

14 August 2009

**Submission to the Senate Committee Inquiry  
Into the  
Welfare of International Students**

We appreciate the opportunity to make this submission to the Senate Committee Enquiry.

Important though the welfare of international students is, the issue is clearly larger than simply an immigration or education matter, with reputational damage in the current environment impacting many of the key relationships Australia has internationally.

Our members, all higher education institutions, enrol approximately 4500 international students annually. The majority are enrolled at institutions affiliated with universities, and the balance in smaller institutions. Council of Private Higher Education (COPHE) member international student enrolments are modest in comparison with enrolments in public institutions, and in most cases international students constitute a small minority in member institution student populations, and therefore generate a small percentage of institutional revenue. However, the academic and cultural contribution of international students is valued highly by our members, and we are alarmed by the very serious issues recently highlighted in the media.

COPHE's interest in the matter of international student welfare, therefore, is driven not by sectoral interest, but by concern for the well-being of all students, local and international, and for sound policy and regulation. We note the plethora of reports, reviews and enquiries on all aspects of international education in Australia over the last twenty years. This surely is one of the most visited, discussed and regulated areas of post-secondary education. With respect to the matters raised regarding recent institutional failure pertaining to international student welfare, in no instance were protective regulations or policies lacking. It is not as though loopholes, lacunae or ambiguities were exploited. What was lacking was compliance with existing policy, and vigilant monitoring of same. While there certainly is room for tweaking and modification of various related policies, especially relating to migration and tuition assurance schemes, the major issues concerning student welfare arise from inadequate enforcement of regulation.

The ESOS legislative framework, including the National Code, provides clear and specific regulation for international education. All institutions seeking to enrol international students are well aware of the considerable body of regulation attached to this privilege, and all must give specific undertakings regarding a very wide range of academic and non-academic matters. What we question is the capacity of the responsible agencies to enforce otherwise effective regulation.

There is no obvious need for more regulation or greater regulatory complexity to ensure the welfare of international students. Rather, there is a critical need for the effective enforcement of existing regulations. Coupled with this is the urgent need for clarity about what constitutes effective enforcement, and the resources required by the responsible agencies to render enforcement effective.

There is an added dimension that needs to be considered if Australia is to remedy concern about the welfare of international students. That is the self-regarding way in which international education is perceived by government and all too many education institutions. The massive dependence of so many universities on international student revenue has given rise to a host of fiscal and academic distortions that are in and of themselves potentially corrupting. While such matters are not the focus of this inquiry, they are relevant to understanding the deeper concerns many academics, students, and administrators have about international student education. The issue is not whether Australia should host international students – far from it. Rather, the issue is one of attitude. While we regard these students primarily as revenue generators propping up Australia's tertiary education industry, they will remain open to all sorts of potential abuse that would never be tolerated in the normal course of events.

## **The Key Issues in International Education in Australia**

### **Image and Promotion of the International Education Industry**

International education is often discussed and reported as a major export industry. While this economic perspective is understandable, especially given the dependence of so many institutions on international student revenue, it has created a perception in source countries that international education is “about the money.” This mercenary perception is reinforced by the behaviour of some agents and providers, exacerbated by the distortions and exploitations arising from the skilled migration market.

International education has to be viewed and promoted as much more than exports or as a solution to labour shortages. Its major impacts are cultural and political as Australia's deepest and most effective form of engagement with the global community. One need only reflect on the enduring legacy of the Colombo Plan to realise the enormous reciprocal benefits of educating the future academics, entrepreneurs and decision-makers of our neighbours.

Education provides individual fulfilment and social and cultural enrichment; it reinforces international relationships, tolerance and understanding. We are now seeing the emergence of a globally mobile skilled workforce, not only in the professions, but in trades and semi-skilled occupations. The moves towards international recognition and standardisation of qualifications will stimulate this mobility.

Most international students come to Australia to improve their English skills and to enhance their employability in their own countries or the global workforce, including in Australia. For some students, the attraction of permanent residency is paramount, and when this takes precedence over the quality or appropriateness of their chosen course or provider they render themselves vulnerable to exploitation.

- ***We need to view and promote international education more holistically, not simply as an export income earner and a migration tool, but as a source of academic and cultural value to potential students and the Australian community.***

### **Consumer Protection and Confidence**

Both the *Education Services for Overseas Students Act 2000* (ESOS) 2000 and the *Higher Education Support Act 2003* (HESA) provide for course and tuition assurance to protect students, primarily through Tuition Assurance Schemes operated by industry associations and underwritten by insurance, in the case of international students through the ESOS Assurance Fund.

The different assurance arrangements need to be aligned with each other and the Corporations Act. In particular, the present ESOS requirement (Sect 29 1 a) that a provider in default must refund *all* tuition fees paid is unreasonable, leads to instances of unethical behaviour and places at risk bona-fide and otherwise viable providers who may encounter a temporary technical difficulty in the continuity of course delivery. It is inconsistent with the HESA requirement to repay only the unexpended portion of the fee.

- *We need to develop a single, consistent and transparent consumer protection framework that applies to all students and providers.*
- *Any repayment or tuition assurance provision must apply to the unexpended portion of the tuition fee, not the total fee.*

### **Distortions in the Education Industry from Poor Migration Policy**

Since 2001, government has used the international education sector to address skills shortages through general skilled migration (GSM). While this is a valid and perhaps necessary relationship, some sectors of the industry view the emphasis on SOL<sup>1</sup> and MODL<sup>2</sup> points as overly mechanistic in attempting to address the skill shortages in those specific occupations. This has created an artificial and ineffective education industry in those occupations, which places at risk the welfare of students, the viability of some providers and the reputation of the whole industry. In the face of evidence of poor employment outcomes for the onshore (student) GSM program, the regulations were amended in Sept 2007 and again in Jan 2009.

Australia has long welcomed new citizens from diverse cultural and ethnic backgrounds who have enjoyed new opportunities and enriched our society. While the “human capital” model of migration has not been favoured in recent government policy, many in the industry question a situation where diploma qualifications in one of the nominated areas of current labour shortage are promoted heavily by agents and dubious providers, and are proving attractive to students seeking residency, while many higher education qualifications (with SOL 50) effectively reduce migration opportunities.

- *Accredited bachelor degrees should receive 60 points on SOL, assuming the current GSM points regime is retained. This would encourage international students to complete a course in which they are genuinely interested and so likely to be employed, rather than the current distorted situation.*
- *MODL should be scrapped, and the Critical Skills List<sup>3</sup> retained and adjusted periodically in response to labour market demand.*

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<sup>1</sup> Skilled Occupation List (SOL) at: <http://www.immi.gov.au/allforms/pdf/1121i.pdf>

<sup>2</sup> Migration Occupations in Demand List at: <http://www.immi.gov.au/skilled/general-skilled-migration/skilled-occupations/occupations-in-demand.htm>

<sup>3</sup> Critical Skills List at: <http://www.immi.gov.au/skilled/general-skilled-migration/pdf/critical-skills-list.pdf>

## Issues Particular to Private Providers

### Duplication of Administration and Reporting and the Need for a “Whole of Legislation” Approach

We have advocated the need for a national regulatory agency and welcome the announcement of TEQSA, noting that much of the detail, particularly how the new agency will engage with the vocational education sector, still has to be worked out.

Currently, higher education providers are subject to multiple legislation, compliance and reporting regimes.

In Australian higher education, all Non-self Accrediting Institutions (NSAIs) are accredited and/or registered by state and territory agencies on a five year cycle. The situation is even more complex for institutions that operate in multiple jurisdictions. The process applied is rigorous, detailed and comprehensive, ensuring that institutions maintain robust education standards.

In addition to the above, COPHE member institutions and other NSAIs are also approved by the Commonwealth as Higher Education Providers (HEPs) under HESA. This legislation, together with its associated regulations, mandates a wide range of measures, including reporting and various consumer protection provisions in the form of tuition assurance.

Institutions enrolling international students must comply with the ESOS and undertake CRICOS registration.

- *TEQSA presents a welcome opportunity for a national focus with a single administrative and reporting framework that can reduce duplication and problems that “fall between the cracks”. We consider this a “whole of legislation” approach.*

### Unnecessary Complexity

For a few COPHE members, international students form a significant part of their focus, and the issues that arise for them are similar to those faced by public universities. The evidence suggests that the vast majority of these students have a positive experience and outcome from studying in Australia.

For the majority of COPHE members, however, international students are not their primary source of revenue, with a relatively small number of enrolments relating specifically to the mission of the host institution. Such students bring significant cultural value and breadth to an institution.

Further, for many COPHE members, their few overseas students are from backgrounds where payment for tuition and living expenses is difficult, and they usually receive some form of sponsorship from a parent or associated organization. These students are well supported pastorally and the consumer protection measures are addressed by their sponsor, which may well be the institution in which they are enrolled or an associated entity.

One size of regulation does not fit all, and any increased cost and complexity of compliance may mean that smaller institutions will find it “all too hard”. The result will be that needy students will miss out, and institutions, discouraged from enrolling overseas students, will reduce their contribution to capacity building in the developing world.

- *Regulation needs to consider risk management and focus on enforcement where there is reason for concern. We believe there is a case to be put for simplified compliance where enrolments are small (say ten students or less or less than 5% of enrolments) and there is evidence of institutional or community support, and reliable processes and reporting can be demonstrated.*

## **A Brief Profile of the Council of Private Higher Education (COPHE)**

COPHE seeks to provide a voice, particularly to government and the wider higher education sector, for private institutions, raise their profile and promote public policy that recognizes the contribution made to higher education by the private sector.

The COPHE constituency has twenty five member institutions spread over fifty campuses or colleges and sits unambiguously in the higher education sector, offering courses accredited as the equivalent to those in public universities. It is an Association incorporated in the ACT in 2001.

COPHE members include for-profit as well as not-for-profit and some are faith based. They tend to be long established, with several first operating in the 19<sup>th</sup> century.

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