

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the provisions of the Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005

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**UNIVERSITY OF NEWCASTLE
LAW STUDENTS' ASSOCIATION**



**SUBMISSION TO THE SENATE
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AND EDUCATION LEGISLATION
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Executive Summary

- The University of Newcastle Law Students' Association (“LSA”) is opposed to the Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005 (**the Bill**).¹

Terms of Reference 1: Effect of the Bill on the Provision of Student Services and Related Consequences

- The LSA believes the Bill will have detrimental effects on the continued existence of the LSA as a Law Student Society.
- This will have deleterious effects on the representation of law students and the social and educational activities law students currently enjoy at the University of Newcastle.
- The LSA will experience a deleterious decrease in the funding it currently receives from the current regime and may be forced to cut, or significantly decrease, the vital services it provides to over 500 law students in the Hunter Valley.
- The University of Newcastle will not be in a position to fund or administer essential student services that student organisations, such as the LSA, will be unable to provide in the climate of reduced funding.
- The user-pays model is inappropriate for the provision of those student services that are non-excludable or involve the provision of public goods – free-riding is an unavoidable consequence of such an approach.

Terms of Reference 2: Experience of Universities and Students where Legislation has been Adopted to Regulate Student Unions

- Western Australian student organisations suffered massive cutbacks, and the ECU Student Guild was forced into liquidation as a result of the State VSU legislation in the late 1990s.
- Western Australian Universities were forced to fund or administer essential student services to make up for the short-fall in funding.

¹ The Parliament of the Commonwealth of Australia, House of Representatives, *Higher Education Support Amendment (Abolition of Compulsory Up-Front Student Union Fees) Bill 2005*.

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1. THE UNIVERSITY OF NEWCASTLE LAW STUDENTS' ASSOCIATION

The University of Newcastle Law Students' Association ("LSA") is the representative body for The University of Newcastle's over 500 law students. The LSA's primary objective is to represent and promote the interests and concerns of all law students at the University of Newcastle. The LSA is politically unaligned, but represents the interests of its constituent law students to a variety of different bodies on higher education and legal education issues. This representation, to various governmental and non-governmental bodies, takes place at the local, state and national levels.

The LSA is also represented at the national level by the Australian Law Students' Association ("ALSA"). ALSA, as the national representative body for Australia's 28,000 law students and 31 law schools, is able to extract and collate information from its constituent Law Student Societies- including the University of Newcastle- relating to the provision of legal education in Australian universities. ALSA uses this research to formulate policy and lobby stakeholders on a wide range of issues relating to legal education. In doing so, ALSA represents student interests to the legal profession, legal education forums, and relevant government inquiries – places where law students otherwise have no effective voice.

Notwithstanding the LSA's national voice through ALSA, the LSA represents its constituents in our local community. We advocate locally on many issues which affect the legal educational experience of our students. For example, by working with local law firms, the LSA is able to assist law students in gaining valuable practical legal experience. The LSA also works with the School of Law and the university administration as a whole on issues relating various aspects of education. These issues range from conducting reviews of law courses with student input, to the use of plagiarism detection technology in law courses. The LSA also works with the School of Law in relation to the support of various national legal competitions, which increases the educational experience of students.

2. TERMS OF REFERENCE 1: THE EFFECT ON STUDENT SERVICES AND RELATED CONSEQUENCES

THE IMPACT OF THE BILL ON STUDENT SERVICES

The LSA submits that our student and university unions provide Newcastle students with essential and invaluable services which will be drastically reduced or withdrawn as a result of the Bill. These services include, but are not limited to the following:

- 1) Cheap general services provided to all students, including free food, sunscreen, and insect repellent;
- 2) Subsidised services, including course readers, computer and printing services;
- 3) Newcastle Undergraduate Students' Association ("NUSA") emergency student loans;
- 4) Subsidies provided by NUSA to all clubs- including the LSA- in relation to social functions;
- 5) Publication of the *Opus* newspaper;
- 6) The University Union ("Union") currently receives 51.5% of the non-academic fees collected – the General Service Charge ("GSC"). These fees enable funding for the following services:
 - a. food at reduced cost on all campuses, included within University House, where both law students and students from the Graduate School of Business attend classes;
 - b. a second-hand book shop;
 - c. computer and printery service;
 - d. free remote-access internet connection, via modem, for up to two hours at a time; and
 - e. academic dress and venue hire.
- 7) The on-campus recreation facility, NUSport, currently receives 32.8% of the fees collected from GSC, and provides discount services and memberships to students;
- 8) NUSA and the Newcastle University Postgraduate Student Association ("NUPSA") receive 15.7% of the GSC. The services these organisations provide include, but are not limited to, the following:
 - a. academic advice and advocacy;
 - b. policing of illegal fees;

- c. various student welfare and equity services;
 - d. financial assistance;
 - e. employment services;
 - f. personal counselling;
 - g. childcare;
 - h. promotion of culture (including multicultural awareness), clubs and societies; and,
 - i. campus buildings and infrastructure.
- 9) The LSA submits that universal student unionism allows student organisations to perform functions that could not operate on a user-pay model. Student organisations allow students to have structured input into university decision making;
- 10) The LSA further submits that part of the purpose of student organisations is for students to have a say in campus governance and university decision making. Student organisations, like the LSA, facilitate student participation in this process;
- 11) The LSA obtains funding from both NUSA and the Union in excess of \$2,000 per annum. In addition, the LSA receives non-financial assistance from the Union which includes help with booking social functions on campus, discounts on buses into town after on-campus functions and assistance with cutlery, glasses, plates and discounted food for platters at various events – including Orientation week (“O-week”).

These contentions are exemplified by the effect that similar legislation has had in Western Australia, which is addressed fully in Part 3 in relation to the Committee’s second term of reference. However, this is also the logical and inevitable effect of the legislation. The Bill unashamedly adopts a ‘user-pays’ approach towards services provided by student unions. The vast majority of these services are non-excludable and therefore subject to free-riding. For example, at the University of Newcastle, students are saved more than the total cost of their annual student union fee (which is presently set at \$182) by the active policing of illegal university fees by NUSA, and all students would benefit from this service whether or not they paid union fees. Indeed, all students did benefit from this service throughout the period of State-legislated voluntary student unionism in Western Australia.

While the LSA appreciates that not every service provided by student unions will benefit all students, the LSA maintains that all students should contribute to the provision of services by student unions as all ratepayers contribute to local

government services that they may not solicit. All students benefit from a range of student services during their university careers, but – more importantly – all students benefit from the assurance of services they will hopefully never need: emergency loans; personal counselling; sexual assault referral centres; academic appeals; legal advice and many more.

The basis of the LSA's opposition to the Bill is that it will lead to a reduction in funds and support available to the LSA and other student associations at the University of Newcastle to provide valuable services. The argument that if students value the services provided to them by their student association they will be willing to contribute financially to that service is not well-founded. Students often benefit from the services provided by their student association without being aware of the direct involvement of their association. Students do not always differentiate between the services provided to them by the university, the student association, faculties and other student organisations. This is evident in the example of policing illegal fees identified above.

The analogy with government again holds true: if taxpayers valued the services provided by the Government then they would be willing to contribute voluntarily to the provision of Government services without compulsory rates and taxation. Put simply, Government services could not be adequately provided without compulsory rates and taxes because of the nature of Government services: the provision of public goods, the provision of non-excludable services and otherwise providing for the public generally. The nature of student services is similar and the logic for compulsory contribution is precisely the same. If there are concerns about the manner in which these fees are being utilised or discontent with the organisations responsible, the answer is to increase accountability and regulation – not the total abolition of upfront fees, which simply equates to the abolition of non-market supported services entirely.

The impact of the Bill on Law Students

The Impact on the Funding on Law Student Societies and the LSA

The LSA represents over 500 law students and receives significant funding from our student and university unions, which unanimously oppose the Bill. The LSA provides invaluable and essential services to over 500 law students. These services include careers services, academic services and education advocacy. The LSA is a regional Law Student Society. Other regional Law Student Societies have stated that they would cease to exist should the Bill come into effect. Regional societies, like the LSA, serve the interests of Australia's most disadvantaged law students.

Other Law Student Societies have already indicated that they will be forced to reduce many of the services they provide to their members. For many such societies, these reductions in student services will be substantial. Consequently, the LSA believes that the Bill will have significant negative impacts on law students at the University of Newcastle.

In addition to direct funding, less tangible forms of support are also provided by student associations to Law Student Societies like the LSA. Typically these include: computer and software facilities and support; the provision of office and recreational space; the availability of such administrative assistance as mailing services; reduced rates on food, drink, equipment and function venues for social events; and the necessary infrastructure for the representation of students to the faculty, university and general public. Without student union funding and support services, the activities of Law Student Societies like the LSA would be restricted in the services we provide. The LSA would be forced to compromise the quality of the services that we would be able to afford to provide to our students.

The Impact on the Representation of Law Students

The LSA has an important role to play in student representation within our school, faculty, university and local community. The contribution of students on school, faculty and university committees is highly valued by staff and students at the University of Newcastle. Consequently, the LSA enjoys broad representation on key committees. All law students benefit from the results of this representation and consultation. LSA representatives are democratically elected by the student body. Therefore, all law students can have a say in who represents their interests, and further, to which services and activities funds are allocated. The introduction of the Bill and its dramatic consequences for the LSA will have obvious ramifications on the representation of law students such as to make services less, rather than more, responsive to student needs.

LSA Activities

The LSA is reliant upon financial and other support to assist us in providing a multiplicity of services to our students. The LSA organises and runs student-peer mentoring programmes; study-skills workshops; career seminars and fairs; mootings, client interview, witness examination, negotiation competitions; and the production of such publications as career guides, orientation handbooks and alternative law handbooks. These activities should be distinguished from the party-political activities conducted by some student organisations that feature in Government statements on

VSU. The loss of these services would radically devalue the educational experience law students gain while at university. As a regional University, Newcastle would be particularly affected by reduced funding the Bill would impose. Functions such as our Senior and Junior Mooting Competitions, and the sponsorship of the winners of these competitions to national competitions, may have to be re-evaluated and possibly reduced.

The LSA also organises a range of social activities to enhance the enjoyment of, and facilitate the greater incorporation of our students into, university and faculty life. These activities include our annual law ball, first year camps and dinners, cocktail parties, regular lunches and BBQs and sporting events. A major consequence of VSU will be to decrease the funding available to the LSA, which is currently reliant on support from our student and university unions. The LSA will be forced to reduce radically the range and quality of services we currently provide to students. This will not only have an effect on the social experience of Newcastle law students, but the educational value students derive from their time at the University of Newcastle.

Due to time and financial constraints under which Law Faculties currently operate, Law Student Societies like the LSA are relied upon to provide practical education experiences through organising and administering mooting, trial advocacy, and negotiation and client interview competitions. With a decrease in funding, the LSA may no-longer be able to provide this broad range of educational opportunities to our students. Universities, including the University of Newcastle, have made it clear (through the Australian Vice-Chancellors Committee) that they are not able to commit any funding to take up the short fall for these essential services. **Consequently, VSU will decrease the *quality* of legal education received by students at the University of Newcastle.**

Many of the services provided by the LSA are unprofitable and would not survive on a user-pays basis. Moreover, the LSA rejects the notion that its worth can be reduced to a question of economic sustainability. Our Law Students' Society takes pride in the quality and range of the services, activities and publications we provide to students. The LSA rejects the notion that the funding we receive from our student and university unions is spent on activities that law students do not want. While not all law students take advantage of all the benefits offered by the LSA, all law students rely on at least some of these services. All law students will suffer the consequences of these services not being provided, as will the University of Newcastle and the employers of graduates from University of Newcastle School of Law.

THE IMPACT OF THE BILL ON THE UNIVERSITY OF NEWCASTLE

The LSA believes that if the Bill is made law, the University of Newcastle will be forced to make up the shortfall for the provision of students services on campus. This was the Western Australian experience of VSU, where universities were forced to take over the financing, and in some cases the administration, of many basic student services. Student guilds and unions were unable to provide many essential services or provide them at an affordable price to students, and universities were forced to provide these services themselves or fund student organisations to provide them. At a time when both major sides of politics agree that universities are facing a funding crisis, it is irrational and irresponsible to shift the cost of these services to higher education providers. This has recently been made more complicated by the University of Newcastle's unique financial situation- that is, having a deficit of over \$25 million. Given this financial hardship presently faced by the University, which has led to the shedding of over 439 jobs, it is very doubtful the University will be in a position to financially assist the LSA.

Moreover, the radical reduction in student services, on-campus life and the ability of student and faculty societies and organisations at the University of Newcastle to service their members will make the University of Newcastle a less attractive option for overseas students. As a regional university, the University of Newcastle simply cannot afford to have this happen. This will have further deleterious effects on the University's income, financial viability and the economy of Newcastle and the Hunter Valley. It is noteworthy that the leading UK, North American and western European universities, including Oxford, Cambridge and Harvard, have universal student unionism and compulsory student fees as an accepted norm.² In New Zealand, to legitimise its VSU legislation, the government held a referendum of its students in each university on whether to retain a universal levy. In all but one case the students voted in favour of the levy. Similar support was recently demonstrated at Adelaide University. Therefore, we urge the Government to recognise that the Bill is not the only option available to students.

² In those jurisdiction the "the payment of a compulsory student fee is widely accepted as the best way of providing student support services and representation." Australasian Campus Union Managers Association, *Submission to 1999 VSU Senate Committee*, No.159 at 4.

3. TERMS OF REFERENCE 2: EXPERIENCE OF UNIVERSITIES AND STUDENTS WHERE LEGISLATION HAS BEEN ADOPTED TO REGULATE STUDENT UNIONS

3.1 Western Australia

The deleterious impact of the Bill for the provision of student services is exemplified by the consequences of the *Acts Amendment (Student Guilds and Associations) Act 1994 (WA)* for Western Australian universities. Initially, the Commonwealth compensated student organisations for lost income due to state VSU legislation, and reduced grants to offending states.³ However, once Commonwealth compensation ceased and the full effects of the State VSU legislation were felt from 1997 onwards, the Edith Cowan University Student Guild collapsed, and the remaining student guilds were forced to make massive cutbacks to student services. Moreover, Universities were forced to take over direct administration and financing of many basic student services. In summary, the effects on UWA, Curtin, Murdoch and ECU Guilds were as follows:

- An inability to meet wages and operational expenses;
- Widespread redundancies and subsequent staffing shortages in key areas;
- Reductions in student services, facilities, representation and capital;
- Massive budget cuts across key areas, notably academic, welfare, on-funding of faculty and other societies, and representation budgets;
- The sale of key organisation assets, including sports associations; and,
- Low membership take-up rates (UWA – 28%; ECU – 13%; Murdoch 38%; and Curtin – 10%) despite an increasing demand for guild services, which was indicative of rampant free-riding.

For example, the University of Western Australia Guild of Undergraduates made the following cutbacks as a result of the legislation:

- 28 Guild employees lost their jobs;
- The sexual assault referral centre was closed;
- The Guild cancelled 24hr/365 day personal accident insurance for all University students;
- The Guild was forced to close the Guild computer lounge;
- The Guild cut its student representation budget by 80%;
- The Guild cut its student welfare budget by 35%;
- The Guild cut its textbook subsidy scheme by 70%;

³ *State Grants (General Purposes) Act 1993 (Cth)*.

- The Guild was forced to cut activities on campus, and club and society funding by approximately 50%; and,
- The Guild was forced to sell numerous valuable assets to stay afloat, including the Guild Shop, the UWA Sports Association, and most of its office space.

3.2 Victoria

The effects of the Victorian VSR model were far less dramatic than in Western Australia. Student organisations were able to maintain their primary services and core functions under the legislation, although representation of student interests necessarily suffered.

4. CONCLUSION

The LSA strongly opposes the Bill and maintains that it will have numerous drastic and unintended consequences for various University of Newcastle student organisations and students. The model is draconian and is likely to produce similar results to the legislation which devastated Western Australian student organisations during the latter half of the 1990s. The Government should recognise that such legislation is defeatist as to its final aim and an unreasonable burden to place on regional universities like the University of Newcastle.

The LSA is willing to provide further information or comment in relation to the above submission should the Inquiry consider it worthwhile.