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# The Public Higher Education Brand

*Deven R. Desai*

Higher education institutions (HEIs) misunderstand branding in at least two ways. First, branding is supposed to enable market differentiation, yet higher education in the US seems to converge on one standard model: a school with high-test-scoring and high-grade-point-average students. Second, critics of branding in higher education argue that the nature of branding turns higher education into a commodity. The irony is that branding is supposed to avoid the problems of being a commodity by allowing an institution to move beyond price and economic levers and offer people something a competitor cannot copy.[1] This chapter argues that branding should be understood as a tool or "mechanism" that can (re)configure production,[2] and when properly understood, this tool can help higher education institutions focus their efforts on their respective missions, and allow them to co-create value with society.[3] This chapter seeks to apply *the logic* of branding to the realities of higher education today,[4] thereby opening a way, especially for public institutions and educational systems, to define their purpose and break free of the problems posed by rankings and similar quantification endeavors.

Despite a range of higher education institutions, higher education reduces to one model.[5] A large problem is that even if one wants to copy the current, aspirational model, how this rich environment is created and works is unclear. Is it the students,

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[1] *Cf.* Deven R. Desai & Spencer Waller, *Brands, Competition, and the Law*, 2010 BYU L. Rev. 1425, 1443.

[2] Celia Lury, Brands: The Logos of the Global Economy 27 (2004): "The brand is thus a mechanism – or medium – for the co-construction of supply and demand… it is an abstract machine for the reconfiguration of production."

[3] Boyer, Scholarship Reconsidered 65 (2016), concluding there is "the need to clarify campus missions and relate the work of the academy more directly to realities of contemporary life."

[4] *See* Lury, *supra* note 2.

[5] *Cf.* Boyer, *supra* note 3 at 99–100: "Too many campuses are inclined to seek status by imitating what they perceive to be more prestigious institutions."

the professors, the location, or some combination that creates the desired offering? Are some institutions simply selecting students of such high caliber that "success" is measured by building power networks?[6] Are other institutions offering rigorous training that molds raw human capital into something more? Does each potential student need the same education? Where do schools that focus on training practitioners or vocational schools fit? What should such schools offer? The difficulty in knowing what education does for a student has fostered the idea that society needs higher education accountability. The College Scorecard is an example of an accountability system that tries to quantify "education" in the hope that it can be analyzed in economic terms.[7] Like other rankings, accountability systems drive higher education institutions to chase numbers and compete with other institutions on the same metrics, even when those metrics may not fit an institution's mission or capabilities. In short, higher education is becoming – if it is not already – the same offering across all institutions. But sameness is exactly what branding is supposed to defeat.[8]

A different misunderstanding of branding is that branding of its nature leads to a quantified, market-based orientation to education and the claim that branding should not be used by higher education at all.[9] To be clear, reputational competition among higher education institutions, and faculty, has been part of higher education's history.[10] Nonetheless, education is a relational good – a good "produced in sympathetic, empathetic, trusting, and high regard relationships . . . [that are part of] social capital."[11] Like relational goods in general, a key part of education's "value depends on [its] connection to people and relationships between people and the social environment in which they are exchanged."[12] But, for a range of reasons, market-driven ideology has become an additional and powerful way in which higher education institutions compete.[13] Market-driven ideology – bolstered

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[6] Put differently, as the former dean of Harvard College put it, "universities have forgotten their larger educational role for students." HARRY R. LEWIS, EXCELLENCE WITHOUT A SOUL: DOES LIBERAL EDUCATION HAVE A FUTURE? 171 (Kindle ed. 2007).

[7] JERRY Z. MULLER, THE TYRANNY OF METRICS 111–12 (2018), explaining that the College Scorecard reduces "college education [to] purely economic terms."

[8] *Cf.* Desai & Waller, *supra* note 1.

[9] *See e.g.*, Arild Wæraas & Marianne N. Solbakk, *Defining the Essence of a University: Lessons from Higher Education Branding*, 57 HIGHER EDUCATION 449, 453 (2009): "branding may have a potential for challenging the institutional integrity of universities"; Giuseppe Delmestri, Achim Oberg & Gili S. Drori, *The Unbearable Lightness of University Branding: Cross-National Patterns*, 45 INTERNATIONAL STUDIES OF MANAGEMENT & ORGANIZATION 121, 122 (2015): "Are universities like all other institutions?"; Frank Furedi, *Introduction to the Marketisation of Higher Education and the Student as Consumer, in* THE MARKETISATION OF HIGHER EDUCATION AND THE STUDENT AS CONSUMER 6 (Mike Molesworth, Richard Scullion & Elizabeth Nixon eds., 2010).

[10] *See* Furedi, *supra* note 9, at 15–22.

[11] Jeffrey R. Oliver & Lindon J. Robison, *Rationalizing Inconsistent Definitions of Commodification: A Social Exchange Perspective* 8 MODERN ECONOMY 11, 1314 (2017).

[12] *Id.*

[13] *See* Furedi, *supra* note 10.

by various attempts to quantify education – challenges the way education is offered and feeds turning education into a commodity.[14] As a review of the meaning of the word commodification puts it, the shift is to "exchanges through which something 'human' or 'inalienable' becomes valued for its commodity exchange value in a market."[15] Thus critics say that lessons from higher education branding "may have a potential for challenging the institutional integrity of universities."[16] Critics also assert that a cross-national move to branding in education creates an "unbearable lightness of university branding," and begs the question, "Are universities like all other institutions?"[17] These views *assume* that branding leads to commodification and the reduction of education to a market-exchanged "economic good, a raw material, an article of commerce, a mass produced and undifferentiated product, or a good that is widely available and has a low profit margin."[18] Although every higher education institution behaving the same and striving to meet metrics set by dubious ranking systems is a path to commodification that cedes power to outsiders,[19] branding does not force such an outcome. Indeed, branding is supposed to aid in defeating such a result.

In this chapter, Part I identifies the apparent convergence of metrics and brands in the context of higher education institutions, and argues that this convergence is based on a faulty view of both brands and higher education. Popular rankings such as *U.S. News & World Report* focus on metrics that measure one set of criteria/values that favor selection-effect schools over treatment-effect schools.[20] Schools, often public ones, that focus on serving first-generation students seek to have a treatment effect. That is, after attending the school, a student unlikely to attain success such as attending graduate or professional school or getting a prestigious job upon graduation is able to pursue such options. Treatment effects are not, however, measured by entering class selectivity. Put differently, schools vary greatly in their type, goals,

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[14] Although critiques of market-driven ideology may be part of a "general resistance to neo-liberalism," the larger point is that one can critique whether market methods work well for the goals of education and the assumption that such methods are the "only" way to meet demands for expanding education. Richard Scullion, Mike Molesworth & Elizabeth Nixon, *Arguments, Responsibility and What Is to Be Done about Marketisation*, in THE MARKETISATION OF HIGHER EDUCATION AND THE STUDENT AS CONSUMER 227–36 (Mike Molesworth, Richard Scullion & Elizabeth Nixon eds., 2010).

[15] *See* Oliver & Robison, *supra* note 11.

[16] Wæraas & Solbakk, *supra* note 9, at 453.

[17] *See* Delmestri, Oberg, & Drori, *supra* note 9; Furedi, *supra* note 9.

[18] *See* Oliver & Robison, *supra* note 11.

[19] *See e.g.*, ERNEST L. BOYER, SCHOLARSHIP RECONSIDERED: PRIORITIES OF THE PROFESSORIATE 56 (1990), arguing "restrictive" views on what scholarship is lead to "campus priorities [that] are more imitative than distinctive." For a succinct critique about the way HEI admissions, and by extension higher education institutions in general, are driven by the "junk science" of rankings, *see* Jason England, *The Mess that Is Elite College Admissions, Explained by a Former Dean*, Vox, May 8, 2019, www.vox.com/the-highlight/2019/5/1/18311548/college-admissions-secrets-myths (last visited Nov. 18, 2020).

[20] *See infra* Part I.A.

and missions. There are differences between private and public schools. There are also differences among private schools and among public schools. Yet playing the ranking game makes a school compete on sameness rather than on what makes it unique. In that sense schools fail to use branding as a tool to show what is different and special about the school.

Part II uses California's *A Master Plan for Higher Education in California, 1960–1975*[21] (AMP) as a lens to examine the varied goals of education and adds a distinction – a differentiation and branding one – between private and public institutions. The laudable goal of the then president of the University of California and chief architect of AMP, Clark Kerr, for public higher education institutions – to balance the "competing demands of fostering excellence and guaranteeing educational access for all"[22] – may not fit the private institutions with which many public institutions compete.[23] The twin goals may shatter when the desire, and unfortunate need, for advancement in the higher education ranking game takes hold.[24]

Part III turns to how a better understanding of a given type of higher education institution may allow a given public higher education system to recapture control over its destiny.[25] It begins by explaining how pursuing co-creation of value as a branding practice enables a school to establish its brand in partnership with its stakeholders, and by extension to look beyond the metrics that miss a particular school's vision. Part III then uses the University of California (UC) system and its approach to first-generation students as an example of how co-creation of value works at specific schools and across the state's higher education system.

The chapter concludes by offering that the purpose of US higher education has changed throughout its history, and yet the question is stable: Who is served? Students, faculty, or society at large?[26] I argue that public higher education must answer this question with a resounding "yes" to all three stakeholders. To do so will require institutions to reassess their place in society continually and co-create value by listening to their stakeholders, experimenting with programs, communicating

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[21] Arthur G. Coons, Arthur D. Browne, H.A. Campion, G. Dumke, T. Holy, D. McHenry, and K. Sexton, A Master Plan for Higher Education in California, 1960–1975 (1960) [hereinafter AMP].

[22] Sean Kennedy, *Berkeley Is Collapsing In On Itself*, The American Conservative, Jan. 12, 2018, www.theamericanconservative.com/articles/berkeley-is-collapsing-in-on-itself (last visited Nov. 18, 2020); *accord* Jeffrey Earl Warren, *UC, Where Are Your Native Sons and Daughters?*, SF Gate, July 14, 2011, www.sfgate.com/opinion/openforum/article/UC-where-are-your-native-sons-and-daughters-2354592.php (last visited Nov. 18, 2020).

[23] *Cf.* England, *supra* note 19: "Elite universities, no matter how high-minded, have corporate souls and bottom lines."

[24] *Id.*: "professed ideals will take a back seat to whatever drives the market. If your competitors boast an SAT median of 1450 and 60 percent of their incoming class ranks in the top 10 percent of their high schools, you need to at least match that."

[25] Lury, *supra* note 2.

[26] Lewis, *supra* note 6, at 44.

results, and building the future at each level of public higher education on the system's terms rather than a news magazine's. This approach should allow education systems to show why they need funding and help higher education institutions avoid becoming commodities. It will allow institutions to build and evolve their brand just as any corporation does.

## I. MARKETS, NUMBERS, AND MISSTEPS

Higher education institutions ought to resist the factors that feed the turn to the current commodity market mindset. Funding problems and a desire to show value intersect. They create a feedback loop where an obsession with numbers and quantifiable outcomes leads to commodification and a cycle that is difficult to break.[27] As funding goes down, and the cost paid directly by students goes up, the question of what one gets from education becomes acute. Yet rankings don't measure important differentiating things such as how well a school educates some-one or whether the school serves underrepresented minorities or first-generation-to-college students well. This section presents the difference between schools that operate based on selecting students already set up for success versus schools that seek to train students so that after graduation the students have skills and knowledge that set them up for success. It then turns to how ranking systems create a trap for schools so that they chase external metrics rather than building programs that differentiate their institution from others.

### A. *The Selection or Treatment Effect Problem*

An important question is whether a school is simply showing a selection effect or whether there is a treatment effect. Selection effects are driven by choosing someone who already has a trait or traits. A modeling agency selects beautiful people, it does not make people beautiful.[28] With a treatment-effect institution, such as the US Marine Corps, the *training* is what counts and those who make it through have a reputation for being "a formidable soldier."[29]

Educational institutions differ on whether their outcomes are driven by selection or treatment effects. "Top-tier universities depend heavily on selection effects; [they] produce top graduates by accepting the best applicants."[30] Top-tier universities

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[27] MULLER, *supra* note 7, at 1–6: "Rankings create incentives for universities to become more like what the rankings measure"; *accord* England, *supra* note 19.

[28] *Id.*

[29] Malcolm Gladwell, *Getting In: The Social Logic of Ivy League Institutions*, NEW YORKER, Oct. 10, 2005, 80–86.

[30] AnnaLee Saxenian, *Can Online Education Technology Improve Excellence and Access at Berkeley?* (2012), http://people.ischool.berkeley.edu/~anno/Papers/Online_Education_at_Berkeley.pdf; *accord* LEWIS, *supra* note 6, at 139: employers see admission to an elite school

operate "more like a modeling agency than like the Marine Corps."[31] Institutions such as Harvard, Stanford, Yale, and so on select students who are smart, hard working, etc., and often come from families where parents have an average of sixteen years of education.[32] By choosing such students, these schools select people who would have done well by many measures, including income, even if they had attended a "moderately selective school" such as a state university.[33] These results do not, however, apply for racial and ethnic minorities and students whose parents "have relatively little education."[34] As Alan Krueger said in 2005 – well before the recent college admissions bribery scandal – parents "fight to get their kids into the better school. But they are just assigning to the school a lot of what the student is bringing with him to the school."[35] Even so, the difference appears not to be the education received at the school, but the access "to networks for minority students and for students from disadvantaged family backgrounds that are otherwise not available to them."[36]

In contrast, some schools pursue treatment effects as they strive to serve low-income students or students who are the first in their family to attend college. One example is UC Santa Barbara (UCSB). Its pioneering program, Promise Scholars, provides support to low-income students and first-generation students.[37] The program is expensive but helps students maintain little to no debt and provides counseling for academic and career success.[38] Members of the first 122 to graduate have entered PhD and MA programs at Harvard, Duke, USC, University of Pennsylvania, and Michigan State as well as been hired straight out of college into industry jobs.[39]

Prospective students and society should know about and value treatment effects. Rankings, however, track selection-effect metrics much better than treatment effects, if rankings even track the latter at all. This problem pushes institutions into the rankings trap.

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as a "strong indicator of quality" and grades as a reflection of consistent work rather than training.

[31] Gladwell, *supra* note 29: "The extraordinary emphasis the Ivy League places on admissions policies, though, makes it seem more like a modeling agency than like the Marine Corps."

[32] Stacey B. Dale & Alan B. Krueger, *Estimating the Effects of College Characteristics over the Career Using Administrative Earnings Data*, 49 J. OF HUMAN RESOURCES 323 (2014); *accord* LEWIS, *supra* note 6, at 32, stating that Harvard graduates "may be ready for anything" not because of "skills or expertise" from attending Harvard but because "they are smart, self-confident, and Harvard water-marked."

[33] *See* Dale & Krueger, *supra* note 32.

[34] *See* Dale & Krueger, *supra* note 32, at 326.

[35] Gladwell, *supra* note 29, quoting Alan Krueger.

[36] *Id.*

[37] Sanya Kamidi, *Promise Scholars Program Sees First Graduating Class*, DAILY NEXUS UC SANTA BARBARA, June 20, 2019, http://dailynexus.com/2019-06-20/promise-scholars-program-sees-first-graduating-class (last visited Nov.18, 2020).

[38] *Id.*

[39] *Id.*

### B. *The Rankings Trap*

That some schools are selection-effect schools and others treatment-effect schools may seem benign, but when rankings enter the picture several problems arise. First, rankings favor selection-effect schools. Second, when one focuses on quantified metrics such as grade point average (GPA) and test scores, the pressure to accept a homogeneous, already set-up-for-success student body is high. Third, because rankings are not good at reflecting treatment effects, schools that strive to offer training and develop students who might otherwise not succeed look like inferior institutions, when in fact they may be a superior educational choice. Fourth, once a school embraces ranking, it is trapped. It is less able to show what it does differently from other schools. Instead, it will strive to compete in areas that other schools can copy and so cede its power to brand – its power to offer and communicate what is unique.

Selection-driven admissions seem to breed school rankings, or league tables as the British call them,[40] – a phrase that evokes sports and the way in which sports fans obsess over stars, trades of stars, and win-loss statistics and captures the problem with ranking. Looking at entering class SAT or ACT test performance and GPAs starts an arms race. Schools can no longer look at the breadth of a student's experience or calibrate for intrinsic biases in testing when admitting students.[41] Instead, an entering class must have a high twenty-fifth, median, and seventy-fifth percentile standing (e.g., a class may have entering students with the top 25 percent having above a 1,580 SAT score out of 1,600 and 75 percent are above a 1,460 score) so that a school can maintain or improve its rank.[42] Worry about rankings and median scores can push even a well-regarded, established, and highly ranked private higher education institution to reject precisely those students who would most benefit from admission.[43] And yet, the focus on entering class grades and scores simply tells a potential student that a school has selected in a certain way, not that the school will add to the student's knowledge and skills.

Other aspects of rankings aggravate the problem of selection versus treatment effects. Using dollars spent per student as part of a school's rank score[44] puts public

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[40]  Stella Jones-Devitt & Catherine Samiei, *From Accrington Stanley to Academia? The Use of League Tables and Student Surveys to Determine "Quality" in Higher Education,* in THE MARKETISATION OF HIGHER EDUCATION AND THE STUDENT AS CONSUMER 86–101 (Mike Molesworth, Richard Scullion & Elizabeth Nixon eds., 2010).

[41]  England, *supra* note 19, detailing committee rejection of candidate who "had two working-class parents without advanced degrees and grew up in an economically depressed region of western Massachusetts [and] had the grades and the extracurricular activities, but her scores were 70 points below our median."

[42]  *Id.*

[43]  *Id.*

[44]  U.S. News and World Report states that dollars per student accounts for 10 percent of overall rank and justifies this metric this way: "Generous per-student spending indicates a college can offer a wide variety of programs and services. U.S. News measures financial resources by using

institutions at a disadvantage and makes otherwise top-tier institutions look less attentive to students so they slip down the list.[45] Focusing on immediate job placement privileges schools that have smaller student populations and powerful alumni – the very same elite schools that thrive based on selection, not treatment effects. Adding a student's income upon graduation into rankings again favors schools that admit applicants already connected to privilege. In addition, the focus on job placement and income favors schools with large technology or business programs and disfavors schools that send students to graduate or professional schools. As such, a school cannot ignore maintaining, if not growing, technology and business programs at the cost of maintaining and developing programs that lead to deeper training in and engagement with, for example, medicine, public health, social services, law, and of course basic scientific research. Ironically, advances in basic scientific research are the lifeblood for exactly the technology and business jobs that are factored into rankings.[46]

As opposed to selection metrics, treatment efforts and results are not well reflected in rankings. Recall the work at UCSB that strives to serve low-income and first-generation college students. Rankings fail to capture this subset population let alone the value of such services to students and society.[47] For example, rankings that rely on retention rates and job success will make an institution seeking to reach students who may have lower scores or GPAs rank lower and look like a poor performer, even though the very nature of its mission is to serve those students who are less likely to graduate, or graduate on an Ivy League timetable, and are more likely to have lower-paying jobs.[48]

Although the metrics used in rankings can be seen as helping students know what a particular higher education institution offers, the focus ends up shifting to a

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the average spending per student on instruction, research, student services and related educational expenditures in the 2018 and 2019 fiscal years." U.S. News and World Report, *How U.S. News Calculated the 2021 Best Colleges Rankings*, at www.usnews.com/education/best-colleges/articles/how-us-news-calculated-the-rankings (last visited Dec. 17, 2020).

[45] *See e.g.*, Valerie Strauss, *U.S. News Changed the Way It Ranks Colleges: It's Still Ridiculous*, WASHINGTON POST, Sept. 12, 2018, www.washingtonpost.com/education/2018/09/12/us-news-changed-way-it-ranks-colleges-its-still-ridiculous/?utm_term=.f737ec9ac9ac (last visited Dec. 13, 2021).

[46] *See e.g.*, MARIANNA MAZZUCATO, THE ENTREPRENEURIAL STATE: DEBUNKING THE PUBLIC PRIVATE MYTHS (2014), arguing that many industries from pharmaceuticals to Silicon Valley giants such as Apple leverage publicly funded basic research rather than inventing and discovering on their own.

[47] Although perhaps the most notorious ranking, *U.S. News & World Report*, changed its methods in 2019 to include social mobility, the shift had little effect on the rankings at the top, and so the change has been seen as a "fig leaf" to hide the ranking's metrics, which still favor wealthy schools and selection effects for admission. *See* Scott Jaschik, *The "U.S. News" Rankings' (Faux?) Embrace of Social Mobility*, INSIDE HIGHER ED., Sept. 10, 2018, www.insidehighered.com/admissions/article/2018/09/10/us-news-says-it-has-shifted-rankings-focus-social-mobility-has-it (last visited Nov. 18, 2020).

[48] MULLER, *supra* note 7, at 106; Jaschik, *supra* note 47: "A measure that works for the Ivies may not reflect the experience" of schools that serve low-income or first-generation students.

consumer model.[49] The student is the consumer and wishes to know what will come of the price paid in dollars and hours spent in school. As an outsider, the student-consumer needs a way to assess quality. Rankings become the easy way to express quality. And yet, students, parents, and employers read league tables in ways that misunderstand the difference between higher education institutions that focus on educating a student – a treatment effect – and higher education institutions that rely on a student's pre-admission training and luck to have been born into a family where the parents have attained at least a college degree – a selection effect. In that sense, rankings arguably force higher education institutions *of all types to play the same game.*[50]

One dimension of ranking, academic reputation, exemplifies the way rankings can alter the focus and mission of an institution. Some rankings focus on publications and citations as metrics of global stature and the excellence of an institution's faculty.[51] That emphasis can lead to an explicit "shift" to improving publication and citation scores and away from educating students, as was the case in Russia.[52] Citation obsession can lead to more absurd and unethical practices such as forming citation circles to improve the so-called impact factor of a journal and thus the claimed quality of a given author's work.[53] Regardless of how citation counts are generated, having a highly cited professor has little to say about educating a student. Indeed, such professors' focus is on their research and PhD students, not being in a classroom, so much so that reduced class loads, and thus less contact with non-doctoral students, is likely. All these tactics are ways to climb global ranking indices, not to educate students.[54]

In short, rankings and specific metrics such as GPAs, endowment, job placement, and academic reputation ignore the different types of education and what they offer to different people. That is a mistake. There is a clear difference in the goals of a research university – a difference compounded by whether it is public or private – and the goals of a small college,[55] let alone the goals of a state college or junior/community college. Rankings, however, blur, or do not care about, these differences

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[49] For a UK perspective on the problem of rankings, *see* Jones-Devitt & Samiei, *supra* note 40, positing a future in the year 2020 where "league tables" and consumer value metrics take over the way higher education institutions are run.

[50] *See e.g.* BOYER, *supra* note 19, at 10–02, noting the shift "to impose a single model of scholarship on the entire higher education enterprise."

[51] MULLER, *supra* note 7, at 75.

[52] Nailya G. Bagautdinova, Yuliya N. Gorelova, & Oksana V. Polyakova, *University Management: From Successful Corporate Culture to Effective University Branding*, 26 PROCEDIA ECONOMICS AND FINANCE 764, 765 (2015).

[53] MULLER, *supra* note 7, at 75.

[54] Bagautdinova, Gorelova, & Polyakova, *supra* note 52; MULLER, *supra* note 7, at 101.

[55] MULLER, *supra* note 7, at 42, discussing the tensions between educating undergraduates and the high cost of research faculty who lack training to teach a broad undergraduate population; BOYER, *supra* note 19, at 99–108, examining varying types of higher education institutions and their missions.

and try to create a commodity-style comparison table. Put differently, rankings force higher education institutions to be assessed on GPAs, standardized test scores, academic citations, etc. – metrics that are nothing more than education's version of marketing's famous four Ps (product, price, place, and promotion) – characteristics or qualities that other HEIs can and do copy, instead of allowing them to focus on offering something unique.[56] Again, *that sameness is exactly what branding is supposed to defeat*,[57] rather than succumb to.

## II. THE DIVERSITY OF EDUCATIONAL INSTITUTIONS AND GOALS: HOW PUBLIC EDUCATION IS DIFFERENT FROM PRIVATE EDUCATION

Educational institutions vary. There are research institutions and small colleges. There are private institutions and public ones. Elite private institutions – be they universities or small colleges – are self-contained and autonomous. They can have a singular goal as determined by their board. Public institutions, however, function as part of a given state's overall higher education system. Their goals are set at the state level with the basic goal being to build an education system that serves the public. The beauty and difficulty of such systems is that they have many offerings within the system. For example, within public higher education there are research universities, state universities, and community colleges. And there are notable differences in each of those spheres. There are differences among public research institutions, among state universities, and among public community colleges. Thus, a public education system has different parts that provide different things to the public, but those parts taken together present a cohesive public education offering.

Branding raises questions for public education. One question is, "What is different about being part of a system?" In other words, is there a system-level brand? A related question is, "What differentiates institutions at a given level within a system?" Can a school at the research level distinguish itself from other schools at the same level? Does differentiation within a system level also differentiate a school from private schools? Before answering these questions, however, one has to have an understanding of the overall system and of the various offerings within that system. California's approach to higher education provides an example of a system's goals and the offerings within it.

The study, *A Master Plan for Higher Education in California, 1960–1975* (AMP),[58] provides a way to understand the differences among higher education institutions and what an overarching identity or brand for a system-wide higher educational offering might look like. The study was prepared for the Liaison Committee of the State Board

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[56] LURY, *supra* note 2, at 24, 32–33; MARCEL DANESI, BRANDS 33 (2006).
[57] *Cf.* Desai and Waller, *supra* note 1.
[58] *See supra* note 21.

of Education and Regents of the University of California in 1960. AMP's main focus was on public higher education institutions. It formalized the state's existing,[59] "disorganized,"[60] three-tier system of public higher education institutions so that, "Each shall strive for *excellence in its sphere*."[61] Rather than "uncoordinated and competing colleges and universities," each segment had its sphere of "excellence."[62] AMP can thus be understood as a coherent, comprehensive education system for California.[63] The spheres show differing goals *that together* provide the dream: fostering excellence and guaranteeing educational access for all.[64]

Under AMP, state research and doctoral education are the province of University of California campuses and admission is for "seniors in the top 12.5 percent of their public high school graduation class."[65] If someone is not in that top group, but is in the top 40 percent of high school graduates, the California State University (CSU, also called Cal State) system offers another type of four-year university offering.[66] Even if someone did not get into the UC or State level schools to start, a student could go to a junior college (today called a community college), and if they met a certain grade point average, transfer to finish a four-year degree. Junior colleges also took in non-traditional students.[67] In addition, AMP acknowledged and worked with "independent colleges and universities" as another part of the way California would be able to meet its education needs.[68] Although distinct, the segments are supposed to work together to provide educational, and so economic mobility.[69]

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[59] Saul Geiser & Richard C. Atkinson, *Beyond the Master Plan: The Case for Restructuring Baccalaureate Education in California*, 5 California Journal of Politics and Policy 67, 70 (2013): "the Master Plan did not create California's tripartite system of public higher education; it largely preserved and codified the existing system."

[60] California Competes, Moving Past the Master Plan: Report on the California Master Plan for Higher Education (Oct. 2017), https://californiacompetes.org/assets/general-files/Master-Plan-Report-_-with-cover-for-hearing.pdf (last visited Nov. 20, 2020).

[61] AMP, *supra* note 21, at 2.

[62] Letter from UC President Atkinson to the Regents on the Master Plan, University of California, Office of the President, Sept. 15, 2003, at www.ucop.edu/acadinit/mastplan/mpregents091503.pdf (last visited Dec. 17, 2020).

[63] *Id.*

[64] *Cf.* Boyer, *supra* note 19, at 108, "calling for … [a system of higher education institutions where each institution] takes pride in its own distinctive mission and seeks to complement rather than imitate the others."

[65] Teresa Watanabe & Nina Agrawal, *California Higher Education Hangs in the Balance as UC, Cal State Search for New Leaders*, LA Times, Nov. 30, 2019, www.latimes.com/california/story/2019-11-30/california-higher-education-hangs-in-the-balance-as-uc-cal-state-search-for-new-leaders (last visited Nov. 20, 2020); *accord* Office of the President to the Regents of the University of California: *Discussion Item for [the] meeting of November 15, 2018, Preliminary Planning for a Multi-Year Framework (B2)*, https://regents.universityofcalifornia.edu/regmeet/nov18/b2.pdf (last visited Nov. 20, 2020).

[66] *Id.*

[67] Aaron Bady & Mike Konczal, *From Master Plan to No Plan: The Slow Death of Public Higher Education*, 59 Dissent 10, 12 (2012).

[68] AMP, *supra* note 21.

[69] Bady & Konczal, *supra* note 67.

Despite the dream, AMP has faced continual challenges. Critiques of AMP point out that AMP falls short of its goals, because of California governors of the Reagan mindset changing commitments to those goals and to the system's overall structure; underfunding of the system primarily due to the passage of Proposition 13 in 1978 and its limitation on property taxation; the change from "comparatively quite low" fees to higher and higher ones to attend; the introduction of explicit tuition in 2009; and an unwillingness and/or inability to continue to fund the expansion of student seats needed at all tiers of the system.[70] A deeper criticism is that from its birth, AMP was in fact a product of the need to limit costs and build capacity for the future such that the admissions standards worked to *reduce and limit* admission to four-year programs.[71] In other words, the balance of students seeking higher education was pushed to two-year programs at junior colleges.[72] Yet AMP embraced two-year programs as part of the overall approach, and whether everyone should go to a four-year college is unclear.[73]

Claiming that all should go to, or are ready for, a four-year college at eighteen recreates the ranking problem, because it assumes that one size of education fits all – a position this chapter challenges. Nonetheless, as of this writing, the ten UC campuses educate about 280,000 students while also being a "massive and top-ranked research enterprise, [with] five medical centers, three affiliated national laboratories and an overall budget of $37.2 billion, bigger than those of more than 30 states" and being the main creator of PhDs in the state on top of its undergraduate and master's degrees.[74] The Cal State (CSU) system is "the largest and most diverse four-year university system in the nation, educating 482,000 students on 23 campuses who are drawn from the top 40% of California's annual high school graduates."[75] The system "is often referred to as the 'job engine' of California," given that it trains about half of California's teachers and more than half of its nurses in addition to providing education for other important career paths.[76] Thus despite the structural issues and questions around the balance of how many students go to four-year colleges, the system continues to try to serve the state by fostering excellence and striving to guarantee educational access for all.

In short, these critiques do not undermine the idea of an identity or brand for a public higher education system. Instead, they challenge whether a system lives up to

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[70] *Id.*

[71] *See* Geiser & Atkinson, *supra* note 59, at 68–71, noting California's rate of BA degrees per 1,000 between the ages of 18 and 24, which puts California 42nd out of the 50 states).

[72] *Id.* at 68–69.

[73] MULLER, *supra* note 7, at 67–68, questioning "the belief that ever more people should go on to college, and that doing so increases not only their own life-time earnings but also creates national economic growth."

[74] Watanabe & Agrawal, *supra* note 65.

[75] *Id.*

[76] *Id.*

its claims and force institutions to focus and refine what they do. These tasks fit well with branding.

## III. RECAPTURING THE PUBLIC HIGHER EDUCATION SYSTEM BRAND

It is time for public higher education systems to recapture what they do. It is time for public higher education systems to recapture their brand. Public higher education systems should re-embrace, and tell the public that they are, *systems*. Like a major corporation with a range or family of brands offered under one umbrella,[77] public higher education systems should offer, support, and celebrate a range of higher education institutions. California's AMP sets out a system with three types. Ernest Boyer's study of scholarship offers more types – research universities, doctorate-granting institutions, liberal arts colleges, community colleges, and the comprehensive college or university.[78] The point is that higher education systems can set out types of higher education institutions *so that each level can have a purpose to guide its mission*. In addition, within a level, a given institution can innovate and "take pride in its own distinctive mission and seek to complement rather than imitate the others."[79] In this section, I explain what branding – and in particular the view of branding as co-creation of value – requires and what it can do for a public education system. I then explore how the UC system is an example of branding as co-creation of value.

### A. *Public Education and Co-Creating Value as a Brand*

Brands and branding have evolved to embrace far more than the simple world where a brand was owned by an institution and used to communicate the brand owner's offering to consumers.[80] As I have developed elsewhere, we can think of corporate or entity-level brand activity and non-corporate or outside-the-entity brand activity. Both activities matter. The corporate, or internal, aspect of branding involves "forg [ing] not only a product symbol, but also a connection with consumers so that consumers look beyond price when they make a purchasing decision. It also enables corporations to sell multiple branded products and ancillary merchandise and to turn the brand into a product in its own right."[81] In corporate branding, the entity builds and offers the brand. But today there is more to brand relationships than simply using advertising to tell people to buy a good or service. The non-corporate,

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[77] *See* Deven R. Desai, *From Trademarks to Brands*, 64 FLORIDA L. REV. 981, 1019–21 (2012), explaining how the family or house mark under trademark law supports having one core brand and then brand extensions.

[78] BOYER, *supra* note 19, at 103–06.

[79] BOYER, *supra* note 19, at 108.

[80] *See generally*, Desai, *supra* note 77.

[81] *Id.* at 985.

or external, side of branding accounts for "consumers and communities as stakeholders in brands."[82] The way to connect these activities is through the idea of co-creating value. Co-creation of value embraces the idea that value is not created purely "from a product- and firm-centric view" but rather that it comes from "personalized consumer experiences."[83] In this understanding, "Informed, networked, empowered, and active consumers are increasingly co-creating value with the firm. The interaction between the firm and the consumer is becoming the locus of value creation and value extraction."[84] As such, a higher education institution must address both internal and external brand activity.

A higher education system must co-construct its future with its public. That requires understanding what its public needs. The system must also understand the nature of its students. Last, it must continually communicate with the public about needs, goals, methods, and outcomes. Put simply, the boldest step for any higher education system would be not to give in to the herd and imitate what current rankings try to assess. If a system wants to reject or move away from ranking metrics, it will have to show how and why that change is a good goal. And it will need to build its offering from within, which leads to another set of important stakeholders – the people working inside the institution.

Systems and specific institutions will need to co-create value within the institution. They must communicate with faculty about the possible shift from rote rankings chasing. Part of that shift might, and I argue should, include a broader understanding of scholarship. Embracing a range of scholarship – what Boyer calls a Mosaic of Talent – can begin to unlock the potential for higher education systems and specific schools.[85] That is, especially at a large higher education institution, not everyone needs to be doing the same thing. Of course, research is a key and major part of a research institution.[86] But if someone is past tenure and wants to focus on scholarship beyond publication including as a teacher, an institution should have room for and support that goal. It may be that an institution shifts teaching loads based on research plans. For example, one professor who is pursuing research may teach fewer courses, while another pursuing novel teaching techniques may teach fewer courses while developing new methods, and another person may explicitly focus on course delivery and feedback to students and so teach one or two more courses instead of research. As an institutional matter, all are able to focus on their desires as scholars, and all are well served as long as each aspect of their effort is respected.[87]

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[82] *Id.* at 986.
[83] C.K. Prahalad & Venkat Ramaswamy, *Co-Creation Experiences: The Next Practice in Value Creation*, 18 J. Interactive Marketing 5, 10–13 (2004).
[84] *Id.* at 5.
[85] Boyer, *supra* note 19, at 77.
[86] *Id.* at 103.
[87] *Id.*

Staying with the simpler California model as an example, the California higher education system would set out what each tier is and still give room for experimentation, innovation, and competition within each tier. The UC level would be clearer about what it means to be at a top research institution where professors engage in what Boyer calls discovery. But a given UC campus might focus on how its faculty are also scholars who integrate knowledge across disciplines, or apply knowledge by engaging with "consequential problems," or develop teaching so that people can understand discovery.[88] The Cal States and community colleges (originally called junior colleges in AMP) would also focus on their realms, and yet again pursue differentiating and innovative offerings. Cal State and Cal Polytechnic campuses might celebrate teaching prowess in general. Still a given campus may have one or two programs that shine in agriculture, business, computer science, health professions, or other specific fields. Community colleges may focus on training and treatment effects in fields where a two-year program can accomplish much. Or they may focus on training and treatment to be ready to transfer to a UC or CSU. Success from either approach would perhaps let a campus, or the entire set of higher education institutions at a given level, be the US Marines of public education.

A look at how the UC system is facing its current challenge of educating a growing first-generation student population shows how these steps might work and how the same challenge can be met in different, innovative ways.

## B. *Co-Creation in Action: The UC System and First-Generation Students*

The California system must address the changing nature of Californians entering college – many of whom are first-generation attendees. Despite different educational emphases and student populations, both the UC and Cal State systems have "far higher proportions of low-income and first-generation students than do similar universities in other states."[89] Both face a similar challenge – "to close achievement gaps for low-income, first-generation and underrepresented minority students."[90] As Lindsay Romasanta, director of Student Success Programs at UC San Diego, puts it, "the demographics of our students are changing, and it's important we get ahead of the curve and give them the information that's going to help them thrive."[91] Director Romasanta also captures a key point, not just for her campus but all the UC campuses: "Our perception has been, we're a highly selective institution – our students will figure it out on their own."[92] That is, relying on selection effects alone,

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[88]  *Id.* at 67–76.
[89]  Watanabe & Agrawal, *supra* note 65.
[90]  *Id.*
[91]  *Assistance during First Years of Biology Major Leads to Higher Retention of First-Gen Students*, Science Daily, Dec. 5, 2019, www.sciencedaily.com/releases/2019/12/191205155321.htm [hereinafter Science Daily] (last visited Nov. 20, 2020).
[92]  *Id.*

instead of trying to have treatments effects, is not viable or proper for the UC, given the reality of its attendees' backgrounds. The different UC campuses address the issues in ways that fit a specific institution, but they do not act in isolation. There is coalition across the UC system that focuses on first-generation students. Yet the variety of approaches shows how a system can identify or set a goal and then allow campuses and faculties room to be creative and responsive to their student and campus needs.

For example, UC Merced is the newest of the University of California campuses and has distinguished itself by embracing first-generation students. In 2018, UC Merced's student body was 73 percent first-generation, the highest within the UC system and "double the national average."[93] In 2010, UC Merced started and maintained up to today a program, Fiat Lux, focused on first-generation students.[94] The program serves more than 100 first-year and more than 150 later-year students by providing money, space to live together as a cohort, structured learning environments, and dedicated counselors and student mentors.[95] Specific aspects of the program such as "numerous workshops aimed at what is called procedural knowledge, boning up on study skills and learning how to connect with professors and research opportunities . . . [and] Several . . . organized lunches with faculty members per semester" provide a foundation for success.[96] As evidence of the program's treatment effect, "Scholars graduate at a higher rate than students with comparable grade-point averages."[97]

The focus on first-generation student success has spread across the UC system.[98] In addition to UC Santa Barbara's Promise Scholars Program, UCSB professors of biology have developed a BioMentors program that seeks to combat the problem that "Fewer than 40% of U.S. students entering into science, technology, engineering, and mathematics (STEM) majors complete their intended degree upon

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[93] Kenneth Mashinchi, *UC Merced Professors Honored for Work with First-Generation Students*, UC Merced Newsroom, Sept. 24, 2018, https://news.ucmerced.edu/news/2018/uc-merced-professors-honored-work-first-generation-students (last visited Nov. 20, 2020); *see also* Patricia Leigh Brown, *Creating a Safe Space for California Dreamers*, NY Times, Feb. 3, 2017, www.nytimes.com/2017/02/03/education/edlife/daca-undocumented-university-of-california-merced-fiat-lux-scholars.html (last visited Nov. 20, 2020): "About 70 percent of the student body are the first in their families to attend college."

[94] Fiat Lux Scholars Program (University of California, Merced), https://fiatlux.ucmerced.edu/History (last visited Nov. 20, 2020); *accord* Brown, *supra* note 93: "Fiat Lux Scholars [is] a special initiative for first-generation, low-income students."

[95] Fiat Lux Scholars Program, *supra* note 94; *accord* Brown, *supra* note 93.

[96] Brown, *supra* note 93.

[97] *Id.*

[98] Nicole Freeling, *Cracking the Code on First-Gen College Student Success*, UC Newsroom, July 31, 2018, www.universityofcalifornia.edu/news/cracking-code-first-gen-college-student-success, noting efforts and programs aimed at first-generation students at UC San Diego, UCLA, UC Merced, and UC Irvine; Mashinchi, *supra* note 93, reporting on events honoring programs and professors focused on first-generation students at UC Berkeley, Davis, Merced, San Francisco, Santa Barbara, and Santa Cruz.

graduation,"[99] and close to 50 percent of STEM majors leave such majors after their first year.[100] Some students leaving the major "came from high schools that didn't prepare them for the rigor that [they] face in college," which, when combined with "feeling out of place in a completely new environment and not knowing who to turn to for help," leads to poor performance and a loss of "confidence in their abilities and to reconsider their major."[101] This outcome occurs despite the students being fully qualified and capable of doing the work.[102]

The change in teaching style, a treatment, worked. Students in the BioMentors program "outperformed their peers in the traditional lecture course by about 12% on common exam questions, and … [had] higher final course grades overall."[103] Beyond grades, the sense of "belonging" increased, students were connecting with professors more, and so far those in the program are "10% more likely than their peers" to take the next course in the series.[104] The authors of the study note that whether the approach can scale to classes larger than 300 and long-term retention needs to be studied.[105] But the point is that even at a campus with a large program focused on specific student cohorts, the room to study and improve how students are reached in other ways was present and supported.

Other campuses have addressed first-generation student success. UC San Diego has created a Student Success Coaching Program for first-generation students that grew from 800 to 1,200 participants in 2018.[106] The program focuses on increasing "cultural capital" so that first-generation students would better know about "where to find a study group, how to manage their time as midterms approached … upcoming registration deadlines, and … academic opportunities, like a new study abroad scholarship developed just for program participants."[107] UCLA is pursuing new housing for first-generation students as a different way to build support and foster success.[108] UC Irvine is using a data-system so that professors can know whether a large number of students are first-generation, have taken other courses in the subject area, and "how well those students did academically."[109] Options for ways to alter teaching methods to reach students are offered based on that

[99]  Mike Wilton, Eduardo Gonzalez-Niño, Peter McPartlan, Zach Terner, Rolf E. Christoffersen, & Joel H. Rothman, *Improving Academic Performance, Belonging, and Retention through Increasing Structure of an Introductory Biology Course*, 18 CBE – LIFE SCIENCES EDUCATION 1 (2019), www.lifescied.org/doi/10.1187/cbe.18-08-0155 [hereinafter *Improving Academic Performance*] (last visited Nov. 20, 2020).

[100]  SCIENCE DAILY, *supra* note 91.

[101]  *Id.*

[102]  *Id.*

[103]  *Id.*

[104]  *Id.*

[105]  *See Improving Academic Performance, supra* note 99.

[106]  Freeling, *supra* note 98.

[107]  *Id.*

[108]  SCIENCE DAILY, *supra* note 91.

[109]  *Id.*

information.[110] UC Berkeley has opened a food pantry to address issues surrounding the high cost of living that faces students in general and especially low-income and first-generation students.[111]

Returning to UC Santa Barbara's Promise Scholars Program, it is thus an example of seeing that the institution has broader goals and a larger vision of what it means to be an educational institution and indeed, to educate. The more UC Santa Barbara tells the public about its support for first-generation students and the way they can be served even at a top research institution, the more UC Santa Barbara is valued for its own mission. In addition, by providing room for professors to pursue teaching innovations such as the BioMentors program and recognizing that work, UCSB fosters broader recognition that scholarship and being a professor have a broad and valued range of possibilities.

Nonetheless, other campuses are finding, and will continue to find, ways to show how they address common challenges in particular ways. As California demographics change, the UC campuses will likely further differentiate how they address those changes. Some of those paths will end in failure or less than desired outcomes. As long as the experiments are studied to see what went wrong and the results shared, that is expected and good for the system. Other paths will do so well that, of course, other campuses will copy them. That too is good for the system. Despite the need to differentiate, best practices should be shared across a healthy public higher education system. For even with that, each campus's history, resources, and student population will differ enough that each campus will use tools differently as the different campuses continue to grapple with how they meet their specific mission.

In addition, by following the internal step of co-creating value with faculty by embracing a broader view of scholarship, students should benefit too. Students should end up with more options within the campus. Many may want the star teacher who inspires them to learn more.[112] Some students may want the professor who integrates and applies ideas.[113] A few students may want to go deep into a field to perhaps even enter academia, and so access to research-focused faculty who nonetheless teach provides a different, important option. With a range of scholars, the campus now offers more to a diverse student body; and yet it still is a research campus. By extension, a student seeking training toward certain jobs should be able to see that they may be better served at a Cal State school or junior college.

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[110] *Id.*

[111] Jon Marcus & Felicia Mello, *California Takes Lead in Helping Students Get to College – and Stay There*, NBC News, Dec. 3, 2019, www.nbcnews.com/news/education/california-takes-lead-helping-students-get-college-stay-there-n1094461: "This article about California higher education was produced by CalMatters (https://calmatters.org/) and The Hechinger Report, a nonprofit, independent news organization focused on inequality and innovation in education" (last visited Nov. 20, 2020).

[112] *Cf. Improving Academic Performance, supra* note 99, at 11, noting self-selection issues that may confound the results of the BioMentors program.

[113] *Id.*

Co-creation, however, needs more than these steps. All of these efforts require support from within an education system and from the public. A system will have to communicate to students, parents, taxpayers, and legislatures why getting away from the easy-to-digest world of rankings is a good thing. The examples above provide details that matter for such a shift, data. Educational institutions are well placed to use their core skills not only to experiment but to track outcomes. Numbers return, but they are under terms that matter to the new goals and behaviors of the institution. Institutions must be sure to reach all stakeholders with concrete information about how a new program works and whether its goals are achieved. Saying, "We embrace first-generation students, because it's just and fair," is lovely, but not compelling. Saying the same thing *and showing* – as UC Santa Barbara or UC Merced do – that the programs have force by tracking the funding and outcomes of specific programs, is powerful. The combination makes those who oppose such endeavors come up with arguments against such programs. And those arguments will reveal the biases, or at least differences, of objectives. These contrasts would show differences, dare I say differentiation, and should offer students and all concerned rich ways to compare offerings and make meaningful, better informed, choices.

## CONCLUSION

Criticisms of branding as it relates to education miss the point of branding. A focus on, and being beholden to, rankings and phony or inappropriate rankings drive a singular mindset. At the same time, higher education institutions and higher education systems cannot pretend they are not part of society. Indeed, higher education in the US has not been static. It began with early focus on developing moral character, preparing young men for "civic and religious leadership."[114] As the economy changed and the needs of society changed with it, higher education systems added a service-to-society-oriented model as exemplified by the land grant colleges and polytechnic schools to produce "builders of all kinds."[115] Basic research has been part of higher education institutions since the early days of the American republic, but did not gain a strong place until the mid-1800s.[116] And it was only after World War II that the model of government-funded research and a focus on research faculty became the norm.[117] At the same time, yet another goal was added, "moving from an *elite* to a *mass* system of higher education."[118] Thus, higher education institutions and higher education systems have a long and responsive history of working with society to add those elements that it needs addressed.

[114] Boyer, *supra* note 19, at 57.
[115] *Id.* at 58–59.
[116] *Id.* at 61.
[117] *Id.* at 63.
[118] *Id.* at 64 (emphasis in original).

Put differently, higher education institutions and systems have co-created, and must continue to co-create, value with society, including responding to student views on what education is and should be.[119] As the former dean of Harvard College, Harry Lewis, points out, the core question is: "Will the university be run for the benefit of students, faculty, or society?"[120] The answer to the question should be "Yes," especially for public higher education institutions and systems. They will have to show how they benefit all three stakeholder groups and perhaps improve or add layers to their offerings as society changes. Establishing a brand that, (a) shows the nature of the offering at each type of higher education institution, and that, (b) also preserves the ability for innovation – that is, academic freedom – within each type and by individual members of an institution, can begin the process of allowing higher education institutions and systems to reclaim their role in not only offering but *explaining* what education is and should be. To be clear, escaping the current ranking obsession will not be easy, will take time, and any institution trying to do so will have to show why its approach is better than the approaches that follow the ranking herd. It is likely that schools will have to follow a dual approach where attention to ranking metrics is combined with innovative programs that deliver worthwhile results in ways beyond ranking metrics.

The key will be to take new actions and to show how and why they work. As a recent study on markets and education asked, "Why shouldn't universities routinely consider alternative and radical structures and roles for themselves? There might be other exciting models that emerge if we think and talk and act."[121] Rather than the passive "why shouldn't we consider alternative paths" perspective, I say higher education institutions and higher education systems must consider and *pursue* new paths that explore and shape education's future structures and roles. And branding, properly understood and used, is the way to do so.

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[119] *See* Furedi, *supra* note 9.
[120] LEWIS, *supra* note 6, at 44.
[121] Scullion, Molesworth & Nixon, *supra* note 14, at 234–35.