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SENATE

Official Committee Hansard

EMPLOYMENT, EDUCATION AND TRAINING LEGISLATION
COMMITTEE

**Reference: Provisions of the Education Services for Overseas Students
(Registration of Providers and Financial Regulation) Amendment Bill 1998**

THURSDAY, 16 JULY 1998

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SENATE

EMPLOYMENT, EDUCATION AND TRAINING LEGISLATION COMMITTEE

Thursday, 16 July 1998

Members: Senator Tierney (*Chair*), Senator Carr (*Deputy Chair*), Senators Ferris, Mackay, Stott Despoja and Synon

Participating members: Senators Abetz, Allison, Bolkus, Brown, Colston, Cooney, Chris Evans, Faulkner, Forshaw, Harradine, Hogg, Margetts, Murphy and O'Brien

Senators in attendance: Senators Carr, Stott Despoja, Synon and Tierney

Terms of reference for the inquiry:

Education Services for Overseas Students (Registration of Providers and Financial Regulation)
Amendment Bill 1998

WITNESSES

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GILBERT, Mr Rodney Douglas, Manager, Queensland Education Overseas Unit, Education Queensland, Department of Education, Education House, 30 Mary Street, Brisbane, Queensland 4000	36
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GRAY, Mr Brian Robert, Director, Australian Council of Independent Business Colleges, c/- Powers Business College, 462 Hunter Street, Newcastle, New South Wales 2300	31
MACKLIN, Dr Michael, Consultant to Australian Council for Private Education and Training, Level 8, 32 York Street, Sydney, New South Wales 2000	1
MARTIN, Ms Robyn, Director, Legislation Administration Section, International Policy Branch, Department of Employment, Education, Training and Youth Affairs, GPO Box 9880, Canberra, Australian Capital Territory 2601	47
MOORE, Ms Alyson Gabrielle Therese, General Delegate, English Language Intensive Courses for Overseas Students Association, Level 3, 162 Goulburn Street, Sydney, New South Wales 2000	10
MORTLEY, Professor Raoul John, 26 Ben Lexcen Place, Robina, Queensland 4226	43
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Committee commenced at 9.06 a.m.

CHAIR—I declare open this hearing of the Employment, Education and Training Legislation Committee. On 1 July 1998, the Senate referred to the committee for report the Education Services of Overseas Students (Registration of Providers and Financial Regulation) Amendment Bill 1998. The purpose of this bill is to extend the sunset clause of the act to provide for cessation on 1 January 2002. The amendment recognises the support the legislation has received from private sector education providers and also allows time for the Commonwealth, state and territory governments to focus on a workable scheme of self-regulation in the industry. The committee has taken a strong interest in the legislation over a number of years. In 1993, two reports on the ESOS Act were produced by this committee.

I thank the witnesses for attending today at such short notice. Initially, if I could make a comment before we go to the first witnesses about timing, we have provided about 45 minutes for each segment. Senators like to have as much time as possible to ask questions, so I ask that opening statements be kept brief and that material not be read extensively. You can table that material and we will incorporate it in the record.

GRAHAM, Mr Clive, Chair, Australian Council for Private Education and Training, Level 8, 32 York Street, Sydney, New South Wales 2000

MACKLIN, Dr Michael, Consultant to Australian Council for Private Education and Training, Level 8, 32 York Street, Sydney, New South Wales 2000

THOMPSON, Ms Carmel Therese, Deputy Chair, Australian Council for Private Education and Training, Level 8, 32 York Street, Sydney, New South Wales 2000

CHAIR—I welcome our first witnesses. The committee prefers evidence to be given in public but, if at any time you wish to give any evidence or answer any questions in camera, the committee will consider the request. Such material may subsequently be made public by order of the Senate. Could we have, perhaps, a brief opening statement, please.

Senator CARR—This is an opportunity to table any documents that you wish to table, so if there are lengthy statements—

CHAIR—I am sorry, I have not asked that question. Is there additional material to what you have already provided that you wish to table?

Mr Graham—We wish to table, prior to 24 July, I believe, a full written submission.

CHAIR—Do you have any indication of how long before 24 July that will be? It is just that we are on a very tight reporting time.

Mr Graham—Perhaps I should explain that ACPET has engaged the consultancy services of Hall Chadwick, Dr Michael Macklin. We were unaware that this hearing was coming up at this time, so the Hall Chadwick report has not gone to our board yet. In fact, we only received it a day ago. It is very early days for us; we are sort of skewed here. We were led to believe we had until at least September 1998 before we were required to make a submission regarding the review of the ESOS legislation. However, that has obviously changed.

CHAIR—Given the uncertainty of the parliamentary timetable, we are trying to wrap this up as quickly as we can.

Mr Graham—I should point out that we at ACPET, as the peak industry association of the private education and training sector, have engaged in the services of the tuition assurance scheme for our membership since 1995. That was begun with 19 members; it now has 186 members. ACPET represents over 300 colleges nationwide. Most of our colleges are small businesses. We have members who have been in existence for over a century in this country and who have never defaulted, but they have been faced with increasing regulation by governments and added financial imposts over the last 10 years.

We find ourselves somewhat at odds with the present government's current attitude or statement that the government recognises the problems of overregulation of small businesses and so established a small business task force, but it has done nothing about continued ESOS regulation even though the majority of non-exempt providers under the ESOS Act are almost exclusively small businesses.

I would also like to point out that, since 1990—and I will read this because it is a fairly important factor—our sector, the private education and training sector, and we are talking here predominantly about vocational and post-secondary education and training, has had to incorporate mandatory compliance with multiple variations of competency based training curricula; mandatory registration; mandatory accreditation of curricula; mandatory compliance, first with RATE—the pre-1992 standards framework—and then with the National Framework for the Recognition of Training, and now with the Australian Recognition Framework, each of those requiring massive changes to the way in which we structure our curriculum; mandatory compliance with an internationally unrecognised Australian qualifications framework; mandatory compliance with the Australian Standards framework and now with the Australian Recognition Framework; mandatory CRICOS—the Commonwealth Register of Institutions and Courses for Overseas Students—listing; mandatory TAS or insurance cost; mandatory annual trust account audits; mandatory state and territory charges for CRICOS;

mandatory federal charges for CRICOS; mandatory compliance with revised quality registration; changes in the Australian International Education Foundation representation; and charges for the new Australian Education International representation.

We have had changes in the export market development grant; ever-increasing AVETMISS, which is the Australian Vocational Education and Training Management Information Systems Statistics compliance; multiple other government agency statistical returns; charges on student visa costs and compliances and changes to those; and mandatory compliance now with training packages.

In fact, we are at the point in our industry where we are becoming increasingly disillusioned with overregulation and, I must say, there is a feeling with a lot of providers that there is no point continuing with the export of education and training in the private sector. It has become so complex. Also, we are governed by nine different series of government regulations. These are the eight states and territories and the federal government. So, for those of us who provide education and training across state and territory boundaries, we become increasingly involved in complex regulations and changes in procedures. At this point in time, with the new national agreement to have quality registration and accreditation, we are faced with eight different quality systems across Australia.

I must point out that, as you wanted an opening statement, I have a lot to say, quite obviously, but we will put most of this into a submission. But when we agreed, in 1995-96, to the introduction of a TAS system, I wrote in July 1996 to the then Assistant Secretary of the International Policy and Legislation Branch at DEETYA stating that 'ACPET believes an extension to January 1999 of the ESOS legislation is appropriate in order to permit adequate consultation and determination regarding potential deregulation and/or industry self-regulation'. We had assumed that consultation would be undertaken with our association for any further review of the ESOS legislation or any extension of it.

To date, however, ACPET has had no consultation with regulatory bodies regarding the investigation of the success or otherwise of the ESOS Act, of actuarial data derived since 1995, which may lead to improvements in student protection and provide a cost to insure or assure students, and our experience and concerns, as Australia's largest TAS operator, about the practices and procedures in the implementation of the revised ESOS Act. We find it particularly disturbing that there is a lack of consultation by government regulators when making decisions that affect the trade of our sector both within and external to Australia.

We have some concerns with the continuing operation of the ESOS legislation, and I will briefly list those as relevant to my opening remarks. I will explain those in a submission to this inquiry. The first problem we have is that there is a separation of powers to register private providers and to assure them: that is, the states and territories have different methodologies of control which we are not able to regulate or in fact impact upon, yet we are required to assure providers, and there is no cooperation between the government regulatory authorities in this regard.

The second problem with the ESOS Act is the lack of information available via CRICOS to assess the impact of the ESOS Act on market provision, something which we believe industry self-regulation could control. We receive no statistical data from CRICOS which allows us to gauge the continued operational success or otherwise of the TAS.

Thirdly, there is a problem with trust funds. Our experience demonstrates that, when a company is in trouble, it borrows from a trust fund—I use that word advisedly—hopefully to salvage itself but then is unable to survive and collapses without any money in the trust fund. So the trust funds do not provide fees assurance at all. They are a total waste of time.

The fourth problem we see with the ESOS legislation is the lack of communication between the government body responsible for regulating the industry and the tuition assurance agency responsible for incurring the risk. We have an indication that at times DEETYA may have had knowledge of potential collapse or close to the wind situations of providers but, evidently, because of matters of privacy law, they are prevented from telling us, as assurers, that a college may be worthy of investigation.

We are concerned too that the protection for overseas students and the scope of that protection are not covered adequately by any legislation. It is quite reasonable to say that the tuition fees may be assured but there is a lot more at stake. For example, when a student is forced to move location rentals are forfeited. There are a whole range of other investments that students make including textbooks. There are also travel costs which have not been assured and in fact ACPET has picked those up as a matter of concern for those students. We point out that the ESOS Act, as it currently stands, does not necessarily provide the scope of protection for overseas students that Australian export requires to maintain its international image as a fair and safe destination. We particularly ask that the ESOS legislation be investigated with regard to other state and territory legislation and particularly with regard to Commonwealth legislation and regulations, the likes of which I have listed.

At this point in time, our industry is faced with an extreme downturn in market. We are currently suffering an estimated 40 per cent downturn in overseas market. This is a result of the Asian economic currency crisis,

the Hanson One Nation factor, the ongoing reticence of successive governments to open up new export markets in China, India and South America. There is also the cost of Australian student visas, the slow processing and, in non-gazetted countries, the apparently arbitrary processing of student visa applications. There is an uncoordinated national marketing promotion. And, of course, the continual changes in regulatory compliance that are required of us as providers impact our ability to market and to market in advance with changed courses. At this point in time our mandatory compliance with national training packages will impact upon our market and we estimate that it will cause an additional 10 per cent downturn in overseas trade.

There is a certain degree of disillusionment within the industry because we feel as though governments, successively, and government regulators have not communicated with us to the growth of our industry. Therefore, we believe that consideration of the ESOS Act cannot be undertaken in isolation from other government regulation—collectively, regulations impede or progress Australia's export education provision.

ACPET will proceed with investment it has made to review the TAS operations in the light of its experience with reference to the consultancy services of Hall Chadwick but we have never received any form of government funding from either DEETYA or ANTA—the Australian National Training Authority—to help us research our sector, with regard to ESOS or any other regulatory or factor associated with our sector. In point of fact, we are the only education and training sector not to receive any form of government grant or any form of government funding for our capacity, either as internal providers or as external exporters.

We employ in excess of 12,000 people in Australia and we turn over more than \$1 billion in fees generated, and in employment generated, and yet we receive no government assistance whatsoever. However, we are concerned that our industry will survive and that we do make a contribution. As small businesses, we make possibly the greatest contribution to export of any small business sector yet we are the most regulated of any small business sector.

ACPET is concerned that an extension of the ESOS Act be made only with consideration of the issues that I have iterated, and I will supply in a tabled document later, and following research into the most effective ways to protect overseas students tuition fees while at the same time enhancing the export trade of Australia's private post-secondary education and training sector. For these reasons, we endorse a one-year extension only of the ESOS Act at this stage. We urge the Senate to seek commitment from government in the context of the debate on the amending legislation that will ensure meaningful consultations with ACPET.

We urge the Senate to seek a commitment from government to undertake consultation towards a thorough review of private post-secondary education and training for overseas student tuition assurance, and we request that no further extension be made without a coordinated approach to this and other policy that impacts upon the private post-secondary education and training sector. In times of prosperity, deficient government regulations may be accepted, albeit reluctantly, but in these hard economic times such forbearance cannot be afforded by the industry and the individual providers.

In conclusion, ACPET asserts its belief that, in a genuine consultation process, we will be able to present practical proposals for self-regulation which will provide greater protection for students, overcome the problems arising from dishonest operators, significantly lessen compliance costs, and restore provider confidence in the worth of generating increased export education for Australia. I ask, with your permission, that the Deputy Chair might iterate some of our experiences with the tuition insurance scheme practice?

CHAIR—If it could be kept incredibly brief.

Ms Thompson—Don't worry, I am an accountant: it is in dot form!

Senator CARR—Chair, perhaps it would be better if I asked a question. I am particularly concerned about some of the issues that have been raised here, which is why we pursued this inquiry. There was an assumption that this matter should go through based solely on the recommendation of the department and that all consultation had been made. I have received representations on these matters and, as a consequence of those representations, I took up this opportunity for an inquiry because the bill was before the parliament. I am particularly concerned about the issues that appear in the press concerning the operations of the trust funds; the extent to which the trust funds have been administered effectively.

Have there been occasions, Ms Thompson, that you are aware of, where the trust funds have not been available when a college has closed down?

Ms Thompson—Absolutely. I have brief details about the four colleges we have closed down—

CHAIR—Over what period?

Ms Thompson—It was 1995 when we started up but the first one was in December 1996, and it was actually two colleges—an English language college and a business college in Melbourne. There were 84 overseas students. When we came in, the day of closure, we could not find 14 of them. We do not know what happened to them and I do not know what has happened since. Approximately 10 had taken themselves to another college and the remainder were transferred to four other colleges. There should have been \$68,000 in the trust account, but there was only \$6,000 in it. Apparently, the day before the winding up the college put in \$43,000

but the liquidator classified those as trading funds so they were not allowed to stay in the trust account. So that was our first one; it was the same owner but there were two colleges.

In April 1997 there was a Sydney college. This college was deregistered by DEETYA in February or March of that year. Arrangements were made to temporarily transfer 48 students to another college. I do not know why they were deregistered because we do not have access to that information. So these students were transferred to another college. Money in the trust account with the students' authority was transferred, so there was some money in the trust account then. About six weeks later the college was re-registered, or given back their accreditation, so then we had to move the students back into that college. Then, in August, they went down and there was no money in the trust account. The new owner is actually trying to sue the previous owners.

Senator CARR—What was the name of that college?

Ms Thompson—Eliaus College in Sydney. The fourth was the one that I have personally been involved with, in Queensland in April. They had English language and high school programs, and they also had a golf program. There was an Indian student enrolled in a diploma of business and music course, but there was no music program and nobody seems to know how he got the visa.

Senator CARR—What was the name of that college?

Ms Thompson—Queensland International Heritage College. ACPET paid the expenses of their representative to go up to Maryborough to investigate. The college had been deregistered temporarily and I suppose it was a problem with the trust account because, when I was there, there was an auditor who had been brought in by DEETYA and was keeping an eye on them. Subsequently, in about February or March, the college got their registration back again, and by April they were in liquidation.

Senator CARR—What date was the registration restored?

Ms Thompson—It would have been about February or March, I think.

Senator CARR—And by April the company had gone bankrupt?

Ms Thompson—Yes. There are lots of stories behind it. Apparently there was an agent in Korea who was coming up with the money, and I think he actually transferred funds across to top up the trust account and intended taking over. When he came to talk to some of the government people, he found out it was not as easy as he thought, that there were trust accounts here and he could not keep the money in Korea, et cetera, so that would probably be the reason why the college went into liquidation.

Senator CARR—In your experience, how is it possible for the tuition trust accounts to be emptied?

Ms Thompson—The only time there is an audit is on 30 June and then we put in reports to DEETYA, which our TAS coordinator has to do, but then it is another year and nobody checks.

Senator CARR—So the department is not actually monitoring those trust funds on a regular basis; it is only a once a year audit. Is that your experience?

Ms Thompson—It is, but there must be some reason here because they deregister colleges. I do not know how it comes about. Do you know, Clive?

Mr Graham—Yes. Normally students and others notify us or DEETYA, I assume, that a college is doing something. A teacher, for example, might say a college is simply not providing what it says it is providing and that gets around the industry. I would assume that a notification is made to everybody or anybody, and so a review can take place. Unfortunately, ACPET does not have the power under the act to actually go in and audit those trust funds. In fact, we have been refused access to colleges, we are sure, on the grounds that we do not have that power under the legislation.

CHAIR—You can notify DEETYA.

Mr Graham—Yes, we have notified DEETYA.

Senator CARR—In your experience, the review is only undertaken where there is a problem. It is not a regular ongoing monitoring of the balances of those trust accounts?

Mr Graham—Annually, every college must present an audited statement by a chartered or certified practising accountant of the statement for that 12 months. Quite obviously, things can go amiss between those times.

Senator CARR—Does that audited account reflect the state of affairs in those accounts on a particular day?

Mr Graham—It should be, but, to be honest with you, I understand that there are friends and so forth who may just turn a blind eye.

Ms Thompson—Also, that is why DEETYA come in and suspend them, even though the right amount of money is there. But when they can see that they have just topped it up the day before, I should imagine, as an accountant, that that is what some people do.

Senator CARR—Presumably the department would be aware that these transfers have occurred the day before an audit?

Mr Graham—I would not know. I cannot comment on that.

CHAIR—It would be a full audited statement of the year's operation, wouldn't it?

Ms Thompson—Yes.

Senator CARR—I am concerned that on one day there could be an account registered and that there is money in the trust account at the appropriate levels but, on the next day, it is not there.

Mr Graham—It could be a very complex operation. Many colleges continuously enrol; that is, students are not necessarily enrolled on 1 January and conclude on 30 December. You have what we call a cyclical enrolment. It goes around quite often, so exactly what money should be there and what money should be taken out on a draw down basis can be a very complex financial transaction.

Senator CARR—There may, in fact, be legitimate reasons for fluctuating accounts?

Mr Graham—Indeed, there could be, yes.

Senator CARR—When it comes to companies actually going bankrupt, given that the whole purpose of this legislation is to protect Australia's international reputation, how do you respond to suggestions that moneys are not available in these trust accounts when required?

Ms Thompson—This is why we have earmarked this and are concerned, and we have had Hall Chadwick have a look at alternative ways. We do not think the trust account method works and, in fact, Dr Macklin will probably tell you in a few minutes some of the suggestions that have come up.

Senator CARR—There is just one other matter. I have a document here from Department of Employment, Education, Training and Youth Affairs dated 1 July 1998, which says:

According to our records and inquiries with ACPET and ELICOS no providers of English Language Intensive Courses for Overseas Students have gone out of business in the past twelve months.

Is that your experience? Were you consulted, or have you been consulted about the questions?

Mr Graham—I cannot comment on that because, firstly, I would have to check our TAS coordinator, and I am not the TAS coordinator. I can get an answer back to you on that. Secondly, the colleges that have gone under in them last 12 months have involved English—

Ms Thompson—There was the ABC College of English—

Mr Graham—Since the beginning, I should say, yes. They have all involved English. They may not have been ELICOS members, but they would have been NEAS accredited, which is the English language accreditation of programs which is carried out in association, I think, with ELICOS. In other words, they would be English language colleges, or partly English language colleges. They can also do other things but they may not be ELICOS members.

Senator CARR—It says here that, according to inquiries with your organisation and ELICOS, no providers of English language intensive courses—

Mr Graham—For the past 12 months. I understood that Queensland Heritage College had—

Ms Thompson—Our TAS coordinator gave me this—

Mr Graham—I will check that for you.

Senator CARR—I appreciate that.

Ms Thompson—This is where our information comes from.

Senator CARR—With regard with the career costs, the providers must comply with the requirements of relevant state authorities and the ESOS Act that overseas students must maintain enrolment with a provider in a course registered. Has that provision been breached to your knowledge?

Mr Graham—There is a complex issue with this Queensland International Heritage College, with one student enrolled in a business music course for which the college was not registered, as far as we can understand. We are not clear about how they got that enrolment from overseas, but there is a real problem with this whole issue. A college may be registered to provide a course but may not choose to provide that course—for insufficient enrolments, or any other reason—in a particular year. The whole notion of matching and assurance is a complex issue. It is not simply saying, 'College A provides music and college B provides music, therefore we can match them up.' This college might decline to enrol. It is a hugely complex issue that we were certainly not aware of when this became legislation for the tuition assurance scheme. It is only after practice that we have found out the complexities of this.

Senator CARR—I am pressing this issue because it goes to the heart of why this act is here. Is it your experience that information that you require in regard to registrations, for instance, is available from DEETYA,

in terms of the providers that are currently operating with the industry? Are you aware at any one time what the scope of the industry is?

Mr Graham—No, but that is not necessarily the fault of DEETYA, that is often the fault of the state regulators. For example, it may take a particular state many months, and I do stress, months, for a college that is registered and accredited, to actually inform DEETYA that that has taken place, or that accreditation may have altered or courses may have altered over a period of time. So we have an incredibly complex system that government information databanks do not align necessarily. It may not be DEETYA's fault.

Senator CARR—The industry is currently paying, according to the explanatory memorandum, \$0.94 million in fees. What are you getting for that?

Mr Graham—We are getting nothing.

Ms Thompson—Nothing.

Mr Graham—You are obviously concerned with DEETYA, CRICOS and ESOS.

Senator CARR—I am interested in the Commonwealth's involvement in these things.

Mr Graham—We are paying that also to the states to get nothing. In other words, we are paying double.

Senator CARR—More to the point, the department pays out \$1.9 million in administrative costs. What is that money going on, in your experience?

Ms Thompson—It is a duplication. We do not get that information either.

Mr Graham—We hold the information by a tuition assurance scheme. That is, if we had slightly more powers we could know everything about our sector and we could control it much better than it currently is controlled. However, I do not know why we are doing this, I really do not. In fact, I think we have put in, over the years, some millions of dollars. Our estimation is that we have had to pay out about \$15,000 for collapsed colleges. That is what it has cost us.

Ms Thompson—That is not what our members have had to pick up—

Mr Graham—No, perhaps not.

Ms Thompson—because our members are picking up the students for nothing. Another issue about the trust account is that with this one in Maryborough, some of the students were on half-scholarships or full scholarships, and that is another way of cheating the trust account.

Senator CARR—Who paid the scholarships?

Mr Graham—The college.

Ms Thompson—The college, to keep going, probably reduced their fees from \$8,000 down to around \$4,000 or \$2,000. Only a percentage of that was in the trust account.

Senator CARR—Yes, I see.

Ms Thompson—When our ACPET member comes in to take up those students, they are taking up students who are on full scholarships or half-scholarships. That is common. And another one, the agent, because he knew the college was in trouble, did not transfer the funds for Korean students. So they were not technically covered, their money was not here, they were not enrolled as students. Again, we picked those up and then we tried to negotiate. So there are all sorts of ways of getting around that trust account situation.

Senator CARR—The fact remains that in terms of our experience in this industry in the 1980s, there were a number of unscrupulous providers. There was an unevenness in the quality of both the services provided and that the financial collapse of several of these institutions had a devastating impact in terms of Australia's international reputation. You do not dispute any of those facts?

Ms Thompson—No, absolutely not.

Mr Graham—Certainly not.

Senator CARR—Do you see in the coming period, with the economic situation in Asia, that our overseas markets may be under some stress from competitors, that there will be pressure on costs which will lead to businesses taking short cuts which will exaggerate these problems that we have identified in terms of unscrupulous providers, in terms of quality of provision and, of course, in terms of the consequences for our international reputation?

Mr Graham—Yes.

Dr Macklin—What has happened is that since the act was brought in in 1991 there has been substantial change within the industry, not only external but also internal. The time has now been reached to look at this in a closer and more analytical fashion. In terms of the report that we have been doing for ACPET, we have been looking at the various schemes that operate around Australia, for example, by solicitors, by travel agents and a whole host of people who have similar types of needs and problems. They are not regulated the way

that this industry is and they operate a whole variety of structures. A lot of those are also currently under review because they are not satisfactory at the end of the day.

In summary, what is happening in the industry today is that government has an enormous cost that it is wearing, through DEETYA, for looking after all the things which are required in the act. On the other side, industry is paying fees to partly pick some of those up, but on top of that you could say an equivalent amount of money is being spent by industry in compliance cost by just getting the material together that has to be sent in.

So we are looking probably at in excess of \$5 million currently being spent. But what happens—and Carmel has had first hand experience of this in the last couple of months—is that when you go into a college there is nothing there. That is not unusual. In the real world, when a business goes under it generally has been cutting corners everywhere. The fact that there is nothing left in the trust fund is not unusual in any business going under, of any kind.

So the testing has to pick it up. For the expenditure of \$5 million, essentially, the industry then has to pick up all of the costs of relocating those students, putting them into courses and taking them through to completion. It is a very strange system that has arisen.

On top of that there are a couple of other factors that are important to note. The reason that Clive was pushing very heavily the different regulatory systems is that when we came in it would have been unusual for a college to operate in any more than one state. Now it is usual for them to do so. There are many large international competitors who have come in, which creates a further problem. If one of those large colleges goes under, under the current scheme it could take the entire industry with it. So there are some problems.

If I can round it out by talking from Queensland's point of view, not only has there been an enormous downturn as a result of the Asia meltdown, and that is something that has occurred since the Ernst and Young report was given to DEETYA in March 1996, there has been another factor. If I can read this out, and this is something that all of us are going to have to deal with, it says:

Last week, the Queensland Government released figures from the universities' marketer and recruiter, IDP Education Australia.

It found that one in five students at an IDP information day in Hong Kong, considering studying in Australia, had specifically asked not to receive information on Queensland.

The figure is one in five. So the industry expects, as a result of political operations in Australia, there to be a further significant downturn in exports by the end of this year, probably of the order of 20 per cent. The industry then, within a space of 18 months, would have suffered something like a 60 per cent downturn in its market. That is bigger than what has happened in tourism and yet large packages have been made available in tourism to support the industry, but nothing currently has been made available for this sector.

Senator CARR—But this just leads me to draw to your attention the point that surely the need for regulation and for the department to operate effectively is all the greater if you are facing this sort of tidal wave.

Dr Macklin—I suppose the answer to that is that if the department was provided with more money it could do the types of things that you have been suggesting, but on the other hand an increase in regulation is likely to send more operators to the wall rather than help them. They are struggling at the moment to complete the mountains of paperwork that they have to complete for not just governments but also semi-government bodies of all kinds. A large tender went out for the AVETMISS operation in all states within the last week, and they are going to be mandatory collections of more data. They will be collecting data on nothing shortly because the industry just will not be there. It is really in danger.

Ms Thompson—We are small business.

Mr Graham—I have to say that I know you are looking at the ESOS legislation, and your concerns are for the protection of overseas students and Australia's image, and we endorse that principle, but we believe there are better ways, cleaner, cheaper and more effective ways, to implement that and we will be proposing those in our written submission to you.

However, I urge that one cannot look at the ESOS legislation and its impact without looking at the multiple controls upon our sector. It is just a mind-boggling series of going from one government funded agency and government regulator to another to get through the week. If we put even a course together we not only have to get it accredited, we have to go around to the government ITABs—the industry training advisory bodies—which may take three to four months to even get their approval. It goes on and on. We have become over-regulated.

CHAIR—I would like to follow that up in a minute, but just before we do, Ms Thompson, you were giving us some figures on students that were disadvantaged under collapses but you did not give us the last one. The college you mentioned collapsed in April 1998. How many students were there?

Ms Thompson—There were 12 students on their books, all from Brunei. Unfortunately, it included the Sultan's niece as well, and she probably was the one on the full scholarship.

Senator CARR—They are doing it hard in Brunei!

Ms Thompson—They were quite young, those students. But there were seven Korean students that were not—

CHAIR—Just the total.

Ms Thompson—Nineteen.

Senator CARR—Could you table the document?

Ms Thompson—Would you like me to leave this one?

CHAIR—If you could, yes, that is fine. To get this into some sort of perspective, we have spoken about four colleges failing over about three years. How many ACPET colleges are there in total, or how many institutions are you dealing with?

Mr Graham—We have 184 in our tuition assurance scheme and we have more than 300 members who are not. A lot of members, even though they may provide export education, are not necessarily within our tuition assurance scheme. This is because the matching college they do not admire and they do not want their students affiliated with it. I know that sounds odd, but that is why they choose to go to private insurance.

Ms Thompson—Over the last couple of weeks, there are three colleges—one in Sydney, one in Adelaide and one in Queensland—that have voluntarily temporarily suspended their operations. This is starting to be a pattern.

CHAIR—It could be in relation to the Asian crisis.

Mr Graham—You must understand that we get takeovers too.

CHAIR—To this point you have got 300 operators.

Mr Graham—Yes.

CHAIR—And you have got a failure rate of slightly under one per cent over the last three years.

Ms Thompson—Yes, but a lot merged.

CHAIR—Have you got a total for the number of students?

Mr Graham—No, we do not have any knowledge of the number of students either in the TAS or in our membership.

CHAIR—Okay. If we could now just go back to what you were leading towards, and I know you are going to provide us with a paper on it in detail—

Mr Graham—I am.

CHAIR—This committee has had a longstanding interest in this. You will recall that seven or eight years ago the government actually wanted to regulate it a lot more.

Mr Graham—I do.

CHAIR—But you obviously want to move us more in the other direction. In a nutshell, could you provide us, in a minute or two, with the essence of the model you favour.

Dr Macklin—Essentially, I think the industry is very keen to continue with a TAS operation under the control of the industry and for that to be mandatory on all providers of export. They should belong to some type of industry based scheme which is aiming to achieve the two elements that are currently in the ESOS Act, which is the protection of students and the protection of Australia's reputation as an education provider.

Over and above that, the industry feels that it can deal with the rest of that itself. Probably in the initial sense, it may come to government and say to them, 'If you put even the amount of money that government is spending this year into a scheme—that is over \$1 million—as a backup, it would have certainly looked after the \$12,000 worth in terms of tuition and other movement costs, bonds forfeited, textbooks lost and having to change and all the other things that happen in a disruptive context of moving from one college to another.' Remember that, with some of the courses being taught in Maryborough, those students had to go to Sydney to get a comparable course. So you are looking at quite substantial costs involved. We believe that some type of fidelity fund or a security deposit operation that in the initial year or more may be guaranteed by government would solve the problems that are currently within the industry, provided that the industry had the power to regulate its own members.

CHAIR—What do you see is DEETYA's role in that model?

Dr Macklin—DEETYA would have to register the TAS schemes. They would be few and far between, because presumably they would only be operated by the peak bodies. There are about four major groupings currently in Australia. ACPET is by far the largest, ELICOS is the next, and there are two smaller ones: a business college grouping in WA and ACIBC.

Mr Graham—And there is a Bible college, I think.

Dr Macklin—The numbers would be quite small and we believe that the cost to government would be significantly lowered. What you could then do is actually significantly increase the protection to students, which at the end of the day is what protects the reputation.

CHAIR—With the multi-tier approach we have, could you just explain what difficulties are caused by the fact that Queensland and South Australia, after six years, still have not got their legislation in place?

Mr Graham—The difficulties are not so much that but that indeed there are eight different bodies with eight different mind-sets about how they will interpret an agreed federal philosophy.

CHAIR—That is the joys of federation.

Mr Graham—Right. What we have great difficulty with is the regulation of providers, because in some states we have informed the registration authorities that we are very dissatisfied with the operation of some providers, but no investigations have been carried out. In fact, we have put this in writing. If we have an industry that has registration and accreditation as being the premise for export education, we need to have some control about the deregistration of dishonest operators, or people whom we do not believe are operating in accordance with the best interests of Australia. That includes discounting and many other things. By separating those powers, that is the first and most difficult thing to overcome because there are different standards in different states and territories and operators will move.

CHAIR—Have you made any approaches to MCEETYA to try and bring about some rationalisation between the states in the way they operate?

Mr Graham—No, we have not, but we will. To be honest with you, and I am not pleading anything here, we are a small organisation in terms of finance. Our roles are voluntary. We are private businesses, Carmel and myself and all the other members. We have two full-time employees in ACPET, and we just simply cannot respond to so many multifarious government regulatory authorities, including state and territory ones. It is impossible.

At this moment, to be honest, our priority is to try and divert the mandatory compliance with training packages by 1 January, because we believe that will completely erode a whole sector of overseas exports for us, because overseas purchasers do not want Australian specific education that relates to industrial issues in Australia and so forth. Yet we are being forced to comply with a one size fits all training package, which means that college A and college B will have no differentiation of curriculum. That is going to kill our industry; it is going to reduce Australian exports. So we are really focusing our attention on that at this point of time. We just do not have the resources or capacity to do otherwise.

Senator STOTT DESPOJA—I just want something clarified. I am sorry that I was late, and Senator Carr has told me that I have missed a lot but could you clarify your position on the sunset clause. You are aiming for a year non-extension only?

Mr Graham—Yes, at this point of time, until we have further consultation, until we have some research. We have invested in a significant amount of research ourselves, and it is not complete yet, through Hall Chadwick, Dr Michael Macklin representing Hall Chadwick. That research is to come to fruition. We would have hoped that the government might have joined us in that research, or the regulators might have taken some involvement in looking for better ways. We are in complete agreement, we want the overseas students protected, we want Australia's exports to be world best and we do not want any diminution of that. We do not believe currently that this act affects that, but there may be other reasons other than this act—that is, the other government regulations, and they may be state and territory—which may also diminish the viability of the act. So we want to have a look at the whole area once and for all and try and get it to a degree right. We also believe the industry is the best regulator, because it knows who are the malpractisers and it knows what is going on.

Dr Macklin—Senator Carr, you actually raised that question with me, which I think bears on what Clive was just saying, that in our first report, which we have just given to ACPET, we say this:

ACPET could have the power to conduct random spot checks on providers' trust accounts.

This is assuming they were going to continue.

The merit of this appears to be borne out by the results of the audit of solicitors' trust accounts in Queensland which confirms that as a method of preventing fraud, the use of trust accounts is not efficient. During the period 1996 to 1997 dishonest trust account activities by 61 persons were uncovered but only 4 of these were reported by a statutory trust account auditor. On the other hand random examinations by the Law Society (the equivalent of ACPET) unearthed the activity of approximately 50% of solicitors who had dishonestly dealt with client funds.

With the two items there, I think that even a ratcheted form of looking at trust funds is still unlikely to be useful for what this act is about. The industry itself actually already knows the problems. You only have to sit down and have a cup of coffee actually to know where the problems are, but no-one can do anything about it until the damage is caused—and then things are trigged.

CHAIR—We are five minutes over the adjusted time now, so if you would like to finish—

Senator CARR—Why cannot the department know—

Mr Graham—I assume it does. There is a lot of rumour and innuendo, and of course one cannot make charges against companies unless one is sure. We have been threatened with law suits for saying things and so forth, and so until we find out the facts we have to be very careful—and rightly so.

Senator STOTT DESPOJA—I want to touch on Dr Macklin's comments about some of the other external and political influences on the industry. You mentioned the concern that people have had about the impact on the tourism industry. Are you advocating perhaps a rescue package at this stage? Or, as a minimum, are you concerned about or satisfied with the amount of research that has been done by the department into the effects of political changes—in Queensland and other areas—on overseas education?

Dr Macklin—I suppose I have less of a concern about the department—because, in a sense, the department does not necessarily have a statutory obligation to involve itself in a number of these matters; but certainly ANTA, which does have that, has consistently refused to provide funds to research this sector. While there are funds which wash around for every other sector, there are none for this one. All right, there are private providers, and they stand robustly on being private providers; but, in Australia's context, tourism is also a private industry but one which is very strongly supported by government funds when difficulties such as we are currently facing arise. This industry has not had one dollar in support of that kind. The reason that Clive was not able to tell you about various figures was, quite frankly, that the only way to collect those figures is for someone to spend money to collect them. That type of even basic research is unable to be conducted, and ANTA refuses to fund it.

CHAIR—Thank you very much for appearing today. We look forward to your further submission.

[9.58 a.m.]

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POWER, Ms Margaret-Anne Gabrielle, Executive Officer, English Language Intensive Courses for Overseas Students Association, Level 3, 162 Goulburn Street, Sydney, New South Wales 2000

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CHAIR—Welcome. You would all have heard what I said earlier about giving evidence in public and in camera. I invite you to make a brief opening statement, and then we will go to questions. As you can see, we do have a lot of questions, so could you please make it as brief as possible?

Ms Moore—We did send yesterday to the secretary a brief overview of our position on this. I hope that you have received the document from Mr Carter.

CHAIR—Before you go any further, has everyone got a copy of that? Is it the wish of the committee that the document be accepted? There being no objection, it is so ordered. Please proceed.

Ms Moore—I will briefly go through our position. The ELICOS Association supports and encourages the passage, without amendments or delay, of the bill to extend the sunset clause of the act for a further period of three years. There are number of matters related to the operation and administration of the act by DEETYA which need to be addressed. The ELICOS Association has written to DEETYA regarding such matters, and that document has been included as an attachment. In response, DEETYA has given an undertaking to take these matters up in the near future, and that response is also included in the documentation.

The committee may see fit to review the act after 18 months, and that is what we would like to see. DEETYA has estimated that the cost of administering the act is approximately \$1.9 million. Taking into account the difficulties and uncertainties related to the administration of the act, as identified in the ELICOS Association's correspondence with DEETYA, a more effective administration of the act may, in some instances, provide savings. The ELICOS Association requests a detailed breakdown of this \$1.9 million, and we would like to know the specific costs of the activities and expenses that make up this amount.

It is important that the government take appropriate steps to ensure compliance with the act, so that unnecessary burdens are not encountered by those institutions which do comply. It is also important that monitoring is not conducted in such a way as to create additional unnecessary costs to providers. The ELICOS Association recommends that DEETYA implement a mechanism of spot checks on institutions' trust accounts, in addition to the current annual reporting requirements, and if cases arise where institutions close without adequate funds in their trust accounts DEETYA should take appropriate legal action against the directors of those companies. Savings provided by more efficient administration of the ESOS Act may make such processes possible without further financial burden to the government or the industry.

The ELICOS Association looks forward to becoming involved in a consultative process to address the matters outlined in the attached correspondence to the committee. In the meantime, we fully support the proposed three-year extension of the sunset clause so that the ESOS Act may continue in its current form.

Senator STOTT DESPOJA—You referred to significant implications if the percentage amount is not reduced. What are some of those significant implications?

Ms Moore—When the act was first established, in operating the industry, the 80 per cent draw-down and the 20 per cent that was not drawn down were based on the fact that agents who recruited students on the colleges' behalf would take a commission of 20 per cent, on average. The colleges and institutions have been squeezed, and we are now more regularly looking at commissions of 30 per cent. So the colleges at the moment, to be in compliance with the act, would need to top up the trust account by that 10 per cent in order to remain compliant. It is not really reflected in the changes in the industry at the moment.

Ms Power—The most significant implication really is that, because institutions are basically having to put more into the trust accounts than they are receiving, because of the agents' commission, and particularly because, with the industry as it is at the moment, ELICOS institutions have lost between 40 per cent and 50 per cent of their business since the Asian economic crisis happened, that is placing too heavy a financial burden on those institutions.

Senator STOTT DESPOJA—Why the recommendation of 70 per cent?

Ms Power—Because 30 per cent is the market price—

Ms Moore—That is the commission that is going, these days.

Ms Power—Basically, it is not from Australian market forces but from world market forces: that is what the other countries pay, and so that is what we have to pay.

Senator STOTT DESPOJA—Why isn't it clear whether the tuition fees of a tourist visa holder may be deposited in the providers trust account? Where has this become a problem?

Ms Moore—This is a logistical problem really. What happens is that the agents recruit students on behalf of institutions, and they are located overseas. They may transfer funds for maybe two or three students at the same time. One student may be on a student visa but the other two may be on a working holiday visa and a holiday visa. So they will make just one transfer: they will not separate the funds into different accounts. You can tell the agents until you are blue in the face, but they will not do it: they do not see the relevance of it and they do not want to bear that cost. They will transfer it into the nominated account of the college; but the college would nominate the trust account for student visa students. But that is okay; they will put all the money in the trust account for the student visa students, but that transfer will also contain money for the other visas.

DEETYA have been particularly sticky in the past couple of years about colleges not having in the trust account any funds other than for students on student visas; but, if you did not transfer it into the trust account, you would transfer it into a working account—which means that you are also in default of the act, because student visa moneys are meant to be transferred into a trust account. You are in default of the act, whichever way you do it. It is a logistical problem, and our position is that it needs to be fixed, and we recognise DEETYA's problem with it because trust account law says that you should not have money in there that is not supposed to be in there. You are wrong if you do and you are wrong if you do not.

But there is also a bigger issue at stake, which is that there is no money in some trust accounts. If DEETYA really want to do something about that or to spend their time on something, we think that they should be spending their time on getting to the ones who have got no money in the trust accounts rather than to those with more money in the accounts than they should have.

Ms Power—These are not issues that DEETYA have refused to cooperate at all with us on: they invited us to provide them with input on how the act was working, which we did. As you can see, they have written back, agreeing to undertake further consultation—because we, the people in the market, are the ones who have this information and, unless we can consult with DEETYA, they are not going to know about it. We are not at all saying that they have not been cooperative with us, merely that we have only just commenced this process.

Senator CARR—How many ELICOS schools have closed in recent years?

Ms Moore—Could I just clarify things? There is ELICOS and there is also the ELICOS Association. ELICOS stands for English Language Intensive Courses for Overseas Students, and they are all accredited by NEAS, which has devolved powers from, I think, VETAB or the state registration authorities. The ELICOS Association is an organisation which will only take on members on a very selective basis. We do not have in our membership all colleges that apply to become members; we will reject some. This is an important point, because it relates to some of the other issues that you were discussing.

Senator CARR—You will not take on people you think are dodgy?

Ms Moore—Exactly; and that means that they will not get into our TAS. The other thing is that we have articles of association allowing us to expel members. So, if we hear of anything dodgy, we will expel a member.

Ms Power—After we have investigated. In answer to your question, none of our members has closed since the TAS regulation came in.

Senator CARR—Do you think that the people that are associated with your organisation operate effective businesses?

Ms Power—Yes; but that would not be to say that, at this point in time, we are confident that none will close in the future. An industry that loses the amount of business that this one has lost is going to have casualties.

Senator CARR—So, in your judgment, is it inevitable that there will be businesses that will go?

Ms Moore—We have been saying this for 12 months now.

Senator CARR—I appreciate that. I have read your material and I have had representations from your organisation.

Ms Power—Yes, they will, in my judgment.

Senator CARR—Is it an inevitable consequence of the economic situation that people will go bankrupt?

Ms Power—Yes.

Senator CARR—I notice that the report on Monday 11 May in the *Australian* says that, so far, two of ELICOS's 63 member colleges—and there are 125 ELICOS schools nationally—have been forced to close, and that three others have shut branches. Are you aware of that report?

Ms Power—I am aware of the report, but you cannot believe everything you read in the newspapers. None of our members has closed.

Senator CARR—So you are not aware of any closures, and you do not believe that to be right?

Ms Power—A couple of our members certainly did close branches, but that is not a problem: it simply means that they have had two different locations in the same city. They do not need both, so they transfer all their students to one location.

Senator CARR—Yes; so are these just business amalgamations?

Ms Power—No. Ms Moore's institution, for example, has a location at Bondi Junction and one at Manly. If they found they did not need both locations any more, they would move all their students to one location.

Ms Moore—But that is not the case with us.

Ms Power—No, it has not happened with them, but—

Ms Moore—But a branch may have closed its doors in Brisbane, when a college had a head office in Melbourne, for example—something like that.

Senator CARR—In terms of the department's acknowledgment of changes in the registration status of a number of businesses—if that is a fair way of putting it—has there been a significant number of deregistrations?

Ms Power—I believe so.

Senator CARR—Have you been consulted about any of those?

Ms Power—There was a case where one of our members was suspended from the CRICOS, and we were advised of that and we were certainly consulted. We were advised of the suspension, we undertook to investigate the matter and we kept in contact with DEETYA about that.

Senator CARR—Is that the only occasion that you are aware of?

Ms Power—Yes.

Senator CARR—Are you aware of any breaches of the act with regard to the tuition assurance scheme and moneys not being available where a company is in financial difficulties?

Ms Power—No. We heard about it when ACPET was saying it earlier. But, in the case of our members, we would have no such problems.

Senator CARR—You have not seen any examples of those. I am trying to track the exact number of departmental changes in registration: there is considerably more than one.

Ms Power—Yes, but only one of our members.

Senator CARR—I see. What about the others that have had changes to their status as registered colleges? Are you aware of others that are outside of your organisation?

Ms Power—Yes.

Senator CARR—Can you tell me about those? What in your experience are the reasons for deregistration?

Ms Power—I cannot tell you that, because they are not our members. I simply received a list at one stage indicating how many institutions had been suspended from the CRICOS. As I said, one was our member, and

so we investigated that. My understanding is that they could be suspended or removed for being in breach of the trust account requirements, or for not having current membership of a tuition assurance scheme.

Senator CARR—Are these serious breaches, do you believe?

Ms Power—In the case of the one we investigated, no; it was a matter more of administrative errors than of serious breaches.

Senator CARR—For instance, are there cases of misleading or deceptive behaviour in the recruitment of students?

Ms Power—We have expelled one institution from our association.

Senator CARR—For that?

Ms Power—Yes; for failing to refund fees when their refund policy indicated that those fees should have been refunded.

CHAIR—One out of how many in your association?

Ms Power—At the moment, we have 58 members; until recently, there were 63.

CHAIR—So over what period?

Ms Power—This is since 1994.

Senator CARR—So there were six suspensions and two cancellations that I am aware of, according to DEETYA's statistics. Are you aware of that number?

Ms Power—No; they are not in our organisation.

Senator CARR—The reason I am asking you about this is that you might not be aware of this. All your members, obviously, are highly reputable, otherwise they would not be members—according to the submission you are putting to me. I can see the logic of that. But we are told, and we have heard evidence, about unscrupulous providers operating in this particular sector; about an unevenness in the quality of both services and support structures provided for students; and about the fact that the financial collapse of private institutions, with the consequent bad publicity, has in fact undermined the industry. Would you agree with those intentions?

Ms Power—Yes; it was certainly the case in 1990, yes.

Senator CARR—So are you saying that there is no question of that arising in the current economic climate?

Ms Power—No; we think it could arise and we are supporting the extension of the sunset clause.

Senator CARR—Is that the reason you are supporting the extension of the sunset clause?

Ms Moore—There is a certain degree of comfort in the ESOS Act; in there being trust accounts and so on. We do think that the one-day reporting at the end of the financial year, or whenever, is not sufficient.

Senator CARR—It is not adequate?

Ms Moore—No, it is not adequate; and people can do just as ACPET has said, and simply transfer funds into the account. Not our members, hopefully, but people misusing the trust accounts—

CHAIR—That would require more regulation, wouldn't it? We are getting less regulation, but then you are saying to do it quarterly or whatever.

Ms Moore—We do not want more expensive regulation.

CHAIR—Do you want the state to pay for the regulation?

Ms Moore—No, we have suggested spot checks.

Ms Power—If you do not know what day you are going to be check on, you have to have it right all the time.

Senator CARR—There are some issues here concerning the cost of these schemes, as private businesses. Are you essentially a private business?

Ms Moore—Half of our members are private and half are universities.

Ms Power—It is about 60:40.

Ms Moore—We have both.

Senator CARR—But there is this argument in education about the extent to which the state should support private enterprise. Is it legitimate for the state to be able to actually underwrite your businesses?

Ms Power—The state does not underwrite our businesses; it is all self-funded.

Senator CARR—I am allowing you to put the contrary argument to me. I am putting it to you in a provocative way because I actually want to hear the argument.

Ms Power—We are not asking for any handouts in any way for anything really, but if regulations are going to be imposed on the industry—and the suggestion has been that we become self-regulated—then we think

that there should be some support. If government is not going to pay for it, to do it themselves, then they should pay for the industry to do it.

Senator CARR—It strikes me that if we acknowledge the argument about Australia's international reputation being a great asset to this country then there is an obligation on the state to provide support to industry to ensure that that occurs. Would you accept that line of argument?

Ms Power—Yes.

Ms Moore—I am not clear about whether it should be the state or the federal government.

Senator CARR—When I am talking about the state, I am talking about government; I am using the old-fashioned idea.

Ms Moore—Yes, we agree with that.

Senator CARR—I would like to regard it as a more precise term. Are you saying that you believe governments do have responsibilities to provide support if they are actually looking towards the protection of Australia's international reputation?

Ms Power—Yes, and for that reason we have supported the continuation of what was the AIEF to promote the reputation and quality of this industry abroad.

Senator CARR—There are two issues that arise from this. Do you believe the financial contribution made by the Commonwealth to support this program—which is over \$1 million a year—is appropriate or should the program be fully funded by the industry; and to what extent have the budget cuts in the Department of Employment, Education, Training and Youth Affairs actually undermined its capacity to properly monitor the operations of this industry?

Ms Power—That is very difficult to answer because we do not have that information. That is why we have requested here that we in fact do receive that information. We would like more information on how the \$1.9 million is spent.

Ms Moore—My belief is that there has been no better monitoring than before when there was more money to monitor it than there is now.

Senator CARR—So the winding up of the International Division of DEETYA has had no consequence for you?

Ms Moore—I do not believe so. I think measures such as spot checks are going to be more effective than what is happening at the moment.

Ms Power—In recent years DEETYA have contributed to us, doing surveys and collecting data on the information. Whether they will be able to continue doing so with the government funding cuts, we do not yet know.

Senator CARR—How many officers are now servicing this particular sector?

Ms Moore—We think there are three in the whole division, but you will have to ask them.

Senator CARR—Is that about the normal number you have come to expect—about three?

Ms Moore—That is not just for this sector, though; it is for the whole administration of the act, we think.

Ms Power—We do not really have that information. In the AIEF, or the AEI as it is now, we have a contact person who manages the ELICOS sector plus the VET sector whom we deal with a lot. We also deal with the people higher up the ladder from that person, but to my knowledge no-one in DEETYA specifically works on the ELICOS sector.

Senator CARR—Has that always been the case?

Ms Power—I believe so, yes.

Mr Sekules—We did make submissions to the government at the time of the 1996 budget, because the international education sector private providers got hit—sorry, I am having to cast my mind back now—in three different ways, did it not? There was the new \$30 fee—

Ms Power—That went to the students.

Mr Sekules—There was the registration fee, there were new immigration charges and a move to make the AIEF more self-funding from industry.

Ms Power—When Austrade abolished the Education Business Services Unit, that had a major effect.

Mr Sekules—That is right.

Ms Power—We had worked a lot with that office.

Senator CARR—What actions do you think the Commonwealth should be taking to facilitate this particular aspect of the Australian education industry?

Ms Power—We have been seeking government assistance in freeing up some of the markets that we are currently very restricted in dealing with, particularly China.

Ms Moore—It is to do with visas.

Ms Power—We have not asked them to just open the floodgates and allow Chinese students to flow in freely, but we have certainly requested that a control program of some sort be undertaken because we believe that China in 1998 is very different from what it was 10 years ago and that it would be appropriate to start doing that. I cannot comment on whether the government is doing anything about that, because I understand the Minister for Immigration and Multicultural Affairs was to make an announcement on the outcome of the review of the overseas student visa program this morning but because I am here I have not seen it.

Senator CARR—Additional money has been spent for overseas marketing. Do you think that that has been adequate, or are you not aware of that?

Ms Power—Of additional money being spent?

Senator CARR—I thought I saw an announcement recently about additional government measures for overseas marketing.

Mr Sekules—That was for tourism, I think.

Senator CARR—But not for education?

Mr Sekules—No. Going back to February, the Minister for Trade, Mr Fischer, started looking at what should be done to respond to the Asian crisis in a number of sectors, including this one, and the response has been a little tardy. If you want to go into that, we can address that.

Senator CARR—I am interested to know what actions the Commonwealth can take to facilitate the industry, to protect it in terms of its quality and its financial viability. As I read the arguments you are putting to us, with the downturn in the number of students coming, a number of businesses are going to be faced with difficulties. Clearly, this is going to be an important area for our universities as well as for our primary education in English language programs. It has a flow-on effect right through the industry. I notice, for instance, that some universities in Victoria now have some 22 per cent of students from overseas, so therefore I think the overseas educational market is going to have a very significant impact on Australian education. Is that your judgment?

Ms Power—Yes, certainly.

Ms Moore—And we think in the higher education sector as well, particularly for some universities that are exposed to the Asian markets.

Senator CARR—So in due course the downturn will have a flow-on effect for them as well?

Ms Moore—Yes, certainly.

Ms Power—In answer to your question of what the government can do, we believe there are a number of steps that can be taken without a lot of additional cost to government. One is spot checks on trust accounts to better protect the quality and reliability of the industry and a second is the easing up of restrictions on the PRC market. A third recommendation we have made is that tourist visa holders be allowed to undertake non-formal study for up to six months instead of for three, because the cost of student visas is prohibitive. We cannot compete. Our competitor countries are charging half what Australia charges, but tourist visas are not as expensive and that would open up more opportunities, certainly for the ELICOS sector, in many fields. It would not help higher education, though, because they need student visas.

Senator CARR—Thank you very much.

CHAIR—Does the unevenness across states in their regulatory arrangements create a particular problem for ELICOS?

Ms Moore—Yes, we are all trying to operate on a level playing field, and that is one problem. There are more charges or less charges or different ways of operating.

CHAIR—Does a high proportion of your members cross state boundaries?

Ms Power—We have some.

Ms Moore—No, not really, not a high proportion.

CHAIR—Only a few?

Ms Moore—Yes.

Ms Power—Our accreditation system is nationwide, and that assists.

CHAIR—But you are still subject to the state regulations, the underlying ones.

Ms Power—Oh, yes.

CHAIR—Are there any particular problems in Queensland and South Australia, which do not have their legislation in place yet after six years?

Ms Power—I do not know. We actually have opposed state regulation of this industry.

CHAIR—In terms of course accreditation, are there things that are normally state responsibilities?

Ms Power—No, course accreditation in ELICOS is done by NEAS, a national accreditation scheme.

CHAIR—Okay.

Ms Power—Could I clarify that, when I say we oppose state regulation, I mean regulation by state governments and not by the federal government.

Mr Sekules—That is right, state aid.

Ms Power—Not your state.

Ms Moore—For example, one of the problems in New South Wales is that, even though NEAS might accredit courses in New South Wales, VETAB then goes and charges them and then you get charged again by the federal government. So we cannot really see what we are paying for.

CHAIR—Have you approached MCEETYA, the ministerial council where all education ministers meet from time to time, about the lack of consistency across states to see if the ministerial council can do something about evening things up?

Mr Sekules—Yes, we have. I recall what ended up in this package which this committee had a lot to do with. There was an approach in about 1990 or 1991 to get them. I cannot say we found them keen and I do not think they realised the importance of international education at that stage. It is not a bad idea. They would probably be more aware of it now.

CHAIR—It takes time in a federation but, in some areas, it has worked quite well in government.

Senator STOTT DESPOJA—What I was looking for earlier in your report was the reference to the provider who had gone to extraordinary and uncommercial lengths regarding having an excessive amount in the provider's trust account. Would you flesh that out a bit? What do you mean by that?

Ms Moore—Maybe I could give you an example. It is going back to the example where the agent overseas might be transferring money into a trust account, but he will have money from a student visa student. The college will say, 'Mr X, please transfer X dollars for this student visa student into my trust account, but put the other money into my working account, because we need to have them separate under the act.' Mr X says, 'Blow that, because it is going to cost me too much with telegraphic transfer charges and all the rest.' He does not really see what it is all about, so he will just transfer it all into one, which means that the college has to go and trawl through, which is fair enough, and draw down moneys that are not for the student visa student. By the time you get the telegraphic transfer advice and identify it and have someone from the bank, it could be two weeks or a month before you can get the money out of that account into a working account.

Senator STOTT DESPOJA—Is that an alternative people are faced with if they are being castigated for having excessive amounts?

Ms Moore—That is right. We would do that anyway, but we are being castigated for it. If you take a strict interpretation, we should be getting our agents to separate them into two accounts but, in practical terms, we cannot get them to do that because it is not really up to the college.

Senator STOTT DESPOJA—Hence your recommendation. I wonder if anyone would care to comment on the impact. You have mentioned the potential or current impact of the Asian financial crisis. I wonder about the impact of the current political environment, specifically in Queensland. Would you care to comment on either your predictions of what that is going to mean for the industry or what is happening now?

Ms Moore—The Hanson effect was felt a year ago or more. The Taiwanese market went off almost immediately. We could feel that pretty well.

Ms Power—It does vary from market to market. The Japanese market tends to not take much notice of the actions of a One Nation party but the Taiwanese market takes a great deal of notice.

Ms Moore—One anecdote is that one of the Taiwanese companies operating in Queensland just moved into New South Wales the day after the election.

Senator STOTT DESPOJA—Thank you.

Mr Sekules—When ACPET raised this, I quickly put together a small packet of the correspondence we had to and fro. Would that assist the committee?

Senator STOTT DESPOJA—Indeed.

Senator CARR—Should we incorporate it?

CHAIR—Is it the wish of the committee that the letters be incorporated in the transcript of evidence? There being no objection, it is so ordered

The letters read as follows—

Mr Sekules—In relation to that, going back to the point about the Commonwealth and state education ministers, one of these things is a letter supporting our case by Hendy Cowan, who is the deputy premier in WA. In some states the regulation is with the industry or commerce department and not with education.

Senator CARR—Yes. But that is always a problem.

Mr Sekules—But if there was a recommendation from this committee for the education ministers to take it up, it might help within the different state bureaucracies.

Ms Power—We have been trying very hard to get acceptance of the idea that government needs to take a whole of government approach to this industry. Over the last four years or so, our relations with DEETYA have improved very much to what they were prior to 1994 and we are involved in a lot of consultation with them. We are not necessarily having the same joy with other portfolios that affect this industry.

CHAIR—Thank you very much for appearing today.

[10.30 a.m.]

GRAY, Mr Brian Robert, Director, Australian Council of Independent Business Colleges, c/- Powers Business College, 462 Hunter Street, Newcastle, New South Wales 2300

CHAIR—Welcome, Mr Gray.

Mr Gray—I propose to make an exceedingly brief comment.

CHAIR—Before you go on, did you hear what I said about private and public evidence earlier on?

Mr Gray—I did.

CHAIR—We invite you to make an opening statement now.

Mr Gray—Thank you. I will give you all the opportunity to ask questions and will only be too pleased to respond. The ACIBC supports the amendment to the sunset clause which moves the date from January 1999 to January 2002. We believe the industry is more mature. We believe the industry generally is quite well self-regulated and that, in a different economic climate than currently exists, it may be appropriate for the industry to become fully self-regulating without the necessity of the ESOS Act.

It is probably appropriate to put to rest the myth that the ESOS Act enhances Australia's reputation overseas or assists in the recruitment of international students. It does not. It never has and it never will. There are numerous studies that support that fact. There are totally other issues that affect Australia's reputation. The benefit, as we see it, of the ESOS Act is to provide some muscle for the industry peak bodies to keep their members in line. That really is the key. The virtual necessity for providers to belong to tuition assurance schemes gives the peak bodies the muscle. That is why we really support the ESOS Act. It is not for the implementation overseas. The overseas students really do not look at that in any way, shape or form as being a factor in their decision making process. There is plenty of market back-up to support that.

It is very difficult because of the current economic climate. I certainly would add that it is not being assisted by current government policy or by the implementation by the bureaucrats of that policy. But because it is difficult right now, the ACIBC does support the continuation of the ESOS Act for the time being.

We believe there is no necessity to amend the act. We believe the protections are quite satisfactory. From our view, the use of the trust accounts is adequate. We would say that peak bodies may need to look at their own admission and compliance requirements because they do differ from peak body to peak body. We say that is an issue for the industry and not for legislation.

We agree there is a possibility and a need, in fact, to tinker around the edges of the act and that is more in implementation procedures, and you have just heard the ELICOS Association mention some of those. We do not believe it is necessary to amend the legislation. We believe a small working group from the industry sitting down with DEETYA could probably sort those problems out in a matter of a few days. Those are the only opening remarks I would like to make and I am happy to field any questions.

Senator CARR—Of the 1,000 providers in the industry, how many are covered by your organisation?

Mr Gray—Twenty-five.

Senator CARR—So you are a smaller organisation?

Mr Gray—Absolutely.

Senator CARR—In your experience, have there been any problems with the administration of the trust accounts?

Mr Gray—No. There has not with our members. It possibly comes back to the aspect of admission. We have a fairly tight criteria for admission to our tuition assurance scheme and to our membership. That does enable us to expel any members that we believe are not complying with the code of ethics and standards that our council sets.

Senator CARR—Have you ever had to do that?

Mr Gray—No, not yet. But I would be naive to suggest that the current economic climate is not such that it could force these problems. You can have well-run small businesses, but due to economic concerns, they certainly may not succeed.

Senator CARR—They cut corners and reduce quality.

Mr Gray—Exactly.

Senator CARR—Those are essentially the concerns that I have. Representations have been made to me that, while too many may not have gone broke so far, a good deal more have gone broke than the department seems to have acknowledged. There may well be a problem emerge with the current environment.

Mr Gray—There is great potential for that and one would be very naive to think otherwise.

Senator CARR—While you are a small organisation, you obviously have a window on the industry as a whole. Do you have any experiences with the industry more broadly outside of your organisation that might enlighten the committee on the operation of the trust funds?

Mr Gray—Yes. Perhaps I should declare some of the other areas in which I operate which may be of assistance in asking questions. I was an original councillor with the Australian International Education Foundation, so I have three years experience associated with that. I am a director of IDP Education Australia, which is Australia's largest recruiter. I believe we recruit somewhere between 30 per cent and 40 per cent of the total number of students who actually come to Australia. On a quality basis, I am a member of the board of VETAB, Vocational Education Training Accreditation Board. I have a fairly wide background.

Specifically, in relation to trust accounts, they can be manipulated. There are dishonest people in this world. If somebody is dishonest you can manipulate things. How one endeavours to correct that is a matter of procedure. There is the idea of spot checks or whatever it might be and there are numerous ways to go about that. It is not unlikely as any college happens to get into trouble that it may well dip into trust accounts. I do not have any personal experience of that, but again I would say one would be naive to think that that would not happen.

Senator CARR—Have you heard of these instances in the industry?

Mr Gray—Yes, I have. I have not heard any lately.

Senator CARR—When you say 'lately', are you talking about months?

Mr Gray—I have not heard of any in the last 12 months.

Senator CARR—Did you hear evidence this morning of the number of colleges closing?

Mr Gray—Yes.

Senator CARR—Did that surprise you?

Mr Gray—No, not at all, and there will be more. I have absolutely no doubt there will be more. I am just hopeful that, as colleges close, the students are placed and protected in such a way that it will minimise the impact overseas. That is the important issue. All the peak bodies already here—ACPET, which is by far the largest, the ELICOS Association and the ACIBC—are striving to reduce in their own way any damage that is done as colleges go out of business. And they will; there is absolutely no doubt. They will. You cannot have a 50 per cent decline in overseas students and not get into some financial difficulties.

Senator STOTT DESPOJA—When you say there will be more, are you attributing that directly to financial reasons?

Mr Gray—Straight to economic conditions. Absolutely.

Senator CARR—Is that because you are paying too much for recruiters fees or perhaps the fees that are being asked of people are too high, or too low for that matter?

Mr Gray—I suggest the problem is more along the lines that with each organisation, as with most small business, you have an element of fixed cost. That element of fixed cost often is in rents, and, if you are tied in to some fairly substantive rents and suddenly the number of your overseas students diminishes by 50 per cent, you are in trouble. This would occur if you are an English college and not supported by a vocational situation where you can attract Australian students.

What is mitigating a lot of cases is that some colleges have a level of 70 per cent Australian and perhaps 30 per cent international. Those colleges will survive, but with an English college, by definition, you have 100 per cent overseas students. Those colleges are going to face great difficulties and it just stands to economic reason that not all of them will survive.

Senator CARR—But is there also a danger that there will be a reduction in the level of quality of services? Is this increasing pressure on costs?

Mr Gray—One would respond and say, I would hope not. Whether there will or not will be tested in the marketplace. The quality aspect of service is often associated with the state accreditation body, and it does depend upon how effective those particular state accreditation bodies are.

In the one I am associated with there are procedures in place whereby any complaint from a student, a teacher or a third party is investigated, and hopefully investigated within a timely manner, which will enable the quality to be maintained.

Senator CARR—You say effectively that the strength of the ESOS Act is that it provides a security blanket. It encourages peak organisations to be able to enforce higher levels of financial honesty and perhaps the questions of quality arise. While at an international level there is not a great deal of interest in the detail of how that is done, from a parliamentary point of view we have to have a particular concern as to the effectiveness of the administration of this act.

I would ask you if you were able to comment on your relationship with DEETYA, perhaps not just for the 25 organisations that you are associated, but on your knowledge of the industry? How well does DEETYA administer this act? What are its strengths and what are its weaknesses?

Mr Gray—My response would be that the effectiveness of DEETYA I believe has changed in the last few years, no doubt due to funding aspects. I believe when the act was first set up the regulation processes by DEETYA were more than adequate, quite satisfactory. The need for the CRICOS remains and I believe they implemented the CRICOS quite well. The implementation of the ESOS Act was well done, but there were more resources there at that time.

We then moved into a phase whereby there was a partnership between providers and government. The main purpose of that was to promote in a generic sense the benefit of international students visiting Australia to further their education. That was a very effective process and a very important process, and I would suggest is one that the government should be continuing. If we look at it more in a pro-active way, the way for a lot of these businesses not to fail is to get more students. If we look at it in that way and spend some more money in a pro-active way to generically market the benefit of Australian education, that will assist no end.

I might add, that that goes hand in glove with looking at the immigration aspect in terms of student visas. From my experience, we have one of the most difficult, convoluted and strange systems of issuing visas relative to our major competitive markets. It is very difficult and that just makes life much harder.

Lately, my observations are that there has been very little indeed coming out of DEETYA in terms of generic promotion or anything in a pro-active way. I believe they are still regulating the ESOS Act in accordance with the act—nothing more, nothing less.

Senator CARR—Is this a reflection on the changing levels of resources that are available?

Mr Gray—I would think it is. Certainly, from what I can see, the department has been somewhat decimated.

Senator CARR—Eighty-four per cent drop in staff.

Mr Gray—I might add that, not only the numbers, but with great respect to the people involved, the people with the history, knowledge and experience are no longer there.

Senator CARR—So there is a loss of corporate memory?

Mr Gray—Correct.

Senator CARR—How is that showing up in the industry?

Mr Gray—It is showing up because there is no pro-active, generic promotion. There is nobody taking a lead from a government viewpoint in terms of flying the Australian flag in these international markets.

It may be argued that that is industry's role, and to a degree one can accept that argument. It is a very big industry. We are talking about \$3 billion or \$4 billion when you look at it. I would have thought that it warrants some sort of government expenditure to fly that flag, particularly when the market is in such a difficult situation as it is now.

Senator CARR—It is so fragile.

Mr Gray—Exactly.

Senator CARR—I keep coming back to this issue of quality and reduction in resourcing from the department. To what extent will the pressure on costs within the industry itself ultimately show up in terms of the capacity to provide a high quality service to satisfy overseas students? This is, of course, particularly highlighted with companies going broke. How adequate is the administration of the tuition assurance scheme?

Mr Gray—The administration of the tuition assurance schemes is really the responsibility of the peak bodies that run those schemes. The administration of that can be difficult. The difficulties that ACPET particularly experience with their wider net of providers were very adequately expressed. Because, whereas the ACIBC is made up of business colleges only, ACPET has a much wider gambit of providers. They cover a much wider aspect of providers with different skills, which would make the administration of their tuition assurance scheme quite complex.

But the whole thrust of the tuition assurance scheme in its current structure is, with ACIBC experience, not difficult to administer at all, because we only have perhaps a range of 20 or 30 different styles of courses

relative to thousands of different styles of courses that some of the other tuition assurance schemes have. We have had no difficulty in administering the TAS.

Senator STOTT DESPOJA—You mentioned the financial fragility. I was wondering if you have a comment on the political environment in which we currently find ourselves. Has that had any impact on the business providers?

Mr Gray—It has not helped, would be the trite response. Certainly, some of the previous comments that I have listened to this morning I would endorse. It is very much a country-by-country reaction. Hong Kong certainly has picked up on the One Nation negatives. That has not helped at all. Taiwan is a very similar market in that regard. That has impacted adversely on our market, whereas in Indonesia it is not as much a concern at all. It is just a straight economic concern in Indonesia.

In South Korea it is not so severe politically, because they are so concerned with the economic aspects of it. In Thailand, however, it is a little of both. In Thailand I am finding that you are getting a little of the political backwash of that, together with some economic barriers.

Senator STOTT DESPOJA—You mentioned your involvement with accreditation on a state level. We are curious as to whether you have found the lack of complementary legislation in states like Queensland and South Australia problematic.

Mr Gray—It does not help at all. Certainly, we have put representation through to the ministerial council that this must be rectified. It does make Australia look a bit silly in the international marketplace when one talks about the AQF, the Australian qualifications framework, and then when one is questioned one has to say, 'It is up to the states then as to whether they, in fact, implement it.' It is a problem.

CHAIR—Thank you, Mr Gray, for appearing once again before this committee.

Proceedings suspended from 10.50 a.m. to 11.07 a.m.

WARNKEN, Reverend Russell Keith, Representative, South Pacific Association of Bible Colleges, c/- Sydney Missionary and Bible College, Croydon, Sydney, New South Wales

CHAIR—Welcome. The committee prefers evidence to be given in public but, if at any stage you want to give any evidence, part of evidence or answers to any questions in camera, you can make the request and the committee will consider the request, but such evidence may subsequently be made public by order of the Senate. I invite you to make a brief opening statement and then we will go to questions.

Rev. Warnken—I thank you for this opportunity to appear before the Senate hearing. I am from the Canberra College of Theology, situated in Waramanga in the ACT. I am here on behalf of the South Pacific Association of Bible Colleges, an organisation which represents some 22 Bible and theological colleges in Australia and in the South Pacific region. The SPABC was formed in May 1969 with nine foundation members. It has grown, such that today it has 22 member colleges. Of the 22 colleges, 17 are located in Australia—in every state and territory except the Northern Territory. Other colleges are located in New Zealand, Papua New Guinea, Solomon Islands and Vanuatu.

Within the Australian members of the SPABC there are some 3,400 students enrolled in full- and part-time studies. About half of this number are in full-time study and half in part-time study. The Australian colleges have nearly 160 students on overseas visas, which represents about nine per cent of total full-time enrolment.

I do not have precise information on the countries from which these students come. However, I am informed that most would probably come from the Asian and South Pacific regions and that Korean and Chinese students would comprise a significant proportion of overseas students. Overseas students do not figure significantly in the enrolments of the Australian members of the SPABC. To my knowledge, none of the SPABC members actively seeks out such students or would seek to build a program predominantly on such students. To put it another way, they do not seek to export their educational services by the use of overseas advertising or agents; they take them out of a desire to provide a service to such students who come to them.

The reasons overseas students come to SPABC colleges are varied. Some students would come to the college because of historic denominational mission links with the student's own country. Other students come to study in a secular college and stay on to gain some theological education before returning home. Others come through hearing of a particular college in their home country through various means, particularly through former graduates.

With regard to the proposed amendment to the ESOS Act, while noting the comments and recommendations made in the explanatory memorandum, the SPABC would not object to the sunset clause of 1 January 1999 taking effect, for the following reasons. The small number of overseas students enrolled in our member colleges is one reason. Another reason is the administrative and financial burden, especially the ARC, for many of the colleges which are small organisations. The third reason is that the specific nature of our colleges' recruitment procedures results in close relationships between students and colleges so that, in the unlikely event that one should fail, the others would see that overseas students were catered for.

As far as we know, there has not been a situation arise in our colleges that has caused overseas students to suffer academic or financial loss. Our member colleges have been in existence for many years—the oldest, for over 80 years; the newest, for 13. Most colleges were established prior to 1960. They have established over the years a reputation of integrity that they are eager to maintain. If it was felt that the act could not be de-activated, then the SPABC would favour moving towards a proposal that would involve a minimum amount of external regulation and a maximum amount of self-regulation—for example, option 5 contained in the explanatory memorandum. Thank you very much.

CHAIR—Thank you.

Senator STOTT DESPOJA—I am wondering whether you know of any Bible colleges that may be affiliated with you which are operating a notified trust account?

Rev. Warnken—I believe some are. I cannot tell you which ones, but I believe some would be operating notified trust accounts, yes.

Senator STOTT DESPOJA—Have you found it problematic dealing with governments, such as South Australia or Queensland, that do not have complementary legislation to the ESOS Act?

Rev. Warnken—I have no difficulty in that regard, and none has been reported.

Senator STOTT DESPOJA—In relation to forecasts that we have heard today, you mentioned that perhaps this is a smaller part of your service or provision in relation to overseas students, but we have heard a number of people discussing the impact of both the Asian financial crisis and some political trends in Australia. Do you have a comment on either of those things in terms of the prosperity of the industry or how it will affect your business?

Rev. Warnken—It would affect it. We would expect there to be some drop-off in students but, because they are not a significant proportion, they would not affect the viability of any of our colleges. They all would continue. So their viability would not be seriously affected by the Asian crisis. Although, as I said, we would expect some drop-off, we cannot exactly forecast how much that drop-off would be.

CHAIR—Since the act was proclaimed, what are the trends in the student numbers of your constituent groups? We have had a big rise across the country. Is that reflected in what is happening with your enrolments?

Rev. Warnken—In terms of overseas students?

CHAIR—Yes.

Rev. Warnken—There would have been an increase, particularly in students from Korea. I am unable to give you the precise number, I am sorry.

CHAIR—There has been some discussion this morning about the need for the industry broadly to move to a more deregulated model, there being perhaps too many tiers involved, and it is felt that a self-regulatory approach might work better. What is the view of your group of colleges on that?

Rev. Warnken—As I noted in my opening statement, we would favour any move towards greater self-regulation. The minimum amount of external regulation we would favour. So any option that would move towards reducing external regulation we would favour.

CHAIR—Do you have a particular model?

Rev. Warnken—Of the options that were presented in the explanatory memorandum, option 5 would be the one that we would favour, apart from the fact of the act ceasing altogether.

CHAIR—Just for the *Hansard* record—because we do not have option 5 on the *Hansard* record—could you explain the essence of that?

Rev. Warnken—I can summarise it. That was contained on, I think, page 13 of the explanatory memorandum. It was similar to what it is at present, in that it had the three tiers of government still present in operation—the federal, the state and industry—but with the federal basically involved in setting up a sort of financial framework and greater self-regulation, in terms of quality control and financial auditing being given to the industry bodies themselves.

CHAIR—There has been a suggestion from other groups this morning that perhaps one of the things that should change—there have been concerns about trust accounts—is spot checks as a procedure. Would your group have a view on that sort of arrangement?

Rev. Warnken—I am sorry?

CHAIR—At the moment there are annual audits. When we were originally debating the bill, there was a question of whether we should do quarterly audits or annual audits. It came down on the side of annual audits. People feel that that perhaps is too great a gap. One way around it, without getting into more re-regulation or more onerous burdens, would be to carry out spot checks.

Rev. Warnken—If the regulation were to continue, we would be in favour of continuing with annual checks. A lot of the colleges are small anyway, and the regulations do impose some burdens on these colleges. Our track record has been good. Some of the colleges feel keenly the extra requirements of regulation, quite frankly.

CHAIR—Since the start of the act, have any of your institutions got into financial difficulties at all?

Rev. Warnken—No.

CHAIR—I do not think any have closed, have they?

Rev. Warnken—No, none has closed.

CHAIR—But none, which you are aware of, has had any difficulty?

Rev. Warnken—No.

CHAIR—There has been a difference between the states in that two states—Queensland and South Australia—do not yet have a framework in place, and it is now seven years since they were asked to do so. Has that created any problems for your members?

Rev. Warnken—No.

CHAIR—Not in Queensland or South Australia?

Rev. Warnken—None that I am aware of, no.

CHAIR—Thank you very much. There are no more questions. Thank you for appearing today.

Rev. Warnken—Thank you for the opportunity.

[11.18 a.m.]

GILBERT, Mr Rodney Douglas, Manager, Queensland Education Overseas Unit, Education Queensland, Department of Education, Education House, 30 Mary Street, Brisbane, Queensland 4000

CHAIR—Welcome. The committee prefers all evidence to be given in public but, if at any time you wish to give any evidence, part of evidence or answers to any questions in camera, you may make a request and the committee will consider the request, but such evidence may subsequently be made public by order of the Senate. I invite you to make an opening statement, and then we will go to questions.

Mr Gilbert—The Education Services for Overseas Students Act was put into place as an unannounced and unexpected emergency measure following the financial collapse of certain private colleges in Australia. It was generally accepted at the time that the Commonwealth act would only serve as a stopgap measure until the Australian states and territories had enacted appropriate legislation in relation to the registration of institutions and courses for overseas students. The states' and territories' responsibility in this area had already been agreed to with the Commonwealth, prior to the proclamation of the ESOS Act.

In retrospect, it now appears that the existence of the ESOS Act and the protection it affords may have provided a disincentive to the states and territories actively to pursue the establishment of their respective legislation. Since its original introduction, the act has been amended to add additional areas related to tuition assurance schemes and annual reporting on the financial management of trust accounts. These areas apply only to those sections of the industry defined as being non-exempt.

With respect to exempt and non-exempt providers, the education and training industry is required in all sectors, both public and private, to charge the full average cost for the provision of educational services to overseas students. By definition, all programs are commercial in nature as no taxpayer funds can be applied to their delivery. For this reason, the ESOS Act discriminates against those institutions that are not in receipt of some government funding.

Adequate provisions exist within the audit requirements of organisations in receipt of state and Commonwealth funding and within the trust accounts act to allow for quick and efficient investigations into any irregularities that may occur within the area of the management of pre-paid student funds. Members of the Administration Advisory Committee on the Registration of Institutions and Courses for Overseas Students in Queensland took the view that this mechanism provided adequate protection and did not involve the elaborate and expensive reporting mechanisms that now exist.

The continued extension of the sunset provisions of the act has also provided a disincentive to states and territories to develop and enshrine their own legislation in relation to the registration of institutions and courses. Some states have indicated that they do not intend to move in that direction because of the obvious duplication of effort and also because of the likelihood of court challenges to any state or territory provisions which are not consonant with Commonwealth provisions. Some states, including Queensland, have also taken the view that some Commonwealth provisions are neither appropriate nor effective in regulating the financial aspects of the industry and, therefore, any state legislation would mean that there would be limited roll back of ESOS provisions with the consequent effect of providers having to conform to the regulations of two sets of legislation.

Queensland takes the view that there are always likely to be differences across states and territories because of the relationship of their provisions to their own trust accounts acts, consumer affairs legislation, small claims provisions and similar state based legislative frameworks. Queensland maintains its position that the sunset provisions of the ESOS Act should be applied at a predetermined time after giving sufficient notice to allow the states and territories to have appropriate arrangements in place by that date. Were this to occur, states and territories would be likely to develop their legislation based on a set of common guiding principles arrived at by consultation but with additional or particular provisions consonant with their own views on the most appropriate way to regulate the industry within the areas of their responsibility.

The general effect on Queensland of the continuation of ESOS will be that some of the irregularities across the industry on the separate requirements of the state and Commonwealth will continue. It will mean that the uneven playing field between exempt and non-exempt providers—a difference which this state does not recognise—will be perpetuated to the continued financial disadvantage of the non-exempt providers. With respect to the relationship between the Commonwealth and the states and territories, the expensive duplication of effort will continue in an area where the ESOS Act acknowledges that the primary responsibility lies with the states and territories.

Finally, it should be noted that the maintenance of the ESOS Act costs the industry a considerable sum every year through the capitation based administration charge. In those states where user pay charging is also in place, providers are being compelled to pay twice for what is, in effect, the same government service but one which brings no additional benefit to them or to their industry. Should the sunset clause be invoked, Queensland providers—notably non-exempt providers—would benefit financially as indicated above. They would also be dealing with a single government department for all matters. At government level, Queensland has an act to regulate the industry which was developed in consultation with the support of the industry in Queensland. Education Queensland contends that this act provides an appropriate level of government regulation of the industry in that state, while being drafted in such a way as to coordinate with and complement other areas of state law in related areas.

In supporting the bill for an act to extend the operation of the education services for overseas students to 1 January 2002, Education Queensland acknowledges that there is insufficient time to put in place the necessary state and territory legislation before the sunset clause deactivates on 1 January 1999. We would, however, strongly advocate that all necessary action is taken to ensure that there is no necessity to extend the ESOS Act beyond that date. In conclusion, in Queensland, although we are advocates for state regulation of the industry, we only advocate the minimum amount of state regulation and a maximum amount of industry self-regulation and participation.

CHAIR—Thank you.

Senator STOTT DESPOJA—You have talked about sufficient timing in relation to, first of all, the application of the sunset clause. I am not quite sure what constitutes sufficient time. You were saying that, if the sunset clause were to be applied, there would have to be sufficient notice for the government to get its complementary legislation. What kind of time frame are we talking about? I am very curious to find out why the hold-up for the state legislation and to perhaps flesh that out a little and look at some of the points of contention that may be responsible for that delay.

Mr Gilbert—I think a decision would need to be made as early as possible now because the reality is, firstly, the states and territories that have not put in place their own legislation have become used to the fact that the sunset clause on the ESOS Act is constantly extended. The problem with that is that it is acknowledged that education for international students is a matter for the states and territories. But I think the states and territories would need to know as early as possible. Our experience in Queensland was that sometimes, as a matter of precedent, the priorities for legislation through the House mean that bills regulating overseas students, when there is already a Commonwealth act in place, tend to get put on the backburner or have a low priority. It would need to be established that there was not an intention to extend it beyond the year 2002 and that states and territories would need to make their respective governments aware of that and aware of the necessity to put their legislation into place quickly.

Senator STOTT DESPOJA—You make it sound almost like a catch-22 situation—that if you do not extend the sunset clause that provides more impetus or incentive for people to get their acts ready in time or to move more quickly.

Mr Gilbert—Yes. I think it works positively and negatively. Either it can be an incentive to get the act in place or, as I have said in my earlier presentation, the fact that it may be extended is a disincentive to do anything about it. I would prefer to see it act positively and I would prefer to see states and territories get their legislation into place so that the Commonwealth register could be simply a matter of policy or regulation through the Commonwealth government rather than an act.

Senator STOTT DESPOJA—What are those points of contention then between the state and the Commonwealth bodies? You have made various comments in your opening statement in relation to when ESOS

was first implemented—being unexpected, unannounced—and then you go on to talk about various additions that you had concerns with: the TAS, the annual accounting provisions, et cetera. Is that the rationale for it taking so long—that there has not been adequate consultation—or are there specific points that we can actually look at now that are holding up this process?

Mr Gilbert—The state act in Queensland has not yet been proclaimed. It first went before the House about six years ago, but it really has no relationship to our consultations with the Commonwealth at all. It is simply a matter of delay in Queensland and other priorities taking precedent in terms of legislation. I believe the two matters of contention—and I think the Western Australian application to take advantage of the roll-back provisions is a good example of what I am talking about—relate to the tuition assurance scheme and relate to the reporting on trust accounts. It seems to me that what has happened and may happen in the future—and it is another area of concern—is that, unless the Commonwealth is satisfied with the state legislation, the roll-back provisions will not be approved by the Governor-General. In the case of Western Australia, one of those matters was considered to be adequately handled in the state and the other not. So we are still in the same position: we still have state and Commonwealth legislation.

In Queensland, we believe that we have sufficient power under our trust accounts act to act on trust accounts or investigate trust accounts should the need arise. To actually have regular audited reporting we feel is unnecessary given the dimension of the problem. In other words, the surveillance and the solution to the problem far outstrips the dimensions in which the problem exists. That may be a matter of contention between Queensland and the Commonwealth if the Commonwealth does not accept that view.

With respect to tuition assurance schemes, our state act has provision for tuition assurance schemes to be put in place if necessary, but our experience has been that the tuition assurance schemes have largely been a matter of industry self-regulation. Provided we are satisfied with that, we believe there is nothing more that ought to be done. We feel that our state legislation, when it is proclaimed and when we seek to take advantage of the roll-back provisions of the Commonwealth legislation, is adequate to regulate the industry in our state. Whether the Commonwealth feels that or not will be something to be tested, but if the Commonwealth does not accept that view then we will still be in a situation where we say to providers who want to be registered, ‘You come to us for this part of your registration and you will be on the state register, but you have to go to the Commonwealth and deal with them separately for these other provisions because it is a requirement of theirs, not a requirement of ours.’

CHAIR—The Commonwealth act was first proclaimed in 1991. It has now been seven years, and in Queensland we have gone from a coalition government to a Labor government to a coalition government and back to a Labor government in that time. You said that, because there is a federal overriding act, it tends to go on the backburner, but that is really on the back backburner isn’t it, that length of time? Why did it take that long?

Mr Gilbert—Part of the answer is in the information you presented. We have gone from government to government to government to government. It is an uncontentious piece of legislation. Although we have had support from the respective governments in Queensland, we have also had governments that have come in at the change of government with their own set of priorities for legislation that is important. I think that in Queensland the length of time has occurred simply because of that. I would hope that other states and territories might be able to get their legislation into place a lot quicker than that. I can tell you, though, that at the moment we are at the point of having it proclaimed. I am confident that Queensland will have its legislation in place before 1 January 2002. I say that with a degree of confidence.

CHAIR—Even though one government has been there for only a few weeks—the Goss government was there for quite a long time—you seem to be indicating that there is cross-party agreement on the legislation. Do both sides support the legislation?

Mr Gilbert—Both sides independently support the legislation; I am not sure that they have ever come together as joint parties and discussed it. At each change of government we have never had any problem with the legislation after briefing because it is non-contentious.

CHAIR—What normally happens in this place is that if it is a non-contentious bill it comes on at lunchtime, it is debated in about 15 minutes and it is through.

Mr Gilbert—Ours is actually through, but there is a mechanical problem with the wording of the act.

CHAIR—That has taken six years to fix.

Mr Gilbert—No. It has not taken six years to fix; it has taken about six months.

CHAIR—You said that the act has been there ready to be proclaimed for six years.

Mr Gilbert—No. It has been before the house, but it had not gone through its reading stages until the end of 1996.

CHAIR—It finished in 1996, and we are now in 1998. So it just needs the Governor to proclaim the act.

Mr Gilbert—It needs an adjustment to the mechanics and then for it to be proclaimed.

CHAIR—What is the mechanical problem?

Mr Gilbert—It is a problem about who is the registered provider. For state departments, for example, Education Queensland represents some 1,300 schools in the state and the way the act reads at the moment, every principal in every school and every time a principal changed would have to be changed on the CRICOS register. It is the same for our Department of Employment, Industrial Relations and Training. They have a number of TAFE colleges throughout the state, and they would have to be independently registered. At the moment, TAFE Queensland International and Education Queensland are registered as a single entity on the CRICOS register.

CHAIR—Was there no thought given to putting that into the regulations rather than into the act?

Mr Gilbert—I believe the adjustment has to be in the act, simply by definition, otherwise it would be mandatory that each school and each principal be registered.

CHAIR—I think that is something you could put in regulation and, therefore, you could get your act through, but it is not for me to advise the Queensland parliament. During this whole time, when other states have had their acts in place, how have students been covered? You mentioned that there are certain things relating to registration that were state and national. In terms of state in the last six years, how has that been? What other sorts of consumer protection laws and that sort of thing are in place? Are they adequate to cover students?

Mr Gilbert—At the moment, it operates under a decision of the Queensland cabinet. Also, the Joint Ministerial Committee on the Registration of Courses and Institutions for Overseas Students has been established. That committee deals with the last stage grievances from students and other matters like that, and it has representatives from each public and private sector peak body in Queensland. That group makes decisions about and deals with matters in relation to international students.

CHAIR—You mentioned that you would like to see the federal regulations rolled back—presumably, when South Australia and Queensland finally have their acts in place. What about institutions that cover different states? There were not too many with ELICOS, but certainly with ACPET and groups like that there were groups that were across a number of states facing presumably different regulatory regimes. Do you see that as a major problem?

Mr Gilbert—I do not really because, although the CRICOS register is a Commonwealth register, it is only an amalgamation of state registers. As a matter of fact, the ESOS Act says that the states register or approve institutions and courses and that material is passed on to the Commonwealth, so national bodies would be registered in their respective states and would turn up on the amalgamated Commonwealth register.

CHAIR—So in your preferred model there is virtually no federal role, and it comes back to the states. Within that, how far would you go towards a self-regulatory approach as opposed to being closely controlled by the state government?

Mr Gilbert—I think, initially, we would continue the model we have at the moment, which is that the regulatory function would be carried out on the advice of the industry itself—the peak bodies involved in the industry. As I said in my presentation, we would hope that we would need a minimum amount of regulation at the state level, from a bureaucratic perspective, and as much peak body and industry involvement as we could get.

CHAIR—Thank you.

Senator CARR—Could I get a copy of your statement. I am sorry, I thought the previous witness would go a little longer than they did, and I was out of the room.

Mr Gilbert—Yes, certainly.

Senator CARR—I appreciate that. From the evidence we have received this morning concerning the closure of colleges in Queensland, I take it that the department has monitored business activities of colleges in Queensland? Would that be a fair description of your activities?

Mr Gilbert—Very close.

Senator CARR—Do you have any concerns about the prognosis for the industry in regard to the possibility of an increased number of college closures?

Mr Gilbert—We have not had any indication that that would be the case. I do not believe that the college that closed recently closed because of the effect of the downturn in some Asian economies. At the moment, we do not believe that there is an immediate need to look closely at any colleges in Queensland. There are some matters we are looking at, but they are not in relation to the financial viability of the colleges in Queensland.

Senator CARR—Let us go through the case that has been drawn to our attention of the Heritage College in Maryborough. Why, in your assessment, did that college close?

Mr Gilbert—The college was sold to another party. The problem we had with the college was that the sale was not legal because you simply cannot decide someone else is a provider if they are not registered on the CRICOS register. That sale eventually fell through, and the owner of the college decided to close the college. From the information we have, that is the reason for the closure of the college.

Senator CARR—So you do not think it had anything to do with the situation in Korea, for instance, with regard to the student numbers coming from Korea?

Mr Gilbert—I think a lot of colleges have been affected by the number of Korean students that have come out, but whether that in fact directly resulted in their demise I am not sure.

Senator CARR—We have been provided with advice that from Korea there is a projected 22.4 per cent drop in student numbers between 1997 actual and 1998 actual. These are in projected student numbers. Would you concur with that assessment?

Mr Gilbert—Yes, I think that would be correct.

Senator CARR—A 22 per cent drop would be reasonable.

Mr Gilbert—Yes.

Senator CARR—Do you think, with regard to the number of Korean students at the Heritage College, that that had any impact on its financial viability?

Mr Gilbert—I am sure it had an impact; but, as for whether it actually resulted in the final demise of the college, that advice was not provided to us.

Senator CARR—How closely did you monitor the situation in regard to the Heritage College in Maryborough?

Mr Gilbert—We were involved in it from the time the owner, Das Gauld, came to us and told us that he wanted our advice on what would be correct in relation to the CRICOS register, to sell the college to a third party.

Senator CARR—We have been provided with advice this morning that there was money paid to the agent in Korea that was not transferred to the school, as he was aware of their financial difficulties at that school. Are you aware of that?

Mr Gilbert—No, I am not aware of that.

Senator CARR—The leader of the Korean students was very antagonistic and had an influence over the younger Korean students, and that he had paid \$25,000—presumably for flying lessons—and had not been provided with any lessons. Were you aware of that?

Mr Gilbert—I was not personally aware of that. Officers in my office may have dealt with that.

Senator CARR—It is difficult for you to answer if you do not have the information at your disposal. I raise these in the context of the concern that this parliament has expressed about the impact that business closures of this nature will have on Australia's international reputation. What responsibility do you think the education department in Queensland has to protect Australia's international reputation?

Mr Gilbert—Every responsibility. In handling these matters, with not just the Heritage College but a number of other colleges, it is not our intention to move quickly to deregistration or any other matter. We have worked very closely where contentious issues arise to have parties meet, discuss and work through problems so that we can get them back on track without the necessity to advise the Commonwealth for deregistration. The fact of the matter is that, if a college ceases to be financially viable and goes out of business, it has an impact not just on the overseas market but also across the industry in Australia. So what affects one, in effect, affects us all.

Senator CARR—It has been put to us that at particular times in the year, particularly when teachers receive holiday pay—which they are entitled to under Australian industrial awards, despite the changes that have occurred recently—there are still employees' entitlements that have to be paid by businesses, and that at certain times of the year businesses that are short of cash might dip into the trust funds to actually meet their obligation. Are you aware of any of those circumstances ever occurring in Queensland?

Mr Gilbert—I am not aware of anyone who has dipped into the trust funds. I know at the moment there are some institutions where money is held in trust funds and not allowed to be used because students are not at the college any longer.

Senator CARR—So you are not aware of any irregularities in the administration of the trust fund?

Mr Gilbert—I am not aware of any.

Senator CARR—What about the evidence we heard here this morning in regard to the Heritage College? There were no trust funds.

Mr Gilbert—I cannot comment on that, I am sorry.

Senator CARR—I understood you to say before that the department had monitored the situation quite well, quite closely.

Mr Gilbert—I would have to go back into my records in my office and provide you with that information, if I can.

Senator CARR—The whole purpose of this exercise, as I understood it, was to actually attempt to protect Australia's reputation should eventualities develop such as we have witnessed in regard to this particular college. You are saying that under your model the state can actually do it better.

Mr Gilbert—Our model is not in place at the moment. The model that is in place at the moment is that non-exempt institutions report their trust funds to the Commonwealth, not to us.

Senator CARR—Yes. The point is this: do you have any regulatory framework by which you are aware of the administration of the trust funds?

Mr Gilbert—Not at the present time, no. When an institution comes to us to be registered, it is a requirement that they show us that a trust fund, a trust account, is in operation. The reporting of that trust fund from that point on is to the Commonwealth, not to the state.

Senator CARR—But that reporting of that trust fund's existence is a fairly meaningless exercise if you have no knowledge of the operation of that fund. Would you agree with that contention?

Mr Gilbert—At the moment it would be the Commonwealth that deregistered for a default in the trust fund accounts; it would not be the state.

Senator CARR—Can you tell me anything about any other business colleges or English language colleges in Queensland that are currently having difficulties?

Mr Gilbert—It has been reported to me through the ELICOS Association that a number of them are having difficulties. 'Having difficulties' simply means that they have had to put off staff because of reduced student numbers, but I have not had any report to me about colleges that are financially in trouble because of that situation.

Senator CARR—With the Queensland English Language College, the Hills Language College, are you aware of any difficulties there?

Mr Gilbert—No.

Senator CARR—It has been put to us that they have temporarily suspended operations.

Mr Gilbert—Our responsibility to that college is to register them on the CRICOS register and notify the Commonwealth.

Senator CARR—How adequately do you think the present arrangements are working?

Mr Gilbert—Part of the problem as I see it is that, although colleges are required to meet certain requirements, the actual monitoring of colleges on a systematic basis, or even on a sporadic audit basis, is not carried out by either the state or the Commonwealth.

Senator CARR—Would you like to see that situation improve?

Mr Gilbert—Yes. I think it is pointless putting in place legislation that in fact is meaningless simply because there is no way of acting on it and no way of determining whether people are complying or not.

Senator CARR—Do you think spot checks would be appropriate?

Mr Gilbert—I think that is one mechanism. I do not know at the moment what the appropriate mechanism would be, but that would be one. The one that we operate on at the moment is probably not satisfactory as a reactive one: if it is reported to us, then we will carry out an investigation through whatever channel is appropriate.

Recently there was an investigation carried out by VTEC, our education and training commission, on whether in fact the course that was paid for in a particular college was being delivered to a student. That came from a student complaint. Sometimes these things are activated through student complaints; as a matter of fact most often they are, because they relate to fees and refunds and courses that are delivered; but in some cases they are from other institutions reporting on the activities of their colleagues.

Senator CARR—Can I just take you back for a moment? I appreciate your response on that matter, but is there a high school program institution in Queensland that in April this year had to suspend trading?

Mr Gilbert—A high school?

Senator CARR—The term I have in front of me here is a 'high school program institution'. You are not aware of that?

Mr Gilbert—No.

Senator CARR—With regard to the 12 students from Brunei, one of whom happens to be the niece of the Sultan, were there any representations from the government of Brunei to the Queensland government to facilitate the operations of this college?

Mr Gilbert—No.

Senator CARR—You are not involved in any way with the remedial action to assist the relocation of those students?

Mr Gilbert—No. If they are in a government school, I would be aware of it.

Senator CARR—This was actually from the Heritage College.

Mr Gilbert—No. Our role in education in Queensland—I need to explain this—is that we run a commercial program in government primary and secondary schools, and to that extent we are a provider. Part of the operation of my office is to provide the administrative service to the minister for the registration of courses and institutions in Queensland. That does not require them to have tuition assurance schemes and it does not require them, other than to have a trust account, to report to the state. It does require them to report to the Commonwealth.

Senator CARR—This might be a difficult question. I appreciate that, if you feel you cannot answer it, you can just say so. There have been recent changes in regard to the electoral situation in Queensland. For instance, Mr Kingston, who was recently elected in the Maryborough region for the One Nation Party, indicated that he thought that the closure of the International Heritage College could in part be attributed to racist political parties being elected in Queensland. He made these comments when he was in fact an Independent on the local council and he has now been elected for that same political party. Do you think there is any relationship between the rise of a racist political organisation—some call them fascist organisations—in Queensland and the decline in overseas student enrolments?

Mr Gilbert—I can only talk about my program. Our program is running at the same level as it was last year. I would have to say, in terms of our program, no, not at this stage—whether in fact in the future it does I would have to report on later.

Senator CARR—So has the department done any assessment at all of what it regards to be its projected decline in overall overseas student enrolments in Queensland?

Mr Gilbert—We have not done it in Queensland. We are operating mainly at the moment off Commonwealth figures through AEI and IDP Education Australia.

Senator STOTT DESPOJA—So your unit does not necessarily do any research into factors affecting enrolment, be they financial, political or environmental?

Mr Gilbert—The peak bodies in Queensland do it within their own areas—for example, the ELICOS Association, ACPET, and so on. We do it obviously in our business planning, and so on, for students in government schools.

Senator STOTT DESPOJA—What would be your response or your unit's response to other evidence that we have heard today, including anecdotal? For example, one provider—I believe a Taiwanese provider—has packed up from Queensland and apparently moved to New South Wales in response to the charged political environment in Queensland. Is there an official response from the unit? Are those reports something that would concern you?

Mr Gilbert—A Taiwanese provider—I am sorry?

Senator STOTT DESPOJA—A private provider has moved. I am not sure of the specifics; it was in anecdotal evidence provided. If there was an example of some providers who were concerned about the impact of racism or the political climate on their clients' students—I think in this instance Taiwanese, but not necessarily so—would you be concerned about that?

Mr Gilbert—We would be extremely concerned if a provider—by that I understand you to mean an institution—has moved its whole operation to another state. I am not aware of that, but of course we would be concerned. We are concerned at the moment about reports that have come recently out of Hong Kong, where students at a student interview session actually asked that they not be provided with information from Queensland.

I have met with our Department of Economic Development and Trade, and others, to look at strategies that we can put in place to counter that impression. Yes, we are extremely concerned. We are also concerned that some of the other states and territories are finding it quite convenient, too, to say that Queensland is not a good place to go. That, to me, is a little opportunistic. But, yes, it is a matter of great concern if students independently, or institutions, start relocating themselves for that reason.

Senator STOTT DESPOJA—I am sorry that I was so vague about the example. We can provide you with specifics through the *Hansard*. The second example to which I was going to refer is the one that you just mentioned, which also came up in evidence this morning. You have basically answered my final question,

which was going to be along these lines: what strategies are you putting in place, or what research are you willing to conduct, in order to counter some of these negative impressions?

Mr Gilbert—We are being very careful with our strategies, incidentally, because it has a degree of conflict of interest built into it for Queensland providers to stand up and say that we are still a wonderful place with a high quality education program and so on, because we are also running commercial programs. We are relying as much as we can on the ethnic community, the alumni of Queensland institutions and the overseas students themselves to make the comments, because their comments can be made with some credibility.

Senator STOTT DESPOJA—Is your unit willing to assist them financially in that kind of promotion and positive propaganda?

Mr Gilbert—Our Department of Economic Development and Trade in Queensland has taken on the role of the generic marketing and promotion of Queensland education institutions. We have been asked to contribute, as have many others, to those activities.

CHAIR—As there are no any further questions, I thank you very much for appearing today.

Proceedings suspended from 11.55 a.m. to 1.47 p.m.

MORTLEY, Professor Raoul John, 26 Ben Lexcen Place, Robina, Queensland 4226

CHAIR—I welcome Emeritus Professor Mortley, who joins us by teleconference from Melbourne. He will be giving his evidence from Monash University in Melbourne via telephone link-up. For your benefit, Professor, present in the committee room are Senator Synon from Victoria, Senator Carr from Victoria, members of the committee secretariat, officers of DEETYA, plus interested observers from the industry. In what capacity are you appearing before the committee?

Prof. Mortley—I appear as a private consultant.

CHAIR—The committee prefers all evidence to be given in public but, if at any stage you wish to give any evidence, part of evidence, or answers to any questions in camera, you may make the request and the committee will consider the request. However, such evidence may subsequently be made public by order of the Senate. Would you like to make a brief opening statement?

Prof. Mortley—No, I would not. I would prefer to respond to any questions that anybody may have.

CHAIR—Thank you. I call on Senator Carr to begin.

Senator CARR—Professor Mortley, I read the summary of your report to the Minister for Employment, Education, Training and Youth Affairs. I understand that there was some time between when you submitted a full report to the government and when a summary was issued. Could you indicate to us why in your assessment there was that delay?

Prof. Mortley—That was not in my hands. There were a variety of discussions about how and when to issue it, but I am not sure of the circumstances that led to that delay.

Senator CARR—Was the summary prepared by you, or was it prepared by the ministry?

Prof. Mortley—It was prepared in the department, but I was consulted.

Senator CARR—Are you happy with the summary that has been issued?

Prof. Mortley—Yes, I am.

Senator CARR—Terrific. Can you explain to us what you regard to be a realistic forecast of the likely numbers of overseas students participating in Australian educational institutions in the coming period?

Prof. Mortley—The summary of the figures prepared by Australian Education International is fair enough. I am not as bullish as some. We have not seen a huge downturn in Australia of international student numbers. To some extent, we have not suffered in the same way as the tourism industry or other export industries. This is probably because people place such a high priority on education for their children and a promise made to children by parents is very hard to back down on. However, we may be in for a flat year next year for a couple of reasons, and possibly a flat year the following year before fast growth will resume. I would expect that next year we may see fewer numbers in the total system than for this year.

Senator CARR—In view of the work that you have undertaken, are you able to specify which countries will show the greatest decline?

Prof. Mortley—In some countries there has been a decline under way for some time, and there was before there was any currency disturbance in Asia. For example, there was a decline in the issue of student visas in Taiwan and Korea which was under way well before there was any hint of the deflation that has occurred in Asia. Those countries look to have bottomed now and may even resume an upward climb in the next couple of years. We may see a further decline from Thai enrolments and from Malaysia and possibly from Indonesia.

In Indonesia the situation was surprising. In December last year the student visas being issued were showing an increase well after the currency crisis had hit. I understand that some decline has set in, but it is not as great as we might expect. This is partly because of the deregulated currency arrangements in Indonesia and the fact

that very frequently people have bank accounts in different currencies. Many middle-class people may have been protected from the decline of the rupiah.

Senator CARR—The report that you have issued suggests that there may be variations across the sectors. Have I read your report correctly? For instance, do you think that in the ELICOS sector and the schools divisions there would be a higher level of decline than in the higher education sector?

Prof. Mortley—That seems to be the case. That is what is happening. I felt that to be the case late last year. The figures show us that. The higher education sector has come out of it very strongly. We may even continue to see increases in the university enrolments and in vocational education. This is to some extent quite surprising, in that there can be few other export industries in Australia which can speak of this kind of result in the present period in relation to our Asian trading partners. The ELICOS area is being buffeted considerably. There are going to be tough times. I am glad we have in place the various protections that we do, such as the ESOS Act.

However, in the long term, the English language is a very precious commodity. We seem to be seeing some shift in patterns of behaviour whilst the demand for English remains huge and irrepressible. For example, we may be seeing more onshore teaching of English being carried out—that is to say, there may be more teaching of English being carried out in Jakarta than in Sydney, for example, than there was previously. That is not ideal. It is better to learn a language in the culture; but people may be making their economies in that way.

Senator CARR—Your report did not cover India. Is that correct?

Prof. Mortley—No, I did not touch on India.

Senator CARR—Did you cover China?

Prof. Mortley—No. I did make some remarks about the need to open up a little our enrolments from China.

Senator CARR—If your studies were broadened out to consider those countries, do you think you would have to revise your findings?

Prof. Mortley—No, not really, because we took into account our increasing rate of enrolment from India in the total picture. I did not touch on it because there did not seem to be any problem there. It was more or less the problem areas which I investigated. We have seen, of course, a very steep—

CHAIR—Indian enrolments are booming, aren't they?

Prof. Mortley—Yes. We have seen a steep rate of increase from India, and that appears to be continuing. One point that one can make, of course, is that that does not help our ELICOS industry, because most Indian students come knowing English quite well.

Senator CARR—Could I follow these figures through with you. The department has advised us that from the Asian region there will be a drop of 5.5 per cent on the number of students from 1997 to 1998. These are figures provided earlier this year. They indicate that in South Korea there is a 22 per cent drop and in Indonesia a 3.9 per cent drop. These were our largest sources of students. For instance, from South Korea it dropped from 18,000 to 14,000 students. However, the growth in the students from India is only from 5,000 to 6,000. They are relatively small numbers overall.

Prof. Mortley—Yes, that is correct.

Senator CARR—Would you think that those estimates of a five per cent decline were adequate?

Prof. Mortley—It is very hard to speculate. We need to know more about our client families and how and where they invest their money. If we knew more about that, we would probably have more answers. The Indian figures are increasing in percentage terms quite dramatically but, as you point out, the numbers are smallish. I think Korea, from my knowledge and discussions, may have hit the bottom. South Korea is a case in which there was quite a marked decline well in advance of any currency turmoil. How to explain this is quite a big question. I do not think you can easily find the explanation, though you could have a number of guesses. The Korean students mainly come into our ELICOS centres to learn English. I would not be surprised if we have seen the last of the bad news from South Korea.

I would make the point that, when a crisis of this kind hits, people go back to the most conservative solutions. Whilst the devaluation in our currency has made us more competitive in many ways, I do not think that that is mechanistically translating into increased enrolments, because people are making the relative financial judgment, say, by comparison with the American fees or our own fees. If the custom has been to look towards the United States, as it has been in Korea and Taiwan, and things are turning badly and a bit ominous, students and their families tend to think they had better stick to the old solutions and go back to the United States whereas, if things are booming and going well and everybody is feeling relaxed, a student may take a bit of a risk and choose something different, try Australia for the first time and so on.

The difficulties of the times, I think, have produced a degree of conservatism in the habits of some of the potential students and their families, and that is not particularly helping us. That underlines the fact that we

must establish a great reputation for the quality of our education services and the quality of the care that we give to international students.

Senator CARR—I would like to come to the question of quality in a moment. On these issues of projections, the department has advised us that they thought that in the case of Malaysia there would only be a minor fall. Yet, as I see it, in regard to the published figures on Malaysian students undertaking higher education in this country, from May last year to May this year there appears to have been an 80 per cent drop in the number of students having visas issued to them for study in this country. How do you think those actual figures measure with the predictions the department has given?

Prof. Mortley—I understand there is some trouble with the May figures. Are you including May figures?

Senator CARR—I am quoting from the Higher Education Supplement of the *Australian* of 1 July which indicates that there was an 80 per cent drop on the May to May basis.

Prof. Mortley—I too saw that article and did not know how to interpret it. The department has not assigned standard issued figures for the month of May because of some questions being resolved over the method of calculation which seems to have varied for that month. The 80 per cent drop could not possibly be true for the whole year in relation to the whole preceding year. It may be that there is something about that month. But I myself predicted an annual drop of about 20 per cent for Malaysia, and I think at that stage the department was not predicting that, but that was because the evidence was not available to make that prediction and my prediction was more one of reading the tea leaves. I would not be surprised to see a drop on the annual figures of the order of 20 per cent, partly because the Malaysian government has pulled out of its scholarship scheme for Malay students.

Senator CARR—Do you think those sorts of declines are unique to Malaysia?

Prof. Mortley—No, I think you see similar things in Thailand. No, I do not think it is unique.

Senator CARR—The department predicts a 17 per cent decline in Thailand. Do you think that is about right then?

Prof. Mortley—Yes. I think, from month to month, you could probably point to some dramatic figures, but overall on a year to year basis, if some recovery starts to occur, I would predict a slightly greater decline than that for Thailand.

Senator CARR—What about the suggestion of a 10 per cent decline in Hong Kong?

Prof. Mortley—That is a troubling one. I did not deal with Hong Kong. Of course the currency has held with the peg remaining intact to the American dollar. But, underneath that, there appears to be a number of distressed businesses, and probably middle-class families of the sort who send us their students. That may be affecting us in those countries. The issue of the One Nation party is also much discussed. It is difficult to see whether that has an effect or is simply an item for discussion.

Senator CARR—In the case of Japan, it was suggested to us earlier in the year that there would be a five per cent drop. Since that time, we have seen quite dramatic developments in Japan. Do you believe that five per cent is a reasonable expectation?

Prof. Mortley—I am just looking at the figures I have. Japan is another case where there was a decline in train prior to there being any disturbance. I would increase those figures somewhat to around the 10 per cent mark. There is a figure for the six months ended in April which compares to six months in the same period last year, which shows a 10 per cent decline, and I think that is a more reasonable approach to it.

Senator CARR—Let us come back to the beginning where it is proposed there was a five per cent drop, and I am going through the figures that you have just given me. It is suggested that in a range of countries the estimates are under what you are predicting. Do you still think five per cent is a reasonable figure?

Prof. Mortley—I am getting a little lost in the figures. Is five per cent an overall total decline for this year or next year?

Senator CARR—From 1997 actual to 1998 projected. Given that we are now into the second half of the year, perhaps we might have a clearer picture of it. Do you think that a five per cent decline is a reasonable estimate?

Prof. Mortley—I think we are talking about the issue of student visas at this point, so that then has to translate into enrolments in institutions, and that effect is largely for next year. It appears that, in actual enrolments, actual bodies, we have not suffered any decline this year at all in total; that is, bundling up schools, vocational education and universities. We are talking about what the visa granting figures foretell for next year.

There is growth in other areas like India and northern Europe. You have to remember that the education industry diversified quite a while ago. I think many institutions began to present themselves in Europe even five or six years ago. Most of us would never have thought that students would come from northern Europe to study English or study at university in Australia, but some visionary people did five or six years ago and

began to be present in European education fairs, and so we have got numbers coming. They are small, but when you have a whole series of areas increasing it has the capacity to offset those which are decreasing.

When you add to that that some of the countries in the Asian region seem to have bottomed already, like Taiwan and so on, then I think the total picture indicates a decline perhaps less than one might have expected in total for the coming year and the year after. In Taiwan, the Australian decrease in visa granting was almost entirely explained by the American increase—that is to say, the few hundred involved elected to go to the United States instead of Australia—but in the latest few months that appears to be something that is reversing, judging by the anecdotal evidence from Taiwan. I am told anecdotally also by people who own British training colleges that they experienced a large increase in enrolments after the currency crisis began, and some even attributed this to the propaganda effects of Princess Diana's funeral.

Senator CARR—That is encouraging. I am concerned about the reports that you draw to our attention in regard to unsatisfactory private providers, particularly in relation to the issue of quality. What is your experience on those issues?

Prof. Mortley—I do not think private providers in particular are unsatisfactory. In many cases they give excellent accounts of themselves in student care, student education and the whole package. I think we are in danger of looking too commercial in the way that we approach things. Even those people who pay fees and shop around for a good university and look at the product and weigh the cost of it do not see education as a business like an ordinary business. I think we have to be careful that we do not present ourselves as selling education in that way, as if it is an ordinary market and as if it is an ordinary consumer product. At times I am concerned that we may be appearing a little too like that. That worries me.

On the whole, I think we have improved remarkably in the last decade since the Dawkins reforms opened up the way to fee paying international students. We have improved remarkably in the area of student care, but I do think that a university must look after the student not just educationally, not just in the interaction between the academic staff member and the student, but from the very first contact that the student has with the university, whether it be with a security guard on the campus or an admissions officer, from the administrative officers in the different organisations right through to the person in charge of their academic instruction. That is where we have to excel. It is a total quality issue and we must concentrate on that.

Australia has to prove itself in this international educational scene—I hesitate to call it a market. It has to prove itself because there are many countries who have traditions of involvement with Britain or with the United States or others. We have to cause that tradition to be disrupted. This calls for particular excellence and skill on the part of our institutions.

Senator CARR—You referred to the AIEF and its role as a promotional body for education internationally. Do you see the role of government there essentially being one to coordinate marketing strategy to ensure there is this non-commercial emphasis on quality?

Prof. Mortley—'Coordinate' is perhaps a bit strong—certainly to foster and facilitate and help develop. I would not like to see government controlling in any sense the initiatives of institutions. I speak as one who was sceptical of the AIEF, now known as the AEI, in its early days because I could not then see why one would add another government organisation to what was already succeeding through the initiatives of individual organisations. There was also some talk of control at that stage, though that never eventuated.

In the course of my travels through Asia for the minister, I came to the conclusion that, yes, there was a very important role for government to come in as an honest broker to give non-commercially biased information, objective and impartial, to coordinate the activities and to develop responses where problems occurred, say, in the visa granting process or in any others. These are all government matters and fall into the government area, as perhaps even coordinating market research does. I came to the view that there was an important role for government in this area.

Senator CARR—In your summary of the report, you say this about the AIEF, as it was at the time of the writing of this report:

It can provide a coordinated marketing strategy for Australian education from school to university. Government involvement is necessary for referring student concerns to appropriate government departments, particularly in dealing with issues relating to qualifications recognition, unsatisfactory private providers, or immigration procedures.

Can I put to you that there might be a need for a more centralised approach on these issues. One of the problems that is coming forward, to us in any event, is that the plethora of government bodies means it is very difficult for any student to come to grips with the regulatory authorities that actually do exist in this country, that there are so many different agencies. Is there not a role for an educational ombudsman in this area?

Prof. Mortley—A single individual to hear complaints, do you mean?

Senator CARR—A body that performs the function of an educational ombudsman, to actually sort the wheat from the chaff regards complaints about the way in which the students are treated in this country by the various state agencies or government agencies at all levels.

Prof. Mortley—That is a new thought for me. I would have to think about it. Yes, it is true that there is a large range of industry bodies which represent the interests of groups such as the matriculation level training colleges and so on. The student will find himself or herself in one or other of these and will usually find that there is a means of making a complaint which has been made known to them within that institution.

That seems to be the particular pattern at the moment. Too much centralisation of that might lead to the institutionalisation of the complaining process, which is always a worry in educational institutions. If it is not settled at one level, it then goes to the next, and you might be creating a third or fourth level in which the same complaint is heard. So that would worry me.

I know that in the state of Queensland there has been canvassed the idea of having a kind of ombudsman for complaints for private institutions, the idea being that each might be levied a certain amount to pay for ensuring that grievance procedures are established. As the head of a private institution formerly, I agreed that that would be a good proposal, and I will not go back on that now. I think there may be need for some protection of that kind. But as for setting up an umbrella body which would try to supervise all the other bodies I doubt that that would really work.

Senator CARR—It just seems to me that there are serious problems with people not being able to get answers to legitimate questions. This is an area that has so many players; with a thousand private providers, for instance, covered by the ESOS Act, it strikes me that there is a need for people to be able to work their way through the system, or perhaps have someone on their behalf work their way through the system. How do you respond to the proposition that there are so many players in this particular arena of the education industry?

Prof. Mortley—Again, I think usually there are procedures in each of these individual institutions whereby the student usually can get a grievance solved. I myself am not aware of thousands of unsolved complaints. Really, on the contrary, I know that the individual institutions have solved a great many difficulties privately and quietly for students who may have been caught short by the currency devaluation and so on.

In fact, on an individual organisation basis, we have done an enormous amount in that way and, indeed, I think we probably should say it a bit more. The British council goes around advertising its contributions to students in this area in newspapers; we have tended to do it more in a discreet backroom way. I believe that we are attending to student complaints quite well but, as I have said, I would not rule out the idea of an ombudsman for private organisations.

Senator CARR—Finally, your report refers to quality being ‘a major medium term issue’. What did you mean by that?

Prof. Mortley—‘Medium term’ because I think we will have a flat few years in terms of international enrolments. By the time we return to the kind of spectacular growth that we saw—20 to 25 per cent growth per annum, that kind of thing here and there—we will find it a much more competitive world, because all the countries who are sending students to us are aware that they are losing money and are setting up alternative solutions trying to keep their students on shore. In that environment, there is only one answer—and that has to be that we have a quality reputation and that that quality reputation is not only a matter of perception but a matter of substance.

I know that we have tried various mechanisms, such as quality assurance in educational institutions—some more clumsy than others—but, without trying to specify a specific mechanism, the idea of quality control, how it is developed and how it is demonstrated publicly I think remains an item of huge importance on the agenda, even if we have had difficulties about it in the past.

Senator CARR—Thank you very much, Professor.

CHAIR—Are there any further questions? Thank you, Professor Mortley, for coming before the committee today.

Prof. Mortley—Thank you very much, Senator Tierney.

[2.21 p.m.]

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CHAIR—I take it you heard what I said earlier about public evidence and evidence in camera. I invite you now to make a brief opening statement.

Senator CARR—Before you do, what has happened to the other officials today? Are they not coming?

Mr Walters—We have some other officials here who can join us, if necessary.

CHAIR—They will come as they are needed.

Mr Walters—The Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Bill extends the sunset clause of the act of the similar and rather lengthy name from 1 January 1999 to 1 January 2002. The act provides assurances of education quality and financial and tuition protection to international students studying in Australia. It does so by registering providers of international education and training based on state or territory approval on the Commonwealth Register of Institutions and Courses for Overseas Students, and by imposing financial and tuition guarantee conditions on private, non-exempt, providers.

The act was first introduced in 1991. It was amended two years later to extend the sunset clause to 1 January 1997 and to put into place further financial and quality safeguards, including specific requirements for private providers. Since 1994 private providers have been required to deposit prepaid course money into notified trust accounts, withdraw course money only as prescribed in the regulations made under the act and join a tuition assurance scheme or have other approved arrangements in place to guarantee service provision.

Following extensive consultations with industry stakeholders in May 1996, Ernst and Young, an independent review team appointed by the department, found strong support for the extension of the sunset clause but little support for any other substantive amendments to the act. The department held further consultations with state and territory regulatory agencies in August 1996 and with representatives of industry groups to encourage progress on the recommendations of the review team. No industry group has taken up DEETYA's invitation to enter into discussions until April of this year when preliminary discussions were held with a representative of ACPET.

In October 1996, the sunset clause of the ESOS Act was extended to 1 January 1999. The act was amended in March 1997 to set out the administration arrangements for the collection of the annual registration charge imposed by the Education Services for Overseas Students (Registration Charges) Act 1997.

The bill before the committee reinforces the government's commitment to maintaining Australia's international reputation as a reliable provider of high quality courses. The extension of the life of the act has overwhelming support from stakeholders in the industry who recognise that the act has achieved its primary objectives of ensuring the quality of Australia's education, protecting overseas students' prepaid course money and guaranteeing overseas students the education and training which they have paid for. A period of three years extension is required to provide adequate lead time for state and territory governments to introduce appropriate legislation.

While the education and training services industry has matured during the life of the act, the industry is not yet able to provide universal protections to ensure the international reputation of the industry. If the sunset clause deactivates the act, there is a heightened risk of return to the heavy cost for industry and governments which existed prior to the introduction of the act, including the financial collapse of providers, consequent damage to Australia's international reputation and the potential cost to Australian taxpayers to refund overseas students' prepaid course money.

The ESOS bill will ensure quality standards through maintenance of the national register, known as the Commonwealth Register of Institutions and Courses for Overseas Students, and the financial and tuition guarantees which ensure that Australia's international reputation is not damaged. There could be a risk to the integrity of the quality of Australian education offerings in the absence of the national register which could place in question the integrity of Australian awards. This could adversely impact on student demand for places.

Each year the education and training industry contributes in excess of \$3 billion to Australia's economy, as well as bringing a range of intangible benefits—for example, developing contacts for future trade and progressing ideas and international perspectives. It is an important and valuable industry for Australia, and the government believes that it deserves the continuing support of the existing cooperative framework between the Commonwealth, state and territory governments and industry. The ESOS Act is the key national element in this cooperative framework.

During the current volatile period in many of Australia's major source markets, the government believes that it is particularly important to maintain confidence in Australia's international education and training industry by ensuring a stable domestic environment. The expressions of support made by stakeholders during

the consultation process include the Western Australian Department of Education Services, which supported the continuation of the act for at least a further three years; Austrade Service Exports; the ELICOS Association, which welcomed and supported the minister's proposal to extend the sunset clause of the act for a further three-year period; the Training Accreditation Council of Western Australia, which supported the option to extend the life of the act by three years; and Victoria, which supported the option to extend the life of the act by three years to 1 January 2002.

In our view, a three-year extension of the ESOS Act's sunset clause will allow a stable domestic environment to be maintained and for the preservation of the quality reputation of the Australian education and training industry to be preserved during a very difficult time for that industry.

Senator SYNON—How ready do you think the sector is for self-regulation?

Mr Walters—We have made it clear that we are extremely ready ourselves, and I think perhaps I am better equipped to comment on our own readiness to enter into discussions with the industry as soon as they are willing to bring proposals to us. In fact, as I mentioned before, we had an open invitation which only fairly recently was taken up by ACPET. On hearing about this morning's proceedings, I must say the only thought I have had is perhaps that the instigation of this committee session has acted as a bit of a catalyst in the thinking of some of the associations. If it has, we certainly welcome that, as we are very keen to get on and talk to them.

Senator SYNON—But you cannot comment on how ready you think they are or what the major impediments might be, as you see them?

Mr Walters—I think the associations represent very different sectors of the industry and, obviously, different factors apply in each case. It is probably not for me to speculate on what the reasons might be in the case of each association, but I would certainly reiterate that we are only too ready to talk as soon as they are ready.

Senator SYNON—How has the issue of Queensland and South Australia having no complementary legislation in place impeded the sector?

Mr Walters—We would hope that it has not impeded the sector because at the moment we have the ESOS Act, which provides an overarching Commonwealth umbrella of protection for students. To be honest, if you were an overseas student contemplating coming to Australia, you would find the overall level of protection you get to be of most importance. I do not suppose a great many students have a very clear idea of what happens at the different levels of government in this country, except perhaps for those with an interest in government matters. But we certainly believe that the overall level of protection is important. Of the students we have surveyed, we know that some 70 per cent have said that the levels of protection afforded by government are a factor of which they are aware—and I think that includes things which go beyond the matters covered by the ESOS Act.

We are certainly aware that up towards a quarter of students are aware that there are some financial protections for them. We believe that is an important factor and we also consider that, if at this stage in time it became known that the government was thinking of not continuing those protections, it could certainly have an adverse effect on the reputation of the Australian education and training industry overseas.

Senator SYNON—Have there been any difficulties for institutions or students in South Australia or Queensland?

Mr Walters—We are not aware of that. In overall terms, the fact of the matter is that the number of complaints we have had from students from anywhere in the country has been very small indeed.

Senator SYNON—Approximately?

Mr Walters—A mere handful. I think Ms Martin might be able to put a precise figure on that.

Ms Martin—In any one year we may get five or six complaints.

CHAIR—Student complaints?

Ms Martin—Student complaints, yes.

Senator SYNON—In terms of your thinking about a self-regulatory model, what role would you envisage for the states?

Mr Walters—We would envisage a role for the states in which they take the primary responsibility for the legislation which provides for the notified trust accounts and also for the tuition assurance schemes. It has always been envisaged that there will be a division of responsibility in which the Commonwealth maintain primary responsibility for the overall register and the states and territories took on that particular role. Indeed, much of the state and territory legislation which exists at the moment does in fact fulfil that function.

Senator STOTT DESPOJA—What is the department's response to the ELICOS recommendation that the distinction between exempt and non-exempt be removed?

Mr Walters—One could do that in one of two ways. If you did that under the existing legislation and removed the non-exempt distinction, that would require all of the providers who are exempt—for example,

from notified trust accounts including the institutions which are currently funded by state and territory governments and those that receive a recurrent grant from the Commonwealth—to have to go through the trouble of setting up notified trust accounts. The view that has been taken so far—that they are public providers and therefore paid for by the state or at least receiving a recurrent grant from the Commonwealth—means that it is not a step which is justified in terms of the additional trouble to go to. That would be the effect. We have not seen the case made out for doing that at the moment.

Senator STOTT DESPOJA—Just following on from Senator Synon's comments about negotiations with the states, I am wondering whether there are particular sticking points or points of contention that the states have identified to you—obviously, Queensland and South Australia would be the two key ones—as to why are they not moving more quickly in developing complementary legislation or proclaiming it?

Mr Walters—It is hard for us to speculate on the political reasons which might exist as to why certain things get different priorities in different parts of the country. Certainly from our end there are no sticking points that we could identify. We are ready to talk.

Senator STOTT DESPOJA—But in terms of the states identifying?

Mr Walters—I do not think we are aware of anything significant.

Ms Martin—No. To date none of the states have indicated a willingness to progress.

Senator STOTT DESPOJA—On a broader issue, we have talked a lot today about predictions or forecasts for the sector in light of the Asian financial difficulties and also various political climates and specifically Queensland. What has the response of the department been to the government's survey on anti-racism released earlier in the week? What research has been undertaken by DEETYA in relation to not just predictions for enrolment, but looking into various factors that may have an impact on the sector, whether it is political, racism or economic influences? What research are you undertaking? What are your predictions and also what is the response of the department to the government's anti-racism survey?

Mr Walters—I will stick to the factual points that we can report to you. Firstly, we know that one of the factors which is very important to students and their choice of where to study overseas is the safety of the country they are going to. Hitherto, we have been regarded as the safest of the main Anglo-Saxon, English speaking destinations to go to, along with the United Kingdom, and that remains the case as far as I know. I have not seen any survey data in recent times. That is the first thing I am saying.

The second thing I would say is that we know that events in Australia are reported extensively around the region and are watched very closely, and we get a lot of the reporting back. People are aware of what is going on in this country. Beyond that, I am not aware of any hard evidence that any recent political developments in this country have made a significant difference. In terms of hard evidence, we have not seen anything.

Senator STOTT DESPOJA—What are the implications for government or institutions of the anti-racism survey that was released? Particularly, is DEETYA aware of institutions that have implemented or developed anti-racism policies or strategies? Are you aware of research that is being done or work on campuses?

Mr Walters—I cannot say we are on our side of the house. That is not to say it does not exist or that some of my colleagues, for example in higher education, might not be aware of that. Obviously, we are well aware of the fact that most institutions are very keen to promote a multicultural approach to study and a multicultural view of life.

Senator STOTT DESPOJA—My understanding is that the survey highlighted that something like six out of the 20 institutions that were surveyed had actually implemented anti-racism campaigns. If I submit some questions on notice to that effect, I will be curious to know what the department's response is and what research has been undertaken, if any.

CHAIR—Mr Walters, what would the effect on Australia's reputation be if we did not extend the act for another three years from this point?

Mr Walters—As I mentioned a little while ago, we do know that events in this country are followed particularly closely around the region and in other parts of the world which have been quite successful recently, as Professor Mortley pointed out to the committee, in sending students here, such as Europe. We know all those things are watched fairly closely.

Another thing that we know is that one of the major methods by which students are encouraged to come to this country to study is word of mouth through friends, relations and contacts. I therefore suspect—although this is of course speculation—that if the act was not renewed the first thing would be that knowledge of that would spread pretty quickly through word of mouth because the students here would be watching it very closely. Remember we do have 150,000 students in the country with many relations in all of these countries. I suspect it would also be given a fair bit of press coverage, certainly in some of the countries. I could only think that that kind of publicity would act as a significant deterrent to students coming to this country and would not help the recruitment difficulties which the sector has in the present climate.

CHAIR—One of the original reasons for putting in the sunset clause was so that state governments could get their legislation in place. We are still waiting on Queensland and South Australia. We heard from Queensland today, not South Australia. After six years gestation, they are about to give birth to their act, I believe. What is the position in South Australia?

Mr Walters—I do not know whether we have any recent news on that.

Ms Martin—South Australia has not raised legislation to this stage, as far as I am aware. They still operate under their domestic legislation.

CHAIR—Under a number of acts such as consumer protection and things like that?

Ms Martin—Yes, that is right.

CHAIR—Like the other states, do they plan to bring in a specific act or do they plan to continue with their current arrangement?

Ms Martin—We have had no indication that they intend to progress a specific act at this stage.

CHAIR—So we could be in the position of having one state out in, say, six months time. With the original ESOS Act in 1991, which was brought in because of concerns in China in particular, what evidence does DEETYA have that the fact that we have that act in place across the country actually promotes our international marketing efforts in Australia?

Mr Walters—We make regular checks with the overseas counsellors who are employed under the AEI banner in 10 countries. They report to us that it is a significant factor in their own promotional efforts. As far as we know, we are in the lead. Other countries do not have similar legislation but rely on their general law. So it is a marketing thing that we can promote. As I mentioned a little while ago, we are conscious that around 70 per cent of the students are conscious that the law does give them protections in this country and up to a quarter are conscious that they do have this specific financial protection which is provided by ESOS.

This is not to say that if you tapped any student on the shoulder and asked about ESOS he would have heard of this specific legislation. I do not think it works like that. They are aware that there is legislation and there is protection. The reports we get from our counsellors are that it does make a difference. It is a significant factor they have.

CHAIR—In relation to financial protection, how many providers have defaulted on their notified trust accounts?

Mr Walters—I think Ms Martin has the answer to that.

Ms Martin—In the past 12 months or so there have been four providers who have closed and who have not had sufficient funds in their notified trust accounts for the number of students who have been enrolled with that particular provider.

Senator CARR—The names of those?

Mr Walters—I am not sure whether there is a privacy consideration here.

CHAIR—Perhaps you could take it on notice and provide us with the information that you can provide us with.

Mr Walters—Yes, we will take it on notice.

CHAIR—It has been mentioned earlier by a number of the witnesses that perhaps the annual audit could be supplemented with spot checks. Does the department have an attitude to that approach?

Mr Walters—I think it is a point which the minister would need to consider. It is a policy issue, obviously. I would simply say that, at the moment, we are empowered under the act to require further information if there is a reasonable suspicion that something has gone wrong. There is a test to be overcome, and we have to have some reason for requiring the additional information. If one was to go from there to completely spot checks, then you would have to consider, given the level of abuse which we know about, which appears to be very small, whether we could justify an imposition of a system on the whole sector, the 1,000 providers registered, for the basis of dealing with that particular grievance or difficulty.

At the moment I would have to say that the incidence of abuse does appear to be quite small. One can argue that both ways: either that the act is working very well or that the act is unnecessary. I think the presumption at the moment would be that the rigour and discipline that the act imposes is having an effect. I think one would want to consider that very carefully before moving to a system of spot checks.

Senator CARR—You have indicated that four providers have closed. Advice provided to me from your officer—and I will not name the officer—is that, as of 1 July, no provider of English language intensive courses had gone out of business. How do you reconcile those two propositions?

Ms Martin—The question that I answered before was in relation to providers who defaulted on their notified trust accounts. The information that we provided in relation to ELICOS colleges which went out of business was in relation strictly to those colleges that taught only English language intensive courses. In fact, a total

of 11 providers who have some English component amongst their course menu have closed, but two of those closed because they rationalised their registrations—they had two provider registrations on CRICOS. Five were purchased by another company, so in fact continued but were under a new owner. One went into liquidation, and three requested cancellation from the state.

Senator CARR—Do you think that the extent to which there has been an attempt by the industry to amalgamate colleges that are going broke, or are having financial difficulty, is actually masking the incidence of financial difficulty?

Mr Walters—I do not honestly think we could say that. I do not think we could say that, in the sense that we do not have any evidence one way or the other.

Senator CARR—You do not know, is the answer, is it?

Mr Walters—That is right. Perhaps I could say that we are sure that the vast majority of members of this industry behave responsibly.

Senator CARR—I think that goes without saying. Given that this act was set up with the strong support of the Labor Party—it was actually initiated by the Labor Party to protect the industry and protect Australia's reputation—it obviously follows that my concern now is to ensure that that protection is maintained. One closure could have significant international implications for our overseas educational industries. I am therefore raising the concerns that have been put to me by groups that have suggested that the department has not undertaken its obligations.

For instance, when you went to inquire as to why the heritage college in Queensland collapsed, were you able to establish in advance that that company was in financial difficulties? I will rephrase that. At what point did you discover that the heritage college in Queensland was going to go bankrupt? Were you able to establish that in advance?

Mr Walters—I am advised of a cancelled provider, Senator. I have some difficulty in commenting on particular cases because there is always the possibility of litigation involved in them. Would it be possible to answer in terms of how we generally perceive, rather than any individual case?

Senator CARR—Yes, I am sure you can answer any way you like and then I will follow up my question, as you know me only too well to do. I am interested in this particular case because I have material which relates to the incidence, which I think assists me in assessing how adequately the department is responding to problems within the industry. It is all very well to talk in hypotheticals but, when you have specific matters put to you, I think we are entitled to know how well the department has dealt with this particular incident.

Mr Walters—Perhaps I could ask Ms Martin if she could try and respond in terms of what the department did so as to give you the ability to judge our actions.

Ms Martin—In relation to the provider that you mentioned, in the 1996-97 assessment we identified that there were two issues. One was that they did not appear to be maintaining their notified trust accounts in accordance with the requirements of the act, and the second was that one of their agents appeared to be promoting in a way that could be misleading or deceptive.

On the second matter, we went to the college, which we hold responsible for the actions of their agents, and drew their attention to the relevant section of the act and sought their response, as we are required to do under the act. They responded that they were unaware of the actions of their agents and that they had taken this matter up with their agent and had instructed the agent that that sort of advertising was not to continue. As a result of that, under that particular breach, we took no further action, accepting those assurances.

As we had identified that there appeared to be some discrepancy in the notified trust account funds, we looked extremely closely at the audited report when it came in. We drew the conclusion that the account had not been kept in accordance with the act. Not all moneys were banked into the notified trust account. The balance in the notified trust account and in the statement we received were not in accord, and the auditor was unable to sign off on the audit. As a result, we wrote to the college and gave them the opportunity to tell us why they should not be suspended. They wrote back; we found it unsatisfactory, and on 19 September we suspended them.

They then went through a process of seeking reinstatement on the register, and we were unsatisfied with any of the proposals that were put forward to reinstate them. However, we wrote to them again in December and said, 'Provide this extra information and we'll have a another look at you.' They provided information on how they had operated their notified trust account. They went ahead and had an independent auditor audit their trust account to the end of December.

The outcome of that audit was that since we had raised the issue with them back in September the financial accounts had been presented appropriately and had been adequately maintained. They then undertook that if they were reinstated they would submit additional information and fully comply and we reinstated them on the register. At the end of February, we received an audited notified trust account statement which was not satisfactory and, as a result, they were suspended again.

Senator CARR—When did they go out of business?

Ms Martin—They went out of business on 25 June. They were cancelled on 25 June, but they were suspended again some time before that. I cannot see it here, but I can certainly give you those dates.

Senator CARR—Thank you. At the closure of the college, what was the shortfall in the trust account?

Ms Martin—I do not have that information.

Senator CARR—There was a significant amount?

Ms Martin—I understand from the tuition assurance scheme operator with whom we worked closely that there was an amount of money in shortfall in the notified trust account.

Senator CARR—What is there to stop other businesses engaging in these practices under the present legislation?

Ms Martin—One of the disincentives is that they are required to get a clean bill of health from their auditor for the whole assessment period. For example, if an auditor says to us that at 30 June a provider had X amount of dollars, that does not cover off what the act says. The act says they must have complied with the deposit and withdrawal process throughout the reporting period. That means that, if we get a qualified audit report at any time during the audit period that a provider has not had satisfactory balances between their ledger and the bank balance, we take that up with the provider.

Senator CARR—So there is a provision for monitoring on an ongoing basis now?

Ms Martin—Under one of the sections of the act, if we have a reasonable doubt or a reason for doing so, we are able to follow up.

Senator CARR—I notice that six colleges had their registration cancelled last year. Have I understood that correctly—six suspensions and two cancellations for breaches of the act?

Ms Martin—Yes.

Senator CARR—How many of them related to trust account violations?

Ms Martin—I do not have the breakdown for that period. Unfortunately, I have got a breakdown for a different period. So can I give you those exact figures for that period?

Senator CARR—Yes, if you could. Do you want to take that on notice?

Ms Martin—Yes, thank you.

Senator CARR—I am interested to know to what extent the present legislative framework protects those trust accounts. You are saying that, as far as you are concerned, the annual audit is sufficient. We have heard evidence this morning that the day after an audit it is possible for a proprietor to take the moneys out and use them for wages or for any other purpose that they choose.

Mr Walters—Perhaps I could just draw the committee's attention to the fact that the act does provide for an offence under section 6A(4) of the ESOS Act 1991:

A provider who intentionally or recklessly contravenes subsection (1), (2) or (3). . . .

And (2):

A provider must not withdraw or pay money out of a notified trust account except as permitted by the regulations.

That provides for an offence punishable by imprisonment for up to 12 months, so there is a criminal offence.

Senator CARR—I appreciate the point you make—

Mr Walters—Another point is that, over and above the provisions specifically set out in the act, trustees have a fiduciary duty. In any breach of that fiduciary duty it would be possible for them to be prosecuted under the common law. So these provisions do not stand in isolation.

Senator CARR—Okay. We have heard evidence this morning that, given the onslaught that is likely to develop as a result of changes in their economic environment in the region, we are likely to see an increase in the number of businesses going broke. It is commonsense and was put to us on a number of accounts. Would you agree with that assessment?

Mr Walters—I am trying to restrict what we are telling you, Senator, to what we have evidence of—and we do not have any evidence of that.

Senator CARR—As far as the department is concerned, there is no evidence to suggest that there is likely to be an increase in the number of companies having financial difficulties? Despite what appears to be growing evidence of a decline in student numbers—in terms of visas and the problems and costs being presented to the committee—you do not acknowledge any of that as evidence to suggest that there is growing stress on this sector?

Mr Walters—There is certainly growing stress. We have close contact with the sector—particularly the ELICOS sector. My colleague Adrian Van Leest has been talking to them. I think most of the sector is trying to downsize. It is a sector in which the whole of Australian education and training has grown very rapidly

over the last few years, and things that grow rapidly can also go into reverse. The more prudent members of the sector have taken precautions. We have certainly seen a lot of precautionary activity within the sector to downsize, to reduce their operations and to anticipate some of the problems that have come up. But, if you are asking whether we have got any hard evidence to give you about what is likely to happen, we do not have any.

Senator CARR—ELICOS told us in submissions this morning that there has been a 48.2 per cent decline in the number of students in the first four months of this year and that this is likely to lead to a loss of 827 jobs in this country in this sector. Would you agree with that?

Mr Walters—We have seen those figures and I have got no reason to suppose they are put forward in bad faith.

Senator CARR—But you will not confirm them?

Mr Walters—We have no means to confirm or deny them. They are the ELICOS figures, and I am sure that they are best estimates.

Senator CARR—Your own evidence to this committee is a 5.5 per cent decline in student numbers. Do you still hold to that?

Mr Walters—The latest statistics were those we provided on 11 May. My colleague will confirm that the universities figure was certainly going to be up by 13.4 per cent.

Mr Van Leest—The overall percentage change this year over last year which we estimated on 23 April was based on visa data at the end of March and it was a 0.5 per cent increase overall. At that stage the ELICOS sector had declined by 18.2 per cent. In the higher education sector, we had a projected increase at that time of 13.4 per cent. In the other two sectors, vocational education had a drop of 2.1 per cent and school education dropped 9.2 per cent.

Senator CARR—Is that a nine per cent increase?

Mr Van Leest—No, that is a nine per cent decline. Because the higher education sector is by far the largest of four sectors, it has a larger—

Senator CARR—So the figure you gave me of 5.5 per cent you do not want to vary?

Mr Van Leest—When were they given to you, Senator?

Senator CARR—I do not have a precise date. I put the question forward earlier in the year. The question was asked on the 27th. It is question No. 698—possibly on 30 March by the fax date on it—but there is no actual date on the question.

Mr Van Leest—It did not relate to visa growth figures?

Senator CARR—No. It says here.

Of the 151,500 students who studied in Australia in 1997 just over 126,000, or 83%, were from the Asian region.

The Department's latest projections are that 150,900 overseas students will study in Australia in 1998, with 119,000 to come from the Asian region, down 5.5% on the number from Asia in 1997.

Mr Van Leest—That is from the Asian region.

Senator CARR—That is the question I am asking you.

Mr Van Leest—I am sorry, I was giving data for all of them.

Senator CARR—Perhaps I was not clear enough. What then is your assessment of the decline from the Asian region?

Mr Van Leest—It would still be the same figure.

Senator CARR—It would be 5.5?

Mr Van Leest—Yes.

Senator CARR—You have no reason to vary that?

Mr Van Leest—Not at this stage, but we will be revising the data based on new visa figures coming in and other information from the councillors.

Senator CARR—When will that be?

Mr Van Leest—Probably at the end of this month.

Senator CARR—Presumably you heard me ask questions before about the number of visa applications from Malaysia. There is an 80 per cent drop May on May from this year. How do you respond to that proposition?

Mr Van Leest—We have been looking into that to see whether it is a one-month-off anomaly. If we look at the most recent data which has not yet formally been issued for the end of May and which incorporates that data, for the six months ended May we have a drop from Malaysia of 25 per cent. That is for six months.

Senator CARR—Because in March you were telling me that there would only be a drop of 0.2 per cent.

Mr Van Leest—That is right.

Mr Walters—There is a distinction here between student numbers and visas.

Senator CARR—I am sure there is.

Mr Walters—Because visas take time to feed through. That is only one of the factors that we take into account. There are also student visas in the ELICOS sector. Lots of people come in on visit visas, so we factor that in too. Mr Van Leest is commenting on provisional DIMA figures which have not yet been finalised and released. Those are the ones which you picked up from the *Australian*. We gather that DIMA will be releasing those figures shortly but have not done so yet.

Senator CARR—Will the department—you can take this on notice—please revise the answer you have given me, answer No. 698, in light of the new figures that are provided at the end of this month and in view of your review? That will give me an understanding on it. I would like it particularly with regard to each of the countries listed and the actual projected enrolments for the forward 12 months. Obviously you need to update them to 1999 now that you have those figures. I would appreciate that.

The point I am raising in the context of all of that is this: given that there is this evidence presented to us concerning the likely stress on the industry and the consequences that has for individual businesses, and given that we now know that there have been four companies—I say four at least that I am aware of; you are saying that 11 have gone broke—

Ms Martin—Sorry, Senator?

Senator CARR—I will rephrase that.

Ms Martin—Please.

Senator CARR—We will get it clear. How many companies are involved?

Ms Martin—We were talking about four providers who closed and did not have sufficient money in their notified trust account as opposed to 11 providers overall who closed for a variety of reasons, including that they have amalgamated.

Senator CARR—Does that include the English language college in Victoria which, I understand, closed in December 1996?

Ms Martin—I believe that it does, yes.

Senator CARR—I think it is called ABC.

Ms Martin—Yes.

Senator CARR—What about the English language college in Sydney which closed in September 1997?

Ms Martin—Do you have the name for that?

Senator CARR—No, I do not. It will come to me no doubt. There was one in Sydney in September 1997.

Ms Martin—Yes. There was one in either September 1996 or 1997.

Senator CARR—There was the heritage college that we have already referred to and a High School Program Institution in Queensland in April of this year. Has that one been drawn to your attention?

Ms Martin—I am sure that we have it on record, but I cannot recall the name of the college.

Senator CARR—Are you aware of the Eliaus English College in Sydney?

Ms Martin—I do know that one.

Senator CARR—Has that all been picked up through the monitoring arrangements?

Ms Martin—That was a company that was purchased. There was a cancellation of the previous provider. There were two companies involved there. One company owned the college called Eliaus. That company sold to another company which continued the college on as Eliaus. That company then sold the college to a third company which renamed it.

Senator CARR—These are all cases where there have been shortfalls in the trust accounts. Would you agree? In the ABC college in Melbourne there was a \$68,000 shortfall in the trust account. There was a significant shortfall in the Eliaus college in Sydney. Would that be correct?

Ms Martin—I believe from my contact with the TAS coordinator that that was identified after the sale had occurred.

Senator CARR—We have already discussed the heritage college. I understand there was another college in Sydney that went broke in October 1997. Is that right? I believe it was voluntary liquidation.

Ms Martin—That is right. There was a college that went into voluntary liquidation and appointed an administrator. The funds in the notified trust account were at the correct level and were maintained at the correct level. That college has now been taken over by a new provider, who has also taken over those funds in the notified trust account.

Senator CARR—Then there were colleges who suspended operations because of the economic circumstances. They included a Sydney English language college, Australia World, which suspended operations in April; an Adelaide English college; and a Queensland English Language College, or the Hills Language College as it is otherwise known. Am I right on all of those cases?

Ms Martin—According to our CRICOS registration, some of those colleges, at least that I am aware of, are still listed as approved providers.

Senator CARR—I am raising this because I am wondering how adequate you believe your processes are to pick up these business failures, given that we have already established that it is possible that any one of these could have a significant bearing on our international reputation.

Mr Walters—Senator, perhaps I could try to answer that. There are two angles of approaching this. One is the protection that is afforded to the students. That is the orientation of this piece of legislation. The other is what you do about business failures within the industry. In relation to business failures within the industry, it is an industry which has risen rapidly. It is an industry which is now suffering some contraction. It is not alone in that respect. The way in which the economy as a whole and the business law of this country handles companies and their liabilities when they can no longer trade applies just as much to this sector as to any other.

This piece of legislation is here to try to provide protection to students and to protect the reputation of the industry overseas by giving that protection to the students. There are two tiers of protection here. The first is the notified trust accounts. That is one tier. The protections which exist within that are the normal monitoring, which Ms Martin just described to you. We have the power to require special information, where we have a reasonable belief that the provider may have transgressed one of the sections of the act. We do have the ability to step in and ask for information in those circumstances. The third protection under the notified trust act provisions is the fact that there are offences provided. The fourth is the fact that there is the general common law and the fiduciary duty which is placed on those who operate trust accounts.

There are four levels within the provisions which relate to notified trust accounts. But there is a second tier of protection. Leaving aside all of those, the providers are required to belong to tuition assurance schemes. If they do not belong to a tuition assurance scheme, they have to have a reason for exemption, such as the fact that they only collect fees in arrears or something else of that sort. Even if the notified trust account provisions do not work in a particular case, for the student there is the second level of protection provided under the act. As I say, this act goes beyond the protections, so far as we know, which are offered by any of our competitors.

CHAIR—On the same point, Mr Walters, would it be true to say that, in this industry, compared to other industries which are private businesses, the failure rate is considerably below what is generally the case in the economy?

Mr Walters—I would have to say that I am not sufficiently an expert in the industry as a whole, but I would like to think that that is the case because, on the whole, it is certainly a very sensible and prudential industry.

CHAIR—In terms of student protection, given those measures that you have outlined, there would be very few students in recent years that have suffered adversely.

Mr Walters—As Ms Martin mentioned to you, we get a tiny number of complaints. We would hope that that really means that one or other of the levels of protection provided by the act, either the notified trust accounts or the tuition assurance schemes, is working.

Senator CARR—We would hope that is the case, but there is the case of Heritage College, and I was told of that by the students there, including a relative of the Sultan of Brunei. You do not need too many of those to start to have a bit of a rumble about our educational services and for them to be adversely affected in Brunei. Would you agree with that proposition?

Mr Walters—It sounds reasonable to me, Senator.

Senator CARR—In a case there I am told that students had to actually move from Maryborough to Brisbane and were not provided with travel arrangements, accommodation and all the rest of it that goes with moving young children around from one city to another in this country. These are very serious matters, I would have thought, and would be much more serious than, for instance, the complaints you have had from five students.

Mr Walters—Ms Martin reminds me that the requirement to place the students with an equivalent provider obviously means that it is not always possible to replicate the provision in exactly the same location, being a big country. As regards the precise details of the cases, I am not sure that we are in a position to be able to comment. All I would say is that the number of complaints coming through to us from students is quite small.

Senator CARR—That is part of the issue. How many people have you had working in the international student area in your section in the past two years?

Mr Walters—In the past two years, if you are looking at the number of ESL—

Senator CARR—What was the establishment two years ago?

Mr Walters—The establishment a couple of years ago was round about 130.

Senator CARR—What is it now?

Mr Walters—It is now in the region of 60 or 70.

Senator CARR—Do you think that that drop in excess of 50 per cent—depending on whether it is 60 or 70—has had any impact on your capacity to assist this industry?

Mr Walters—We try to work smarter.

Senator CARR—You would have to, at that rate.

Mr Walters—We try to make sure that we cover all the functions. We are not alone in being a part of a department, or indeed of a government—as with governments throughout the world—that is having to do more with less. All I can say is that we try to do a very good job.

Senator CARR—I am sure that is the case. I have never been in any doubt that you try to do a very good job. I am just questioning whether or not it is possible to meet your obligations under this act with only half the staff that you had two years ago.

Mr Walters—There has been some reduction in the number of staff actually fulfilling the functions under the act. Again, as I say, we have tried to rationalise and we have tried to do it better. I guess, at the end of the day, it is not for us to judge.

Senator CARR—Yes, that is right; and no doubt that will be brought home to you. I would repeat the proposition that, if you have had a 50 per cent reduction in your staff covering this area, it is not possible for you to maintain the same level of service that was provided two years ago. As I understand it, you are raising nearly \$1 million from the industry, is that right?

Mr Walters—Yes.

Senator CARR—Do they get the same level of service they got two years ago for their \$1 million?

Mr Walters—All I can say is that I am not conscious of any complaints on that score.

CHAIR—They are just much more efficient.

Mr Walters—We maintain very close contact with all the associations. They are very vocal and they are not backward in coming forward with their views. I have to say that and I congratulate them on the way in which they do come forward.

Senator CARR—You said that you gave an open invitation and only one had responded. You said that complaints have come to you that suggest that the department is not able to meet its obligations and that there have been cases with companies that have gone into liquidation. I am wondering whether it is possible for you to monitor the industry as effectively as one needs to with only 50 per cent of the previous staff numbers.

Mr Walters—In terms of keeping an eye on what we do and deciding on whether we are doing it efficiently, we are fortunately not judge and jury in our own cause entirely. We do have our own internal audit that, from time to time, looks at what we are doing and decides whether we are efficient. We have a very active secretary who keeps a close eye on what we are doing, and discusses regularly with us whether he thinks we are coming up to the job. We also have the minister keeping an eye on us and, of course, we have you keeping an eye on us, and we listen to everybody's views.

Senator CARR—You will hear a lot more from us, I can assure you on that.

Mr Walters—At the moment, so far as I know, we are trying to do a good job, and I believe we do.

Senator CARR—I have no doubt that you are trying to do a good job, but I am concerned, if there has been this sort of reduction—given the sort of risk that this industry is now facing, which comes from the evidence presented to us across the board—about whether you can possibly cope with the stresses that are being demanded of you with this number of staff compared with what you had two years ago.

Mr Walters—I honestly am not sure and I cannot honestly add to what I have already said on the issue. All I can say is that we try conscientiously to cope with all the demands.

Senator CARR—You spend \$1.8 million on administering this scheme. What do you spend it on?

Mr Walters—Just below half of that goes on the staff. There are nine members of staff, not counting the time of myself and the branch head.

Senator CARR—There are nine now working on this particular piece of legislation?

Mr Walters—Yes.

Senator CARR—How many were there two years ago?

Mr Walters—I will ask Ms Martin to delve back into her memory.

Ms Martin—I think there were 12 at that time.

Senator CARR—Has there been a 25 per cent productivity increase?

Ms Martin—Yes, there has been.

Mr Walters—It is a very hard working section, as all our sections are.

Senator CARR—No doubt. Is it \$1.8 million or \$1.9 million?

Mr Walters—It is around \$1.9 million. Slightly less than half is spent on staff and the rest goes on administration. Perhaps Ms Martin is a bit closer to it than I am, if you would like a bit more detail.

Senator CARR—I would appreciate a breakdown of those figures, if it is possible.

Ms Martin—Broadly speaking, the costing of the services covers salaries, administrative costs, specific administration, corporate support component, rental and fit-out and legal services. What we seek to deliver to the industry is, first and foremost, the national register which, during the review in 1996, the industry wanted to maintain, and they referred to it as the national masthead for the industry.

We also distribute CRICOS updates which are updates of the national register to overseas posts to facilitate student visa processing overseas so that our student applicants are not delayed in having their visas processed.

A large part of our work, of course, is in monitoring and administering the legislation. We provide industry data from the CRICOS information that is held and that is held within a larger system. If an industry association comes to us, for example, and wants to know what our listing of members is, we can provide that data. A couple of years ago, a number of the associations required reports of all the courses that were covered by their association and by provider. That is the sort of information that we provide to them.

Mr Walters—I could perhaps add that we are developing a service charter, too. That will try to lay down some service standards that we give to the industry. It will give a clear indication to the industry of what they are to expect from us and what we would legitimately regard as a complaint if we do not meet it.

Senator CARR—Industry representatives have put to me that one of the problems in recent times has been that you are not able to meet requirements in regard to registration proceedings simply because it takes too long to get the paperwork in order. For instance, with CRICOS listed providers, it was put to me recently that a seminar was meant to be organised for providers and lists were provided which were hopelessly out of date. Does that seem to you to be a charge that you would plead guilty to, or are there extenuating circumstances?

Mr Walters—There are two levels of this. One level is at the states and territory level. My understanding is that some of the problems that you are describing are, in fact, problems where it comes to registering courses with the states and territories. I think the seminar you were talking about was a means that we had suggested of trying to discuss some of the system requirements between ourselves, the states and territories to see if there were any blockages we could sort out. My understanding is that it is that registration with the states and territories which causes a lot of the trouble. Of course, we do not have direct control over that.

Senator CARR—Do you think that the reduction in staffing has had no impact on your capacity to gather that sort of data?

Mr Walters—Ms Martin, as the section head, is the best person to respond to that.

Senator CARR—This is not a go at you, Ms Martin. I am trying to establish how you are dealing with a very complex situation. Do you think you have been restricted in your capacity to gather material with fewer staff?

Ms Martin—I do not believe that we have delivered any less a service than we were delivering two years ago. I believe that we have put in place processes that work well and support the industry. In addition, in relation to the CRICOS registrations, some of the delays that occur do occur because we need to go back to the state and check on the information that they have provided. However, in almost every case a provider and a course will be listed within 24 hours of receipt.

Senator CARR—Is that available to industry without any difficulty?

Ms Martin—Whenever we change a provider's details on CRICOS, a copy of that is sent either directly to the provider or to the state, depending on the type of change.

Mr Walters—We will certainly be going through the evidence which you have heard this morning to see if there are points we can pick up where we can usefully improve what we are doing.

Senator CARR—I am pleased to hear that. Finally, the industry contributes half the cost of the operational scheme. Is there an argument why the industry should not meet the full cost?

Mr Walters—It is just simply a policy matter and the decision that was taken by the minister at the time.

Senator CARR—I might put the rest on notice. I do appreciate the time you have put into this.

CHAIR—Yes, and, in addition to that, Senator Stott Despoja has a number of questions she wishes to be placed on notice.

Senator CARR—But you are strongly of the view that there should be an extension of this particular sunset clause?

Mr Walters—Yes, we are.

Senator CARR—When will the review of the operation to this act be completed?

Mr Walters—There has been a review by consultants and it is really now a question of—

Senator CARR—But that is 1996.

Mr Walters—Yes.

Senator CARR—This is before all of that trouble with Asia.

Mr Walters—You are absolutely right. We are now hoping to engage the providers and the states and territories in the process. Obviously, we would have to try and conclude that within 12 months, or shortly thereafter, in order to enable the planning of the legislation and put it before the houses of parliament, so that it could get through in ample time to be implemented within the three-year extension period.

Senator CARR—Was the 1996 consultants' report made available to the committee?

Mr Walters—It was made available to the industry.

Senator CARR—So you will not have any trouble giving it to the committee?

Mr Walters—No.

Senator CARR—Thank you very much.

CHAIR—That concludes the inquiry into the ESOS bill. I would like to thank the officers from the department and people who have appeared from the industry, many of whom have stayed all day. Thank you very much.

Committee adjourned at 3.21 p.m.