

EDUCATION, SCIENCE AND TRAINING

SENATE LEGISLATION COMMITTEE - QUESTIONS ON NOTICE 2004-2005 BUDGET ESTIMATES HEARING

Outcome: 3
Output Group: 3.3 – AEI Group

DEST Question No. E166_05

Senator Carr provided in writing.

Question:

Since the Department has had the opportunity to examine the USAFTA in detail, are you able to provide any further advice on the implications for the education sector?

In particular, is there any scope whatsoever for a US education provider to gain access to public subsidies as a result of the agreement; and what are the implications for education providers of extending copyright from 50 to 70 years? Has any financial impact modeling been undertaken?

Answer:

Advice on the implications for the education sector

The Australia-United States Free Trade Agreement (AUSFTA) covers education services mainly in the Chapter on Cross Border Trade in Services. The Agreement does not cover public education or any primary level education.

There is no obligation under the AUSFTA for either party to make subsidies or other forms of public funding available to service suppliers of the other party. The provision of subsidies and grants is explicitly excluded from the scope of the chapter on Cross-Border Trade in Services. The Agreement will not provide any right for a US service provider to gain access to Australian public funding.

The key obligations of the chapters on Cross-Border Trade in Services and Investment, namely National Treatment and Market Access for service suppliers and National Treatment for investors, guarantee continued liberal conditions for the supply of education services to the United States (US), including through commercial presence in the US. This means that under the FTA, the US is offering substantially better commitments on services sectors, including education, than it has offered under the General Agreement on Trade in Services and is a positive outcome for Australian education providers operating in the United States.

The Agreement includes a side letter that establishes a framework to promote the mutual recognition of professional services qualifications which is a positive outcome for Australian professionals working and doing business in the US. This includes setting up a working group on professional services through which Australia will be able to pursue the recognition of Australian qualifications, as well as of experience, examination and other requirements, for Australian professionals. Outcomes in this area would enhance the attractiveness of Australian university degrees and other educational qualifications.

The AUSFTA will not affect in any way the ability of Australian governments, at any level, to provide public services. Nor will it affect in any way the right of governments to establish and enforce standards applying to educational institutions including through the accreditation of institutions or courses and quality assurance procedures. This is explicitly recognised in a

side letter to the Agreement on education and means that Australia's current strong quality assurance and regulatory frameworks will not be compromised.

Finally, the US has also agreed in a side letter to undertake a review of measures affecting cross-border trade in higher education in eighteen states, including measures that may be discriminatory. This review process will result in greater transparency and clarity for Australian services providers about the measures affecting them in a broad range of US states.

Overall, the FTA provides opportunities for Australia's education providers and professionals. At the same time Australia's education system is safeguarded by the exclusion of public funding, including grants and loans, and the side letter affirming that domestic regulations regarding education particularly on accreditation and quality assurance procedures take pre-eminence. Given this, we are confident that Australia's quality of education will not be compromised as a result of the Agreement.

Implications for education providers of extending copyright term from 50 to 70 years.

DEST has worked with a range of stakeholders from the education and research sectors to understand the provisions of Chapter 17 (Intellectual Property) of the AUSFTA.

The Department of Foreign Affairs and Trade have advised that Copyright term extension will be of some benefit to Australian owners of copyright whose term of protection will be extended. This includes educational institutions who create and invest in the production of copyright material and which will now have their works protected for a longer period.

The term extension will have no impact on material already in the public domain at the commencement of the Agreement. The Agreement does not require copyright to be restored to any public domain material.

As users of copyright material, educational institutions will still be able to access copyright material, including cultural material, under the existing exceptions in the *Copyright Act 1968*. The Agreement does not require the existing fair dealing exceptions for research or study to be reviewed or amended.

DEST has worked with the Attorney-General's Department (AGD) and Department of Communication, IT and the Arts (DoCITA) on developing legislation for the copyright aspects of the AUSFTA relating to limitations on liability for service providers.

Has any financial impact modelling been done?

Independent research by the Centre for International Economics (CIE) was commissioned by the Department of Foreign Affairs and Trade and has the advantage of being based on the final terms of the Agreement. The CIE found that extending the copyright term by 20 years may in some instances impose costs on consumers, however these costs are unlikely to be significant.