year⁶⁵ makes it virtually impossible to charge enough tuition to support a private school. Because it is very difficult to sell something that has a 'free' substitute, private schools with little or no government subsidy have tiny market shares. Most are non-profit and subsidised by churches. They can survive because many families will pay a low tuition fee for the difference between a faith-based curriculum and what the government-operated schools offer.

Targeted programmes exclude the very groups that usually drive innovation by being the early adopters of new services. The resulting reduction in the number of choices, the slower rate of innovation-driven improvement

⁶⁴ Sowell, Thomas (2004) 'The Big Lie of "Working Poor" Returns', *San Antonio Express-News*, 2 March.

⁶⁵ National Center for Education Statistics: 2001–2002 school year estimate of average expenditure per pupil in average daily attendance, <http://nces.ed.gov/programs/digest/d03/tables/dt166.asp> (last accessed 4 April 2005).

and political neglect by the untargeted probably does the targeted disadvantaged children more harm than good. Harrison (2004) reaches the same conclusion:

A voucher targeted at the poor would provide benefits to the recipients – but would not introduce a competitive market. An increase in competition would improve schools and provide further benefits – to poor students and others.⁶⁶

A second disadvantage of targeting is that limiting parental choice programmes to a small fraction of the student population is an implied endorsement of the basic elements of the current system. It signals to the largely detached, minimally informed majority of the electorate that the system does not need to be transformed. Targeted parental choice signals that existing policies work acceptably for most families.

The simplest policy is also, on balance, the best policy. Parental choices should allocate 100 percent of the taxes collected to support primary and secondary schooling.⁶⁷ The same amount of taxpayer money should support a particular child, regardless of family income, at the public, private non-profit, or private for-profit school selected by the child's parent. That is what non-discrimination means. Note, however, that non-discrimination does not preclude varying subsidies for academic reasons, for example, for special needs, and because older children cost more to educate than younger children. The avoidance of targeting maximises the competitive pressures and affirms that funding biased in favour of certain schools reduces the quality of schooling received by nearly every child.

Minimal uncertainty about the scope of the market

The attraction of profit-seeking entrepreneurs also requires a high degree of certainty about the scope of the market as a whole. Uncertainty about essential financial support, the political support for key legislation, or the ability of key programmes to withstand legal challenges, is a major psychological barrier to entry. Such uncertainty severely shortens the investment payback period that financial supporters will tolerate, perhaps to the point where potentially

⁶⁶ Harrison (2004) above n 10, p 324.

⁶⁷ Some taxpayer funds will have to pay for enrolment monitoring, disbursement of funds to schools and prevention and detection of fraud.

attractive long-term investments become too risky, leading to no entry, or fundamentally altered entry. For example, such uncertainties may prompt entrepreneurs to forego new schools in favour of different schooling practices in existing rental space.

Avoid price control

In addition to being able to start new schools on formally equal terms with government-owned schools, school management (including government owned) must be free to vary the price of their services as necessary to respond to market forces. Freedom to charge whatever they want does not mean assuring school operators enough students at whatever price they set, or that taxpayers should pay schools any amount they wish. It just means that there is no government-set floor or ceiling on tuition and fees; the willingness of customers to buy from a particular seller is the only constraint. Nobel laureate Friedrich Hayek clearly stated this critical combination as follows:

It is necessary in the first instance that the parties in the market should be free to sell and buy at any price at which they can find a partner to the transaction, and that anybody should be free to produce, sell, and buy anything that may be produced or sold at all.⁶⁸

Freedom to determine price and freedom to start a school on formally equal terms are essential partners because customer willingness to buy depends on the availability of reasonable alternatives. Without the actual and potential rivalry that results from freedom to start a private school, schools could exploit the absence of alternatives by selling minimally effective schooling at a very high price. Indeed, that is the typical, current state of affairs in reform-minded countries. Barriers to entry keep low-quality, high-cost schools 'in business'.

Price changes signal which types of education services are most sought after, and provide the resources and incentive to increase production of those services. Without freedom to determine price, many potentially effective forms of specialisation become infeasible or unattractive to educators. Some versions of schooling cost more than others; and some cost a lot to develop and launch. Later, experience and competition will bring costs down, but without the freedom to charge a relatively high price in the early stages of an innovation, many new ideas would never get onto the drawing board, much less into a classroom. Regardless of the actual production expenses, the ability to charge

⁶⁸ Hayek, Friedrich A (1994) *The Road to Serfdom*, The University of Chicago Press, Chicago, p 42.

an above-average price for schooling innovations is also an important incentive to invest in the research and development necessary to expand them. In addition, the initially higher price also accelerates the imitation, refinement and diffusion of popular innovations.

Unfortunately, price control is the school choice policy norm. Typically, price control results from laws that require school operators to accept the government funds as full payment. In other words, the law prohibits privately funded add-on tuition, or fee co-payments (henceforth termed 'add-on bans').⁶⁹ Price control has a forty-century track record of costly failure,⁷⁰ so add-on bans are probably devastating. I use the word 'probably' because we cannot observe what would have happened without the ban. However, we can be sure that add-on bans directly narrow the school choice menu to practices that cost less than the government funds. Add-on bans indirectly stifle competition and innovation, and, by discouraging private spending, they reduce total spending on formal schooling. However, because we cannot see what would have happened in the absence of price control, avoiding devastating price control effects necessarily depends on the ability to craft compelling examples from theoretical arguments, and skilful comparisons with the rare cases where market forces set tuition levels.

To see how an add-on ban shrinks the school choice menu, consider this example. Suppose \$6,000 per year in taxpayer dollars (or higher amounts for upper grades or children with special needs) follows each child to the school of their choice – whether public or private, for-profit or non-profit – and schools must accept the \$6,000 as full payment to collect the government funds. That limits the school choices to whatever the government and the private sector can sell for \$6,000 per year, and to what private schools can sell for a lot more than \$6,000 per year to the few, mostly wealthy families willing to forego the \$6,000 in taxpayer funds. Why would there be just \$6,000 per year school choices, or school choices that cost a lot more than \$6,000? Because with an add-on ban, schooling services that cost slightly over \$6,000 per child per year, say, \$6,500 would cost families thousands more than schooling services that cost

⁶⁹ Fee co-payments and topping up are synonymous with add-ons. All refer to parents making up the difference between a student's taxpayer-funded support and the higher cost of tuition at the school of choice. For example, suppose the government provides a \$5,000 per child voucher. A family that prefers a school that charges tuition of \$7,000 per child pays the tuition with the voucher and \$2,000 of its own money.

⁷⁰ Shuettinger, Robert L and Eamonn F Butler (1979) *Forty Centuries of Wage and Price Controls*, Caroline House Publishers, Thornwood, New York.

\$6,000 to produce. Government funds would pay for \$6,000 worth of schooling at no out-of-pocket cost to them. Not many families would spend \$6,500 of their funds to purchase an extra \$500 worth of schooling. Most families would settle for the 'free' \$6,000 worth of schooling, or supplement it with an investment in informal services like tutoring. The latter is happening in New Zealand, with the entry of tutoring firms such as Kip McGrath and Kumon.

Some families that were able to buy premium education would forego a prepaid \$6,000 schooling option, and pay tuition strictly out of pocket. But very few have so much money that they will readily spend many thousands per child in extra annual tuition costs. For example, in the United States, a household adjusted gross income of US\$92,754 in 2001 was enough to reach the top 10 percent of income earners.⁷¹ An income of US\$127,904 was enough for a top 5 percent ranking, while US\$56,085 was enough to reach the top 25 percent. In 1998, a household income of US\$71,786 would have put you in the top 20 percent of federal income tax returns; statistically rich according to the non-partisan US Tax Foundation.⁷² Married couples filed 85 percent of those returns greater than US\$71,786.

Clearly then, 100 percent out-of-pocket tuition for just one child would consume a significant piece of the disposable income of almost every household. For example, suppose a top 20 percent household had \$US50,000 left over after taxes. A typical average private school tuition for two school-age children would consume over 10 percent of that. For two children, something close to the existing per student spending levels of US public schools (say US\$8,000 per child) would consume around 30 percent of a US\$50,000 per year disposable income. It is about 20 percent of the disposable income of households barely in the top 5 percent. Not many 'rich' families would make that kind of a sacrifice for just a few additional dollars worth of schooling. Lower-income households are even less likely to do so. New Zealand data yield identical conclusions. The current \$6,300 per student per year expenditure level (equivalent to US\$4,000)⁷³ is more than 10 percent of the disposable income of all but New Zealand's top 10 percent

⁷¹ See www.taxfoundation.org (last accessed 4 April 2005).

⁷² See www.taxfoundation.org/ff/richmarried.html (last accessed 4 April 2005). The 2001 data did not include a top 20 percent figure, the top quintile, which is typically the category denoted 'rich'.

⁷³ The US figure is total expenditure per pupil in average daily attendance in 2002–2003 (National Center for Education Statistics). The 2003/04 New Zealand figure includes capital spending. Neither includes spending on central administration.

of income earners. Because only a tiny share of any nation's population lives the lifestyle that most people associate with the term 'rich', tuition levels above the taxpayer-funded, prepaid amount would be quite rare.

The political demand for add-on bans, and the absence of loud protest, may be due to economic illiteracy given that most people do not understand the crucial role of price change in managing scarcity and motivating innovation. But class envy could be an even larger factor. The typical rationale for add-on bans is that well-off families will use them to invest in their children further, gain some sort of new advantage, and perhaps even harm less advantaged children. That class envy is virtually groundless and corrosively counter-productive. It rests on heroic or controversial assumptions, and there are not enough truly 'rich' people to justify such views.

Talk of subsidising the choices of the wealthy ignores the fact that the same kind of 'subsidisation' exists already in current systems through the choice of a 'free' government-operated school by deciding where to live. Such talk also assumes that the government funds were taken from someone else, or belong to someone else once taken from them. There are no tax systems in which the wealthy pay less than a per capita share of government funds. They usually pay much more. This is certainly the case in New Zealand where, in 2004/05, the top 2.58 percent of taxpayers paid 24.07 percent of personal income tax, 9.33 times more in tax than their population share.⁷⁴ So the payments of the relatively wealthy invariably subsidise the poor. Returning a per capita, or per student, share of the government funds collected for schooling to the middle and upper income households that were the major source of those funds just amounts to mandating their average minimum schooling purchase and a loan against future taxes to pay for it.⁷⁵ Upper income taxpayers are indirectly spending a portion of their own taxed earnings. Some drawbacks notwithstanding, forcing a minimum level of education spending has the major advantage of giving everyone a stake in the school choice programme and resulting system. As noted previously, that is important because otherwise school choice programmes are just income redistribution programmes, and programmes for the poor are invariably poor programmes.

⁷⁴ Davidson, Sinclair (2005) *Personal Income Tax in New Zealand: Who Pays, and Is Progressive Taxation Justified*, New Zealand Business Roundtable, Wellington, p 6.

⁷⁵ 'Average' minimum because to avoid price floors, as well as ceilings, families should be given credits to spend on future education services whenever current schooling costs less than the annual per child public funding available for the current year. See below for the price floor discussion.

For that reason alone, it is very much in the interest of lower income families that all benefit from the tax dollars collected for the schooling of children.

The allowance of add-ons will definitely prompt some high SES families to buy their children even better schooling, but that does not mean worse schooling for the children of lower income families. The prevention of schooling upgrades for high SES children would not help the economically disadvantaged. Indeed, there are many reasons to believe the opposite. Typically, spending by the relatively wealthy yields innovations that ultimately benefit everyone. Additional schooling for the children of wealthy families is the most socially beneficial way for such families to spend their earnings. Investments in human capital anywhere eventually make the economy more productive and improve the political system. That benefits everyone. There is not a finite amount of opportunity to be seized by some and thus lost by others.

If the gap between high and low SES children is focused on, it may diminish the gains of the less advantaged. If the gap is reduced by holding back the well-off it will not benefit anyone. Indeed, it will lower the gains of the low SES children, perhaps substantially. If everyone is allowed to gain from parental choice it will likely narrow the gap between the most and least advantaged. After all, there is much more room for improvement in the current education system's services to the poorest families than in the schooling received by the richest families. But even if new choices for everyone were more likely to widen the gap, that is less important than maximising the absolute gains. It is like the free trade argument. Possible uneven sharing of the gains from trade is not a reason to forego those gains. The key comparison is not to what extent parental choice programmes yield better schooling for high SES families than for low SES families (in the unlikely event that actually happens), but whether each set of families, especially low SES families, enjoy better schooling than they otherwise would.

Some may argue that add-ons will hurt low SES children by allowing the wealthy to hoard the best educators. Again, that argument rests on several dubious assumptions. Certainly, the truly wealthy always have the means to buy the best of everything. It is a result synonymous with higher earnings. Attempts to prevent that will be futile and, for the reasons cited above (reduced specialisation, competition and innovation), costly to everyone. However, note that 'best' does not mean systematically and significantly better than everyone else. Most places do not have enough truly rich people to support a separate, premium set of specialised schools just for their children. Therefore, most high SES children will attend the same specialised schools as their low SES peers.

Again, the opportunity to specialise is the key. The typical parent interested in a school with a particular teaching style or subject matter would not have premium, middle grade, and regular versions to choose from very often.

The existing, relatively uniform school choices most people (including analysts) know of cloud thinking about the effects of parental choice and competition. In the relatively uniform systems present in most places – certainly the ones discussed by this report – shopping for schooling (typically by deciding where to live) is a lot like buying petrol. You buy the premium, middle, or regular grade schooling option. Only the most sparsely populated places are unable to offer parents willing and able to relocate their home to another school attendance zone the multiple grades of the standard schooling services.

The allowance of add-ons avoids price ceilings, but not a price floor at the per child subsidy. If countries, like the United States, that already spend a huge amount per student (estimated at over US\$9,300 in 2001/02) were to fund all children on the same basis, market entry could push some tuition quotes below the existing per child expenditure level. Failure to allow the price to fall below the per child subsidy level could lead to costly over-investment in schooling and tempt some schools to offer disguised kickbacks. In addition, the availability of choiceworthy schooling for less than the per-child public funding level informs adjustment of the public funding level. To avoid price floor problems, schools must also have an incentive to consider offering schooling options with tuition below the subsidy level, and parents must be motivated to consider choosing such an option.

Discounts below the taxpayer-funded per child payment level in the form of credits (sometimes called Education Savings Accounts) for future schooling services, including higher education, would produce less fraudulent behaviour than cash payments. With this approach to ensuring downward price flexibility, families could make inter-temporal choices; less schooling now for more schooling later. Cash payments could tempt some families to seek phantom schools. The resulting scandals could foster much increased, debilitating regulation. Excess supply at the taxpayer-funded per child payment level might still tempt some schools to illegally offer cash or in-kind kickbacks, but high transaction costs would cause most families to prefer the credits for future schooling services, or a contemporary upgrade in schooling services.

Another way to avoid a price floor at the taxpayer-funded per child payment level is to set the government payment as the lesser of a certain share of the tuition or as a specific maximum payment. For example, the government could offer to pay \$5,000 per child, or 90 percent of the tuition, whichever is less.

Forcing parents to share in tuition expenses has many political and economic advantages and disadvantages. According to Andrew Coulson's wide-ranging study of past school systems, a key benefit of forcing parents to share in tuition expenses is increased parental involvement in their children's education.⁷⁶ He found that parental responsibility for at least a share of schooling costs was a common denominator of effective school systems. Among the disadvantages is the resulting new expense for most families. Lower income families would therefore suffer disproportionately. Because such families pay few taxes, they would see little, if any, benefit from lower school taxes. That might not outweigh the benefits of increased parental involvement, but it might be a moot point. The political implications could prevent enactment of the programme.

Comparing the add-on/credit approach with market-based prices described above, shows that if parents are forced to share in tuition expenses it reduces the incentive of schools to lower tuition, and increases the incentive to raise tuition to the point where the taxpayer share is the maximum payment. In other words, it may be a good idea to force parents to share expenses because of their increased involvement in the school system, but it will do little to keep taxpayer funds from creating a price floor. For example, suppose the government's tuition sharing policy is to pay \$5,000 per child, or 90 percent of the tuition, whichever is less and suppose also that a school charges tuition of \$5,000. The government would pay \$4,500 (90 percent), and parents would pay \$500. By lowering the tuition to \$4,500 it would only reduce what parents pay to \$450. It saves parents only \$50. Below \$5,556 (\$5,000 is 90 percent of \$5,556) the school must forego \$10 to achieve a dollar's worth of increased price competitiveness from parents' perspective. Therefore, such a policy would create a virtual price floor at \$5,556. The price floor is irrelevant if it is well below the tuition and fees of even the least expensive schools, but then the affordability issue is a larger factor.

HELPFUL ELEMENTS

The previous section highlighted a number of elements that are essential to system transformation. In addition, a number of elements – though not crucial – would be helpful in achieving a transformation of the education system.

Among the non-essential, but helpful policy elements are initiatives aimed at lowering information costs. Market efficiency usually requires only

⁷⁶ Coulson (1999) above n 11.

a relatively few informed, mobile buyers; the small difference between profit and loss forces enterprises to cater to their most discerning customers. But even with private information, sources like accreditation/certification organisations, *Consumer Reports*-like publications and chatty neighbours, descriptive and basic research data, especially the types of data for which there is no immediate market, could still be quite helpful. Promises to provide such data could also have great political significance.

While permission to meet tuition costs with a combination of government and private funds (allow add-ons) is crucial, it would be helpful if the per child subsidy were high enough so that competition would prompt some schools to accept the government funds as full payment. In jurisdictions that constitutionally require access to a 'free' education, availability of schools that do not demand an add-on might be necessary for a school choice programme to survive lawsuits from choice opponents. However, even without such legal issues, a high per child minimum would be quite helpful in addressing equity concerns, and easing the system transformation process. In the United States, existing funding levels – as noted, an average annual payment close to US\$10,000 per child – would eliminate income as a barrier for all but a handful of existing schools. The philanthropic dollars that already fund scholarships and tuition vouchers could support many more children if only add-ons had to be privately funded. That would give low-income families considerable access to the few schools that would charge more than the government payment amount.

5

KEY FEATURES OF SEVEN PROMINENT CHOICE PROGRAMMES

In recent years, there has been considerable attention given to parental choice programmes in Chile, Cleveland, Edgewood (San Antonio, Texas), Florida, Milwaukee, New Zealand and Sweden. This chapter discusses each of these in terms of the key elements described in chapter 4. The synopsis at the end of this chapter contains an overview table of key elements.

CHILE

Chile has had a universal voucher system for nearly 25 years. Voucher funding means that a certain amount of government money follows a particular child to the public (municipal) or privately owned school selected by the child's parents. However, tight central control survived the implementation of the voucher programme. The details below demonstrate that the Chilean policy lacks most of the key elements of a primary and secondary schooling transformation catalyst.

The net effect of choice within a system defined in considerable detail by the Chilean Ministry of Education is that the Chilean private schools eligible for government funds do what the Ministry demands of all schools a bit more efficiently than the government-owned, municipal schools. The municipal schools generally produce slightly lower test scores and operate with more money per child than the voucher-funded private schools. Because funding practices favour municipal schools, new schools are not on formally equal terms with them. Examples of preferential funding for municipal school students include:

- During the mid-1980s economic crisis the Ministry paid a portion of municipal deficits.⁷⁷

⁷⁷ Matte, Patricia and Antonio Sancho (1991) 'Primary and Secondary School Education', in *Private Solutions to Social Problems*, Cristián Larroulet (ed), Instituto Libertad y Desarrollo, Santiago, p 8.

- Poor students receive higher subsidies if they go to municipal schools and municipal schools receive an extra budget (above voucher funds) from the municipalities and the Ministry.⁷⁸
- The Ministry provides physical infrastructure to municipal schools, while (subsidised) private ones must finance all the investments by themselves.⁷⁹
- Municipal schools work under a system of 'soft' budget constraints, and are not influenced by the competition from private voucher schools. Municipalities with important competition from private voucher schools may actually want their students to leave, because they can preserve their jobs (no municipal schools have closed), while enjoying smaller class sizes.⁸⁰

The Ministry allows add-ons at some schools, but they are capped and progressively taxed. In other words, a school that charges, say, \$100 more than the Ministry payment keeps less than the extra \$100. The Ministry takes a bigger share of a \$200 add-on. Because the Ministry specifies approved education practices and facilities in considerable detail, opportunities to specialise are minimal.

Beyond the documentation of Ministry activity cited below, the proof that the Ministry's micro-management practices and add-on restrictions are severe is the persistence of a significant unsubsidised private school sector. If the subsidised private schools were free to produce whatever the customers of unsubsidised schools prefer to the present alternatives, a subsidised private school could offer, for a much lower price, the same services now available only at unsubsidised private schools. Unsubsidised schools would become uncompetitive and disappear. But they have not disappeared. For nearly 10 percent of the population, the difference between what an unsubsidised school can produce and what a subsidised private school can produce is worth much more than the difference in the cost of producing it. For example, suppose the per child government payment is \$2,000, and that the private school can earn a maximum additional \$600 by charging a taxed \$1,000 add-on. Then suppose an unsubsidised private school charges \$5,000. A family will pay the \$5,000 only if the extra \$2,400 ($\$5,000 - [\$2,000 + \$600]$) worth of schooling

⁷⁸ Sapelli, Claudio and Bernardita Vial (2002) 'Evaluating the Chilean Education Voucher System', *Cuadernos de Economía*, 39, No 118, December, pp 423–454.

⁷⁹ Washington DC Nucleus (1996) 'School Vouchers: An Alternative for Venezuela', *Electronic Bilingual Review*, 10, December.

⁸⁰ Sapelli and Vial (2002) above n 78.

services is worth at least the extra \$4,000 (\$5,000–\$1,000) out-of-pocket cost of the unsubsidised school.

Chile's entry barriers are formidable. The informal barrier that results from better municipal school funding is a minor factor compared with the effect of Chile's detailed regulations. They severely limit the market niches that free enterprise can serve, and the Ministry of Education directly regulates entry. According to Decree Law 3476, regional offices of the Ministry had to certify that there was not an excess of educational services before a private school could be formed.⁸¹ Education services are seen as a homogenous commodity, not a mix of specialised services with excess demand in some areas and excess supply in others. Such a decree means that improved service or a new market niche does not justify permission to form a new school.

In addition, a school must first be recognised as a 'collaborator in the educational function of the state', which means it must adhere to the Ministry's curricula or propose its own, which few schools have the capacity to do. This recognition requirement means that the Ministry decides if the staff, teaching materials, and building are adequate and Ministry inspections determine, among other things, conformity with ministerial norms. The scope of inspections is reported to have expanded steadily, especially for private schools. Inspections and central government rules are said to have raised the costs of innovation for both municipal and private schools. Few are experimenting. All schools must adhere to given curricula, organise themselves in normal cycles, and operate in a traditional building. Central, standardised testing reinforces those mandates. There is detailed central regulation of school administration.⁸²

The Ministry controls teacher preparation. According to Sapelli and Vial (2002), teachers in all schools share similar backgrounds and pedagogical orientations. A Teachers Statute imposes centralised negotiation of wages, leaving schools with little control over their wage budget.⁸³ Gauri (1998) concludes that the "neoliberal reforms promoting private education have not led to educational diversity, innovation, and experimentation in Chile, but have in fact brought more state control to private education, arguably even increasing homogeneity in an already uniform system".⁸⁴ Indeed, better schools have waiting lists, and allegedly screen students according to parent background.

⁸¹ Matte and Sancho (1991) above n 77, p 8.

⁸² Gauri (1998) above n 1, pp 26–28.

⁸³ Sapelli and Vial (2002) above n 78.

⁸⁴ Gauri (1998) above n 1, p 28.

Because the Ministry and municipalities hinder or bar so many of the changes competition might lead to, Chile's version of parental choice has not been a reform catalyst and has little utility as a market accountability experiment.

Those compelling issues, especially the Ministry's micro-management of Chilean schools, are largely unknown or have been ignored in examinations of Chile's voucher system. For example, Hsieh and Urquiola (2003) have characterised the Chilean system as "an unrestricted school choice program" – a statement that appears startling given the gulf between that description and the reality of a highly restrictive Chilean school funding system, which included price controls (the period during which the Chilean system was supposedly 'unrestricted' was before the Ministry's decision to allow some schools to request limited, taxed add-ons – limited price decontrol).⁸⁵

Much of the evidence of the Ministry's heavy-handedness is documented in Gauri (1998) and is too important to ignore, yet is not addressed in the few studies of the Chilean system that have been undertaken. It is clear from the earlier discussion that the evolution of Chile's education system is consistent with relative uniformity, tight central regulation and favoured treatment of municipal schools. There is no basis for attaching terms like 'unrestricted' to Chile's system, but there is still much to be learned from it. The lessons from Chile are not just lessons for Chile. Additional evidence on the nature, extent and effects of the Ministry of Education's rules would be quite helpful.

CLEVELAND (OHIO), FLORIDA AND MILWAUKEE (WISCONSIN)

In terms of the key elements, the substantive differences between the three US examples of publicly funded vouchers are not significant. With the exception of Florida's McKay Scholarship Program, which provides vouchers for special needs children, a small subset of low-income families gets a voucher worth much less than the per pupil expenditure in the public school system. Except for the McKay Scholarship Program, add-ons are prohibited, or capped at a very small amount.

The Milwaukee voucher (US\$5,882 in 2003/04) is worth slightly more than half the public school per pupil expenditure. Children from low-income families – up to 15 percent of Milwaukee public school enrolments – can request

⁸⁵ Hsieh, Chang-Tai and Miguel Urquiola (2003) *When schools compete, how do they compete? An assessment of Chile's nationwide school voucher program*, Working Paper, University of California, Berkeley, p 26.

vouchers. The 2003/04 school year saw the funding of 13,268 vouchers. Although modest private sector growth continues, enrolment in private schools has fallen short of voucher availability despite a waiting list for private school space.⁸⁶ Because of private school waiting lists, improvements in public or private schools do not impact on enrolments or funding. Waiting lists mean that improvements anywhere only change the number hoping to leave public schools, and the number aiming for a private school. That sharply attenuates rivalry pressures between the private and public school sectors. Nevertheless, several prominent studies imply that the presence of robust competition in Milwaukee and other places means that some families gain additional choices, and allege that competition amounts to a market education experiment.⁸⁷

Despite the new opportunities created for some low-income Milwaukee families, the economic fundamentals are little changed. The basic economic model that applies to the Milwaukee situation now is the same as before the voucher programme. There is still a very dominant 'firm' – the Milwaukee public schools – and a 'competitive' fringe. That familiar economic model is about market power, not competition. Real competition is much more than the muted rivalry that exists between a dominant producer and a handicapped competitive fringe of much smaller producers. Because public schools do not have to charge tuition and private schools have waiting lists, market share is even less contestable than in the typical dominant firm–competitive fringe situation.

Florida actually has three voucher programmes. One is a tax credit for donating money to a private fund that provides vouchers to children from low-income families. The second programme gives students publicly funded vouchers worth about half the public school per child expenditure if the state gives the child's assigned school a grade of 'F' two years out of four; an incredibly demanding standard of failure for an escape hatch that can only lead eligible escapees to really cheap private schools. In November 2003, Florida school children used 1,100 state-funded vouchers worth between US\$3,500 and US\$3,900.⁸⁸

⁸⁶ DeGrow, Marya (2003) 'Milwaukee Voucher Program Continues to Expand', *School Reform News*, May, p 6.

⁸⁷ See Hoxby, Caroline M (2001) 'Rising Tide', *Education Next*, Winter, www.educationnext.org (last accessed 4 April 2005) and Witte, John (2000) *The Market Approach to Education: An Analysis of America's First Voucher Program*, Princeton University Press, Princeton.

⁸⁸ Coulson (2004) above n 53, p 19.

The third, the McKay Scholarship Program is, because of the decision to remove the add-on ban, the most noteworthy element of Florida's voucher policy. The programme began with the typical price control element; private schools that received voucher money had to accept it as full payment. Few schools participated. At the end of the first year, the legislature acknowledged that the McKay Scholarship Program's target clientele was too diverse for the government to specify the cost of services, and it eliminated the add-on ban.

Participation in this programme exploded even though many schools did not require an add-on, and most add-ons were quite modest. Between September 2001 and February 2003, the number of participating private schools increased from 120 to 600.⁸⁹ Student enrolment reached 12,000 in September 2003, more than double the first year (2001/02) enrolment of 5,019.⁹⁰

Cleveland's voucher is worth much less than half of the per pupil expenditure in the Cleveland public school system – in 2003/04, a maximum of 90 percent of tuition or US\$3,000, whichever is less.⁹¹ The allowed tuition payments are too small to prompt much private sector expansion. In Cleveland, the availability of the vouchers just increased the demand for mostly church-subsidised schooling. Many churches chose to extend their subsidies to a larger number of children (5,147 vouchers cashed in 2002/03), but ultimately found themselves unable to continue the additional subsidies.⁹²

Clearly, none of the publicly funded US programmes include the key elements required for parental choice to represent a reform catalyst. Public school improvements are evident in Milwaukee⁹³ and Florida,⁹⁴ but they are quite modest in scope and size. It would take 10 to 20 years of such gains for the students in the Milwaukee public school system to reach the better, but still low, achievement levels of nearby suburban public schools.⁹⁵ Nearly 10 years into the Milwaukee voucher programme, the public school system was still so

⁸⁹ Personal communication from Bill Greiner, Florida Department of Education, 6 February 2003.

⁹⁰ Coulson (2004) above n 53, p 20.

⁹¹ Coulson (2004) above n 53, p 17

⁹² Zehr, Mary Ann (2003) 'Cleveland Voucher Aid No Panacea for Hard-Pressed Catholic Schools', *Education Week*, 18 June, p 9.

⁹³ Hoxby, (2001) above n 87 and Howell, William G and Paul E Peterson (2002) *The Education Gap: Vouchers and Urban Schools*, Brookings Institution, Washington DC.

⁹⁴ Murray, Alan (2003) 'Florida's Experience May Aid Argument for School Vouchers', *Wall Street Journal*, 4 November.

⁹⁵ Hoxby (2001) above n 87.

bad that it barely avoided a threatened state takeover in June 2000. Potential participation in the programmes is far from universal, and with the exception of Florida's McKay Scholarship Program, price control is stringent and ubiquitous. Only the still tiny private sectors of Cleveland, Florida, and Milwaukee can pursue specialisation, but price control, low funding levels, waiting lists and participation caps reduce both the incentive and ability to do so. Except for some periodic discussion of additional restrictions and the possibility of a higher participation cap in Milwaukee, the programmes appear fairly static.

Celebration of these programmes should not extend much beyond their lucky participants. As one should expect from school choices made by proactive parents, their children benefited. Given the importance mistakenly attached to comparisons of politically straitjacketed public schools and financially crippled private schools, that is quite fortunate.⁹⁶ The nature of the comparison is another powerful demonstration of the US system's transformation imperative.

Conclusions drawn from the studies of these programmes should not go beyond the utility of parental choice as a limited escape route to elsewhere in the existing system, and what some publicity and modest rivalry pressures can move the public school system to do. The modest improvements in Milwaukee and Florida did not include significant specialisation. The jury is still out on the potential of those programmes to evolve gradually into reform catalysts or to prompt wider discussion of parental choice as a reform catalyst, but the existing evidence should not bolster optimism about incremental strategies.

EDGEWOOD (SAN ANTONIO, TEXAS)

The Edgewood voucher is a privately funded, universal voucher programme for low-income residents of the Edgewood school district, one of 15 school districts in the San Antonio, Texas metropolitan area. Because 96 percent of the district's residents meet the low-income definition, 'universal' only negligibly contradicts 'low income'.⁹⁷ The voucher sponsors allow add-ons, but the low-income eligibility criterion limits the voucher users' willingness to pay them.

⁹⁶ See Merrifield (2001) above n 10, chap 3, and Howell and Peterson (2002) above n 93.

⁹⁷ Merrifield, John (2004) 'The Edgewood Voucher Program: Some Preliminary Findings', *Cato Journal*, Vol 23, No 3, Winter, pp 447-462.

The Edgewood district spent \$6,729 per public school user in 2001/02.⁹⁸ The largest voucher was \$4,700. Midway through the 10-year commitment of the Children's Educational Opportunity Foundation, there were 1,935 voucher users. With Edgewood public school enrolment at 13,435 students,⁹⁹ the Year Five (2002/03) 14.4 percent growth over 2001/02¹⁰⁰ still leaves room for considerable improvement. Language barriers, the novelty of parental choice, the district's public relations offensive, and the meagre alternatives offered by the small private sector have limited interest in the voucher option. With many of those problems now resolved or diminished, programme participation could still rise significantly. However, uncertainty, created by the approach of the 2008 end of the programme donors' 10-year funding commitment, will reduce interest.

Uncertainty about longevity is probably the Edgewood programme's primary shortcoming as a potential reform catalyst. The imminent 2008 expiration date probably discourages entrepreneur interest more than other lesser problems like the small, predominantly low-income market area, and the district's per child funding advantage. The effect of looming expiration on uncertainty is evident in the area's modest degree of private sector expansion, and the nature of most expansions. Because the programme's funding is not assured for long enough to pay for major new investments, most of the new private schools have formed in rented commercial space.

NEW ZEALAND

The Tomorrow's Schools reforms of 1989 implemented major decentralising measures called for by the 1987 Picot Taskforce. These, and subsequent reforms largely eliminated assignment by zone, and schools became more autonomous. But, again, the centre held. The government maintained control of over 96 percent of New Zealand's schools and the state kept, or quickly reasserted, control over many aspects of a school's operation.¹⁰¹ Parental choice of government-owned schools suffered growing restrictions including a partial re-imposition of assignment by zone. Independent schools remain rare, in part because their

⁹⁸ Texas Education Agency 'Snapshot' Reports.

⁹⁹ See <http://deleon.tea.state.tx.us/SDL/> (last accessed 4 April 2005).

¹⁰⁰ Personal communication with the Children's Educational Opportunity Foundation Horizon office, 11 February 2003.

¹⁰¹ Harrison (2004) above n 10, pp 4, 235.

students do not have access to the level of subsidies available to children attending state schools. It is estimated that independent schools receive per student subsidies equal to between 25 and 35 percent (and falling) of the subsidy received by government-owned schools.

Tax dollars collected to pay for schooling continued to fully support only the children who attend government-owned schools and privately owned, but government-controlled and subsidised, integrated private schools.

Even more so than the prominent studies of Chile's voucher programme, the major studies of the New Zealand public school choice programme offer examples of startling neglect of basic economic principles. Despite this, the New Zealand experience has often been held up as a legitimate test of markets in action. For example, former US Secretary of Labor, Robert Reich and others equated the New Zealand programme with a universal voucher plan. Others saw it as an example of unrestricted choice and a "foray into the realm of full parental choice and competition"; "market competition" with "self-governing schools functioning in a competitive environment".¹⁰²

The government-controlled segment (96.2 percent) of New Zealand's primary and secondary education system has no prices or profits, is highly regulated and provides only limited scope for market entry. As noted by Harrison (2004) and LaRocque (2004), the New Zealand government controls most aspects of school operation and all decisions regarding school entry and closure are centrally determined.

For example, the government:

- Provides a considerable proportion of funding for state and integrated schools.
- Specifies the make-up of a school governing body in legislation. While some variation is now allowed, this power has been used only sparingly and is subject to the control of the Minister of Education.
- Regulates the school curriculum, with the same curriculum structure imposed on all subjects, from physical education to physics.
- Does not allow state schools to charge fees (though they can seek voluntary donations), while the ability of state-integrated schools to charge fees is limited.
- Regulates student enrolment and expulsion decisions, as well as the length of the school day and year.

¹⁰² Fiske, Edward B and Helen F Ladd (2000) *When Schools Compete: A Cautionary Tale*, Brookings Institution Press, Washington DC, pp 205, 292 and 297.

- Approves schools' charters (and dictates a substantial portion of their content).
- Negotiates national collective contracts with teacher unions and pays teachers through a central payroll.
- Provides and allocates capital funding for state schools and manages major maintenance for state schools.
- Determines the number, location and capacity of schools for virtually every New Zealand child.
- Funds, provides and regulates teacher training.
- Controls school entry, exit, and expansion. Popular schools are often prevented from further expansion while other schools remain under-utilised.¹⁰³

Space shortages at popular schools force parents to patronise the unpopular ones that might otherwise be forced to close. Those shortages, and excessive capacity at some schools, prompted the partial re-imposition of school zoning by authorities. As noted previously, New Zealand's mixture of over-subscribed and under-utilised schools demonstrates that the school choices are only different grades of a relatively uniform schooling product. Central mandates imposed by the National Education Guidelines, and through the interpretation of the Education Review Office of these guidelines during school reviews, crowd out local goals, including meaningful levels of topical and pedagogical specialisation.

The rare closure of schools on the grounds they are unpopular and ineffective, and the fact that enrolment is only one determinant of a school's funding indicates that school choice provides less incentive than it could to improve schooling. Indeed, it may produce perverse incentives. School improvements yield crowding and larger classes. Because the government almost never closes schools because of their unpopularity, and salaries are centrally determined, neglecting the pursuit of efficiency and innovation only means classes with fewer students to teach, fewer papers to mark, and fewer parents to meet – something that is attractive to most teachers.

Despite their reputation as 'far reaching', the 1989 reforms did not establish any of the key elements of a reform catalyst. Clearly, the New Zealand reforms were anything but far reaching when examined in this light. As LaRocque (2005) has argued:

¹⁰³ Harrison (2004) above n 10, and LaRocque, Norman (2005) 'School Choice: Lessons from New Zealand', in Salisbury, David and James Tooley (eds) *What America Can Learn from School Choice in Other Countries*, Cato Institute, Washington DC, pp 122–126.

... the New Zealand reforms were – at best – only a partial reform. While New Zealand gave parents choice by removing zoning, it did little to create the conditions under which market competition could work. As a result, it provides few lessons on the desirability of choice, but many on how to do it better.¹⁰⁴

Absent the legislation calling for more substantial market accountability-based reforms, New Zealand will continue to see the kind of incremental change predicted by Thomas Jefferson, that is, less liberty and more government in the form of less parental choice and a more uniform menu of choices.

SWEDEN

Just over a decade ago, Sweden created a parental choice programme. The Swedish reform is slightly younger than New Zealand's, and about half the age of the Chilean reform. Much less has been written about the Swedish reform because the initial pieces of legislation merely established that approved independent schools would receive the same funding per child as the government-owned schools run by Sweden's municipalities. It took a while before a substantial number of new schools were approved, and longer still for effects to become evident. Private sector growth has been rapid (quadrupled since 1992), although private schools still amount to less than 5 percent of Sweden's schools,¹⁰⁵ and there have been no public school closures because of student losses.¹⁰⁶

Because rapid change is still underway, it is too early to characterise many effects of Sweden's version of parental choice. But the key programme features are readily apparent. Price control in the form of bans on tuition fee top-ups is nearly ubiquitous. However, upper secondary level (schools) have the right to charge modest fees, and the number of private schools is increasing, especially rapidly at the upper secondary level where the ability to specialise matters the most.¹⁰⁷

¹⁰⁴ LaRocque (2005) above n.

¹⁰⁵ Bergstrom, Fredrik and F Mikael Sandstrom (2002) *School Choice Works! The Case of Sweden*, Friedman Foundation, Indianapolis.

¹⁰⁶ Daun, Holger (2003) 'Market Forces and Decentralization in Sweden: Impetus for School Development or Threat to Comprehensiveness and Equity?', in Plank and Sykes, above n 1, pp 92–111.

¹⁰⁷ EG West Centre (2003) *Customer Choice Systems in Nacka, Sweden*, Newcastle, UK.

Bergstrom and Sandstrom discuss strict (pre-1990) national rules and regulations, and point out that all schools must still operate in accordance with the national curriculum, but do not say whether the current rules for private schools are as strict as the pre-1990 rules for public schools. The central rules must be less stifling than those in Chile and New Zealand because Bergstrom and Sandstrom report that method/subject specialisation dominates private sector growth. Additional solid indicators of a lighter Swedish regulatory presence are the improved working conditions in faster-paced independent schools where teachers noted with satisfaction that they had more control of their own work.¹⁰⁸

Holger Daun's (2003) discovery of the decreasing diversity of students within individual schools and increasing diversity between schools is consistent with the Bergstrom and Sandstrom finding that the great majority of independent schools are specialised and/or pedagogy-based.¹⁰⁹ Specialised schools will attract children with similar education preferences. Daun wondered whether specialisation might undermine the fundamental tenet of equal opportunity. A key part of the answer to that question depends on whether you define equal opportunity as learning the same things or as learning as much as possible. Shifting the definition from the former to the latter is a key reason to pursue system transformation.

Because some definition of 'school' must underlie government payments to private school operators, the fact that independent schools must be approved by the National Agency for Education and meet certain criteria in order to receive funding is only noteworthy because the criteria are stringent, and not entirely uniform. More stringent conditions on the approval of new schools amount to a potentially significant entry barrier.¹¹⁰

In the Swedish regions that have opted for the parental choice programme permitted by Swedish law, the potential effects seem more substantial than in the other countries discussed. Even so, there is still little basis for real optimism. Key reform catalyst elements are absent or hobbled, and most of Sweden has yet to see much market entry.

¹⁰⁸ Bergstrom and Sandstrom (2002) above n 105, pp 4–16.

¹⁰⁹ Daun (2003) above n 106, p 92 and Bergstrom and Sandstrom (2002) above n 105, p 8.

¹¹⁰ Bergstrom and Sandstrom (2002) above n 105, pp 1, 6.

Table 1: Key elements overview

	Freedom to specialise	Non-discrimination*	Low formal entry barriers**	Avoid price control	Little private school regulation
Chile	Virtually no	No	No	Some schools taxed	No
Milwaukee, Florida, Cleveland	Private only	No	Yes	No, except Florida Special needs	Yes
Edgewood, Texas	Private only	Close	Uncertainty issues	Yes	Yes
New Zealand	Some	No	No	No	No
Sweden	Limited	Yes	Modest	Some schools and capped	No

* Non-discrimination means that government payments do not depend on school ownership. Government funds support every child on the same basis.

** Discrimination against private school users can be, and often is, a formidable barrier – even in the absence of formal entry restrictions.

SYNOPSIS

Table 1 provides an overview of the key elements of the parental choice programmes discussed above. The regulation issues reflected in Table 1 refer to those schools that are part of the choice programme (includes only private schools if there is no public school choice). Because most of the key elements are absent or only partially present in all cases, those highly publicised parental choice programmes cannot serve as reform catalysts, should not be characterised as informative school choice experiments and should not be used as a basis for estimating how ‘real’ choice would work in practice.

The effects of the programmes listed in Table 1 support the Milton Friedman hypothesis that parental choice will not be a reform catalyst unless it is universal, or nearly so, and promises potentially significant consequences for everyone in the education system. Anything that permanently limits eligibility for parental choice or attenuates its effects prevents the programme from becoming a system transformation catalyst. Also, limiting programmes to a subgroup of students is a denial of the systemic scope of the schooling problems, or is a policy statement that there are more important reasons for school taxes and policies than the education of children.

The tendency to state the core problem in terms of the worst schools or the inequity in the distribution of resources has marginalised parental choice as a policy tool. Both perspectives imply that the better schools are an appropriate standard and that the key elements of the current system are not the problem. The policy issues became the reform of isolated, individual schools, not system transformation. The implementation challenges were seen as adjustment of individual schools' personnel and funding. From that perspective, many policy activists saw parental choice only as an obligatory escape hatch; something appropriate so that students of a low-performing school would have access to another part of the existing system. Some activists noted that escapes gave problem schools a needed extra jolt of unfavourable publicity and 'competition'.¹¹¹ However, because the aim was to resuscitate problem schools, rather than maximise the academic progress of children, school choice only offered escape hatches on terms favourable to the problem schools the escapees left behind. Such an approach stifles entry and rules out exit.

Undoubtedly, a combination of factors led policy designers to lose sight of the fact that the core problem was a low-performing and inefficient school system. Economic illiteracy, faith in incrementalism, imagined or exaggerated trade-offs, and paranoia that already well-off people might also benefit from reform combined to prevent school choice from becoming a reform catalyst. Studies of escape hatch versions of choice mistakenly labelled as 'experiments' have yielded lacklustre data that are widely treated as general evidence. The studies have generally shown that the escapees and the children who remain in their assigned schools benefited from the escape hatch programmes, but the modest gains convinced many policymakers that they could or should (depending upon political position) seek reform by other means.

It may be politically attractive to start out with a limited programme, but proponents of such an approach need to realise that limited programmes are difficult to expand. Initial restrictions are typically quite resistant to change. Indeed, the US Center for Education Reform noted that, "it's often harder to improve a law than to do it right the first time".¹¹²

¹¹¹ Murray (2003) above n 94.

¹¹² Center for Education Reform (2003) *Charter School Laws Across the States: Ranking Scorecard and Legislative Profiles*, CER Report, 14 January, www.edreform.com (last accessed 4 April 2005).

6

THE MINIMUM STARTING POINT

Activists who believe that a parental choice programme is the key to the required system transformation must determine the minimum starting point for a programme that is eventually likely to yield the main elements of a reform catalyst, that is, little regulation, noteworthy specialisation, entry on formally equal terms with existing schools and no price control. The relatively static critical features of the existing choice programmes, especially narrow targeting, participation caps, add-on bans and detailed regulation, belie confidence in incremental development of a parental choice reform catalyst.

Perhaps modest, escape hatch style programmes, and public school choice, are necessary precursors to programmes with far fewer restrictions? Modest programmes may inform those people who are not in the loop, deflate the anxieties of a political swing group, whet some appetites and clear the legal underbrush enough to improve the feasibility of larger, unrestricted parental choice programmes. Unfortunately, there are reasons to believe that just the opposite is true, that is, modest programmes can work to typecast parental choice as an escape hatch, and lacklustre results of modest programmes can decrease the political feasibility of large, unrestricted programmes. Those are issues that serious reform advocates can ill afford to leave unresolved.

Choice advocates need to identify and implement the minimum amount of increased participation and levelling of the financial playing field that will create the momentum that will push the system the rest of the way to the key elements of a reform catalyst. The minimum starting point may be well short of eliminating government-run schools funded directly by school board and legislative appropriations, but it seems to be well beyond the choice programmes now in place.

There is a good theoretical case for, and evidence to support, allowing parental choice alone to allocate public funding to particular schools. Such a proposal would temporarily set aside controversial issues like the funding level, revenue sources, regulation, whether the government should own and run schools and compulsory education. It would also limit the intellectual argument to political accountability versus market accountability.

If the allocation of government funds targeted at primary and secondary education is shifted from politicians and their appointees to parents, this could create a dynamic whereby the total separation of school and state would eventually follow. Because there is always plenty of political competition for public funds, add-ons could become a growing share of tuition spending. Charity funding of add-ons for the poor could make it politically feasible for the authorities to allow the government share of school funding to shrink at least in relative terms, and perhaps in absolute terms. The add-on share of tuition could gradually rise to 100 percent, perhaps aided by regulation-minimising non-refundable-tuition tax credit programmes like the one described by Andrew Coulson.¹¹³ Separation of school and state could become a reality without ever having to call for a vote on it. Libertarians should note that it is probably the only politically feasible way to achieve complete separation. And, if complete separation does not happen that way – if tax credits and charities do not adequately support low SES children – then something short of complete separation (a Friedman-style voucher programme, for example) is probably a better idea. We already know from the high adult illiteracy rates and especially dismal performance of low SES children in the current system that we cannot afford a vast uneducated underclass. It endangers our political freedom and economic prosperity.

The minimum starting point should be a real experiment in market-driven primary and secondary schooling. Such an experiment would contain all of the key elements of a reform catalyst and could be introduced in a single city or regions. The remaining regions containing the current system would serve as the benchmark to gauge the effects of a market accountability-based reform catalyst. The problem with this potential starting point is the high time cost of such an experiment. It could take 20 years to establish that competition and for free enterprise to work in primary and secondary education just as it does in the rest of the economy. This would mean that potential improvements from reform would be lost or significantly delayed – especially for those children trapped in under-performing schools.

¹¹³ Andrew Coulson (2001) 'Toward Market Education: Are Vouchers or Tax Credits the Better Path?', *Cato Policy Analysis*, No 392, February, www.cato.org/pubs/pas/pa392.pdf (last accessed 4 April 2005).

7

SUMMARY AND CONCLUSION

Although much has been written about the modest parental choice programmes that are becoming commonplace around the globe, there is typically little widespread awareness of them. Indeed, the low level of awareness is perhaps the most compelling demonstration of the limited nature of the changes. The parental choice programmes have, in general, amounted to slightly increased mobility within a system of little-changed, largely uniform schooling alternatives.

Studies of the effects of those limited parental choice programmes have shed light on some important issues, and no doubt new research that is currently being conducted contains additional insights. Unfortunately, many of the analysts allege that the limited programmes are generally insightful experiments that can be used to judge the effectiveness of school choice as a reform catalyst. They are not. The potential evidence is as limited as the policy changes. The limited, restriction-laden parental choice programmes are not insightful experiments in market accountability-driven primary and secondary schooling. The programmes are too limited to gradually initiate the system transformation urgently needed by many countries. Because false, misleading, and irrelevant statements about the effects of limited parental choice programmes are quite common – perhaps the norm – we should be grateful that not many people are aware of them.

Reviews of existing choice initiatives demonstrate that escape hatch programmes are at least helpful in the short-run, and sometimes yield modest system-wide benefits.¹¹⁴ The participants benefit, it energises choice advocates with a genuine, major sense of accomplishment, modest rivalry pressures and media attention on low-performing schools prompt some improvements,

¹¹⁴ Belfield, Clive and Henry Levin (2001) *The Effects of Competition on Educational Outcomes: A Review of US Evidence*, Occasional Paper No 35, National Center for the Study of Privatization in Education, Columbia University, New York City, September, www.ncspe.org (last accessed 4 April 2005); Greene, Jay P (2000) *A Survey of Results from Voucher Experiments: Where We Are and What We Know*, Manhattan Institute for Policy Research, Civic Report 11, July, www.manhattan-institute.org/html/cr_11.htm (last accessed 4 April 2005) and Harrison (2004) above n 10.

and publicity generally increases the comfort level with a concept that might otherwise be seen as novel and suspect. Escape hatch applications of parental choice are harmful in the long run only if a perception that they are insightful experiments or reform catalysts aborts policy changes that would provide increased benefits to a large number of children.

Before the limited programmes and the numerous studies that are excessively exuberant or inappropriately alarmist become more widely known, the record must be corrected. A perception that we have considerable direct, positive, but unspectacular evidence of the effects of market accountability in primary and secondary education could spread. That would be catastrophic. Programmes that could actually harness and test market forces would probably become increasingly politically infeasible.

Choice advocates must decide how to accept escape hatch programmes without undermining the pursuit of deeper, market accountability-driven system transformation. The incrementalism philosophy of many choice advocates argues that escape hatch programmes are a stepping stone on the path to system transformation. The improbability of that is arguably one of the genuine lessons of the parental choice programmes of Chile, New Zealand, Sweden and the United States. Whether that is an accurate interpretation of the results of those programmes or the more general record of difficulty easing restrictions incrementally or not, there needs to be more research and discussion among choice advocates of the minimum starting point issue. Choice advocates have to determine how much needs to be accomplished in the initial parental choice legislation so that a diverse menu of competing, rapidly improving school choices will establish itself in an acceptably short timeframe.

One of the reasons that the starting point issue is so important is that many analysts will read the evidence presented here, especially the micro-management of private schools by the Chilean and New Zealand central governments, as further proof that regulatory control and derailing of school reform will follow government funding of children enrolled in private schools. They may be right. But an alternative explanation is that a reform is inadequate, perhaps even counter-productive, if it leaves the beneficiaries of the status quo in positions of power from which they can at least stifle competition and specialisation or use regulatory micro-management to extend government control to private schools.