

COALITION SENATORS' ADDITIONAL COMMENTS

1.1 Coalition senators note the many concerns raised throughout submissions to the Student Identifier Bill 2013, most of which are outlined in the majority report. These concerns include:

- Increased workload and regulatory burden
- Incompatible systems
- Inconsistent data collection
- Privacy concerns, and
- Rushed process through parliament.

1.2 Whilst noting the potential benefits to students, Coalition senators are aware of the administrative burden that this proposal could place on Registered Training Organisations, particularly smaller operators. As outlined in a submission by the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (DIICCSRTE), due to the mandatory nature of the student identifier and as set out in Clause 53 of the Student Identifier Bill, operators will be required to support the introduction of the student identifier in various ways by:

- restricting the issue of a VET qualification or statement to an individual unless a student identifier has been received;
- validating a student identifier given by a student with the agency;
- ensuring the security of the student identifier and related personal information; and
- recognising transcript issues by the new agency.¹

1.3 Coalition Senators are also aware of the duplication that exists in some states where a student number already applies, and would strongly recommend that the new agency established to oversee the implementation of the student identifier ensures that duplication is avoided.

1.4 Similarly, it is recognised that data matching and recording is not uniform across states and as such could add increased costs and complexity to the process as operators attempt to match and change existing systems and software. Some stakeholders also advised of inconsistencies associated with type of data collected, for example: in some cases registered training organisations submit the data of birth of a student to five different government departments in four different date formats.

1 Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education, *Submission 14*, p. 13.

1.5 Coalition Senators support the initiative to harmonise student data collection across jurisdictions but take seriously claims that there is still work to be done prior to implementation. We support the use of modern technology to ensure that the system is fully automated to ease the burden on stakeholders, while also ensuring data security.

1.6 During the Senate Inquiry submitters expressed concern that all accredited courses will be required to be recorded against the Unique Student Identifier. According to Blue Dog Training, courses such as the Responsible Service of Alcohol and General Construction Induction course (White Card) are delivered face to face or online in approximately half a day or less and accordingly, short courses that are not attached to qualifications or certificates should be exempt.² Coalition Senators would like to see the Bill amended to apply a student number only to Certificate Three courses and above.

1.7 Coalition Senators are aware that the implementation of a Unique Student Identifier may see a number of students opting for non-accredited training instead. One such example would be the fertiliser training provided to farmers, where they are more concerned about the information than the educational outcome.

1.8 Coalition Senators are aware of concerns raised during the inquiry relating to the collection of information, storage security and the interaction between the Privacy Act and the Student Identifier bill. Victoria Police are concerned about the collection of information which provides demographic data on officers undertaking police training being made available to a range of sources, and are currently negotiating alternative training data collection for policing.³

1.9 This view was further highlighted by a submission from The Police Federation of Australia:

The Bill indicates that personal information may be disclosed for the purposes of research related to education and training. The potential distribution of USI data to additional external agencies presents a further risk to the privacy of police officers.⁴

1.10 Coalition senators take matters of privacy very seriously: as more data is being collected on citizens more often and by more organisations, the role of government needs to be clear and consistent. That is why the process of Parliament is to ensure the rights of citizens are not diminished by the actions of government. It may be appropriate to apply an anonymous code instead of a name such as the health care identifiers to ensure that these privacy concerns are adequately addressed.

1.11 Although the Privacy Commissioner noted that the bill's alignment with the *Privacy Act 1988* (Cth) provided adequately for the protection of privacy, the Commissioner submitted that the current drafting of subclause 22(2) may require

2 Bluedog Training, *Submission 7*.

3 Victoria Police, *Submission 12*.

4 Police Federation of Australia, *Submission 11*.

amendment to ensure that relevant entities mentioned in the bill are effectively covered under the Privacy Act. As such, the Privacy Commissioner made the following comment:

The OAIC believes that to ensure the correct interaction between the Privacy Act and the SI Bill and to ensure that Subclause 22(2) achieves its purpose, it should be amended to say: 'an act or practice of an entity that contravenes section 10, 15 or 16 is the subject of an investigation by [replace with: 'a complaint to'] the Information Commissioner under Part V of the Privacy Act'. This would then allow for the full use of the Commissioner's powers under Part V of the Privacy Act.⁵

1.12 The Senate Standing Committee for the Scrutiny of Bills considered the bill and sought clarification and advice from the Minister for Tertiary Education, Skills, Science and Research, the Hon. Craig Emerson MP, on a number of clauses. These address the delegation of legislative power (Clause 21); merits review for refusing to provide a student access to their USI (Clause 25); the delegation of legislative powers (Clause 53); and provisions for the delegation of legislative power incorporating material by reference (Clause 57).⁶

1.13 The Parliamentary Joint Committee on Human Rights has also examined the bill and concluded that '...the bill promotes the rights to education and to work and any limitations on those rights are reasonable.'⁷ However, that committee sought clarification from the Minister for Tertiary Education, Skills, Science and Research on how provisions relating to the collection, use and disclosure of USIs are consistent with the right to privacy.⁸ The committee also sought clarification of the circumstances in which exemptions to the requirement for a USI are permitted under the bill.⁹

1.14 In line with the practice of good governance Coalition Senators believe that the legitimate concerns raised by these committees need to be addressed by the relevant Minister prior to the passage of this Bill.

1.15 As a result of these concerns, Coalition senators make the following recommendations.

5 Office of the Australian Information Commissioner, *Submission 9*, p. 3.

6 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 5 of 2013*, pp 88–92.

7 Parliamentary Joint Committee on Human Rights, *Sixth Report of 2013: Bills introduced 18–21 March 2013. Legislative Instruments 16 Feb – 19 April 2013*, p. 65.

8 Parliamentary Joint Committee on Human Rights, *Sixth Report of 2013: Bills introduced 18–21 March 2013. Legislative Instruments 16 Feb – 19 April 2013*, p. 70.

9 Parliamentary Joint Committee on Human Rights, *Sixth Report of 2013: Bills introduced 18–21 March 2013. Legislative Instruments 16 Feb – 19 April 2013*, pp 65, 68.

Recommendation 1

1.16 Coalition senators recommend that the Bill be amended to include only those courses at Certificate 3 and above.

Recommendation 2

1.17 Coalition senators recommend that clause 21 of the Bill be amended to ensure that individuals are protected, as highlighted by submissions received from stakeholders, including law enforcement agencies.

Recommendation 3

1.18 Coalition senators recommend that subclause 22(2) in the Bill be amended in line with the recommendations of the Privacy Commissioner.

Recommendation 4

1.19 Coalition Senators recommend that the Bill be delayed until the response from the Minister is received and considered by the Scrutiny and Human Rights committees with respect to the concerns regarding data collection, storage and dissemination and the issues around consent.

Senator Chris Back
Deputy Chair

Senator Bridget McKenzie