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NTEU Submission

in response to the

Senate Inquiry into New Student Fees

*Under the
Senate Select Committee on the Scrutiny of New
Taxes*

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The National Tertiary Education Union (NTEU) represents approximately 25,000 members employed in Australia's higher education sector, including professional and technical staff employed in student organisations and campus service organisations.

NTEU has valued working in partnership with independent student organisations at every university campus in Australia. In this context, we have supported the right of institutions to collect service fees from all students to support student organisations and the right of student organisations to represent their members and to allocate resources according to the democratic will of their membership.

The Union welcomes this opportunity to present its views to the Senate Select Committee on the Scrutiny of New Taxes. However, the Union strongly disagrees with the premise that the proposed Student Amenities Fee Bill is a new tax, or an amendment to an existing tax (as outlined in the *Terms of Reference* for the Committee). In most basic terms, a tax may be defined as the charge imposed on a citizen for the support of Government and Government services. However the funding derived from the Student Amenities Fee is not allocated to the Government for spending at its discretion; rather the funds are delivered to the higher education institutions that have some discretion over how these funds are to be spent. As such, the Bill quite clearly enables the imposition of a 'fee for education related services' and not a new tax *per se*.

In addition, each student's contribution under the student amenities fee is collected in the same manner as their Higher Education Contribution Scheme (HECS) or their Higher Education Loan Program (FEE-HELP). It is therefore incongruous that while HECS/FEE-HELP are viewed as fees contributing to a student's higher education tuition, the student amenities fee – which is directly related to education related services and support – may be viewed as a 'tax'.

NTEU would also note that there has already been a Senate Inquiry¹ into the Bill, with the Report published 10th March 2009 finding in favour of the Bill. We also note that the legislation has the support of almost all the major organisations within the higher education sector.

As it is currently proposed, NTEU supports the proposed legislation, with the caveat that we also believe that there should be a mechanism ensuring financial support for independent and democratically elected student representation. Our submission therefore addresses the broad benefits of student organisations, and the negative effects the existing legislation (the so called Voluntary Student Unionism or VSU) has had on the provision and quality of student support services, welfare, representation and independent advocacy across the sector.

Finally, the Union's submission makes clear that without adequate funding and support, there will be a further deterioration of these services and of student representation more broadly, to the detriment of Australia's higher education sector. There should be no further delays in addressing this erosion, particularly if there are to be adequate services in place to cater for the increased targets in student enrolments (with a particular emphasis on improved participation of students from low socio-economic backgrounds).

¹ Senate Standing Committee on Education, Employment and Workplace Relations *Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 [Provisions]* Commonwealth of Australia 10 March 2009. Report may be found at:

http://www.aph.gov.au/Senate/committee/eet_ctte/higher_ed/report/index.htm

RECOMMENDATIONS

NTEU's Recommendations incorporate the following principles:

- The capacity for enrolled students to be charged non-academic related fees for non-academic services, support and representation;
- The creation and support of independent, democratically elected representative student organisations;
- Control by independent student bodies of resources related to their role as student representative and providers of student related services, advocacy and welfare work, based on the democratic will of the student body; and
- Student organisations must not be prevented from having a strong independent voice in public policy debates.

With reference to the issues noted in this submission, NTEU makes the following recommendations:

Recommendation 1:

In order to ensure that student representation and advocacy is genuinely independent NTEU recommends that:

- a) Each institution must have democratically elected student representative organisation/s, elected by and from all currently enrolled students of that institution;**
- b) That any such student representative organisation has access to sufficient resources and funding, sourced from but not restricted to, Student Services and Amenities Fees (SSAF) funding, to carry out its mission of independent advocacy and student representation;**
- c) That these principles are enshrined in the legislative instrument.**

Recommendation 2:

There should be a clear and transparent process of sector consultation for the on-going establishment of the Guidelines, Benchmarks and Protocols relating to the Bill.

Recommendation 3:

That any fee charged in support of these endeavours is treated in the same manner and context as existing fees related to the provision of higher education services.

The Proposed Bill

This is a second version of the Government Bill which has the primary objective to re-establish quality student services and advocacy support. The need for this legislation is both necessary and urgent. Recent research conducted by sector groups, including the National Union of Students (NUS), the Council of Australian Postgraduate Associations (CAPA), the Australasian Campus Union Managers' Association (ACUMA), Australian Universities Sport (AUS) and Universities Australia, together with NTEU's own analysis (detailed in this submission), shows that student services and staffing has significantly decreased (or disappeared completely) at almost every institution as a result of VSU.

As noted above NTEU believes strongly that any legislation or regulation relating to student services and advocacy support must also establish and protect independent and democratic student representation. The Union supports Minister Ellis's statement in her second reading of the original Bill when it was first introduced into Parliament which called for universities to ensure that the views of students are taken into account in institutional decision making via democratic student representation and processes². While the majority of universities would support the Minister's counsel, NTEU believes the only way to guarantee that all students would have access to democratic and independent representation is for these rights to be enacted via binding provisions (be it legislative, regulatory or a funding requirement).

We note the following changes to this proposed Bill as being improvements on the original legislation:

- The list of approved activities are now included in the Act rather than being defined within Ministerial Guidelines. This strengthens these activities, requiring change and amendment through Parliament rather than at the discretion of the relevant Minister.
- Furthermore, the list of approved activities has been more broadly defined, and amended to include the following:
 - a) *providing food or drink to students on a campus of the higher education provider;*
 - b) *supporting a sporting or other recreational activity by students;*
 - c) *supporting the administration of a club most of whose members are students;*
 - d) *caring for children of students;*
 - e) *providing legal services to students;*
 - f) *promoting the health or welfare of students;*
 - g) *helping students secure accommodation;*
 - h) *helping students obtain employment or advice on careers;*
 - i) *helping students with their financial affairs;*
 - j) *helping students obtain insurance against personal accidents;*
 - k) *supporting debating by students;*
 - l) *providing libraries and reading rooms (other than those provided for academic purposes) for students;*
 - m) *supporting an artistic activity by students;*
 - n) *supporting the production and dissemination to students of media whose content is provided by students;*
 - o) *helping students develop skills for study, by means other than undertaking courses of study in which they are enrolled;*
 - p) *advising on matters arising under the higher education provider's rules (however described);*
 - q) *advocating students' interests in matters arising under the higher education provider's rules (however described);*

² Ms Kate Ellis, Minister for Sport and Youth Affairs, *Second Reading Speech Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009*, 11 Feb 2009, pg 3.

- r) *giving students information to help them in their orientation;*
- s) *helping meet the specific needs of overseas students relating to their welfare, accommodation and employment.*

- NTEU supports the redrafting of the *Academic rights advice and advocacy* clause to be incorporated as one of the approved activities in the Act, enabling these services to be funded from the Student Amenities fee.

However, as the proposed Student Services, Amenities, Representation and Advocacy guidelines are yet to be table, NTEU can only comment on what is currently proposed within the Act (noting Guidelines and Legislation are both slated to come into force in 2012):

The Student Services, Amenities, Representation and Advocacy Guidelines may provide for:

- (a) requirements for providing students with information about services that are not of an academic nature and that support students; and*
- (b) requirements for providing students with access to such services; and*
- (c) requirements relating to the representation and advocacy of the interests of students.*

While much of the details to be covered by the Guidelines are yet to be considered, we are concerned that the Bill does not make mention of *independent and democratic* student representation and advocacy, that student support services need only be *basic* in order to meet Government requirements, and that these provisions *may* be applied.

A further concern relates to the specific clause (*new subsection 19-67 (3)*) that prevents the Guidelines from requiring a provider to fund an organisation of students, or of students and other persons. While the Union notes the Government does not wish to return compulsory student unionism to campuses, and the majority of universities are likely to *choose* to fund their student body, it remains that this clause places student organisations in a precarious position. NTEU maintains that genuine independence of a student representative body can only be guaranteed through access to funding over which it has some discretion. In terms of the provisions of this Bill, NTEU believes the bulk of such discretionary funds should be sourced from the Student Services and Amenities Fees (SSAF), with the proviso that the disbursement of these funds would be in keeping with the provisions set in the associated Guidelines and Protocols.

The Union's concern over independence is reinforced by the fact that the imposition of VSU saw a number of institutions establish their own advocacy and representative structures (sometimes to the detriment of the existing student representative body). While a number of institutions argue that such structures are operated at "arms length", concerns remain over possible conflicts of interest within such a framework, and as such NTEU does not view such arrangements as appropriate mechanisms for ensuring independent advocacy and student representation. However, under this clause, an institution may decide not to fund a student-run organisation and use the SSAF to support their own institution-run advocacy and welfare services and student representation. Furthermore, NTEU notes that while the legislation states that a higher education provider must not spend any SSAF fees for purposes other than what is specified in the *Student Services and Amenities Fee Guidelines*, there are no restrictions as to who this funding is to go to.

Should a university deem it desirable to do so, *clause 19.67(3)* also has the potential to restrict SSAF funding on a broader scale, including its use in the payment of fees to national student representative organisations such as CAPA and NUS. Organisations such as these play an important role in Australia's higher education sector, enabling students to have a

public voice around issues relating to student representation, advocacy, equitable access to universities, HECS fees, student income support, quality of learning and teaching and promoting engagement with the sector. The legislation should not allow institutions sole discretion to decide whether SSAF funding can be used in the payment of membership of these organisations. Each independently elected student representative organisation should be free to decide whether joining such a body is in the best interests of its students.

The Benefits of Student Organisations

In our support of the Bill and associated Guidelines, NTEU wishes to highlight the benefits that student organisations provide to students, staff, institutions and the broader community. These include:

- Providing students with a representative voice on issues pertaining to their institutions.
- Providing students with a role in the governance of their institutions.
- Providing students with independent assistance and advocacy in relation to academic and other university processes.
- Contributing to a dynamic, democratic and creative educational environment.
- Providing essential, low cost services and amenities, which are essential to the ability of many students, particularly those from disadvantaged backgrounds, to maintain their studies.
- Providing economic and employment benefits to the broader community, particularly in regional Australia.

The Union also believes that the VSU legislation is an unacceptable interference into the autonomy of universities and their control over their own affairs. It is worth noting that no comparable OECD country currently prohibits the collection of non-academic fees to support extra curricula campus education and activities.

VSU in the Australian Context

On Wednesday 16 March 2005 the Coalition Government introduced into Federal Parliament the *Higher Education Support (Abolition of Compulsory Up-front Student Union Fees) Bill 2005*. Highly contentious, it was passed on Friday 9th December (the last sitting day of Parliament for 2005) and became effective as of July 1st 2006. We note that prior to the introduction of legislation abolishing student service fees despite the fact that the collection of a service fee was not necessarily tied directly to membership of a student organisation, the majority of institutions offered an 'opt out' clause for conscientious objectors. These students were able to direct their fees to a building (or similar) fund. They were then eligible to receive the same representative and service benefits as other students if they so wished, at no charge. In its submission to the 2005 Senate Inquiry the AVCC argued:³

Ending compulsory membership of student organisations is one of the Government's main aims ... implicit in this is an assumption that all students in all Australian

³ AVCC 2005, Submission 176 to Senate Employment, Workplace Relations and Education Legislation Committee Inquiry into the *Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005*, refer 176, page 3 and Tables 1 & 2.

universities have to belong to a student organisation. This is not accurate ... it is not the case that all universities require students to belong to student organisations. More than half of all universities have no requirement for membership or provide exemptions for students who do not wish to belong to student organisations. ... A further assumption often made in this debate is that students have to pay to belong to a student organisation ... membership in most universities is in fact free with 24 of the 38 member universities of the AVCC provid[ing] free membership of the student organisation for that university.

However, this arrangement was ignored and the legislation was adopted for all institutions.

The current Australian legislation prevents higher education institutions from charging any fees that are not directly related to a student's course of study. The Bill specifies that institutions will be fined \$100 per Commonwealth supported student if they levy students for anything that is not directly associated with their course of study. Universities are thus faced with the choice of funding student organisations themselves, engaging private providers or not providing the services at all. For most institutions that chose to support student services, the range and availability of services were significantly decreased. A number of institutions now do not have independent student support services at all.

VSU has had a devastating impact on campus life and support services for students in Australia. It has also impacted negatively on student representation. The Federal Government's 2008 *Summary Report into the Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students* specifically noted that most submissions indicated that the capacity for student advocacy and democratic student representation had been significantly reduced as a direct result of VSU. Indeed, a number of submissions indicated that student representative bodies had been lost or merged since the introduction of VSU, with some institutions noting significant difficulties in finding students to take on representative roles.

The Cost of VSU and the Ineffectiveness of Transition Funding

Largely in acknowledgement of the financial impact of the introduction of VSU, the Coalition Government provided transition funding to universities through the following competitive funding programmes (to a total of Aus\$100 million/NZ\$120 million):

- The VSU Transition Fund for Recreational and Sporting Facilities was established to assist universities with the construction and maintenance of infrastructure for sporting and recreational facilities to support implementation of VSU. \$85 million was allocated for 44 projects;
- The Small Businesses on Regional Campuses Fund assists higher education providers to encourage and support small business to establish operations on regional campuses to provide services for students. \$5 million was allocated for 19 projects; and
- The Regional University Sport Programme (through the Australian Sports Commission) is providing \$10 million over four years to Australian University Sport to support regional universities maintain their sports programmes.

It should be noted that funds under these programs were not provided to all institutions, and did not provide long term support (all programs are due for completion in 2010). They were also largely ineffective in alleviating the impact of a sudden loss of significant funds as a direct result of VSU legislation.

The ineffectiveness of the transition funding is clear when the financial cost of VSU is calculated. In 2005, the year prior to the introduction of VSU in Australia, data collated by Universities Australia (formerly the Australian Vice-Chancellors' Committee) of student organisations in that year found that universities collected \$172.8 million from student services and amenities charges. The snapshot found that these funds were distributed to⁴:

- Student organisations (71%);
- Universities to run their own student services (14%); and
- Other bodies such as privately run student advocacy organisations (15%).

A more detailed 2007 report by the Australasian Campus Union Managers' Association (ACUMA) into the effects of VSU compiled the collection of non university student fees as per the three main organisational types funded by these fees (which the report titled as Australian Student Fees, or ASF), and estimated the total income generated by student fees to be slightly higher at approximately \$179 million in 2005.⁵

By 2007, however, the report found that the income generated had fallen substantially, with the total national membership income of campus services organisations estimated to be roughly \$12.7 million (or 7.1% of the 2005 compulsory ASF income). Table 1 below illustrates this fall in income, with the introduction VSU leading to an almost complete collapse in the level of amenities and services fees (or membership) income compared to the level which the sector enjoyed before VSU – from approximately \$179 million to \$12 million per annum:

| Estimated National Loss of ASF Income by Campus Service Area 2005 -2007 | | | | |
|--|------------------------|-------------------------------|--------------------------------------|--------------------------------------|
| Campus Services Area | 2005 ASF Income | 2007 Membership Income | 2005 to 2007 Income Reduction | 2005 to 2007 Income Reduction |
| | \$ millions | \$ millions | \$ millions | % |
| Student Representative Councils | 26.8 | 1.2 | 25.6 | 95.5 |
| Sporting Bodies | 41.1 | 4.3 | 36.8 | 89.5 |
| Student Unions | 110.8 | 7.2 | 103.6 | 93.5 |
| TOTALS | 178.7 | 12.7 | 166.0 | 92.9 |

Source: ACUMA & AUS VSU Impact Study Draft Report 2007 Table 5.8 Pg 98

It is of little surprise, therefore, that the effect of the transition program funding was at best, minimal.

It should be noted that the scale of the collapse in amenities and services fees (or membership) income as the campus services sector has moved into a post-VSU

⁴ Department of Education, Employment and Workplace Relations *The Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students Discussion Paper*, Canberra 2008, Pg 1

⁵ Association of Campus University and TAFE Managers and Australian University Sport 2007 *VSU Impact Study*, Second Draft Release of Research Report, February 2008, Milton, Queensland.

environment has been amplified to a degree by the fact that roughly one third to somewhat less than one half of the sector is not operating under fee based student membership models. That is, of the 36 universities surveyed, 9 did not charge a membership fee at all, and 3 did not have a student organisation. The report went on the note that for a large number the fee based model was not viable in terms of generating the necessary income to support the services required by students.⁶

At some universities where fee based student membership models are being used post-VSU for at least a major part of the campus services mix, there are membership take up rates of less than 5 per cent. In nearly all of these cases the student membership models are not working at all well. In some cases a large part of the membership income is being consumed by the costs of operating the membership programme.

For many of the cases where 5 per cent or less of the student population have elected to become financial members of their student organisation it is considered likely in future years the student membership model will either be discarded or alternatively the organisation will move to a free student membership model.

The Effects of VSU on Australian Higher Education

Loss of Staff and Services

Recent research conducted by sector groups, including ACUMA, the National Union of Students (NUS), the Council of Australian Postgraduate Associations (CAPA), and Australian Universities Sport (AUS), as well as that Universities Australia, consistently reinforces NTEU's own data that student services and staffing has significantly decreased (or disappeared completely) at almost every institution as a result of so-called Voluntary Student Unionism. ACUMA's latest survey noted that as at February 2008, more than 1,000 jobs have been lost in the student services area, with an overall reduction in employment of 30%. The report also noted that by the end of 2007, 261 Union services nationally that had been shut down or reduced (including areas such as funding for Orientation, clubs, childcare and assistance to international students), with another 50 sporting and 27 Union services nationally under pressure and potentially threatened with discontinuation.

Staff who are now working for student organisations are often doing so under reduced conditions, often on short term contract or as casual appointments, with less benefits and poorer job security. Staff have also reported significantly increased workloads and fewer resources to support work activities.

These cutbacks in student organisation services have also affected other staff working directly in the university. Both academic and general staff have taken on additional workloads in order to ensure that limited services continue to be provided. There is also anecdotal evidence of workload increases for academic staff in terms of student pastoral care that in the past would have been dealt with by student organisations.

Loss of Student Organisations

A few student organisations have managed to operate at close to pre-VSU levels, but the majority have had to substantially restructure and/or shed services and staff. Of those left, almost all have secured some form of funding agreement with their respective institution. However, there are usually sunset clauses on funding agreements, and many have conditions tied to funding, including controls on internal governance, structures and

⁶ ACUMA & ASU *VSU Impact Study 2007* op cit Pg 90

conditions/restrictions, and wholesale takeovers of commercial enterprises. A number of these contracts are now due to expire (or have recently expired).

Several student organisations have ceased to operate as a direct consequence of the VSU legislation. These include student organisations at Swinburne University of Technology, Charles Darwin University, University of New England and Flinders University. In the cases of the University of New England and Flinders University, the student organisations have been replaced by service companies. Many postgraduate bodies have also been affected either being absorbed into general student bodies or disappearing entirely.

Loss of Student Services

Research has shown that at every institution services have either disappeared or been amalgamated with general university services. While this strategy may work for metropolitan institutions that either have the funding base to support additional demands on these services for the short to medium term, or are in a position to refer students to community based organisations which can assist in some, but not all, services (eg childcare and accommodation advice), this is not the case for smaller regional institutions and campuses. It is important to note that regional communities often rely upon resources provided by student organisations, which are not only representative bodies but also cultural centres where students and community come together.

Potentially profitable business opportunities such as childcare and food outlets have all, to varying degrees, been either outsourced to private providers or restructured into profit making enterprises for the institution. In the majority of cases these are now provided on a fee-for-service basis which has resulted in a significant increase in cost to students in relation to service like gym membership, food retail, student shops, bookshops, and so forth. In many cases students who were reliant on subsidised services are financially worse off under VSU because the increased cost of services is higher than the fees they were expected to pay for student organisations.

Student advocacy has been particularly badly affected by VSU. In many cases, student advocacy has been taken over by institutions themselves which raises significant concerns about the independence of such services, as well as the conflicts of interest that might arise. It is vital that students are able to obtain independent advice and support when experiencing difficulties with university administration and/or academic processes and obligations, regardless of whatever other arrangements have been implemented by institutions, such as the establishment of student ombudsman offices. Most University Acts specifically provide for student representation in advocacy, governance and dispute resolution. In the absence of student organisation advocates, there is little capacity for disputes to be fairly resolved.

The Impact on Student Experience

Evidence has emerged that VSU has directly and negatively affected the quality of campus life. Students have reported reduced opportunities for engaging in student life. Orientation week activities and events across the country have been reduced significantly and many student organisations have been forced to place substantially higher fees on advertising and stalls at orientation week events as a way of revenue-raising. This has resulted in an increase in commercial advertising with less community based and student club stalls. Loss of funding for student clubs and sporting bodies has led to many being wound up further reducing the quality of campus culture and life for students.⁷ In addition NTEU notes that the introduction of VSU has also jeopardised major events like the Australian University

⁷ National Union of Students, *NUS First Annual Report into the Impact of Federal Voluntary Student Union (VSU) Legislation*, pg 28.

Games, which are often precursors for elite student athletes entering their chosen sports as professionals.

Other impacts on the decline in the student experience include the increased pressure on students to work to support their studies. Recent studies by both the former Department of Education, Science and Training⁸ and Universities Australia⁹ indicate that for a significant number of students the pressure to work has not only adversely affected their study but their overall experience at University as well. Financial pressures were to some extent off-set by student organisations offering subsidized services, amenities and facilities.

The Impact on Broader Governance

The majority of student organisations have had to restructure their systems of governance significantly. In a few cases this has been due to reduced funding, in others, however, there has been a requirement to restructure to suit institutional demands which are tied to funding agreements. Whilst improved mechanisms for transparency and accountability are welcome, it is critical that such improvements are not at the cost of the independence and control of student organisations over their own affairs. In some instances, student organisations have actually lost that independence, with the student voice being represented through “consultative bodies”.

Student participation in the broader governance of institutions, like university governing bodies and committees, has also been affected by the introduction of VSU. These opportunities for student representation have also been diminished at Faculty and School levels, as student organisations are unable to support and liaise with students.

Finally, the latest data shows that there are approximately 1 million students enrolled at Australian universities. These students have the right to have their voice heard in public policy debates that affect higher education and other issues affecting Australian youth. However, the continued existence of legislation preventing the adequate funding of student organisations severely restricts these bodies participating in public policy debates, excluding student voices in the democratic process.

International Implications

Higher education in Australia is heavily reliant on international students and the introduction of VSU has meant that many international students have had reduced access to facilities and resources, either expected or promised by recruitment agents or the institutions themselves. In addition many of the support services specifically geared toward international students and run by student organisations have been taken over by university student administrations. Services offered under such arrangements are often done so without international student input or representation.

This can be problematic with regard to satisfying requirements under the *Education Services for Overseas Students Act*, which requires registered providers to have in place appropriate support services for international students, including welfare, counselling, orientation and advocacy services, all of which were previously provided by student organisations. In the majority of cases, services are being provided by student organisations under reduced funding arrangements or by the institutions themselves.

⁸ *Managing Study and Work: the Impact of Full time Study and Paid Work on the Undergraduate Experience in Australian Universities* McInnes & Hartley 2002

⁹ *Australian University Student Finances 2006* by James, Bexley, Devlin and Marginson, 2007

Furthermore the deterioration of services for international students risks the undermining of our international reputation and could result in a further decline of overseas students taking up higher education opportunities in Australia. International students often remain in close contact with friends and families in their countries of origin and reductions in services can discourage international students from choosing Australia as an education destination. NTEU notes that there is significant concern within the sector in relation to recent fall in international student enrolment; while there are multiple causes for this reduction, the continued deterioration of student services at many institutions as a result of under-funding must also be seen as a contributing factor.