

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Provisions of the Higher Education Legislation Amendment Bill (No.3) 2004**

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The National Tertiary Education Union (NTEU) represents the industrial and professional interests of approximately 28,000 staff employed in Australian tertiary education institutions, including the University of Melbourne and Melbourne University Private (MUP).

The NTEU welcomes the opportunity to provide comment into the Senate Employment, Workplace Relations and Education Committee's Inquiry into the *Higher Education Legislation Amendment Bill (No.3) 2004*.

The NTEU's concerns about the bill relate solely to the addition of Melbourne University Private to the list of Table B higher education providers.

The NTEU is keen to stress that none of the concerns raised in this submission are meant to infer criticism of MUP, its staff or its academic offerings. Rather, they are based on procedural and substantive concerns as they relate to the merits of the decision to add MUP to the Act.

We believe that these concerns are shared by many of the key stakeholders in the sector, and in relation to this note the recent decision by the Australian Vice Chancellors' Committee not to grant MUP membership of the AVCC.

#### **Procedural issues**

This Bill before this Senate Inquiry is the third set of amendments made to the *Higher Education Support Act 2003*. The two previous Bills have mainly involved amendments aimed at cleaning up anomalies and mistakes resulting from the rapid passage of the Act last year, and have not been controversial.

Adding an institution to the funding tables of the Act is a rare occurrence, the impacts of which need to be carefully scrutinised. The NTEU believes that for the reasons set out below, the proposal to include MUP on Table B of the *Higher Education Support Act 2003* is a particularly controversial move, with serious implications for the higher education sector.

The NTEU questions why the Senate is being asked to endorse such a controversial proposal with little debate, so close to a Federal Election. This is particularly puzzling given that the Government has provided nothing in the way of an explanation for its decision to select MUP for inclusion in Table B and the process by which this came about.

#### **Substantive issues**

The NTEU has little argument with the importance or quality of the services offered by MUP, and recognises its potential value as an income stream for its parent institution, the University of Melbourne, a public institution.

MUP is a wholly owned commercial subsidiary of Melbourne University and there continues to be a strong interconnection between the two in terms of staffing, cross subsidisation and other issues.

The panel investigating MUP's application for university status in 2003 found a very high level of interconnectivity, and MUP's own submissions during this process made it clear that even if it received ongoing university status, it would still be largely dependent on interaction with the scholarly community of the University of Melbourne. It would also be dependent on Melbourne University for much of its quality assurance and academic staff who are employed co-jointly with the public university, including, it appears, many members of MUP's Academic Senate.

Every single one of the 42 institutions currently on Table A and B of the Act are established on the basis of their own State, Commonwealth or Territory Act of Parliament that gives them authority to grant degrees in perpetuity. This includes the three institutions currently on Table B.

MUP does not have its own Act and the decision by the Victorian Government to award MUP university status was provisional only. MUP is currently self-accrediting under Section 10 of the *Victorian Tertiary Education Act 1993* for a period of only five years, during which time it must meet a number of conditions and reapply for this accreditation.

This conditional approval was granted due to concerns expressed by the assessment panel, and in turn reflected in the letter from the Victorian Education Minister to MUP confirming the approval. The letter noted that given newness of MUP's current structure "and that much remains to be delivered, the panel believed that unconditional approval would be inappropriate."

A decision to place MUP on Table B of the Act would give it access to a broad range of public higher education subsidies. This access would, in effect, be permanent and the NTEU has little doubt that MUP would incrementally expand on it in the future. A clear precedent for this argument is the gradual increase in public subsidies granted to the University of Notre Dame since its was added to the funding schedules of the previous *Higher Education Funding Act*.

This contradiction between MUP's temporary status on the one hand, and giving it access to more or less permanent public subsidies on the other, would create a major State/Federal policy inconsistency. The NTEU believes that it is in the best interests of all to avoid.

More seriously, the Union feels that it is highly inappropriate for MUP to be given access to public funding under the *Higher Education Support Act 2003* because it is essentially a commercial entity, set up with the main purpose of ensuring a revenue stream to the University of Melbourne. In contrast, the establishing Act

of Bond University, arguably MUP's closest model, constitutes the University as a not for profit entity. Bond and the other 41 institutions currently on Table A and B of the *Higher Education Support Bill 2003* have establishing Acts that define them, amongst other things, as acting in the public interest.

Under the terms of MUP's conditional approval to operate as a university, there is nothing to stop it selling up to 49% of its shareholding to a private investor. The NTEU would strongly question the implications of extending public subsidies to what is essentially a commercial entity.

#### *Setting a dangerous precedent*

The inclusion of MUP in Table B would establish a major precedent, and open the way for a large number of small, niche providers to seek access to the funding tables of the Act. This would be all the more serious given the lack of open and transparent process surrounding the Government's selection of MUP, a scenario likely to be replicated by the Government in its choice of other candidates for inclusion in the Tables of the Act.

Such an outcome will put further pressure on the scarce public funding allocated under the Act. In the longer term, the Union is concerned it is also likely to drive quality down across the sector by forcing established public universities to compete against a range of smaller, boutique institutions with limited course offerings. These institutions operate on the basis of substantial cost efficiencies due to the fact that they do not have to engage in the full spectrum of activities undertaken by established universities, such as research or fostering community links.

For example, public universities engage with their local communities and provide these communities with a range of services and on-campus facilities, such as libraries. They also provide a range of programs targeted at disadvantaged students. MUP's annual report for 2003 makes no mention of undertaking any such activities.

#### *MUP and the National Protocols*

The original vision behind MUP's establishment and the rationale behind its continued existence is to offer tailored educational courses that are difficult for traditional universities to offer.

The question of whether or not MUP meets the *National Protocols for Higher Education Approval Processes*, particularly *Protocol 1*, has previously been a subject of much debate. It continues to be the NTEU's strong view that MUP does not meet the standards set out in *Protocol 1*, particularly in terms of research breadth and depth and that the decision by the Victorian Government to award it conditional university status represented a considerable narrowing of the concept of the university.

The *National Protocols* are themselves the subject a review by the Department of Education, Science and Training. The review is considering a number of questions, including whether three broad fields of study, as set down by the Victorian Government for assessment of the continued operation of MUP, is sufficient for the granting of university status.

The NTEU feels it would be highly inappropriate for the Senate to do anything to reinforce MUP's status as a university in advance of the outcomes of this review.

**Recommendation**

The NTEU strongly urges the Senate to reject any move by the Federal Government to add MUP to Table B of the *Higher Education Support Act 2003*.

At the very least, the NTEU believes the Senate should not take any action that reinforces MUP's status as a university until after the Federal Election and the conclusion of the current DEST review of the *National Protocols for Higher Education approval Processes*.

The NTEU looks forward to further elaborating on these concerns through an appearance before the Committee inquiring into this matter.