

## CHAPTER 2 - ISSUES RAISED IN EVIDENCE

2.1 Evidence presented to the Committee ranged from support for the cessation of the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act on 1 January 1999, for a 12 month or three year extension of the Act, to the continuing operation of the Act. A number of perceived problems with the Act in its present form were raised with the Committee along with proposals for greater self-regulation of the international education services industry.

2.2 The Committee heard that while the education and training industry contributes in excess of \$3 billion a year to Australia's economy it also brings a number of intangible benefits that cannot be measured such as developing contacts for future trade, progressing ideas and contributing to Australia's international standing.

2.3 The education and training industry is an important and valuable industry for Australia, and the Committee heard it requires the continuing support that the existing cooperative framework between the Commonwealth, state/territory governments and industry affords. The Committee heard that the ESOS Act is the key national element in this cooperative framework.

2.4 The Committee also believes there is still some risk that a small number of unscrupulous providers may undermine the integrity of the education services provided by all Australian providers, including public institutions.

2.5 While there were calls for greater deregulation of the sector the Committee also heard an opinion that the industry is not yet able to provide the universal protection necessary to protect Australia's international reputation.

2.6 DEETYA advised the Committee that in the absence of the regulation provided by the Act there is a risk of a return to the environment which existed before the introduction of the Act, including the financial collapse of providers and the potential use of taxpayers money to refund overseas students. DEETYA also advised that the national register, known as the Commonwealth Register of Institutions and Courses for Overseas Students, and the financial and tuition guarantee provisions in the ESOS Act ensure that Australia's international reputation is not damaged.

2.7 DEETYA is of the view that in the absence of the national register there could be a risk to the integrity of Australian education which could impact on student demand for places. Accordingly, education services for overseas students cannot solely be viewed in terms of markets or by analogy to other industries. The provision of education services involves complex interactions and is not a simple commodity exchange.

2.8 The Australian Council for Private Education and Training (ACPET), and several other witnesses, referred to the factors currently impacting on Australia's education export industry which they predict will result in an estimated 40 per cent downturn in the overseas market. However, Government figures show that the number of overseas students studying in Australia in 1998 is 1.4 per cent less than in 1997. These factors include:

- the recent Asian economic currency crisis;
- publicity given to the statements emanating from One National Party;

- · the lack of a coordinated national marketing promotion; and
- · continual changes and additions to regulatory compliance.

2.9 The Committee notes that in addition to these issues, a number of matters raised in evidence and in submissions are beyond the scope of this inquiry and will be referred to in point form at the end of this chapter as items for further consideration. The Committee would, however, like to comment on each of the following issues:

### **Regulation of the education export industry**

2.10 In past inquiries, the Committee has heard evidence that the education export industry was too regulated. While the Government has addressed this issue, several witnesses still expressed concern about the extent of industry regulation. The Committee heard that regulation of education services was a key factor amongst overseas students, with some 70 percent of students saying that levels of protection afforded by government was a factor of which they were aware. DEETYA advised that not only was the level of protection offered important but that if it became widely known that the government was thinking of removing those protections it could have an adverse effect on the reputation of Australia's education and training industry overseas.

2.11 ACPET, which represents some 80 per cent of all Australian private education services providers, noted that while publicly funded providers, consisting primarily of all universities, TAFEs and schools, were exempt from the regulatory provisions of the ESOS Act , its member had to comply with a plethora of different state and Commonwealth regulations, including

- · mandatory compliance with multiple variations of competency based training curricula;
- · mandatory compliance with an internationally unrecognised Australian qualifications framework;
- · mandatory state/territory and Commonwealth charges for CRICOS;
- · mandatory TAS or insurance cost;
- · mandatory annual trust account audits;
- · mandatory compliance with revised quality registration;
- · changes in the export market development grant;
- · increasing Australian Vocational Educational Education and Training Management Information Systems Statistics compliance and multiple other government agency statistical returns; and
- · mandatory compliance with training packages.

2.12 Private providers who operate across Australia are required to comply with nine different government regulatory frameworks and interpretations of policy. Furthermore, in the Commonwealth sphere, providers are subject to policy directives from not only the Schools and Vocational Education and Training Minister and the Higher Education Minister, but also from the Immigration and Multicultural Affairs Minister and Trade Minister.

2.13 The Committee recognises that few providers operated in more than one state at the time when much of the regulatory framework was being devised, and that the increasing burden of compliance has arisen with the growth of the industry across State boundaries over the past decade.

### **The education export industry and its Asian markets**

#### *The recent currency crisis*

2.14 Various figures were provided to the Committee about the probable impact of the current Asian currency crisis on the education export industry. The Committee notes that much of the decline is in the ELICOS and schools sector, with an increase in numbers being experienced in higher and vocational education.

2.15 One witness advised that there had been evidence of a decline in overseas student numbers from some Asian countries, including Taiwan and Korea, before the emergence of the currency crisis. While it was felt that the decline may have bottomed out with respect to some countries, various estimates were provided on the expected downturn in other markets, including an annual drop of around 20 per cent from Malaysia, 17 per cent from Thailand, 10 per cent from Hong Kong ; 22 per cent from South Korea, 3.9 per cent from Indonesia, combining in an overall reduction from the Asian region estimated at 5.5 per cent.

2.16 The Committee recognises that the relationship between economic circumstances and fluctuations in overseas student enrolments are complex and worthy of more comprehensive research and analysis.

#### *The 'One Nation factor'*

2.17 Several witnesses spoke of the impact of One Nation Party statements on Asian source markets, particularly their potential to affect Australia's image as an attractive study destination. While potential clients from some countries appear to have responded in an immediate and negative way to the 'One Nation factor', this does not appear to be the case for several other Asian countries.

2.18 The Committee heard evidence that during a recent IDP information day in Hong Kong, one in five students considering studying in Australia specifically asked not to receive information on Queensland. ACPET estimates that as a result of recent political events in Australia, a downturn in overseas students in the order of 20 per cent could be expected.

2.19 Witnesses from the ELICOS Association also stated that the 'One Nation factor' did not draw the same response from all Asian countries, observing that while the 'Taiwanese market went off almost immediately', the 'Japanese market tends to not take much notice of the actions of a One Nation party'.

2.20 Another witness concurred with this assessment, stating that while the 'One Nation factor' had had an adverse impact in Taiwan, Hong Kong and to a lesser extent Thailand, Indonesia and South Korea were more affected by economic factors.

2.21 The Committee believes that in order to counteract any negative images of Australia that may result from the coverage of certain political viewpoints in the Asian media, relevant

government authorities should be prepared to present a much broader picture of Australia, its institutions and culture to markets in Asian countries. A failure to do so may result in overseas students opting for alternative study destinations at great loss to Australia's economic, academic and social circumstances.

#### *New export markets*

2.22 The Committee also notes that there are a number of potential markets which are presently subject to restrictions, including China and South America. The Committee believes that, given the obvious economic, social and cultural benefits, the opening up new education export markets should be urgently addressed.

2.23 While the small increase in students from northern Europe choosing Australia as a study destination is welcome, the Committee believes that more efforts should be made to encourage students from the Asia/Pacific region to study in Australia.

2.24 The Committee believes that these factors all point to a climate of increased cost pressures and exposures to trading difficulties that increase the possibility of default on behalf of providers.

2.25 The Committee heard that during the current volatile period in many of Australia's major source markets it is important to maintain confidence in Australia's international education and training industry by maintaining a stable domestic environment.

#### **The effectiveness of Notified Trust Accounts (NTAs)**

2.26 While some witnesses expressed support for the maintenance of NTAs, particularly in the current climate, some criticism was levelled at the ability of trust accounts to provide sufficient financial protection to overseas students. Several witnesses also identified other problems associated with the administration of trust accounts.

2.27 Circumstances surrounding the collapse of several education service providers were detailed to the Committee, including instances where trust accounts were found to be empty following a collapse.

2.28 Witnesses indicated that there were a number of problems with the way in which trust accounts were managed. Problems which make the trust accounts an ineffective way of providing financial security, include

- · the infrequent auditing of accounts;
- · inadequate coverage of costs other than tuition fees that may be incurred by a student in the event that a provider closes (with the TAS having to cover the difference);
- · the tendency of operators to dip into the account when in financial difficulties with the result that no funds remain should the provider subsequently close; and
- · the impact of scholarships and half-scholarships for providers who have to take on students from a college that has closed.

2.29 Trust accounts can also place extra administrative burdens on education providers through

- · the difficulty in determining how much money should be in the trust account at any one time;
- · the difficulty in getting overseas agents to deposit the correct amounts into the fund; and
- · the current requirement to deposit 80 per cent of prepaid fees into the account which leaves an insufficient amount left to cover agent fees.

2.30 The Committee considers that the continued use of NTAs in their present form warrants further examination in the light of matters outlined above. Some Senators felt that consideration should be given to a centrally administered Notified Trust Account that would both remove the ability to inappropriately remove funds and relieve some of the administrative burdens placed on providers.

### **Administration of the ESOS Act**

2.31 Concerns were raised about the costs of administering the ESOS Act. ELICOS expressed the view that the examination of a full breakdown of administration costs may reveal areas where savings could be achieved. This could enable other more effective regulatory mechanisms, such as spot audits, to be implemented without placing an additional financial burden on the government or the industry.

2.32 ACPET raised concerns that some colleges discounted fees below that of the CRICOS registered fee, and that the quality of the tuition provided may become questionable. ACPET submitted that the Act was flawed in this regard. ACPET submitted that the level of collapses in the industry was hidden, as it is common for providers on the brink of collapse to be taken over by another college.

2.33 The impact of staffing cuts on DEETYA's ability to properly monitor compliance with the Act was a matter raised with DEETYA at the public hearing. While one witness expressed the view that 'the effectiveness of DEETYA...has changed in the last few years, no doubt due to funding aspects', other witnesses indicated that they had observed no change in the quality of service provided by the department.

2.34 Officers from DEETYA gave assurances to the Committee that they had been able to compensate for an almost 50 per cent reduction in staff responsible for the administration of the ESOS Act by operating more efficiently. Some members of the Committee remained unconvinced that the same level of service could be maintained by the department.

### **Issues for further consideration**

2.35 The Committee notes that, in addition to those briefly examined above, a number of issues which were raised in evidence and submissions also warrant further consideration by the Government in consultation with States and industry. These include:

- · lack of funding for research into the education export industry;

- · the current cost of student visas and its impact on the international competitiveness of the Australian education export industry;
- · lack of communication between regulatory authorities and Tuition Assistance Schemes on the continuing viability of providers;
- · the proposed removal of the exempt status from the Act;
- · the need to increase international student awareness of CRICOS;
- · the continuing need to address unethical marketing practices;
- · provision for easier alternative methods for students to recover debt;
- · the need to allow for students to be represented in debt recovery proceedings;
- · the proposal that courses run overseas by providers or providers in partnership with overseas agents be subject to CRICOS; and
- · the provision of clear guidelines for international students on how to raise complaints about providers for misleading or deceptive conduct.

2.36 In the light of these matters which require further consideration by the Government, the Committee sees some value in its continued oversight of this legislation. This oversight would include a progress report (in the year 2000) on the continuing need for regulation of the industry in its current form.

### **The Committee's recommendations**

#### **Recommendation 1**

2.37 That the Senate passes the Education Services for Overseas Students (Registration of providers and Financial Regulation) Amendment Bill 1998 without amendment.

#### **Recommendation 2**

2.38 That, as a matter of priority, the issues raised in this report be the subject of consultations between the Commonwealth, State and Territory governments and representatives of the education export industry, addressing in particular, the need for greater conformity between states on the issue of registration requirements.

#### **Recommendation 3**

2.39 That the Senate refer to the Senate Employment, Education and Training Legislation Committee for inquiry and report by no later than the last sitting day of the Autumn sittings 2000, matters relating to the operation of the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991.

John Tierney

Chair