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NATIONAL TERTIARY EDUCATION UNION

**SUBMISSION TO THE
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**

MARCH 2005

The National Tertiary Education Union (NTEU) represents approximately 27,000 members employed in Australia's higher education sector, including professional administrative, clerical, technical and computing staff employed in student organisations and campus service organisations. The Union welcomes this opportunity to present its views to the Committee on the potential impacts of the Government's *Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005*.

The NTEU has a number of serious concerns about the detrimental effects of the proposed legislation and urges the Senate to reject it. These include the threat to the continued existence of strong and independent student organisations and their ability to provide services, support, advocacy and educational opportunities for students, as well as the threat to the industrial rights and job security of staff employed in student organisations. Student organisations employ approximately 7,000 people across Australia¹, and the NTEU represents approximately 400 members of this workforce.

The Government's attempt to prohibit universities collecting a universal fee to support the work of student organisations also damages the cultural, social and educational experience of students attending Australian universities, and threatens to undermine Australia's ability to compete in the international higher education market. No comparable OECD country prohibits the collection of non-academic fees to support extra-curricular campus activities. In fact, virtually every University worth the name in the Commonwealth, the United States and Western Europe provides for the collection of a fee for such purposes.

The proposed legislation is also an unacceptable interference in the statutory autonomy of universities and their control over their own affairs. Universities are currently free to determine the conditions governing membership of student organisations and the collection of fees associated with this. The fact is that all Australian universities currently *chose* to support the services offered by student organisations, through collecting fees on enrolment.

Previous attempts by the Government to regulate student organisations through the introduction of legislation in Victoria and Western Australia have already demonstrated the detrimental impacts of such legislation on student bodies and universities more generally and provide a number of lessons in regard to the potential implications of the current Bill.

This submission will provide a brief overview of the likely impacts of the proposed legislation on the provision of student services and the related consequences of this for universities, students and staff as well as for the communities that they serve.

Recommendation

The NTEU recommends that the Senate reject the *Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005* in its entirety.

1. Implications of the legislation for the provision of student services

Student organisations provide a wide range of services and amenities for students including support and welfare services, childcare, accommodation, employment and legal assistance and recreational and sporting services. They also make a vital contribution to universities and students through their representational activities both

¹ ACUMA, *Submission to Inquiry into Higher Education Funding and Regulatory Legislation*, September 2003, p4.

in the provision of independent advocacy and advice for students and in their participatory role in the governance of their institutions.

In order to deliver such services, students are currently charged a universal student service fee, collected by each university and directed to the student organisation. In making the payment of fees to support student organisations 'voluntary', the Government is essentially destroying the funding base of student organisations and thereby their ability to provide such services.

Without the ability to charge a universal service fee, NTEU believes that universities will not be able to afford to offer the range of services currently provided through student organisations. This is an opinion supported by Australian Vice Chancellors' Committee (AVCC) Executive Director, John Mullarvey, who has commented "*that together with the recent denial of critical indexation funding, the legislation would put further pressure on universities to charge maximum HECS and reduce their resources to teaching and research at the expense of quality*".² This comment suggests that even if universities were able to offer the services currently provided by student organisations, the cost would be passed on to students anyway, but the services would no longer be owned and run by the students.

The proposed alternative to universities providing services is a user-pays system, which allows students the *choice* to pay for the services they want. The problem is that there will be fewer services to choose from, as well as significant increases in the costs of such services. In addition, under current arrangements, any profits from the provision of such services are fed back into the pockets of students through cross subsidisation and further service provision. Under a user pays system, students are not only paying more for services, but are not benefiting more broadly from the profits of such services. NTEU is also concerned that decisions about what services are maintained or offered will be based on factors such as their potential to generate profit or their popularity within the broader student body. Unfortunately, the services that support those students most in need and that help facilitate students' capacity to attend university are the least likely to meet these criteria. This includes services such as childcare, personal, housing and financial counselling and assistance, careers and employment services as well as academic advocacy and advice.

As demonstrated in the Union's submission to the Senate's recent Student Income Support Inquiry³, the rising cost of university education, both in terms of increased fees and rising ancillary and living costs, is a growing burden on students and their families, particularly to those students who have traditionally been excluded from entry. While the solution to this problem lies primarily in the provision of adequate student income support schemes and improved equity policies on the part of universities and the Federal Government, student organisations also play an important role. Student organisations subsidise current service provisions and ensure that students are able to access these and a range of other services that help facilitate the ability of students from disadvantaged groups to access university in the first place and to continue their education.

The decline in student services that would take place under the Federal Government's Bill is evidenced by the consequences of similar legislation introduced by the Western Australia State Parliament in 1994. This legislation made student

² Guy Healy, *Campus Review*, 1 June 2005, v15, no21, p3

³ NTEU, *Submission To The Senate Employment, Workplace Relations And Education Committee's Inquiry Into Student Income Support*, November 2004

organisation membership voluntary and prohibited universities charging any fees unrelated to the academic program of the university.

As a result, membership of student organisations in Western Australia dropped to as low as 6% of total student enrolments, with devastating impacts on student services. While some services provided by student organisations survived, many others such as student welfare, textbook subsidies, computer access, and AUSTUDY and ABSTUDY advice, were closed down or severely cut and specialist staff were retrenched. Other services, such as catering or sports, were outsourced, handed over to the university administration to keep afloat through an injection of scarce university funds, or had their charging structure adjusted to generate profits. As the AVCC pointed out at the time: *“the experience in Western Australia confirms that universities would not be able to fund an equivalent level of student services to that provided by student organisations”*⁴

In regional and rural Australia in particular, student organisations provide students with access to services and resources that may not otherwise be available. Regional universities are often a core part of the communities' economic and social infrastructure and the provision of social, recreational, cultural and sporting opportunities and services is crucial to attracting and maintaining student enrolments. The provision of services such as housing advice or counselling services is especially important in communities where infrastructure is limited. In some places, it is the student organisation that provides important social infrastructure such as cinemas, childcare facilities and sporting amenities to the whole community.

As students are already subjected to significant financial pressures in terms of their educational costs, given the option, many students will opt not to pay a voluntary service fee. Rather than this being an indication of a lack of support for student organisations, NTEU believes that such a situation is clearly a result of the ever-increasing financial pressures placed on students. Students attending Australian universities already pay more towards the cost of their education than ever before, with student contributions having doubled since 1996, while universities have received substantially less Commonwealth Government funding per student during the same time frame⁵.

In making the payment for student organisation membership optional, students are caught in a vicious cycle. Reduced student organisation membership will mean significantly less funding and therefore less services, so that those students who continue to make a contribution are likely to be doing so at increased costs for reduced services. Further, as discussed above, it is those students who have the most difficulty in paying student organisation fees that are most in need of the services that these organisations provide, and are likely to feel the impacts of the reduced services most acutely.

2. The impact of the legislation on campus culture

Student organisations not only contribute to the wellbeing of students during their course of study, but also provide the opportunity for students to develop additional skills. In addition, they are vital to the broader culture of a campus, which is one of the defining characteristics of universities. The Federal Government's so-called

⁴ AVCC Answers to Questions on Notice from Senator Natasha Stitt Despoja, May 1999.

⁵ *Students Pay (Even) More, Universities Get (Even) Less*, NTEU Research Report, July 2004.

'voluntary student unionism' legislation will impact on both the cultural and educational experiences of students attending Australian universities.

The demise of campus culture was a significant point of debate in the Western Australia experience, with that legislation turning campuses into what some have described as a "*cultural wasteland*"⁶. This was one of the reasons behind the current Western Australia State Government's decision to reintroduce a compulsory student services fee. Student Organisations foster social, cultural and intellectual links between students and their campus, enriching the university experience and assisting students to complete their degrees.

3. The impact of the legislation on the ability of Australian universities to compete in the international education market

A reduction in student services also has the potential to damage the reputation of Australian universities and reduce their ability to compete in the international higher education market, currently worth approximately \$6 billion to Australia. As pointed out by the National Liaison Committee for International Students (NLC), international students are among the highest users of student organisation services and "the essential services that international students utilise, such as advocacy, counselling, women's rooms and prayer rooms, international clubs and societies, and academic and grievance appeal representation are the difference between success or failure for many students"⁷. Without such services, there is a very real possibility that international students will choose to study in any number of other countries where such services are available. In the increasingly competitive international student market, this could have serious implications for Australian universities who are heavily reliant on revenue generated through international students.

4. The threat to independent advocacy and support

As members of the university community, students have a right and a responsibility to be involved in the decision-making processes of their institutions. Student organisations, as democratically elected bodies, are the most appropriate vehicle through which students can fulfil this representative role.

Student organisations are best placed to offer students independent assistance in relation to academic and other university processes as they employ staff with specialised knowledge of university discipline and appeals policies and mechanisms. NTEU believes that maintaining the independence of student advisory and support services provided by student organisations is crucial to student welfare.

Should universities be forced to provide these services they will find themselves facing a significant conflict of interest. Students would not receive the independent advice, assistance and advocacy from university-employed personnel as they would from their student organisation. NTEU is concerned that if students are not guaranteed independent support they will be forced to seek the services of legal practitioners. This will inevitably lead to a much more adversarial, confrontational and expensive experience for students and universities.

Student organisations facilitate students' representative role on university governance and decision making bodies of the university. As representatives and advocates for students, student organisations are the natural body to administer

⁶ 'Support for uni student service fee', *West Australian*, November 8, 2002

⁷ NLC Media Release, *International Students Ask Why Should We Study In Australia?*, March 2005.

student membership of university committees. At large institutions, student organisations recruit student members for up to 70 university committees. Student membership of these committees ensures that the university's activities do not inadvertently disadvantage students. Many policies and practices universities now take for granted as a key part of their procedures stem from contributions initially proposed by student members of committees and student organisations. Without student representation, many university policies governing those committees would have to be completely overhauled and rewritten.

NTEU further believes that staff and student representation on university governing bodies is a fundamental right. As public institutions, universities are accountable to many different stakeholders, including the communities in which they are located and serve, the students they educate and the staff who work for them. Staff and students are key stakeholders of universities and bring extensive expertise to their representative role as part of their knowledge of and commitment to their institutions. Without student organisations, this representative role or the appropriate structures and mechanisms for democratically electing such representatives, would be undermined.

Student organisations allow students to have a political voice. Student organisations have traditionally been vocal critics of many regressive government policies on all sides of the political spectrum. As key participants in the higher education system, and given the fact that the higher education policies of political parties have serious implications for students, this is both their right and their responsibility.

While the *Tertiary Education (Amendment) Act 1994* enacted in the Victorian State Parliament prohibited compulsory membership of student organisations, it permitted universities to collect compulsory amenities and services fees for an approved list of services, as long as such fees were not used for political purposes. The compulsory amenities and services fee is a welcome difference to the Western Australian legislation, however, NTEU continues to oppose the Victorian model on the grounds that it represents unwarranted government interference in the institutional autonomy and the democratic rights of students.

The Victorian legislation posed a number of additional problems in relation to reporting, financial and administrative requirements. Under the legislation, universities were required to recover funds that were deemed to have been used for political purposes. However, the legislation did not specify or define the meaning of *political purposes*. Rather, funding for certain services was deemed as 'non permissible'. At some institutions, this included services such as student newspapers and radio, as well as research, advocacy and representation relating to government or university policy in matters such as fees and student income support. NTEU considers these activities as a necessary part of student representation and involvement in their institutions.

5. The impact of the legislation on the employment and conditions of staff

The Federal Government's Bill poses a significant threat to the employment and conditions of staff working in student organisations and related services. There will also be impacts for other university staff and the broader community in terms of the flow on effects from the cessation of many of the activities of student organisations.

NTEU is particularly concerned with threat the Bill poses to the industrial rights and employment security of our members working in student organisations. While some staff working for student organisations are employed by their universities, there are

some 7000 staff that are employed by student organisations⁸. NTEU is concerned that if the proposed Bill were implemented, student organisations would be left in a financially vulnerable position. Reduced membership and therefore services mean that many student organisations will be forced to retrench large numbers staff. If the Bill was to be implemented, student organisations would need to be given time to make appropriate plans for staff redundancy provisions and leave payout etc.

The 'commercialisation' of services to students also has the potential to substantially change the staffing profile of student organisations. Staff working in areas related to wider service provision are likely to be adversely affected if financial instability leads to contracting out of services and/or increased use of contract and casual staff.

In addition, commercial requirements could mean that the nature of jobs themselves could change substantially. NTEU believes that it is essential that staff are consulted and advised about the nature of such changes to their employment and that if such changes do occur, appropriate time frames are negotiated to allow for industrial and administrative mechanisms to be put in place. The proposal to introduce this legislation in January 2006, does not allow sufficient time for such mechanisms to be put in place.

Substantial staff redundancies within student organisations will necessarily have an impact on the workloads of other university staff. The work currently carried out by student organisation staff, particularly in relation to the provision of advocacy, information and advice, will to some extent be picked up by other university staff, either as part of their official duties or in an unofficial pastoral capacity.

The NTEU is concerned about the impacts this could have on both staff and students. Since 1996, funding to universities has declined, while student to staff ratios have steadily increased from 15.6 in 1996 to 20.8 in 2003⁹. NTEU is concerned that further workloads for university staff has the potential to adversely affect the quality of education delivered at Australian universities and thereby compromise both the professionalism of university staff and the educational experience of students.

Potential staff reductions are likely to be felt most acutely in regional and rural areas. Student organisations not only provide job opportunities for students, but also for the broader community in employment indirectly associated with the student organisation or arising as a result of its activities. To cite just one example, a study of the economic impact of the Southern Cross University on the City of Lismore noted that in addition to direct employment, "*an extra 880 jobs are created as are a result of the economic output of the university*"¹⁰.

Job losses at this university as a result of the legislation presently under consideration, therefore, would not only impact on the individuals concerned but also have broader ramifications in the associated employment in the community. The report goes on to note that while "*the expenditure of the university and its employees, creates a number of jobs and extra income in the City of Lismore, the extra income bought into the city by students is also very important*"¹¹. In regional and rural areas

⁸ ACUMA, *Submission to Inquiry into Higher Education Funding and Regulatory Legislation*, September 2003, p4

⁹ AVCC, *Student to Teacher Ratio 1993-2003*, Statistics Collection

¹⁰ Davis and Buultjens, *The Economic Impact Of The Southern Cross University On The City Of Lismore*, February 1996.

¹¹ *Ibid* pg 36.

where other services are not available, the potential for student organisations to close down or significantly reduce their services as a result of the introduction of this Bill, could act as a deterrent to students attending regional universities. A decline in student numbers at our regional institutions not only affects the viability and affordability of universities in these areas but also could have significant impacts on the economies of local communities.

Student organisations provide students with a range of employment experiences, from highly skilled positions that contribute to the professional and career development of students, to casual and part time positions that help fund students' progression through university. Student organisations are thus able to assist students both through the services they provide as well as through the opportunities they offer students for employment. The potential commercialisation of student services, therefore poses a cost to the financial, educational, cultural and employment opportunities of students.

The NTEU has long standing policy of support for student organisations on the basis of the benefits they offer to university life, the learning experience and the educational product of universities. Student organisations contribute to the training of future leaders of society and are one of the key features that make universities different from other education institutions. As part of this, the NTEU believes the only appropriate and responsible structure for these organisations is one based on a universal contribution and independent and autonomous structures. The NTEU firmly believes that the proposed *Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005* undermines the capacity of student organisations to effectively support and represent the needs and interests of their students and to protect the employment conditions of their staff.