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EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
REFERENCES COMMITTEE

(Subcommittee)

Reference: Higher education funding and regulatory legislation

FRIDAY, 17 OCTOBER 2003

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SENATE
EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
REFERENCES COMMITTEE

Friday, 17 October 2003

Members: Senator George Campbell (*Chair*), Senator Tierney (*Deputy Chair*), Senators Barnett, Carr, Crossin and Stott Despoja

Subcommittee members: Senators Carr (*Chair*), Crossin, Stott Despoja and Tierney

Participating members: Senators Abetz, Bartlett, Boswell, Buckland, Chapman, Cherry, Jacinta Collins, Coonan, Denman, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Forshaw, Harradine, Harris, Humphries, Hutchins, Johnston, Knowles, Lees, Lightfoot, Ludwig, Mason, McGauran, McLucas, Moore, Murphy, Nettle, Payne, Santoro, Sherry, Stephens, Watson and Webber.

Senators in attendance: Senators Carr, Crossin, Johnston, Nettle and Stott Despoja

Terms of reference for the inquiry:

To inquire into and report on:

- The principles of the Government's higher education package
- The effect of these proposals upon sustainability, quality, equity and diversity in teaching and research at universities, with particular reference to:
 - The financial impact on students, including merit selection, income support and international comparisons;
 - The financial impact on universities, including the impact of the Commonwealth Grants Scheme, the differential impact of fee deregulation, the expansion of full fee places and comparable international levels of government investment, and
 - The provision of fully funded university places, including provision for labour market needs, skill shortages and regional equity, and the impact of the 'learning entitlement'.
- The implications of such proposals on the sustainability of research and research training in public research agencies
- The effect of this package on the relationship between the Commonwealth, the States and universities, including issues of institutional autonomy, governance, academic freedom and industrial relations
- Alternative policy and funding options for the higher education and public research sectors

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Subcommittee met at 8.34 a.m.

CHAIR—I declare open this public hearing of the Senate Employment, Workplace Relations and Education References Committee. On 26 June 2003 the committee was asked by the Senate to inquire into the policy and principles underlying the government's higher education package, as set out in the ministerial statements entitled *Backing Australia's Future*. The committee was asked to consider the effects of these proposals in the light of the government's stated intention to deliver policies characterised by sustainability, quality, equity and diversity. The committee is examining the implementation of these objectives, with particular reference to the financial impacts on universities and students. This includes consideration of radical initiatives in fee deregulation and the expansion of full fee paying places, both of which are consequences of changes to the Commonwealth Grants Scheme.

Other issues covered in the terms of reference include the effects of the proposals on research policy and funding, university governance issues, academic freedom and industrial relations. Legislation to implement the government's policy has only recently been introduced, although the committee is due to report to the Senate on 7 November. It is highly likely that the deliberations of the committee and the findings it will produce will have a significant effect on the shape of the legislation if it is to pass the Senate.

This hearing is being conducted by a subcommittee of the Employment, Workplace Relations and Education References Committee. Before we commence taking evidence today, I state for the record that all witnesses appearing before the subcommittee are protected by parliamentary privilege with respect to their evidence. This protection goes to special rights and immunities attached to the parliament and its members to allow them to carry out their duties without obstruction. Any act by any person which may disadvantage a witness as a result of their giving evidence to a Senate committee is to be treated as a breach of privilege. I welcome all observers of and listeners to this public hearing.

[8.36 a.m.]

GARNETT, Professor Helen, Vice-Chancellor, Charles Darwin University

SNYDER, Dr Scott, Executive Director, Business and Administration, Charles Darwin University

WEBB, Professor Charles, Pro Vice-Chancellor, Higher Education and Research, Charles Darwin University

ARBON, Ms Veronica May, Director, Batchelor Institute of Indigenous Tertiary Education

CHAIR—Our first witnesses are from the Northern Territory and are joining us through a telephone link. Welcome. The committee has before it submissions Nos. 369 and 448 respectively. Are there any changes that you would like to make to them?

Prof. Garnett—We would make no change to our submission. One submission would be ours and the other would be from the Bachelor Institute of Indigenous Education.

CHAIR—The committee prefers all evidence to be given in public, although the committee would consider any request for all or part of your evidence to be given in camera; I point out that such evidence may subsequently be made public by order of the Senate. I now invite both institutions to make a brief opening statement. Perhaps we could start with Charles Darwin University.

Prof. Garnett—Thank you for this opportunity. The university acknowledges that the reform package has considerable strength and benefits for the higher education sector as a whole, given the increased investment, the additional funded places available across the sector, the support for diversity and quality, and the acknowledgment of the unique place of indigenous people in Australia, amongst other things.

This morning I will talk to the issues particularly from a Territory perspective. Charles Darwin University, through its predecessor, has been established for just a decade and a half. The university is therefore a young institution which has yet to reach its potential in enhancing participation in higher education in the Territory, establishing its research profile and being an engine for Territory growth. Currently the university itself is small and has not benefited from historical establishment grants. It runs multicampuses and study centres across vast distances.

Several of the underlying elements of the package are welcomed and, with some modification to take account of circumstances, could be conducive to ensuring that Charles Darwin can get its foot on the ladder and grow to fulfil its mandate and the key role it must play in building the sustainability of higher education and research with concomitant outcomes and return on investment.

We perceive that investment in teaching, learning and research now will reduce the required expenditure and welfare in the longer term and contribute to the economic growth of this region.

Our reading of the package suggests that it is based on an assumption that the requirement for government funding in the sector, while still rising, is nearing equilibrium. While this may or may not be true for the sector as a whole, it is definitely not true in the Territory. The Territory is a youthful and developing part of Australia with the greatest growth in 15- to 19-year-olds over the years ahead. It has a history of poorer retention rates to year 12 but is now manifesting a higher than average mature age entry to university by individuals who have not completed school, come from lower socioeconomic groups and are trying to improve themselves.

There are specific issues relevant to the Commonwealth Grants Scheme that we perceive as being important for us. There is growth in places over the years ahead, but for us a substantial growth in Commonwealth places is essential. There are a number of drivers for this. As I have said, we have an increasing cohort of school leavers and we have increasing numbers of mature aged students. We will need to continue to deliver a range of delivery options, given our location and the population we serve.

We contend that any regional university that can demonstrate an enhanced capacity to encourage access to university education should be allowed to increase its capacity to grow. At this stage we do not know how the additional places in the Commonwealth Grants Scheme are to be allocated, and we are here making a plea that our unique circumstances and our need to grow by at least eight per cent over the next triennium—it is probably much closer to 10 per cent—be acknowledged.

There are some other issues to do with base dollars. We are grateful for the 30 per cent regional loading on the new Commonwealth grants base but, in fact, it provides no more dollars to us as a whole than the old system provided because the 30 per cent is based on a different underlying set of principles from that on which the Commonwealth Grants Scheme is now based on. The government financed a consultancy which recommended that \$4 million-plus additional dollars were urgently needed to compensate for the higher costs of delivery based on lack of economies in scale and higher costs in the Territory. But, as we read the Commonwealth Grants Scheme allocations and as we have been advised, at this stage we come out with status quo.

Another issue for us is the capacity to move load to match demand. While there has been some modification of penalties in load overs and unders, I hope people will realise that with very small student populations local influences can predominate and cause significant fluctuations in the numbers of students wanting to undertake a particular course. The simple closure of a particular company can influence local students' choices. Therefore, in order to respond effectively to demand, the university seeks to be able to move its load into different courses without penalty. Here I would refer to the fact that business has multiple products and tends to try and sell those in different markets in different geographic locations so that it can move its load, so to speak, into the profitable products of the time. We wish to be able to do that—to move the load where there is demand in a particular course away from a course where the demand may have slackened, without penalty, so that we can retain overall the population of students undertaking tertiary education.

There are a number of other issues which I would very briefly touch on at this stage. One is the issue of indexation; the lack of realistic indexation is an issue for all of us. For this university, which is aiming to focus on delivering appropriate education to the region and replacing ageing equipment that dates back to college sector days, it is absolutely essential that

the indexation be somewhat similar to that which is granted in schools. Having recently moved out of a particular sector of government, I am aware that government departments get parameter increases and, indeed, have access to new policy proposals each year, which keep them moving ahead. Indexation is urgently needed.

Another issue is the increased cost of reporting requirements by this package and, indeed, over successive years. There is little additional funding to cover that increased cost of reporting when those requirements come in. Again I am aware that, when the Department of Finance and Administration brings in additional reporting costs for Canberra departments, it seeks supplementation to cover that increased reporting. I do not think you would be surprised if I were to say that I think it only fair that, if we have increased reporting costs, appropriately they should be matched by government.

Also with the issue of dollars, with the kind of population we have, the possibility for us at the moment to bridge funding gaps by increasing HECS is, if not very limited, just not there because of the low proportion of adult students and, more generally, the low numbers of students we have. That is not to say that within five years time, when we have strengthened our niche areas and built our courses, that we would not be in a better position to do that. It is similar with international students. We are certainly growing the market, but the international market is not a level playing field. We will be carving out niches, but it takes time to grow all markets.

I have one last comment. In a region like this, where we are trying to build close relationships with business, we would like to see business and other players given incentives to support scholarships. Something along the lines of an appropriate tax break, as is the case where industry contributes to research, could be considered in the future for scholarships.

In conclusion, we welcome the focus on higher education and the long overdue overhaul of the policy and principles framework. We believe that funding for education is an investment, and I think we all realise it costs money to deliver the best. For our part, the outcomes we desperately need are realistic investment in this part of the country, patient capital and the capacity for growth in both our base for teaching and research so we can climb up that ladder and begin to play on a more level playing field in the years ahead.

CHAIR—Ms Arbon, do you have any comments?

Ms Arbon—Bachelor Institute is a small institution funded under category B of the Higher Education Funding Act. We work remotely. We are a multisector, multisite institution. In the Indigenous community environment, in which we work, education occurs in the context of ill-health, social problems and extreme poverty. In fact, Indigenous communities are in huge trouble because they are undergoing rapid and enforced changes; even in the most remote parts of the Northern Territory, that is happening to our communities. I had an emotional plea from one of my council members yesterday who has experienced a number of suicides over the last five years, saying, ‘What are we doing to our people?’ So there are huge issues out there.

Despite that, Bachelor Institute believes that we need to continue to address capacity strengthening in remote communities, but to address it in a way that brings the past into the future and makes meaning across cultures. That costs money. One of the things that we read into the proposed changes is that they are built on an assumption that, to get equity, everyone needs

to be treated in the same way. I would argue greatly that that is not so when you have the kind of crisis I have spoken of happening in remote Australia.

The proposed changes impact quite seriously on Bachelor Institute. The 30 per cent does not bring us back to status quo; there will be a negative impact. We do not have any room to move in relation to fees or course costs. You must understand that, when there is such extreme poverty, there is no money—there is no money for course fees; there is no money for people to pay for anything. So there are serious issues to consider.

More broadly, when you are grappling with such issues—and this relates to governance—it cannot necessarily be left down at the level of a small group of people making the decisions; you need dialogue and discussion with a broader group of people. At this stage our council has 21 members. We are looking at that and wanting to move it down a little, but we still need representation across the various language groups from the Northern Territory.

Another issue of concern for us is that the more stringent reporting requirements mean that we have to bring on a new data system that is going to cost the institute far more than we are being supported for. For Bachelor Institute, these policies tip the balance in a negative direction for Indigenous education in remote Australia, and that is quite a concern.

Senator CROSSIN—I will start by welcoming you, Professor Garnett. For the committee's sake, I would let members know that you have only been in the job a week now, I think.

Prof. Garnett—That is right. I flew up last Thursday night having left Sydney.

Senator CROSSIN—On my own behalf and certainly that of the Senate committee, welcome to your new position and to the Top End. When this package was first released, there were at least nine universities that were going to be worse off under the proposed changes. Your submission states that the university will regress financially. In fact, it states that the university will be no better off and have nowhere near the level of funding recommended by the cost consultants, which I assume relates to the KPMG report. Has the university done any modelling since some of the revised changes were announced a few weeks ago?

Prof. Garnett—Yes, you are absolutely right: the original model shows that we will be worse off. Yes, we have done some modelling since the changes. Those changes would bring us closer to the old status quo but, as I said, would nowhere near bridge the gap that KPMG recommended—and that was that \$4 million would be necessary. Having said that it brings us closer to the status quo in some areas, it actually makes us worse off in the area of research. So it brings us a little closer to the status quo in teaching—in fact, it gave us about \$½ million—but, as KPMG said initially, we need another \$4½ million. That is why I say that we still need \$4 million to actually tread water.

Senator CROSSIN—The 30 per cent loading only applies to the two institutions in the Northern Territory. Of course, you would be aware that some weeks ago the University of Wollongong and two other institutions around this country were included in this package, but it would seem that their inclusion is unfunded; in other words, the bucket of money will be spread further. When we were in Hobart, for example, the University of Tasmania told us that the inclusion of those universities would make its 7½ per cent loading comparable now to only five

per cent. Have you had a look at that impact on the supposed 30 per cent to Charles Darwin University? Also, does that translate in some way to really being only 27 or 28 per cent now that there is the inclusion of other institutions?

Prof. Garnett—We have endeavoured to explore whether these loadings are on a fixed pool of funds and that, therefore, the inclusion of others reduces the absolute dollars that we get. That is still unclear to us at this stage. However, anything that reduces the dollars, as you can say, will take us backwards.

Senator CROSSIN—It is certainly the understanding of this committee that it is a fixed pool of funds.

Prof. Garnett—In fact, Dr Scott Snyder, who spoke to DEST yesterday, has indicated that in future years it could impact on us. Clearly, from our perspective there are two issues. First of all, the KPMG study indicated that we needed 31.5 per cent increase on our base over a set of base numbers from 2002. The Commonwealth Grants Scheme is on a totally different base. We have been given 30 per cent on that new base, which we appreciate, but you are right in that it does not really bring us back to even where we were. It sounds good, but it does not bring us back to where we were. We desperately need that additional funding—as determined by the KPMG consultant's report which was commissioned by DEST—to even get our foot on the bottom rung of that ladder.

Senator CROSSIN—A report released in mid-August by DEST shows that the percentage of students commencing tertiary education is dropping. In relation to the Northern Territory, DEST's own figures show there has been a negative change of 12 per cent; it is around 11 per cent in Tasmania. Is there anything at all in this package that will assist the Northern Territory to recruit more people into university, given that the substantial costs of higher education are being shifted from the public purse to students?

Prof. Garnett—I can comment on and tie up a few things there. First of all, in showing some drop-offs, DEST is using figures that are a few years old. If you take our figures, we have been eight per cent overenrolled in the last two years. That is due to a number of things. First of all, the university has had substantial success with enabling programs—that is, running programs for people who have not completed school, who perhaps have done some VET but who have been through enabling programs and are now moving into university. The number of people taking those programs is higher than the national average, and the success rate in those programs is also higher than the national average. In other words, people who are trying to better themselves are coming into those programs, doing well and moving on to higher education. Over the last two years that has been very clear. Given the inquiries that are being made of us, our predictions are that this is something that will increase and grow. It is on that basis that we are saying we desperately need a greater allocation of places over the next few years to be able to take that and, therefore, pick up the sort of education lag which is inherent in the Territory. That is absolutely critical for us. Using lagging statistics rather than more current statistics and future trends is something that will continue to be a negative for this institution.

Senator CROSSIN—If in fact you have been eight per cent overenrolled for the last two years, what impact will the cut-off of five per cent with overenrolment have on Charles Darwin?

Prof. Garnett—In my opening statement I alluded to the fact that we will need to be able to cope with the growing demand; we will need more places and some mechanism that recognises the unique circumstances of the Territory. A small improvement in the outcomes from secondary education—and there is a lot of work going on in the Territory in improving secondary outcomes for people of all socioeconomic groups, particularly Indigenous students; we have indigenous students, as does Bachelor Institute—will make a very significant difference to the demand for higher education places. Unless we are able to take those additional students—having improved secondary education outcomes and opened their eyes and encouraged them—and have additional places and perhaps overenrol, I think there will be repercussions, because it is no good opening people's eyes and then shutting the door.

Senator CROSSIN—Your submission also points out that Charles Darwin University has had to have a broad spread of courses in which at times there have been low enrolments. Where the load is more volatile and there are lower enrolments, you say that unacceptable penalties are produced. Under this legislation, though, the minister can intervene in the university's course offerings to the point where funding will be tied in some respects to what courses you offer. You could have a minister actually saying, 'This course will not go ahead but this one will.' Is there some concern in smaller regional universities like Charles Darwin that what the minister might see as being 'not profitable' or 'not viable' might be quite contrary to what the university is trying to do in terms of getting itself established?

Prof. Garnett—The first thing I would say is that all of the courses that we aim to run will be of quality, and we hope the broader spectrum of the community would accept and recognise that. Secondly, regarding small courses that are not viable, we have certainly been looking at small courses, and I think our business sense says that we cannot be all things to all men and we have to focus—and that is something that we are doing. Thirdly, we are entering into partnership arrangements with other universities. Those partnership arrangements, say for engineering, allow students to do their first year or maybe even two years eventually here and then move on to the University of New South Wales. Recently, in an attempt to focus, we cut some 30 per cent of the units that were on offer. We will provide courses via partnership arrangements, and we will deliver what we can here to the highest quality and focus what we can deliver.

I do not believe that we will be in anybody's sights for running inappropriate courses. But we will still have load numbers in our courses which are substantially less than the larger metropolitan and even the larger regional universities. We are one of the two smallest universities in Australia. At this stage, given the extreme growth in the Queensland central coast area around Noosa, that is likely that the other smallest university will overtake us in numbers very quickly. That university has been allowed to grow, which I find rather interesting. We need to be allowed to grow, but we will be susceptible to perturbations in student preferences. That is why we would like to be able to move our load around and not be constrained by overs and unders in particular courses.

Senator CROSSIN—But, despite what you have just said, is the university concerned that the minister will have such discretion under this act that he will be able to tell you what courses you can and cannot run?

Prof. Garnett—With all due respect, I have not seen the words that say the minister can tell me exactly what course to run. I have seen the newspaper reports, but I have not seen those words.

CHAIR—I can help you here. You are probably at a disadvantage, having been in your new job for only a week. I draw your attention to clause 30-25.

Prof. Garnett—Would you mind reading it?

CHAIR—It is a very long clause. It states:

- (1) The *Secretary may, on behalf of the Commonwealth, enter into a funding agreement with a higher education provider relating to a grant under this Part in respect of a year (the *grant year*).
- (2) The agreement may specify conditions to which the grant is subject, that are additional to the conditions that apply under Division 36 ...
- (3) Without limiting subsection (2), the agreement may specify:
 - (a) in relation to one or more of the following:
 - (i) places in *courses of study at the undergraduate level;
 - (ii) places in courses of study at the postgraduate non-research level;
 - (iii) places in courses of study in medical programs;
 - (iv) places in courses of study in *enabling courses;the minimum *number of Commonwealth supported places that the provider must provide in the grant year, or the maximum number of Commonwealth supported places that the provider may provide in the grant year, or both; and
 - (b) the maximum number of Commonwealth supported places provided by the provider which can have a regional loading in the grant year; and
 - (c) the maximum number of Commonwealth supported places provided by the provider which can have a medical student loading in the grant year; and
 - (d) the maximum amount of regional loading that will be payable to the provider, under the Commonwealth Grant Scheme Guidelines, in the grant year; and
 - (e) the undergraduate and postgraduate courses in which the provider may provide places in courses of study in which students are enrolled in units of study as *Commonwealth supported students ...

I can go on. There are some several pages of these types of conditions.

I can point to another section that indicates the number of fee-paying students. I can point to other sections of the bill which specify that officers of the department or any other person specified by the departmental secretary can enter any premises, take any documents or determine whether or not you are in compliance with any agreements made. There are other sections that say they can also withdraw your funding if they feel you have breached any of the agreements you have made.

Prof. Garnett—I read in that that it is appropriate for us to define the courses we intend to run and to negotiate with the Commonwealth as the purchaser. I accept that the Commonwealth Grants Scheme is very much a tied purchaser-provider model. I believe the courses we run or intend to run are the sorts of courses that the Commonwealth has shown commitment to and therefore, on an individual basis at this stage, are probably not courses that we would have problems with.

CHAIR—Just this week, the minister said he wanted to remove all ‘cappuccino’ courses.

Prof. Garnett—I do not have any of those.

Senator CROSSIN—Chair, we would not run such courses in the Northern Territory!

Ms Arbon—My concern is that the vocational education and training approach is that very type of approach. It has not addressed the employment issues out there that require training. It has limited innovation in the system. In fact, the vocational education and training system is now moving away from that kind of dictatorial, external approach, so I see some major concerns. It is also tied to 2.5 per cent additional funding in the long run, so there are quite serious implications for institutions.

CHAIR—Professor Garnett, I draw your attention to some of your colleagues' comments. Professor Le Grew, Vice-Chancellor of the University of Tasmania, has indicated that he thinks the legislation 'develops the potential to control us right down to the course level and it is going too far'. We must have spoken to 19 vice-chancellors by now.

Prof. Garnett—The issue which concerns all of us is the definition of inputs, rather than the definition of the outcomes that are desired across the system. In my opening statement I did allude to the issue of the extreme definition of inputs. I said that, as an institution, we have people who understand the needs of the region—I am new but I am working with others who do understand, and I am learning fast—but what we require is to be asked to produce quality education and quality outcomes in appropriate courses that meet the needs of the region and to be allowed to move our load into those quality courses as and when we believe the load should go in.

We certainly have a problem with being penalised for overenrolment or underenrolment in individual courses. We are certainly looking for more places, and we want to be able to move those places into quality courses as we believe fits the regional needs and demands. Telling us exactly how many students should be in a course is a problem for all of us. That is somewhat different to the issue of whether we are running cappuccino courses.

Senator CROSSIN—Ms Arbon, in your submission you say:

Under current arrangements ... Indigenous Australians ... are discriminated against in higher education ...

Is there anything in this package that would lead you to believe that anything will change, or will this in fact worsen?

Ms Arbon—From Batchelor's point of view it will worsen on a number of levels. Firstly, at a funding level, we will lose dollars—quite serious amounts of dollars. Secondly, a number of assumptions underpin this package. The assumption is that we are a culture that comes out of a similar understanding. When it comes to Indigenous Australians that is totally untrue; we come from a very different cultural context.

It also assumes that secondary and primary education has worked in remote Australia. Yes, we are doing a lot in the Northern Territory to try to address the issues of the past—the lack of education in remote Australia—but for the next five to 10 years those issues are still right in

front of our faces. It also assumes that people will be able to pay additional fees. We see this as a further slight on Indigenous people. It will limit outcomes and limit access.

Prof. Garnett—I would like to comment on that and back up Veronica. The issue for us is in handling the legacy of the past, with Indigenous education and participation rates. As I said, certainly more pastoral care is needed, even for those students that we get in. That is a cost. I realise that there are some competitive funds available in the package for this, but I think, with all honesty, those competitive funds are quite appropriate for universities running support centres in the cities and for others where there are in fact a significant number of local role models. Coming out of Sydney, I certainly know that at UTS we had a significant number of role models going through and doing postgraduate masters courses. These were Indigenous people who were able to be role models for the students who were enrolled. We are still trying to get those role models. There are some, but for quite a period of time there is a need for these additional dollars that KPMG recommended in our case. We do not have the opportunity to grow fees, and running multicampuses in remote areas under the geographic and meteorological conditions that we have in the Territory is no mean feat. It is quite different to running diverse campuses in New South Wales or Victoria, with all due respect to our southern colleagues.

Ms Arbon—I would like to add that, in Batchelor's case, and probably increasingly at CDU, Indigenous education is our core business. We have not got a buffer zone.

Senator CROSSIN—This package is all about deregulation. It is about ensuring that 70 per cent of the funding that will be generated for higher education will come in fact from either full fee paying students or students' HECS payments. Ms Arbon, in your submission you said that deregulation essentially 'could cripple institutions such as Batchelor Institute'. Is that correct?

Ms Arbon—Absolutely.

Senator CROSSIN—Why is that?

Ms Arbon—Because 100 per cent of our students come from Indigenous Australia and probably 99.9 per cent of those students come from situations of poverty. So there is no room for those students to pay fees or for us to leverage any kind of additional HECS. It only worsens the situation for the institute and, ultimately, the social situation in the community.

Senator CROSSIN—In talking about the 30 per cent loading at Batchelor, in your submission you went on to say:

... this is a carrot ... and not a strategy for sustainability for those communities on the cusp of new futures.

Will Batchelor College be better or worse off in terms of the 30 per cent loading in any of the next forward three-year estimates but, more particularly, by 2008?

Ms Arbon—We sustain a 30 per cent decrease or more than a 30 per cent decrease. We then get 30 per cent on an average EFTSU back, not on our actual enrolments. We do not get back to where we originally were, so we do not even reach status quo. We have tried to do some modelling over the next three or four years, and it does not improve. So there are some quite major concerns for us as a small institution.

Prof. Garnett—The issue for probably both of us is that over the last couple of years we have been coming out of the lag phase in the S-curve, whereas an awful lot of the rest of the country are up to the exponential phase of growth and maybe are reaching the top. We are just coming out of the lag at the bottom. We have had this growth. The figures at the moment are based on historical numbers and certainly do not take into account this opportunity and need for growth.

Senator CROSSIN—Yesterday staff around this country took industrial action because a substantial amount of the grants scheme, \$404 million of it in fact, is tied to changes in governance and industrial relations reforms. Interestingly enough, we have had industrial action provoked by a third party. How appropriate do you believe it is that such industrial relations constraints are put on your institutions by the federal government?

Ms Arbon—From my point of view being at Batchelor, I think it is quite inappropriate. It is targeting students who are in extremely disadvantaged situations ultimately for industrial matters, and I do not think that is appropriate at all. It is not about equity of student outcomes; it is about the government's desire, ultimately.

Senator CROSSIN—Professor Garnett?

Prof. Garnett—Firstly, as I think you would be aware, the new council of Charles Darwin University is in essence within the government's model as proposed and therefore the size of our council and the composition of our council is somewhat different from what might occur in some other universities. In relation to other workplace reforms, I am someone who says, 'What are the outcomes that you want to achieve?' I accept that we need to be flexible in our employment relationships, and if that is a desired outcome that the government wants I think we would be talking with one voice. I think the issue that we as vice-chancellors have problems with is actually anything that says, 'This is what you do'—in other words, the rules by which you must play—rather than saying, 'These are the outcomes: we want flexible workplaces; we want you to maximise things and be as effective and as efficient as possible.' Certainly, from my perspective, I have no problems with a number of staff being on contract. We have staff already on contract in this university, so—

Senator CROSSIN—But this government is not talking about that, though. This government is actually talking about the fact that you will be required to make available Australian workplace agreements to staff.

Prof. Garnett—Australian workplace agreements are a form of contract. As I have read it, it is about making them available; staff do not have to choose. But I come back to this again: I think that telling us what form of employment we should have is not necessarily providing us with or giving us responsibility, authority and accountability as institutions; I think it should be a statement of flexibility in the workplace, maximising the return on the investment that the Commonwealth puts in. If I were the investor or a shareholder, I would expect to see that. Where we have problems is in the government telling us what mechanisms we must use to achieve that flexibility.

Senator CROSSIN—In Melbourne, Professor Gilbert said to us:

I have a fairly strong feeling that there will be universities that will say that the impact on the quality of education we can offer, if we are forced to comply with these regulations, is not worth the money.

However, my knowledge of the universities in the Northern Territory—and I will include Batchelor in this, Ms Arbon—is that because you are going to be so severely underfunded by this package you will be backed into a corner; you will have no choice. Regardless of the morals of this and of whether or not you believe it is appropriate that the federal government interferes, you will actually be given no choice but to accept these regulations and these constraints in order to get the additional dollars. Is that a fairer package?

Ms Arbon—That is one of our concerns, but at Batchelor we already have a form of contract for some of our positions. I support Professor Garnett's view. I think the major issue is that it is moving away from letting us get the outcomes that are needed through the internal processes of the institution. Rather, as I said earlier, it is taking a very dictatorial approach, and that is not good for any system.

Senator CROSSIN—Professor Garnett, did you want to add anything to that?

Prof. Garnett—No. I think the AVCC is taking this up on behalf of all of us. I think we are of like mind, in that we do require flexibility of arrangements, but the authority and the accountability for this should lie within the institutions in accord with what is available. Taking advantage of the full range of opportunities may or may not be appropriate for any particular institution. In the Territory, we have particular labour needs. We have an enormous number of part-time people that can come in and help. There are all sorts of employment arrangements because of where we are and the nature of the staff we need to run our courses. Our staffing situation may well be quite different to the staffing situation in a capital city university, which is why I come back to saying that we should be held accountable for the delivery of a quality education, efficient and effective use of the dollars, and making sure that we have got flexible workplaces and the capacity to give incentives to staff that are performing extremely well.

Senator CROSSIN—We have had evidence from most universities around the other states that they believe that that capacity is currently there. The provision to offer staff contracts over and above the award or the enterprise agreement is already there, and this goes far beyond that. I have one final question for both of you. The Australian Vice-Chancellors Committee has identified a number of key problems with this package: inadequate assistance for students from disadvantaged backgrounds; the fact that up-front loans of \$50,000 are being offered with a six per cent interest rate; the five-year study limits, which I have not asked you questions on because we are running out of time, but which are a problem; a focus on full-time students straight from school, at the expense of lifelong learning students; and inadequate government funding for higher education tied to unwanted and unworkable changes. Should the Senate pass this package then?

Ms Arbon—With the concerns that Batchelor has, we would say no. A focus on, for example, full-time students will not necessarily work with Batchelor because our students are usually mature age, usually have a job or are moving into or towards a job and, quite often, because of English-language disadvantages, need to pick up additional units. That emphasis alone will create issues, so we cannot see the positives at this stage.

Prof. Garnett—I would come back and say that, for us, clearly there are some positives for the system as a whole in the package and there are some certainties—at least of understanding what your funding is going to be and some of the principles—which we do see as positive. On the other side of the equation, though, we are in a similar situation, in that 60 per cent of our students are mature age and part-time students. All of the things that we have said about fees, about being able to assist people coming out of disadvantaged backgrounds—the very points that the AVCC makes as being issues with the package—are absolutely accentuated in the Northern Territory as a whole. They are there in other parts of the system, but they are very real for us as considerable issues. That said, we desperately need some dollars and some—

Senator STOTT DESPOJA—I think Senator Crossin has probably asked you about the broad range of things that the committee was interested in, but I want to pick up on your last point, Professor Garnett. In your evidence today you have told us that, at best, you are looking at the status quo as a consequence of this package. Given your last answer to Senator Crossin, is it really worth passing this package, when you desperately need the funds but your own estimates predict a status quo outcome?

Prof. Garnett—Probably what you have heard from us is that we would certainly like to see a package and get an understanding that the higher education be determined, but for this part of the world we would also appreciate it if there could be some recognition, whether that is through negotiations in the Senate or however it is done. Of course, we are in discussions with government about our circumstances. We certainly believe that there needs to be some understanding of the unique circumstances of this part of the world.

Senator STOTT DESPOJA—Indeed. Talking about the unique circumstances, in addition to the ones that you have outlined there is particularly the regional aspect, the socioeconomic aspect of students—particularly for Indigenous populations. Obviously, the Batchelor Institute of Indigenous Tertiary Education is the key to that discussion. Given that CDU is considered to be a regional university for the purposes of regional loading, it is also the only university in the Northern Territory. Being a capital city university, shouldn't that mean that CDU provides a very broad range of courses?

Prof. Garnett—Firstly, we are not just a capital city university. We have a campus in Alice Springs and we have study centres in Nhulunbuy, Tennant Creek and Katherine. We are a multicampus, distributed university. That is the first thing. Secondly, the population of Darwin is about 100,000—it is smaller than Wollongong—and the University of Wollongong does not offer all courses. I think it is important that we run courses or are able to articulate with courses in other institutions that provide pathways. I think that is what we are about. We are about pathways of study, whether you have come from a disadvantaged background, whether you are mature age, whether you have done some TAFE or whether you left school at 16 and went to work in the community and have not done any higher education. We are about pathways to bring you into university study. Likewise, we have to create pathways for the students of the Northern Territory if we cannot offer the courses. I do not believe we can or should offer everything. We simply do not have the resources and I do not see us having the resources for a long time in the future. But we have to offer the pathways, and that is what we are doing in articulation with the University of New South Wales in engineering and with the ANU in other areas. You will note that we are dealing with and providing pathways for students to institutions that would be considered outstanding institutions in anyone's opinion.

Senator STOTT DESPOJA—Indeed. Please do not think for a moment that I am unaware of the multicampus aspect of the institution. I think you have probably recognised what I am getting at—that is, what kind of courses you are able to provide and what kind of courses you should provide in order to fulfil the public mission of the university. I will check this with you, but my understanding is that in recent years you have seen cuts to English, Asian studies and anthropology. Do you see this package as a means by which you can redress some of those cuts, or is that not necessary in order to fulfil the public mission of the university to have an even broader range of courses available?

Prof. Garnett—I think there were talks about cutting Asian studies. I do not think that has happened to quite the extent that maybe the tom-tom drums have been beating. There were apparently cuts to English, and that is something that we are looking at in terms of bringing it back in under communications, because communications is extremely important in all sorts of areas. We see that, by appointing a professor of communications, we will be bringing back English in a slightly different but modern scene. I take your point. Will this package help us? We need to somehow get the recognition that in the Territory we are different and that the 30 per cent is on a base that does not help us. But with 31 per cent on the old base—in other words, another \$4 million-plus for us, and I am not sure what the figure is for Batchelor—we might well be able to put our foot on the ladder and ensure that some of those base courses that you would think are appropriate in a university environment are there, and that they are not just there but that they thrive.

Senator STOTT DESPOJA—I have a final question on that. I do not know if you have got the figures, but it would be interesting to get a sense of how many students have to leave the Northern Territory in order to study a course of their choice. Do you have a sense of that, Professor Garnett or Ms Arbon?

Ms Arbon—From Batchelor's point of view, because we have not had the funds to develop a bachelor level course, a number of businesses students from Batchelor who graduate from our VET course go to Western Australia to complete degrees in business. Up until last year, a lot of the health students who completed their studies in the diploma of health went to the Cumberland campus of the University of Sydney to complete a degree in health. As well as that, at the end of last year, when I went to the year 12 students who were receiving grants to continue their studies at university, I was quite disappointed that many of the young people were planning to go to universities in other states. As a Territorian and someone who has grown up here, that was quite disappointing. We have this university here and yet many of our young people leaving year 12 in the Territory are going away to do their studies.

Prof. Garnett—I can say that about 50 per cent of the eligible school leavers at the moment leave the Territory to go to university elsewhere. But that is broken down into different categories of students. There are some students who clearly can afford to live elsewhere and who basically indicate that they have been in the Territory for a long time and it is time to fly the coop. There are others, however, who certainly leave because of the unavailability of courses.

At the moment, medicine is not offered. However, we do have postgraduate medical places now for students in remote rural health, and links with other universities, so in some ways the students are able to go to a place like Flinders and then come back and study the remote rural aspects and some of the other aspects in the Territory. That will strengthen, I think, with these

partnership arrangements that we are entering into. There is a whole range of courses that we do not offer—there is no dentistry and no veterinary science, for example, but they are high cost courses and I think it would be fair to say that you would not find too many countries around the world where there is one of those in every state.

Senator STOTT DESPOJA—As I understand it, you get a few of us South Australians up there too.

Prof. Garnett—We certainly do and we would love to have more from everywhere.

Senator STOTT DESPOJA—Thank you.

CHAIR—Thank you very much to everyone for appearing before us today.

Prof. Garnett—Thank you, Chair, and thank you to your committee.

Proceedings suspended from 9.33 a.m. to 9.56 a.m.

RADOLL, Mr Peter John, President, National Indigenous Postgraduate Association Aboriginal Corporation

CHAIR—I welcome the representative of the National Indigenous Postgraduate Association. Mr Radoll, the committee has before it submission No. 446. Are there any changes you would like to make?

Mr Radoll—No, not at all.

CHAIR—The committee prefers all evidence to be given in public, although the committee would also consider all or part of your evidence being given in camera. I point out that such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Mr Radoll—Firstly, out of tradition, I would just like to acknowledge the Ngunnawal people and pay respect to their ancestors, as we meet on their land today. What I do not want to do is go back over what the Council of Australian Postgraduate Associations has already outlined to the committee. I do not want to go over any undergraduate issues, either, as NUS might bring those up later on. What I would like to do is pick up on the Indigenous specific issues in the Backing Australia's Future package or the proposed legislation.

The biggest issue we face as Indigenous postgraduates is the physical numbers we have in universities. We currently have 0.6 per cent of the postgraduate population. We saw participation rates at the undergraduate level between 1999 and 2000 drop significantly. While there is some conjecture about why those decreases occurred, we attribute those to the Abstudy changes. It just seems logical. As a flow-on effect of this, we will see a significant drop in postgraduate enrolments as well, probably this year, next year and in the following years.

The package outlines an additional \$10.4 million in Indigenous support funding to Indigenous higher education centres. While that money is welcomed—it is the first increase since 1996—the criteria and the formula for that funding is probably not finalised as yet and we are yet to view that. Also, that funding is attached to the whole package, so the important ISF will not get through unless the whole package gets through, which is absolutely ridiculous. Indigenous higher education sectors are doing plenty without this money already. We will see less recruitment across the country, not just at the undergraduate level but also at the postgraduate level. There is a significant lack of funds to undertake not just the academic side of the university life but the pastoral care side as well, which is significantly more important to Indigenous students, given the backgrounds they come from.

The \$10.4 million should be allocated not just on the funding criteria of the Department of Education, Science and Training or the federal government but on a needs basis, rather than on a performance basis. There is no doubt that we need some review of the ISF formula as some universities have taken significant advantage of the bulk of the funding being dished out to universities on enrolment. There is no dispute about that; there needs to be some reorganising of that formula. However, that \$10.4 million is desperately needed by our Indigenous higher education centres and universities.

I will move on to the scholarships. The package outlines five scholarships for Indigenous academic staff. Currently Indigenous academic staff represent about 0.7 per cent of all academic staff at universities. Five Indigenous scholarships for one year is really a token gesture of looking after Indigenous education. A one-year scholarship at \$20,000 is not going to suit many Indigenous academics. This is only anecdotal—we do not have the statistics on this—but the national Indigenous postgraduate association believes that this is purely because Indigenous academics or postgraduates are usually much older, have much more debt—and that is proven—and have community responsibilities. Five scholarships at \$20,000 is not even going to scratch the surface.

At a meeting I had with the Department of Education, Science and Training last year, when the package was released, they outlined that the reason there were only five Indigenous staff scholarships was that, according to their research, the Indigenous higher education centres could only do without five staff per year. That goes to the point that there are not enough Indigenous staff and that we need not just more scholarships but other incentives as well to increase that participation rate. Also, the scholarships will only benefit academic staff and will exclude administrative staff in that academic staff have the opportunity to study while they work whereas administrative staff unfortunately do not. Given that the Indigenous support funding has not had an increase since 1996, academic staff in those institutions are well and truly overworked. If the committee ever get to see one of those centres it would be good for them to experience the workload in those centres.

The other issue that we have is that, if those scholarships do get up, who will decide on those scholarships? It is suggested that the Indigenous Higher Education Advisory Committee, which I will briefly discuss next, will decide who is eligible for those scholarships. The Indigenous Higher Education Advisory Committee will be made up at the minister's discretion, but my research and my colleagues' research suggests that this Indigenous Higher Education Advisory Committee is just a reinvention of a previous committee that was disbanded in 1996. Therefore, there is a recognition by the government that there are issues in Indigenous higher education and for academic staff. Considering that DEST said that the Indigenous higher education centres can only do without five staff per year, it will be interesting to see how the Indigenous Higher Education Advisory Committee will be constituted. Given the lack of staff at that level, it will be interesting to see if they can fill those positions.

I move on now to the Commonwealth Learning Scholarships. That includes the Commonwealth Accommodation Scholarships and the Commonwealth Education Costs Scholarships. Once again, these very small payments are very tokenistic. As we have outlined in our submission, the small amount of funding that is offered by the government and the small number of scholarships—which are not Indigenous specific; they are low equity and Indigenous—will do very little towards paying the real costs of living on campus. Once again, I go back to the issue that Indigenous students will be more likely older or have more responsibility in terms of the community and will have a lot more debt than other students. These scholarships are really tokenistic.

The 30 per cent fee hike proposed is again an attack on Indigenous participation at the postgraduate level. You will see a lot of statistics from the Department of Education, Science and Training suggesting that there is quite a significant participation rate—if you could call it that—

in terms of Indigenous participation in full fee paying courses. This 30 per cent hike will render our communities even more debt ridden.

I will sum up; I do not want to go any further than that. I think I have covered those issues. Others will cover them in much more depth. We are really concerned about Indigenous participation at the postgraduate level and overall in terms of academic staff as well. This package offers nothing to address those issues and in fact, like I suggested, the fee hike, the cost of on campus living and—on some colleagues' advice—the fact regional universities are withdrawing from regional Australia will mean that Indigenous students will have to travel to the bigger cities and pay more.

This package will exclude Indigenous students from education. We saw that with Abstudy changes. There is conjecture over why the participation rates dropped. The reason we believe that happened is the Abstudy changes in 1999 and 2000. We will see this again in 2006 and 2007 if this package is passed. This does nothing for Indigenous education; in fact, it will decimate Indigenous education.

Senator CROSSIN—Thank you for your submission. Can you tell me whether you have any updated figures on the number of postgraduate students? You identified that there were 700 in the year 2000. Is there a later figure than that that you have?

Mr Radoll—No, we do not, sorry; primarily because our institution is not funded. We do not get any funding. We rely very heavily on CAPA's research.

Senator CROSSIN—Do you have any idea of where most of the Indigenous postgraduate students are studying? Are they concentrated in regional universities as opposed to, say, the larger Go8s?

Mr Radoll—Once again this would only be anecdotally, but yes. Our constituents are mostly in regional universities. Like I said, this package will decimate regional universities. Those courses are going to be difficult.

Senator CROSSIN—You were present this morning when I was talking to and asking questions of the Batchelor Institute from the Northern Territory. You are probably familiar with that institution. It has only Indigenous students. Their submission put to us that Indigenous students have predominantly English as a second language; enter a system and a culture in universities that is unknown; have their own tradition and culture, one which is not perhaps conducive to the sort of learning we might be familiar with, particularly if they are from remote communities; have a higher age profile—predominantly they are in the over 30 category; come from significantly disadvantaged backgrounds; and have a high incidence of ill health and disabilities. Given that that is the context from which Indigenous students predominantly come, the Batchelor Institute put to us that there was little in the package to suggest that all of those aspects had been fully appreciated. What do you say about that?

Mr Radoll—I would say exactly the same thing. My belief, and NIPAAC's belief, is that this really is legislation done for ideological reasons and there is nothing in here for Indigenous education at all. To say that it decimates Indigenous education is really not going far enough. We will see participation rates drop significantly. Aboriginal and Torres Strait Islander people have a

very beautiful culture and we are very privileged to have that. We are also in a terrible situation. Batchelor College is a very interesting example of how two worlds meet, if you like: the academic world and the traditional world and its cultures. We also have that in regional universities. We have a lot of visitors from the Northern Territory et cetera come to the University of Canberra or the ANU. There are some huge issues in actually keeping those students from those parts of the country at the universities because of their traditional and cultural beliefs. This package does not take any of that into consideration. It does not take into consideration the demographics of the Indigenous student, the responsibilities of the Indigenous student or the background of the Indigenous student. It does not take into consideration any of those issues. There are some tokenistic gestures made to say, 'Oh yes, we're doing something for Indigenous students.'

Senator CROSSIN—We will get to those in a minute. Your submission speaks a lot about Abstudy and the effects that the changes to Abstudy in 1998 and 2000 have had on participation rates. I think there is quite concrete evidence now to show that Indigenous participation in higher education has declined, and this coincided with the changes to Abstudy. You make a recommendation that there needs to be a thorough review of the effects of the Abstudy changes on participation, retention and performance. Who do you believe should conduct that review, given that it is the Commonwealth that has actually made those changes? Do you believe that the changes anticipated in this package will make life worse for Indigenous students?

Mr Radoll—They will definitely compound the issue. Those changes in 1998 and 2000 were quite significant. I think we saw about a 15 per cent or a 17 per cent decrease in participation rates. That is a huge problem. I remember putting up a submission in 1997 to try to prevent those changes. Once again, those changes were made for ideological reasons or to have a level playing field. I cannot understand why the government would actually do that. I spoke to my colleagues: everybody knew what was going to happen. Since then we have been lobbying to reverse that decision. Abstudy is a very interesting thing: you get to lobby DEST as well as Centrelink. There definitely needs to be a change back to Abstudy. I think there will be a continued campaign to bring back Abstudy.

Senator CROSSIN—The Commonwealth have already conducted a review of Abstudy—it may even have gone to cabinet. I understand that was never made public, and I am talking about three or four years ago now. I think your suggestion of having a review is a good idea and I think a review is long overdue. I am not quite convinced, though, that the Commonwealth government are the best people to do it. Have you given any thought to who else might do that?

Mr Radoll—Yes, we have spoken about this at length. We have actually been campaigning for a long time to try to raise some interest in this—and I welcome the senators' interest in this. We would like to see an independent committee take this on. NIPAAC would like to see an independent committee review the cause and effect of Abstudy and declining Indigenous participation rates.

Senator CROSSIN—So a parliamentary committee perhaps?

Mr Radoll—A parliamentary committee would be a dream for us.

Senator CROSSIN—This package offers five postgraduate scholarships per year for Indigenous staff. We have asked some universities, as we have been going around the country with this inquiry, about their numbers of Indigenous staff. I think there are 55 Indigenous staff at one institution in Queensland. Charles Darwin University in the Northern Territory told me that they have around 50 staff there. Batchelor Institute have advised me that they have 94 Indigenous staff employed at their university—27 of those are in academic positions. Twenty two of the 50 Indigenous staff at Charles Darwin University are academic. Yet the package offers only five postgraduate scholarships per year for staff. I would have thought that was a significant undercount.

Mr Radoll—For sure; it is a huge undercount. It was a tokenistic sort of gesture to say, ‘We’re looking after something to do with Indigenous education.’ When I fronted up to DEST the day after the package was released, I was told very clearly by the person going over that package with us that Indigenous higher education centres cannot afford to have any more than five staff a year out of their centres right across the nation. That is a joke. If the government is serious about fixing all these issues in terms of health, education and poverty, there has to be a real commitment to education. While there might be at primary school level, primary school education is not going to get you a significant voice in public policy all the time. An academic voice will actually help you to progress these issues through parliament and into public policy much more strongly and much quicker. Five scholarships is really a joke.

Senator CROSSIN—When we look at Indigenous role models, people who have excelled in their field, whether it is sport, even people like Neville Bonner who have entered federal parliament or in fact academics, five a year is not even one per state or territory. Yet on the other hand as part of this package institutions are being required to develop an Indigenous employment policy. Do you find that there is some sort of conflict there in standards from this government?

Mr Radoll—Yes. Once again I draw you back to that tokenistic gesture to appease the Indigenous voice in Australia in terms of higher education. I really applaud the government for proposing an Indigenous employment strategy at universities. There is no doubt that we need that. But an Indigenous employment person on campus is not going to fix issues of employment rates overnight. It is not going to happen in a great hurry because there is a lack of Indigenous people qualified to go into those places. The only way you are going to achieve that and fill those positions is through Indigenous higher education.

Senator CROSSIN—Your submission also talks about the Indigenous support funding. My understanding is that that is a fixed amount that is paid to the institution on the number of Indigenous students it actually has. We have a package before us. We have evidence from you and from people like the Batchelor Institute that is clearly telling us that under this package, if HECS is to increase and if in fact those institutions are forced to have full fee paying students, you will effectively get fewer Indigenous students enrolling in higher education. I am assuming that we will be looking at the Indigenous support funding in three years time and it will be unused or decreased. Is a fixed amount per student the way to go to actually encourage and support Indigenous people once they get to higher education?

Mr Radoll—A fixed amount is definitely the way to go in terms of outcomes for Indigenous students. What we have not discussed here today just yet is that that Indigenous support funding

does not necessarily go to Indigenous higher ed centres; it goes to the universities, and the universities decide how that funding is split up. I have been told that some universities take up to a 25 per cent administration fee for that funding, which is a significant amount for an administration fee. Let us just say that of that current funding not all of it flows to Indigenous higher ed centres and not all of it flows to Indigenous students. There is a significant amount that does not get there. We believe that a targeted program with a full costing of a particular amount of money, which presumably would come out of an inquiry into how best to assist the Indigenous students, is the better model to follow.

Senator CROSSIN—You also say you are disappointed that none of the measures proposed by your organisation for creating a more culturally appropriate education system has been adopted. You put forward some valid suggestions. For example, you believe paid cultural supervisors, the introduction of a compulsory Aboriginal and Torres Strait Islander courses and mentoring programs might go some way towards improving support for Indigenous people.

Mr Radoll—That is for sure. One of the huge arguments we have right around the country is that there are not enough Indigenous cultural supervisors. And when we do get our elders onto a PhD panel, for example, that poor elder does not get paid a brass razoo; it is out of their love for that student. We consider our elders as the professors in the white world and they really should be paid appropriately and accordingly. We do not expect our professors to give up their knowledge for nothing, and we should not expect our elders to give up their knowledge for nothing either.

There is no doubt that we need to find a better and more culturally appropriate model of looking after the Indigenous student at the postgraduate level as well. If there was some way we could provide that—we have put up a few suggestions and no-one is listening just yet, but that will come in time. As there is a realisation, as postgraduate numbers actually fall, that will come in time.

Senator CROSSIN—What do you think the make-up of this new Indigenous Higher Education Advisory Council should be? What sorts of people should sit on it—directors of institutions, prominent Indigenous people in the community?

Mr Radoll—Once again our belief is that we do not want all Indigenous directors on there because when you get that far you are quite often detached from the undergraduate student or postgraduate student. We have short memories; sometimes it is hard to remember where you came from. Sometimes it is hard to remember those really important issues and some directors did not have it as tough as some other ones. We suggest that a good blend of significant and prominent Indigenous people would be good, and a mix of academic strengths—not just humanities, not just science, not just directors. What we would also like to see is a postgraduate and an undergraduate representative. Even though they would be very lowly voices in such a forum, it would go a long way in assisting the minister in providing educational outcomes for Indigenous education.

Senator STOTT DESPOJA—I was also going to ask about the composition of the IHEAC, but you have pretty much answered in terms of the proposed composition. In terms of the impact of and the input into the Nelson review process, Crossroads, can you elaborate on what role you had in the consultative process in relation to Crossroads?

Mr Radoll—Apparently, from what I hear, the Indigenous aspects of Crossroads would not have come up if the National Indigenous Postgraduate Association Aboriginal Corporation had not got involved at the time and spoke to the department. It is a bit disappointing that that Indigenous equity paper was put up so hastily, because it did not cover a lot of areas.

Senator CROSSIN—A bit of an afterthought, was it?

Mr Radoll—Unfortunately, I believe it was an afterthought after we lobbied the minister and significant others.

Senator STOTT DESPOJA—You provided all the good ideas, but unfortunately a lot of them are missing.

Mr Radoll—There has been no follow-through at all, unfortunately.

Senator STOTT DESPOJA—One of the issues that has come up has been the lack of independent assessment or analysis of the sector as a whole. Everything you have said today, particularly in relation to the need for review of the Abstudy changes, indicates that there is also a lack of that independent ongoing review. Will IHEAC be the body to undertake some of that work or do you think we are looking at a bigger overarching board of some kind that looks at a range of issues, including issues affecting Indigenous students or aspiring students?

Mr Radoll—I would like to say that IHEAC would be the body to do it, but I am really concerned that it is appointed by the minister. Given that I sit on an ACT body that is appointed by the education minister, there are some loyalty issues there and there is some conflict that could occur. I would personally prefer to see some sort of independent body, with some key stakeholders on both sides of the fence, looking at those sorts of issues. That is my personal view.

Senator STOTT DESPOJA—You have talked about the numbers, the percentage, the participation rates, in postgraduate and undergraduate study. Do you have a sense of which institutions are better than others? Are we talking about a broad range of distribution of students across the sector? For example, how do the Group of Eight fare when it comes to participation by Indigenous students at either undergraduate or postgraduate level? Are you able to give us your impression?

Mr Radoll—I do not have proper statistics on that sort of issue. However, anecdotally it seems that the regional universities do much better for our students. I do not really know why that is. You would expect the Group of Eight, who have a lot more money and a lot more staff, to look after our students much better, but it does seem to be the regional universities who are more into pastoral care and the understanding of those cultural issues, which I must say is really disappointing.

Senator STOTT DESPOJA—That is what I was after. We can look at the profiles and we can get a sense of where that distribution is, but I was curious to know about the provision of services and how students felt that certain universities accommodated their needs.

Mr Radoll—The regional universities seem to have enabling courses, whereas the bigger universities do not seem to have those enabling courses. Even in the ACT, which is a really good example, there is an assumption that if you come to a prestigious university you have to have those skills before you get there. If you come to a regional university they say, ‘We understand those issues and we can help you achieve the outcome that you require.’

CHAIR—Thank you very much, Mr Radoll.

Mr Radoll—Thank you.

[10.28 a.m.]

HARPER, Mr Greg, Deputy Chief Executive Officer, Australian Research Council

SARA, Professor Vicki, Chief Executive Officer, Australian Research Council

CHAIR—Welcome. The committee has before it submission No. 268. Are there any changes you would like to make?

Prof. Sara—No, thank you.

CHAIR—The committee prefers all evidence to be given in public, although the committee will also consider any request for all or part of evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Prof. Sara—Thank you. The ARC's submission to the inquiry is focused on alternative funding options for research. In the submission, we argue that there are deficiencies in the current funding system for public research and that a fresh look at these arrangements is required if we are to ensure that Australia maintains and strengthens its research capabilities.

CHAIR—The key point that you make in your submission is that you would like to see a movement away from the block grant funding arrangements, which is a point that I suppose you reinforced through your submission to the higher education review in July. Have you changed your attitude at all since that original submission was published in July 2002?

Prof. Sara—Our submissions to the recent reviews on collaboration infrastructure and knowledge and innovation present the ARC's view. In those submissions we recognise the importance of a dual funding system, being an institutional funding system on the one hand and a competitive funding system on the other. We believe it is the balance between those two funding instruments that really needs attention.

CHAIR—Have you discussed your views with the Australian Vice-Chancellors Committee?

Prof. Sara—Yes, not at a formal AVCC meeting but informally.

CHAIR—Have you received any advice from the Australian Vice-Chancellors Committee as to their attitude towards your proposition?

Prof. Sara—As a formal body, no, but informally from the various members, yes.

CHAIR—What are they saying to you?

Prof. Sara—Several members are very supportive but other members are not supportive of that view. The ARC is in a unique—and I think a very positive—position in that the view we put forward is about national benefits arising from research.

CHAIR—We have received a submission from the Australian Vice-Chancellors Committee that claims to be their formal position. It says they are opposed to your position. As I understand it, they are also opposed to the view put by the Chief Scientist. He has put similar views to yours. Are you not familiar with that?

Prof. Sara—I am familiar with all of the submissions and comments made on our various submissions.

CHAIR—Sorry, I misunderstood you before. I thought you were saying that you had not had any formal response from the Australian Vice-Chancellors Committee.

Prof. Sara—That was not a formal response to the ARC. That was a submission.

CHAIR—I see. When are you having discussions with the Vice-Chancellors Committee? Do you intend to? Do you have any planned?

Prof. Sara—We have members of the AVCC on the ARC board, and I regularly meet and discuss with individual members. We have no planned formal discussion with the AVCC. We have simply put in submissions from the perspective of the Australian Research Council.

CHAIR—I refer to the argument that you advance on page 42. The Vice-Chancellors Committee have advised us that any reduction in block grant funding for research would lead to a reduction in the capacity to plan strategically and a less effective research regime and would reduce the capacity of universities to undertake long-term basic research. How do you respond to those assertions?

Prof. Sara—Quite simply by saying that we are not suggesting any reduction in the block funding. We are simply suggesting that the balance between block funding, which we call institutional funding and which provides an important component of any research system—so it is institutional funding—and competitive funding needs to be readdressed. I would suggest that that view is put in greater deal particularly in our submission to the research collaboration review, which is ongoing.

CHAIR—Your submission is probably on the web site?

Prof. Sara—Yes, it is.

CHAIR—It has actually been put to me, Professor Sara, that what you are talking about here is the capacity of the Australian Research Council to exercise greater control over research funding.

Prof. Sara—What we are putting forward is the best way that we believe Australia can gain the best benefit from research.

CHAIR—On page 42 you refer to inefficiencies in research resource allocation. Can you give me some examples?

Prof. Sara—Yes, I can. Quite simply, inefficiencies simply relate to the type of approach which Australia currently follows, which is that of marginally funding research from a multiplicity of sources. This means that the researchers are spending most of their time hunting partial funding for their research. We have feedback from our researchers that this is impeding their research and impeding the amount of time that they are able to spend on research.

CHAIR—I am wondering, given what you are saying on page 43, if you are implying that the present arrangements in terms of the block funding of research are not actually driven by competitive pressures.

Prof. Sara—I am sorry, I cannot find page 43.

CHAIR—It is on your page 4 and on our page 43. I apologise—that was my mistake. It is just the way it has been bundled up for us. I note points 22, 23 and 24. Firstly, isn't there quite a considerable amount of competitive pressure on the universities to provide funding for various projects? Secondly, do you really think that there is a downgrading of quality in that arrangement?

Prof. Sara—Yes, I do. If we look at the outcomes and the outputs from research funded through various instruments, such as through peer review competition—that is the competition I am talking about; I am not talking about a formula driven post-hoc approach to competition but about peer review—we know that the outcomes from that kind of research are far more beneficial to Australia. We know that the impact of the publications is approximately three times higher, very generally speaking. If we have them in concentrations of research, it is up to seven times higher. We know that it is that kind of research that drives innovation and will bring economic benefits to the country.

CHAIR—Have you had any discussions with the minister about your proposals?

Prof. Sara—Yes, we have.

CHAIR—What has the response been?

Prof. Sara—That matter is between us and the minister.

CHAIR—Were you disappointed that there was not more emphasis on the research package within the formal announcement of Our Universities: Backing Australia's Future?

Prof. Sara—No, I believe that the research issues will be addressed in the future and I look forward to the outcomes from that.

CHAIR—Were you disappointed that the original proposal put to the cabinet in February, that there be a research infrastructure fund or an incentive fund of perhaps \$113 million, was dropped from the package?

Prof. Sara—I am sorry, I am not aware of that proposal to cabinet.

CHAIR—You were never consulted about that?

Prof. Sara—No, I know nothing of it.

CHAIR—What about the idea of actually amalgamating the various research block grant funding arrangements at the moment? The research training schemes, the IGS scheme and the other one would be amalgamated. Is that a position you would support?

Prof. Sara—Again, I am not aware of the outcomes from these reviews at the moment.

CHAIR—In paragraph 3.12 in the original submission, you say that the ARC is currently funding approximately 52 per cent of the direct costs of the research it sponsors and 60 per cent of discovery research projects, compared with linkage programs at 33 per cent. In paragraph 9 on page 41, where you outline your key approaches to funding, you argue for greater competition and fully funding the direct costs of research. If full funding is to be provided in a competitive environment in the future and presumably provided by the ARC and the NHMRC under this model, doesn't that mean that you are actually looking to double your funding to enable you to get from 50 per cent to 100 per cent?

Prof. Sara—What it means is that, in order to increase the direct costs of research, we would need additional funding. If we had the same amount of funding that would mean that the success rates would fall.

CHAIR—We have discussed that particular aspect at estimates, but I am just trying to be clear here. To move it from the present ratio of 50 per cent to 100 per cent, you would need to double your research funding, wouldn't you?

Prof. Sara—It is not quite as much as that, but yes.

CHAIR—It is within that range, isn't it? If it is from 52 per cent to 100 per cent, let us say it is a 48 per cent increase in those particular programs, it is a 40 per cent increase in the other programs I have mentioned and it is a 66 per cent increase in funding—

Prof. Sara—In linkage you would not aim for 100 per cent because of the industry contribution, which is very important to the success of it.

CHAIR—But, on balance, in aggregate terms?

Prof. Sara—There needs to be additional funding. There is no doubt of that.

CHAIR—In fact, it could in fact be as close as a 100 per cent increase?

Prof. Sara—It could in fact be as close as that if the government decided to fully fund the direct costs of research, and it has not done so.

CHAIR—In dollar terms, how much would that be?

Prof. Sara—In dollar terms it would be a doubling to another \$270 million, approximately—probably roughly another \$200 million.

CHAIR—So you would be looking for another \$200 million.

Prof. Sara—Roughly. Not all of our programs require the full cost.

CHAIR—So you have had no discussions with the universities about this?

Prof. Sara—Not all our programs require the full cost.

CHAIR—So you have had no discussions with the universities about this?

Prof. Sara—I have had discussions with the universities about this. I have had discussions with the AVCC and I have had discussions with its members. I have particularly had discussions with the AVCC's DVC/PVC research committee.

CHAIR—If we want a 100 per cent increase in the funding for your programs to be allocated on a competitive basis, what impact do you think that would have on basic research infrastructure at universities?

Prof. Sara—I hope it would improve the situation at universities. We are talking about new money; we are not talking about moving money from one side of a system to another side of a system. We are talking about new money.

CHAIR—I see, so you have presumed there will be new money?

Prof. Sara—I wish for new money; I cannot presume that. I am saying that if there were additional funding it would have to be new funding.

CHAIR—I see. So your view is that the existing allocation for basic infrastructure would remain?

Prof. Sara—It depends on what you mean by basic infrastructure.

CHAIR—Isn't that what the IGS provides?

Prof. Sara—The IGS provides basic infrastructure in terms of buildings, animal houses, libraries et cetera. The Research Infrastructure Block Grant, RIBG, provides project specific infrastructure support. As you know, the amount of funding going into RIBG is quite below international benchmarks. So the system for infrastructure does need improvement, and we have put that forward in our submission to the infrastructure report.

CHAIR—You will not get any argument from me on that particular point. There is no growth funding in the Research Training Scheme either, is there?

Prof. Sara—I do not know.

CHAIR—When it was introduced there was no growth funding provided and there has been none provided since that time. That would be right, wouldn't it?

Prof. Sara—I am not aware of the outcome of these reviews.

CHAIR—No, I am asking whether you can retrospectively, from the point at which it was introduced until now, examine that and tell me what the growth funding component was in the Research Training Scheme?

Prof. Sara—In the Backing Australia's Future package?

CHAIR—Yes.

Prof. Sara—I cannot offhand.

CHAIR—Was there any growth funding for the Research Training Scheme put in Backing Australia's Ability?

Prof. Sara—No, not specifically to the RTS, but you must understand that that is part of one of the reviews that is being undertaken at the moment.

CHAIR—I do.

Prof. Sara—Yes, you understand that. I think the outcome is yet to be known.

CHAIR—There are in fact 12 reviews, aren't there? Do you calculate it as being 12?

Prof. Sara—There are a number. I do not know that there are 12 that we are involved in.

CHAIR—There is the mapping exercise.

Prof. Sara—Yes.

CHAIR—I take it you have now read the report on the mapping exercise?

Prof. Sara—Yes.

CHAIR—Is that the one I released or do you have another one?

Prof. Sara—We do not have another one. There is a mapping exercise the government is about to release, and the chair of the ARC, Tim Besley, is on the committee.

CHAIR—So you have had an opportunity to read the report that was been given to the government on August 20?

Prof. Sara—Yes.

CHAIR—You felt confident that that was a fair representation of the situation?

Prof. Sara—I think it is an excellent data collecting exercise.

CHAIR—You do not regard it as simply a draft?

Prof. Sara—I certainly saw a draft. I have not seen any final copy.

CHAIR—On what date did you see that one?

Prof. Sara—It would have been two months or six weeks ago.

CHAIR—That is the August one.

Prof. Sara—Something like that, yes.

CHAIR—And that is the one that has been—

Prof. Sara—I attended a meeting of stakeholders to discuss it.

CHAIR—You were satisfied that that was a reasonable representation of the factual situation?

Prof. Sara—It is a reasonable collection of relevant data for the science and innovation system. It is a collection of data.

CHAIR—And that is the most up-to-date information we have got, isn't it?

Prof. Sara—I believe it is, yes.

CHAIR—In terms of the review of research collaboration, when do you expect that report to be available?

Prof. Sara—I believe they are to report to the minister at the end of November.

CHAIR—That is the one which may recommend the amalgamation of the CSIRO divisions and universities?

Prof. Sara—I doubt that would be an outcome.

CHAIR—You do not expect that to happen?

Prof. Sara—I do not expect CSIRO and universities to amalgamate. I hope that they will continue to collaborate closely, but I do not think they are going to amalgamate.

CHAIR—So you are familiar with what the minister then representing the former Minister for Regional Services, Territories and Local Government said in regard to the Atherton Tablelands laboratories—that is, that they would make an excellent campus of James Cook University?

Prof. Sara—No, I have not seen that.

CHAIR—You are not familiar with any of the other vice-chancellors' views on the need to amalgamate specific facilities of CSIRO and the universities?

Prof. Sara—I am not aware of that, but I am aware of several vice-chancellors' views on the benefits gained from close collocation and collaboration with CSIRO. There are a lot of resources in CSIRO which the universities would benefit from.

CHAIR—Yes, of course. What is your notion of close collocation?

Prof. Sara—It could be virtual collocation or it could be on the same site, such as is happening around the Monash strip.

CHAIR—Would that be under the same or similar governance requirements?

Prof. Sara—Collocation and collaboration do not mean the same governance.

CHAIR—What about the collocation aims at James Cook University?

Prof. Sara—The ARC is not involved in that whatsoever, but I believe it is a matter being discussed by both organisations.

CHAIR—What input will you have into the 12 other inquiries?

Prof. Sara—We have provided a submission to all of those that we can provide a submission to. We have provided assistance in the secretariat: for example, in the mapping exercise. Members of the ARC board—or the ARC—are on working groups in a number of those reviews.

CHAIR—When do you expect that a final decision will be made, in terms of responses to these reviews?

Prof. Sara—I believe it will be by the end of the year.

CHAIR—Would you anticipate that this will feed into next year's budget round?

Prof. Sara—I would anticipate that, yes.

CHAIR—So, in terms of the possible financial and legislative implications, we will not see that until next year?

Prof. Sara—That would be the normal process.

CHAIR—But, through the budget process itself, is that your expectation?

Prof. Sara—Yes, that would be my expectation. As you know, Backing Australia's Ability has to be considered in the budget.

CHAIR—That is what I am saying. That is effectively what this leads into, isn't it?

Prof. Sara—Yes.

CHAIR—Do you have any indication of the research deficits in terms of the funding that would be required? Do you have any calculations at all of what the national research deficit would be?

Prof. Sara—I would have to ask you to clarify what you mean by ‘national research deficit’.

CHAIR—Wherever I go, universities are asking for additional resources to fund essential infrastructure. They tell me that the capital development pools, for instance, are oversubscribed by a figure of four to one. They say that the various formulas that have been used since the 1990s are grossly inadequate to meet their infrastructure needs. How much money do you think is needed to bring our research infrastructure up to reasonable international standards?

Prof. Sara—I have seen submissions from various universities ranging from \$1 billion up to some \$3 billion—that is the highest I have seen—to go into the research system. To bring our infrastructure up to international levels would probably require an investment of around \$1 billion over the next five years.

CHAIR—Do you have any data to back up that calculation? How do you reach that sort of assumption?

Prof. Sara—I am actually doing that while I am sitting here.

CHAIR—That is always a dangerous thing, I agree.

Prof. Sara—We have not done any modelling on that. We know the strains on our own competitive systems—the LIEF system which supports infrastructure. We know the strains on the RIBG. We have that modelling and the international comparisons. Where it becomes very difficult is for us to have a really valid assessment of universities’ heavy infrastructure. While I can tell you what it would cost to bring up the major national research facilities, RIBG and the LIEF proposals—they alone would probably take us up to some \$400 million—I cannot give you a reasonable estimate on the universities’ heavy infrastructure.

CHAIR—Given that the committee is examining the full gamut of matters here, and the research component is effectively being deferred but nonetheless the reviews are part of this package, would you provide the committee with data that would support that contention that you have made in terms of the matters you specifically referred to and in terms of the broader calculation that you have estimated to the committee? I acknowledge that it is an estimate. What would be a reasonable claim, in your judgment or in the council’s judgment, as to what would be required to bring the system up to reasonable international standards? Bandwidth connectivity, for instance, would be another factor.

Prof. Sara—Yes.

CHAIR—I know there is not a finite amount that the university will not claim over time in terms of their expectations, but what do you think is a reasonable figure in terms of the research infrastructure deficit in this country?

Prof. Sara—We can provide that to the committee, but I trust that the committee understands that, whilst our figures in specific research infrastructure will be fairly accurate, those relating to general infrastructure for supporting research in universities will not be.

CHAIR—No, but you can give me some indication of the basis on which you calculate those matters.

Prof. Sara—Sure.

CHAIR—I too have read the submissions, and the analysis that is coming to me suggests that the figure may be a little higher than that—it may be 1.7 or 1.8, I do not know—but I would be interested in your assessment. As there are no other questions, I thank you very much for coming.

Prof. Sara—Thank you.

Proceedings suspended from 10.51 a.m. to 11.08 a.m.

HASTINGS, Mr Graham Nicholas, Education Research Coordinator, National Union of Students**KYRIACOU, Mr Daniel Nicolas, President, National Union of Students**

CHAIR—I welcome representatives from the National Union of Students. The committee has before it submission No. 411 and a supplementary submission that you have also submitted. Are there any changes that you would like to make to either of those submissions?

Mr Kyriacou—Only the modifications when the legislation was released by the minister. Some of the stuff in the original submission has slightly changed, but most of that is covered in our supplementary submission.

CHAIR—The committee prefers all evidence to be given in public, although the committee will also consider any request for all or part of your evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Mr Kyriacou—The National Union of Students has made its position both in its submission and in public particularly clear about this legislation. We oppose it in full due to equity concerns for students, the up-front full fee increases and the interest rates. I do not want to elaborate on that to a great extent but I do want to talk about the Senate committee process. I know that day after day you have had vice-chancellors and some really high-profile speakers coming in. They have been analysing this package and talking about how it is going to affect the community and students. But the most heartfelt and most significant submissions that this Senate inquiry has received are the ones that have come from individual students who have written in and spoken about their personal experiences—about how they are going to attend university.

People like Bruce Chapman can sit down at their laptops and say, ‘I can punch in all these numbers which show that students don’t need to worry about how HECS increases are going to affect them,’ and do quantitative based research, but it is when students come in and talk about how they feel about those fee increases and what they expect of their lives that it is really significant. They are not necessarily getting to speak about those issues. All I wanted to say was that when I look back through those submissions they are the ones that really stand out to me. They are the ones that I hope this committee looks to when they write their report and also the rest of the Senate looks to when they make decisions about what they can cut and what they can deal around.

The students from regional Australia, the Northern Territory, Western Sydney and outer metropolitan Melbourne who made submissions are the students who have spoken about their fears of the fees being increased. They have spoken about how it going to affect their lives and whether they would have even gone to university in the first place. To ignore those students simply because they do not carry the title of NUS President or Head of the Centre for Independent Studies does not mean that they are any less relevant. They are really relevant and their opinions should be stressed when decisions are made. They do not get front-page stories

when they write their submissions and they do not get in the media but they are the students who actually know what it means to have fees increased.

A story I think of is that after mad cow disease was cured the vets said, 'Cows are fine in the UK.' People in France still did not buy British meat, not because the experts were saying that the cows were not fine but because they had fears about them. Just because Bruce Chapman says, 'Students might be fine with this 30 per cent fee increase,' does not mean that students who at age 16 and 17 are making decisions about the rest of their lives do not think that those massive fee increases are going to have a massive effect on them. I have a large HECS debt and I know that whether or not Bruce thinks paying a HECS debt for the rest of my life should be okay, I am going to put off things like starting a family, buying my first home and moving ahead in my life until I can pay back that debt. Many students in my situation are going to do the same, and that should not be ignored. That is what I wanted to stress to this committee. All the experts can say all they like but these fee increases are going to bite the individual students who have made those really personal submissions to you guys.

CHAIR—Thank you very much. I have one or two questions and then I will ask other senators to pursue some issues that they are concerned about. You expressed concern about a loophole you see in these arrangements that are currently before the parliament. Could you explain how you see the legislative loophole that suggests that fees may rise above 30 per cent occurring? What particular provisions of the bill are you referring to and how do you see that that mechanism could undermine what the minister has been saying—that he proposes to cap fees at 30 per cent?

Mr Kyriacou—I will look at the bill and refer you to the provision in a second. The key loophole here is in relation to the cap that was promised in the budget release. The provision is 36-35 of the actual legislation. It appears that while it was promised that the fees would be capped at 30 per cent this is not going to actually be in legislation; it is going to be in ministerial guidelines. The concern here for NUS is that ministerial guidelines are more easy to change than actual legislation. They usually require far less public debate and are far more easy to slide through. The concern is that in a couple of years a minister might come back to the House with a two or three per cent increase in that cap and that will not have the same level of public scrutiny that a legislative change might require.

This minister has given a number of guarantees in the process of this legislation and some of those guarantees have already been broken. Things such as the promises about the severity of the IR reforms or even promises before the last federal election from the Prime Minister about HECS fees not being changed and HECS increases not occurring have been seen to have been broken in the processes of parliament as new ministers are appointed, as new governments have come to power or as new agendas form in the government. Our concern is that while this minister has made guarantees that he will not increase fees over 30 per cent that cap seems to only exist for 2005. Then it will be in ministerial guidelines. We have great concerns that in the future it will be very easy to increase student fees. There will be, I am sure, a lot of pressure from universities to do so.

CHAIR—Clause 36-35 also says:

(i) a course of study that the agreement provides is a course in which the provider must not enrol persons in units of study as Commonwealth supported students ...

In fact, clause 36-35(1)(a)(i) suggests to me that that could be 100 per cent full fee paying places. I wonder if you could look at that for me. Do you have a copy of the bill?

Mr Hastings—We do not have the bill, but—

CHAIR—I asked for about five copies to be provided, so I trust there is one. I advise future witnesses that I will be asking them to look at the detail of the legislation. Look at 36-35(1)(a)(i).

Mr Kyriacou—We have looked at that and we had Phillip Curran go through parts of the legislation. Our concern is that the minister would be free to have well and truly above the 50 per cent cap and have even full fee paying courses established in Australia, whether they be for international students or domestic students. In fact, there is no actual restrictive cap in this legislation on the number of—

CHAIR—So your reading of that clause is that it could be as high as 100 per cent?

Mr Kyriacou—Exactly. There is nothing in that legislation that would prevent the minister from having 100 per cent full fee paying students in a given course.

Mr Hastings—The *Sydney Morning Herald* mentioned that two vice-chancellors had also interpreted that—

CHAIR—Yes, we have heard from a number of vice-chancellors. The nature of these processes is to obtain advice from a range of sources. As far as the NUS are concerned, that is your reading of that as well.

Mr Hastings—Yes.

CHAIR—Thank you for that. Are there other aspects of the bill that you would be concerned about—for instance, the provision of personal information? Are you familiar with those particular clauses in the bill?

Mr Kyriacou—The monitoring section of the bill is about monitoring students. This has presented a number of concerns for us. Firstly, in our discussions with universities, they have signalled a very large number of complications in actually applying such a scheme without having crossovers and students being given identical numbers if they enrol on the same day. Beyond that, I think we are looking at it moving towards far more ‘big brother’ monitoring of university students and their progress through university rather than that happening on a campus basis. Personally, having sat on things like show cause committees, I know that quite often the reasons for which students progress or fail to progress to their degree can sometimes be campus based specific, and analysing that from a national perspective may miss some of those campus based issues. Things like lecturers cancelling courses halfway through often come up in show cause committees—with students not completing in time when, in fact, it is not actually the fault of the students at all—or there are university based administrative errors. I would hate to think

that some sort of national system being regulated by government might not be able to take into account many of those measures.

CHAIR—Could you look at clause 19-60. Again, the language is important. There is no reference to institutions and no conditional concerns about universities are mentioned. It says:

(3) The provider must comply with:

(a) the requirements of the Higher Education Provider Guidelines relating to *personal information in relation to students
...

How do you read that?

Mr Kyriacou—Again, only that those guidelines will require universities or any other provider to provide detailed information relating to both the location of the students and their detailed academic record. It is of concern to the NUS that academic records are often quite personal things for a number of students.

CHAIR—It is not just academic records; it is personal information. It is not confined to academic records. It may well be activities at the university.

Mr Kyriacou—That is correct. This legislation allows the government to have a very keen eye on and control over what happens on university campuses, both control of student organisations and control of understanding information about universities and what students actually do on campus.

CHAIR—‘Personal information’ is described as:

... information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion ...

What information could that not include?

Mr Kyriacou—Exactly; this could include everything from content of research material done by students to academics’ opinions of those students and even the personal medical records of those students, which are used by universities quite regularly as students progress to their degree. I know that, when going out to an employment area, students would be very concerned about having some of that more personal information—and their political opinions and the opinions in their material—being given to a government which already appears to have a far more conservative opinion about or a desire to dictate what is a university course and what students can and cannot study at university. It does concern me that the government is looking for such.

CHAIR—What about the reference to ‘whether true or not’?

Mr Kyriacou—It appears here only that the government is looking to accumulate very detailed information about both university graduates and university students.

CHAIR—Have a look at 179-5. What troubles me, as chair of the committee, about these proceedings is that the more information we get about the bill the more deeply ingrained my concerns are about the fundamental breaches of civil liberties and the fundamental breaches of what we would normally regard as a settled issue about the role of universities in our society. Let us go though it again. It says:

... information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not ...

This could be whether or not you are having an affair with one of the lecturers' wives.

Mr Kyriacou—This entirely bill is completely invasive, given the issue that the government would want to collect data which would be absolutely of no relevance, I would argue, to running a higher education system. That can only make people sceptical about their reasons for wanting to collect such information.

CHAIR—That is obviously a matter of some real concern. There is another provision here that really worries me. It is 19-80. Please look at 19-80. It says:

(1) The Secretary may determine in writing arrangements, in respect of a higher education provider, for access by—

an Australian Public Service employee in the department who is authorised—so, in other words, the secretary could authorise one of his own officers—or any other person he authorises to ‘any premises or records of the provider’—again no reference to a university here—for the purpose of ‘conducting audit and compliance activities’. Presumably that means student dormitories.

Mr Kyriacou—I assume it would mean that it could apply to student colleges, student organisations and even union offices which are kept on university campuses, as one would argue.

CHAIR—I will go one further:

(2) The provider must comply with the arrangements.

No ifs or buts but ‘must comply’; no legal review process, no magistrates and no warrants. If you do not comply then you could be subject to a breach which could lose your funding.

Mr Kyriacou—We have great concern about the entire length of this bill. These provisions are incredibly invasive not just to students at universities but to students' personal lives and activities on campus, whether they be campus societies or student organisations, including dormitories where quite personal information and files are kept about the students who stay there. I see no relevance in the government having access to that information to the provision of or running of a higher education system. I can only be sceptical about why they would desire to have such detailed information about university students.

CHAIR—We still have time to take supplementary submissions on this. You obviously have expertise the committee might not have. In terms of what I have just asked you, could you have a look back over the provisions of this bill and provide us with any additional detailed information that you think is relevant to the issue. I want to emphasise this. This is not the hyperbole, the

political rhetoric, the grand statements of objectives or the political deals that are stitched up between vice-chancellors and ministers—it is about what this would actually mean for students in terms of the black letter law.

Mr Kyriacou—Absolutely.

Senator STOTT DESPOJA—Before I get on to the substance of the legislation, you have raised the issue of the Senate committee process and the Senate process. Could you tell the committee whether you have had meetings with members of the Senate and indeed have met with the government, specifically the minister, to discuss the package since its release?

Mr Kyriacou—We have certainly had meetings with members of the Senate. The NUS has not actually had a meeting with the minister this year, mainly out of his desire not to meet with the NUS to consult on the package either prior to its release or after its release.

Senator STOTT DESPOJA—Has he said that to you, or have you just found it difficult to get a meeting?

Mr Kyriacou—We had an arranged meeting earlier in the year but it was cancelled after he decided to call a press conference about the NUS at the same time. Since then he has been unwilling to have a meeting and none has occurred.

Senator STOTT DESPOJA—So the peak body representing students in Australia has not been able to see the minister since the release of Crossroads or the legislation.

Mr Kyriacou—Since the release of the legislation. We had meetings with the minister last year, I believe, although I was not the president then, to discuss in detail the package, but not since I became president in January have we met with the minister.

Senator STOTT DESPOJA—What form have your discussions or feedback to the minister or the government taken? Apart from submission to this committee, have you met with members of the government, backbenchers?

Mr Kyriacou—We met with some backbenchers earlier in the year in the lead-up to the release of the package. Since then we have focused on opposition members in the upper house and lower house in relation to this package rather than targeting the government. Our reception from the government ministers and the minister was that their concern about the inequity side and the student fees side was very limited, so we had very limited grounds to push the core issues with them.

Senator STOTT DESPOJA—You mentioned to the committee that you want us to be particularly conscious of the individual or very personal and anecdotal submissions and you are hoping that issues like fees and charges will be key issues when people come to make their decision when the vote on this is taken in the Senate. Have senators been receptive to that? Do you think you are actually making some headway on the equity side of the argument?

Mr Kyriacou—Certainly senators from the ALP, the Democrats and the Greens have been very receptive to issues relating to student fees and the level of student fees in Australia, and

more and more, as we have met with Independent senators, they have raised concerns about those things. We are confident that as this report comes out, and as the debate continues towards the actual vote in the Senate, those fee issues which have been so obvious in the media—and I think the concern about them in the community has been clearly demonstrated—will come to the forefront and be the guiding principle on which people make their decision.

Senator STOTT DESPOJA—I hope so too. I think you have made a good point today on the fact that we are very conscious of the modelling and the arguments and the different peak bodies that have given evidence, but I do not know that issues like access and equity in the form of fees and charges as a barrier but also income support actually have been at the forefront to the extent that they could be, so I am heartened to hear that you think that particularly some key senators are receptive to those arguments. What about the rest of the education sector: have you had regular meetings with your colleagues and counterparts? What about the Australian Vice-Chancellors Committee?

Mr Kyriacou—The Australian Vice-Chancellors Committee and the NUS have had a number of meetings this year, and we raised a lot of concern when they released their response to the government's package and they highlighted that there was no way to be sure what the effects of the student fee increases would actually be on the community. Our concern throughout this year has been that, as an organisation that is so powerful and so prominent in the sector, the AVCC not knowing what the effects on students will be in relation to the fee increases yet having such eager support for the deregulation of university fees and eager support for the number of full fee paying students does raise great concerns. There has been a big divide both publicly and privately between the Australian Vice-Chancellors Committee and the NUS over what is the direction to head with this package and whether the amount of public funding that is given is worth the massive sacrifice in the way of fees and debts for students.

Senator STOTT DESPOJA—Do you meet with individual vice-chancellors?

Mr Kyriacou—Yes, we do. I met with a number of them, and some of them show greater concern than others about those issues. Most of the vice-chancellors will say—and I have even heard them speak to this Senate inquiry—that they are particularly concerned about equity and fee issues but, in the next sentence, they tend to say, 'But we still support the deregulation of university fees and we still support the fee increases.' Unfortunately, while I think they are all concerned, there is a political desire for more access to funding. We have got to remember here that this is a government package which does not index university fees. So, if the government wants universities to maintain the current level of funding, the inbuilt way for universities to do that is to increase their fees at the same time as costs. The vice-chancellors are more than aware of that and know that, without those HECS increases in this package, they are going to be back in front of this Senate committee in three or four years time in the same kind of fee situation. So, unfortunately for them, while they are concerned about the equity issues, that does not seem to be guiding their judgment at the moment. They are more concerned about what their budget bottom lines are.

Senator STOTT DESPOJA—I will ask this of the AVCC as well, but do you have a sense of which universities have indicated that they will take advantage of the proposed HECS increases to 30 per cent or, indeed, more up-front full cost undergraduate fee places?

Mr Kyriacou—In my discussions with the vice-chancellors almost all of them admit that at some point under this package they will be forced into a situation where fee increases are the next logical step. Even universities that are out there currently claiming that they have no intention of immediately increasing their fees acknowledge that under this package at some point they will have to do so. Certainly a large number of universities—and most of the Go8 can be put into this category; places like Flinders, Monash, most of the metropolitan campuses, apart from those that are in outlying metropolitan areas—are going to increase their fees and more than likely by the full amount. We know that in Melbourne, for example, Melbourne University, Monash University and probably RMIT will certainly increase their fees by the full 30 per cent if this package is passed. I am sure you all will have seen that the University of Sydney intend to increase their student fees by the full 30 per cent, across all courses that they are allowed to do so, as soon as this package is passed. I think that signals that the universities, while not being vocal about it at the moment, will follow suit. They are really being given no choice in this package.

Senator STOTT DESPOJA—You have a position in common with the AVCC in relation to so-called voluntary student unionism. I think your views are on record sufficiently. There is nothing in addition to your submission and supplementary submission in terms of negotiations on that? You obviously have not had contact with the minister to discuss that.

Mr Kyriacou—Only in that the VSU legislation draft wording in this report is particularly controversial. I would argue that it will limit universities in charging a whole bunch of fees. Apart from the student unionism fees, they could include things like library fines. I would argue that not very much detail was given to the idea of putting VSU into this package. I suppose the other controversial thing is that yesterday it was not read in the lower house at the same time as the bill, which signals that the government may be rethinking their commitment to pushing this through the House—and I hope that they are doing so. Certainly the community and university students have no support for it.

Senator STOTT DESPOJA—I have one other question on the consultation process. In relation to Crossroads—the consultative process prior to the release of that package, which was obviously long before the legislation—do you think the views of the NUS were adequately canvassed or reflected in that report?

Mr Kyriacou—The government made a lot of attempts to have the NUS in the Crossroads process. If you look at the number of submissions given to the Crossroads process, the vast majority—well and truly over 80 per cent—speak about the need to decrease student debt and decrease student fees, just as the vast majority of submissions made by individuals to this Senate talk about the need not to pass on these fee increases. Unfortunately, the legislation that came out supports deregulation, fee increases and more full fee paying places.

My opinion of the process is that, yes, it was consultative. But, if I had sat down at the very start of the process and drafted up the bills, they would have been very similar to what came out at the end. I think the government went into it with a set agenda and came out of it with a set agenda. It is the same agenda that was put under the Fraser government, it is the same agenda that Kemp tried to put forward in 1999, and it is the same agenda again coming from this government. It does not relate in any way to the submissions that were made, and it seems that they were simply ignored.

Senator STOTT DESPOJA—One of the ongoing debates—and it is hard to get a definitive answer to it—is about the level of cost shifting to students particularly since 1996 but before that as well. Successive governments are responsible for it. Do you have a specific figure? The NTU has provided some figures. The government keeps telling us that students pay anywhere from 25 per cent to 27 per cent of the cost of their degree, which I find hard to believe, because it is calculating up-front discounts, research funding et cetera. Has the NUS done any work on that?

Mr Hastings—I think we have been trying to do that. Just to explain, it really depends. When you talk about student contribution levels, it depends what you are actually measuring. The figure that Brendan has been using—the 25 per cent—can be got in two ways. You can either assume all the students are taking up-front discounts and measure all the implicit subsidies that you can possibly take to get that down to 25 per cent.

The other way you can get the 25 per cent—and he seems to imply that—is by looking at the actual tax that has been repaid as opposed to the debt level that students are incurring. You can measure that and look at the grants and get 25 per cent. But obviously that does not actually assist in assessing current student levels because that reflects historic levels when HECS was set at 20 per cent. In fact, people who have started in the top band since differential HECS came are only just coming into the work force now because they tended to be doing five or six years course and it is only 2003. Those people have not yet been paying through the tax system. We would expect the figures to go up as those students come on line.

The other figures that people have bandied around are more around the 35 per cent to 40 per cent mark. If you talk about HECS compared to the university operating grants in total that the Commonwealth puts in, that gives you a figure of about 34.5 per cent. In 1995, that was 19 per cent, basically. If you are looking at the total HECS and student fees versus total university funding from all sources, it went from 23.6 per cent in 1995 to 37.5 per cent now. Obviously, the other variation is the entry year data, which looks at teaching costs. That was derived from the teaching cost numbers that were given to the Senate in 1997, which ultimately do not include the research component. That is where you start getting figures of law students actually paying more than the total cost of the course.

Senator STOTT DESPOJA—Yes, 81 per cent and then 105 per cent.

Mr Hastings—Because it is 1997 data, you cannot extrapolate back to the 1995 numbers yet. That exercise could be done if the Senate required it.

Senator STOTT DESPOJA—Based on that, it seems the most legitimate figure out of those to use would be the 34 per cent figure, which contrasts with the 19 per cent that you have referred to. You talked about the first two ways of calculating that percentage. You are assuming that the first method was the one that was employed by the minister—the one that factors in the discount et cetera and all other subsidies.

Mr Hastings—Yes.

Senator STOTT DESPOJA—Do you think that is a meaningful figure, though? It seems a bit cheeky, to me.

Mr Hastings—It did not actually reflect real practice because 90 per cent of people defer. That might apply to some students. If you want a figure of the absolute minimum contribution you could make then it is fine. But it does not reflect the actual contribution that students make because 90 per cent of them choose to take the deferred payment option, so it is a meaningless figure. The second figure—looking up the actual tax—reflects historic positions about HECS and what was happening seven or eight years ago. It does not reflect the current position or what students are paying now. The 25 per cent is not a very useful figure in terms of the actual policy debate that we are having here.

Senator STOTT DESPOJA—What about some of the proposed new repayment arrangements, FEE-HELP and HECS-HELP? I know you have done some work in your submission. I am not sure if there is anything you want to put on record today in relation to, first of all, the 3.5 per cent real interest rate plus CPI in relation to FEE HELP and the fact that there is a demand that students pay back the non-interest bearing loan first. In your mind, what would be the impact on students who are accumulating both debts?

Mr Kyriacou—I think there is a real policy disaster in having an income contingent loan for full fee paying students. We know without question that students who go to government schools get lower entry scores or marks than students who go to private schools. This is a reality in Australia. It happens for a whole bunch of reasons, mainly based on resources. If you have a situation where you are giving income contingent loans for full fee paying students, the students who are more likely to take up those places are the students who missed out on becoming a nurse, a doctor or a vet, or whatever you can have those loans for, and they are going to be the students who come from government schools.

So we could very easily develop in Australia a situation where some of the more privileged students get access to HECS and the less privileged students get access to fees which are four or five times the HECS level. That is, I suppose, the policy reality of what is likely to occur. I imagine that they are the students who miss out on the marks and still want to get in. They have this new loan they can take up so, of course, if they are desperate to have that career, they may take it up, not knowing the financial situation they put themselves in. They carry that debt whether they graduate or not. That is the first issue.

The second issue is preferment of payment—that is, you do not repay your interest-bearing loan until you have paid off your HECS. All I can say is that that system has been devised by this government to make students pay absolutely the greatest amount of student fees possible. If this government was committed in any way to reducing the level of student debt, it would have been very easy for it to say that you pay your interest-bearing debt first. I can only imagine the justification for not doing that is the maximisation of its profits from the higher education system. It is also important to know that none of that interest will ever be given back to universities—it just goes into the general revenue of this government. It seems like a very nasty way to slug young and mature age Australians with a debt.

The final thing I want to point out is the other reality of this scheme, which is that Australians have a very high drop-out rate for university. About one-third of students drop out of university in their first year or two. That involves them doing a year or two years of HECS. If they then come back into the system two or three years later to study a different degree, as we know many of them do, the last year of that degree under this system will have to be full fee paying, because

there is now a learning limit or learning entitlement gap. So, again, for their last year, students are likely to incur an interest-bearing debt which will continue to grow for 10 years before students can pay it off. I think that is going to be a major discouragement for students who want to come back into university or even mature age students who want to reskill. I think it is an unnecessary and nasty section of this package—it is a desire to slug students for government benefit rather than for the benefit of the sector.

Senator STOTT DESPOJA—I think you might even have an ally in Professor Bruce Chapman. He was giving evidence, as you know, last week. He said that, for all of those equity reasons, it is just inefficient. I suspect the AVCC supports you on that as well. So, overall, acknowledging that there are some minor positive aspects in this package—and we have all bent over backwards to try and point out what positives there may be and, even then, it is often with qualification—clearly, in your mind, they do not outweigh the nasties, to use your terminology, or the negatives. Your message to the committee is to not pass the legislation. You are not talking about amendments that would ameliorate aspects of it; you are talking about stopping this legislation. Is that right?

Mr Kyriacou—I do not see any way in which this government can amend their own legislation or that the Senate can amend this legislation to remove the massive equity concerns. You can take away the industrial relations section and you can try and look at some of the micromanagement issues, but this entire legislation is based on the ability of universities to increase HECS as they desire more funding in the future. That is the part that is going to have the greatest effect on students and on who actually attends our universities. If you take that out, there is actually no legislation package here. So I just do not see how it can be amended. It needs to be blocked in full. The government needs to be asked to rewrite it to produce something which is more tenable with students and the broader community.

Senator STOTT DESPOJA—What about vice-chancellors? You have heard the evidence—we have had a large number of vice-chancellors appear before the committee. We have the AVCC to follow and they will argue strongly that they need the money. Even given all of those things you have criticised, when I have asked vice-chancellors—and let us not pretend that there is not heavy criticism from the AVCC as well of some aspects of the package, whether it is the thresholds, the interest rates, the indexation, VSU or IR et cetera—at the end of the day there is this recognition that there is a lack of funding. So how do we work through that or do we not amend it but just change our perspective on how we fund universities?

Mr Kyriacou—I suppose my opinion on that is a really simple one: I understand vice-chancellors' desire; they have a broad based responsibility to fund their universities. I understand them wanting to get funding; that is probably a driving imperative for them. But, as a government and as a society, we give our taxes to universities to provide a public good to our community. That public good is to educate young and mature age Australians who want to learn. If the net result is that more public funds must be given to the system, then it is no longer in the public good. If a large part of the public can no longer afford to access the system—or if they fear so much the levels of debt that they are going to carry that they choose not to enter the system—then it is not a wise use of public resources to fund it. The system is not for the entire country; it is only going to serve a very small and elite group. If we are going to put public funding in, we have to expect that the return to the government will be a publicly accessible

system. If it is not going to be that, then I would argue that, yes, it is a sacrifice for our universities, but I would rather see an equitable system than an elitist, well-funded system.

Senator STOTT DESPOJA—Chair, as I have more questions, can I put them on notice if the witnesses agree to that?

Mr Kyriacou—That would not be a problem.

CHAIR—Mr Kyriacou, you may want to incorporate those in your supplementary submission. That would be very helpful.

Senator NETTLE—I saw some information from NUS a while ago about the likelihood of universities cutting their enrolments next year so as to deal with the financial penalties for overenrolment which are in the package. I understand that, at the time that information was released, universities received a financial penalty for a two per cent overenrolment. Have you updated that work?

Mr Hastings—Yes. We have done a supplementary submission and we have reworked the data. There is obviously some improvement—I think around 10,000 places have been shifted around—but there will still be a number of campuses affected, even with a five per cent limit. From the preliminary data, there has already been quite a big cut in overenrolments this year. Already about 10,000 appear to have been cut, and we figure that that process will continue. There will be no incentive for universities to sustain marginally funded overenrolments, because they are not going to get the marginal funding for it. There might be some overenrolment, because they cannot quite work out the numbers as the attrition rate works through, and so they want a bit of leeway. Our estimates are still that it substantially reduces any of the growth that is going to be happening in the system, in terms of the publicly funded places—HECS-liable places—available for students.

Senator NETTLE—I do not have your supplementary submission in front of me.

Mr Hastings—We will forward that to you.

Senator NETTLE—The AVCC has stated a target for the number of people in the higher education sector. Has NUS looked at that, and do you have any view on what percentage of the population should be involved in higher education?

Mr Kyriacou—The answer to that question is very simple: I think that no Australian student who achieves the marks or has the ability to get into a university course should be denied a place. Currently about 25,000 students every year are denied a place in an Australian university who have the marks and ability to get into those courses but simply cannot find a place. That is an outrage and a disgrace, from a system which is falling apart. Most of those students are high school graduates or mature age students who want to get back into the system. They are denied a place despite having the ability to do the courses. I would like to see a situation of no unmet demand from Australian students. That would mean a dramatic expansion of the university system. That can only occur with HECS places, because very few of those 25,000 students who missed out on a place chose to take up a full fee paying place last year. I argue that very few of them want to. But if that is their only option they are simply going to turn away from the system.

Senator NETTLE—In your submission, you talk about the sort of model NUS would have for how universities should be funded. That ties in with the comments we have heard from the minister in terms of his belief that people outside the university sector should not be funding those within it. You talk about this in your submission, but can you outline some of the arguments you have had to face in putting forward your view about how the university sector should be funded, and the sorts of opposition you have come up against and how you have responded to it?

Mr Kyriacou—NUS believes the university system should be funded through a progressive taxation system. If university graduates receive a private benefit from university education it is because they earn more money after graduation. If that is the case, they should be paying more taxes, and the higher level of taxes going to the government should be enough to cover the cost of running the tertiary education system.

We push for a system in which there is no financial fee for students to get into university and in which there is no ability for there to be debt averse students, because there should be no university based debt. The NUS have put forward that system over a very long period of time. Unfortunately it is not taken very seriously by the government or many of the opposition parties, but it is taken quite seriously internationally. I suppose there are a number of countries—and Ireland would be a good example—which have, over periods, expanded their economy quite dramatically by having a free education system. That is something that NUS push for with great vigour.

Unfortunately, though, it seems to be that, since the 1980s, the trend has been in the opposite direction, and each time the NUS have made a submission to this government it has been about increased level of debt to students and increased fees and again shifting that burden from the public purse onto students. Unfortunately neither this government nor many others are willing to set a cap on when that shift is going to be too much. We are in the situation of continually trying to defend against further increases in the amount that students have to pay.

Senator NETTLE—In advocating for free education—and, as you know, some of us on the committee do that—you face arguments in terms of the previous experience we have had in Australia of free education and what impact that had on accessibility for people of low socioeconomic status accessing university. How do you respond to arguments that say that the example in the past was that those poorer students did not have greater access to university?

Mr Kyriacou—The argument put forward by this minister is that free education did not have a direct impact on the numbers of low SES students attending university. I suppose our response is that we do have clear evidence from DEST itself, in the report, that differential HECS does have an impact on the level of low SES students who attend university; in fact it has a negative impact. While I understand the desire of all parties to have high levels of low SES students attending university, the system we currently have is actually negatively affecting that process, and students from low SES backgrounds are turning away. While that is the case, I cannot see that the justification for not moving to a free education system or at least lower fees for students can be based on a desire to help students from low SES backgrounds. Certainly the increase in student fees has had no statistically major impact on the numbers of low SES students in our sector either.

Mr Hastings—I would just add something to that, getting back specifically to your question about free education. I was around on the campuses when we were having that fight, so I remember some of the arguments. There was an argument based on a sentence lifted out of a report by Don Anderson saying that there did not appear to be much of an improvement. If you actually read Don Anderson's report in full, it was an argument that a lot more needed to be done in addressing student financial assistance programs. During that time, you had the phasing out of the teacher scholarships and a severe tightening in the mainstream financial program of the time. And you had changes in the school cohorts, which also were causing difficulties in trying to increase that access. Basically the argument that the free education experiment failed is largely based on a sentence pulled out of a report. That argument has been run for many years, to the point where people have forgotten the actual report and just parrot that sentence. I think there are a lot more complex factors about free education. Certainly we would not say that the absence of tuition fees by itself is the only thing that is going to affect access. Free education also needs to have a more comprehensive policy mix, but we think that that could form part of it.

Senator NETTLE—I suppose you are saying to us that the removal of fees needs to be accompanied by student support mechanisms. In the way that Daniel was putting the argument, not only does this package from the government increase fees for students, but it also fails to deal with the issues of student income support. I have to concur with your comment about the impact of that on low socioeconomic status students.

Mr Kyriacou—The fact that this package has absolutely no detail about student welfare—things like a liveable income and Centrelink based payments—will mean that its impact on equity groups is going to be minimal. In fact it can only be a negative one, because this government has refused to take very seriously issues relating to student welfare or any of those issues which we know are integral to encourage students from low SES backgrounds to get into university. The fee increases are only going to impact negatively on that area, and the government has made no serious effort to remedy that.

Senator CROSSIN—Thank you very much for your submissions. They have been very comprehensive and useful. I would like a comment from you about what impact you believe this package will have on female students.

Mr Kyriacou—This package will probably affect all disadvantaged groups in a large way. When you increase student fees, the impact is always far greater on women. The expected analysis is that males, if they are university graduates, over their lifetime will earn an extra \$622,000, but women will only earn about an extra \$412,000. So increased fees and increased debt is going to impact on women in a far greater way. Deregulation particularly has an impact because it will more than likely lead to situations where women choose to enter into lower fee costing courses simply to avoid large amounts of debt in their working lives. We have already seen a demonstration of that. People—at least women from low SES backgrounds—have been turning away from studying law or vet science simply because the fees are a far greater concern.

Senator CROSSIN—Do you think women will do that more than men when they look at the future?

Mr Kyriacou—Particularly when it comes to mature age students. We know from the suppressed DEST research report that the numbers of mature age and external students have

fallen noticeably since the introduction of differential HECS. This very system will increase the differentiation between HECS levels and between universities. Extrapolating from that, what is likely to happen is that women from low SES backgrounds are going to choose to go to lower fee charging universities and to do cheaper courses, which is going to have a negative impact on the kinds of women who become doctors, vets and nurses.

Senator CROSSIN—What about their five-year learning entitlement? Have you had a look at that and at the impact that might have?

Mr Kyriacou—We have had a look at that. The five-year entitlement is again going to impact far greater on women, because mature age students often tend to be women going back to reskill so they can re-enter the work force. It is going to have a very large impact particularly in areas like nursing, because specialisation under this package often requires that people return to university, as is the case in a number of states where, if you are a nurse and you take some time out of the work force, for whatever reason, and you want to re-enter the work force, you have to resit a competency year back at university. Under this package that would mean paying full fees or, if you are going to specialise, taking out an interest-bearing loan under the \$50,000 loan scheme. Both of those things are going to actively discourage women from reskilling and re-entering the work force in areas like nursing and teaching.

CHAIR—Thank you very much for your advice today.

[11.59 a.m.]

KING, Mr Conor, Director, Policy and Coordination, Australian Vice-Chancellors Committee

MULLARVEY, Mr Thomas John, Chief Executive Officer, Australian Vice-Chancellors Committee

SCHREUDER, Professor Deryck, President, Australian Vice-Chancellors Committee

YERBURY, Professor Di, Current Vice-President and President Elect 2004-05, Australian Vice-Chancellors Committee; and Vice-Chancellor, Macquarie University

CHAIR—Welcome. Do you have any comments to make about the capacity in which you appear today?

Prof. Schreuder—I am the President of the AVCC—for last year and this year.

Prof. Yerbury—I am the Vice-President of the AVCC—for last year and this year—and President elect for 2004-05.

CHAIR—We have before us submission No. 417. Do you have any changes that you would like to make?

Prof. Schreuder—There is nothing to change, but we would appreciate a few moments to make a preliminary remark.

CHAIR—You will have that opportunity. I will just go through the formalities. The committee prefers all evidence to be given in public, although the committee will also consider any request for all or part of your evidence to be given in camera. However, I point out that such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Prof. Schreuder—Thank you very much. Throughout the process of the review, as you know, the Australian Vice-Chancellors Committee has published its policy recommendations and its responses to both government and Labor policies. I would like now to comment on the state of play as we currently see it. I would like to make four direct points about the present situation.

The AVCC welcomed the government's reform package as set out in the May budget context, for the simple reason that we need structural reform of the financing arrangements of our universities. Part of that reform must be additional public, as well as private, investment in universities. Backing Australia's Future is a significant package to provide both structural reform and additional investment. The legislation needs to be passed this year to allow us all to focus on implementing the package effectively once the details are settled.

Secondly, the package should indeed lead to less, not more, intrusion into university affairs. We believe that the government has moved the goalposts since the package was brought down in May. Reform should be about allowing universities freedom to pursue their missions. We should have more diversity—indeed, more decentralisation. Diversity, plurality, means that the government must stand back from dictating detail to universities. The AVCC is very concerned that the bill, as introduced, contains too much capacity for government to get involved in the micromanagement of the universities and offends principles of institutional autonomy. We are actively working with the government to identify areas of additional control, with the aim of agreeing on very substantial reductions. In that process, we trust that the Senate will strongly involve itself in the process of restoring the package to what we believe the spirit was to be and reforming the details of the legislation.

The government's package indeed does need improvement to some significant areas. To ensure the changes are fair and do not discourage some students and applicants, a significant additional equity loading is required, starting at \$50 million a year and rising, to provide a better balance of incentives to the additional fees possible through flexible HECS. Right from the first point when we published *Forward from the crossroads: pathways to effective and diverse Australian universities*, it was critically important to the sector that there be a balance of equity money and other resources coming in through a flexible system.

The scholarships should double in number and be exempt from income testing. Thresholds for the repayment of loans, including HECS, should be higher. Average starting salaries we stick to—the government moved to \$30,000; we continue to argue for \$35,000. There should be no interest on any HELP loan. To ensure that the CGS works effectively, it must be an allocation mechanism, not a control mechanism. Universities should receive their agreed funding for achieving 99 to 100 per cent, so that they are not punished for minor unpredictable changes in student preferences.

The tie to governance and workplace relations should not be in place. The AVCC accepts that it is reasonable for the Commonwealth government to establish requirements, given substantial addition moneys being put into the sector, but we are very concerned at the way in which this is tied to the procedures outlined. We would be very concerned indeed should the workplace relations requirements remain unchanged. We wish to see major significant reform in that dimension.

Overall the AVCC are examining the bills very closely now, and we will list the particular changes required to be achieved. Through the objectives of the main policy aims of the sector, which we have set out consistently over the last year, we will argue strongly for the removal of unnecessarily intrusive and controlling provisions that we believe harm the package and—to use the rugby idiom of the moment—I think write new rules into the game since the spirit of the package was declared in May. I think the challenge is not simply one of accepting or rejecting the two bills; to us it is equally important that the right legislation be passed—legislation that provides a solid foundation for the future of Australian higher education, our students and our staff. With appropriate and significant amendments the package can be improved, and we would hope there would be a resolution this year. Universities have waited a very long time for significant transforming change.

The worst outcome for the sector would be the retention of the status quo. That is always the easy option. Public policy in this area has always been difficult. But we rely on the wisdom of the Senate to play an important role in the governance of the nation. We ask that it work constructively with the key stakeholders to get an effective package of reforms in place for the future of our universities. There is talk of being at a crossroad; we believe that is so. We are worried, however, that in some instances where history fails to turn, a crossroad will merely be a point of lost opportunity. We think, given the enormous effort that has gone into examining the status of the universities, contemplating scenarios for the future and looking at ways to produce a balanced package, that now is the time for the right package to be put together and to be established for the next decade for our universities. Thank you.

CHAIR—Thank you very much, Professor. Do I understand you to be saying to this committee that it is not just any package that you will accept—is that correct?

Prof. Schreuder—That is absolutely right.

CHAIR—So you do see that this package needs substantial renovation?

Prof. Schreuder—We do.

CHAIR—This is a bit of a change in the position of the Vice-Chancellors Committee, would you agree?

Prof. Schreuder—No, I think we have been absolutely consistent in our position, from Crossroads and the statement we made, *Excellence and equity: foundations for the future of Australia's universities*, which was our response to the budget documents, through to our own response, *Fairness and flexibility: ensuring sustainable Australian universities for the future*, to Aim Higher, the Labor policy statement. We have been faithful to the four big goals we established about participation, investment, research excellence and international expertise. We have been consistent about those and we have also been consistent about the eight functional framework ideas which would develop a new system. We will continue to argue for that package—our own package—because we believe that it is a good, considered way of building the future of the system.

CHAIR—There are some 17 packages of major bills—there are 50-odd bills on the *Notice Paper*, but there would be 17 major packages—and 12 sitting days left in the parliamentary calendar for this year. You would realise that not all of those 12 days are devoted to government legislation; there is a whole range of functions the Senate must perform. The amount of time available for the government's legislative business in that period would be considerably less than 12 days. How do you anticipate that the Senate will possibly be able to deal with the complexity of this legislation in that time?

Prof. Schreuder—We are passionate about our universities, we are extremely concerned about the long-term future of the universities, and so it is not surprising that we urge the Senate to have the closest consideration of these bills and as expeditious a process to bring forward a new package for our universities. We have waited that long, and we will go on saying that.

CHAIR—This is not a package that was put forward at the last elections; this is not a package for which there is any mandate. In fact, the Prime Minister went to the last election promising exactly the opposite to the fundamental principles in this bill. Exactly the opposite: he ruled out fees, he ruled out real interest rates; he ruled out a whole range of measures which are central to the philosophical position of this package. So there is no mandate for this package. We are now discovering that there are substantial ingrained abuses of what we understood to be the roles of universities in our society. Why should we pass this bill?

Prof. Schreuder—I think you have a mandate from our staff, our students and our community to do something significant about the future of our universities. We have said that as an AVCC over the years. We have made a series of submissions. We have put advocacy powerfully into an argument for reform and change. The Crossroads process allowed us to consolidate that and draw our views together. The views of Australia's senior educationalists are that we need significant reform of the higher education system.

CHAIR—Fair enough, and I would be happy to agree with you that the status quo is not working. We know that four universities are now attracting well over 50 per cent of the surplus and that many of our universities are on a very fine line in terms of their financial standing—in terms of their sustainability. We understand all of the problems. My view is that the university system is in crisis and I believe that is the view expressed by the AVCC prior to the last election. But the difficulty arises as to whether or not this package puts us further back rather than takes us forward. We have now heard from 20 vice-chancellors—and, if I include you and Professor Yerbury, I think it would be 22—so far. I can show you an extraordinary number of statements from vice-chancellors, members of your organisation, who have indicated to us that this is a package that, in its present form, should not be passed. Is that your view?

Prof. Schreuder—We believe that there are some strong elements in the package as was announced. There are five key strong areas in dealing with the future—resourcing, more flexibility, issues of access and equity, a real commitment to Indigenous education—that we strongly welcome. We continue to believe that there are good features embedded in the package. On the other hand, there need to be significant elements of change—reinforcement and strengthening aspects—to the package. We also believe there has been a shifting of the goalposts on a couple of the key areas, and we are relying on the Senate to make sure that is changed.

CHAIR—Fair enough. For instance, Professor Brown, Professor Chubb and Professor Gilbert, to name three of the Group of Eight, have been highly critical of the propositions here. Professor Brown, as you know—you have no doubt been briefed on his submission—says that there are a number of obvious deficiencies in the package:

There is the ill-conceived commitment to Voluntary Student Unionism; the overly tight straitjacket for the distribution and re-distribution of government subsidised places; excessive degree of control inherent in the discipline mix, with the potential for gross intrusion upon university autonomy, academic freedom and student choice; the linking of increased funds to ideological components of industrial relations ...

He makes some comments about indexation. He says that this package is not sustainable. Do you concur?

Prof. Schreuder—I think Gavin gets to the heart of the matter. Also, he is part of a group within our system of vice-chancellors that believe that there are inherent possibilities, great possibilities, in the right package being developed from the basis of what we have got.

CHAIR—Other groups in your organisation—ATN, the new research networks—have argued similar positions. Around the country I have asked a similar question and I got very little difference of opinion about the value of the thrust of that supposition. Professor Gilbert, for instance, says that the reforms may be too expensive, in terms of the money provided, and may not be worth it. Do you acknowledge that view exists within the Vice-Chancellors Committee?

Prof. Schreuder—I think you need to look at the totality of those comments which are to do with the totality of the package. We go back to what we proposed and what needs to be reformed.

CHAIR—Okay. You have had a good chance to read this legislation. I understand that there has been a working group established between the AVCC and the minister as a result of the board meeting this week. That is true, isn't it?

Prof. Schreuder—We have agreed to work closely with the government to get changes. That is as a result of—

CHAIR—But let us be clear about this. Has there been a working group established?

Prof. Schreuder—There is not a joint working group.

CHAIR—There is not?

Prof. Schreuder—No. We have a series of proposals and the government has identified ways in which the channels of communication can work. Perhaps I will turn to John—

CHAIR—So that is not true?

Prof. Schreuder—just so we are not mistaken on the words.

CHAIR—Let us be clear about this because I think it is important to get this information dead accurate.

Prof. Schreuder—I do, too.

Mr Mullarvey—We have put together a group within the secretariat working with the board of the directors to look at the legislation in detail, and we will do that over the next couple of weeks and then come forward with a proposal to all of the vice-chancellors on the changes we want to see in the legislation. Once that has been signed off by the vice-chancellors we will be meeting with the government through DEST and also with the minister to argue why those changes should be implemented.

If you call that a joint working party, we accept it. But it is a broader definition than we have. We are doing the work first internally to get our position clear. As Professor Schreuder has

said—here and in public elsewhere—there are changes we want made. We are looking at the detail now to ensure we get it right, rather than being caught out later or having something misunderstood.

CHAIR—Okay. That is good. So there has been no working group established at this point?

Mr Mullarvey—We have undertaken to do the initial work to look at the detail and then to talk to the department and with the minister.

CHAIR—Okay. Who is on the board of the AVCC at the moment?

Prof. Schreuder—Let us go round the table.

Mr Mullarvey—Professor Schreuder, Professor Yerbury, Professor Chubb as the past president, Professor Brown, Professor Peter Sheehan—

Prof. Schreuder—Professor Denise Bradley—

Mr Mullarvey—Professor Ann Edwards, Ingrid Moses—

Prof. Yerbury—Gerard Sutton—

CHAIR—How many of those met with the minister this week?

Mr Mullarvey—Eight board members were in attendance for all or part of the meeting. One vice-chancellor was absent from the board meeting on Tuesday and one vice-chancellor turned up part way through the meeting. So eight of the board members were in attendance.

CHAIR—And that was the board meeting that led to a report appearing in the *Sydney Morning Herald* saying that the minister was acknowledging that this legislation may not pass this year?

Prof. Schreuder—The *Sydney Morning Herald* writes what the *Sydney Morning Herald* wants to write. We simply—

CHAIR—It quoted vice-chancellors.

Prof. Schreuder—We are simply making the point about the three key areas of change that need to be made in the legislation. We conveyed that to the minister; the minister listened.

CHAIR—So the minister did not give you an acknowledgment that he had now reached the view that this legislation may not pass this year?

Prof. Schreuder—Ministers do not do that.

CHAIR—So he did not say that? I want to be clear about this. Are you saying to this committee that the minister did not say that?

Prof. Schreuder—No.

Mr Mullarvey—I was in attendance for all of the time of the meeting. Some vice-chancellors—

CHAIR—Did the minister indicate that he had not read the legislation?

Prof. Schreuder—I do not recall that, either

Mr Mullarvey—No.

CHAIR—I take it you have.

Mr Mullarvey—We are working through the legislation. I do not have a full understanding of all parts of the legislation. As you know, it is a very detailed document.

CHAIR—I am surprised. You have urged me and other members of this committee to pass this legislation and you are now saying to me that you do not have a full understanding of the legislation.

Mr Mullarvey—I said to you before that we are currently working through the legislation—working through the detail—and that within the next couple of weeks we will be in a position to put to our vice-chancellors a view on the legislation.

CHAIR—I see. So the references that you have made ad nauseam publicly saying that this bill should pass before Christmas are predicated on the basis that you have not actually read the legislation in detail yet?

Mr Mullarvey—That is not what I said. I did say that we are currently—

CHAIR—Do you have an understanding of it yet?

Mr Mullarvey—We are working through the legislation in its detail currently.

CHAIR—But you do not have a full understanding of it at the moment?

Mr Mullarvey—I know lots of parts of the legislation but if you were to quote a particular section I could not be sure that I would know the detail of that section.

CHAIR—All right. I am surprised. You have been so keen for us to pass this legislation and you are now telling the committee that you are not really on top of the legislation.

Mr Mullarvey—I beg to differ. That is not what I said at all. I said that we are currently working through the legislation. It is a large piece of legislation, as you have said. We will continue to work through it so we can understand the full consequences of the legislation.

CHAIR—I will ask you this because you are the man who is doing the lobbying for them. Or is it Andrew Robb? Is Andrew Robb still working for you?

Mr Mullarvey—The AVCC engages numerous consultants to work with it on various aspects of the work it does.

CHAIR—But is Andrew Robb still working for the AVCC?

Mr Mullarvey—We currently engage Andrew Robb to provide some advice to the AVCC. We have recently engaged him

CHAIR—Recently?

Mr Mullarvey—He did some work for us earlier this year and when the AVCC felt that the services were no longer required we ceased the contract.

CHAIR—I see, so he is now back on the payroll?

Mr Mullarvey—We have re-engaged him for a short time to provide us with some advice.

CHAIR—So you were wrong about his services not being required?

Mr Mullarvey—I am sorry; I do not understand—

CHAIR—I thought you just said to the committee that you took the view that his services were no longer required, but now he is back on the payroll.

Mr Mullarvey—We engage various consultants throughout the year. We engaged him to do a task; when that task was completed he was not necessary any more and we therefore did not have a contract with him—it was similar to the way we engage other consultants to provide us with advice.

CHAIR—Professor Schreuder, where would I find the term ‘university’ in this bill?

Prof. Schreuder—I have read the bill and I did not find it. That is one of the concerns we have—about the philosophy behind the bill. I am obviously not an administrative lawyer, but the philosophy does seem to be about service providers. That is one of the things that concerns us, quite apart from individual aspects of the bill. One of the hard things about getting into the bill is that some parts of it clearly refer back to the HEFA, even to elements which may not have always operated. Some of it comes from that; other elements have been added where government is concerned about the outlay of resources. But it is also a bill—as you more than understand, I am sure—which actually covers all providers. Our view at the moment is that it would have been much more helpful to have had a bill which indicated the area where universities were involved in accountability and to then have dealt with the question of other providers. It has been one of our real concerns—that is, that it is expressed in that way.

CHAIR—This is not something that can be fixed by a quick little amendment somewhere, though, because there is no reference to the word university in the entire 265 pages of the bill, other than in the definition that says ‘a university is’. But it does not appear in the actual bill.

Prof. Schreuder—We agree. That is why we said right off that we think there needs to be significant reworking of that bill.

CHAIR—We can look at the question of what a higher education provider is, because that is what it refers to here. It says:

A *higher education provider* is a body corporate that is approved under this Division.

Prof. Schreuder—It is the spirit of it that is of concern, when it is defining the relationship between the parliament of Australia and Australia’s universities. The bill does need to reflect the kind of system that we should really be creating. In that, it needs to strongly recognise autonomy, recognise the capacity of a university to be self-accrediting, and, naturally, there should be accountability and audit aspects which are appropriate to a relationship.

CHAIR—Clause 16-25 basically says the minister can approve a provider on a fairly broad range of discretions, doesn’t it?

Prof. Schreuder—I think that is right; I have not got the bill in front of me. Yes, it does. In the work that John Mullarvey is talking about, those are the sorts of things that we will be most carefully drawing out, detailing and drawing together in the kind of memorandum which we will share with the other vice-chancellors and then go forward.

CHAIR—But I put it to you that according to this bill a higher education provider is simply a body corporate.

Prof. Schreuder—We will look at all that and we will have a view.

CHAIR—It is clause 16-1. It is a body corporate—that is it.

Prof. Schreuder—As I say, there are a number of things throughout that we are not happy with: areas to do with grievance, areas of inspection, areas of accountability—a whole range of that kind. We will detail those.

CHAIR—I have very limited time, and I have pages and pages of concerns about these particular bills. I am surprised that it has come to this point before you have discovered these gaps in the legislation. When did you discover them?

Prof. Schreuder—Once the bills were tabled and we had worked through them. We then had our concerns and we had to wait for the meeting of our board. The board met recently, on Tuesday, and we immediately established our working group. We proceeded from there.

CHAIR—I am surprised that the AVCC has asked us for months to pass this bill before Christmas—before the legislation was seen. The legislation has now been out for three or four weeks and it took you until Tuesday to establish a working party?

Prof. Schreuder—No. We have been working on the bill and considering it individually. We came together as a national organisation. We have now got a working approach to deal with it. But behind it all is the absolute urgency of significant change in higher education, and we rely on parliament—the Senate—to also be working through this closely. We look to you.

CHAIR—Thank you, Professor, I appreciate that.

Prof. Schreuder—We look to all of you as our senators to do this task. You are the experts in this area.

CHAIR—I appreciate that.

Prof. Schreuder—We are also concerned with what happens if there are not significant changes here. So it is not any bill; it is the right bill, but if we do not have that there are long-term serious consequences.

CHAIR—I understand the argument that you are putting. There are 10 sets of guidelines associated with this bill. Have you seen those guidelines?

Mr Mullarvey—No, we have not. Shortly after the bill was tabled we wrote to the minister to ask for—and we have continued to ask for—a copy of those guidelines. I think we are on the public record as saying that, unless we are able to see those guidelines, it would be difficult for the AVCC to endorse the passing of the bill.

CHAIR—Thank you very much, Mr Mullarvey. I appreciate that point because the next question I am going to ask is: given the extraordinary and absolutely amazing powers the minister is seeking in this bill and the fact that there are 10 sets of quite extensive guidelines, why should this parliament not debate this bill until such time as those guidelines are actually provided?

Prof. Schreuder—Because of the urgency of our situation. There are good things in this package, there are good things in the Labor package and there are good ideas which have come from the sector and the community and therefore it is extraordinarily important that you put together the best possible resolution.

CHAIR—How can we possibly cast a judgment on legislation which is so heavily dependent upon guidelines—10 sets of them—and we have not seen them?

Prof. Schreuder—You are clearly the experts on this and we would rely on you to do the job.

CHAIR—Fair enough. Have a look at 19-80 for me. Have you read that?

Prof. Schreuder—That section is indeed very intrusive.

CHAIR—For the *Hansard* record, 19-80 refers to what this bill sets down to give power to the secretary of the department to appoint any person or any officer he so chooses of the department of education or any other person—I emphasise that—to have access to any parts of a university or any documents of a university. Would you agree with that?

Prof. Schreuder—Yes, absolutely. It is one of the areas that when I read the bill I was most concerned about, so I am in serious agreement with you.

CHAIR—When did you discover that?

Prof. Schreuder—When I read the bill. Then I worked through the rest of it most carefully and I was concerned, as I have indicated to you, about some of the philosophical aspects behind this and also about individual areas.

CHAIR—Are you familiar with the ESOS Act?

Prof. Schreuder—Yes, indeed.

CHAIR—Under the ESOS Act there are provisions for providers—so it uses similar terms to this bill—and there is a requirement for a magistrate to be satisfied that a cause exists for a search warrant to be issued for a provider. Under this, is it your reading that a Commonwealth officer or any other person authorised by the secretary—and presumably by the minister, through the secretary—can search, discover and enforce, presumably for enforcement purposes, without a warrant?

Prof. Schreuder—Yes, because it says that the provider must comply with the arrangements, under 19-82.

CHAIR—Is it your reading of it that there is no judicial review process?

Prof. Schreuder—There does not appear to be.

CHAIR—So it is not even covered by the AAT and it is not covered by the normal Commonwealth administrative review procedures. This is a head of power to search and discover documents or to search for compliance purposes. Would you also agree that under proposed section 22-15 a minister can withdraw funding from an organisation—I say ‘university’—for any breach?

Prof. Schreuder—Yes.

CHAIR—So they do not even actually have to go to court to do that—is that how you read it?

Prof. Schreuder—I think so. I think you must have nearly the same marked sections as I do.

CHAIR—Yes. Is that the sort of concern you have?

Prof. Schreuder—That does seem to be; hence, my sense of concern in my earlier remarks.

CHAIR—Under section 19-15 it says that appropriate levels of quality are to be enforced. Is there any definition that you can find as to what that means?

Prof. Schreuder—No.

CHAIR—On the question of personal information—you heard the exchange I had before with the students—do you concur that this bill provides for any information to be provided, fact or fiction, in the form of data or otherwise?

Prof. Schreuder—We share the concerns of the students and, as institutions, we do not want that information.

CHAIR—Can you point to any piece of legislation, even in the HEFA arrangements, that currently provides this level of discretionary power by a Commonwealth officer or a minister of the Crown?

Prof. Schreuder—I cannot help you with that kind of comparison. I am just battling to run a university and to serve my colleagues. I do not know the range of the legislation. Certainly what is in here gives us cause for concern, and we will detail our concerns through our own working group.

CHAIR—I come back to this point: given the level of concern that you are expressing, how can we possibly deal with it in the time frames that you are suggesting?

Prof. Schreuder—I guess we are relying on your expertise and we are relying on your empathy for the condition of our universities. We all recognise the importance of what is in the original package, a number of the good points that were in the Labor package and the good ideas that are circulating about reforming our system. It just seems to all of us—we may well be very naive about it—that we have got a better chance of doing something for our universities in our country than we have had for a decade. If we let this slip we are extremely concerned for our students, the quality of our research and the international standing of our system.

CHAIR—What disturbs me about that attitude is that you say ‘not any package will do’, but 30-25 sets down agreements that may specify additional conditions—but they are totally unspecified. If we look at 31-15, compliance activities, as a vice-chancellor you are required to give a declaration that events are occurring in your university which may put you in breach of such agreements and may in fact lead to a situation where your university could be closed down. Given the terms of this legislation, I am just wondering how it is that you could ask us to sign up to such a condition.

Prof. Schreuder—That is again one of the areas of concern. It will be on our list of needs for excisions or reforms and, alongside it, we would be stressing the importance of the protocols of governance reforms that are ongoing, which sit ill with what is here. We believe that is the appropriate way in which an institution is accountable to its community and, through that, to its government. I think that is the area where accountability needs to be absolutely strong and ought to be strong.

CHAIR—Professor Yerbury, what do you think of the minister’s statements that he wants to put an end to cappuccino courses?

Prof. Yerbury—I do not think we have any cappuccino courses at the moment. I think there is a great deal to be said for sufficient autonomy on the part of universities to respond to any sort of demand in the market for a proper academic course. Those are decisions for the universities and

potential students to make. If there are courses which people want to do which fall outside what a university would regard as appropriate then there are other ways in which they can be taught.

CHAIR—Do you think it is appropriate for a Commonwealth minister or a state minister for that matter to determine whether or not a university should offer a particular course. I quote the minister:

... sorry, but the taxpayer is going to put his or her resources into teaching and nursing, rather than the paranormal or the whereabouts of Elvis Presley.

Prof. Yerbury—I can imagine a way in which the issue of the whereabouts of Elvis Presley might come into a course on cultural studies or popular culture and I can see a way in which that might be quite a valid discussion. But I cannot see a degree or any sort of award program being taught on that subject.

CHAIR—Neither can I, but that was not my question. I am not asking whether you are competent to provide courses of quality. In fact, that is the long-held view that we have about self-accrediting institutions. That is why you issue degrees: we presume that you are competent and we have a number of ways of testing that. I am asking whether or not you think it is appropriate for a minister, for a politician of any description, to be picking and choosing which courses are funded.

Prof. Yerbury—I have concerns about that both as the vice-president of the AVCC and as a vice-chancellor.

CHAIR—Has that level of intrusion ever been proposed before in Commonwealth legislation?

Prof. Yerbury—I do not think in my time as a vice-chancellor I have seen this level of intrusion either proposed or practised. I think it is something quite unprecedented, not just in regard to that particular point of intrusion but in regard to the whole package.

CHAIR—We have had evidence from a number of state governments—we have seen all of the state governments now—and universally they have expressed to us the view that they are concerned about the constitutional validity of this legislation. I am advised that they now have evidence to say that the legislation may well be constitutionally invalid. Have you had discussions with any state ministers?

Prof. Schreuder—No, the AVCC has not had any discussions at all about the bill with state ministers or state officials.

CHAIR—Mr Mullarvey, have you had a look at the constitutional validity of this legislation?

Mr Mullarvey—I am not a constitutional lawyer, but the AVCC board have looked at the bill and decided that that is not an issue they want to take up at this stage.

CHAIR—You are not going to ask the parliament to pass a bill when there might be some doubt about its constitutional validity, are you?

Mr Mullarvey—We have been assured by the government that the bill is constitutional, and that is a matter for the Senate to then decide.

CHAIR—But you have taken no independent advice on that?

Mr Mullarvey—No, we have not.

Senator STOTT DESPOJA—I want to start by asking about the ANU decision yesterday. Is there an AVCC view about the enterprise bargaining agreement that was announced by the Australian National University and agreed to between the university and the NTU?

Prof. Schreuder—We would not have an AVCC position or view, but I do not want to step away from your question. I think in many ways it is business as usual. Many of us have got EB agreements coming up. We cannot allow a large gap to develop between the agreements. Our staff do need remuneration. We are engaged in constant discussion with union representatives. So I think you will see a number of universities needing to deal with the issue of the next round of agreements. This is not a deliberate challenge to government; this is just a question of conducting the business of the university and recognising what I think has been the outstanding work which our staff overall put in.

Senator STOTT DESPOJA—When I asked Minister Vanstone, the minister representing the education minister in the Senate, yesterday whether or not the ANU would be deprived of that additional CGS money as a consequence of this agreement, she said that she was not sure. However, the education minister has said on record—certainly from what I have seen in newspaper reports—that that would involve the ANU missing out on those additional funding arrangements under the proposed reforms. Is that fair?

Prof. Schreuder—I cannot wander into that particular debate, but I would simply say that at the moment the situation is unclear. We are relying on senators to pass this reform legislation because we think there are really good things in the package which should not be lost and that changes will make it the right kind of package. But on the other hand, as the chair says, we do not know when that will happen. For many of the areas of the package the resources would not flow until a year out. Those of us who are face to face with the everyday operations of a university must of course be concerned with the question of staffing remuneration and changes in work conditions.

Senator STOTT DESPOJA—I am not asking you to be specific about the ANU—although I think that, as the peak body, it would be helpful—nor am I asking for you to proffer too much of a hypothetical response, because it is not hypothetical. According to the workplace requirements in a press release in September, essentially any university that proceeds with those kinds of discussions, enterprise agreements or other agreements that do not include the AWA option will miss out on that funding. I got no impression from the government yesterday that they would not. There are two questions arising out of that. Firstly, is that appropriate or fair? Secondly, what do you think of the retrospective nature of this? I understand that you are relying on the Senate, or hoping the Senate will do certain things—

Prof. Schreuder—We are.

Senator STOTT DESPOJA—but it does not matter; at the moment that is the requirement. We have not even debated, let alone passed, this legislation and the government is making pronouncements on whether or not an institution will miss out on additional funding as a consequence of an agreement that it struck two days ago and announced yesterday. Is that appropriate?

Prof. Schreuder—I do not know what was in the ANU agreement. As an organisation, we do not comment on that. On the other matter, we are still waiting for the legislation to put in place the total framework. Perhaps Professor Yerbury could come in on that, because Di is—

Senator STOTT DESPOJA—I am sorry, Professor, but I want to make one point: without the legislation having even been passed, the government is presuming that that is the way it is from 22 September. If this legislation is not debated this year but next year—regardless of whether or not it is passed—for the next few months that is the condition under which your universities, if indeed they are currently negotiating agreements, will be negotiating, with the knowledge that they will miss out on that CGS funding as a consequence.

Prof. Schreuder—We are still absorbing that statement. And Di, who is a specialist in this area, would like to comment.

Prof. Yerbury—There is a very deep concern about that particular provision in what I call the HEWRR provisions. I would be surprised if any vice-chancellor were not concerned about those. Certainly the AVCC and the AHEIA—the employer association that covers most of the universities—have both expressed a lot of concern about this. What many universities have done, in fact, is to arrange a pause or a slowdown in their negotiations. What many others of us have done is to pay an administrative payment—that is, a salary increase but by the administrative decision of the vice-chancellor—so that our staff are not disadvantaged by any uncertainty that causes delay in the enterprise bargaining. In my own university, that is the way we have chosen to do with it. We certainly were not close, as ANU clearly was, to reaching an agreement. So universities are in a lot of different positions. One has already finalised and ANU was close to finalisation, as was Sydney. Others are just starting; there is a whole range. I think I can say for all of us that members of the AVCC feel deep concern about those provisions—all of the HEWRR. The fact of the HEWRR provisions is very worrying.

Senator STOTT DESPOJA—It is clear from your submissions that you would prefer—in fact, you believe and insist—that that be jettisoned as part of the legislation or the debate.

Prof. Schreuder—We are educational institutions and we believe we should be judged on educational outcomes. That is the right way to do it. We have autonomous, scrupulous governing bodies and that is also part of the assurance that the government should have as to what we are doing. Finally, I had lived with the notion that the regulations needed to be passed before they came into place. This interaction this week is certainly significant for us and we do not like the retrospective notion of it at all.

Senator STOTT DESPOJA—We have all experienced legislative processes where legislation has not necessarily even been introduced let alone passed when regulations are effective. In your sector, Austudy or the CYA are examples of where the government will make an announcement by press release and we may not deal with the legislation for another nine

months. So I do not think this government does have the same view of retrospectivity as some of us do.

CHAIR—You said that you met with the minister on Tuesday. I presume that you have met with the department on numerous occasions, Mr Mullarvey.

Mr Mullarvey—Yes, I have.

CHAIR—Are you saying that they have not given you draft guidelines yet?

Mr Mullarvey—The only draft guidelines we have seen are those that were made public on 22 September relating to industrial relations. They are the only guidelines that we have seen. They will, of course, have to be formally tabled in parliament and will be a disallowable instrument.

CHAIR—There are two issues here. There are guidelines, which will have to be formally tabled, but there are occasions—particularly in a matter of such importance—when consultation drafts would be put out. Have you not seen any of those?

Mr Mullarvey—No, we have not. As I indicated before, we have written to the minister urging that they be put out for consultation, in the same way we urged that the higher education bills be put out for consultation.

CHAIR—I appreciate that. What did the minister say to you?

Mr Mullarvey—We have not had a response from the minister yet, but from my discussions with the department I expect that most of them will be available shortly.

CHAIR—It strikes me that they are treating you as though you were two-bob, fly-by-night grog shops, not as major public institutions. In most states you are among the top five employers. They would not treat any of our other major employers in this cavalier way. Why are they treating you in this way? More to the point, why have you put up with it?

Mr Mullarvey—The AVCC has made it very clear that it is critical that these guidelines be tabled or made available publicly so that we can comment on them as part of the Senate's consideration of the legislation.

CHAIR—I mentioned grog shops because there was a grog shop in Adelaide that was trying to run university degree courses, if you recall. So we are not unfamiliar with this. You are not fly-by-night operators, you are major public institutions in this country, and you are being treated with absolute contempt.

Prof. Schreuder—We have had 10 hard years of relating to governments.

CHAIR—Nothing like this.

Prof. Schreuder—We have had 10 hard years in which changes have not occurred, transformation has not occurred, significant resourcing has not come and new frameworks have

not come. We are hardened to work for the universities because it has been a long walk to freedom.

CHAIR—I am surprised that you accept this sort of stuff though, now that you understand it—even if it has come somewhat belatedly. Professor Schreuder, would you be able to table a copy of your opening statement because I would not mind going back to that, if possible?

Prof. Schreuder—I certainly can.

Mr Mullarvey—Can we type it up first and then send it across this afternoon?

CHAIR—Before the department appears?

Mr Mullarvey—I think that may be little difficult, but we will see what we can do.

CHAIR—Thank you, that would be very helpful.

Senator STOTT DESPOJA—I would like to get some guidance from you on time, Chair. Perhaps we should ask our witnesses how they feel about their time.

Prof. Yerbury—I am sorry, Senator, but I have a plane to catch and will have to go very soon.

CHAIR—We will continue to 1 o'clock then, if that is all right. We do not need all the witnesses. Professor Schreuder is doing such a good job and Mr Mullarvey is always more than happy to talk to us.

Mr Mullarvey—Thank you.

Senator STOTT DESPOJA—I turn now to the issue of AWAs. You can take this as an AVCC question or talk specifically about your institutions if you are prepared to. Professors, have you encountered much demand for or had requests for, either on an institutional basis or more broadly, AWAs among staff?

Prof. Schreuder—No, we have not. I think this is an area in which Professor Yerbury is an expert.

Prof. Yerbury—As far as I am aware, every university in the country has some flexibility; it varies from institution to institution as to the nature and number. Very few universities have AWAs. Normally the flexibility in salary and other aspects of the remuneration and reward package takes a form different from AWAs. These days they are called common law agreements. In some cases, that is provided for in the enterprise agreement—my own enterprise agreement at Macquarie University provides for that—and in some cases it is not; it is outside the enterprise agreement. The flexibilities are there, and the existing mechanisms for flexibility can be increased without forcing AWAs onto institutions. The AVCC argues—as does AHEIA, the industrial association—that it would be better to focus on outcomes rather than on very prescriptive, detailed mechanisms.

Senator STOTT DESPOJA—In the interests of time, I will go through a quick check list. I want to get this very clear: from your public statements today—your answers to questions and your submission—you oppose the voluntarily student unionism aspect of this package of legislation.

Prof. Schreuder—Absolutely. We think the present arrangement—a sort of service fee—works well on our campuses. We think the status quo should continue, and we are building up strong student organisations with the present methodology.

Senator STOTT DESPOJA—You oppose the workplace relations requirements that have been distributed.

Prof. Schreuder—Yes. We think they have moved the goalposts from when Backing Australia's Future was announced.

Senator STOTT DESPOJA—You also oppose the changes to governance, particularly the interference by government in governance arrangements.

Prof. Schreuder—We do, and we have said so consistently since the first announcement of the package.

Senator STOTT DESPOJA—You are not satisfied with the threshold at which graduates begin to repay their HECS debt, and you have nominated a higher amount.

Prof. Schreuder—We stick with our original recommendation for repayment at \$35,000, average weekly wages.

Senator STOTT DESPOJA—You oppose the real interest rate of 3.5 per cent plus CPI. Are you suggesting that that should be eradicated, or are you talking about a CPI adjustment?

Prof. Schreuder—It should be a CPI adjustment—in other words, the spirit of HECS.

Senator STOTT DESPOJA—You have not seen any ministerial guidelines or regulations but only the workplace relations ones, as Mr Mullarvey indicated?

Prof. Schreuder—That is right.

Senator STOTT DESPOJA—That is a reasonable list of concerns.

CHAIR—What about indexation?

Senator STOTT DESPOJA—Of course; it is like the elephant in the room! What about indexation. You did not want to hold out for indexation?

Prof. Schreuder—We are constantly arguing for indexation. We have been doing that since Mr Crean was education minister; we have been strong on indexation ever since then. We see it as quality money and we think it would be very important.

Senator STOTT DESPOJA—When I say ‘hold out for it’, I am not suggesting that your position has changed at all. You have been strong advocates for it. Indeed, many of us have been strong advocates for it, even since Simon Crean was education minister. But the only selling point for the government, and certainly one of the biggest selling points, in terms of the public debate—and it is arguable whether they are selling this package—has been their reference to the AVCC as among its supporters, albeit qualified support from what we can gather. Could you not have withheld your support for this package, or have been more vocal in your criticisms of it, in return for indexation?

Prof. Schreuder—No, because there are strong and good things—new money, new places and new equity provisions in the Indigenous area and so on—which begin the process of major transformation of our sector. We do not expect it to happen all at once; we expect governments down the line to build and develop the sector. We believe that that is now at risk if the Senate does not this year pass an amended package which sets the universities off on a new basis. We have long been campaigners for this and we will go on making the argument, on behalf of the university and the community, for a better deal for Australian universities from all governments.

Senator STOTT DESPOJA—You and the AVCC have said that this is the first chance in a long time—and arguably the last chance—to make reform. Certainly one of the arguments that has been put to me is that this is the chance. Do you honestly believe that if this package passes, in whatever form, the government is going to come back and look at these issues again?

Prof. Schreuder—We are not for a package in whatever form; we are for the right package. We have been making recommendations as to how the amendments should be, we will make further recommendations, once we have worked through the legislation even more closely, and we rely on the Senate’s very close scrutiny of this to establish the right package. I may be really naive; in the end, we would like to see a bipartisan, across-the-parliament resolution of commitment to Australia’s universities and so put a line in the sand. This is the reform time, and hereafter we build the kind of world-class system that our students and our community deserve.

Senator STOTT DESPOJA—Is the ‘right package’ a package that fixes all of those things to which I referred? Let us not talk about indexation. Would you accept, or would you reject, a package that does not deal with those issues—threshold, governance, industrial relations, a real interest rate and, obviously, the IR reforms, VSU?

Prof. Schreuder—That is the package of reform we would like to see.

CHAIR—Your understanding of the current HEFA is that there is money there for next year. Why can’t you wait to get this right? That is the advice that Professor Gilbert has put to us. Why is he wrong?

Prof. Schreuder—It may well be, for the reasons you have outlined, that that is what we will live with. But I think an enormous amount of human capital has gone into this reform process and there are many very good things that are there in the package, and I believe that those should now be captured, reforms established and then we begin with a new basis next year or the year after. Look back on the 10 years at the attempts that have been made—the many failed attempts—and you will see the inability of governments of all persuasions to really build the sector that we need. So we just think that this is the opportunity to do something.

CHAIR—Clearly, Professor, this will be a major issue at the next election, which will be held probably within eight to 10 months.

Prof. Yerbury—Excuse me, Chair; I do apologise that I have to go.

CHAIR—That is no trouble at all.

Prof. Schreuder—I would like to see education always an issue, because we think there has not been enough national commitment in terms of national priorities to higher education.

CHAIR—Fair enough.

Senator NETTLE—I want to ask you, firstly, about the line in the sand. I want to ask you specifically about the industrial relations component of the legislation. In discussions that another senator, who is not here, had with you and relayed to me, the sentiment expressed to me was: if the industrial relations component, as is, stayed in the package you would not be advocating support for the package. Is that correct?

Prof. Schreuder—It is one of the issues, but it is one of the really important ones to us. But it is part of a threefold set of reforms that we are arguing for: industrial relations, the big equity issue and then the matter of intervention and micromanagement. All three are really important to us.

Senator NETTLE—And if they are not addressed you do not support the package?

Prof. Schreuder—It would be hard to see us doing it.

Senator NETTLE—You have put forward your target for the participation rate you believe we should have in universities in our society. Do you have any understanding of what may be a government target in relation to that same issue?

Prof. Schreuder—No, I do not. We are just intensely aware, because we work with other jurisdictions, of the commitment that is being made by many other societies and communities to increasing participation. In the United States it is about 65 per cent of school leavers; we are at about 46 per cent. So the gap is very large. There are 17 per cent of us as Australians with degrees. In the United States, it is now 10 per cent more than that, and the figures are growing away from us. We are really concerned that our sector is in catch-up mode, behind a number of the key industrial societies of the world, and we think it is critical that we make this commitment. It will not all be solved with one package, one body of resources, but we need to turn the corner and begin making those annual commitments.

Senator NETTLE—I am not familiar with whether your target of 60 per cent includes any identified targets for people from low socioeconomic status backgrounds.

Prof. Schreuder—We have not divided it up in that way. But you can see in our own *Forward from the crossroads* that we have enunciated very clearly the importance of having major equity and access initiatives. In many ways HECS is an excellent equity mode of building a system—and, as somebody who is a public educator, I accept that—but it is a very blunt equity

instrument. It means you can go to university free at the point of entry, but it does not ensure that you get there and it does not sustain you while you are there. So we need to look at a wider range of equity and support measures, for a whole range of groups in our society. That is what a good system does. That is what a diverse system is about. It captures all talent and it builds the kinds of institutions which respond to community need in that way.

Senator NETTLE—Do you have any view as to what will be the impact of this package on the ability of the sector to meet the 60 per cent participation target that you have put out?

Prof. Schreuder—It moves it forward from about 1.4 to 1.6, 1.7 or something like that, but it still leaves us with a great challenge to climb the mountain. That is what I referred earlier to when I talked to Senator Carr about the importance of a long-term commitment. This will not be solved with one package, one commitment by parliament. It needs to be constantly built on. In areas to do with security and defence, we review and we make further commitments. That is what needs to happen for our universities.

Senator NETTLE—Do you believe that that will be forthcoming after this package?

Prof. Schreuder—I believe that there are major advances in the package and I think the debate in the community over the importance of higher education is something now that will not be lost. I think that has been a major importance of the Crossroads process. I believe it will go on. Maybe the battles, the education wars, will continue, but the system does need that kind of support.

Senator NETTLE—What do you think will be the impact on the public debate on this issue if the package goes through? I think you are right in terms of assessing the level of public awareness of the issues. I would be concerned that, if the package goes through, that level of public awareness and debate would not continue at the same level as it is now.

Prof. Schreuder—It depends on what is actually in the package. Believe you me, you can rely on the Australian Vice-Chancellors Committee to make the case year in and year out for our universities. We are not going to step back. We will continue to make policy proposals. We will continue to lobby. We will continue to work with our communities.

CHAIR—Professor Schreuder, you have indicated to us how important you think the Senate is and how important this committee is in terms of explaining the detail of this legislation, and discovering it—and it has been a process of discovery. Would you say this committee has been able to play a useful role in bringing public attention and perhaps your attention to these issues?

Prof. Schreuder—I think this has been a helpful part of a whole process of public awareness and public debate over higher education.

CHAIR—Why did the Vice-Chancellors Committee lobby against the establishment of this inquiry?

Prof. Schreuder—When we saw the terms, we were very concerned that what was being proposed was a very long inquiry. We are not at all against inquiry and debate, but it comes back to the first-order issue we have been discussing, which is the urgency of change.

CHAIR—On the 18th, you are going, along with Professor Goulter from Charles Sturt, Professor Bradley from South Australia, Professor Osborne from Latrobe, Mr Lucas from ACPET, Ms Shadwick from TAFE New South Wales, and Mr Mullarvey, to China and India with the minister. That is true, isn't it?

Prof. Schreuder—We have been invited to take part in a ministerial delegation—government to government.

CHAIR—And that is a very worthy thing. That goes to the 23rd. I am just wondering when you are going to have time to detail the list of concerns you have with this legislation. Presumably it will be after that.

Prof. Schreuder—I will only be away five days—I am coming back on the Friday—and our group within the secretariat, and the assistants we are getting in, will work on it continuously. There will be no break in this. We are absolutely committed to working.

CHAIR—Was it your intention to provide a supplementary submission to this committee?

Prof. Schreuder—No, it was not. We felt it would be important rather to make an additional statement on the state of play when we came to speak with you, because we were not sure when that was going to be.

CHAIR—I have got the list here. I might table that list so people know that there is this delegation on. It would be helpful for us if we could see your supplementary. I ask you to take this on notice: would you provide the committee with a detailed list of the provisions of the bill that you have concerns about? As you say, we have got an important role to play in trying to address those issues. We would like to have a look at the concerns that you have and the reasons for your concerns.

Prof. Schreuder—We will take it on notice because we have not done all the work yet and we do not want to provide a list which is incomplete.

CHAIR—We have to report by the 7th so up till the 7th would be useful. Could it be done by that time?

Mr Mullarvey—We are currently trying to work out the time frame. We would hope that it might be finished by then but I would not want to guarantee it. It will require input from our 38 members.

CHAIR—We want to get this basic information. There are two areas of concern to us. We want a comprehensive list of concerns with the legislation. This is permanent stuff. This is not something we are going to come back to after five minutes. We want a full list of the legislative concerns. I might be presumptuous here but I expect that the committee members would like to see the draft guidelines.

Prof. Schreuder—We appreciate that and certainly we will put it to you, as individual senators, as soon as we have it.

CHAIR—We may have to recommend to the Senate on that basis alone that we cannot proceed until we know what the details of the concerns are.

Prof. Schreuder—We appreciate your concern about our submission but we also respect your capacity to do analysis as well.

CHAIR—Believe me, we will not rely upon the Australian Vice-Chancellors Committee in this field. I think I have made my views clear on that.

Senator CROSSIN—You mentioned that it has been a long walk to freedom for universities. Given that there will be an increased debt burden on students under this package if fees are increased or students are forced to take out one of the \$50,000 loans and given that the legislation allows the minister to interfere even at course level at your institutions, I fail to see whether this in fact leads to a long walk to freedom for you or a dead end.

Prof. Schreuder—I believe this is the basis of an excellent system, because our package is a balanced one. We wish to see very considerable equity provisions. Some are already there but more can be placed there. As I said earlier, I think we need a much more sophisticated—

Senator CROSSIN—So you are not talking about the current package before us; you are talking about the package you would want to see amended.

Prof. Schreuder—There are already good things—equity things—in the package. We have picked up other ideas from the Labor recommendations, which we believe should be incorporated. In addition, individual universities are looking at the way in which, within their autonomous structures, they can make further equity provisions. It is much more complex than simply juxtaposing this package against the present status quo. We have also had a major study done by Bruce Chapman, who has given testimony to you, on the changing impact of HECS, and that has been important in our thinking. We will be looking at that as individual universities. If we see the package established as we wish, the universities will make up their minds if they wish to adopt the flexi-HECS option and what that means in terms of student support and student need.

Senator CROSSIN—But if there are no changes by this government to student support or to student need, where do you see your ability to increase fees and have confidence that students will respond to that market when there is a reluctance now for students to enter into a further debt burden?

Prof. Schreuder—The Bruce Chapman evidence suggests it is more complicated than that. The report that he has done for the AVCC suggests in many ways the fundamental success of HECS. It is a question then of the balance year to year as to how HECS is actually struck. That will be extremely important for universities as they look at the HECS levels that they intend to set and what they do with that resourcing if they decide to do it. In my own university if we go down that route we will see significant parts of that new resourcing going into not only quality service to the students but also additional equity provisions for the needs that are notable for remote and regional students in Western Australia. Each of us will deal with it in our own way, but pre-eminent is our concern for the quality education of students.

CHAIR—Thank you very much for your advice today. It has been very helpful.

Proceedings suspended from 1.10 p.m. to 1.49 p.m.

ALLPORT, Dr Carolyn, President, National Tertiary Education Union

KNIEST, Mr Paul, Policy and Research Officer, National Tertiary Education Union

McCULLOCH, Mr Grahame, General Secretary, National Tertiary Education Union

NETTE, Mr Andrew, Policy and Research Coordinator, National Tertiary Education Union

CHAIR—I welcome the witnesses from the National Tertiary Education Union. The committee has before it submission No. 466 and a supplementary submission. Are there any changes that you would like to make to either of those submissions?

Dr Allport—No.

CHAIR—The committee prefers that all evidence be given in public, although the committee will consider any request for all or part of your evidence to be given in camera. I point out that such evidence may, however, subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Dr Allport—The National Tertiary Education Union welcomes this opportunity to speak to our submissions and to provide further evidence in response to questions from the committee. We have already referred to the major reservations about the government's proposals in our initial submission, and we have provided today a supplementary submission as part of our evidence. Both submissions highlight the areas of increasing student fees, the new funding system, the increased level of government interference in higher education and the failure of the legislation to deal with the real workplace issues facing universities and their staff. Since the legislation has been released, our reservations concerning the policy proposals have heightened.

The legislation in its current form provides for greater intervention on the part of the government—intervention that goes well beyond the government's new proclaimed role as purchaser of higher education services. Universities will also carry an increased, costly and unnecessary compliance burden under this legislation. The degree of micromanagement and direct interference with the way universities undertake their work is unprecedented in Australia. It is also in direct contravention of the internationally established standards of institutional autonomy and reflected in a formal UNESCO policy adopted by all member countries, including Australia, at the World Conference on Higher Education in 1998.

High-quality teaching and research by universities depends upon institutions remaining independent of the government of the day. Commitment to free inquiry is in fact a condition of accreditation to become a university in Australia. The invasive and highly prescriptive nature of the interventions proposed in this legislation, most particularly under the workplace relations requirements, directly threatens our ability to provide quality teaching and research. Moving away from accepted international standards will undermine our international quality reputation and our international competitiveness.

It is not possible to assess the full implications of the legislation because so many of the details have yet to be made public. These include guidelines noted under the legislation dealing with administration, the CGS, scholarships, the new loan schemes, acceptance as a higher education provider, learning entitlements and so on. If the Senate is to consider the proposals, it should have before it all the ministerial guidelines. In their absence, NTEU believes that the Senate should reject the legislation or, at the very least, demand that the government table all relevant guidelines and supporting information.

NTEU urges the Senate to reject all of the higher education workplace relations requirements. These are not supported by universities or by the staff who work in universities. We understand that clause 33-15 establishes compliance conditions for the national governance protocols and the government's workplace relations requirements. These are tied to increments in the basic CGS grants in 2005, 2006 and 2007. This conditionality could be removed by deleting clause 33-15(1) and amending the lead-in to 33-15(2). A further concern is the minister's discretion to determine which clause or discipline areas will receive Commonwealth funding—an arrangement completely at odds with the principles of academic freedom and institutional autonomy.

CHAIR—In the provisions of this bill, there is a requirement of a university to provide information. Section 179-5 of the bill, 'Meaning of personal information', says:

(a) information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

This suggests to me that this legislation is reminiscent of a police state. Would you agree?

Dr Allport—Certainly, I was astonished by the degree to which the government, as indicated in this legislation, believes it has the right not simply to intervene in or intrude into the work of universities but, it seems to me, also contravene established standards and, I would imagine, impinge upon the Privacy Act itself. This is unprecedented in the work of Australian universities. Australian universities guard their institutional autonomy. To suggest that the government has the right to do this in such an arbitrary and discretionary way is quite contrary to the very definition of a university.

CHAIR—We have heard from the AVCC President. He brought to our attention the fact that in his view there was no judicial review. For instance, section 19-80 of the bill empowers the secretary of the department, or any other person they choose to authorise, to have access to any premises or records of any provider—noting that the word 'university' does not appear in the bill—

Dr Allport—Yes.

CHAIR—and that, according to the Vice-Chancellors Committee, unlike the ESOS Act it did not require a magistrate to be satisfied. It was essentially a capacity for search and discovery and seizure without warrant. Why wouldn't you say that those powers were reminiscent of those of a police state?

Dr Allport—They are your words, Senator. I would say that they are provisions that are directly against all of the democratic principles that are the foundation of the society in which we live. If you choose to call it a police state, that may well be the most appropriate term. I consider them to be essentially antidemocratic and to the grave disadvantage of all Australians.

CHAIR—Have you been able to compile a list of areas where you have concerns about the specific black-letter law that is being proposed in this legislation?

Dr Allport—As I said in my opening remarks, I have found it very difficult to comprehend the full implications of this legislation because of the government's inability to provide all of the guidelines that attach to it. We have been able to presume that there may well be certain implications as part of this legislation, but it seems to me to be legislation that bears little resemblance to the needs and aspirations of universities, and I cannot understand why a government that is constantly using the word 'deregulation' to describe its policy environment is in fact presenting legislation that is so over-regulatory yet has so little accountability.

CHAIR—I appreciate that. What I am asking about, though, in terms of what is actually written here, is the heads of power—not to mention the 10 areas of regulation, but I will put that to you separately; I want to ask you specific questions about that—which will not require judicial approval, that are proposed here with regard to the micromanagement of universities by the Commonwealth Minister for Education, Science and Training. Have you been able to establish a full list of concerns in that regard?

Dr Allport—From my first reading of those aspects of the legislation, our view would be that they must be completely expunged from the legislation.

CHAIR—Okay. Mr McCulloch, I understand that yesterday, on behalf of the NTEU, you signed an agreement with the staff at the ANU.

Mr McCulloch—That is correct.

CHAIR—I understand that this was an agreement that stood out from others insofar as it was not in compliance with the edicts issued by the government a fortnight before. Can you give this committee any advice as to what was the process for reaching that agreement and whether or not there were any obstacles placed in your way or any attempts to frustrate you by the Commonwealth department of education in reaching that agreement?

Mr McCulloch—The short answer is that the process of developing and reaching the agreement was a reasonably lengthy one. There have been about eight months of negotiations. The negotiations involved three parties—the union, the university management and the staff as a whole. By that I mean the negotiations took place at a table where the union representing the staff negotiated with the management but the development of the union's claims and the subsequent approval of the proposed agreement was developed in conjunction with all staff, whether union members or not. Professor Chubb and I presented that agreement to a meeting of 850 ANU employees and managers yesterday and, as you say, we signed it.

The significance of the agreement, in terms of the Commonwealth's attempts to restrict or inhibit the ability of universities to enter into these agreements, is that there are four core

requirements set down in the present government's proposals which are not met by that agreement. Firstly, the agreement does not make provision for Australian workplace agreements—that is, individual contracts which provide below the minimum standards set out in the collective agreement. Secondly, it does contain a raft of important measures to control and regulate fixed term and casual appointments, whereas the government's proposals explicitly forbid institutions from entering into agreements that do that.

Thirdly, it provides some important improved benefits which would be said by the government to be above the community standards that are now required by these proposals, notably a 17 per cent pay increase and 26 weeks of paid parental leave. Finally, and obviously from our organisation's point of view very importantly, it recognises the important role the union has, not merely in dispute resolution and the setting of employment standards but also in the policy and professional discourse of the university. In fairness, I would have to say that in the negotiation of the agreement itself I have seen no direct evidence of attempts by the Commonwealth to directly interfere with that process. However, it is plain enough from the statements the minister made yesterday that the agreement will not meet the government's requirements and, as matters presently stand, under the bill the university would be deprived, on my understanding, of about \$15 million in Commonwealth money.

Senator CROSSIN—What was the vote for the enterprise agreement?

Mr McCulloch—I cannot be precise about the exact numbers. I believe there were about 850 there. Assuming that was the case, the vote was 850 to 0 followed by a standing ovation.

CHAIR—The NTEU and the AVCC, despite representing different elements of the higher education sector, often come to this parliament with agreed positions on policy matters. You have not this time. Why?

Mr McCulloch—I am not sure I have the capacity to inquire into the minds of all of the vice-chancellors but my impression would be that there is obviously a small number of institutions who would, on the face of it, gain substantially as a consequence of this package. The deregulatory thrust of it does mean some of them would have substantial additional resources. On the other hand, a very large number of universities are plainly going to be considerably worse-off. I think the difficulty that the vice-chancellors have is that they are trying to balance a constituency that spans those different types of institutions and, I am afraid to say, we do not really think that they have come to the committee with a coherent view. My understanding is that they would prefer to see the bill processed as quickly as possible on the basis, as they say, that that will create a stable environment for next year. But, on my understanding, the 2004 grants are already legislated and the one key area of difference between their approach and ours is that we would prefer to see the Senate take its time to get the bill right. If the price to be paid for doing that is that the matter is still being debated by the parliament in the new year or even towards the middle of the year, that would be a preferable outcome. So I think they are going for the quick buck that has been dangled for a few of them but in so doing they are doing a grave disservice, in my view, to the sector as a whole.

CHAIR—It is my understanding that on Tuesday there was a board meeting of the AVCC and that some officers of the AVCC went to that meeting with the view that they intended the AVCC members to come out of that meeting with a statement that there was no substantial problem

with the bill. Quite clearly, from what we heard today, that has not happened, and there has been a meeting with the minister yesterday and now there appears to be a movement towards the establishment of a working party to examine the detailed criticisms that the bill has drawn. From your observations, what has been the role of the AVCC lobbyist in this process of the development of this bill and the attempt to have this bill passed through the parliament?

Mr McCulloch—I am not sure to whom you are referring when you refer to the AVCC lobbyist.

CHAIR—I will leave that up to you.

Mr McCulloch—Bearing in mind that I do not work for the AVCC, as I understand it the principal responsibility for that matter rests with Mr Mullarvey as the Executive Director. I understand that he has been advised on a reasonably extensive basis by Mr Andrew Robb, the former federal director of the Liberal Party. Certainly my impression, although it is only my impression, is that the political calculation being made by the vice-chancellors—which, from their point of view, may be understandable—is that the government would be more interested in listening to their concerns if they gave a commitment to having the bill put to bed before the end of the year. This is presumably on the basis that Mr Robb has the view that the government would be better placed to have this matter disposed of to enable it to go to the next election without this being a central issue. Others of us, perhaps, would prefer that the public have the opportunity to assess these proposals and cast their votes accordingly.

CHAIR—I have one final question. Your submission puts the view to us that your reading of clause 30-25 of the bill is a breach of the MCEETYA protocols. Dr Allport, can you explain to us why you think that? That clause is the one that sets out the conditions for the grants. I would also be more than happy to hear from any of the other witnesses.

Dr Allport—I will answer that. In our submission we have certainly argued that clause 30-25 does, in fact, contravene the MCEETYA protocols, which are the basis for accreditation standards right across the country. They make it quite clear that a university must be committed to freedom of inquiry, must retain institutional autonomy and, as a self-accrediting institution, must essentially have control over curriculum as well as the design of courses. They are the essential characteristics of a self-accrediting university, and they are set out in the protocols.

Senator STOTT DESPOJA—I think Senator Carr has asked most of my questions that related to the ANU. Mr McCulloch, you made it very clear that it is your understanding that as a consequence of that agreement being reached the ANU will lose its Commonwealth Grants Scheme funding, and you have estimated that at around \$15 million.

Mr McCulloch—Yes.

Senator STOTT DESPOJA—Can you tell us a bit more about that agreement? There is something that has been talked about, which a number of us have watched with interest, and that is the parental leave conditions contained within that agreement. Could you elaborate on that for the benefit of the committee?

Mr McCulloch—Yes. The agreement provides three important measures in that area. Firstly, there is a minimum guarantee of 20 weeks paid maternity leave with the possibility of that being converted to 40 weeks paid maternity leave at 50 per cent salary instead. Secondly, it also provides for a further one day a week for the balance of the year to have a graduated return to work for the women concerned or, alternatively, for them to use the equivalent of that one day a week to engage in retraining or research activity. Putting those two things together, the overall package provides for an equivalent of 26.4 weeks maternity leave. Thirdly, in the interests of equity, the other element of the package that is important is in respect of adoptive parents. Although most people focus on parental leave associated with birth mothers, there is a smaller but important number of people who adopt children. So the provisions that I have just described apply not only in respect of birth mothers but also in respect of people who adopt children.

So it is a very progressive initiative which, from our point of view, is motivated by two general considerations. The first is equity in general and the second is that there is very compelling evidence that the gender segmentation of the labour market in universities is to a significant degree a product of the later entry of women into the profession and of breaks in service associated with child rearing. We think that, while not fully dealing with the problem, this will make some significant contribution to it.

Could I just add that we also reached an agreement with the University of Sydney, but that was torpedoed by Tony Abbott's announcements before he departed the Employment and Workplace Relations portfolio. The same arrangements I have just described applied. However, the standard was 36 weeks paid parental leave, not 26.4 weeks. We are very proud of those outcomes. We think they are a model for many other parts of the economy, particularly in trying to deal with the pressing question of the balance of work and family life. It is most disappointing that we are now not able to proceed with that at the University of Sydney and that the ANU apparently will be financially penalised because of that.

Senator STOTT DESPOJA—Congratulations on the ANU agreement. I might add that women who adopt cannot access the baby bonus so, once again, you are further ahead than perhaps some of this government's so-called initiatives. The Sydney uni agreement has obviously been stalled as a consequence of the announcements that came down pretty much in the same week. Do you know what is due to happen with the Sydney uni negotiations or have they just been put on hold indefinitely?

Mr McCulloch—At the moment, the university management have put the negotiations on hold indefinitely. I need to be very clear with the committee about the precise nature of this problem. I was literally about to board a plane to go to Sydney to sign the agreement and I was given only two hours' notice of the fact that the university was not able to sign it, precisely because of the government's intervention. Unfortunately, at the moment, there are no arrangements for the negotiations to be resuscitated. We are involved in formal conversations with university. I am hopeful that good sense will prevail and that the parties will, in the very near future, find a way through that problem.

Senator STOTT DESPOJA—Can you understand, though, why a university might be a bit nervous now that they might lose out on the CGS funding as a consequence of fulfilling or finalising agreements that were at least under way or close to conclusion?

Mr McCulloch—Yes, I do understand the nervousness that universities have. The present uncertain climate is of no assistance to anybody. But I would nonetheless make the observation that, in the case of some universities, they would have the capacity in any event to reach these understandings with the union, even in the face of this Commonwealth pressure. Ironically, the University of Sydney is a prime beneficiary of fee deregulation and, by our estimates, in the first year of this package the university would be more than able to meet the costs of what is proposed without that government money. But the overwhelming majority of institutions outside that small elite group are not in that position and therefore they are the ones who are really confronted. The regional and outer metropolitan institutions are the ones who, to use a colloquial expression, will really be under the pump.

Senator STOTT DESPOJA—Let us look at the issue of who benefits and who does not. As we have toured the country, one of the questions that I and others have asked related to modelling and whether or not institutions are better or worse off. Unless we have some glee from the department today or some benefit from the department's investigative work, I think we are all still trying to assess what institutions are going to receive. But most of the institutions that have done modelling or that have their DEST figures have calculated that CGS funding, among other things, as part of their benefits. We already now know of one institution that is not going to get that additional funding. In its research work, has the NTEU done an analysis of how you think institutions will fare as a consequence of this?

Dr Allport—Paul Kniest is probably the person to answer that question.

Mr Kniest—We have done an analysis of the impact of the Commonwealth Grants Scheme. In fact, in our original submission, our analysis of the results of that are in appendix 1. There may be some confusion about what those numbers actually mean, so it may be worth trying to explain what we have tried to do. What we tried to do in our analysis was understand what impact the change in the funding mechanism from the block operating grants scheme to the Commonwealth Grants Scheme would have on institutional base line funding, if you like, without any of the new components of the package.

Essentially we have used the Commonwealth Grants Scheme and the target student load for 2002. We have basically adopted the same methodology that DEST has used when it publishes its estimates of CGS funding, but we have subtracted from that the components of Backing Australia's Future—the regional loadings, the 2.5 per cent loadings and the teaching and nursing loadings. We have taken those out because we are saying that they cannot be counted twice. You cannot say that CGS funding gives the universities a certain amount of money and still claim that there is \$1.465 billion in new funding to the sector. We have tried to work out what the actual increase in funding for universities is.

The other thing that has happened as part of the Commonwealth Grants Scheme is that DEST, or the government, has rolled in some of the existing grants that are not part of base operating grants. These include teaching hospital grants and some of the current workplace relations reforms. We have made those sorts of amendments to the data, which are explained in the paper. We think that the sector, as a whole, in 2005 misses out on about \$70 million; according to our calculations, it gets \$70 million less in baseline funding than it would under base operating grants. That is what we refer to as 'clawback'. We also say that if you take out those additional grants that the government has rolled into CGS, which are included in that, it would come to a

total of \$150 million in 2005. We think that only about \$100 million of the \$250 million new funding in 2005 is genuinely new funding. If you look at the table, you can see that the impact on individual institutions varies significantly.

Senator STOTT DESPOJA—Yes, but there are a lot of minus signs in that.

Mr Kniest—Yes, there are a lot of minus signs. We are saying that, on average, a university would lose \$220 per student—we have done it on a per student basis as well, to get rid of the problem of different sized universities—whereas the Northern Territory loses about \$2,000 per student. Some universities do quite well. According to our calculations, the University of the Sunshine Coast does best; it would be almost \$1,000 better off, compared to the current situation.

Dr Allport—I would like to add a couple of comments to that. Firstly, any modelling that anyone is doing—the institutions, the AVCC or us—is essentially based on the pattern of existing student enrolments. Given that this legislation gives the minister such discretion on funding contracts, how are we to know in the future—particularly since this minister seems to have a penchant for saying which courses we should or should not teach—that an institution's future profile will not change significantly to their detriment? Remember that whether an institution ultimately gains or loses from the package depends upon the existing subsidies listed in the CGS. If the minister uses his discretion to say, 'I'm sorry, you will no longer be allowed to teach engineering,' for example—which attracts a reasonably good level of subsidy—'and we now simply want you to teach a bachelor of arts course and that's it,' then that institution will obviously be much worse off than it is under the existing regime. I think that is something we cannot possibly estimate, but it is a significant danger in terms of guaranteeing that institutions will be better off.

Secondly, the minister has made significant statements about how no institution will be worse off by 2007. Part of the way the government is attempting to address that is by providing additional funding. My understanding is that that is transitional funding, not funding to the base, so how can the minister guarantee that, after 2007, those institutions will not be worse off? We just cannot do that. I think the government grossly underestimates the negative impact on institutions of the current package as described in the legislation.

Senator STOTT DESPOJA—One theme that has emerged from these committee hearings is the lack of independent government funded data, not just in relation to an exercise like this but also in terms of an analysis of the impact of the higher education policy changes that have taken place, particularly since HEC—or NBEET, more broadly—was abolished. Does the NTU have a view as to whether or not the government should be providing more research, funding more research or in fact establishing a new body like NBEET or, as Bruce Chapman and the humanities people suggested, re-establishing the Australian education commission. Is there a formal view from the NTEU?

Dr Allport—I served on the Higher Education Council—initially under the Labor government and subsequently under the current government. The Higher Education Council played a significant role; firstly, because we had a statutory responsibility to report annually to the parliament on the impact of the Higher Education Contribution Scheme. Specifically, our responsibility went to looking at the impact on the designated equity groups. This provided

significant independent and detailed research to the parliament. That no longer happens. Secondly, the department had a practice of commissioning independent research from academics in the sector, from consultants, from outside experts and so on under the evaluation and investigations program. That no longer happens.

What we see now coming out from DEST is information written by high-level DEST bureaucrats. I do not consider that independent advice, and it certainly is quite arguable research. We cannot possibly effectively evaluate policy changes in such an important area as higher education unless we recognise the value of independent research. My last comment is that we certainly do need to think about a different type of buffer body—if I can use that term—perhaps something very different from the Higher Education Council. Perhaps it might be something more suited to the different circumstances we have in the sector now. At the moment, we have government and we have institutions. The lack of a buffer body, I would suggest, has been one of the main reasons why the AVCC finds itself in such a moribund position in terms of its defence of the higher education sector.

Mr McCulloch—I would like to add one comment to that. Senator, you raised specifically there the question of a proposed Australian education commission or something like that. One observation I would make, having been in the sector now for nigh on 25 years, is that in the early arrangements—introduced by the Whitlam government but sustained by the Fraser government and in the very early years of the Hawke government—there was a Commonwealth Tertiary Education Commission as an independent statutory body. That is something that the committee needs to consider, particularly because, in those days, that commission actually had direct responsibility for determining the distribution of grants and the mix of programs. In one sense it could have been—and was—seen to be highly interventionist. The difference was that the intervention was done by an independent body of experts drawn from the sector who would balance the sector's needs rather than reflect the political priorities that are inevitably reflected through the bureaucracy and the minister. On the basis of my experience I would say two things. Firstly, I believe the former Labor government made a grave error in getting rid of the Commonwealth Tertiary Education Commission. I think that in today's environment many people regret the fact that it has disappeared. The Higher Education Council was a useful initiative from the Labor Party, to try and compensate for that, but it lacked the same real, independent powers. If there is going to be a discipline based funding system in the future, then, overwhelmingly, all people in the sector—whether they are unionists, non-unionists, the AVCC or whatever—will never want to see discipline based funding decisions determined by the bureaucracy.

Senator STOTT DESPOJA—Dr Allport, in your comments you have just referred to the AVCC. A press release has just popped up on my screen from the AVCC. I am wondering, in light of the absence of that kind of independent analysis and research, is it appropriate that bodies such as this put out releases like the one that has just popped up on my screen entitled:

HECS: Chapman and Ryan Review confirms there is no evidence that HECS has had a significant impact on participation.

Are these the bodies and the research on which we should rely in order to determine whether or not fee regimes such as HECS have had an impact on participation rates in higher education? Is that appropriate?

Dr Allport—There is a lot said about whether HECS does or does not have an impact on participation. I think we need to ask ourselves a broader question in order to respond to the issue you have raised. There have been a number of independent studies looking at what motivates high school students and mature age workers to participate in higher education and what have been the difficulties for them. Cost has been proven all the way through as a significant issue. It is not just the issue of HECS itself; it is the failure of this government to have an effective student income support system that is at the centre of the difficulties faced by high school students or mature age workers in actually accessing higher education.

Press releases are put out claiming that HECS has shown no disincentive, but we do not have the data from the past few years. We have no capacity, as far as I understand, to look at the additional effects of the three-tier HECS that was introduced and, most importantly, the government as well as the AVCC have almost totally ignored the impact of the rising level of student debt. The evidence from both the New Zealand example and from the United States suggests that rising levels of debt are critical factors in people's decision making about whether or not they will come to university.

I do not know whether that fully answers your question, but it seems to me that we need to recognise the importance of understanding the complexities behind participation. I have been somewhat disappointed that the government continues to argue that there are no disincentives as long as you have a loan scheme. That, in my view, is incorrect.

Senator STOTT DESPOJA—Chair, do you want me to put further questions on notice?

CHAIR—Yes, if you would. We are running short of time.

Senator STOTT DESPOJA—Can I just ask a question for you to take on notice?

Dr Allport—Certainly.

Senator STOTT DESPOJA—It is something to which your submission refers—that is, the issue of the cost shifting. You have provided, I think more so than any other group, evidence as to the increasing cost shift from public to private contribution—that cost shift to students that we have seen take place. Could you provide to the committee your methodology for that? How do you determine the figures you have reached? I am also interested in a critique of the government's figure. You would have heard that the average cost of the contribution by students is between 25 per cent and 27.6 per cent. If you have any views on that for the committee they would be welcome.

Dr Allport—Certainly. We will take that on notice and send it to you. I assume that is what you want.

Senator STOTT DESPOJA—Yes, thank you.

Senator NETTLE—I want to ask you about private providers within the higher education sector. You commented before that the word 'university' is not in the legislation in defining what sorts of providers. Does the union have any concerns about the increase in private providers in the sector and does that impact on you in terms of your members and the industrial relations

scenarios that they are working in? From the experiences so far of private providers coming into the sector, what are we seeing? What are we looking at in terms of legislation which allows more private providers to come into the sector?

Mr Kniest—The answer is on two levels. I would like to take a pre the legislation is introduced and a post the legislation is introduced view. Pre the legislation is introduced, as our submission states, we have a number of concerns with regard to the extension of subsidies to private providers. I should add there that per se we have no opposition to private higher education providers; indeed, I believe we cover staff in some of those. Our concerns basically are around the lack of clear accreditation and quality frameworks that are established in Backing Australia's Ability to extend those subsidies to private providers.

There are a number of other concerns that we have. I think these is a concern about the inevitable flow-on impact that will happen once you start opening up public subsidies to private providers. You can bet your bottom dollar that if we start opening up subsidies to private providers we will have an increase in applications for university status. Some of them may be justified but I am quite sure that some of them will not be as well. There is no consistent, clear, national rigorous process that this package sets out that deals with that, and that is a real concern for the union. That is something that we would like to stress quite strongly. The legislation does make some sort of capacity for AUQA to be the vetting body for private providers, as one of the hurdles that private providers will have to get over to get funding. That is not why AUQA was set up. That is not its mandate, and more work has to be done in this area.

In terms of post the legislation, I think it is quite clear—and this was discussed at some length in the AVCC's evidence as well—that the government is moving to a provider basis for education. It wants to set up a fully fledged private-public system of higher education. While again stressing that we are not saying per se that we are against private higher education providers, we say that the implications of that without a rigorous framework and a number of other things being put in place are extremely significant. It is important that the committee takes those concerns on board.

Dr Allport—I think it is very important to recognise that, as we are lifting participation levels in the postsecondary sector as a whole, we also need to recognise the diversity in that sector. What concerns us here today is the complete absence of the recognition of the central role that universities play in higher education, even within a diversified postsecondary sector. Universities are self-accrediting institutions and as self-accrediting institutions, and under the MCEETYA protocols, they have a responsibility to be comprehensive. Many of the private providers in the postsecondary market are much more specialist, and to that degree that diversity is a positive thing. But what I find very disturbing is the lack of understanding by the government of that diversity and the lack of recognition by the government of the different needs and the different requirements in a diverse postsecondary system. Universities have an important and central role: they are both teaching and research institutions. It is rare for all private providers to fulfil the comprehensive nature of the teaching and research role of universities, and I would think that one of the central changes, if this legislation is to be acceptable, is that the word 'university' must reappear.

Senator NETTLE—I have another question that goes to the work that I know the NTEU has done in being involved with Indigenous education in the higher education sector. I am

wondering if you can outline for us the positions that you put to the government through Crossroads, for example, and then, by comparison, what has come out in the package for Indigenous education. Can you outline the discrepancies for us in terms of your vision for Indigenous education and then what came out in the package?

Dr Allport—Certainly. We spent considerable time working with the minister and the department on a range of issues in the Indigenous area, believing that we would get a fairly comprehensive outcome. We certainly had good cooperation from the department in doing so, so we were very disappointed by the limited outcomes that were finally part of the package. One of the central things that we were trying to put forward was the need for the government to understand the important role played by Indigenous staff, both in linking to communities and in providing role models to students, and that we were not going to make great gains in Indigenous participation if we were not at the same time increasing the number of Indigenous staff who worked in our universities right across the full range of occupations. By that I mean Indigenous academics and Indigenous staff who work in the student centres and in the libraries, so that wherever an Indigenous student went they saw an Indigenous face. We put this argument strongly. We requested that the government fund the employment strategies that we were bargaining for in our agreements and we hoped that that would be a central part of the package. That was not there.

The fact that only five scholarships were provided for Indigenous staff development is an insult to the Indigenous staff who work incredibly hard both for Indigenous education and for their communities. We were able to agree on a new Indigenous Higher Education Advisory Council and we are hoping that we can do some constructive work with the government through that council. We are certainly having constructive discussions. There was a small increase in support funding. The support funding is essential to provide learning support, exam preparation skills, and so on, for Indigenous students. The funding was lifted by a small amount but it had remained static for some years. Considerable new investment was needed in that area, so we were also very disappointed about that.

Senator NETTLE—Thank you.

Senator CROSSIN—Could I ask you a couple of questions about the new industrial relations provisions. When we were in Melbourne, Professor Gilbert, for example, said to us:

I have a fairly strong feeling that there will be universities that will say that the impact on the quality of education we can offer, if we are forced to comply with these regulations, is not worth the money.

I saw in the case of the ANU yesterday that they have gone ahead and signed an enterprise agreement. Mr McCulloch, you have told us that some universities could well do without the money because they will cope, basically, but there are many more universities, particularly regional universities, that cannot exist without that money. I wonder if there has been any evidence or concern expressed through the union about any impact this will have on the relationship between the management and the staff at universities—which, by and large, as I understand it, is pretty cordial and cooperative—and whether or not staff will be coerced into agreeing to this package because there is a carrot in the form of funding at the end of the day for the universities?

Mr McCulloch—Yes, the word ‘carrot’ might be one way of characterising that money because, in a sense, it is being taken out of existing base operating grants and then being put back in. Perhaps a better description might be ‘a rather large stick’. I think the real difficulty is that in the regional and outer metropolitan institutions the funding required for them to maintain what they are presently doing, let alone to deal with declining teaching and research infrastructure, means that they really are put in a situation where they have little or no choice. The best way I can comment on what that might mean for the relationship between staff and university managers is perhaps by reference to the last round of bargaining, where we cooperatively reached understandings with the University of Sydney, the University of Newcastle, VUT, the University of New South Wales, and one other that immediately escapes my mind, prior to the announcement of the Peter Reith-David Kemp \$259 million workplace relations package. The moment that package was introduced we went from a position where the first six agreements had been negotiated in a cooperative spirit and reflected not just the industrial objectives of the union but the teaching and research objectives of the universities to a position where, for the balance of that bargaining round, the level of industrial disruption and difficulty in the sector was more than the sum of all previous industrial action in the sector’s history.

Our union, contrary to what is often said by some in this parliament, regrets always, and seeks wherever possible to avoid, industrial confrontation because we pride ourselves on being a professional organisation that represents highly articulate and important workers in our economy. So we do not do it lightly. We were put in a position where we had to do that because our members wanted some defence against this government intervention. My fear is that we are headed down the same path now. The best illustration of that is we had reached an agreement at the University of Sydney—one that not only delivered very high-quality employment conditions to University of Sydney employees but also delivered high quality benefits to the university management. Plainly, the sector has now been thrown back into industrial no person’s land as a consequence of this.

Senator CROSSIN—So what you have now is industrial disputation that is being caused by neither of the parties that are actually party to your awards and agreements.

Mr McCulloch—Yes, I think that is right. That arises because really the whole basis of the government’s approach in this particular area is one that is otherwise completely at odds with its view that ordinarily workplace bargaining should be free of third party interference. The real difficulty here is that the government believed that enterprise bargaining would reduce the bargaining power of our union, therefore it supported deregulating the labour market. The irony is that enterprise bargaining has increased the bargaining power of our union—one of life’s profound ironies—and this government apparently does not want to live with the consequences of letting the market operate.

Senator CROSSIN—I was going to go to that point. I was going to ask you if you had a rough idea of how many people might have taken industrial action yesterday.

Mr McCulloch—Yes, I do. I believe that more than 40,000 academic and general staff employees would have been on strike yesterday. But I also believe, because they can take legal action as union members, there would have been at least another 20,000 employees who did not

turn up for work. In other words, out of a sector employing 80,000 people, 60,000 people were not at work yesterday.

Senator CROSSIN—We often hear comments in the chamber from members of the government, who do not like the fact that the union exists, particularly about the expectation among university branches that the national executive looks at and also signs off on the enterprise agreements. So probably being a bit sceptical, one might think this legislation is an attempt to break the back of the union. What would you say to those claims?

Mr McCulloch—I think there is no doubt that it is plainly calculated and directed primarily at our union. Frankly, I also have to say this: we bargain with each university on the basis of a negotiating team that comprises local workplace representatives and the local university managements. It is true that our national executive is ultimately responsible for approving agreements but I simply make this observation that it is not the government's business, nor for that matter is it the university's business, to be telling our union what processes we should use to approve and to determine agreements. All I can say is that our union has voluntary membership. Close to 60 per cent of full-time academic staff are members of the union through a voluntary decision, so the processes we use are processes that our members support because they deliver high-quality outcomes. We are not intending to change our view about that.

Senator CROSSIN—Let us clarify that for the record. Senator Tierney has constantly in this inquiry referred to closed shop arrangements at universities in respect of your union. What do you say about those comments?

Mr McCulloch—It is just a nonsense. It is an absolute nonsense. Let us be plain. There are 15 unions in the university sector. Seven of those have a modest membership. Only one of them has an overwhelming membership—that is ours. All of them are on a voluntary basis. The agreements that are negotiated apply to all employees because that is what the act that Peter Reith introduced said those agreements should do. There is no closed shop. We negotiate directly with the universities on behalf of the people who join us voluntarily. Everybody is covered by the collective agreement, but if you do not like what is in the collective agreement you can take an individual contract.

Senator CROSSIN—So it would be fair to say that each and every one of the people who have joined the National Tertiary Education Union has done so voluntarily and has done so after seeing evidence as to the effectiveness of the union.

Mr McCulloch—Yes, and I think this is the best evidence of that: I believe that those who believe in market principles think that people are only willing to pay for something that they believe has value to them. Our union has very high union fees because we do a lot of important work. It costs most people one per cent of their income to join the NTEU, yet they do not see that as a substantial cost; they see that as a big investment in their own interests.

Senator CROSSIN—So if this government were intent on breaking the back of the NTEU, given the 40,000 people who turned out yesterday for industrial action I would have thought that they would have a long way to go.

Mr McCulloch—We would prefer that this matter be dealt with in a collaborative spirit. But in the event that the legislation passes the Senate the only thing that I can say is that our union will not be changing its industrial position. We believe that our members will give us whatever support is required to make sure that there are no workplace agreements and no anti-union measures in agreements that we sign.

Senator CROSSIN—You might be able to clarify something else for us while you are here. Comments were made in Tasmania, I think—unfortunately, probably, Mr McCulloch, that is your homeland—along the lines that the National Tertiary Education Union has signed off on AWAs; that they have already done that in two places: at the Australian Maritime College and at the Australian Film Television and Radio School; and how hypocritical of that union to be saying, ‘We don’t like these industrial relations reforms because they will open up the market of AWAs to university staff.’ You might want to clarify for us why those AWAs are in those agreements and the background of that.

Mr McCulloch—I have two comments: the NTEU represents people in a wide range of institutions, not all of which are universities, but the overwhelming majority of our members are in universities; and our position that we will have no Australian workplace agreements in our agreements is a policy that is founded on the position in the university sector. In respect of the Australian Film Television and Radio School and the Maritime College, while they are higher education providers, they are under direct ministerial control. They are not independent entities in the same way that universities are, and nor do all of the features of academic freedom and institutional autonomy that characterise universities prevail in those institutions. We were placed in a position of having no choice, simply because the minister dictates that there will be no agreement unless it contains that provision, because in the end the minister is the employer.

CHAIR—The whole purpose of this bill is that all institutions are in the same category—is it not?

Mr McCulloch—Precisely.

CHAIR—Have you had an increase in membership this week?

Mr McCulloch—Five hundred new members have joined the union in the last nine days.

Senator CROSSIN—I see. So Brendan Nelson has actually become your star recruiter, has he?

Mr McCulloch—For the moment. If the bill could perhaps persist for another year or so, we might well represent all 80,000 workers in the industry.

Senator CROSSIN—We will see if we can spin it out for you that long then.

CHAIR—I do not know about that. I do not know if I could stand this for another year. Thank you very much for your attendance.

[2.49 p.m.]

BURMESTER, Mr Bill, Group Manager, Higher Education Group, Department of Education, Science and Training

FERNANDEZ, Ms Maria, Branch Manager, Student Support Branch, Department of Education, Science and Training

JARVIE, Dr Wendy, Deputy Secretary, Department of Education, Science and Training

NICOLL, Dr Carol, Branch Manager, Funding Branch, Department of Education, Science and Training

SPARKES, Ms Lois, Branch Manager, Quality, Equity and Collaboration Branch, Department of Education, Science and Training

CHAIR—Welcome. The committee has before it submission No. 28. Are there any changes that you would like to make?

Dr Jarvie—Yes, I would like to draw your attention to some enhancements to the package that were announced by the minister. I will table them. The enhancements to the higher education package were announced on 17 September. I can give the details here. Also, new workplace relations requirements for universities were announced on 22 September.

CHAIR—Thank you. The committee prefers all evidence to be given in public, although the committee will also consider any requests for all or part of your evidence to be given in camera; however, I point out that such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Dr Jarvie—We do not have an opening statement.

CHAIR—Dr Jarvie, I was hoping that you would provide us with a supplementary submission today. Do you have one?

Dr Jarvie—No. We have tabled the two clarifications of the enhancements.

CHAIR—Would you agree that this is a major piece of legislation?

Dr Jarvie—Yes.

CHAIR—And that the government see this as central to their current legislative program?

Dr Jarvie—Yes.

CHAIR—Would you agree that it is a major change from the status quo?

Dr Jarvie—Yes.

CHAIR—Why then has the department only put in a 1½-page submission?

Dr Jarvie—Our submission was the Backing Australia's Future policy statement. That was a very comprehensive statement on the package; it explained the package and the policy and programs that will flow from it.

CHAIR—Dr Jarvie, your department did not put a submission to a recent Senate inquiry into training within the Public Service. You have now presented us effectively with a 1½-page summary plus the statement the minister has put down. Can you think of an occasion where the department has presented—apart from the training example, where you presented nothing—such a contemptuous response to a Senate inquiry?

Dr Jarvie—This is not a contemptuous response to a Senate inquiry. The department takes this inquiry seriously and, indeed, we are here to be helpful to the committee. We have here the leading branch managers in the group and Mr Burmester. I am here today to talk to you and address any concerns you have or questions you wish to raise.

CHAIR—I cannot recall an occasion, though, where a piece of legislation of such importance has been treated so lightly by a major department in the Commonwealth Public Service.

Dr Jarvie—This is not at all being treated lightly by the department.

CHAIR—There are 10 sets of guidelines listed in the back of this legislation. Dr Nicoll, did you actually draft most of this bill?

Dr Nicoll—I did not. It was a team effort. There were a number of officers in the department who contributed to the drafting of the legislation.

CHAIR—But did you have lead responsibility?

Dr Nicoll—I did not.

CHAIR—What contribution do you think you made—a major or minor part?

Mr Burmester—The approach taken by the department was, in fact, that the division was responsible for the legislation. The relevant branch dealing with each aspect of the legislation was involved in the drafting of the legislation. A number of officers within the division coordinated the bill and worked on a daily basis with the Office of Parliamentary Counsel to prepare it.

CHAIR—Dr Nicoll, what role did you play in it?

Dr Nicoll—I have had a role throughout the review. But, in terms of the legislation, I have contributed to a number of aspects that pertain to the areas that my branch is responsible for.

CHAIR—Which senior officer is responsible for the coordination of this piece of legislation?

Mr Burmester—Maria Fernandez was the key person who did the coordination with the group within her branch. But, as I have said, the drafting was done across the division and was cleared appropriately within all those concerns.

CHAIR—So it was cleared within the departmental structure?

Mr Burmester—Yes.

CHAIR—Did that go through to the secretary?

Mr Burmester—Not to the secretary. It is dealt with at group manager level.

CHAIR—Is that you?

Mr Burmester—Yes.

CHAIR—So, Mr Burmester, you are the one who authorised the presentation of this bill?

Mr Burmester—That is right. I arranged for its preparation and its presentation to the minister to present to parliament.

CHAIR—The minister takes responsibility for it, but you are the responsible officer within the department.

Mr Burmester—That is right.

CHAIR—In section 238-15 there is a list of 10 sets of guidelines. Is that right?

Mr Burmester—That is right.

CHAIR—When will those guidelines be available?

Ms Fernandez—The guidelines will become available progressively as most of the initiatives in the package come on line between 2004 and 2006. The first round of guidelines for initiatives that commence in 2004 will be available in draft form in the coming week, once they have been cleared through the minister's office; those guidelines have required considerable consultation with the sector. The remainder of the guidelines for initiatives that commence from 2005 onwards will be developed progressively in consultation with the sector, the states and key stakeholders, where necessary, and will be released progressively.

CHAIR—What set of guidelines do you intend to release next week?

Ms Fernandez—The Commonwealth Learning Scholarships guidelines, the Indigenous staff scholarship guidelines and the Commonwealth Grants Scheme guidelines, as they relate to the regional loading program and the national priority initiatives which commence in 2004.

CHAIR—When will the rest of the Commonwealth grants guidelines be available?

Ms Fernandez—They will also be available early next week in draft form.

CHAIR—All of them?

Ms Fernandez—All except some minor issues, which relate to enabling courses, ancillary fees—very administrative matters.

CHAIR—Will they be available to the committee?

Ms Fernandez—Once cleared through the department and the minister's office, yes.

CHAIR—It has been put to us that we should recommend to the Senate we do not consider this bill until all the guidelines have been produced. What is wrong with that?

Ms Fernandez—These guidelines are subordinate legislation and are disallowable instruments, so they are all subject to parliamentary scrutiny. They will, as they become available, be tabled in the houses of parliament and will be there for the houses to agree to. If they are not agreed to, the majority of the initiatives will go through as the legislation says. So there are default positions in place under the legislation for most initiatives.

CHAIR—Technically we could pass the heads of powers and not pass the guidelines?

Ms Fernandez—For many measures, the default position—

CHAIR—In fact, these 10 sets of measures are substantial parts of the bill. They are not just many measures; they are at the core of the bill. Is that right?

Ms Fernandez—I am sorry, Senator; I do not understand your question.

CHAIR—The initiative guidelines, the Commonwealth Grants Scheme guidelines, the Commonwealth Scholarship Guidelines, the FEE-HELP guidelines, the HECS-HELP guidelines, the Higher Education Provider Guidelines, the OS-HELP guidelines, the other grants guidelines, the reduction of repayment guidelines and the Student Learning Entitlement Guidelines do seem to cover just about all the bill.

Ms Fernandez—That is right, but perhaps I am not explaining myself very well. I am saying that many of those things that you mention—for example, HECS-HELP—can actually progress without any guidelines. The detail of the legislation is sufficient for the initiative to proceed without guidelines.

Senator CROSSIN—If we pass the legislation but the Senate disallows the industrial relations reforms that are tied to accessing the \$404 million, can universities still access that money?

Ms Fernandez—No, they cannot. With the way that that measure is drafted in the legislation, that money cannot flow to the sector unless those guidelines are available and complied with.

CHAIR—So it is basically 'stamp and deliver', isn't it?

Ms Fernandez—They must comply with the guidelines.

CHAIR—They must comply or they do not get the money. That is the effect of it, isn't it?

Mr Burmester—The government's position on the governance protocols and the workplace relations requirements were set out in their policy statement. That is the policy position of the government and that is how the bill has been drafted. But there are other provisions within the bill so that, if the guidelines are not agreed by the parliament, there is adequate detail and the basis of the arrangements in the bill. A number of those cases have sufficient detail in this bill to understand the way the system will work, and they are not dependent on subsequent guidelines.

CHAIR—I agree entirely with you, Mr Burmester; we intend to explore some of that in a minute. What interests me, though, is that the AVCC have provided evidence to the committee that there has been no consultation, and I thought I heard Ms Fernandez say that there had been. How do we reconcile that difference?

Ms Fernandez—There has been considerable consultation, especially on the measures that are to commence from 2004. For example, with the Commonwealth Learning Scholarships, there has been a reference group established for some months and that reference group has representation from many universities. We have worked with those university representatives to develop the draft guidelines that are to be released in the coming weeks. We have also consulted the sector on the development of the learning entitlement guidelines. We are consulting the sector on the development of the equity program guidelines. The Higher Education Information Management System has a comprehensive consultation framework. We have a senior executive group which has representatives from every university in the country. We have a business advisory group which has a representative from 13 universities and a systems advisory group which has representatives from 13 universities. We have consulted and have a public paper available and submissions have been invited from the institute for learning and teaching. There are many measures that are happening across the higher education division, which are consulting with the sector and also with the states. We met with the states last week at the joint committee of higher education and are working with the states on a number of things as well.

CHAIR—What special funds are available in this package to allow for structural adjustment of universities that may be forced to close campuses?

Mr Burmester—There is some provision for structural adjustment within the package. It is part of the increased funding—and I think it is actually called structural adjustment.

CHAIR—Yes, it is.

Mr Burmester—So those funds will be available. The main purpose is not for closing campuses, and there is not a great expectation that campuses will close. That is to allow the facilitation of collaboration between universities to the benefit of those universities. In some regional areas, it could well result in several universities being able to provide courses from a regional campus, rather than from exclusively one university. So there are a whole range of measures set down on how it could be used. At this stage, no university has indicated that there is a requirement or an intention to close any regional campuses.

CHAIR—We have had evidence that that is not quite right, Mr Burmester. For instance, could this fund be used for restructuring and rationalisations at, say, the Hawkesbury campus?

Mr Burmester—Of the University of Western Sydney?

CHAIR—Yes.

Mr Burmester—If the university reached the conclusion that they wanted to restructure their presence in Western Sydney and how they could best do that to service the needs of their students, then we would consider a proposal.

CHAIR—So it would be available for pay redundancies for jobs lost at, for instance, Hawkesbury?

Mr Burmester—Those things could be encompassed in a proposal, but as yet we have not seen any proposal about that, and the university has not indicated to us that it has clear or definite intentions in regard to Hawkesbury.

CHAIR—No, I did not ask about clear or definite intentions. But they have put to us that this package could lead to them being forced to close a campus, such as at Hawkesbury. Mr Burmester, I know what they have told us—it was not clear or definite, but they said that this package could lead to that—so I would ask you: has there been any discussion with you about the use of those funds for such a purpose?

Mr Burmester—Not specifically. Again, I would have to say that is a hypothetical at this stage. The university have not approached us about restructuring proposals. My understanding of the comments that were made to this committee was that that was a consideration that they would have to undertake. It was up to them.

CHAIR—Agreed; that is the point. I am asking you now, in line with that evidence they have presented to us: has anyone raised with you the possibility of using funds from this particular source, which I understand is \$36 million—

Dr Nicoll—No, there has been no indication from any institution in relation to the Collaboration and Structural Reform Fund. Indeed, the University of Western Sydney have indicated in their discussions with us about their funding arrangements that they are rethinking the role of Hawkesbury campus and that they have undertaken some decisions on course provision, such as the decision to provide forensic science at the Hawkesbury campus to build up student demand in that area. The indication that had been given to us in meetings with the vice-chancellor and the university secretary is that the university has a commitment to Hawkesbury that they are trying to do something about. So they have not raised that with us.

CHAIR—I have no doubt that they have a commitment to it but they have raised with this committee the possibility that they may have to look at campus closures as a result of this package. You are saying to me that that has not been discussed with you.

Dr Nicoll—Many institutions have raised with us issues about the implications of the package. The University of Western Sydney have discussed a range of matters with us. They have not asked specifically for funding from the Collaboration and Structural Reform Fund.

CHAIR—I am not saying that they have an application before you. I am not asking you about a current application; I am asking you whether you have had discussions with any universities regarding the implications of this package which could cause campus closures.

Dr Nicoll—Institutions have raised with us a range of possibilities.

CHAIR—Including Western Sydney?

Dr Nicoll—Indeed.

CHAIR—With regard to the VCA in Melbourne, can you now give me a commitment that the 35 per cent funding cut that arises from this package will be restored?

Mr Burmester—The VCA have brought some concerns about their funding rate under the Commonwealth Grants Scheme to our notice and the notice of the minister. We have undertaken to meet with the VCA with regard to those concerns. However, we fund the University of Melbourne; we do not separately fund the VCA. We are meeting with the VCA to discuss their situation and work on how we can ensure that they remain a viable part of the sector into the future.

CHAIR—What is the source for the restoration of their money that we could look to in the Commonwealth budget?

Mr Burmester—We have not had those discussions yet and it may not involve additional funds or changes to the Commonwealth Grants Scheme. There is a range of issues that we have to explore with VCA and the University of Melbourne.

CHAIR—So you cannot give a commitment that they will have their funding restored?

Mr Burmester—The minister has indicated that it is his intention to ensure that the VCA remains a viable and important part of the sector.

Dr Nicoll—The issue in the funding of VCA is that, as Mr Burmester said, it is the University of Melbourne which is funded, not the Victorian College of Arts. We fund the University of Melbourne. They are funded according to the Commonwealth Grants Scheme processes, as is any other institution. It is a matter of looking at the total University of Melbourne funding.

CHAIR—Is there an additional source of discretionary funding that the minister has?

Mr Burmester—The basis of funding is set out within the act. The sources of funding are described in the section on the Commonwealth Grants Scheme or the section that relates to other grants, which cover those things for which we have other programs, such as the research funds and the capital development program. All the funds are identified in the act. There is some discretion for the minister with regard to some of those funds, such as the one you talked

about—the Collaboration and Structural Reform Fund—where he will be in a position to direct Commonwealth funds to those needs as he sees fit. As you know, there are funding formulas for a lot of the research money. The Commonwealth Grants Scheme is clearly set out in the bill. In those cases there is no discretion in terms of how the university or institution would be funded; the discretion goes to the places that are providing the discipline mix that the minister agrees with.

CHAIR—So, given the quite extraordinary discretion he has in terms of the provisions of the bill—that is, down to the institutional level—he could allocate moneys from within that package.

Mr Burmester—To what purpose?

CHAIR—To individual institutions.

Mr Burmester—Absolutely. Each institution will have a funding agreement.

CHAIR—What is the funding source for the enhancements that you spoke of?

Dr Jarvie—There is sufficient funding in the higher education package to cover it.

CHAIR—Can you identify that for me, please?

Dr Jarvie—The estimates of the costs of the package, as you know, are underpinned by fairly complex modelling and at the moment are based on 2002 student numbers and discipline mixes.

CHAIR—Dr Jarvie, could you take that on notice, then? I would like a detailed breakdown of the funding source for the enhancements.

Dr Jarvie—Our answer to that is that it can be contained within the existing estimates.

CHAIR—So there is no additional funding; this is all budget neutral.

Dr Jarvie—The estimates change as the student information changes. Some might go up; some might go down. At this stage there is sufficient capacity within the funding envelope.

CHAIR—There has been no increase on the request from this package to fund the enhancements. It is to be found within the existing resources.

Mr Burmester—Could I give you an example in that regard? There were a number of changes that went to the regional loading that is to be provided to regional universities. As announced in *Backing Australia's Future*, an envelope of funds was identified for regional loading. As we have worked with the universities to identify the specific campuses and student loads associated with those campuses, we have adequate funds within that envelope to fund those enhancements to include a proportion of external students and so on. So that is a specific example where the package quite clearly has adequate funding to accommodate the variations that the minister has indicated.

CHAIR—Mr Burmester, you mentioned the external students as an example of one of the enhancements being funded under this measure. Can you explain to me how it is that a student living in Kirribilli but attending the University of Southern Queensland can get more money out of this package than a student who is enrolled at the University of Western Sydney?

Mr Burmester—The student does not get any funds from the regional loading. You have misunderstood the purpose of the regional loading.

CHAIR—All right.

Mr Burmester—The regional loading is paid to the university for the load that they provide for from their regional campuses. In the case of the University of Southern Queensland, which you mentioned, their external load is operated out of, and all the materials and associated activities of the course are provided from, southern Queensland. It does not matter where the student is. The costs are faced by the institution in its location.

CHAIR—The way you put it, the institution would receive more money for a student living in Kirribilli but enrolled at the University of Southern Queensland than would be received for a student doing the same subject but enrolled at the University of Western Sydney. Is that true?

Mr Burmester—A proportion of the external load of every university that qualifies for a regional loading will get a regional loading. That goes to the criteria and the recognition that are provided for in the original policy statement—that is, the government recognises that regional universities will face additional costs and so on.

CHAIR—I understand that.

Mr Burmester—That is the basis of the differential in cost.

CHAIR—I understand that. Are you now telling me that what I said is true?

Mr Burmester—The university at which a student enrolls will receive the loading on the basis of their location, not the student's location.

CHAIR—Mr Burmester, I have already corrected the question in that regard. I am asking you again: am I correct when I say that in the case of a student who lives in Kirribilli but is enrolled at the University of Southern Queensland as a distance education student, the university would receive more money than would be received for a student studying the same subjects but enrolled at the University of Western Sydney?

Mr Burmester—The university will receive a regional loading for all students it enrolls if it is eligible for a regional loading; for external load it will be a proportional basis, regardless of where that student lives.

CHAIR—So am I right or am I wrong, Mr Burmester?

Mr Burmester—I cannot explain it better than I have. The regional loading space—

CHAIR—You can tell me whether I am right or wrong. It is a simple proposition: am I right or wrong? I would have thought you had waited quite a while to hear a question like that.

Mr Burmester—The regional loading is based on the location of the university, not of the student.

CHAIR—I am going to assume from your answer that I am right. I will perhaps go to some of the details of the bill.

Dr Jarvie—I think that Mr Burmester has given you as much information as he can.

CHAIR—I understand what he said. My hearing is reasonably good. I would ask if I could take you to some of the details of the bill. Why does the word ‘university’ not appear in the legislation?

Mr Burmester—The word ‘university’ does appear in the act.

CHAIR—Where? Could you take me to the provision?

Mr Burmester—It appears in a number of provisions. There is the definition of ‘university’—

CHAIR—That is true.

Mr Burmester—All universities are listed by name.

CHAIR—Yes; in the schedule they are listed.

Dr Nicoll—In section 16-25(2) ‘university’ is defined.

CHAIR—Yes, I have that.

Dr Nicoll—Section 16-15 lists table A providers—

CHAIR—Yes, we have that.

Dr Nicoll—which are universities. Then there is a definition of ‘university’ in schedule 1 to the bill.

CHAIR—We have already said all that. I am saying to you: why is the expression that appears throughout this ‘higher education provider’, not the word ‘university’?

Mr Burmester—The bill is about the provision of higher education. There are a range of providers, and universities do not exclusively provide higher education. There are other players that provide higher education courses accredited under the national protocols. Those self-accrediting institutions that have met the criteria and, therefore, the national protocol in regard to being called a university are included in the table in the bill and referred to in section 16-25:

(2) A *university* means a body corporate:

(a) that meets ^{*}National Protocol 1; and

(b) that is established as a university, or recognised as a university, by or under a law of the Commonwealth, a State, the Australian Capital Territory or the Northern Territory.

I think it is pretty clear that we have encompassed universities in this bill, but they are not the exclusive people who get benefits under this bill.

CHAIR—Mr Burmester, I turn to section 19-5:

A higher education provider:

(a) must be financially viable; and

(b) must be likely to remain financially viable.

Where do I find a definition of financial viability?

Mr Burmester—That would have a normal accounting interpretation; that, as now, the minister would wish to assess that the institution has a prospect of remaining financially viable in the meaning of that as a going concern, so that it can deliver the courses for which Commonwealth money has been provided.

CHAIR—Where do I find in the bill the reporting requirements and the performance measures that the provider would have to meet—for instance, safety margins, liabilities and assets, and operating deficits? Where would I find those references?

Dr Nicoll—Section 19-10 calls for financial information which must be provided:

(2) The statement:

(a) must be in the form approved by the Minister; and

(b) must be provided together with a report on the statement by an independent ^{*}qualified auditor; and

(c) must be provided within 4 months after the end of the ^{*}annual financial reporting period for which the statement was given.

There is then in the following clause a further definition of the annual financial reporting period.

CHAIR—Yes, but that is all about reporting; it does not tell me what it is that they are to report on, other than whatever the minister wants them to report on. That is the clear implication of the clause you have just read out, is it not?

Mr Burmester—We require universities now to make sure that the Commonwealth has access to their annual reports and financial statements. Most of them are, clearly, governed by other legislation that puts on them an obligation for financial reporting. The intention of this bill is to ensure that we have access to that financial reporting information so that we can assess their financial viability. We do that now, as you know, and we will continue to access their financial statements to make that assessment.

CHAIR—Tell me this, Mr Burmester: in HEFA where will I find a clause that empowers the secretary to appoint a departmental officer or any other person to access any premises or records of the provider for the purpose of conducting audit and compliance activities relating to this act?

Mr Burmester—Are you referring to section 19-80?

CHAIR—Yes.

Mr Burmester—That provision actually reflects the recommendation of this parliament's JCPAA. That committee suggested back in 1999 that, to ensure accountability for Commonwealth funds was not expunged the moment the funds left the Commonwealth, the contractual and funding arrangements should ensure that the path of the funds is adequately accountable and can be investigated. The ANAO has subsequently encouraged departments to adopt that process, and DEST has adopted that in all its contractual arrangements; that clause is similar to the provision in all the contracts we write. The concern of the department was that we would expect that the parliament's concern in this regard should apply to funds allocated to universities in the same way as funds that go to contractors. In fact, some of my recollection is that you have pursued questions—

CHAIR—I have pursued this at length, but what I would like to find is a piece of legislation, in the armoury you have, that gives you the power to access any premises or records of any officer or any other person. Where would I find that in any of the education acts you currently administer?

Mr Burmester—The bill is trying to reflect the propositions and recommendations of the parliament, and that is what we have done. Earlier today you drew a comparison with the ESOS Act.

CHAIR—I am going to come to that in a minute. Can you tell me why it is that, in the ESOS Act, you are required to have a magistrate—

Mr Burmester—As I said, the department has tried to reflect the concern that there be full accountability for Commonwealth funds and that we cannot simply say that Commonwealth accountability ends at the point at which funds leave the Commonwealth. The difference between those two bills is that this goes to the information required, under this bill, that any action that would arise from that investigation would be dealt with entirely within this bill. Those provisions cannot be used for criminal, immigration or any other matters which would be encompassed in other bills.

CHAIR—I have not even asked you about criminal prosecutions. I am going to ask you in a minute about the enforcement mechanisms. Why, in the ESOS Act, are you required to have a

magistrate satisfied that a cause exists to issue a search warrant, yet, under this bill, you or any other officer the secretary so determines, or any other person, can go to any premises and search any records of any provider?

Mr Burmester—Because the end purpose of undertaking that investigation is different in the two acts. This is in regard to the funds provided under this act, and any penalties or redress sought would be restricted to the other provisions in this act.

CHAIR—Yes, I understand that point.

Mr Burmester—Under the ESOS Act, which I am not an expert on, they could go to criminal provisions or immigration matters well beyond the purview of that particular act.

CHAIR—You would agree that this act allows the minister to effectively close down an institution?

Mr Burmester—There are provisions to ensure that higher education providers maintain the standards and the quality expected of them if they are to receive Commonwealth funds. If they do not, the minister can suspend or revoke their qualification as a higher education provider for the purposes of funding under this act.

CHAIR—That is right. The minister can effectively close them down.

Mr Burmester—It effectively says that unless they can maintain the quality standards required of a higher education provider, then Commonwealth funds will not be further provided to them or their students.

CHAIR—What is the review procedure for a minister to withdraw funding from an institution?

Mr Burmester—I would have to check on the detail of that.

CHAIR—Under this provision, section 19-80, what is the review procedure?

Dr Nicoll—Under division 51, there are guidelines in regard to reduction and repayment of grants so that where there are breaches of the CGS—

CHAIR—What page are you on?

Dr Nicoll—I am on page 66. They are some of the consequences of a breach of the Commonwealth Grants Scheme and, as a result, a breach of the funding agreement. They are set out here and it says that a grant may be reduced or required to be repaid and there are various aspects to that.

CHAIR—That is right. If the minister chooses to withdraw funding from an institution, what is the judicial process?

Dr Nicoll—Section 61 sets out the procedure prior to a decision.

CHAIR—I have read section 61.

Dr Nicoll—It sets out the notification of the decision, and there are also procedures and a review through ADJR.

CHAIR—Yes, but not in all cases. They are quite limited. My reading of that is that they are very limited under the AAT or any other judicial reviewable process. Is this not a head of power which provides you with access without warrant for search and seizure of documents?

Mr Burmester—No. It provides for access to documents; it does not go to seizure, as far as I know.

CHAIR—So you could not take them away?

Mr Burmester—That is right. We could inspect them.

CHAIR—However, are there not other provisions that set down other unspecified conditions under which ministerial discretion can be set which could allow you to take those away?

Mr Burmester—I would have to get some advice on that. I would also like to point out, before we go to that, clause 22-35 on page 31. It says that if the minister was moved to revoke the status of a higher education provider, then that is a disallowable instrument.

CHAIR—So they would have to come back to the parliament?

Mr Burmester—That is right.

CHAIR—So the defence is the Senate.

Mr Burmester—You asked for the repeal or the review mechanism.

CHAIR—What judicial review procedures are there other than the parliament? Do you have to get a disallowable instrument up in the parliament?

Mr Burmester—All decisions of the minister ultimately are judgeable under ADJR because they are administrative decisions.

CHAIR—Are you sure that is right?

Mr Burmester—I would think so.

CHAIR—I ask you to check that. That is not my reading of this.

Mr Burmester—I would have to get legal advice.

CHAIR—That is what we need. I ask you to take that on notice.

Mr Burmester—Okay.

CHAIR—It is not just a question of financial accountability here. I refer to clause 179-5, ‘Meaning of personal information’. There is a requirement that information be provided to the department at clause 19-63. Are you familiar with that?

Mr Burmester—Which section?

CHAIR—I want to talk about ‘Protection of personal information’ at part 5-4, which goes to the definitions. The definition there is that a provider must provide information that you have requested or that you can seek by way of search of any premises, and it says:

(a) information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in material form or not, about an individual whose identity is apparent, or can reasonably be ascertained from the information or opinion ...

How do you justify that?

Mr Burmester—If we are going to recover the loans of students who avail themselves of a HECS place or a student loan, it is important to have the identities of the individuals known to us. It already exists under the current HEF Act. They sign a document giving their tax file number.

CHAIR—That is true, the tax file number is there.

Mr Burmester—This is the same sort of prescription.

CHAIR—It is not the same sort of thing, Mr Burmester. Can you point out where in the current act a clause like this exists?

Mr Burmester—The clause exists within the current act to say that they will provide the necessary information so that their debt can be collected by the tax office. In this case, the new provision within this bill, which goes to the introduction of an entitlement and the allocation of publicly supported places, means that the department requires equivalent information so that it can administer the entitlement.

CHAIR—I would like you to show me, and I ask you to take this on notice, where in any existing Commonwealth education law you have the right to get information or an opinion, whether it is true or false, about an individual. It says here:

... whether true or not and whether recorded in a material form or not, about an individual ...

Where will I find that in any existing law?

Mr Burmester—We are talking about the provision of Commonwealth entitlement to a student. The provisions here are not what we do in regard to other education acts but go to those acts that provide personal benefits. In this case, the student is consuming an entitlement by

having access to a Commonwealth funded loan. In those circumstances—while I did not draft this particular clause—I believe—

CHAIR—Who did?

Mr Burmester—OPC would have drafted that particular clause to reflect the standard requirements that would be expected in such circumstances.

CHAIR—I take it from that that you cannot tell me a piece of legislation that would give you powers like this.

Mr Burmester—I would say that some requirements in the Social Security Act are an equivalent provision to this.

CHAIR—No, I am talking about the education act.

Mr Burmester—Part of the package was to introduce a student entitlement. That changes the information that the student—

CHAIR—So now you need police state powers to do this sort of thing?

Mr Burmester—No, we need the same reasonable powers as with social security or any other provision that allows for the provision of a personal Commonwealth entitlement.

CHAIR—What you are asking this parliament to agree to is that you have unlimited powers to enter premises and take records, unlimited powers in regard to the establishment of conditions for grants, unlimited powers in terms of determining whether or not a breach has occurred and in particular the requirement that an institution must provide information to you, whether it is true or not—that is what this says—and if they do not, they could lose their money. That is the proposition you are putting to me, isn't it?

Mr Burmester—Obviously, in the administration of Commonwealth funds and the provision of entitlements to individuals, where we need to track them until they repay their loan, then clearly we need a basis on which to do so. We have to assure the identity of the individual, and that goes to the requirement that the individual is who they represent themselves to be. Those provisions would be normal in those circumstances. While it has not been in HEFA in that particular form, there is a requirement that the university currently provides and ensures that the information is provided to the Commonwealth—in the current case to the tax office and in the future case to both the tax office and us. Further, I would say that it is important to recognise that all this personal information under this bill is protected first by the Privacy Act as it applies to Commonwealth officers. There are also provisions in the act that go to ensure that other university staff also accept that they have a privacy obligation which could result in criminal charges if they breach the privacy of individual students.

CHAIR—This act allows your secretary to appoint any other person—not a Commonwealth public servant; any other person—to search, to seize, to inquire, to poke around, to seek reports, whether they are true or not, and to gather opinions. What basis is this on which to run the Commonwealth of Australia?

Mr Burmester—You are combining several clauses there.

CHAIR—I am. That is what our job is: to look at the totality of legislation. I have said to you before that this gives you unparalleled powers, and I am asking you: on what possible basis can you justify having these sorts of requirements about Australian citizens?

Mr Burmester—Because they are getting access to and consuming Commonwealth support and entitlements and that would be the normal provision by which they get it. At the moment if you access a HECS loan, you have to provide that information, and the institution in which you are enrolled is responsible for providing that information.

CHAIR—That is the rationalisation of a police state.

Mr Burmester—It already exists from the introduction—

CHAIR—Where in the administration of universities in Australia does this power exist?

Mr Burmester—The introduction of HECS required the provision of personal information to the Commonwealth.

CHAIR—Excuse me, but where did it provide for you or any other person so authorised to have access to any part of any university—student dorms, anywhere you like—to gather information, fact, fiction or opinion? Where do I find that?

Mr Burmester—Senator, I have explained the provisions in section 19-80 go to the very proposals and recommendations of this parliament.

CHAIR—Okay.

Senator STOTT DESPOJA—Just following Senator Carr's questioning in relation to who drafted this, you said the OPC. Are you talking about the Office of the Privacy Commissioner?

Mr Burmester—No; the Office of the Parliamentary Counsel.

Senator STOTT DESPOJA—Has the Office of the Privacy Commissioner been consulted?

Ms Fernandez—Yes.

Senator STOTT DESPOJA—I know there are references to a commissioner under these sections, but what role did the Privacy Commissioner have in drafting or advising in the consultation process on these sections of the bill?

Ms Fernandez—The Privacy Commissioner was consulted when we were developing the reform package and also consulted in conjunction with OPC, the Office of Parliamentary Counsel, as the legislation was being drafted. We consulted with it specifically on what requirements we would be required to have to protect the personal information of students. We were advised that we did not need specific provisions in this bill; the Privacy Act would cover

any Commonwealth officer, including the minister, for the collection, use and storage of any personal information.

Senator STOTT DESPOJA—In response to Senator Carr’s question you talked about the consultation processes involving the sector. Have you actually provided a draft copy of the guidelines to which you referred earlier to different groups in the sector, those groups that you acknowledged, or have there only been preliminary discussions with those organisations and groups in the sector? Will they have actually seen something prior to the tabling, which you said may be next week?

Ms Fernandez—With the scholarship guidelines, yes, the reference group has seen iterations of the guidelines as they have developed. I think that is the only measure where they have already seen bits of it.

Mr Burmester—I would just like to clarify that none of the guidelines have been provided to the minister as yet. These are preliminary working drafts that we are talking about here.

Senator STOTT DESPOJA—I understand, thank you.

CHAIR—Section 19-65 deals with the compliance issues, regulations and guidelines. What limits are there in terms of the information that must be provided?

Mr Burmester—The compliance requirements go to that there will be requirements under other parts of the bill or guidelines issued under parts of the bill that they need to comply with, obviously, and that they must provide the information necessary for us to ensure that they have in fact complied. What sort of information depends on which part of the act we are looking at, but it will obviously have to be related to any obligations that we place on them through the bill.

CHAIR—So there are no limits?

Mr Burmester—There are the limits prescribed by the bill.

CHAIR—I am asking: what are the limits prescribed by the bill?

Mr Burmester—It depends on each section.

CHAIR—When I read it, it says an institution ‘must comply’. That term appears again and again. It says not only ‘must comply’ but ‘in a form approved by the minister’. Take, for instance, section 19-70, which relates to the statement of general information. It states:

(2) The information must be provided:

(a) in a form approved by the Minister—

it is ‘must’ not ‘if’ or ‘maybe’—

(b) in accordance with such other requirements as the Minister makes.

Dr Nicoll—Much of this actually reflects the status quo as reflected in HEFA. As it is now, the minister through sections 14, 15 and 16 of the Higher Education Funding Act can seek an educational profile from each institution. The profile then relates to the financial assistance that the minister will provide to that institution and there is a range of information that relates to the profile and that the minister stipulates—

CHAIR—Fair enough. Can you tell me this: in the current act, where can I find a clause like 19-80 and, in particular, ‘The provider must comply with the arrangements’?

Dr Nicoll—As Mr Burmester discussed with you, clause 19-80 reflects really bringing this bill into a scenario that reflects government policy on a range of issues in relation to compliance with Commonwealth requirements.

CHAIR—So it is government policy. I will not find it in legislation.

Mr Burmester—I think section 18-1(g) of the current HEFA sets out the requirements to provide information. The reference to ‘in a form approved by the minister’ is obviously a standard requirement so that when we ask for information we can get comparable information. Some of this goes to the way the bill intends to pay a Commonwealth grant. As you know, it is related to clusters of disciplines and payments related to those, so clearly we need the information in a way that would facilitate the Commonwealth Grants Scheme. So that is what these provisions go to.

CHAIR—Sure. If I look at clause 19-25, the audit assurance requirements, it states ‘a quality auditing body to audit the provider’—and there is nothing exceptional about that—‘fully co-operate with the auditing body’ and ‘pay to the auditing body’. How many times can an organisation be audited under that clause?

Mr Burmester—The current arrangements for the existing universities, the self-accrediting institutions, are that they are audited on a five-year rotational basis.

CHAIR—That is the current arrangement. What is to stop a minister or a departmental secretary in the future asking for a provider to be audited more regularly than every five years?

Mr Burmester—There is no specific provision, but the law gives the power for a body to be audited. There is no value in auditing a body every five minutes. That is not the intention.

CHAIR—But, Mr Burmester, that is my point. This gives enormous discretion to a minister or a departmental secretary or, for that matter, an auditor that has gone mad that wants to audit them on a more regular basis. What is to stop that occurring? What protection would an institution have under this legislation if it were passed in that form?

Mr Burmester—There might be in fact occasion when, despite having conducted one audit, there are grounds to conduct a subsequent audit because something happened, some circumstance changed. So this provides the minister with flexibility to address those particular circumstances. The intention of the clause is to ensure the quality of Australian higher education.

CHAIR—A very laudable objective, but what is to stop a minister who says, ‘I know something’s going on down there’—talking about an institution with a \$600 million budget—auditing four times a year until he actually finds something wrong down there? What is to stop that under that clause?

Mr Burmester—There is nothing to stop that. But I would think, if there were a specific allegation that the minister had, it would be handled by the appropriate competent authority, which in the case of public universities in the states is more likely to be their own internal or state apparatus rather than the Commonwealth ones.

CHAIR—I am going to come to the states. My problem with this is that you are treating the universities as if they are fly-by-night operators—that is, run by bodgie crooks like we have seen with some of the Internet providers. You are treating them all as if they are of that type, when we are in fact dealing with major public institutions. You are not showing them any respect whatsoever. You are treating them as you are treating this committee by not providing appropriate information on what your intentions really are.

Mr Burmester—The basic approach in the bill does ensure that all higher education providers, whether they are major public universities or private providers, face the same broad level of requirements to ensure that quality is maintained, that they remain financially viable and that they are appropriately accredited, subject to audit. I believe all those things should apply generally across the higher education sector.

CHAIR—How many private providers do you expect to see enter the industry now?

Mr Burmester—Already, I believe, the number is up to about 80 providers accredited by state accreditation authorities under the national criteria. Whether more become accredited, or how many of those 80 subsequently seek access to some of the entitlements under this bill such as fee help for their students, we do not know. It could be a small number or it could be a significant number. Chair, you asked me earlier to take on notice whether the provisions of this bill were subject to ADJR. I have been advised that all administrative decisions made under the bill are reviewable by the Federal Court under the AD(JR) Act.

CHAIR—Is that an administrative decision going to whether or not the minister wants to allocate funds to a particular institution?

Mr Burmester—Yes, that would be an administrative decision for the purpose of—

CHAIR—What is the limit on an administrative decision?

Mr Burmester—I am not the lawyer—I would have to wait for George Kriz to answer those questions—but if it is a decision that impacts on someone then ultimately it is adjudicable by the Federal Court.

CHAIR—Perhaps you could still take my question on notice. I would like to know whether there are any limits on judicial review as a result of actions taken under this bill by a minister, an officer of the department or any other person authorised to act under the bill.

Mr Burmester—Yes, we will have to take that on notice.

CHAIR—Could I ask you to give me some advice with regard to clause 30-1. I take it that you are saying that you are relying upon the constitutional powers of the Commonwealth for the benefit of students. Is that the basis on which you are making these decisions?

Mr Burmester—The bill has two constitutional bases. One is benefits to students, as you have identified, but there is also the fact that there are conditions attached to grants of Commonwealth money.

CHAIR—Are you aware that we have now spoken to all the states and they have all indicated to us very deep concerns about the constitutional issues?

Mr Burmester—Yes, we have heard that some states have raised that in their evidence to this subcommittee. But our legal advice is that the bill is entirely constitutional, and obviously it would not have been introduced to the parliament if there had been any concerns in that regard.

CHAIR—Are you aware that the states now have advice to the contrary?

Mr Burmester—My understanding is that they only have preliminary advice. We have advice that this bill is constitutionally sound.

CHAIR—I understand that questions have been raised about the state acts and about the capacity to pay directly to institutions.

Mr Burmester—Those aspects were considered during the preparation of the bill. We have advice to the effect that the bill as presented is not in any way doubtful with regard to its constitutional basis.

CHAIR—Have you had advice as to whether or not the states could counter-regulate with regard to fees and charges in state institutions such as universities?

Mr Burmester—That would be entirely up to the states. The way this bill operates is that it is up to the universities to determine whether or not they admit students on a fee-paying basis. There is nothing in this bill that compels universities in that regard. It does require them to set the amount of student contribution. Any state amendment or change to their own act would need to ensure that they could do that; otherwise there would be no HECS available to their students or collectible from their students and paid to the universities. But beyond that it would be up to the states to direct their universities to act in particular ways.

CHAIR—Clause 30-10 says that the minister may allocate a number of Commonwealth funded places in an institution every year. Is it reasonable to conclude from that that a minister has the direct power to fund or not fund specific curriculum areas in particular institutions?

Mr Burmester—The basis of the Commonwealth Grants Scheme introduced in this bill provides that the minister will fund universities for the provision of places in particular discipline clusters. He seeks agreement with the universities on that, on the basis on which he will pay for the places that he wants them to provide. Within that, obviously there will be room

to facilitate as much as possible the desires of the courses that the institutions themselves want to provide. There is a reserve power in clause 30-25 which ensures that the minister is not compelled to fund courses that are inappropriate or could be funded in other ways. For example, there is a case at the moment where some courses are funded through the Department of Health and Ageing. The minister may decide that the department should continue to fund those courses and that the Commonwealth Grants Scheme would not apply in those cases. There is a reserve provision there so that he is not compelled to fund things that are inappropriate or are funded in other ways.

CHAIR—So he, and I am not saying this minister but any minister in the future, is the person who can determine what is regarded as appropriate or inappropriate.

Mr Burmester—The ultimate authority reserve power is that, yes, it would be a ministerial decision as to whether it is appropriate or not. Senator, earlier you also received some evidence from the AVCC that they were unaware of a case where that had occurred in the past. I am aware of two instances where a minister has not provided Commonwealth funds for places. One was for a golf management course at Griffith University, and another one was for a component of an aviation degree based around pilot training. In the past, under the current bill, those universities were not funded for those activities.

I would also clarify that that reserve power I was talking about relates to the allocation of Commonwealth funds to those universities for that purpose. The university would still be free to pursue its own academic endeavours in whichever way it likes, but the minister cannot be compelled to allocate Commonwealth resources to those courses.

CHAIR—In that case, what is the review process if a minister says that a course is inappropriate?

Mr Burmester—As I think I have just confirmed, the ultimate authority is that it would be subject to ADJR because it would be an administrative decision.

CHAIR—Are you sure that is right?

Mr Burmester—It will be part of the answer that we will give you on notice.

CHAIR—If you could cover that for me as well, I would appreciate it. In regard to 30-25—the reserve powers that you have referred to—would it be reasonable for me to conclude that, given that individual institutional arrangements can be made by ministers and that clause 30-25(3) sets down a whole series of conditions for the payment of moneys, it would be possible under that clause for arrangements to be made whereby the minister was to insist that there be an implementation of a workplace reform program as a condition of funding?

Mr Burmester—Clause 30-25 goes to the funding arrangements for courses. As you said, it does go on an institution by institution basis, because there will be cases where places are provided specifically to achieve an outcome in a particular location or to provide a particular course at a particular campus. That is why there are conditions that cannot be general and included in the act. The types of things that that clause goes to are set out on page 37: the number of places in courses, the number of medical places, the number of enabling courses—I

believe there is a clause somewhere on that page that talks about those at regional campuses—and the maximum amount of regional loading that can be payable. They are the types of specific conditions that would be attached to particular agreements with an individual institution.

CHAIR—I am asking the question again. I can read what it says there, but I am asking you: is there anything to stop, on an institution by institution basis, a minister determining a policy position in relation to the provision of Commonwealth moneys for courses which would in fact be a general principle but applied at an institutional level?

Mr Burmester—In relation to workplace relations, the government's policy is set out in a different clause, so that is how it would exercise—

CHAIR—I understand that and I am aware of that. I understand that but let us assume that that does not survive, just for the point of the argument. Why couldn't a future minister say, 'I've got a general policy here. I'm now going to use clause 30-25 to impose it on an institutional basis'?

Mr Burmester—To the extent that it goes to the funding agreement of the institution, he could do but that is in regard to the arrangements for the places and so on, as set out in the following clause.

CHAIR—I understand that but I am just asking you a straight question: is there anything to prohibit the application of a general policy with regard to the funding of course places across all institutions and to do so on an individual basis site by site?

Mr Burmester—If those conditions pertain to the provision of places and the funding arrangements under that clause, the conditions can be general or specific.

CHAIR—That is right. Say I put it in connection with 30-25, whereby the secretary can determine agreements with additional conditions which are unspecified. Why couldn't you do it in that manner?

Mr Burmester—The government has not done it in that manner. The government has done it through a separate provision in a separate clause.

CHAIR—I am not asking you what the government has done. But the fact is this government is not going to last forever—I know this might be a shock to you, but it will not survive forever—and one day we might have a change of minister. You never know, but it could be a minister of the Left or it could be a minister further to the Right and that minister may choose to pick up this act—I am assuming it will be an act by that time—and say, 'I want to do X or Y,' and he might turn to you, as the head of the division, and say, 'Mr Burmester, can I do this?' I am asking you now: could a minister in the future apply that clause, particularly if I look at 30-25, and insist upon generalised policy conditions at an institutional level?

Mr Burmester—That is a hypothetical question.

CHAIR—Unfortunately, we have to deal with laws that are supposed to last a little while. I think we are entitled to know whether or not that would be within the law as you propose it.

Mr Burmester—This clause as written goes to the funding agreements with each university for the provision of Commonwealth funded places. Therefore I would believe—but at Dr Jarvie’s suggestion I will seek some legal advice on this—that clause is limited to the provision of places and the terms and conditions of the provision of places.

CHAIR—That is my point, Mr Burmester.

Mr Burmester—So I do not think you could apply general provisions, but we will have to take legal advice on that.

CHAIR—That is what I want to know: why couldn’t you apply general conditions at an institutional level, institution by institution, that are conditions to the provision of Commonwealth money for particular places?

Mr Burmester—You certainly could. That is the intention. It is with regard to particular places, but it has to do with the provision of those publicly paid places.

CHAIR—That is right. ‘You will get this money if you do X’—that is the nature of this.

Mr Burmester—It goes to the number and the types of places and clusters.

CHAIR—Yes. ‘We will give you all these things provided you do these following things.’

Mr Burmester—That is the part that I think there would be some limitation on, but Dr Jarvie has suggested I get some legal advice on that.

CHAIR—Yes, but that is my reading of it. I say to you that when I read other sections of it, whereby the agreements will be struck in such a way as the provider must comply, I must ask: why couldn’t the minister impose a condition on an individual institution? It may happen that it is the same condition on each institution.

Mr Burmester—We will seek advice—the same question that you asked earlier—on whether there were any boundaries to that and whether it can only bear on the provision of places and the types of places.

CHAIR—I turn now to provisions under 33-15, which are again on the compliance activities of vice-chancellors. Is it the effect of this bill that a vice-chancellor would have to certify that statements he has given are accurate?

Mr Burmester—That would be one possible way by which we could ascertain that some aspects of the requirements have been met. For example, under the governance protocols it refers to some matters as to the way the councils of universities operate and who are the members of the councils. It may be in that situation that the vice-chancellor could provide that information and sign off that it was accurate or even provide evidence that they have committees on or processes by which they assess risk or what are the other conditions that prevail in the national governance protocols.

CHAIR—So to verify the compliance of the provision in clause 19-80, couldn't you have a departmental officer, or any other person so authorised, participate in or observe council meetings?

Mr Burmester—I think we have talked about the provisions under clause 35. They, as you know, by their nature would be at extreme circumstances—

CHAIR—That might be the case, Mr Burmester, but we have to make laws that cover the range of circumstances that are reasonable for us to anticipate. My reading of it is the minister could direct the secretary to appoint an officer to find out whether or not the vice-chancellors told the truth about those compliance requirements. They could have to sit in a council meeting to find out. What is unreasonable about that?

Mr Burmester—I would have thought there were plenty of other ways of providing evidence.

CHAIR—There might be, Mr Burmester, but what is to stop that happening under this law? Why couldn't a minister act legally if the provisions of this bill were introduced?

Mr Burmester—Senator, again the motivation behind that clause is to make sure that the use of Commonwealth funds is fully accountable. That is a way of attesting to that.

CHAIR—The trouble is, Mr Burmester, in the future a court of law will not sit back and look over the Senate *Hansard* of this committee to find out what your intention was. They will want to have a look at the actual detail of the legislation and they might say, 'Yes, that is consistent with the law.' I am asking you: in your judgment, would such an action be consistent with this proposed bill?

Mr Burmester—The clause provides for the Commonwealth to undertake activities that allow it to assure itself of the accountability for Commonwealth funds. That is its purpose.

CHAIR—Yes. That is why I ask you, Mr Burmester, isn't this a recipe for the police state?

Mr Burmester—Senator, you are asking for an opinion.

CHAIR—I am indeed.

Senator CROSSIN—Could I go back to the definition of 'university'? I do not think we have quite explored inconsistencies in this legislation when it comes to that. I take you to clauses 16-1, 16-5 and 16-25(2). Clause 16-25(2) tells me that a 'university' means a body corporate.

Mr Burmester—No, Senator. It says that it is a particular type of body corporate. It is a body corporate that meets the protocols and has been created under law as a university.

Senator CROSSIN—Clause 16-1 also tells me:

A higher education provider is a body corporate that is approved under this Division.

That is correct, isn't it?

Mr Burmester—That is correct.

Senator CROSSIN—We will not go into 16-5. Why is it then that throughout this act you use the words ‘a higher education provider’ exclusively? You do not use the term ‘a university or a higher education provider’. You do not alternate. You do not have ‘either/or’ in each clause. Each clause starts with ‘a higher education provider’.

Mr Burmester—Yes, Senator.

Senator CROSSIN—Why has the term ‘university’ been removed exclusively?

Mr Burmester—By definition, a university is a higher education provider. All of them are listed. They are called ‘listed higher education providers’ in some parts of the act. There is no need to repeat the word ‘university’ every time we use a broader term. That would be the basis of legislative drafting throughout the Commonwealth or throughout all the acts. You use the broadest term that encompasses the particular case. So in this case ‘a higher education provider’ necessarily includes a university. Where there are higher education providers that are not universities, and therefore not entitled to benefit under some aspects of the act, that is clearly pointed out. They are higher education providers that are not listed providers, table A providers. So there is a fair guide to those entitlements that universities exclusively get. But generally the act is based on the notion that universities are higher education providers but not the only type of higher education providers.

Senator CROSSIN—So there are 38 universities in this country that this legislation applies to. Is that correct?

Mr Burmester—There are 38 universities plus two self-accrediting colleges listed in the bill.

Senator CROSSIN—How many other higher education providers are there in this country then if you exclude the universities and the other—

Mr Burmester—There are 80 non self-accrediting—but they have been accredited by state authority—organisations that provide accredited higher education courses.

Senator CROSSIN—They will be eligible for some sort of funding under this legislation, is that correct?

Mr Burmester—No, they are not automatically eligible. They have to be approved as a higher education provider under the provisions of this legislation. Universities that by their status have been listed at the commencement of the act do not have any further requirements upon them.

Senator CROSSIN—How many higher education providers that are not universities and that are not the other specified ones in table B that are providing higher education in this country would be eligible for funding under this act?

Mr Burmester—As many of them as apply and are granted HECS status.

Senator CROSSIN—How many is that?

Mr Burmester—It could be up to 80 or it could be even more than 80 if further ones come on and get accredited through the state mechanisms.

Dr Nicoll—Senator, we cannot anticipate exactly how many at this point. The reference that Mr Burmester has made to the number is based on a study that was done a couple of years ago and some advice that has been given to us by ACPET and other people with expertise in private provision. It would be a matter of a higher education institution going through the requirements that Mr Burmester outlined.

Senator CROSSIN—How many are there as at today?

Dr Nicoll—We do not know.

Senator CROSSIN—You do not know how many higher education providers as at today are receiving funding for the provision of higher education—not ones that might come online but ones that are not universities but actually are receiving Commonwealth funds today for providing higher education?

Mr Burmester—There are two that have received benefits under HEFA that are not listed in this present legislation. One is Marcus Oldham College and the other is Avondale College, I believe.

Senator CROSSIN—We have got 38 universities, we have got three specified under table B, and we have got two in the other—if we put a circle around ‘the other’ as being higher education providers. Is that right?

Mr Burmester—That is right.

Senator CROSSIN—At this point in time the majority of higher education providers in this country are universities. Why doesn’t the bill reflect that as opposed to a possible 78 that might be accredited at some stage in the future?

Mr Burmester—It does reflect the fact that universities are the predominant providers. It includes them as self-accrediting universities listed in full in the act and the provisions apply automatically to those institutions. All the other providers will have to apply for status under this act. So I think there is a significant difference between self-accrediting listed public universities and the other providers who may choose at some point to avail themselves of the provisions of this legislation.

Senator CROSSIN—I also ask you whether or not you believe clause 30-25 contravenes the MCEETYA protocols.

Mr Burmester—In 30-25, about funding agreements?

Senator CROSSIN—Yes.

Mr Burmester—Whether it breaches the MCEETYA protocols on—

Senator CROSSIN—Higher education.

Mr Burmester—No, Senator, that has not occurred to us. I would like to know what—

Senator CROSSIN—There has been evidence which has suggested to us that that is the case.

Mr Burmester—We have not heard that evidence so it comes as a bit of a surprise that anyone has got concerns about that.

Senator CROSSIN—It was evidence we heard today.

Mr Burmester—From whom?

Senator CROSSIN—From witnesses we have heard today—that there is a belief that clause 30-25 actually breaches the MCEETYA protocols.

CHAIR—Yes, it does.

Mr Burmester—In what regard? I will try to give you an answer.

Senator CROSSIN—In the sense that the protocols go to the autonomy of the institution, the independence of the institution, the independent rights of—

CHAIR—Have a look at the NTU supplementary submission.

Mr Burmester—This clause does not in any way limit the autonomy of institutions to pursue areas of their academic interest.

CHAIR—They just will not be funded for it.

Mr Burmester—Yes, there is a restriction on the areas that the Commonwealth will direct taxpayer funds to. That is existing law and it will be continued in the new bill.

Senator CROSSIN—Pretty well every university that has appeared before us has given us an indication, based on the modelling you have done or the transitional funding that you have provided, of how the institution will or will not benefit by 2007. An overwhelming majority of institutions have told us that they will either be worse off or no better off in 2008 than they are this year.

Mr Burmester—That cannot possibly be correct, in terms of the majority of them making that statement. That is clearly not the case. We can provide you with a table that shows the arrangements that would apply under the Commonwealth Grants Scheme. There may be some that will for some time during that period receive transitional funding to ensure that they are no worse off. But the majority will certainly benefit under this package. The table we can give you

refers only to the CGS components, not to the rest of the \$1.5 billion that the government's package provides to the sector.

Senator CROSSIN—If you could table that, that would be useful.

CHAIR—If you could provide that, that would be great. Can you tell us whether that is the same as the one that was tabled in answer to my question at the last Senate estimates?

Mr Burmester—I think we might have made some further changes to that to keep it up to date with changes in data, but I will ask Dr Nicoll to answer that.

Dr Nicoll—The table that you have there outlines the impact of only the Commonwealth Grants Scheme. As Mr Burmester indicated, there is, in addition to the Commonwealth Grants Scheme, \$1 billion available under the government's reform package. The situation for a number of institutions is that, whilst there are zeros in terms of the impact of the CGS there, because they will be receiving transition funding, there are other benefits that the Commonwealth Grants Scheme does not include, such as the new places that will be coming online and the distribution of those—9,100 in 2005, pipelining to almost 25,000. There are other issues, such as the learning and teaching performance fund, which institutions will have access to. So in addition to the CGS fund, which that reflects, there is an additional \$1 billion injection of new money into the sector.

CHAIR—You make a fair enough point. You have obviously modelled this program now at forward estimates. Can we have an institutional breakdown of the effect of the whole package on each institution?

Dr Nicoll—It is not possible to do modelling of the impact on every institution. We can model the impact of the Commonwealth Grants Scheme, but there are a number of aspects of the whole reform package that depend upon an individual institution's response—for example, the way an institution will respond in terms of decisions about taking on domestic fee-paying students and the decision an institution will make in relation to the opportunity to increase their fees in HECS-HELP by up to 30 per cent. There are other issues that really go to an individual institution's decision. Overall, we can say that there is an additional \$1 billion coming into the sector. The individual impact will depend upon the decisions of the vice-chancellors and their councils.

CHAIR—Can you tell me, even in regard to when the transitional funds end in 2008, what the impact will be just for the Commonwealth Grants Scheme?

Mr Burmester—We are not able to do that because one of the dimensions that is missing from that table, and will continue to be for some time, is the allocation of new places.

CHAIR—That is not what I asked you. I asked you about the Commonwealth Grants Scheme.

Mr Burmester—Exactly. So if any of those universities receive growth places between now and 2008—such as nursing places next year—or part of the 25,000 replacement of marginal funding, it would need to be taken into account in calculating their Commonwealth Grants Scheme. Similarly, during that period, from now until 2008, whether the Commonwealth agrees with shifts in the discipline mix or the clusters that the universities will be funded for could

change that table quite significantly. We have done it for the three forward years in the forward estimates. Beyond that, an estimation of where a university would end up would be totally hypothetical. We have not allocated the places. Decisions will be made on that in the first half of next year, and until that point is reached and we know the disciplines in which the new places will be funded, we have no basis on which to give you figures in regard to 2008.

Senator CROSSIN—If you remove the transitional funding from the figures that you put together to create this table, because that will not be there from 2008, why can you not tell me what the situation will be like for those institutions in 2008?

Mr Burmester—Because 2008 is so far away and there are so many other variables that can come into play it would be totally hypothetical.

Senator CROSSIN—Some of the universities that have appeared before us want to do five- and 10-year business plans and strategic planning. They do not think 2008 is a long way away at all, if you listen to what they are saying to us.

Mr Burmester—In fact, most of the zeros run out before 2007 or by 2007.

Senator CROSSIN—I can see that.

Mr Burmester—If transitional funding were to continue, one or two institutions may possibly be eligible for it, but what I am saying is that there is a whole range of other factors that will come into play, some of which will be known to universities early next year when the allocation of places occurs, that could substantially change the nature of their Commonwealth Grants Scheme grant. So we are not in a position to provide you with further information.

Senator CROSSIN—Isn't one of the problems with this legislation that we have before us the fact that the modelling you have done has actually been on the existing pattern of student enrolments rather than on the future mix? Has any independent modelling or research on this package been done?

Dr Nicoll—You are quite right: the original modelling for the package was done on 2001 data. The modelling for the table that you have there is based on 2002 data. We will receive the cleaned-up 2003 data early next year, and they are the data on which we will be sitting down with the vice-chancellors and negotiating their funding agreements and the discipline mix that creates the funding from each cluster that determines their total Commonwealth Grants Scheme grant.

Senator CROSSIN—When will that occur?

Dr Nicoll—When will what occur, Senator?

Senator CROSSIN—When will you sit down with the vice-chancellors?

Dr Nicoll—We have notified the vice-chancellors that we will be meeting with them initially early next year to have a preliminary discussion about their discipline mix, and then we will

follow that with another meeting with the V-Cs later next year to finalise their funding agreement.

Senator CROSSIN—So we are being asked to look at a legislation package that will totally change the way in which universities in this country are funded, where the funding mix will actually be transferred predominantly to the students, but you can only provide us with modelling based on the existing pattern of student enrolments, not on an anticipated or a projected pattern under this legislation? Isn't that like comparing apples with pears?

Dr Nicoll—Not at all.

Senator CROSSIN—Why is that?

Dr Nicoll—There will be fluctuations in student demand, but there will generally be a fairly standard pattern of enrolments across an institution, and that is what we would be discussing with the vice-chancellors.

Mr Burmester—For a whole range of reasons there is no basis on which we could determine what the final load would be in 2008. To expect the legislation to depend on that would actually constrain changes into the future, because the legislation would be passed on the basis that this was the cluster mix and student load that a university would get. They are the very variables that will change. I think there is another thing to be said, which is that universities do not have violent and large swings in the courses or the disciplines they provide. They have staff, facilities, assets and libraries based around the courses they provide. They are not going to move quickly out of one and quickly into another and chop and change. I think what Dr Nicoll is saying is that that is the best estimation we can come up with.

CHAIR—Mr Burmester, you came up with an original figure in the transition fund of how much? Was it \$12 million?

Dr Nicoll—\$12.9 million.

Mr Burmester—That related to one year in regard to the package as a whole.

CHAIR—What is the total transitional fund now?

Dr Nicoll—It is \$39.2 million.

CHAIR—Can you explain to me the difference between those two figures?

Dr Nicoll—Yes, I am happy to. The original modelling was done on the basis of the impact of the total package, and that is what yielded the original \$12.6 million transition fund. The government made a decision that when it went through the cabinet processes that there would be further modelling done on the basis of the Commonwealth Grants Scheme after the announcement of the package. At that point we could do some modelling on the institutional impact of the Commonwealth Grants Scheme, and that is why there is a variation.

CHAIR—There is a \$26 million error there.

Dr Nicoll—Not at all.

CHAIR—That is what has happened, isn't it? You said you had \$12 million and you now need \$36 million.

Mr Burmester—The costings are done on a different basis. The policy announcement by the government was that no university would be disadvantaged through a transitional stage. The original figure, provided for one year only, was based on the package as a whole if distributed across all universities. What we have done subsequent to that is to take only the impact on the Commonwealth Grants Scheme. Therefore, over three years we have provided a more accurate costing of a different fundamental proposition.

CHAIR—So it is more accurate now—\$36 million is more accurate than \$12 million?

Mr Burmester—It is based on individual institutions over a three-year period rather than the whole of a package over one year.

CHAIR—Mr Burmester, given that you have not provided us with any long-term impact statements at a sectoral, institutional or regional level—

Mr Burmester—We have provided impacts out to 2007, the forward estimates year.

CHAIR—No, you have not. You have only provided us with funding in regard to the operating grant arrangements for the CGS. That is not an impact statement.

Mr Burmester—The rest of the package indicates there will be another billion dollars, in addition to those amounts, provided to the sector.

CHAIR—Mr Burmester, we have been through all this. I am asking you: where is the impact statement on the institutional level? You cannot provide it. Is that true or not?

Mr Burmester—That is right. We cannot provide—

CHAIR—What about the regional level? Can you provide me with an impact statement on the regional implications for this package?

Dr Nicoll—As I said earlier, the impact will depend upon the individual decisions by individual institutions.

CHAIR—I understand that. I am asking the question: have you done an impact statement?

Dr Nicoll—We did a regional impact statement as part of the cabinet process, yes.

CHAIR—Can we have a copy of that?

Dr Nicoll—That would be cabinet-in-confidence.

CHAIR—So there is one there somewhere in the department. Is that right?

Mr Burmester—We undertook it as part of the work in advising government.

CHAIR—So there was a regional impact statement done as part of the cabinet process.

Mr Burmester—That is right.

CHAIR—Was there one done at an institutional level?

Dr Nicoll—I do not think so.

CHAIR—I want accurate answers here, Dr Nicoll.

Dr Nicoll—As I said, there was modelling done on the basis of the impact of the total package on institutions. It was not done in terms of a finer breakdown, because the impact of the package depends upon the individual decisions by institutions.

CHAIR—Thank you. I understand the answer you have given. You just said to me that there was an impact statement done for institutions. Did I understand you correctly?

Ms Fernandez—The regional impact statement is not required at an institutional level.

CHAIR—I did not ask that. We have already discovered there was a regional impact statement. I would like to know: was an impact statement done at an institutional level?

Ms Fernandez—No, it is not required at an institutional level.

CHAIR—All I asked was: was one done? I did not ask whether one was required; I asked: was one done?

Mr Burmester—The impact of the changes, the various initiatives and the allocation of the additional funding and how it would map to types of institutions was part of cabinet's deliberations.

CHAIR—Thank you. So it was done on the basis of ATN, for instance?

Mr Burmester—It was done on the basis of the likely impact on types of institutions and it was done for cabinet. I am not going to provide you with further information.

CHAIR—I just wanted to know, because, if this were the sort of information that you would not have any problem releasing, I would ask you to take this on notice: can this now be provided for the committee?

Mr Burmester—The table we have just provided to you provides you with the specifics of the impact of the Commonwealth Grants Scheme on individual institutions.

CHAIR—Mr Burmester, I have asked a specific question. Will you take that on notice, because you obviously need to refer that to the minister?

Mr Burmester—I can give you an answer now. We have provided information on individual institutions in regard to the Commonwealth Grants Scheme.

CHAIR—You are not prepared to ask the minister that question?

Dr Jarvie—I think we have provided you with as much information as we can at this point.

CHAIR—Are you saying that I will have to go through the normal parliamentary processes to try to secure that information?

Dr Jarvie—We have provided you with as much information as we can. We have tried to be helpful, and the department has been helpful.

CHAIR—You have advised the committee that work was done on a broader level for the cabinet process in developing the package. I put it to you that this document is, in essence, the cabinet's submission minus a few appendices.

Mr Burmester—That is not right.

CHAIR—That is not right?

Mr Burmester—No.

CHAIR—What bits are missing?

Mr Burmester—That is a policy statement that reflects cabinet's decisions. It is not the submission that went to cabinet; it is a statement of government policy.

CHAIR—It is not substantially different from what went to cabinet.

Mr Burmester—I cannot comment on that.

CHAIR—I put it to you that it is not. If there has been a regional impact statement done, can that be provided to the committee?

Dr Jarvie—The regional impact statement was done as part of the cabinet process; we could not provide that because it is cabinet-in-confidence.

CHAIR—Will you ask the minister will he provide that to me. Based on the information provided in the first table, which was provided to this committee on 23 July or thereabouts in answer to a question I had asked you, you set down a series of figures. In this table, these figures have been corrected; they are different figures.

Mr Burmester—They are based on more recent information.

CHAIR—Were the first lot of figures wrong?

Mr Burmester—No, they were based on the material and information we had available at the time. They have been updated to reflect the latest information that we have.

CHAIR—In the first set of figures, the ANU, for instance, is listed as having a negative impact of \$3 million, \$1.8 million and \$1.3 million. In the second set of figures, it is down as having a positive of \$282,000, \$1.5 million and just over \$2 million. Why did you have such a discrepancy?

Mr Burmester—The ANU is a rather unique institution, as you know. It includes a very sizeable grant for the Institute of Advanced Studies, and the preliminary figures that we provided to the Senate had an estimate of that. We have worked with the university, and our own people, to refine the funding basis of the institute, and we have clarified that. The later figures reflect the current determination of the Institute of Advanced Studies funding.

CHAIR—So you got it wrong. Your first estimate was wrong.

Mr Burmester—No, as I keep saying, it was not wrong, it was based on information we had at the time and has been updated to reflect our latest information.

CHAIR—Okay. With Wollongong now included in the regional impact, what is the effect on the other institutions as part of the regional loading? Will they lose money?

Dr Nicoll—No, there is no impact on the other institutions in terms of their share.

CHAIR—Why is that?

Dr Nicoll—Because the amount of money within the funding envelope will cover the funding for the University of Wollongong and the extension of the scheme to external loading.

CHAIR—So you did not allocate it all in the first round?

Dr Nicoll—No. The original loading was based on 2001 data when the costings were done. When the 2002 data came in, it became clear there was enough money in the envelope that the government had agreed to.

CHAIR—How much was the envelope?

Mr Burmester—It is in the report.

CHAIR—Yes, it is.

Dr Nicoll—It was \$122.6 million over four years.

CHAIR—That is a finite amount, isn't it?

Dr Nicoll—Yes, it is a fixed bucket.

CHAIR—So, the more institutions you put into that, the less there is to go around.

Dr Nicoll—That is correct, except that, in the instance of the changes the government made to the policy, there was enough money within the existing funding envelope.

CHAIR—Is Newcastle now on that list?

Dr Nicoll—I think one of its campuses might be. No, it is not.

CHAIR—It is not. Are you going to include it on it?

Dr Nicoll—If it is not on it, it does not meet the criteria at this point.

Mr Burmester—I think that the University of Newcastle is going to provide some places at Port Macquarie. If they did that, they would be eligible for those places. In fact, I am pretty sure they got an allocation of nursing places for that purpose in the minister's announcement on the allocation of nursing places for 2004.

Dr Nicoll—They did. They received 15 nursing places and they will receive a regional loading for those places.

CHAIR—In terms of the proposal to extend this regional loading to institutions where there is multicampus provision, what arrangements have you made?

Dr Nicoll—As you are aware, the University of Western Sydney has made a number of submissions and proposals. The minister invited them to put forward a proposal to him in relation to a multicampus loading of some sort and he is considering those options.

CHAIR—Does that include VUT and the University of South Australia?

Dr Nicoll—It is not clear at this point what it would include, because the government has not made a decision about it.

CHAIR—Is that out of this same fund?

Dr Nicoll—The regional loading fund for the regional loading is to meet the criteria that are set out in the package and to claim—

CHAIR—I understand the bid is for about \$20 million. Where would that come from?

Dr Nicoll—That would be for the government to make a decision about.

CHAIR—In the existing package?

Dr Nicoll—There would be no provision within the existing package.

CHAIR—So it would have to come from additional revenue?

Dr Nicoll—That would be a decision for the government.

CHAIR—I have a final question in terms of the detail of the legislation, with regard to clause 36-35. We have had advice that that provision allows for 100 per cent full fee paying students in courses.

Mr Burmester—The provision ensures that, where public places are provided, a maximum of an additional 50 per cent of the places can be filled on a fee paying basis.

CHAIR—But that is not what that says.

Mr Burmester—I am pretty sure it does, but Maria can clarify that.

Ms Fernandez—It does allow the government to make the decision to not have Commonwealth places in a course.

CHAIR—Yes, so they could be 100 per cent.

Ms Fernandez—They could be if the Commonwealth makes the decision that it does not want Commonwealth places in that.

CHAIR—Thank you.

Ms Fernandez—This goes to the response that Mr Burmester made earlier.

CHAIR—I would like to talk to you about the working party that you have established with the AVCC.

Mr Burmester—Could I just clarify that. We discussed earlier, with regard to Commonwealth funds in Commonwealth places, the fact that the minister reserves the power not to fund places which are inappropriate or funded through other mechanisms. This provision has to be in accordance with that to ensure that we can, in fact, allow that to occur. That is why this provision is written in the way it is. It ensures that in those circumstances where the minister will not provide publicly funded places, because they are inappropriate or are funded elsewhere, the fee paying arrangements can still operate for other courses.

CHAIR—Could you give me the details of the membership of the working party you have established with the Vice-Chancellors Committee.

Mr Burmester—We have a range of relationships with the AVCC and—

CHAIR—But with regard to this legislation there is a series of amendments, I understand, that the government has now conceded are necessary for this bill. Do you have a list of those amendments?

Mr Burmester—No, I do not, and I do not believe the government has conceded anything with regard to this bill. I would say that the AVCC have met with the minister. We have been meeting with the AVCC for quite some time now about a range of things. The minister has asked us to work with the AVCC specifically on concerns that they have raised with regard to the legislation and the level of what they see as increased intrusion into their affairs and to work with them to clarify and understand their concerns in that regard. It is not a formal working party. There is certainly not a membership list. We have been meeting with various officers of the AVCC, but—

CHAIR—This has arisen as a result of the meeting yesterday between the board and the minister.

Mr Burmester—I understood the board met with the minister on Tuesday—

CHAIR—Was it Tuesday?

Mr Burmester—and out of that the minister asked the department, through me, to work with the AVCC on those issues.

CHAIR—When will that work be concluded?

Mr Burmester—It is under way at the moment. I think we have received some material from the AVCC today. We have not had time to assess that and work through it. But that is only one source of information; there are other sources of information. As has been explained, there is consultation on a range of issues within the bill, specifically on the concerns about intrusiveness. That was discussed and we are working on it.

CHAIR—Have you been talking to the students as well in that regard?

Mr Burmester—No, we have been talking to the sector—the universities that provide the places.

Senator CROSSIN—Why don't you talk to the students about possible changes to the bill?

Mr Burmester—What we are talking about is the implementation of the government's package. Some of that will depend on the institutions to administer, and it is important that we make sure the administrative arrangements are practical and can work.

Senator CROSSIN—What about the impact on students though?

Mr Burmester—The entitlements of students are set out in the bill.

Senator CROSSIN—And they are not up for negotiation? You are not interested to hear what the students think about those?

Mr Burmester—They can make representations—as the AVCC has done—to meet with the minister.

Senator CROSSIN—So, if the students have got concerns, they have to feed those concerns through the AVCC? Is that what you are telling us?

Mr Burmester—No. I said: as with the AVCC, who have met with the minister, it is up to the students to seek a meeting with the minister.

Senator CROSSIN—They told us this morning that they have been trying to do that since January.

Mr Burmester—That is up to the minister. The work we are doing with the AVCC arose from their representations to the minister. The same path is open to the students.

Senator CROSSIN—How do the students get a foot in the door if they cannot even get to the minister? I am assuming that the AVCC saw the minister, and he flicked them across to you. How do the students even make it to first base? You might like to suggest to the minister on the student's behalf that it would be good if he met with them.

Mr Burmester—I cannot comment on that.

CHAIR—That is fair enough. Mr Burmester, when will you have the government's amendments ready for this legislation?

Mr Burmester—There are a number of minor technical amendments. I am not sure whether they were introduced into the House. So that is what we have been working on. They are very minor though—they go to typographical corrections.

CHAIR—You are not intending anything more significant than that?

Mr Burmester—Not until the minister indicates.

CHAIR—Those minor ones are ready now, are they?

Ms Fernandez—There are minor amendments that are being drafted—technical corrections.

CHAIR—Can we have a look at those?

Ms Fernandez—They have not been drafted as yet.

CHAIR—I thought you said they had been drafted.

Ms Fernandez—No, they are being drafted.

CHAIR—Can the committee please have copies of those when they are available? It would be helpful for us to know what it is you are intending to present to the Senate.

Mr Burmester—You will be pretty disappointed.

CHAIR—I will be, will I? I suspect I will not be disappointed; because by the time that comes around, there will be quite an extensive list.

Mr Burmester—These are typographical amendments we are talking about.

CHAIR—At this point you are saying that there are a few typos you want to fix.

Mr Burmester—That is right.

CHAIR—I put it to you that by the time that this gets to the Senate, there will be a little bit more than typos that you want fixed. I have also got a series of questions here that I have not had time to ask today, so I am going to put them on notice for you. If we put some questions to you either tonight or Monday, we are hoping that you could get some answers back to us by the end of the week.

Dr Jarvie—That is rather tight. It really depends how many questions you are putting on notice. As you realise, we normally have at least three weeks to do questions on notice.

Senator CROSSIN—I have got about 30 questions.

Dr Jarvie—There is no way we could realistically do large numbers of questions in a week, given the workload we have got on. Obviously we will do our best. I have to foreshadow that we could not do that.

CHAIR—I do not want to be unreasonable about this. I have got quite a few questions, but they are more technical. We will need them fairly smartly because, as you know, the minister is most anxious for this matter to be discussed.

Dr Jarvie—Perhaps you could review the number you want to ask and give us a subset of important ones.

CHAIR—You would not ask us to put an incomplete report to the Senate, would you?

Dr Jarvie—I would never ask that.

Senator CROSSIN—The reporting date is 7 November.

Dr Jarvie—Yes, but you asked us to appear today, 17 October. I do feel that if you really have a long list of questions, you could have asked us to appear earlier so we could have addressed them.

Senator CROSSIN—We could not ask you to appear earlier, because—

CHAIR—It is standard practice for the department to appear last.

Senator CROSSIN—We have had two weeks around the country, and we have had two weeks of sittings. Last Friday we had a whole day of witnesses, and then there is today.

Dr Jarvie—We will do our best, but I cannot promise to complete them within a week.

CHAIR—That is a fair enough answer. I do not think you can do the impossible. However, I do draw your attention to the fact that we are required to report. As I say, that is probably it for today. I have not asked you any questions about the suppressed reports. Mr Burmester, you know you have that joy to look forward to yet at Senate estimates.

Mr Burmester—No reports have been suppressed.

CHAIR—There is still one to be published.

Mr Burmester—Which one is that?

CHAIR—The Blakers report.

Mr Burmester—I understand that it is being prepared for publication.

CHAIR—When will that be?

Mr Burmester—I am not sure, but I understand that it is in preparation for publication.

CHAIR—Why has it not been released?

Mr Burmester—The publication of the report is not my responsibility at this moment

CHAIR—I would be asking for a copy of that now. It is not that I do not want to raise these questions, but I think we will do it in Senate estimates, given the shortage of time. Thank you very much for your appearance today.

Subcommittee adjourned at 4.41 p.m.