

30 October 2009

Dear Mr Baird

Review of the Education Services for Overseas Student (ESOS) Act 2000 and associated regulatory and legislative frameworks

Innovative Research Universities (IRU) welcomes the opportunity to provide input to the Review of the ESOS Act 2000.

In our submission to the recent Review of Australian Higher Education, IRU highlighted the importance of governments, education providers and other stakeholders moving beyond the current narrow definition of internationalisation characterised by an emphasis on attracting large numbers of fee-paying international students. Our submission stated:

While Australia is leading the world in terms of the intake of international students as a percentage of total student load, universities are acutely aware that Australia's international reputation in academic research and education risks being tarnished by perceptions that Australia is prepared to put quantity ahead of quality.

Given these factors, IRU Australia strongly encourages the government to align its international policy framework with the current third phase of broadened internationalisation that preoccupies most Australian universities and will guide their strategies into the future. The first phase was represented by the Colombo Plan and the second phase was represented by the vigorous pursuit of international student enrolments in response to funding constraints. It is important that Australia sends a consistent message to Australian and international stakeholders that it is committed to building sustainable and long term partnerships with other countries for mutual benefit and is taking a holistic and strategic approach to internationalisation.

The ESOS Act and its associated regulatory and legislative framework need to provide a robust framework to ensure that Australia confidently moves into this third phase of internationalisation: a phase which will secure the reputation of Australia as a provider of high quality education and training and a reputable 'global citizen'.

In further refining the ESOS Act, however, IRU strongly urges the Review to consider the impact of the regulatory burden placed on established providers with a demonstrated track record in the provision of high quality education and training. With the huge growth in international education globally and the narrow approach taken to linking education and migration in recent years, international education has attracted business operators lacking a deep commitment to education and training and instead focused principally on profit. The future national quality assurance arrangements must be more effective in ensuring that providers of this nature do not get past the first hurdle of registration as education and training providers. The ESOS Act should be the second line of defence in deterring unscrupulous providers from damaging Australia's international reputation.

Supporting the interests of students

IRU proposes the following:

- With respect to the TASs and the ESOS Assurance Fund, it would be appropriate for contributions to be impacted by a comprehensive risk assessment of each provider which includes the appropriate monitoring of financial status and cashflow. Risk assessments should also impact the number of enrolments a provider is able to sustain, and those limits should then be tightly enforced, thus appropriately limiting the consequences of provider failure.
- If an international student's ability to change their education provider is not limited, there would need to be compensatory actions or regulations introduced to protect both students and reputable providers from predatory practices by unscrupulous providers. For example, providers could refuse to pay commissions to agents who promote transfers. It would also be reasonable for students to be discouraged from flippantly changing providers by incurring a reasonable financial penalty (already reflected in many institutions' refund policies).

Delivering quality as the cornerstone of Australian education

The current confusion of roles and responsibilities across two Australian government departments and State and Territory governments can only serve to limit the extent to which a comprehensive profile of the performance of an education and training provider can be developed over time. It must also restrict the capacity of governments to confidently take action against providers when standards are not being met. The regulatory burden on reputable providers is also exaggerated.

In order to secure international confidence and be effective, the regulatory system needs to be easy to understand and navigate for all providers, students and the community at large and fully consistent in its application nationally.

IRU supports the concept of a single national body, developed jointly by the Australian and States and Territories, with responsibility for fulfilling regulatory and quality assurance functions across tertiary education sectors. The regulatory burden for reputable providers will be reduced if the registration, accreditation and compliance systems relating to domestic and international students were more effectively integrated. We believe that TEQSA should play this role.

In this context, TEQSA would most effectively operate through State and Territory-based offices staffed by personnel with deep local knowledge. At the same time, however, it would maintain the single national repository of provider performance information, facilitating more effective risk assessment and supporting more proactive enforcement.

We believe that a more rigorous registration process is required for new education and training providers, with a closer monitoring regime applying for the first two years of operation. Both processes should not only place an emphasis on educational and student service standards, but also on financial viability. Initial registration needs to demonstrate that the provider has sufficient capital to cover losses over a reasonable period.

Effective regulation

IRU believes that ESOS compliance and enforcement has not been adequate, particularly with regard to the rapidly growing pool of small private providers. As argued earlier, however, we see initial registration as an education or training provider, prior to CRICOS registration, as the most critical point for ensuring that only those providers with a genuine commitment to provision of high quality education services are registered in the first place.

More effective regulation should be achievable with the investment of responsibility for regulation, quality assurance, compliance and enforcement in a single national body, providing that local knowledge is fully leveraged. This is likely to require legislative change.

Sustainability of the international education sector

A legitimate role of international education is to provide Australia with a source of high quality graduates to meet Australia's skill needs and to provide opportunities for those international students seeking a migration outcome. At the same time, Australia needs to ensure that its reputation as a good 'global citizen' is sustained. From the first phase of internationalisation with the Colombo Plan, Australia has played a critical role in assisting developing countries to build the human capital they desperately require to underpin their economic, social, environmental and cultural advancement.

The confluence of the education and migration agendas over recent years has resulted in the perception that Australia is focused on its own migration and workforce skill needs rather than the quality of its education provision. In particular, IRU believes that the Migration Occupations in Demand for Australia (MODL) list has driven and contorted demand in unhelpful ways. While it is probably not feasible to entirely uncouple education and migration policy, a more sophisticated and nuanced approach is required to minimise unhelpful distortions.

IRU looks forward to the Review report and recommendations and to continuing to work with governments to sustain the quality of Australia's international education delivery.

Please don't hesitate to contact me or the Chair of the IRU International Group, Professor Dean Forbes (dean.forbes@flinders.edu.au; 08 8201 5462), if you wish to discuss any of the points raised above.

Yours sincerely



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cc Professor Dean Forbes, Chair, IRU International Group