

# ISSUE ANALYSIS

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## The Free Market Case Against Voluntary Student Unionism (But for Voluntary Student Representation)

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EXECUTIVE SUMMARY

The federal government plans to introduce 'voluntary student unionism' (VSU) into Australia's universities. This would do two things: 1) It would make student organisation membership the result of choice, rather than automatic or compulsory as it is at many universities today, and 2) It would also end the compulsory non-academic fees used to fund representation, amenities, and other services for students.

This second element especially has attracted wide opposition from universities, student groups, sporting and cultural associations, and the National Party.

Both sides of the debate assume that the separate non-academic fee is still necessary to sustain non-academic activities. In fact, its necessity comes from the era of Commonwealth domination of university finances. Most students now pay all or part of their tuition costs to universities and could in-principle pay one fee for everything, academic and non-academic. The low maximum student contribution amount price caps on Commonwealth-subsidised students are an obstacle to this, so universities cannot combine the fees without sacrificing money for teaching.

Prohibiting the compulsory non-academic fee limits universities' capacity to bundle their services, ie to combine non-academic and academic services in the same package. Bundling lowers the cost of participating in campus activities and so strengthens the 'campus experience' some universities want to offer. However bundling adds costs for students who just want the course. The issue is whether the university market is strong enough to reflect the diversity of market demand. There are weaknesses in the university market, but the solution is to create stronger markets, not to introduce more regulation.

The voluntary student representation (VSR) parts of the VSU bill have merit. The traditional representative functions of student organisations are challenged by poor turnout in student elections and the rise of university-run student surveys as better sources of information. Genuinely voluntary and self-financed student representative organisations would be better than the status quo.

**Universities should no longer create student representative bodies with universal, compulsory membership.**

## Introduction

Student activities have long caused controversy. In the early 20th century, Melbourne University student publications were deemed so vulgar and indecent that the professorial board had to approve their editors.<sup>1</sup> In 1958, 14 students were arrested for flying a Russian flag from on top of Melbourne's Russell Street Police Headquarters.<sup>2</sup> The worst student behaviour, however, came in the late 1960s and the 1970s. A generation of activists radicalised by the Vietnam war turned violent protests and occupations into regular occurrences. Even after Australian troops returned home, direct action by left-wing university students continued. Flinders, Monash, La Trobe, Sydney and the ANU experienced major occupations over 1973 and 1974.<sup>3</sup> While law-breaking protests are much less frequent now, police still occasionally need to protect property and persons from student demonstrators.<sup>4</sup>

Though Liberal students played minor parts in the on-campus dramas of 1960s and 1970s student politics, their strategic response to these upheavals now guides policy.<sup>5</sup> In their analysis, the problem was not just that the 'wrong' people won student elections. Rather, the way student activities were funded and organised systematically led to unsatisfactory outcomes. Universities were levying compulsory non-academic fees on all students, which in turn were financing radical-left political activity. Liberal and moderate students were paying for the sometimes criminal activities of their political opponents. For Liberal students, it followed that the solution was not better campaigns to unseat left-wing activists from power within student associations. The solution was a structural change, what came to be known as voluntary student unionism (VSU).

VSU is a catch-all term, which in common usage describes both voluntary student organisation membership and voluntary payment of the non-academic fee. Within the Liberal Party, voluntary membership on its own is equated not with VSU but with Voluntary Student Representation (VSR). According to the President of the Australian Liberal Students' Federation, Julian Barendse, VSR alone fails to provide student unions with an incentive to provide services that students want, and does not prevent student money being spent on political activities.<sup>6</sup> This reasoning has been accepted in the three federal attempts to introduce VSU and in its Western Australian version.<sup>7</sup> The VSU bill currently before federal parliament would prevent higher education providers from requiring persons to become members of or pay money to student organisations, creating VSR, and prohibit compulsory fees for an 'amenity, facility or service that is not of an academic nature', creating VSU.<sup>8</sup>

This step from VSR to VSU comes with a significant political price attached. It spreads opposition from left-wing activists to a range of community groups concerned about the broader effects on campus cultural and social life of abolishing the non-academic fee.<sup>9</sup> National Party fears for facilities at regional campuses may yet force amendments to permit charges for sporting and other services.<sup>10</sup>

Curiously, supporters and opponents of the VSU bill share common but anachronistic assumptions about how universities operate. As I will argue below, neither see how the spread of market prices in tuition fees removes the in-principle need for the separate compulsory non-academic fee. If there is no need for this separate fee, it renders arguments for or against it irrelevant. The growing strength of market forces also challenges traditional student representative organisations. Their role is diminished by markets that provide alternative forms of feedback to universities. Later in the paper, I show why universities should no longer create student representative bodies with universal, compulsory membership.

## Banning a near-redundant fee

### *The history of separate fees*

In 1977 a Liberal student took Melbourne University to court over its imposition of compulsory student fees.<sup>11</sup> Though eventually unsuccessful, this was the first major action by Liberal students against non-academic fees.<sup>12</sup> Whatever the case's legal merits, it made strategic sense for Liberal students to challenge these fees. After Labor reforms in 1974, the non-academic fee was the only viable method most universities had for financing non-academic activities. The federal government took over state government university funding and abolished tuition fees, replacing these income streams with conditional grants that did not permit spending on non-academic purposes.<sup>13</sup> Universities could charge their students only for non-academic services. Removing the compulsory fee—whether through a court decision that it was beyond

the University Council's power, by a decision of the Council itself, or by legislation—would save students money and cut funding for objectionable left-wing causes. Given their overwhelming reliance on Commonwealth funding, few universities could have sustained non-academic activities without compulsory non-academic fee income.

From their perspective, the Liberal plan to abolish the non-academic fee continued to make sense through the 1980s. Though free education ended in 1989 when the Higher Education Contribution Scheme (HECS) was introduced, the legal structure of university finance did not. Under HECS, students made a 'contribution' to the cost of their tuition, but this went to the government, not to universities. Students could defer this cost by taking out a loan, repayable after their income reached a certain point.<sup>14</sup> Though this created partial user pays, it was not user controls. Commonwealth management of university finances was as tight as ever. The federal government paid universities through operating grants. The universities could in turn spend their grant money on the 'operating purposes' authorised by legislation.<sup>15</sup> To finance non-academic services, which were not a listed 'operating purpose', universities still needed to levy the fees (sometimes universities charge more than one fee, to pay for different services) they could charge Commonwealth-supported students.

The need for separate non-academic fees flowed, then, from Labor's control of university budgets and their prohibition on universities directly charging for tuition. Though discrete fees for non-academic services pre-date these policies, in most states prior to free education universities could legally have charged one fee for everything. The earlier existence of two (or more) fees was due to student unions developing after universities were established and student organisations' desire for a dedicated funding stream. In general, it was not a legal necessity.<sup>16</sup> By deciding to pursue abolition of the distinct non-academic fee in its entirety, rather than persuading universities to charge less or to spend differently, Liberal students committed themselves to a strategy dependent on Commonwealth domination of university finance.

#### *The end of Commonwealth financial domination*

Though nobody realised its full significance at the time, the first step toward a different way of organising university funding occurred in the mid-1980s. In 1984, the Jackson Committee advised the then Hawke government on the commercial potential of international trade in education. By 1987, the first full-fee overseas students were enrolled in Australian universities, paying fees set by the universities and creating an independent source of revenue for universities.<sup>17</sup> By 2004, nearly a quarter of all students enrolled at Australian universities were overseas students.<sup>18</sup> From 1988, universities were permitted to enrol Australian full-fee students in postgraduate courses approved by the Minister.<sup>19</sup> By 2004, nearly 12% of all university students fell into this category. From 1998, universities could enrol domestic full-fee paying undergraduates, provided they filled all their HECS places first. 1.5% of all university students in 2004 were Australian undergraduate full-fee payers.<sup>20</sup> Cumulatively, just over 37% of university students in 2004 paid all their own fees. They were outside the system in which the Commonwealth paid for tuition, and students paid for other things. There was no legal obstacle to universities charging them one fee for all services.

The problem this poses for the VSU legislation should be immediately apparent. Even if the VSU bill passes unamended, it need not affect how much universities charge their full-fee students. They can abolish the separate non-academic fee, increase tuition fees for full-fee students, and fund all services centrally, as the Commonwealth does not control revenue universities receive from private sources. Two fees would become one, while leaving the total cost to students the same. It would be clearer and simpler for students than paying two fees, academic and non-academic, for one bundle of services, as they do now.

What of the other 63% of students? For most of them, too, the rationale for the old two-fee model is fading away. Under the 'Nelson reforms' that took effect in 2005, the Commonwealth no longer even nominally funds all tuition costs for coursework Commonwealth-supported students. Instead, universities receive a per student subsidy and, with some exceptions, charge a student contribution up to a price cap of 25% more than the old HECS amount.<sup>21</sup> Unlike before, this money goes to universities, either directly or via the HECS-HELP loans system.<sup>22</sup> The current funding legislation does not control how universities spend the revenue they generate from these students. Reflecting the practical realities of regulating expenditure when direct federal subsidy makes up only 40% of university income, the legislation controls outputs

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rather than inputs, specifying the student numbers by field of study that each university must provide.

#### *Why there is still a non-academic fee*

In principle at least, the separate non-academic fee is largely redundant. The overwhelming majority of students pay fees, in part or in full, for their tuition. There is no legal obstacle to one fee for one bundle of services, rather than two fees. Research students on scholarships are the only significant group of students still operating under the old free education model, with all funds except the non-academic fee provided by the Commonwealth. As these students pay no tuition charges, their non-academic fee cannot be bundled. With 4% of total enrolments, however, cross-subsidies funding research students' non-academic services would be a practical compromise which—except for an important qualification explained below—would let the non-academic fee aspects of the VSU bill pass into law without significant negative effects.

The practical force of the VSU bill comes not from its internal provisions, but from its interaction with the price caps on 'student contribution amounts' for Commonwealth supported students.<sup>23</sup> While the caps remain low, most universities have no scope to increase charges for Commonwealth-supported students to cover non-academic costs. They already charge as much as the law permits. For universities, the non-academic fee operates as a de facto increase in the maximum student contribution amount. By effectively imposing a lower maximum student contribution cap than before, the VSU bill will force radical changes in the way universities deliver services.

Ironically, lowering the maximum student contribution cap is the policy favoured by prominent VSU opponents in the ALP and the National Union of Students, and contrary to the stated preference of the government, in the first version of the Nelson package, for a higher cap than the Senate agreed to in 2003.<sup>24</sup> The lasting effectiveness of the VSU bill depends on the Liberals taking the left's view of student contribution amounts. Grafting a remedy designed for the era of exclusive Commonwealth funding of universities onto an increasingly market-based system comes at a significant cost to the coherence of federal government higher education policy.

#### **Should universities be allowed to bundle non-academic services?**

The VSU legislation is a late-in-the-day attempt to force universities to partially unbundle their services for Commonwealth-supported students. Bundling is the practice, widespread in commercial settings, of combining goods and services that could be sold individually into a single package. In the last few years, we have been encouraged to bundle telephone, internet and cable TV services, and to pay our gas and electricity on the one bill. Car companies now offer as standard many vehicle features that were once optional extras. Some airlines bundle on-flight food and entertainment, while others do not. Universities bundle many academic services—lectures, single or small group tuition, course notes, library, examination, credentialing, and so on, though these could all be separated and sold individually.

Though universities levy a discrete fee for non-academic services, nobody can enrol at an Australian university without buying the full package. Unlike the tying together of academic services, the federal government does not find this bundling acceptable. A persistent theme in Education Minister Brendan Nelson's advocacy of the VSU legislation is that students should only have to pay for their education. This was spelt out most clearly in the second reading speech for an earlier version of the current VSU bill, one that lapsed with the 2004 election:

Students should also enjoy the same consumer rights enjoyed by other Australians; namely to purchase only those services they want, whether they be on or off campus, and this legislation will give them that right.

The government believes that the primary purpose of a university is to provide higher education... students are going to university to get an education. They should not be forced to buy a product they do not want just so they can enrol and receive one that they do.<sup>25</sup>

#### *The case for bundling*

The government's position assumes that extra-curricular activities are, for universities and their students, peripheral and optional extras. For some universities, however, the campus experience

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is an integral part of what they believe attracts students, as a Google search on the term reveals. The University of Western Australia tells prospective students that ‘one of the most enjoyable aspects of studying here is the whole campus experience’.<sup>26</sup> The University of New South Wales’ ‘Master Plan aims to create a positive campus experience that will encourage people to learn, interact, research and recreate at the University.’<sup>27</sup> These universities see themselves as principally but not purely higher education providers. The quality of the campus experience differentiates them, they believe, from their rivals, tapping into the desire of some students to leave university socially enriched as well as academically qualified. Further, the campus experience can deliver more than just extra-curricular fun. Extensive American research finds that socially integrated students are less likely to drop out, minimising their risk of making a bad educational investment and the university’s risk of losing fee revenue.<sup>28</sup>

In the university context, the major argument for bundling services rather than charging for them individually or levying a voluntary fee is that by creating a sunk cost students will use services more frequently. Within academic services, once a fee is paid it removes any financial disincentives to attend lectures, use tutors, download course materials etc; which students may do less often if charged a fee for every service. Similarly, for universities offering a ‘campus experience’ a sunk cost non-academic fee increases participation, and thus value for students, since the more people who get involved the greater the opportunities for rewarding friendships and useful contacts.

Increasing use of services and facilities is the main reason universities bundle them, but there other justifications as well. Greater use of services creates economies of scale, reducing per student costs. A flat fee for everything cuts transaction costs. Students do not need to spend time and money finding the appropriate service provider; they just use the service the university offers. Universities don’t need to monitor usage of services carefully or collect money separately for them; students don’t need to waste time paying for each lecture. Though no one individual necessarily uses every service in the bundle, packaging them together can make most people better off.

#### *The case against bundling*

Bundling brings benefits, but there are also arguments against it. The most obvious objection—and one relied on by the government—is that it increases total costs for those only wanting academic services, especially those people with work or family responsibilities who do not have time to use the available services. Why, the Minister asked in his second reading speech for the current bill, should a single mother training to be a nurse pay for the canoeing club or the mountaineers?<sup>29</sup> This, however, is a point that could be made against any form of bundling. Why does the single mother training to be a nurse have to pay for the lectures she does not attend because she cannot find a babysitter? Why should she pay for the Qantas meal when she is on a diet? Why should she pay for the weight-lifting equipment at the gym when she only wants to do aerobic exercises?

Clearly, interests can conflict when services are bundled. Some people benefit from packages of goods and services, while others prefer no-frills options. For the most part, in business these issues are not controversial because producers have incentives to satisfy consumer preferences. If there is money to be made from no-frills options or user pays for individual goods or services, someone will offer it. Similarly, if there is money to be made from bundling, this will also occur where businesses spot opportunities. Consumer reactions to what is offered to them determine the balance between bundled and unbundled goods and services, without any need for, or indeed any thought of, government intervention. Are universities a distinct case where the government should decide?

The main rationale for mandatory unbundling of higher education services is that university markets do not operate effectively. Instead of reflecting market demand, universities use their power as dominant players in the higher education market, offering bundles of non-academic services similar in content and price. This suits universities and vested interests within them—the people who have been most vocal against the VSU bill—but not students making little or no use of non-academic services, or the vast majority of politically inactive students. Without effective market forces, universities have weak incentives to offer optimal services or to charge lower fees.

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### *Is the university market strong enough?*

I would be the first to argue that universities should be much more open to the market.<sup>30</sup> It is incorrect, however, to say that universities are immune from competition. There are now 39 universities and over 100 non-university private higher education providers. Within the constraints of quotas limiting student numbers at each public university and Year 12 marks, would-be Commonwealth-supported students can choose between a large number of higher education institutions. For these students, there is limited price competition, with a few universities yet to take advantage of the opportunity of increasing student contributions by 25%.

As mentioned earlier, 37% of university students are full-fee paying, with no restrictions on prices. In practice, full fees vary by large amounts. For example, the most expensive full-fee commerce degree for an overseas student at a public university is twice as expensive as the cheapest.<sup>31</sup> Particularly for highly mobile overseas students there is wide choice. With estimates of up to a further 60,000 students enrolled in private providers, over 40% of all students in Australian higher education institutions operate in a competitive market.

The provision of non-academic services around Australia indicates that where universities are not regulated—as to date they largely have not been in this area—diversity is the result. Though all the Australian Vice-Chancellors' Committee's members provide non-academic services, what they offer varies considerably. A survey found, for example, that a majority offer student employment services, but only a minority have dental services. Sports facilities are more common than student theatre. Child care is more widely available than campus television or radio.<sup>32</sup> In Victoria in 2005, annual amenities fees ranged from \$258 (Ballarat) to \$441 (Monash). In New South Wales the cheapest was Charles Sturt (\$272) and the most expensive Sydney (\$481).<sup>33</sup> There are lower rates for part-time students. While all universities bundle services, the bundles are different, and these differences are reflected in prices.

### **Stronger markets—not weaker**

As strong market forces are relatively new in Australian higher education, non-academic services are still largely organised around models from the uncompetitive past. While non-academic services are not uniform, there is less diversity than we could expect in a full market system. The solution, however, is not market rollback, as the government proposes. In effect, the VSU legislation would limit what universities could offer, because it would limit their power to bundle. While students could pay separately for the disaggregated services, this would not produce the same result. Universities rely on sunk costs to maximise participation, and depend on universal availability to achieve economies of scale and minimise transaction expenses. Forced unbundling reduces consumer choice and pushes up prices for people preferring the full package.

Rather than taking this backward step, the federal government should press ahead with further pro-market reforms to increase the supply of few or no-frills university degrees. The key is to make it more likely that universities will disaggregate higher education services, while not forcing them to do so. This way we can meet the preferences of single mothers not wanting to subsidise the canoeing club, without denying those who want packaged services the opportunity to purchase them.

### *Low-cost competition*

Opening the higher education market to low-cost competitors is crucial to the spread of no-frills degrees. Australian universities operate on a high-cost model for undergraduate education. Non-academic services are a part of this, but of greater significance is that all universities are supposed to do research, and research activity is a legal requirement for new universities.<sup>34</sup> Of the nearly 40,000 academic staff employed by Australian universities in 2004, a mere 1,400 were classified as 'teaching only'.<sup>35</sup> While all academics must be familiar with the scholarship relevant to their teaching, there is no need for them all to be engaged in additional research. Combining research and teaching functions is expensive. It means full-time staff are paid for several months a year when no (or very little) teaching activity occurs. It means expensive university facilities are substantially under-utilised for much of the year. This adds significantly to the cost of providing undergraduate education. Students face significant opportunity costs in taking three years to finish degrees that could be completed in two years.

To his credit, Brendan Nelson has put the compulsory research and teaching combination on the political agenda through his discussion paper, *Building University Diversity*, though any change to the law requires state rather than federal legislation.<sup>36</sup> If liberalisation occurs in this area, it would open the market to institutions like the US-based Phoenix University, which is very focused on providing only students' core educational needs. Phoenix does no research and operates online or from rented office or shopping centre space, rather than spending money on campuses. Its courses are aimed at working adults improving their credentials, rather than young people looking for an experience as well as a degree. In a welcome move, Dr Nelson has also indicated that he will extend the FEE-HELP loans scheme to Australian students studying at foreign universities within Australia.

The arrival of Phoenix University or comparable organisations would put competitive pressure on Australian universities operating in similar markets, offering work-related courses to students who are already employed. Abolishing or reducing the non-academic services they offer would be one obvious way of cutting costs to meet price competition. This would differentiate the market without depriving other universities of the freedom to bundle a more comprehensive range of services.

#### *Lifting the price cap*

Another important pro-market change would be to eliminate, or at least increase very considerably, the price caps on 'student contribution amounts' for Commonwealth-supported students. As we have seen, the low price caps are the reason universities need to charge their coursework students a separate non-academic fee. If the caps were lifted, universities would feel internal political and external market pressures to combine their fees into a single overall charge. It would be hard for universities to sell a separate up-front non-academic fee when through combining fees students could instead defer their overall university fees through the government income-contingent loans schemes HECS-HELP and FEE-HELP. With some lateral thinking and policy action, the non-academic fee could cease without being prohibited.

Combining the two fees would improve accountability and efficiency using internal budget procedures rather than direct student choice (though universities may well decide to introduce more user pays as well). The existing dual income stream quarantines money from the discrete non-academic fee, saving expenditure on non-academic services from the critical examination of normal university budget processes. If all money came from a single income stream, universities could choose between academic and non-academic spending. University teaching activities have been financially squeezed by Commonwealth regulation and funding policies. Re-assessing priorities and improving efficiency in non-academic services could free up money for better teaching, if that is what a university believes will serve its educational and market purposes best.

Because a single income stream is needed for improved accountability, the National Party and Australian Vice-Chancellors' Committee 'compromise' of a non-academic fee covering non-political activity is an inferior form of price flexibility.<sup>37</sup> In practice, it would not necessarily even stop funding of political activity. With the federal government no longer restricting spending of its money to 'operating purposes', and with independent fee revenues, universities could sustain student political activity if they chose to do so—especially if the financial burden of maintaining other non-academic services was lifted by the compromise policy. Like the VSU bill itself, this compromise is based on outdated assumptions about Commonwealth domination of university finances.

Market-based policies offer a practical alternative to the current VSU policy and the suggested compromise. In a properly functioning market, higher education would range from no-frills to comprehensive packages, satisfying everyone from stretched single mothers studying nursing to people who want the canoeing and mountaineering clubs. This would provide more student choice than the VSU bill. Just as importantly, combining the two existing fees into a more flexible single fee would prompt greater accountability and better resource allocation by universities maintaining non-academic services.

#### **Voluntary student representation**

In the heated debate over campus services the voluntary student representation provisions of the VSU bill have become a little lost. As noted in the introduction, the VSU bill would

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prohibit automatic membership of or compulsory payments to student organisations. Existing practices on this vary. According to an Australian Vice-Chancellors' Committee survey, student association membership is a requirement of enrolment at 11 universities, a requirement with an exemption option at another 17, and not a requirement at 10. There is a direct membership fee in 13 universities.<sup>38</sup> Other universities finance student associations out of general non-academic fee revenue.

Student association functions differ considerably around the country. Some are narrowly confined to representing students within the university and externally, while others offer services that elsewhere the university provides or sub-contracts to other organisations. In the representative functions, the same market forces that undermine the government's attempted prohibition on non-academic charges strengthen the case for genuinely voluntary membership.

#### *Exit and voice*

Like any other organisation, universities need feedback on their performance. Market signals constantly tell businesses how well they are doing. If sales or profits go down, something is probably wrong—and an incentive exists to find out what and fix it. Through most of Australian university history, market feedback has been absent or muted. Until after World War II all universities enjoyed within-state monopolies, and only after new universities were built in the 1960s and 1970s could students unwilling to travel interstate in any sense be said to have a choice. With an overwhelmingly dominant policymaker in the Commonwealth from the mid-1970s to the 1990s, universities varied only within the severe constraints of standard funding and regulation. There was little of the diversity seen in American higher education. Compounding the problem, supply of university places was kept below demand. Anyone wanting to go to university took what was offered.

Without effective market signals, universities needed other forms of feedback. Student representative bodies could inform university administrators and governors of student concerns, and these became standard institutions in all universities. Most universities provided for, and still have, direct student representation on university committees.<sup>39</sup> In the useful classifications of Albert Hirschman, the weakness of a market-based 'exit' option, made 'voice', the direct expression of opinions and information, a good alternative.<sup>40</sup> Within the logic of providing 'voice' for students, compulsory or universal membership of the student representative body made sense. Unless everyone had access to the mechanisms of voice, less—and less representative—information and opinion would be available to decision-makers.

#### *The rise of the market and the decline of representation*

Just as the market in full-fee students weakens the government's VSU policy, it replaces voice as the only feasible strategy for transmitting student views to universities. Unlike Commonwealth-supported students, who are not financially attractive to universities, fee-paying students exercise considerable market power. Universities need them to stay solvent, and must compete strongly for them. The main group of fee-paying students, overseas students, are highly mobile. The choice for them is not between one or two universities in their home city. It is between dozens of universities around the world.

Unsurprisingly, this reliance on the market created new imperatives for gathering information about student satisfaction. Though occasional surveys of students had been carried out since the 1950s, it was not until the 1990s that they became routine activities for universities.<sup>41</sup> These included, at the institutional level, surveys on university services and on subject-level teaching, as well as national surveys such as the Course Experience Questionnaire (CEQ). In 1993, the first year of CEQ results revealed some significant issues for universities. Just over 60% of students were clearly satisfied overall. On questions relating to teaching, just over a third indicated clear satisfaction. 'Voice' had not, on its own, been enough to push universities to keep teaching quality at a level most students thought satisfactory. The threat of 'exit', however, seemingly triggered remedial activity—the next decade, coinciding with dependence on fee-paying students, saw year-by-year small but steady increases in satisfaction.<sup>42</sup>

Though there are problems with survey response rates—56.8% in the case of the 2003 CEQ—these are massively higher than student election turn-outs, where 10% of students voting is regarded as good. Compared to university-run surveys, student elections are sampling



errors, hugely biased in favour of politically active students. Student representative organisations' information-gathering role has been substantially replaced by more representative student surveys. Poor turnout in student elections, information quality concerns aside, is symptomatic of broader problems. Traditional student political bodies cannot mobilise their conscripted and indifferent membership to place political pressure on university administrators. An occasional demonstration, rarely involving more than a few hundred people, is a feeble instrument of influence compared to the threat of losing millions of dollars in fee revenue.

The rise of the fee-payers starkly challenges the idea that students have uncontradictory interests that can be represented by student organisations. Though students have always had diverse political views, in an almost entirely Commonwealth-funded system offering standard courses they nevertheless had some shared interests. When student groups opposed the introduction of HECS in the late 1980s, all students had a financial interest in their success (even if they personally thought that HECS would be fairer than free education). When the National Union of Students opposed the increased student contribution charges proposed by the federal government in 2003 these common financial interests had gone. As fee-paying students cross-subsidise Commonwealth-supported students, the two groups' financial interests were in conflict. Universal membership of current student organisations does not serve the interests of fee-paying students.

Whether or not the VSU legislation passes, universities should re-think their stance on student associations. The circumstances that made them, however imperfectly, useful spokespeople for the broader student body are gone or going. At minimum, genuinely voluntary structures ought to be established, with students choosing to join and fund student associations. The resulting organisations could then plausibly claim to represent some students, rather than implausibly claiming to represent all students. These organisations could fill gaps created by reliance on market feedback, such as raising concerns that university administrators may have missed. Student associations would establish genuine financial independence from the university, instead of relying on university administrators to pass on non-academic fee revenue.<sup>43</sup> There is no in-principle reason why many student association services, such as representation, media, entertainment and advocacy before university tribunals could not be carried out competitively if universities ceased to recognise a single student voice.

Though I am not an advocate of prescriptive policies toward universities, the actual voluntary representation provisions of the VSU bill, as opposed to the broader attack on compulsory fees, would be beneficial. If universities had, without being coerced, moved in this direction over the last few years very little of the government's case against them would have had credibility.

### **The missing solution**

Though the rise of markets in Australian higher education has radically changed the context of the VSU debate, neither side has updated its strategies or arguments. Both are staying in their rhetorical comfort zones, recycling arguments from an earlier era. For the Liberal Party, VSU has become an article of faith, to be pursued regardless of whether it makes sense in a system that is no longer dominated by Commonwealth funding or whether there is any compelling rationale for forced unbundling of education services.

The anti-VSU camp's preference for the past means they overlook an option that the Liberals would find it hard to argue against, because they have advocated it in other contexts—more flexibility on university fees generally. But rather than turning the Liberals' own arguments against them, VSU opponents resort to old favourites like drawing an analogy with taxes or local government rates. Back in 1979, the then Vice-Chancellor of the University of Western Australia, Professor Robert Street, claimed that 'to convert the Amenities and Services Fee to a voluntary fee would be analogous to converting income tax or local government rates to a voluntary payment.'<sup>44</sup> Fast forward to 2005. When the VSU bill was introduced, Australian Vice-Chancellors' Committee President Di Yerbury objected that 'it's a bit like council rates—not everyone uses all the services, but rates in a community are compulsory.'<sup>45</sup> Opposition Education Shadow Minister Jenny Macklin told a rally that 'students could simply not afford to pay for services such as child care, health care, food, entertainment, sporting clubs, accommodation advice and counselling, which were subsidised from union fees,' she said. 'Let's face it, how many people would voluntarily pay their taxes if they didn't have to?'<sup>46</sup>

These analogies are very awkward. The non-academic fee is not levied by a government

**For the Liberal Party, VSU has become an article of faith, to be pursued regardless of whether it makes sense.**

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authorised to tax; students cannot go to jail for refusing to pay. How much students pay for an amenities fee depends on what university they attend, and whether they are enrolled full or part-time. It is not a percentage of income or assets, the usual way of calculating taxes and rates. By paying a non-academic fee students become directly entitled to a package of services, while taxes and government services operate independently of each other. Student associations are more like political parties or interest groups than agencies of the state. The non-academic fee needs no analogy. It is exactly what its name suggests, a market fee.

So why bother with these analogies? The reason is the ideological sensitivity surrounding tuition fees. By drawing an analogy with a tax Jenny Macklin sidesteps what is otherwise a major inconsistency in her position. She opposed the price-capped increase in the student contribution charge for tuition, which students could defer and repay when their income reaches approximately \$36,000 a year, on the grounds that Labor wanted to offer 'affordable' university education.<sup>47</sup> Yet she strongly supports a completely deregulated fee, payable upfront by students who are often struggling to make ends meet. Reclassifying a fee as a tax is an attempt to reconcile the tensions between these two policy stances.

Though it would ease the financial burden on students by allowing them to defer payment, Labor has not suggested my proposal for combining the two fees. This would mean accepting that universities, rather than governments, should set fees. It would be too ideologically traumatic for Labor or student unions to argue for that, and so they resort to unconvincing analogies. Even the nation's Vice-Chancellors seem unable to make the case for bundled fees as well as bundled services. Though few Vice-Chancellors now expect much new government money, they still expect other people to tackle controversial issues like fees for them. For them, fees are a case of easier done than said.

#### **Taking the roughest road**

If the VSU bill passes, Australian universities will be in a mess for which both the major political parties and all the interest groups must take some responsibility. While the Liberals' current VSU bill refights campus conflicts of 30 years ago, it is only going to have a significant negative effect because of the residue of another 30 year old political agenda, federal control of tuition charges for Commonwealth-supported students. If the major interest groups had made the case for universities setting their own tuition fees with anything like the passion they have put into defending the non-academic fee it is unlikely the Liberals would have turned them down. The VSU bill would then have done no more than accelerated the merging of two fees into one.

As it is, there are going to be many losers from this change. The already limited diversity in Australian higher education will further diminish, as universities converge more closely on the no non-academic frills model. Universities and their students will lose, as non-academic services are financed from other revenues, using money that should be spent on teaching. More revenue will be lost if a weakened campus experience makes Australian universities less attractive to overseas students, who far from home need a university community more than domestic students. With less overseas student fee money, the quality of education for Australian students would decline. Eventually, all this must flow through to financial and political costs to the federal government.

There is a way out of all this—more flexibility on fees for Australian students. It is almost certain to occur eventually, as declining real government subsidy, rising costs, and a soft international student market leave domestic fees as the only remaining option. Unfortunately, stubborn adherence to 1970s political causes means that we are likely to get to this outcome by the slowest and most painful means possible.

## Endnotes

- <sup>1</sup> Geoffrey Blainey, *A Centenary History of the University of Melbourne* (Melbourne: Melbourne University Press, 1957), p.170.
- <sup>2</sup> John Poynter & Carolyn Rasmussen, *A Place Apart, The University of Melbourne: Decades of Challenge* (Melbourne: Melbourne University Press, 1996), p.138.
- <sup>3</sup> Graham Hastings, *It Can't Happen Here: A political history of Australian student activism* (Adelaide: Students' Association of Flinders University, 2003), p.75. This book is a sympathetic history of the student left, including significant amounts about earlier VSU campaigns.
- <sup>4</sup> Eg Bridie Smith, 'Students, police, injured in Monash University fees protest' *The Age* (26 March 2004).
- <sup>5</sup> This aspect is discussed in more detail in Charles Richardson, 'Forced To Be Free: Compelling Voluntary Student Unionism', *Policy* (Spring 2005), pp. 27-31.
- <sup>6</sup> Julian Barendse, 'President's report', *Protégé* (December 2004), pp.14-15.
- <sup>7</sup> The current legislation is the *Higher Education Support (Abolition of Compulsory Up-front Student Union Fees) Bill 2005*. Similar legislation introduced in 1999 and 2003 lapsed. In 1994 both the Victorian and Western Australian parliaments had passed VSU laws, which were later substantially modified by their Labor successors. Unlike the Commonwealth and Western Australian models, which operate by abolishing the compulsory fee, the Victorian model attempted to regulate expenditure.
- <sup>8</sup> Schedule 1, section 19-37 of the *Higher Education Support (Abolition of Compulsory Up-front Student Union Fees) Bill 2005*. The Commonwealth lacks direct Constitutional power to implement VSU. Rather, the legislation works by attaching conditions to Commonwealth grants to universities.
- <sup>9</sup> See 'Study or Sport?: A choice our youth shouldn't have to make', an advertisement defending university sports, *The Australian* (19 April 2005); 'A dagger through the ART', an advertisement defending student arts and cultural services, *The Australian* (17 May 2005).
- <sup>10</sup> See Sophie Morris and David Crowe, 'Split over student union law', *Australian Financial Review* (1 August 2005).
- <sup>11</sup> *Clark v. University of Melbourne*, [1978] VR 457; partially reversed in *Clark v. University of Melbourne (No.2)*, [1979] VR 66.
- <sup>12</sup> Also in 1977, the Western Australian government passed legislation requiring voluntary membership of student organisations, but still allowing universities to charge a compulsory amenities and services fee: see Hastings, *It Can't Happen Here*, pp. 209-11.
- <sup>13</sup> For the conditions, see the *States Grants (Tertiary Education Assistance) Act 1977*, which limited funding to 'university purposes', including 'general teaching and research purposes' but not non-academic activities.
- <sup>14</sup> Technically, up-front payments of HECS went straight to the universities, but these payments were deducted from universities' Commonwealth grants.
- <sup>15</sup> The *Higher Education Funding Act 1988*, sections 3 & 15.
- <sup>16</sup> For a brief discussion of the separate student union fee at the University of Melbourne, see G. Blainey, *A Centenary History of the University of Melbourne*, pp.168-71. The National Union of Students submission to the Senate inquiry on VSU quotes from the *Sixth Report of the Universities Commission* in 1975: '...by relying on fees for as the main source of their income, student bodies retain the power to determine the direction, pattern and extent of their own development and have regard to their own priorities. Accordingly, the Commission does not advocate the abolition of fees charged by student bodies...': Felix Eldridge, National Union of Students submission to the Senate Employment, Workplace Relations and Education Legislation Committee *Inquiry into provisions of the Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005*, para B1.5. In Western Australia, student guilds have enjoyed particularly high levels of autonomy. In 1983, the newly elected WA Labor government repealed the previous government's voluntary membership legislation, and gave the guilds the autonomy to decide their own charges: See Brian de Garis (ed), *Campus in the Community: The University of Western Australia, 1963-1987* (Perth: UWA Press, 1988), p.165. The WA guilds are still guaranteed a share of amenities and service fee money: see section 28A, *University of Western Australia Act 1911*.
- <sup>17</sup> Simon Marginson, *Education and Public Policy* (Melbourne: Cambridge University Press, 1993), pp. 184-88. There is a floor price on overseas students, but no maximum price.
- <sup>18</sup> Department of Education, Science and Training, *Students 2004: Selected Higher Education Statistics*, (available from [www.dest.gov.au](http://www.dest.gov.au)), Table (i).
- <sup>19</sup> Marginson, *Education and Public Policy*, pp.188-89.
- <sup>20</sup> DEST, *Students 2004*, table 41. From 2005, loans to pay the fees in these courses become available through the FEE-HELP scheme.
- <sup>21</sup> The legislative structure is set out in the *Higher Education Support Act 2003*. The exceptions are for nursing and teaching courses. Fee increases are 'grandfathered', ie pre-2005 students pay up to an indexed 2004 fee. An overview of the reforms can be found here: <http://www.goingtouni.gov.au/>
- <sup>22</sup> If students pay their 'contribution' up-front they receive a 20% discount. If not, they acquire a HECS-HELP debt, which they begin to pay when their income reaches approximately \$36,000 a year. The federal government pays the amount of the debt to the university.
- <sup>23</sup> Section 93-10, *Higher Education Support Act 2003*.

- <sup>24</sup> Originally the government wanted a 30% increase: Brendan Nelson, *Our Universities: Backing Australia's Future* (Canberra: DEST, 2003), p. 20.
- <sup>25</sup> All quotations from *Hansard*, 17 September 2003, pp.20,249-20,252.
- <sup>26</sup> <http://www.uwa.edu.au/prospective/campus>
- <sup>27</sup> Available at: <http://www.unsw.edu.au/visitors/pad/strategybrief.html>
- <sup>28</sup> Ernest Pascarella and Patrick Terenzini, *How College Affects Students: Volume 2, A Third Decade of Research*, (San Francisco: John Wiley & Sons, 2005), pp.425-27.
- <sup>29</sup> House of Representatives (16 March 2005), available at: <http://parlinfoweb.aph.gov.au/piweb/browse.aspx?NodeID=41>.
- <sup>30</sup> For a detailed discussion of why, see Andrew Norton, *The Unchained University* (Sydney: CIS, 2002).
- <sup>31</sup> Figures collated from Richard Evered et al, *Good Universities Guide 2006* (Melbourne: Hobsons Australia, 2005). The University of Melbourne charges \$70,940 for a 3-year Commerce degree. The University of Southern Queensland charges \$34,800.
- <sup>32</sup> See 'Student Services, Student Organisations', Australian Vice-Chancellors' Committee Information Sheet, April 2005, Table 4. Available [www.avcc.edu.au](http://www.avcc.edu.au)
- <sup>33</sup> Brendan Nelson, 'Slashing up-front fees for students – voluntary student unionism legislation introduced', media release (16 March 2005).
- <sup>34</sup> All states have slightly varying legislation based on the National Protocols for Higher Education Approval Processes agreed between Ministers of Education in 2000.
- <sup>35</sup> DEST, *Staff 2004: Selected Higher Education Statistics*, (available [www.dest.gov.au](http://www.dest.gov.au)), Table 14.
- <sup>36</sup> DEST, *Building University Diversity: Future approval and accreditation processes for Australian higher education* (DEST: Canberra, 2005).
- <sup>37</sup> For the AVCC proposal, see 'Government must see sense before gutting student services', media release (17 June 2005). This is not a joint proposal with the Nationals, but they have similar ideas.
- <sup>38</sup> See 'Student Services, Student Organisations', Australian Vice-Chancellors' Committee Information Sheet (April 2005), Tables 1 and 3. Available [www.avcc.edu.au](http://www.avcc.edu.au) Membership is a requirement of enrolment at Ballarat, La Trobe, New England, QUT, RMIT, Southern Cross, Southern Queensland, UTS, Western Sydney, and Wollongong. Membership is not a requirement of enrolment at ANU, Bond, Edith Cowan, Melbourne, Monash, Queensland, South Australia, Swinburne, Victoria and Western Australia. At the remainder, membership is a requirement of enrolment, but an exemption option is available. There is a direct membership fee at Australian Catholic University, Adelaide, Flinders, Griffith, James Cook, Macquarie, UNSW, QUT, Southern Cross, Southern Queensland, Sydney, UTS and Wollongong.
- <sup>39</sup> See 'Student Services, Student Organisations', Australian Vice-Chancellors' Committee Information Sheet (April 2005), Table 4. Available [www.avcc.edu.au](http://www.avcc.edu.au)
- <sup>40</sup> Albert O. Hirschman, *Exit, Voice and Loyalty: Responses to decline in firms, organizations and states* (Cambridge, Mass: Harvard University Press, 1970).
- <sup>41</sup> For a description of early surveys see Carole Hooper, 'The First Year Experience Fifty Years Ago', in Kerri-Lee Krause et al, *The First Year Experience in Australian Universities: Findings from a Decade of National Studies* (Canberra: DEST, 2005).
- <sup>42</sup> Graduate Careers Council of Australia, *Course Experience Questionnaire 2003*, (Melbourne: GCCA, 2004), p.30. By 'clear' satisfaction I mean that students circled one of the top two points on a five-point scale.
- <sup>43</sup> As noted earlier, legislation gives Western Australian student guilds a share of non-academic fee revenue. However, if WA universities combined their fees this revenue would be very low.
- <sup>44</sup> Cited in William Stacey, 'Politics and Student Unionism', in Geoffrey Ryan et al., *Compulsory Student Unions: Australia's Forgotten Closed Shop* (Perth: Australian Institute of Public Policy, 1987), p. 24.
- <sup>45</sup> Australian Vice-Chancellors' Committee, 'University services set to fall apart', media release (16 March 2005).
- <sup>46</sup> David Rood, '10,000 join rallies over uni fee ban', *The Age* (29 April 2005).
- <sup>47</sup> See for example Jenny Macklin/Simon Crean, *Aim Higher: Learning, training and better jobs for more Australians*, ALP Policy (23 July 2003), p.12, but also numerous press statements since.

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