

Navitas supplementary submission to the Senate Education, Employment and Workplace Relations Committee on the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011

About Navitas

Navitas is a leading global education provider that offers an extensive range of educational services for students and professionals including university programs, English language training and settlement services, creative media education, workforce education and student recruitment, serving over 80,000 students and clients each year. Navitas is an Australian corporation ranked amongst the top 200 publicly listed companies on the ASX.

Navitas is the industry leader in pre-university and university pathway programs. It offers university programs from colleges in Australia, UK, US, Canada, Singapore, Sri Lanka and Africa.

English Language training includes the provision of English as second language courses for international students and English language, settlement and work preparation programs for migrants and refugees.

Navitas Workforce provides quality vocational, employment and placement services in areas of key demand. Focusing on meeting business and industry needs for skilled human resources, it provides the capabilities that find, train and place "work ready" skilled employees.

Via SAE and Qantm Navitas is now a leader in creative media education offering audio, film and new media qualifications around the world.

Navitas also offers student recruitment services in India and China for universities and other educational institutions in Australia, Canada, US and UK.

Further details about Navitas are available at www.navitas.com.

Background

Navitas is appreciative of the opportunity to make a supplementary submission which addresses developments in relation to the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011.

Navitas supports the thrust and intent of the measures contained in the ESOS Bills under review. However our concern is to highlight two clauses of the proposed legislation that in their current form are 'over regulation', will have significant negative consequences for a major sector of the international education industry, and will work contrary to the intent of the Baird Review for a *stronger, simpler, smarter* regulatory framework.

Navitas commends and endorses the supplementary submission made by English Australia to the Senate Standing Committee on this matter and shares English Australia's concern that the issue of pre-paid fees was not addressed by the House of Representatives Standing Committee on Education and Employment.

In November 2011 Navitas had the opportunity to meet with Senator Back, Deputy Chair of the Senate Committee and with advisers to Senator Evans, Minister for Tertiary Education, Skills, Science and Research and the Hon Chris Bowen, Minister for Immigration and Citizenship to raise our ongoing concerns with Schedule 3, Clause 27 of the ESOS Amendment (Tuition Protection Service and Other Measures) Bill 2011.

Navitas now wishes to provide additional information specifically relating to *Proposed section 27 - Pre-paid fees*. Our original comments about this section are shown in the Attachment.

Proposed section 27 - Pre-paid fees

Navitas has recently sought information from the Department of Education, Employment and Workplace Relations regarding concerns about this specific clause, however the response provided was broad in nature and did not address the negative impact on English language or short course providers. The legislation, in its current format, is appropriate for tertiary providers delivering formal AQF qualifications of one year or more in length but for providers of formal and informal courses of less than one year in length the legislation in relation to Pre-Paid fees is (unintentionally) punitive and a significant administrative burden.

Navitas supports the intent of the legislation to ensure that fees are utilised for the study period for which they were collected. The proposed legislation proposes two broad mechanisms to achieve this:

1. depositing into a nominated account and drawing down; and
2. limit on the collection of no more than 6 months/50% of the fees.

Both do not seem necessary to be applied at the same time and the second mechanism, in particular, imposes significant administrative burden.

Recommendation 1: The legislation to deposit into a nominated account is maintained and the legislation to limit the collection of no more than 6 months/50% of the fees be a condition that the regulator could choose to apply to a provider that they have specific/identified concerns about.

Supporting detail

To support Recommendation 1 above, outlined below are the detailed concerns Navitas has about the implementation of the draft legislation in its current form.

Proposal: *Providers must not receive fees more than two weeks before the start of a study period for continuing students*

Concerns:

1. The limit on collecting fees no more than 2 weeks prior to the commencement of a study period will have a significant impact on the ability for ELICOS providers to plan and resource classes with the uncertainty of whether or not students will continue their studies potentially not confirmed until the day before they are due to commence the study period. In any one ELICOS school, this could amount to the equivalent of a number of classes each week as ELICOS providers do not operate on a semester basis and students are able to commence on any given Monday.
2. The vast majority of student fees in the ELICOS sector are paid by telegraphic transfer from overseas by the parents of the students (or their agents) and the funds will often take a few weeks to reach the provider's account and be fully reconciled. The proposed short timeframe of 2 weeks in which providers are able to collect fees from continuing students prior to the commencement of subsequent study periods will inevitably result in a significant number of student defaults under section 47A where the student has failed to provide an amount they were liable to pay in order to undertake the course.

Navitas would like to seek clarity on the responsibility of providers for the reporting of students for such non-payment of fees as the obligations outlined in the National Code and proposed Tuition Protection Service (TPS) amendments are not aligned. Under the current

proposed legislation, providers are required to notify the Secretary and TPS Director of the student default within 24 hours of the default occurring. However, Standard 13 of the National Code requires the provider to inform the student of its intention to cancel their course due to non-payment of fees and allow the student 20 working days in which to access the provider's complaints and appeals process *prior* to reporting the default.

The current, amended, proposal to notify the TPS Director within 72 hours of the student default will impose a heavy administrative burden on both the provider and TPS staff for no apparent benefit when, more often than not, payment will eventually be received. The removal of or an extension of the proposed 2 week time period in which providers are able to collect fees prior to the commencement of the course will alleviate this issue.

3. The administrative burden to manage the process of collecting fees for students studying longer than 6 months, within the short window of 2 weeks prescribed by the legislation, will add significantly to the administrative requirements for English colleges in particular (resulting in increased costs at a time when the industry profitability is massively impacted by other factors).
4. It is inevitable that some parents will pay 100% of the tuition fees for their child's course by telegraphic transfer into the providers account. An expectation that providers should, in these circumstances, contact the agent or parent to obtain the parent's bank account details and subsequently refund the portion of tuition fees overpaid to the parent's account is unreasonable. This would require significant resources to manage and result in unnecessary bank charges being incurred by both parties.

Recommendation 2: If Recommendation 1 is not adopted, we strongly recommend that the legislation to limit the collection of fees to no more than two weeks prior to the course commencement either be abolished entirely or extended to a minimum six weeks.

Proposal: *A provider can collect fees for no more than one study period in advance; and no more than 50% of the total course cost can be charged in any one study period (except for courses that fall within one study period)*

Concerns:

1. The structure of the restriction (ie not more than 6 months AND not more than 50% of the fees) means that for a student studying 26 weeks, a provider can only invoice for 13 weeks up-front with the remaining 13 weeks to be collected between week 11 and 13 of the student's course. This is even more onerous than collecting no more than 24 weeks in one payment – the second element (the 50% of fees restriction) does not seem to add any significant value.
2. Breaking collecting of fees into more payments will force providers to remit commission to agents based on receipt of the payments. A staged approach to payments will mean the agent will have to invoice the provider twice (or three times for a student studying over 48 weeks) and the provider will have to make two (or three) payments to the agent – this additional administrative burden, coupled with the delayed payment of commission, will certainly make other international destination markets more attractive for agents at a time when our international competitiveness has been eroded for a range of reasons.

Recommendation 3: If Recommendation 1 is not adopted, we strongly recommend that the additional 50% restriction is removed.

Attachment – Original submission

Proposed section 27 - Pre-paid fees

The principle of a risk based approach should be applied to the proposals around pre-paid fees as it refers to an organisation's ability to refund student fees in an appropriate and timely manner.

Navitas has considerable concerns with Subsection three which states that a provider is prevented from receiving tuition fees for a course more than 2 weeks before the beginning of a study period for the course.

This clause will be extremely problematic for providers as:

- Planning and staffing will be compromised severely as providers will not have certainty over student levels until 2 weeks before classes commence. This is an unreasonable situation to place organisations in who have long time lines to manage in securing staff, planning timetables, facilities etc. The overwhelming performance of educational institutions in the past does not support this major constraint on operations;
- This lack of ability to plan will increase costs and could prove fatal to smaller providers e.g. in terms of securing finance and managing risk and cash flow, as well as discouraging new entrants;
- The risk of defaults increases as students are not financially locked into one course or provider. A rise in student defaults and drop in retention rates would reflect badly on the quality of education in Australia and damage the country's reputation; and
- Students who may want to pre-pay to take advantage of favourable exchange rates will be prevented from doing so.

This clause is of particular concern for Navitas' ELICOS operations due the English Language sectors shorter teaching cycle, lack of break between cycles and largely similar student outcomes. This limit on pre-paid fees would therefore encourage student poaching and student churn, further contributing to the current challenging operating environment for ELICOS providers.

The suggested limit on pre-paid fees aims to ensure that providers have appropriate funds to refund students in cases of default. Proposed Section 28 which calls for registered providers to maintain designated accounts has the same objective. As these two proposed amendments aim to achieve the same result, Navitas highly recommends that providers be allowed to accept student fees at any time but that these fees are retained in dedicated bank accounts and not utilised until the student starts the appropriate study period.

Further to this, it is recommended that for low risk providers the need for a dedicated account be replaced with a requirement that the quantum of pre-paid fees be held in their current operating accounts, or be covered by an acceptable loan or overdraft facility with an Australian Authorised Deposit-taking Institution (as defined within the meaning of section 9 of the Corporations Act 2001).

This would lower the significant administrative burden on low risk high quality providers such as Navitas with over 30 CRICOS accredited operations across Australia, whilst also achieving the objective of safe guarding pre-paid fees, and allowing providers to operate with an acceptable level of certainty.

- Ends -

Submitted by Navitas Limited and authorised by Rod Jones, CEO

