

*Chief Executive Officer:*  
Dr Glenn Withers AO

4 August 2009

Assistant Commissioner, Regulation Stocktake  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

Dear Mr Andrews,

**Review of Regulatory Burdens on Business: Response to Draft Report**

Thank you for the opportunity to respond to the Productivity Commission's Draft Report of the Annual Review of Regulatory Burdens on Business – Social and Economic Infrastructure Services. Universities Australia is the national peak organisation representing Australia's universities in the public interest.

Universities Australia would like to congratulate the Productivity Commission on the breadth of its research and on its clear elucidation of the particularly heavy regulatory burden applying to social and economic infrastructure services. For education providers, as with other sectors, this burden encompasses multiple jurisdictions, numerous pieces of legislation and diverse policy objectives. While much of this regulation exists to pursue important social objectives, there is an imperative – given the extent of the regulatory burden – to ensure that all regulation is fit-for-purpose and administratively streamlined.

The main issue Universities Australia would seek to raise concerns how the current higher education reform process is presented in the Draft Report. The Bradley Review of Australian Higher Education addressed many important matters for universities, and key reforms such as the deregulation of numbers of student places have been accepted by Government and supported by the sector. Given its timeframe, however, the Bradley Review could not possibly cover all the issues facing the sector. Indeed many of the regulatory issues raised in the Universities Australia submission to the Productivity Commission were not considered by Bradley at all. Examples include the Student Learning Entitlement, the Going to Uni website and coordination of data requirements across portfolios. It is therefore somewhat disappointing that the Draft Report does not make any specific recommendations in the higher education area owing to the early stage of the Bradley reform process, when alongside Bradley's reform of the macro-regulatory framework there is a need for parallel processes to look at pervasive and growing micro-regulation.

This is particularly the case as it is likely that a side-effect of the macro-level Bradley Review reforms (and related reforms to research policy) will be even further increases in micro-level compliance obligations.

One Geils Court  
Deakin ACT 2600

Ph: +61 (0)2 6285 8104  
Fax: +61 (0)2 6285 8101

GPO Box 1142  
Canberra ACT 2601  
AUSTRALIA

[glenn.withers@universitiesaustralia.edu.au](mailto:glenn.withers@universitiesaustralia.edu.au)  
[www.universitiesaustralia.edu.au](http://www.universitiesaustralia.edu.au)

While the potential for such compliance costs is noted in the Draft Report, this is expressed more as a caution against bureaucratic zeal, when the issue is really an essential contradiction between some higher education reforms and the Government's stated commitment to reducing institutional red tape.

As an example, the Tertiary Education Quality and Standards Agency has the ability to streamline regulation (particularly across VET and higher education) and enhance confidence in the sector and so has received the support of universities. Nonetheless, it is likely to impose substantial new accreditation, qualification standards, data collection and other requirements on higher education providers. This is in addition to new requirements likely to be imposed under mission-based compacts, the Excellence for Research in Australia initiative, the review of the Australian Qualifications Framework and a range of other measures.

Universities are worried that a new propensity not to consider the regulatory or administrative burden resulting from reform initiatives is appearing. Three recent examples include:

- Broad-ranging standard provisions in Government contracts that place the onus of proof on those who would seek to vary these provisions (e.g. on denial of moral rights for authors). The onus should be reversed, which is to say basic rights should only be waived where a case can be made by the relevant Government agency.
- In the Students Services and Amenities Bill currently before Parliament, a new HECS-style arrangement is proposed to implement a \$250 student fee. No public case has been made as to why the fee could not be incorporated into existing HECS arrangements, resulting in the saving of extensive separate handling costs.
- Under the Education Investment Fund, various cumbersome regulatory provisions such as Government approval of sub-contractors were to have been required of grant recipients. Fortunately, in this instance, representations by Universities Australia were able to see the worst instances of micro-regulation removed.

Overall, the reticent approach to higher education in the Draft Report contrasts with the robust recommendations on e.g. the aged care sector, where much more of a case for government action is presented. Even within the section on education, the report urges the Government to act on the heavy burden of student data collection in the case of independent schools, but is silent on the appropriateness of the even larger current collection obligations of higher education providers. From Universities Australia's perspective, therefore, it would be a missed opportunity were the Review of Regulatory Burdens on Business not to have something more substantive to say about the steady and uncoordinated expansion of the compliance and reporting burden for higher education providers over many years.

At the same time, Universities Australia very much welcomes the Commission's statements that current reforms should be 'subjected to best practice regulatory process, including wide consultation and rigorous regulatory impact analysis' and that standard business reporting principles should be applied to any new data requirements. A particularly valuable aspect of the Draft Report is the ability to see how such issues exist not only across different types of educational institution, but across widely different sectors of the overall economy.

On a smaller matter, Universities Australia would note that the view on p. 233 that 'around 55 per cent of the funds of publicly funded universities come from government (DEEWR 2008c)' is contested by the sector. Fifteen per cent of this consists of HECS payments, which are deferred student fees that neither the

ABS nor the OECD considers government funding. Use of ABS figures would be preferable as coming from a more independent agency adhering to international standards.

Thank you again for involving Universities Australia throughout the review process. We would be happy to discuss any issues raised in this letter further. If you would like any more information or to organise further discussions, please contact me on 02 6285 8104 or email [glenn.withers@universitiesaustralia.edu.au](mailto:glenn.withers@universitiesaustralia.edu.au)

Yours sincerely,

Dr Glenn Withers AO  
Chief Executive Officer