

English Australia submission

Productivity Commission – Barriers to Services Exports



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Section 1) Background

The Australian Government has asked the Commission to undertake a study into barriers to growth in Australian services exports, focusing on the education, financial services, health services, information technology, professional services and tourism sectors.

In undertaking this study, the Commission has been asked to:

- consider recent trends in services exports by Australian suppliers;
- examine the barriers to growth in Australian services exports, including domestic barriers and barriers in key trading partners with which Australia does not have a free trade agreement, and assess the economic benefits of reducing or removing these barriers;
- examine the experience of other economies in developing policy approaches in this area.

An issues paper was made available which covers a range of issues on which the Commission seeks information and feedback. Initial submissions are due **Friday 15 May 2015**.

The draft report is expected to be released in **August 2015** at which point the Commission will seek further information and feedback from participants.

The final report will be handed to the Australian Government in **December 2015** and published by the Commission a short time later.

English Australia notes that the Commission has recently commenced research in the international education services and tourism sectors, and that in undertaking this study the Commission was asked to **avoid duplication** of that work and draw on it as appropriate in its final report.

Section 2) Introduction

English Australia, formerly known as the ELICOS Association, is the national peak body and professional association for the **English Language Intensive Courses for Overseas Students (ELICOS)** sector of international education. English Australia represents over 120 member colleges across Australia and over 85% of all overseas students who study English in Australia do so with an English Australia member college.

The Productivity Commission Barriers to Services Exports study issues paper has identified six sectors as the main focus for review. Of those six sectors English Australia's submission relates to both education and tourism because, as stated on page 5 and in Figure 3 of the issues paper, there is an overlap with expenditure by international students being considered as both a tourism and an education export.

English Australia has also noted (Issues Paper, page 1) that, "The Commission will not duplicate the areas covered by these projects (research reports into international education services and international tourism) in this study." As English Australia contributed to the International Education Services (IES) research report which covered issues to be addressed in this larger study this submission generally limits itself to commenting on relevant aspects of the IES research paper and identifying omissions which the Commission may wish to take into consideration.

This submission is divided into three parts:

1. identification of two key barriers;
2. general comments on the IES report's overall approach; and
3. commentary on the IES report's specific areas of focus – quality regulation, student visa processing and education agents.

BARRIERS

The issues paper identifies the focus for this research as follows:

"The focus of this study is on identifying policy-relevant barriers that directly affect the export of services — those barriers that can be addressed by Australian governments either through domestic policies or regulations, or through international agreements to reduce or remove barriers in other countries. A barrier includes anything that unnecessarily impedes the ability of businesses to export services, either by increasing their costs, or preventing the service export from taking place. Barriers can arise either where existing regulations or policies are inadequate, or where there is a clear policy rationale for regulation that is not currently in place. Barriers can be either domestic barriers (that can be addressed by changes in government regulation or policy within Australia) or international barriers (that can only be addressed by overseas governments making changes to their regulations or policies)."

ELICOS exports predominately take place through the 'consumption in Australia' mode. As a result, the focus of this submission is on:

- government regulation that increases costs (the ESOS regulatory framework);
- government regulation that restricts access to markets (visas).

The ESOS regulatory framework is currently under review by the Department of Education and Training, however there is a key area of concern that has not been addressed by this review to the satisfaction of the sector, in particular the current restrictions on the ability of education providers to receive fees from students in advance of their course.

The key issues relating to these restrictions are identified in Appendix A, a submission made by English Australia to the Department of Education and Training, which outlines the negative impact of these restrictions on the international competitiveness of the ELICOS sector of international education in particular.

It is understood that changes to the current restrictions are not being considered by the Department of Education and Training despite English Australia's strong recommendations otherwise. English Australia believes changes to this requirement warrant further consideration.

The other primary area of government policy/regulation that impacts on international education is the visa regime ie. access for international visitors to enter Australia and undertake study. Visas were a major focus for the IES report and will be addressed further below.

GENERAL COMMENTS ON IES RESEARCH REPORT

English Australia commends the IES report both for recognising the essential 'pathway' role of ELICOS as well as highlighting the often-overlooked non-student visa cohort of students who contribute significantly to the diversity of the sector. As a result the research paper avoided the frequent error of equating international education with higher education. This mistaken view generally occurs because:

- The principal department/agency responsible for international education – the Department of Education and Training – is also responsible for higher education.
- Higher education is currently the dominant sub-sector in both onshore and offshore services however this has to some extent been driven by government regulation firstly restricting VET enrolments and subsequently promoting higher education enrolments via the introduction of streamlined visa processing (SVP) and post study work rights (PSW). This will not necessarily be the case in the future particularly if predictions are correct that Australia will play a major part in meeting the needs of developing countries for vocational training.
- Published research on international education is mostly conducted by university academics about universities. It tends not to feature developments such as the increasing role of large global providers which are both Australian and multinational organisations and partner universities in the provision of foundation and other programs. There are now four ASX listed companies which are involved in education export services.

Figure 2.1 on page 51 of the research report – Limitations of data on ELICOS student numbers – highlights the need for more attention to be directed to the non-student visa cohort. For instance, if the 50,000+ non-student visa holders currently studying English in Australia were added to the 450,000 student visa holders in Australia the correct figure for onshore international students would be in excess of 500,000. This would

be a more accurate statistic as the students studying English language on visitor, working holiday and other visas are clearly international students because they are studying at ELICOS colleges.

English Australia contends that export services data is an issue for Productivity Commission consideration as a lack of accurate, up-to-date statistics which take into account the overlap between tourism and education are a barrier to development. This issue particularly relating to the education/tourism data interface has been recognised for some a years and was the subject of a recommendation from the House of Representatives Economics Committee inquiry into trade in services in 2007. As a result of this lack of clarity regarding the interface between the two sectors, there is little coordination of the efforts of Austrade and Tourism Australia in the promotion of Australia to a broad definition of visitors which is inclusive rather than exclusive.

Diversity

The research report correctly identified the importance of diversity in spreading risk and smoothing out the extreme peaks and troughs which have been a feature of Australia's international education experience to date. The research report focuses on concerns around too many students coming from too few countries and articulates the need for greater diversity in terms of nationality. English Australia contends that the target of greater diversity can be achieved with a focus on factors other than just nationality and recommends that the Productivity Commission study explore a broader definition of diversity.

ELICOS students are diverse both in terms of nationality and by other measures:

- As the research report stated, 40% (and up to 50% in the past) of ELICOS students come to Australia on non-student visas. They come for a variety of reasons including tourism, working holidays, gap years and business purposes. They provide a balance to those coming exclusively on a pathway to further study and thus promote diversity in the nationality mix as well as the type of education provider they study with.
- Some of the non-student visa cohort are in the 'try-before-you-buy' category and either return to Australia later or transfer straight away to higher education or VET. This low investment sampling is an alternative source of entry and provides diversity of recruitment channels (although currently handicapped by the imposition of the additional onshore Subsequent Temporary Entry Charge for changing visas onshore).
- The research report recorded the higher proportion of private providers in the ELICOS and VET sub-sectors. English Australia is the only peak national association which covers providers in both the public and private sectors.
- In relation to diversity of nationality ELICOS providers, particularly private colleges, have traditionally been in the vanguard of pioneering new markets notably in South America, Eastern Europe and Southern Europe.

Immigration

The Productivity Commission study will have the advantage of access to the report of the Joint Review of Border Fees, Charges and Taxes. Immigration fees and charges constitute a significant barrier to education and tourism exports in addition to the non-financial conditions which apply to visas.

This week's budget announcements continue the trend of increasing visa fees and have ignored all the feedback received through the review referenced above. Australia remains uncompetitive in terms of the cost of visas, particularly as they relate to short courses such as ELICOS, where the visa fee constitutes a significant proportion of the overall costs.

English Australia recommends that the Productivity Commission study re-consider the Subsequent Temporary Application Charge (STAC) and the inflexibility of student visa charges as outlined in our submission to the IES.

The Productivity Commission research report is misleading in describing the STAC as an initiative to put downward pressure on the number of people changing courses to take advantage of SVP (page 89). It was in fact a revenue raising measure introduced in 2013 with no warning or consultation with industry. It has proved to be a significant disincentive to temporary visitors wanting to extend their stay for study purposes. Cost is not a deterrent to those non-genuine students keen to rort the system, but is a deterrent to genuine students. Other policy reforms being considered through the SVP and ESPS reviews aim to address the issue of course-hopping and make the use of a blunt tool such as the STAC redundant.

In first year of the STAC's implementation from 1 July 2014, DIBP data showed a decline of 11% in the number of onshore student visa applications. The decline in applications for Independent ELICOS was much greater at 17%. This suggests that the charge was not acting as a disincentive to SVP course-hoppers but a disincentive to genuine students as SVP course-hoppers target mostly longer VET courses, not short term ELICOS courses.

In addition to calling for the elimination of the STAC as a significant barrier to education exports, English Australia also recommended to the Joint Review of Border Fees, Charges and Taxes differential charging for Student Visa Application Charge (SVAC) for reasons of both international competitiveness and administrative fairness.

The \$535 SVAC (\$550 from 1 July 2015) for Australia is more expensive than any other competitor country and does not distinguish between short course ELICOS students and three-year degree students. Unlike the UK which has a short course Student Visitor Visa at \$A153.

English Australia recommended breaking the SVAC into two categories with differential charges aligned to the course duration:

- Short-term SVAC for six months or less at \$130
- Long-term SVAC for more than six months at a new rate less than at present.

This proposal for aligning the SVAC with the length of course made by English Australia has been supported by other international education peak bodies.

SPECIFIC

Chapter 4: Quality regulation of international education services

English Australia endorses the content of this chapter and recommends that the Productivity Commission study follow up the following recommendation on page 120 on TEQSA/ASQA regulatory overlap.

The inconsistency and complexity of ELICOS college regulation across these two regulatory bodies as well as state based bodies for ELICOS in Schools can be clearly seen in three charts in the research report – Figure 2 (page 8), Figure 1.3 (page 25) and the full level of the regulatory confusion particularly well illustrated in Figure 1.4 (page 27).

Until the creation of the two national regulators ELICOS colleges were accredited nationally by the largely self-governing National ELT Accreditation Scheme (NEAS). Instead of recognising the role of NEAS as the State and Territory governments had previously done, both TEQSA and ASQA took over the function in relation to higher education and VET ELICOS providers respectively, with stand-alone ELICOS providers divided between the two and Schools based ELICOS the responsibility of State bodies.

Not only is quality compromised by this three-way split but the situation is inequitable with different fees and nature of charging being applied by TEQSA and ASQA.

Chapter 5: Student visa processing alternatives

English Australia agrees with and supports the proposal to broaden access to streamlined visa processing by building on the DIBP model to adopt a modified framework incorporating an additional dimension to capture education quality.

Chapter 6: Education agents

While not necessarily disagreeing with the points made about education agents in the research report, it is important for the Productivity Commission study to recognise that the usage of agents varies greatly across sectors and that the high stakes associated with gaining entry to a university course are very different to the low stakes associated with enrolling for an English language course. Agents are not just recruitment channels but play a valuable and necessary role in counselling students and ensuring they are well prepared for their overseas experience.

A recent article reporting on an international research project into agents and language schools¹ reports on the size and importance of the agent networks that support the language travel industry:

“The market, however, is highly fragmented with as many as 3,000 centres providing language training worldwide and some 16,000 youth and student travel agencies acting as intermediaries. Each of those agents represents, on average, 45 schools and refers 11 students per school.”

This research also reports the key role that agents play for students and their families in “guaranteeing” the quality of the language school. A role that is particularly important when the recent English language college closures in Ireland and the UK are considered.

¹ ICEF Monitor 28 April 2015 <http://monitor.icef.com/2015/04/new-study-highlights-global-language-travel-trends-and-the-role-of-agents/>

Steps are already being taken to support quality agents that work with Australian providers, eg. the English Australia Partner Agency Program².

It is also important to note that the first steps towards exploring the options for a quality framework for education agents is already underway across the broader sector.

The Department of Education and Training is funding the International Education Association of Australia to undertake a project to scope the potential for a national quality framework for Australia's international education agents. The project will include an assessment of global best practice to ensure any approach adopted is specific to Australia's unique needs.

English Australia is represented on the steering committee for the project.

² <http://www.englishaustralia.com.au/partneragency>

[additional submission: 25 November 2014]

Minimising Tuition Protection Service requirements

Proposed change

- 13. Change the requirement that all education institutions be subject to the 50 per cent limit on the collection of tuition fees prior to commencing a course.**

Options identified by English Australia:

- a) **Remove** the requirement that all education institutions be subject to the 50 per cent limit on the collection of tuition fees prior to commencing a course, **but** maintain this as an optional requirement that the regulators can impose on providers identified as high risk.
- b) **Keep** the requirement that all education institutions be subject to the 50 per cent limit on the collection of tuition fees prior to commencing a course, **but** change the limit from 24 weeks to 50 weeks (DIBP set a maximum of 50 weeks study for a subclass 571 Independent ELICOS student visa).
- c) **Keep** the requirement that education institutions be subject to the 50 per cent limit on the collection of tuition fees prior to commencing a course, **but** provide an exemption for education providers that meet a defined and defensible risk benchmark eg. 1.9 or lower (using the criteria that are used by the TPS to determine a provider's risk rating for the purpose of imposing the 'risk rated premium' component of the TPS Levy).
- d) **with a further option** of also changing the wording of Clause 27.1 as follows:

'A registered provider must not ~~require receive~~, in respect of an overseas student or intending overseas student, ~~payment of~~ more than 50% of the student's total tuition fees for a course before the student has begun the course.'

Since the ESOS TPS Bills were introduced, setting limits on pre-paid fees and introducing a requirement for pre-paid fees to be kept in a designated account, the ELICOS sector has experienced negative impacts across a range of areas:

- **negative impact on providers – administrative burden**
 - required to change financial and administrative systems/databases/procedures to enable part payment of fees;
 - additional resources applied to processing, tracking and chasing late or unpaid fees;
 - additional resources applied to returning fees that were paid in breach of the requirements;
 - increased levels of student default reporting;
 - additional resources applied to the process of planning and resourcing programs;
- **negative impact on providers – financial burden**
 - additional financial burden related to increased transfer fees incurred due to multiple payments for courses;
 - additional financial and operational burden due to maintaining large cash reserves of prepaid fees which are not available for investment in business growth or improvement;
- **negative impact on competitiveness of Australian businesses**
 - most providers have been unable to pay full commission payments to agents as they can't support the cash flow burden of prepaying their offshore 'suppliers' while waiting up to another six months to receive the tuition fees, thus making Australia a less desirable option for agents to work with compared with competitor countries;
 - increased onshore 'course-hopping' by students has led to increased usage of onshore agents with the result that offshore agents lose the second half of their commission, again making Australia less competitive;
 - students can't pay their fees in a single transfer and hence have to pay multiple international bank transfers, costing them more;
- **negative impact on Brand Australia & student visa program integrity**
 - students' financial commitment to courses and providers has been significantly reduced, compromising the ability of providers and DIBP to assess a student's capacity to pay;
 - increased poaching and discounting by colleges and agents is damaging Australia's reputation;
 - onshore 'course-hopping' has been made far easier because of the limited financial commitment, and this has facilitated the growth of low-fee, low-quality providers who recruit international students primarily onshore and do not invest in offshore marketing;
 - anecdotal evidence that more students are staying in Australia unlawfully;
- **negative impact on other stakeholders**
 - contrary to the wishes and best interests of many 'customers', including student families, governments and scholarship funding bodies.

Why this requirement has impacted particularly significantly on the ELICOS sector

Difference between ELICOS and courses that award qualifications

It is common practice for sectors delivering long(er) award courses to accept payments on a per semester or term basis, however, the ELICOS sector operates differently.

In the secondary education, higher education and vocational education sectors, students commit to a program of study that will deliver a qualification at the end. Usually these programs of study are longer than one year. The number of students who switch between courses/providers is relatively low as a proportion of the whole cohort. There are breaks between semesters (holidays for students and time for providers to undertake administrative tasks during these breaks).

ELICOS students can only study a maximum of 50 weeks on a 570 Independent ELICOS student visa.

ELICOS fees are charged per week of tuition. The differentiation between a 'course' and a 'study period' is nebulous and confusing for ELICOS, and very often dictated by the regulator. The ELICOS sector is split between two primary regulators, ASQA and TEQSA. Both regulators have different policies for registering ELICOS 'courses' on CRICOS, with resulting inconsistencies regarding the scope for providers to define periods of study.

The ELICOS sector delivers short courses. A student who enrolls in a 26 week ELICOS course is only allowed to pay for 13 weeks. The limit on pre-paid fees has reduced the student's financial commitment to a provider to a minimal amount, at which point they can leave with no risk of penalty since the provider is holding no more of their fees, although the provider may have been holding a place for them in a course for well over 6 months.

The ELICOS sector delivers non-award courses that have little differentiation and is therefore particularly vulnerable to 'poaching' and students shopping around for the lowest fees once they arrive onshore.

The ELICOS sector operates 52 weeks of the year with no breaks. Very few ELICOS providers have course breaks or 'holidays' between study periods and any delay in a student's payment of fees impacts on their financial status and has the potential to cause disruption to their study program and therefore to the quality of their learning outcomes.

ELICOS industry impacts

Limiting pre-paid fees has encouraged students who may already be inclined to 'shop around' for 'alternative' (read 'cheaper') providers after arrival to be able to do so more easily because they do not have a financial commitment to the provider they originally enrolled with.

This has created a market for local agents who specialise in helping such students change colleges and for ELICOS providers who no longer have to invest in offshore marketing because they can poach students onshore at no cost instead of allocating funds to promoting Australia and recruiting students offshore. This has had the double impact of making Australia less appealing to offshore agents who increasingly risk losing 50% of their commission on tuition fees and of reducing the return on investment for those colleges that actively promote Australia as a study destination offshore.

Further, all ELICOS providers are supposed to be operating within fixed parameters such as paying teachers at award rates, having a maximum of 18 students in a class, and delivering a minimum 20 hours per week of face-to-face teaching. ELICOS providers that recruit a large proportion of their students onshore are often only able to offer the low prices they do by finding ways to circumvent the ELICOS Standards and other regulations. The current limits on pre-paid fees only serve to encourage this kind of behaviour.

ELICOS business impacts

Whilst there has been a return to growth in the overall figures for ELICOS commencements, it is important to note that this growth is primarily being experienced by providers who specialise in offering pathways to further study in Australia and these students are less likely to be 'poached' by cheaper offerings elsewhere that divert them from their main educational goal. Stand-alone ELICOS providers have experienced far lower rates of growth, and have been more significantly impacted by the limits on pre-paid fees.

There has been a considerable increase in administrative costs for ELICOS providers due to the limits on pre-paid fees. Changes have been required to databases to provide reports, invoicing, to monitor payments and to chase late or unpaid fees. In addition, both students and schools have incurred further bank fees for payments from overseas.

Offshore agents have to wait for payment of the commission until the student has commenced their course. This has impacted on agent business models and has made Australia less competitive for an agent looking at sending students to a range of destination countries. This has been exacerbated by the increase in lost commissions due to course, provider and agent hopping mentioned above.

Fee limits and the increased course hopping or course shortening that has come with it have caused considerable problems for planning and resourcing courses due to providers' significantly reduced ability to forecast student numbers. As student numbers per class is one of the most important factors in profitability this has caused significant increases in the administrative challenges of managing operations and an equally significant and negative impact on students in the form of increasingly regular disruption to classes and courses. It has also affected the reliability of teacher employment.

Impacts on other stakeholders

There are many instances where providers need to be able to accept more than 50% of course fees.

There are sponsors who may wish to or indeed must use up their professional development funds for the given year – e.g. the Vietnam Ministry of Interior sends one provider 10-11 students at least once per year for 30 weeks and must allocate their funds for this purpose in one 'go' for a particular year. The provider is generally asked to invoice them for all aspects of the program up front. The same applies to many Korean university partnership programs where there is government money provided for students under the Global Leadership Program. Middle Eastern sponsors may wish to pay a large amount at one time and with recent issues accessing ongoing funding for Libyan students, it would be preferable to be able to access full funding as and when this is available.

Students' families are very often the source of the payments for courses and it is often parents who choose a student's course and provider. Many families wish to ensure that their children's courses are paid in full before they arrive so funds are allocated and the students' educational outcomes are assured. Fee limits mean they are required to incur extra international funds transfer costs and/or entrust their children with large sums of money to make the later payments while onshore.

Visa and compliance impacts

The limit on pre-paid fees has compromised the ability of ELICOS providers to assess the 'genuineness' of students. Without any requirement for a specific educational background, capacity to pay has been one factor that ELICOS providers have always used to assess the 'genuineness' of a potential student.

ELICOS providers used to always assess a student's capacity to pay (and therefore one aspect of their 'genuineness') by requiring them to pay their full tuition fees upfront. DIBP itself states that *"When assessing a student for a visa, the Department of Immigration and Citizenship considers the amount of pre-paid course fees as an indicator of the student's commitment to studying in Australia."*

The current requirements only allow providers to receive subsequent fees 2 weeks before the next study period commences. This has unnecessarily complicated a provider's responsibilities under ESOS, particularly in relation to student default reporting and attendance monitoring. This has also compromised the quality of learning outcomes.

For example, if a student who has a confirmation of enrolment (and a visa) for 40 weeks does not pay the second lot of course fees at the end of 20 weeks: Is the college obliged to allow the student time to pay? Does the student stay in class even though they haven't paid (and may never pay)? Can a provider suspend their course registration and/or cancel the CoE? If they are suspended, how does this impact on their ability to complete their course within the period of their visa?

These questions continue to challenge ELICOS providers with no clear solutions available from either DIBP or the Department of Education.