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6 October 2011

**RE: House of Representatives Standing Committee on Education and Employment
INQUIRY INTO BILLS REFERRED ON 22 SEPTEMBER 2011: ESOS Legislation Amendment Bills 2011**

On behalf of TAFE Directors Australia (TDA), the peak body representing the 59 TAFE institutes across Australia, I have much pleasure in providing the following comments on the Bills.

In our submission to DEEWR's discussion paper *Reforming ESOS ...* in January 2011, our position on the mandatory inclusion of public providers in a single Tuition Protection Service was as follows:

TDA has also assumed that public providers (universities and TAFE institutes) will maintain their regulatory exemption from any legal requirements to participate in and fund tuition assurance schemes and their statutory exemption from the ESOS Assurance Fund or any like replacement Fund

Given this exemption is not included in the Bills, TDA makes the following recommendations to the Committee:

1. The Committee supports the implementation timeline as outlined in Clause 2 of the ESOS Legislative Amendment (Tuition Protection Service and Other Measures) Bill 2011 and the Explanatory Memorandum on pages 7 to 9
2. The Committee supports the four tiers of the proposed annual TPS Levy and specifically the exemption for public providers from the risk rated fee as detailed in the Explanatory Memorandum on page 3
3. The Committee recommends the specific inclusion of a TAFE representative on the TPS Advisory Board, as outlined on page 31 of the Bill.

In supporting these recommendations, TDA makes the following observations about the unsustainable financial viability and student support mechanisms currently in place:

- The current tuition assurance for overseas students is under significant pressure, both in terms of the placement of students and the availability of funds to reimburse students whose tuition cannot be assured

- In 2009 there were 16 private college closures with 5,795 displaced students. 64 percent of these were offered an alternative provider with 10 percent rejecting the offer. 25 percent of the displaced students were given financial compensation through the ESOS Fund.
- In 2010 a further 15 private colleges had closed as at 19 May, with 3,713 displaced students. Data provided by DEEWR indicated that as at 19 May 2010 only 51 percent of these students had been placed with an alternative provider, 6 percent had been offered compensation through the ESOS Fund and the remaining 43 percent of displaced students (1,597 students) had yet to have their situation resolved
- The ESOS Assurance Fund was established under section 46 of the ESOS Act 2000 to protect the interests of current and intending overseas students of registered providers. The Fund does this by ensuring students will be provided with suitable alternative courses, or have their course monies refunded where a suitable alternative course, for which the student had already paid for, cannot be identified.

The following data indicates the impact of private provider closures on the ESOS Fund viability:

ESOS Fund Finance Data, 2007-09

Year	Surplus/Loss	Fund Management fees	Call costs	C 'wealth Equity injection	Reinsurance claim
2007	\$421,200	\$320,327	\$40,408	\$1m	
2008	-\$1.3m	\$1.2m	\$8.4m	\$1.8m	\$5.3m
2009	-\$9.7m	\$568,000	\$9.4m	\$5m + \$25m	No reinsurance coverage

Source: ESOS Fund Financial Reports, 2007-09

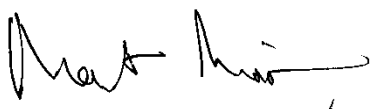
These figures demonstrate:

- over a two year period, approximately \$17.8 million had been paid out to students or providers
- a failure of existing private provider Tuition Assurance Schemes to place students in alternative courses
- further evidence of regulatory failure.

In summary, there is no justifiable reason for delaying the implementation of the Tuition Protection Service beyond July 2012. Any delay could expose Australian taxpayers to additional contributions to the current ESOS Fund to ensure its financial viability, place current overseas students at risk of not being assured tuition, and further damage the reputation of Australian international education.

I would welcome the opportunity to provide additional advice or guidance during your deliberations.

Yours sincerely



MARTIN RIORDAN
Chief Executive Officer
TAFE Directors Australia