

Committee Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Submission to the Employment, Workplace Relations and Education Legislation Committee the provisions of the Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005

from Chris White, Research, Law School, Flinders University.

1. Undermining the provision of student services makes no economic sense.

I agree with the arguments that the legislation to abolish universal membership of student organisations makes no economic sense for universities. It will severely undermine their efforts to compete in the multi-billion dollar international student market. The making of the universal collection of fees illegal is an unwarranted 'command and control' model of regulation. I agree with the NTEU position. "This legislation is a disaster for universities and if implemented will make it extremely difficult for many of them to provide the type of essential services that domestic and overseas students expect as part of studying at a modern university. Education Minister Brendan Nelson's justification for the Bill in terms of the principles of 'fairness' and 'freedom of association' is a complete misrepresentation of what is at stake if this legislation is implemented. The vast majority of universities already have some form of clause that allows students to opt-out of membership of their student organisation upon enrolment. What this legislation questions is whether universities should be able to charge students a fee towards the cost of providing a range of services, many of which are administered by student-controlled organisations. The Government obviously thinks this should not be the case and is proposing to severely penalize any institution that tries to bypass the ban by charging his or her own fee to fund any facility or service that is not narrowly defined as relating to the academic nature of the student's course of study. Quite apart from the broader impact that this will have on campus culture and the fact that it represents yet another bureaucratic intrusion by the Government into affairs of universities, the legislation displays total ignorance about how a modern university operates and what constitutes an academic-related service. For example, I would have thought that a single mother with two children who goes back to university to study would consider childcare services, which are often provided cheaply by student organisations, as very much related to her ability to progress academically. Similarly, I imagine that an overseas student would consider access to cheap computer facilities or assistance from the student organisation to represent them in a dispute over marking, as essential academic services. Universities face limited choices if they cannot charge a fee for these services. They will either have to fund them from their own scarce resources, farm them out to private providers who provide them on a full cost commercial bases, or not provide them at all. This legislation will severely damage the academic and broader cultural product offered by universities and severely undermine

their ability to compete in the multi-billion international student market, where access to services provided by institutions is a major selling point for Australian universities.”

2. More than a simple matter of choice.

I strongly reject the Minister’s political ‘spin’ that this Bill conforms to the human right of association. It does the opposite, as it legally enforces not associating, not being able to collectively pursue common student goals. It is not just a choice as to whether to associate. I support the sound arguments by Simon Rice, lecturer in Law at Macquarie University (reported in the Higher Education supplement *The Australian* Wednesday April 27th 2005 at p35.) Despite the Minister’s simplistic assertion, there is no negative freedom, the right not to associate. Political freedom of association is more complex, a collective right in a civil society and for students a proud and treasured tradition, that should not be trashed.

3. The right to rebel.

As a University activist 30 years ago, I enjoyed the freedom to organise to express political views about society’s ills. Then the ‘right to rebel’ at University was not suppressed. The Minister’s position is to repress such a ‘right to rebel’ for the 21st century future leaders. This is a blatant political move, admitted as such, against so-called student opposition and criticism of the government’s policies of cuts to university education, increased financial burdens on students and worsening industrial conditions for staff. It is to be condemned in a democratic community where the state should be upholding students’ ‘freedom of speech’ and ‘freedom of association’ and encouraging the democratic participation of the student voice. But such a voice, an organisation has to be real, not imaginary and requires resources to be independent, such that a very small proportion can contribute from the student fee. Students cannot be abstractly free, in theory, just be able to join a student union but like any organisation requires equitable funding from all students.

I endorse the NTEU position on VSU.