

The Senate

Standing Committee on
Education, Employment
and Workplace Relations

Higher Education Legislation Amendment
(Student Services and Amenities, and Other
Measures) Bill 2009 [Provisions]

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Chapter 1

Government Senators' Majority Report

Reference

1.1 On 12 February 2009, the Senate referred the provisions of the Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 to the Education, Employment and Workplace Relations committee for inquiry and report by 10 March 2009.

Conduct of the inquiry and submissions

1.2 The committee advertised the inquiry on its website calling for submissions by 20 February 2009. The committee also directly contacted a number of organisations and individuals with a particular interest in the issue and to invite submissions and appearances before the committee. Thirty-six submissions were received as listed in Appendix 1. These appear on the committee's website.

1.3 A public hearing was held in Melbourne on 4 March 2009. The witnesses are listed at Appendix 2.

1.4 The committee thanks all those who contributed to its inquiry by preparing written submissions and giving evidence at the hearing.

Provisions of the bill

1.5 Schedule 1 of the bill amends the *Higher Education Support Act 2003* to provide that from 1 July 2009, universities may levy a services and amenities fee to be capped at \$250 per student annually, and indexed. Students may access a loan to pay this fee through a new component of the Higher Education Loan Program (HELP) to be known as SA-HELP. New benchmarks will come into force from 2010 giving students access to information about the range of services and amenities offered in each university, and ensuring the provision of student representation and advocacy.

1.6 Schedule 2 of the bill amends the VET FEE-HELP scheme provisions of the *Higher Education Support Act 2003*, and to broaden guideline-making powers. The committee has not concerned itself with the contents of this Schedule. Nor has the committee concerned itself with Schedule 3, dealing with safeguards in the processing of students' personal information in Tertiary Admission Centres.

Background

1.7 The Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 (the bill) represents a solution to the problem of providing adequate levels of student services and amenities in universities. It allows universities to levy fees for this purpose, for which students may take out

loans, and places the administrative responsibilities on universities to provide these services, in accordance with the *Guidelines* to be tabled following the passage of the bill.

1.8 The bill addresses problems which have arisen as a consequence of the passage in 2005 of an amendment to the *Higher Education Support Act 2003*. This drastically reduced the funding available for student services by abolishing compulsory student fees paid to student organisations which provided the full range of services and amenities. Government policy at the time appeared to assume the likelihood of reduced revenue, but the legislation was silent on how the funding shortfall would be met. Its effect was to oblige universities to divert funds from teaching and research to fund basic amenities. This legislation adversely affected important extra-curricula elements of student life and university culture. It cut across university endeavours to attract foreign students. The bill currently before the committee is intended to repair this damage and institute a stable funding basis for student amenities.

1.9 The provision of student services and amenities has been controversial over the past decade because it has been linked to the issue of compulsory student unionism. This committee has dealt with this issue twice before, in 1999¹ and in 2005².

The rise of voluntary student unionism

1.10 With the rise of student activism in the 1960s and 1970s student control of such services became controversial because the representative role of student organisations could not, especially in newer universities, be easily delineated from their services and amenities functions. In longer-established universities there was often a clear separation of the functions of student services, student representation and sometimes even sport. In newer universities this distinction is not generally reflected by the existence of separate and autonomous bodies, which are more expensive to maintain.

1.11 By the end of the 20th century, student activists on the Right, were urging that the compulsory levy which funded student services be abolished. Apart from ideological objections, critics (including many politically non-aligned students) claimed that some student body organisers were responsible for the misuse of student funds, and argued against the compulsory student levy to support services which many students would never use. There has been some commentary also on the significance of campus political struggles which the committee is pleased to be able to leave alone, except to note an insight into the views of the Coalition members of this committee in

1 Senate EWRSBE Legislation Committee, *Consideration of the Provisions of the Higher Education Legislation Amendment Bill 1999*, May 1999.

2 Senate EWRE Legislation Committee, *Provisions of the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005*, August 2005.

their minority report to the EWRE legislation committee in the 1999 VSU inquiry. It appears that these views have not changed.

There is much that is objectionable in claims made by student unions, guilds or association that they are a representative voice of students when they are clearly not. The objection extends beyond the representative nature or function of student bodies into the whole area of university extra-curricular activities and services maintained by student bodies. These functions were based originally on the notion of a communitarian or collectivist tradition in universities, but that is now increasingly at odds with the needs and aspirations of contemporary students. This trend has been evident for some time. It has come under criticism from those students who have objected to the antics of political fringe groups who have used their control of student bodies in a number of universities over many years, to advance particular causes. It has come also from those students who object to the provision of unnecessary services and activities, and the provision of subsidised services that could be provided by independent commercial operators, often at a lower cost.³

1.12 Voluntary student unions (VSU) was the goal of the Coalition government from 1996 but was not enacted until 2005. As would be obvious from the above, the core of the VSU policy was a determination to uphold the right of self-determination for individuals. It represented a rejection of communitarianism in university life, consistent with individualistic ideals which also underlaid the Coalition's commitment to Australian Workplace Agreements (AWAs) rather than to collective agreements. The Coalition government felt strongly that students should not be obliged to pay for services which they would not choose to use, nor join organisations which were unlikely to represent their interests. This allowed a student to engage in 'normal student life', what ever that might mean, selecting the services desired and the extra-curricular attractions on offer, and paying for them accordingly. VSU represented the application of the principle of self-determination to campus life. Its appeal was in some way intended to be popular for those who have expectations that the routine of university life to be bus – lectures – bus – home.

The failure of VSU

1.13 Since compulsory levies were abolished in 2005, the cost of legislating to make an ideological point has bourn heavily on the vast majority of students who remain largely indifferent to campus political activity, but who need to eat and otherwise miss the services formerly provided by student unions.

1.14 Coalition senators looking at the issue on two previous occasions dismissed the idea that students and universities would suffer from the loss of compulsory student union membership funds. The reports of both 1999 and 2005 make largely

3 Senate EWRSBE Legislation Committee, *Consideration of the Provisions of the Higher Education Legislation Amendment Bill 1999*, May 1999, para 1.5.

identical counter arguments to the claims made about the vulnerability of institutions like university sport, food services and other amenities. But the arguments presented in both reports indicate that Coalition senators were running two apparently similar, but in fact, opposite arguments. First, there will be no adverse consequences. Students will come to terms with the changed circumstances. They will agree to pay more. Or fresh thinking will energise the way services are delivered. But if that does not happen, no one will notice. If they do, it will not be important.

1.15 Thus, as to the likely effects of VSU on sports and clubs, Coalition senators were generous with good advice about injecting an entrepreneurial spirit into university sport, and of universities seeking funds from the community in return for sharing facilities. However, if, as was generally anticipated in 2005, funding fell from \$40 million to \$8 million, this would merely reflect the level of genuine student interest. But, when all was said and done, Coalition senators put the view that sports and clubs were of interest to only relatively few students. These were distinctively extra curricula activities.⁴

1.16 In support of VSU, the Coalition government argued that students should not be forced to pay for services which they may not choose to use. This particularly applies to external or part-time students who spend little time on campus. It was expected that VSU would allow market forces to 'produce self-sustaining student organisations which could continue to provide services [which were] valued and demanded by the student community.'⁵ Similarly, the government believed that students should not be forced to join associations and that they should certainly not be forced to contribute financially to such associations. Another argument made in support of VSU is that the most effective method of allocating resources is the 'user pays' model.⁶

The impact of VSU

1.17 The impact of VSU on student services has been mostly negative.⁷ The Minister for Youth, Hon. Kate Ellis MP, stated that:

4 Employment, Workplace Relations and Education Legislation Committee, *Provisions of the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005*, paras 1.37-1.41, pp.6-7.

5 *Submission 29* (Flinders One), p. 5.

6 *Submission 16* (ALSF), p. 6. See also *Submission 8* (UQ Union) for arguments in favour of VSU.

7 See, for instance, *Submission 5* (DEEWR), Attachment 2; *Submission 23* (NUS); *Submission 14* (Vines), p. 2; *Submission 29* (Flinders One), pp. 12-13; *Submission 25* (Arc@UNSW Limited), p. 2; *Submission 15* (LUPA), pp. 3-4; *Submission 4* (UWA Student Guild), pp. 6-7; *Submission 32* (Universities Australia), p. 1; *Submission 19* (SUPRA), p. 5; *Submission 18* (TUU), pp. 2-3, 5-6; *Submission 2* (ECU Student Guild), p. 3.

...close to \$170 million was ripped out of university funding resulting in the decline and in some instances complete closure of vital health, counselling, employment, child care, and welfare support services.⁸

1.18 Many submissions to this inquiry support the claim that, following VSU, student services and amenities have been weakened or reduced to a significant extent, not only in quality but also in accessibility and range of services. VSU has caused a decline in all student services. In addition to the decline in services and amenities, the capacity for student advocacy and representation has also seriously declined.

The loss of independent advocacy for students was a direct result of the Voluntary Student Union legislation implemented by the previous Government.⁹

1.19 Furthermore, VSU has particularly affected certain groups of students. CAPA notes that postgraduate students are one of the most disadvantaged groups of students following the introduction of VSU.¹⁰ One reason for this is the risk of isolation for postgraduate students. CAPA noted that inadequate student services and support for a 'collegial research environment' can lead to isolation and declining completion rates.¹¹ Postgraduate and international students are students that we should be encouraging into universities; yet, the decline of student services and amenities as a result of VSU has been a disincentive for them. The effects of VSU have also been more destructive at regional university campuses and those in low socio-economic areas.¹² The issues relating to regional universities will be covered in more detail below. Similarly, the Postgraduate Association of the University of Western Sydney states that the impact of VSU has been stronger upon newer universities;¹³ these universities do not usually have extensive existing infrastructure and the student organisations on these campuses, lacking reserves built up over time, are entirely reliant upon fees.

1.20 One of the serious effects of VSU is that some universities have been forced to redirect funds from the areas of teaching and research, in order to fund essential student services and amenities.¹⁴ This is an indication that student services and

8 3 November 2008, Hon Kate Ellis MP, Minister for Youth, *Media Release*, 'Rebuilding Student Support Services in our Universities'.

9 *Submission 28* (PAUWS), p. 2.

10 *Submission 33* (CAPA), p. 13; see also *Submission 36* (AUPGSA), pp. 1-2.

11 *Submission 33* (CAPA), pp. 3-4.

12 *Submission 14* (Vines), pp. 2, 6.

13 *Submission 28* (PAUWS), p. 2.

14 *Submission 20* (AUS-ACUMA), pp. 3; *Submission 23* (NUS), pp. 3; *Submission 29* (Flinders One), pp. 12; *Submission 5* (DEEWR), Attachment 2; *Submission 35* (Uni of Sydney), pp. 1; Hon Kate Ellis MP, *House of Representatives Hansard*, 11 February 2009, p. 874 & 10 November 2008, p. 10285.

amenities have generally received inadequate funding as a result of VSU.¹⁵ In addition, the redirection of funds to student services exacerbates the existing under-funding of universities in general. A situation where funds are being taken from areas which are themselves in need of more funds is simply unsatisfactory.¹⁶ The fact that higher education in Australia is generally under-funded indicates that universities, in lieu of student organisations, are unable to adequately fund student services themselves, without further funding increases or a decline in quality.

1.21 Generally, prices for services and amenities on campuses have increased following the introduction of VSU.¹⁷ The user-pays model often leads to higher prices and unfairly disadvantages poorer students who do not have 'ready cash'.¹⁸ Although supporters of VSU claim that students are saving money because they do not have to pay for fees,¹⁹ it would appear that increases in prices have generally exceeded these savings. One example of price increases is the cost to students for use of sporting facilities; these increases can be significant, such as 'the near trebling of fees for the use of ANU owned sports grounds'.²⁰ Although participation in sporting activities is a choice and providing sports facilities is not a necessary service, other important student services have also had cost increases; examples include food outlets on campus (in some cases, prices are now more expensive on campus than in private outlets off-campus) and child care services, which can be so expensive that they are out of reach for many students, even if places are available.²¹

1.22 It may also be true that the full effect of VSU is not yet readily observable. Many student organisations have dipped into limited savings and reserves in order to continue providing services which they feel are necessary but under-funded.²² Such reserves are finite. A further complication is that many universities have large deferred maintenance liabilities which continue to increase with time; many student organisations have also avoided upkeep and maintenance on existing buildings during the period of VSU due to inadequate resources. Similarly, some student organisations and universities have been relying upon transitional funding which will not continue in the long-term. Future options available to such student organisations include

15 *Submission 23* (NUS), pp. 3, 4, 42.

16 *Submission 26* (NUS West), p. 4.

17 See, for instance, *Submission 2* (ECU Student Guild), p. 4; *Submission 18* (TUU), p. 3; *Submission 14* (Vines), p. 2.

18 *Submission 5* (DEEWR), Attachment 2, p. 2.

19 See, for instance, *Submission 16* (ALSF), p. 2.

20 *Submission 14* (Vines) p. 4; *Submission 5* (DEEWR), Attachment 2, pp. 32-35; see also DEEWR Discussion Paper, titled *The Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students*, February 2008.

21 *Submission 23* (NUS), pp. 15, 18, 29; *Submission 28* (PAUWS), p. 1; *Submission 25* (Arc@UNSW Limited), p. 2.

22 See, for instance, *Submission 18* (TUU), p. 3.

reducing the range or quality of services or halting some services totally. These issues indicate that the true breadth of damage resulting from VSU may not yet be clear.²³

1.23 In Western Australia state legislation was introduced in 1994 to prevent students paying fees for student services and amenities. VSU supporters have cited the progress of WA student organisations as positive examples of the benefits of VSU.²⁴ The multi-campus Edith Cowan University (ECU) Student Guild was seriously affected in its capacity to provide student support services, as were other WA universities. The UWA Student Guild stated that state VSU legislation 'brought most Student organisations in WA to their knees.'²⁵ The Commonwealth introduced emergency funding to assist student organisations in Western Australia facing a loss of revenue. There was some relief when in 2002 the WA government repealed the legislation prohibiting the charging of student services and amenities fees.

Student services and amenities

1.24 On many campuses, there has been a degradation of services and amenities which contribute to a positive overall experience of university life for students.²⁶ Funding for student services and amenities, following VSU, has clearly been inadequate.²⁷ This under-funding of student services has occurred at a time of increasing demand for student services and followed significant cuts to the funding of tertiary education in general.²⁸ Yet, student services in general, and advocacy services in particular, can be key factors in improving student completion rates (of part-time postgraduate students, for example) and supporting students at risk, such as those from low socio-economic backgrounds. 'There is no clear line between activities in support of a quality student experience and support services to students.'²⁹

Compulsory student unionism

1.25 The provisions of the current bill do not represent a return to compulsory student unionism. The government has given a number of assurances to those concerned about such a return.³⁰ The two issues of compulsory student unionism and charging students a services and amenities fee are entirely separate, despite the fact

23 *Submission 20* (AUS-ACUMA), p. 3; *Submission 4* (UWA Student Guild), p. 6.

24 See, for instance, the submission by Western Australian Union of Liberal Students, in response to DEEWR Discussion Paper, '*The Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students*', February 2008.

25 *Submission 4* (UWA Student Guild), p. 7.

26 *Submission 33* (CAPA), p. 3; *Submission 22* (NTEU), p. 2; *Submission 15* (LUPA), p. 4; *Submission 5* (DEEWR), Attachment 2, p. 2; *Submission 32* (Universities Australia), p. 1.

27 *Submission 23* (NUS), p. 3.

28 Ms Julie Owens MP, *House of Representatives Hansard*, 23 May 2007, p. 155.

29 *Submission 33* (CAPA), p. 4.

30 Hon Kate Ellis MP, *House of Representatives Hansard*, 11 February 2009, p. 874.

that these issues have often been linked to justify the introduction of VSU. Moreover, the issue of students voluntarily joining student organisations, unions or guilds is distinct from the option of charging students a services and amenities fee.

There needs to be a distinction between the fees students pay to fund freely available essential services ... and the decision by students to support their student organisation as a member ... In WA, at the last repeal of VSU, these two issues were distinguished from one another. A compulsory amenities and services fee was charged to all students, and students had to decide whether to become a member of their guild.³¹

1.26 Many student services and amenities have declined to a great degree since the introduction of VSU. Overseas students have claimed that it is now imperative that this decline is addressed.³² There is a need to charge for such services to restore much-needed services and amenities on campuses.

... Emphasis should be put on the need for student support services, representation and advocacy, and their importance in keeping students at uni. The amenities and services fee that fund essential student support services need to be compulsory in order to ensure students have the ability to survive at University without drawing on taxpayer funds.³³

1.27 The NUS recognises a distinction between student advocacy (which relates to a particular student in a particular situation) and student representation, which is related to students as a group.³⁴ Student advocacy services are discussed below, while the issues surrounding student representation will be discussed in the section following *Student Services and Amenities*. Submissions from, for instance, CAPA and other associations, indicate that student advocacy and student representation are inextricably linked; for example, the University of Melbourne Graduate Student Association (Uni of Melbourne GSA) stated that student representation 'is intrinsically related to the provision of an effective advocacy service.'³⁵

Weakened advocacy services

1.28 Many submissions indicated the weakening of academic and welfare advocacy services for students.³⁶ Such services began to be introduced by student organisations during the 1970s in response to increasing numbers of international students and students from disadvantaged backgrounds. Following the introduction of VSU, advocacy services have been generally reduced (in number and range of

31 *Submission 26*, NUS West, p. 1.

32 *Submission 24* (NLC), p. 9.

33 *Submission 26* (NUS West), p. 4.

34 *Submission 23* (NUS), p. 47.

35 *Submission 27* (University of Melbourne GSA), p. 4.

36 See, for instance, *Submission 23* (NUS); *Submission 22* (NTEU), p. 2; *Submission 19* (SUPRA), pp. 5-6; *Submission 17* (Sharma), p. 1.

services), with some services disappearing totally and others merging in order to reduce administrative overheads.³⁷ Many universities have taken over responsibility for the provision and funding of advocacy services. In some cases, universities deliver the services directly, often through a university-owned company, specifically set up to deal with the delivery of student services.³⁸ In other cases, the provision of these services may be contracted out to commercial entities or delivered by a student organisation funded by the university.

Conflict of interest

1.29 Several submissions stated that universities have a conflict of interest when they take on responsibility for the provision of advocacy services, in particular academic advocacy services.³⁹ One function of such advocacy services is to resolve conflicts and disagreements between students and university staff or administration; where a university provides these services, it takes two roles – that of provider of the services but also that of one of the parties involved in the disagreement. Students' perceptions further complicate this issue because merely the perception of a conflict of interest can be damaging.⁴⁰

1.30 The NUS claimed that there has been an increase in micromanagement by universities which are funding student organisations to deliver student services; these universities have often drawn up detailed service level agreements with the student organisations, an action which has ultimately weakened the independent advocacy on these campuses.⁴¹ The independence of advocacy services can be compromised when such services are not 'free of the restrictions of university control'.⁴²

1.31 Universities can apply 'undue influence' upon student organisations with the threat of loss of funding; this is exemplified by what has come to be known as 'cash for no comment', where Murdoch University attempted to prevent the student guild from any further public criticism of the university. A copy of the letter sent by Murdoch University to the student guild is included in the submission from (the national office of) CAPA. The submission from CAPA Western Region:

... is intended to highlight the importance of independent student representation and advocacy, and the threat posed to such when student organisations are dependent of universities' discretion for funding. An

37 *Submission 5* (DEEWR), Attachment 2, p. 3.

38 *Submission 5* (DEEWR), Attachment 2, p. 2; *Submission 22* (NTEU), p. 3; *Submission 23* (NUS), p. 43; Hon Kate Ellis MP, *House of Representatives Hansard*, 26 August 2008, p. 6253.

39 *Submission 5* (DEEWR), Attachment 2, p. 11; *Submission 23* (NUS), p. 48; *Submission 22* (NTEU), p. 3; *Submission 15* (LUPA), p. 3.

40 *Submission 23* (NUS), p. 48; *Submission 9* (CSU SRC-Childs), pp. 2, 5.

41 *Submission 23* (NUS), p. 4; *Submission 3* (USU), p. 1.

42 *Submission 28* (PAUWS), p. 2.

alarming exchange between the Murdoch administration and its Guild of Students motivates our concerns.⁴³

1.32 The national office of CAPA further noted that:

... correspondence from the University's Chancellor to the Guild clearly threatened to withhold student funds collected under the proposed fee unless the Guild conformed with the University's wishes.⁴⁴

1.33 The bill and the *Guidelines*, as they stand, allow for such undue influence. The majority of the submissions received from student organisations stated that this potential, among other things, justified the need for the funds collected from fees to be forwarded, at least in part, to student organisations to ensure no conflict of interest or undue influence by university administrations.

Independence of services

1.34 When university administrations are directly (or indirectly) responsible for the delivery of advocacy services, students may not view such services as fully independent.⁴⁵ In this context, students can lose confidence in such services, resulting in declining usage rates.

Advocates must be impartial and separate from the university if students are to feel comfortable approaching them, and if they are to advise and advocate for students' interests in good faith. University employed advocates face a disincentive to 'advocate' on the broader issues ... especially where their employer may appear uninterested in hearing about problems elsewhere in the university.⁴⁶

1.35 Examples include the sharp reduction, following VSU, of students accessing advocacy services which were offered at Charles Sturt University by the university administration.

...no reasonable explanation has been offered for such a dramatic snubbing of the service other than a complete loss of confidence in the advocacy offered.⁴⁷

1.36 Furthermore, this loss of confidence in student services and declining use of student support services can ultimately lead to a decrease in overall student numbers, as completion rates fall.⁴⁸

43 *Submission 30* (CAPA Western Region), p. 1.

44 *Submission 33* (CAPA), p. 10.

45 *Submission 23* (NUS), p. 48; *Submission 9* (CSU SRC-Childs), p. 5; *Submission 28* (PAUWS), p. 2.

46 *Submission 33* (CAPA), p. 5.

47 *Submission 9* (CSU SRC-Childs), p. 1.

48 *Submission 9* (CSU SRC-Childs), pp. 1.

'Arms length' approach

1.37 Some universities have acknowledged this conflict of interest.⁴⁹ For example, the University of Adelaide, Deakin University and Swinburne University of Technology stressed the importance of an 'arms length' approach in the delivery of advocacy services.⁵⁰ However, this assurance of independence, rather than true independence, may not be adequate. Many submissions indicated that student organisations are best-placed to deliver advocacy services because they can ensure true independence; similarly, they can be a check and balance upon university administrations and are in a better position to collect general information about systemic issues.⁵¹ Furthermore, the independence of such student organisations, as providers of advocacy services, can be compromised when universities provide the funding for these services.⁵²

Commercialisation of student services

1.38 The increasing commercialisation of university and student services was noted.⁵³ It is simply not feasible for commercial entities to provide some of the services required by students on campus due to the trading conditions unique to university campuses.⁵⁴

1.39 Many university services are required for long periods of the day during the academic year but are either closed over the long holiday periods or hours of operation are limited. Profits vary across the year due to fluctuating trade.⁵⁵ As the users of services are mostly students, who generally have low incomes and different needs compared with the general community, the customer-base reduces the profitability of a business. Profit is the driver of business, not the delivery or improvement of student services. This focus is at odds with the efficient delivery of student services. It was claimed that at the University of Western Sydney, for instance, the company set up by the university to deliver some student services 'did what many businesses end up doing: it failed to view the students of UWS as anything more than a source of income'.⁵⁶ As a number of submissions have pointed out in similar circumstances, the result is higher overheads for businesses, increased prices for consumers, generally students, and limits to the range or quality of student services.⁵⁷

49 See, for instance, *Submission 22* (NTEU), p. 3; *Submission 23* (NUS), p. 48.

50 *Submission 5* (DEEWR), Attachment 1.

51 *Submission 33* (CAPA), pp. 6-7; *Submission 2* (ECU Student Guild), p. 4.

52 *Submission 25* (Arc@UNSW Limited), p. 3.

53 *Submission 1* (Lenton), p. 1.

54 See, for instance, *Submission 29* (Flinders One), pp. 6-7.

55 Ms Julie Owens MP, *House of Representatives Hansard*, 23 May 2007, pp. 155.

56 *Submission 1* (Lenton), p. 2.

57 *Submission 5* (DEEWR), Attachment 2; *Submission 23* (NUS), pp. 48, 11-41.

1.40 Students cannot always rely on private sector services that are available to the wider community. Some campuses are isolated from shopping or other facilities. Accessing off-campus services can be inconvenient and costly. Services provided by the private sector can also be more expensive and thus, beyond the reach of many low income students.⁵⁸

Student representation

1.41 The committee notes the government's intention that students should be formally involved in decisions made by universities in regard to how money levied through the new services and amenities scheme should be spent.⁵⁹ The legislation makes it clear that universities must consult student bodies. The question remains as to how this will work in practice,

1.42 The committee does not anticipate that this would necessarily result in friction between students and vice-chancellors, but potential for dispute exists, even in cases where student demands are entirely consistent with the *Guidelines*. The committee notes the allusion to this in the submission from the Sydney University Union, which made the following request:

We would like the Government to ensure that universities refrain from micromanagement of these funds to avoid a culture of bureaucracy which would inadvertently affect students as the key benefactors of this fee.⁶⁰

1.43 The committee majority recognises the intent of the government's policy as one of moving beyond the sterile debates that characterised the old VSU legislation. Lessons have been learnt on all sides, and the urgent needs of students and universities in regard to services and amenities have to be met. The committee majority notes, however, that submissions from students that the legislation in its current form deprives the student body of direct responsibility for decisions about the provision of the services they require. The committee points out that the funds to be expended are student funds, collected from the students for amenities and services for the students themselves. In many cases they will have borrowed money to hand over to university administrators who may spend it in ways with which they may not agree. For all practical purposes, universities can only be made 'accountable' in ways which would satisfy an auditor. In other senses in which that term applies, they are free to satisfy only themselves. The committee majority believes that the view of the students, so long as they comply with the guidelines, should be binding.

1.44 Student representation was seriously degraded by the advent of VSU. A number of student representative bodies merged or disappeared completely following

58 *Submission 5* (DEEWR), Attachment 2; Ms Julie Owens MP, *House of Representatives Hansard*, 23 May 2007, p. 155.

59 Hon. Kate Ellis MP, *House of Representatives Hansard*, 11 February 2009, p. 874.

60 *Submission 3* (USU), p.2.

the introduction of VSU.⁶¹ The NUS pointed out to the committee that this bill will do nothing to reverse this decline in the influence of student representative bodies; it will more likely accelerate it.

... we are disappointed by this legislation. Student representation has been hit hardest by the introduction of VSU. This new law will not be good enough to restore the student voice on campus. It has long been our position that students should decide how their money is spent on campus and to politically organise to activate those views. They will not have the ability under the new legislation to do this. In fact, this law may act as a disincentive to voluntary membership on campus—voluntary membership that could fund an independent voice.⁶²

1.45 CAPA noted that staff and resources in these representative bodies declined to a large extent and that this was particularly true in relation to postgraduate students.⁶³ In evidence to the committee, CAPA also expressed concern about the processes of consultation which the universities would use to ascertain student requirements for particular services. It was pointed out that government-imposed changes to university boards of management precluded ex-officio student appointments, yet such people were an essential part of the process which is proposed in this bill. CAPA asked:

... is the university getting value for money for those appointments? ... I mean value for money in terms of student participation in university decision making. I think it is a real danger that, if left up to the university entirely, these kinds of representative appointments will be entirely unrepresentative. You will just have a random student plonked on a committee, with limited or no ability to engage with the student population broadly and no resources at all to develop an informed opinion. That is why we stress in our submission there is a link between access to independent advocacy and student representation.⁶⁴

1.46 The same complications that arise from conflicts of interest in the delivery of student advocacy services can also apply to student representation. This is because effective student representation requires independent student bodies which are free to speak out on relevant issues and to be critical of universities where necessary.⁶⁵ Moreover, student representation and student advocacy are closely linked and are maximally effective when combined. Student representation is one method of quality assurance for both students and university administrations.

Effective student representation is broadly informed by academic advocacy 'caseload' trends ... Institutions have an interest in ensuring the link between academic advocacy and independent representation is maintained,

61 *Submission 5* (DEEWR), p. 3.

62 Mr David Barrow, *Committee Hansard*, 4 March 2009, p. 15.

63 *Submission 33* (CAPA), p. 6.

64 Mr Nigel Palmer, *Committee Hansard*, 4 March 2009, pp. 35-36.

65 See, for instance, *Submission 34* (MUPRA), pp. 1-2; *Submission 19* (SUPRA), pp. 5-7.

especially if they are to genuinely embrace the notion of continuous monitoring and improvement of quality (as they are often heard to profess when the Auditors come to visit).⁶⁶

1.47 Some student organisations indicated that the expenses for student representation, including national representation, should be borne by universities, noting that the protocols for representation and advocacy indicate that universities must offer students opportunities for student representation.⁶⁷ These protocols are discussed further in the *Guidelines* section below. Similarly, others advocated that the costs of such representation be covered by the funds collected from the student services and amenities fee.⁶⁸

1.48 Student representation is an important voice for all university students. It has been severely undermined by VSU and needs to be re-established as a priority. It is important that student views and needs are considered in university processes and decisions. The committee majority agrees that democratic student representation is one of the democratic rights that 'underpin our nation and community'.⁶⁹ This should be properly reflected in the legislation, and in its consideration of the bill the Parliament should trust to the processes of democracy rather than to bureaucratic processes to satisfy the needs of the university community. The committee majority acknowledges that these processes may occasionally be messy and the outcomes contestable: rather like the processes of government at the national level.

Recommendation

1.49 The committee majority recommends that universities, in taking responsibility for the management of the fee levy, be required to accept the advice of student representative bodies in regard to expenditure priorities and disbursement of funds, as determined by the student bodies and insofar as student body determinations comply with the Guidelines.

International students

1.50 A significant number of university students in Australia today are full fee-paying international students. They bring significant revenue into Australia. One witness, the National Liaison Committee for International Students (NLC), stated that approximately 25 per cent of public education institution funding comes from international students' fees. As the NLC noted in its submission:

66 *Submission 33 (CAPA)*, pp. 6-7.

67 *Submission 31 (La Trobe University SRC)*, p. 2; *Submission 19 (SUPRA)*, pp. 12-13.

68 *Submission 21 (ASEN-NUS Environment Dept)*, p. 6.

69 Hon Kate Ellis MP, *House of Representatives Hansard*, 11 February 2009, p. 874.

with international education contributing \$13.7 billion to the Australian economy last financial year, it has now become the largest service export for Australia. Particularly in this current global financial crisis, increasing Overseas Students' fees will decrease Australia's competitiveness in the international education market.⁷⁰

1.51 The NLC believed that international students should be exempted from a student services and amenities fee because they already pay full fees. In its written submission, the NLC claimed that international students appeared to be subsidising campus services and amenities for all students because many of these services had not disappeared after VSU; the NLC argued that, as international students were still paying for services and amenities while domestic students were not, it was international students' fees which were funding the ongoing services and amenities available on university campuses.⁷¹

1.52 This line of argument disregards the redirection of funding away from the core university areas of teaching and research. Nor does it take into account the sometimes considerable reserves that student organisations drew upon in order to continue much-needed student services following the introduction of VSU.

1.53 In oral evidence, the NLC stated that international students want clarification on whether they are being charged services and amenities fees twice; this was referred to as 'double dipping.' CAPA also notes that universities can currently charge international students a compulsory amenities fee and often do so.⁷² To end this practice, if it is indeed occurring, the NLC recommended that all fees charged to international students be itemised so that the intended purposes of the different subcomponents of fees are clear. The committee requested further information from the Department of Education, Employment and Workplace Relations regarding this issue. In response, the department noted that universities can charge tuition fees which include the costs of providing the services that are required under the Education Services for Overseas Students Act. However, the department assured the committee that there is no duplication of services and amenities fees for international students, and denied that there is any provision in the bill which would result in an international student paying two sets of service and amenities fees. The act currently prohibits charging any student, including an overseas student, a compulsory fee for non-academic service. As a DEEWR official explained:

The act provides that a provider can include within the tuition fee for an overseas student the costs of the provider meeting their obligations under the Education Services for Overseas Students Act. So the cost of providing the things that have to be provided under the national code under that act can be bundled into the tuition fee ... the national code is largely about providing access to services rather than providing the services themselves.

70 *Submission 24 (NLC)*, p. 4.

71 *Submission 24 (NLC)*, pp. 4-9.

72 *Submission 33 (CAPA)*, p. 14.

In the guidelines for the fee, under this bill, we say that in respect of special services for overseas students they have to be over and above what is required under the national code.⁷³

1.54 Two submissions indicated that international students are not receiving value for money by way of specialised student services of the kind required by foreign students, particularly in view of the high fees they are paying. NLC noted that there are insufficient student services specifically aimed at the needs of overseas students and that these services are becoming harder to access. NLC believed there is no justification for another fee in addition to what international students are already paying⁷⁴ and stated:

NLC can see no reason to justify the payment of additional service fees outside of the ESOS Act, when the ESOS Act defines that International Students are already paying for their own services.⁷⁵

1.55 The committee is concerned that these complaints may lead to a significant decline in the numbers of overseas students who choose to study here. Evidence to the committee also indicates that many foreign students suffer severe depression while studying in this country, and are in need of strong support groups and counselling.⁷⁶ The committee recommends that part of the student services and amenities fees which are collected from overseas students is directed towards international student organisations to fund student services which are for the benefit of international students.

1.56 Australia has much to gain from encouraging international students to study here, not just financially but culturally also. In order to be an attractive option for overseas students, Australian universities must have well-developed and accessible student services and amenities.

Institutions and government also have an interest in maintaining a quality student experience, not least in ensuring that our universities remain attractive destinations for prospective students from overseas. If we want to sustain a world class higher education system, we need to be clear that world class student support services and representation form part of that goal.⁷⁷

1.57 The committee majority believes that the needs of international students should be taken into account by the wider student community, of which they are part. This is a matter for the student bodies themselves, but ought to be a permanent agenda item in consultations between vice-chancellors and student bodies.

73 Mr Rod Manns, *Committee Hansard*, 4 March 2009, p. 99.

74 See, for instance, *Submission 24* (NLC), pp. 5-8; *Submission 33* (CAPA), p. 3.

75 *Submission 24* (NLC), p. 8.

76 Mr Mark Choo, *Committee Hansard*, 4 March 2009, p. 52.

77 *Submission 33* (CAPA), p. 3.

Regional universities

1.58 A number of submissions indicated that the adverse effects of VSU have been felt more strongly at rural and outer metropolitan university campuses than at inner metropolitan campuses.⁷⁸ For instance, the NUS cited the impact upon the various campuses of Royal Melbourne Institute of Technology.

The impact of VSU continue[s] to be hardest felt on the smaller outer suburban campuses at Bundoora and on the TAFE campuses, where services have been drastically reduced.⁷⁹

1.59 Yet, as indicated in a joint submission from the Vice President of the Student Representative Council of Charles Sturt University, Bathurst, and a student member of the Charles Sturt University Council, all university students have right of access to student services and amenities of a relatively uniform standard, regardless of the location of the universities that those students attend.⁸⁰

1.60 Smaller campuses have fewer students and ultimately, less funding. The NUS notes that there are large differences between the amounts of discretionary funding available in small, regional universities compared with, for example, the Group of Eight universities. 'This builds further structural inequalities and disadvantages into the higher education system.'⁸¹

1.61 In addition, the services available at small, regional universities are usually less extensive than those available in larger metropolitan universities. For instance, regional campuses generally have fewer sporting facilities compared with larger universities.⁸² It can also be more expensive to provide student services on regional campuses but there is often more need for such services, given the more remote locations or limited services available off-campus in regional centres. Student organisations may reduce their costs by linking for-profit and not-for-profit services. A further complication affecting regional campuses is that student organisations (or university administrations) have fewer opportunities to link these different kinds of services. For these reasons, the NUS believed that student services and amenities on regional campuses are not sustainable without subsidy.

Varying fee levels

1.62 Proponents of VSU have always claimed that particular groups of student have fewer opportunities to access on-campus student services and amenities and that

78 *Submission 4* (UWA Student Guild), p. 10; *Submission 14* (Vines), p. 6.

79 *Submission 23* (NUS), p. 25.

80 *Submission 9* (CSU SRC-Childs), p. 1.

81 *Submission 23* (NUS), pp. 2-3.

82 *Submission 20* (AUS-ACUMA), p. 5.

it would be inequitable for such students to be forced to pay for these services.⁸³ Such groups include external students, part-time students and mature age students, all of whom may not spend significant amounts of time at university.

1.63 The committee majority believes that one option to address this problem is to set more than one level of fee to be charged. The level of fee could be based upon the status of a student, whether external or part-time, or some other category. This model was operational at the University of New England before VSU was introduced. Furthermore, this flexible model is more suited to the changing demographics of university students.⁸⁴

1.64 In accordance with the principles of university autonomy, it should be the university administration's responsibility to set what level of fee each student should justifiably be charged. The university should also be free to adjust the level of the fees where it feels it is necessary, according to the use of services and amenities by individual students.

Guidelines

1.65 The bill stipulates that funds from the collection of a student services and amenities fee may not be directed towards activities such as the support of political parties or support for the election of a person to Commonwealth, state (or territory) or local governments.

1.66 Following referral of the bill to the Senate for inquiry, the government released more detailed draft guidelines, comprising the *Student Services and Amenities Fee Guidelines* and the *Student Services, Amenities, Representation and Advocacy Guidelines* (detailing the *National Student Representation and Advocacy Protocols* and the *National Access to Services Benchmarks*). Copies of these documents can be found in Appendix 3. The *Guidelines* will be tabled as a disallowable instrument once the bill has passed.

1.67 The draft *Guidelines* indicate, among other things, the particular types of services and amenities for which universities may charge a student services and amenities fee. The government has also set out minimum standards with which universities receiving Commonwealth grant scheme funding must comply by 2010. The benchmarks which are set out in the *Guidelines* bring a balance to the service provision requirements for both international and domestic students. The Hon Kate Ellis MP, Minister for Youth, noted that:

...for the first time universities will be required to implement National Access to Services Benchmarks for all domestic Australian students – in

83 *Submission 16 (ALSF)*, p. 7.

84 *Submission 14 (Vines)*, p. 11.

line with current Benchmarks that already exist for our international students.⁸⁵

1.68 La Trobe University Students' Representative Council (La Trobe University SRC) welcomed the introduction of minimum standards relating to student advocacy and representation, noting the absence of any such national standards previously. On the other hand, students from Charles Sturt University believed that the national benchmarks in student service provision were the most exciting development to come from the review of the impact of VSU.⁸⁶

1.69 Some submissions indicated possible shortcomings in the guidelines and, in some cases, submissions included suggestions for improving the guidelines. The La Trobe University SRC cautioned that the protocols were quite broad and that there would be variations in interpretation of them across institutions. Similarly, the protocols fail to provide for adequate student representation because they do not require those universities currently without student organisations to create such bodies. The University of Melbourne GSA pointed out a possible discrepancy in the guidelines; that is, while universities are required to support and provide opportunities for student representation, there is no requirement for universities to fund such representation. In relation to this issue, La Trobe SRC claimed that:

... whilst the protocols fail in their attempt to ensure adequate representation for students[,] the guidelines are much more concerning in that they outlaw adequate student representation from being funded by the proposed \$250 student services fee. ... This means that all the government claims to wanting to ensure adequate student representation are hollow.⁸⁷

1.70 The committee majority assumes that there will be continued consultation about refinements to the *Guidelines* in the light of experience. This committee will take a continued interest in the scrutiny of the *Guidelines*.

Conclusion

1.71 There is strong support from universities and students of the need for a student services and amenities fee to revitalise student services and amenities and reverse the destructive effects of VSU. The committee majority notes the strong comments that the Vice-Chancellor of Monash University, Professor Richard Larkins, made at a universities conference on 4 March 2009, in which he described the decision to abolish compulsory fees as 'outrageous' and the worst example of government intervention into university autonomy he had seen. Professor Larkins explained that VSU directly impaired the ability of universities to deliver quality education and research because of the need to divert funding which would otherwise

85 Hon Kate Ellis MP, *House of Representatives Hansard*, 11 February 2009, p. 874.

86 *Submission* 31 (La Trobe University SRC), p. 1; *Submission* 9 (CSU SRC-Childs), p. 1.

87 *Submission* 31 (La Trobe University SRC), p. 2.

be allocated for teaching and research.⁸⁸ The committee majority sees no alternative but to reverse this absurd situation, which was foreseen by all objective observers and vice-chancellors.

1.72 The committee majority supports this bill, with caveats which are expressed in its recommendation. It agrees with the cap on the service levy, which is generally affordable, but will discourage expenditure on amenities like ski lodges which are beyond the means of most students to use. Finally, the committee majority sees the challenge of implementation to lie in the processes of consultation between university administrators and student bodies. In the light of charges of excessive managerialism which were justifiably made against successive Coalition education ministers in their treatment of universities, it trusts that similar excesses will not be observed in the way universities deal with student representative bodies in decisions about the provision of services and amenities.

Senator Gavin Marshall
Chair

88 Yuko Narushima, 'Research, teaching funds paid for services', *Sydney Morning Herald*, 5 March 2009, p.6.

COALITION SENATORS' DISSENTING REPORT

1. Executive Summary

1.1 This Bill represents a return to compulsory fees being levied on university students for non-academic purposes. It is another in a long line of broken election promises from the Labor Government.

1.2 The previous government enacted the *Higher Education Support Amendment (Abolition of Up-Front Compulsory Student Union Fees) Act 2005* to relieve university students of the financial burden of upfront amenities fees and the compulsion to join a student union. Previously, students were forced to fund student unions and services irrespective of whether they wished to join the union, or use the services provided.

1.3 This Bill represents a backward step in that it:

- Reintroduces compulsory student unionism through students being forced to fund the activities of student unions;
- Slugs students with a compulsory fee regardless of their need or even ability to access the services it purportedly funds, and regardless of their means;
- Almost certainly ensures the return of compulsory levies funding and supporting marginal and extreme political activities.

2. Labor's broken promise

2.1 In her Second Reading speech on the *Higher Education Legislation Amendment (Student Services and Amenities, and other measures) Bill 2009* the Minister for Youth, the Hon Kate Ellis MP, claimed that the government was delivering on an election commitment to “*rebuild important university student services and to also ensure that students have representation on campus*” through reintroducing compulsory non-academic fees.

2.2 The Minister is using a selective version of the history on this matter as the introduction of this legislation represents the clear breach of a Labor commitment.

2.3 Labor's election promise was both in principle and in detail – rejecting both the reintroduction of non-academic fees as well as any form of loans scheme to fund them. The then Shadow Minister for Education and Training Stephen Smith MP was explicit about this on 22 May 2007:

*"... I'm not considering a compulsory HECS-style arrangement and the whole basis of the approach is one of a voluntary approach. So I am not contemplating a compulsory amenities fee."*¹

¹ Mr Stephen Smith MP. Transcript of doorstep interview; Parliament House, Canberra; 22 May 2007

2.4 This legislation breaches both of these election commitments. The fee outlined in the Bill will be dedicated to non-academic services, it will be universal and compulsory, and it will be paid off in the very 'HECS style' arrangement that Mr Smith had explicitly ruled out.

2.5 This legislation therefore represents a clear and unambiguous breach of a specific election commitment by the Labor Party.

3. Slugging students

3.1 This legislation represents a substantial increase to students of the cost of undertaking a course of higher education.

3.2 As the fee is indexed along with accumulated loans, it increases in nominal value and adds additional time to the period taken to repay student loans.

3.3 If, as expected, Universities levy the full \$250 fee allowed by the Bill, it will likely represent nearly \$1000 additional for the shortest 3 year degree course. For a more expensive 5 year degree, the total cost of the fees when deferred approaches \$2000.

4. No evidence of need

4.1 The government has not demonstrated a need to reintroduce compulsory fees for non-academic services. Students have neither clamoured for the reintroduction of compulsory fees nor turned away from Universities on the account of the purported decline in services since the introduction of VSU.

4.2 The committee heard evidence from the University of Queensland Union that student bodies have been able to continue to provide services to students since the abolition of up-front fees in 2005.

Mr Young—In short, instead of shrivelling and dying, as was predicted by those with vested interests, we have actually increased the services that we offer and are flourishing under a VSU environment... More importantly, it is also in the interests of students, because they have the opportunity to enjoy a vibrant campus culture as well as representation without the need to be slugged \$250 for it.

The introduction of voluntary student unionism has forced student bodies to provide a more efficient and attractive service to students in order to attract and increase membership.

4.3 Coalition Senators believe that the failure of some organisations to adapt should not be seen as a failure of VSU, rather it is a failure of the organisation to adapt to the need to attract students' support. Again, this was supported by the experience of the University of Queensland Union:

Mr Young—The fact of the matter remains: many student union organisations throughout Australia have failed to address the underlying inefficiencies in their own organisations, have failed to listen adequately to what students want—and this is reflected in the very low voter turnout and membership rates of these organisations—and have lacked the entrepreneurial and hardworking spirit to turn things around. We are now in a situation where we can do one of two things: we can force students to cough up \$200 and endorse the poor and wasteful management that has existed and still exists within student organisations, or we can go back to a system that works and is fair to students. Again, I view the former to be in the interests of student unions and the NUS but definitely not in interests of students in general.

4.4 Coalition Senators believe that non-academic services provided on campus should be funded by students who choose to and are able to utilise them and that VSU need not to threaten the provision of such services; indeed properly managed it will make them more responsive to students' needs.

4.5 Where there is a shortfall in revenue for the provision of these services, the Coalition believes that there is no justification to make this up by levying all students, including those who do not, or cannot use these facilities. This was supported by evidence tendered by the UQ Union.

Mr Young—If the university wants to have services and amenities to attract more students to that campus, they really should fund it themselves.

4.6 Coalition Senators believe that if we can trust students to choose the university course they undertake and their study and work arrangements, it is ridiculous to argue that they are incapable of choosing which non-academic services they need to access and make the choice accordingly.

4.7 Furthermore, doubt remains as to the ability of the great bulk of students to access the services funded from the fees that this Bill will see levied. It would be unfair to levy all students a fee to subsidise facilities or services that were incapable of actually being accessed by the great bulk of students.

Such services or facilities might include exclusive sports facilities or services that are tightly rationed or limited in terms of the numbers of students who may access them.

5. Undermining Freedom of Association

5.1 Coalition Senators recognise that this Bill provides only for fees to be levied by Universities. However, this does not represent a significant change from that which was in place prior to the introduction of VSU and it is misleading to claim otherwise.

5.2 In most cases prior to 2005, non-academic fees were similarly levied by the institution – with funds then being passed onto a student union, guild or association.

5.3 This legislation does nothing to limit funds being passed on in this way. It simply seeks to limit the purposes for which fees may be levied.

5.4 [This represents a clear breach of the commitment to freedom of association. Students might not be actually forced to formally join a student association in order to attend university, but they still have to pay a compulsory fee, which a University then passes to a student association. It is farcical to argue that students are thus not forced to support a union regardless of their wishes.]

5.5 The attempt by the Government and various vested interests to claim this Bill represents a radical change from the administrative arrangements that existed prior to VSU is sophistry aimed at concealing the truth – students will once again be required to contribute to the activities of student unions.

6. Inadequate protection against political activity

6.1 This key principle of freedom of association is further threatened by the Bill's inadequate protections against the collected monies being used to support political activity.

6.2 While both the Bill and the Student Services and Amenities Guidelines, prohibit the spending of monies collected from the fee '*to provide support to a political party or to support a candidate for political office*'² this does nothing to limit the use of the fees for other political activities or the revenues gained from the services supported by the fees being used on activities that are partisan in nature.

6.3 Although institutions and other entities that receive compulsory non-academic fee funds from the institution will be restricted from directly funding political parties or candidates for public office, funding to other campaigns of a political nature by third-parties that casually assist particular parties or candidates will still be permissible.

6.4 Under what has been described as the former Victorian model, compulsory non-academic fees could not be used to fund the National Union of Students, but cross-subsidisation of commercial trading by student unions could result in revenues from 'subsidised' services ending up in the hands of overtly political organisations such as the National Union of Students.

6.5 Student unions will inevitably find ways to bypass the guidelines. Therefore the only way to prevent the unions from misusing the compulsorily acquired fees is to deny these fees to the unions altogether.

6.6 A number of the areas of the Guidelines lack sufficient specific detail to have confidence in them preventing inappropriate use of compulsory fees. The specific

² *Student Services and Amenities Fee Guidelines*, DEEWR

example of funding for legal services was raised during the hearings of the Committee:

Senator RYAN—I recall an incident quite a while ago where students held a protest. It reached a degree of violence, the police intervened and several students were arrested and charged. The student union legal services funded their defence or contributed to the funding of their defence. There is no restriction whatever on how these legal services can be used; it is just the provision of legal services, isn't it?

Mr Manns [representing DEEWR]—There is no further specification than is proposed there.

6.7 The Guidelines as released by the Department do not prevent compulsory fees being used for political purposes, although they propose restrictions on partisan activities.

6.8 Coalition Senators believe that both the Bill and the Guidelines fail to protect the basic right of freedom of association in that students will again be compelled to fund political activities through compulsory non-academic fees.

7. Inadequate mechanisms for students to scrutinise expenditure

7.1 Coalition Senators are also concerned that there is no provision for students to scrutinise those activities for which they are being compulsorily levied fees.

7.2 The National Student Representation and Advocacy Protocols do not contain any detailed requirements for student organisations funded out of the compulsory fee to be transparent.

7.3 Having no formal mechanisms in place to bring political expenditure to the attention of the minister gives students, particularly politically marginalised students, very little power to ensure political expenditure does not occur.

7.4 In the hearing, President of the National Union of Students David Barrow made it clear that students would not have a say in how the compulsorily acquired money would be spent.

Senator CROSSIN—I see. How will students guarantee that the moneys are well spent under this legislation?

Mr Barrow—That is our argument—that is, that students have no guarantee. If students do not have control of the funds then there is no guarantee that they will be spent wisely.

7.5 Coalition Senators agree with the sentiment expressed above – but believe that students should be viewed and treated as individuals and continue to be able to make their own, individual decisions about how their money is spent.

7.6 Under the proposed regime, the Minister is the only person with ability to police the Student Services and Amenities Guidelines and would be responsible for punishing institutions that fund activities outside the guidelines.

7.7 The discretionary power afforded to the Minister would make the ban on partisan political expenditure dependant on the Minister's whim.

7.8 The proposed regime does not guarantee that political expenditure will be visible, meaning students have little scope to hold their unions to account or ascertain what their compulsorily acquired fees will be spent on.

8. Labor cannot be trusted

8.1 In her second reading speech the Minister stated that "*universities that choose to levy a fee will be expected to consult with students on the nature of the service and amenities and enhanced advocacy that the fee would support.*"³

8.2 Coalition Senators have concerns about the ambiguity of this proposal. At no point in the guidelines does the Minister clarify which organisation or individuals will be consulted. This has the potential to lead to universities consulting small groups with pecuniary interests, with the great majority of students having no voice.

8.3 In a media release on 3 November 2008 the Minister said "*The Rudd Government will continue to work in partnership with universities and students.*"⁴ What this is likely to mean is that universities and those with vested interests in the fees, for example institutions, students organisations and student unions, will be consulted but the majority of students will have no say.

8.4 Coalition Senators believe that the Government has only consulted a narrow range of views and interests in making the decision to re-institute compulsory non-academic fees. This is shown by the Australian Democrats Youth Poll 2008 which stated that 59% of students surveyed believed compulsory fees should not be reintroduced.⁵

8.5 There are also concerns about the use of guidelines rather than legislation to provide the protections the Minister has outlined. The Government and some groups in favour of the legislation argue that the guidelines will provide robust protection against student money being used for political purposes.

³ The Hon. Kate Ellis MP, 'Higher Education Legislation Amendment (Student Services and Amenities, And Other Measures) Bill 2009 Second Reading Speech', House of Representatives, *Debates*, 11 February 2009

⁴ The Hon. Kate Ellis MP, *Rebuilding Student Support Services in our Universities*, 3 November 2008, accessed at <<http://www.kateellis.com.au/newsroom/86/>>, accessed 5 March 2009

⁵ The Australian Democrats, *Australian Democrats Youth Poll 2008*, accessed at <http://www.natashastotttdespoja.com/cms_resources/Youth%20Poll%202008%20final.pdf>, accessed 5 March 2009.

8.6 These guidelines are easily changed and this protection can be removed at the Minister's prerogative. Under the previous compulsory fee regime the National Union of Students spent more than \$250,000 on political campaigns in the period leading up to the 2004 election.⁶ It is impossible under a compulsory fee regime, regardless of the guidelines, to protect against students' money being used in this manner.

9. Conclusion

9.1 As a result of the introduction of Voluntary Student Unionism by the previous government, those organisations which were unable to meet the needs of students declined in membership. It is ironic that the current government seeks to reintroduce legislation to once again force students to fund inefficient and unresponsive organisations they would not otherwise join or support with their monies.

9.2 The introduction of VSU has not seen a collapse in student services or life on campus. It is patronising in the extreme to assume that students need a student union to enjoy a full university experience.

9.3 This Bill represents an attempt by vested interests to once again be able to rely on the force of law to compulsorily collect \$250 million from Australian students, to fund services and activities that students themselves will have no say over.

9.4 Furthermore, it represents a clear and unambiguous breach of a specific commitment by the Labor Party.

Recommendation

Coalition Senators recommend that the Bill be rejected.

Senator Gary Humphries
Deputy Chair

Senator Scott Ryan

Senator Michaelia Cash

Senator Mary Jo Fisher

Senator Brett Mason

⁶ Australian Electoral Commission, *Third Party Return of Electoral Expenditure for the Election held on 9 October 2004- National Union of Students*, accessed at <<http://electiondisclosures.aec.gov.au/return/12246/FAD06/34.pdf>>, accessed 5 March 2009

Additional Comments by the Australian Greens

Introduction

Given the incredibly short turn around time the Committee was expected to inquire, and produce a report into the proposed legislation, the Australian Greens commend the Chair and the Committee Secretariat on their efforts.

The impact of voluntary student unionism has been devastating for universities across the country, and has undermined the quality of student support services on campuses.

Despite welcoming moves to charge a levy to breathe life back into campus culture, the Greens have a number of outstanding concerns which we consider need to be addressed before student representation is well and truly restored.

Background

Student advocacy services are traditionally regarded by universities as a very important provision for campus culture and student life, particularly in ensuring there is an adequate transparency process when dealing with University appeals.

The loss of advocacy services following the implementation of the Higher Education (Abolition of Compulsory Up Front Student Union Fees) Act 2005 highlighted the devastating effect this had on campus culture, and advocacy services, particularly for those least able to advocate for themselves in matters affecting university rules and decisions which adversely affect them.

While the Australian Labor Party in Opposition pledged to restore campus amenities, services and representation, the Greens are concerned that the Rudd Government's *Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009* falls short of ensuring true independent student representation is restored.

Service delivery and the representative role of student organisations must be supported, yet at present, there seems no guaranteed direction as to how the proposed \$250 levy from each student will be spent.

The Greens believe student representation and academic advocacy can only be effective where it is truly independent. It is clear that this cannot occur where the university collects, and has discretionary control over, this proposed fee.

We will be calling on the Government to ensure that any mandatory fee that a

University imposes is only used for essential student services – and not general capital works individual campuses already receive funding for, or for upgrading poorly maintained facilities, which the Government must fund separately to bring them up to sufficient standard.

Support for Independent student representation and advocacy

In order to have true representation on university campuses, there needs to be a return to effective, well resourced advocacy and representation structures to handle essential student services.

Since VSU was introduced in 2005, funding has been slashed from crisis support, child care, counselling, sport, advocacy and more.

Student fees used to pay for student facilities, services, welfare, and a host of other programs that made university a richer and more diverse experience than it is now after the Government's changes.

The Greens are also concerned that the phrase “restricted political activity” will preclude advocacy on behalf of students to various levels of government on issues that concern quality of education and welfare.

Recommendation 1

The Greens recommend subsection 19-67(3) of the Bill that states “*the Students Services, Amenities, Representation and Advocacy Guidelines cannot require a provider to fund an organisation of students, or of students and other persons,*” be deleted.

Recommendation 2

The Greens further recommend that the Bill and the Guidelines be amended to ensure that all revenues from the proposed levy are independently administered by student representative bodies, to ensure there is sufficient transparency on where their money is going, and for what purpose.

Recommendation 3

If 100% of the levy is not independently administered by student representative bodies, the Greens recommend, at a bare minimum, that the Guidelines mandate Higher Education Providers to quarantine a minimum proportion of 40% of the proposed levy (on a per-head basis) to undergraduate, postgraduate, and international student services and representation respectively.

Recommendation 4

We recommend that all fees levied in support of the restoration of student services is open to scrutiny, accountability and transparency, to ensure that the funds are being appropriately managed and directed.

Recommendation 5

While the Greens support the notion that no student money should fund the activities or campaigns of individual political parties, we believe that the guidelines must be amended to allow for effective student advocacy and representation to universities and various levels of government, on issues that concern the quality of education and student welfare.

Recommendation 6

The Greens will not support any attempt to restrict funding for student media services across university campuses.

Independent review and complaints body

As the legislation and guidelines currently stand, it is up to the individual Higher Education Provider to determine where and how the student levy will be spent, after consulting with individual student bodies (where they exist). While this may sound reasonable in theory, the Greens believe that the Government should establish an independent review body to oversee how the proposed \$250 university levy is actually spent.

Key stakeholders like heads of student organisations and university bodies should be actively engaged to review how universities are actually spending the levy of up to \$250 they will receive from each student.

Recommendation 7

The Greens recommend that the Government fund an independent review body, to oversee:

- 1.) how the proposed student levy is being spent;**
- 2.) the level of engagement between individual Higher Education Providers and their student representative bodies;**
- 3.) an independent, accessible complaints body for students to utilise when they have concerns about how and where their fees are being spent**

Conclusion

The Greens have a proud tradition of supporting accessible and affordable higher education, and in principle support moves to remove the Howard government's draconian VSU provisions, to allow universities to again fund a wider range of services and facilities.

However we remain concerned that the Government's legislation will impose a new levy on students without students having a say in how that levy is actually spent.

The Greens are concerned that restrictions may remain preventing students from effectively advocating for their right to quality education and student welfare supports, to both university bodies and various levels of government.

The Greens will therefore be proposing changes to the legislation to remedy this situation, and as such, reserve the right to our final position on the bill when it is brought before the Senate.

Sarah Hanson-Young
Greens' Senator for South Australia

Appendix 1

Submissions received

Sub No.	Submitter
1	Mr. David Lenton, NSW
2	ECU Student Guild, WA
3	University of Sydney Union, NSW
4	UWA Student Guild, WA
5	Department of Education, Employment and Workplace Relations, ACT
6	Newcastle University Students' Association, NSW
8	UQ Union, QLD
9	Jonathan Childs, NSW
10	Name Withheld
11	QUT Student Guild, QLD
12	University of Melbourne Student Union, VIC
13	Name Withheld
14	Mr Timothy Vines, ACT
15	La Trobe University Postgraduate Association, VIC
16	Australian Liberal Students' Federation, ACT
17	Roshni Sharma, NSW
18	Tasmania University Union Inc., TAS
19	Sydney University Postgraduate Representative Association, NSW
20	Australian University Sport and Australasian Campus Union Managers' Association, QLD
21	Australian Student Environment Network / National Union of Students Environment Department, NSW
22	National Tertiary Education Industry Union (NTEU), VIC

- 23 National Union of Students, VIC
- 24 National Liaison Committee For International Students, NSW
- 25 Arc@UNSW Limited, NSW
- 26 NUS West, WA
- 27 University of Melbourne Graduate Student Association, VIC
- 28 Postgraduate Assoc. of University of Western Sydney (PAUWS), NSW
- 29 Flinders Campus Community Services (Flinders One), SA
- 30 Council of Australian Postgraduate Associations (Western Region), WA
- 31 La Trobe University Student Representative Council inc, VIC
- 32 Universities Australia, ACT
- 33 Council of Australian Postgraduate Associations (CAPA), VIC
- 34 Macquarie University Postgraduate Representative Association
(MUPRA), NSW
- 35 University of Sydney, NSW
- 36 Adelaide University Postgraduate Students' Association. SA

Appendix 2

Hearings and Witnesses

St James Court Conference Centre, Melbourne, 4 March 2009

Australasian Campus Union Managers Association and the Australian University Sport (ACUMA/AUS)

Mr Tom O'Sullivan, *Vice President, ACUMA (Australasian Campus Union Managers Association)*

Mr Don Knapp, *CEO, AUS (Australian University Sport)*

National Union of Students

Mr David Barrow, *President*

Mr Graham Hastings, *Research Co-ordinator*

Ms Stefanie Hinchy, *Education Officer*

Ms Caitlyn Ferris, *National Women's Officer*

Council of Australian Postgraduate Associations Incorporated

Mr Nigel Palmer, *President*

National Liaison Committee for International Students

Mr Mark Choo, *Communication Executive*

University of Queensland Union

Mr Joshua Young, *Administrative Committee Member*

Mr Benjamin Riley, *Undergraduate Student Representative*

Australian Liberal Students' Federation

Mr Byron Hodkinson, *President*

Department of Education, Employment & Workplace Relations

Ms Linda White, *Branch Manager, Higher Skills Branch*

Mr Rod Manns, *Branch Manager, Funding and Student Support Branch*

Ms Catherine Vandermark, *Branch Manager, Higher Education Quality Branch*

Appendix 3

Student Services and Amenities Fee Guidelines

The Student Services and Amenities Fee Guidelines ('the Fee Guidelines') will be a legislative instrument made under proposed amendments to the *Higher Education Support Act 2003* (HESA).

The Fee Guidelines will specify the purposes for which any compulsory services and amenities fee ('the fee') can be used; and prescribe the administrative arrangements for the fee, including those relating to SA-HELP.

The Fee Guidelines will apply to higher education providers that choose to charge the fee and that would also be required to provide access to SA-HELP. Individual higher education providers are expected to consult their student body on the specific uses of the fee within the guidelines.

Proposed amendments to HESA will require that providers must not spend the funds collected from the fee to provide support to a political party, or to support a candidate for political office. The amendments also impose a similar prohibition on any person (including organisation) who receives any such funds from the provider (in relation to the use of those funds).

The uses of the fee to provide student services and amenities will need to be over and above those services required by the **National Access to Services Benchmarks**.

The fee will also be able to be used for enhancements to academic support services that are over and above those required by the **National Student Representation and Advocacy Protocols** and are within the allowable uses of the fee.

Revenue from the fee may be used directly by the higher education provider or provided to third party services and amenities providers for the provision of allowable services for students.

Allowable uses of the fee in relation to services and amenities may include the categories listed below. In all cases the purpose would include but not be limited to, the direct provision of the service or amenity, the provision of infrastructure (including new construction) and subsidies that would reduce the price that students may have to pay.

(a) food and beverages;	Relating to the provision of food and beverage services available to students on campus.
(b) sports and recreation;	Relating to the support of sports and recreation activities for students.

(c) clubs and societies	Relating to the administrative support for student clubs and societies.
(d) child care;	Relating to the provision of child care services for students.
(e) legal services;	Relating to the provision of legal services for students, including for example, employment of legal officers and contributions to community legal centres.
(f) health care;	Relating to the provision of health care and welfare services, including non-academic counselling, for students.
(g) housing;	Relating to the provision of services to assist students to secure housing and accommodation.
(h) employment;	Relating to the provision of employment and career advisory services for students.
(i) financial services;	Relating to the provision of financial assistance services for students.
(j) visual arts, performing arts and audio visual media;	Relating to support for student visual and performing arts and audio visual media activities.
(k) debating;	Relating to the support for student debating activities.
(l) libraries and reading rooms;	Relating to the provision of services and support for libraries and reading rooms (other than the provider's academic libraries and student study areas).
(m) student media;	Relating to support for the production and dissemination to students of student media (including radio, television, newspapers, audio-visual media and internet publications).
(n) academic support;	Provision of specific skills training and advocacy services to assist with advice on matters arising under the academic and procedural rules and regulations of the higher education provider.

(o) personal accident insurance for students;	Relating to the provision of personal accident insurance for students.
(p) orientation information;	Relating to the provision of orientation information and activities over and above those required by the Access to Services Benchmarks .
(q) support services for overseas students; and	Relating to the provision of services for overseas students over and above those required by the <i>National Code of Practice (Standard 6 – Student Support Services)</i> and the National Access to Services Benchmarks (for example, welfare, accommodation and employment services targeting the specific needs of overseas students).

Items not included in the above list would require Ministerial and Parliamentary approval as an amendment to the Fee Guidelines (and be subject to Parliamentary disallowance).

Student Services, Amenities, Representation and Advocacy Guidelines

The Student Services, Amenities, Representation and Advocacy Guidelines ('the Guidelines') will be a legislative instrument made under proposed amendments to the *Higher Education Support Act 2003* (HESA). Higher education providers (HEPs) that receive funding under the Commonwealth Grant Scheme will be required to satisfy the Guidelines which detail the **National Access to Services Benchmarks**, relating to the provision of information on, and access to, student support services of a non-academic nature and the **National Student Representation and Advocacy Protocols**, relating to mechanisms for opportunities for student representation and access to advocacy services.

The Benchmarks and Protocols are intended to ensure that higher education providers give appropriate attention to a range of essential student support services and that enrolled students are able to participate in the decision making processes of the HEP through opportunities for democratically elected student representation.

Part 1 – National Access to Services Benchmarks

Part 1 of the Guidelines is the **National Access to Services Benchmarks**. These Benchmarks set out the services which HEPs are to provide information on, and access to, for enrolled students.

1. HEPs must provide an orientation program for all enrolled students.
 - a) An orientation program should be accessible to all enrolled students, including allowing for those enrolling at different entry points.
 - b) An orientation program may provide relevant information to enrolled Students in a number of ways. This might include electronically on the HEP's website, via email, SMS broadcasts or pod casts, in written or oral form.

HEPs must ensure that enrolled students are provided with information on and access to available:

- a) **Health services**

These services will include medical and emergency health services, mental health services and health-related counselling. HEPs must not charge students when making a referral to an external provider.
- b) **Welfare services**

These services will include services to assist with accommodation, financial matters, legal concerns and employment. HEPs must not charge students when making a referral to an external provider.

HEPs must ensure that where they provide services directly to enrolled students trained and qualified staff are engaged to meet the needs of enrolled students under each Benchmark.

HEPs are expected to consider the varying and differing circumstances of the enrolled student body in determining the level of support at a particular campus.

Part 2 – National Student Representation and Advocacy Protocols

Part 2 of the Guidelines is the National Student Representation and Advocacy Protocols.

These Protocols set out a framework that ensures there are opportunities for the interests of enrolled students to be considered in institutional decision making. These Protocols also aim to ensure that independent advocacy services are available to all enrolled students.

A HEP must provide enrolled students with the opportunity to participate in a process to democratically elect student representatives:

- a) Student representatives must be students enrolled at the relevant HEP.
- b) The form of student representation will be established through consultation between enrolled students at the relevant HEP.
- c) In meeting this obligation a HEP is to meet the necessary and reasonable costs of conducting valid and transparent polls for this purpose.

A HEP must publish the details of the mechanisms, approved by the governing body of that HEP, by which students would be consulted by the HEP.

- a) A HEP must consult with students to identify the best way of satisfying the Protocols at that HEP.
- b) A HEP must consult with students regarding the provision of non-academic services and amenities funded by the proceeds of a compulsory services and amenities fee.

A HEP must provide adequate and reasonable support resources and infrastructure for elected student representatives to carry out their functions on behalf of enrolled students.

A HEP must provide enrolled students with access to independent advocacy services in relation to matters arising under the academic and procedural rules and regulations of the HEP.