

Submission to the Psychology Board of Australia (PBA) re the Consultation Paper “Options for the protection of the public posed by the inappropriate use of psychological testing”.

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I am quite disappointed in this Consultation paper in that it only puts forward arguments for increased regulation of psychological testing in Australia and that it does not consider that the existing system of publisher/distributor regulation is adequate.

In spite of this, however, this paper does not, in my opinion, make any real case for increased regulation. Many of the arguments in favour of increased regulation are weakened by false assumptions, the selective omission of information that does not support this opinion and through misleading and dishonest statements. The paper contains a request to stakeholders to provide hard evidence so the PBA can prosecute its case further, necessitated by its own lack of hard evidence. This paper contains no real evidence that the current practice of restrictions on the supply of psychological tests in Australia pose any risk to the public. I suspect that such hard evidence will be difficult to find.

It is disappointing to see the PBA making its mind up so quickly and so continuing the industrial campaign recently instigated by the Australian Psychological Society (APS). The APS campaign and this paper are both attempts to deliver psychologists an area of monopoly practice, not to protect the public. Monopolies generally disadvantage the public through higher prices caused by lack of competition. Such a campaign can be justified by the APS as they function as a union for psychologists, but it is difficult to justify in an organisation whose function is to protect the public.

Below are my detailed comments.

The opening sentence of Section 2, Background states “The development and application of tests of intelligence, personality, psychopathology, attitudes, and behaviour is an area of professional practice unique to psychology” (page 5).

This is patently false. Psychiatrists have long been involved in both the development and application of tests of personality and psychopathology for many years. One of the most widely used tests of psychopathology in the English speaking world, the Minnesota Multiphasic Personality Inventory (MMPI-2), first published in 1940, was jointly authored by Psychiatrist, J.C McKinley. Two widely used assessments for Autism, the Childhood Autism Rating Scale (CARS) and the Social Responsiveness Scale (SRS) have authors with medical rather than psychological qualifications. The gold standard for the assessment of Autism Spectrum disorders, the Autism Diagnostic Observation Schedule (ADOS) also has a medically qualified author as one of the three authors – the well known British psychiatrist and researcher, Michael Rutter. These are just the ones that spring readily to mind; there are many more.

Section 2 Regulating the use of psychological tests (page 6) does not give any timelines or reasons why government regulation regarding restrictions on the use of tests has been “progressively removed over time” (page 6), a glaring omission.

Later discussion of reviews under National Competition Policy assessments (4.1.3, page 23) and specifically of the South Australian legislation (Psychological Practices Act 1973) (page 24), admits that the legislative restrictions have never been put into effect. It is misleading to state that legislative restrictions have operated in Australia.

The use of the future tense in the statement “Thus, the restriction on access to tests imposed by publishers will become the only formal source of control over the use of psychological tests”. (page 7) is also false and misleading. Publisher restrictions, have been “the only source of control” for many years – at least since 1973 in South Australia. This is a poor attempt to try to create a sense of crisis. No crisis exists.

Similarly, the consultation paper fails to give a reason for the American Psychological Association (APA) ceasing to use the three tiered model of restrictions on the availability of tests developed with publishers in the 1950’s. One interpretation could be that the APA at least was prepared to trust the publishers, but this isn’t considered in the paper.

Section 2, Breakdown of self-regulation? (page 8). The question mark is appreciated as it at least allows for an alternate view. In spite of all the examples given, no hard evidence of the need for the public to be protected is produced. To examine these examples in more detail:

The Canadian Psychological Association (CPA)’s 1994 report showing inconsistencies between publishers in test restrictions (page 8) can be interpreted in a positive as well as negative way, although the way it is presented in the paper, the impression is negative – the publishers don’t know what they are doing and hence self regulation is not working. A positive way of looking at this situation is that publishers use ‘common sense’ to make decisions regarding who they supply with psychological tests.

Typically in North America, the tests with the highest restrictions (generally designated Level C) can only be sold to psychologists with Doctoral level qualifications. If these requirements were to be applied by Australian distributors, the vast majority of Psychologists would not be able to purchase most of the tests they use on a daily basis, greatly limiting their practice. Selling to Registered Psychologists in Australia often means supplying someone with a four year undergraduate degree in Psychology and two years supervised practice, only one component of which involves psychological assessment. Supplying such psychologists is certainly inconsistent with most North American practice, but it allows Australian psychologists to do their jobs. Thus the practice of Australian publishers and distributors is inconsistent with that practiced in North America, but the outcome is positive.

To label the availability of content of psychological tests to the wider public, especially through the internet, as a “possible breakdown of self regulation” is misleading. There are many ways that material from restricted tests can be made available to the wider public. For example, when a psychologist dies, relatives and executors often do not appreciate the nature of the materials they have to manage and it is not unheard of that restricted tests turn up on EBay. In many government departments and agencies, staff changes and organisational restructuring can result in restricted test material being available to non psychologists, such as nurses, teachers and even clerical assistants. Some government departments take a view that they have purchased the materials and they should be able to make a decision as to how they are used. I have had sections of the Trade Practices Act quoted to me by administrators when I have questioned such practices. Maintaining test restrictions is a complex issue and should not simply be seen as a breakdown in self regulation. It is misleading to suggest that it is all the fault of publishers and distributors. The paper makes no mention of legal efforts (in the US) by the (then) Psychological Corporation to stop the sale on EBay of some tests it published. The paper has difficulty realizing that the interests of publishers and psychologists are generally the same when it comes to psychological testing.

The Queensland Department of Education and Training (DET) example (page 9) is also a much more complex issue than the consultation paper makes out. The fact that DET employs both psychologists and non psychologists as guidance officers has been a point of industrial and professional conflict for many years. Complaints made to the Queensland registration board were not investigated, so they remain complaints, nothing more and suggesting that there may be some substance to these complaints is misleading. Some complaints might be the result of the professional tension widely experienced among Guidance Officers, but without investigation, no one knows. It is not evidence.

The discussion of the DET situation in Queensland also omits any information about the extent that DET has gone to ensure that guidance officers who are not psychologists receive appropriate training in testing. A central committee decides which tests can be used by guidance officers in Queensland government schools and the amount of training required before they can use any of these tests. Guidance officers are supervised by senior guidance officers, all of whom to my knowledge are psychologists.

Finally, to try to extrapolate the extent of testing by non psychologists from a table showing “the percentage of the population consulting health professionals for help with mental health problems” (page 10) is totally speculative and has no place in a consultation paper that has had some input from psychologists. Psychology is a science – speculation has no part to play. These speculations only add to my concern that the Board is pushing a certain line rather than seeking to establish if a problem exists or not and smacks of desperation. Psychologists treating patients under Medicare find testing quite difficult to undertake because of the time limits imposed by Medicare. Suggesting that most people consulting a psychologist will undergo a psychological tests is highly unlikely.

Section 3 Main areas of concern & harms likely to arise. The use of examples from the book by Eyde, Robertson & Krug, helpfully highlighted in boxes, depends on the assumption that even though these cases involve psychologists acting inappropriately, non psychologists would be much worse.

“That there is a significant incidence of problems with test use by fully qualified psychologists necessarily underlines the inappropriateness of the use of these tests by less qualified individuals”. (page 12).

This assumption is difficult to sustain. US research by Ysseldyke from the 1970's showed that engineers were as accurate as psychologists at reading psychological reports and making recommendations for special education placement. The suggestion is that psychological training per se makes little difference to how sensitive testing data is used and interpreted.

Case Study 8 (page 19) is of particular concern. First, the tests referred to were tests of achievement, not tests that would generally be seen as “psychological tests”, so it isn't relevant to the current discussion. Secondly, no mention is made of the consequences of this error. These include a number of court cases and the test publishing company has since been sold to another company, which has resulted in the loss of a number of jobs. The provisions of consumer protection legislation and commercial realities have worked in this circumstance. The public did not need any additional protection. The “societal costs’ (page 19) have been paid. However, the inclusion of this case study serves to further the idea that publishers cannot be trusted. This is propaganda.

Adding to this negative impression of publishers, is the discussion of options at 4 Possible policy responses (page 21), which develops an argument for government regulation/legislation.

Statements that government would be better “to undertake this role rather than relying on private sector (and sometimes commercial, profit making) entities to take a lead in ensuring the appropriate use of psychological tests” (page 22) illustrate this point nicely. In case someone missed it, “commercial” is spelt out as “profit making”. The subsequent statement “it leaves a major public protection issue within the private domain”, made me think I was reading some sort of socialist manifesto – public good, private bad. Firstly, there is no evidence that this is in fact a “major public protection issue” – this is just hyperbole. As for the socialist argument, it shows a naïve and simplistic view of how business actually works in modern Australia.

There are plenty of other examples of what I term “business bashing”.

“At first glance, the incentives operating on publishers would appear to be weighted in favour of profit maximisation through increased test sales. However, the historical record demonstrates that the publisher based offering a truce system appears to have been highly durable, if imperfect in its application. This suggests that publishers have, for whatever reason, recognised a compelling interest in maintaining the systems of restrictions, at least to some degree.” (page 35).

The author of these statements is reliving Marx’s class struggle – just consider the vocabulary - “truce” suggests war, capital (publishers) against labour (psychologists). The idea that publishers and psychologists have actually been working together on this matter for decades has not entered their mind. They are genuinely confused why current restrictions work – it’s almost magical (“for whatever reason”).

Selling as much of some product to as many people as possible may work for commodities but it doesn’t work for specialized, niche products like psychological tests. These tests are very expensive to develop and standardise and they also take some time for psychologists to learn how to use them. The last thing publishers want is for these products to be rendered obsolete by being widely available to the public or for them to be misused. Some years ago, the items for a group pencil and paper IQ test for school students was leaked to the press by a group opposed to IQ testing of students, particularly those from non English speaking backgrounds. This group included an academic from the University of Wollongong (not a psychologist). The publication of these items (along with the answers) resulted in that test being unusable, resulting in a loss of revenue for the publishers. This political action was taken against NSW Education Department policies of course, but there was no compensation for the publisher or test authors. Collateral damage perhaps.

There is a long standing partnership between Universities and more recently, Psychologists’ Registration Boards in Australia and publishers of psychological tests. All University clinical psychology programs teach test administration and use as part of their courses. Registration Boards mandate this as an essential competency. In other words, public money is being used to teach psychologists to use a commercial product. This is not a common occurrence. Some publishers have recently acknowledged this through the supply of free (eg Woodcock Johnson) or heavily discounted tests.

This is not the case in the UK. Universities there do not specifically teach psychological testing. This is why the BPS has developed its own system of licensing trainers to provide specific training in psychological testing. This system is not needed in Australia. The discussion of the British system does not mention this.

Of course, running BPS courses is quite an industry, but the costs are borne by the psychologists themselves, not the public purse.

The paper mentions that currently the legal system acts to deter misuse of psychological test. Most professional codes of ethics have standards relating to not working outside one's sphere of expertise. It is not so easy for some professional groups to prove they have expertise in psychological testing. Expert evidence from someone without such expertise would be quickly dismissed. Even in government departments where testing materials purchased for psychologists is used by non psychologists, this ethical principle still applies and provides a strong argument for the limitation of testing materials to only those with the background knowledge and expertise in their use. Given this, the need for additional restrictions is hard to justify.

I am always concerned about possible misuses of psychological testing and come across quite a few examples in my day to day business, but all the examples I have are all from practicing psychologists, not non psychologists. I work hard to try to improve testing practice among Australian psychologists, including running training courses, having authors visit from overseas and providing personal advice. I believe the current system of publisher imposed restrictions on the sale of psychological testing is working, so no further restrictions on sales is needed. As for restrictions on the use of psychological testing I believe that there is no evidence that the public needs protection from non psychologists using psychological tests. Current restraints such as in current consumer law, court practices as well as professional ethical principles are working.

The paper mentions direct contact with stakeholders to further discussion. I would like to suggest that perhaps direct consultation with a number of local test publishers and distributors would be worthwhile. There is no Australian test publishers Association as there is in the US, but maybe this is the time to start one as it might be that a united front is needed to stop this unnecessary campaign.