The National Tertiary Education Union (NTEU) represents the industrial and professional interest of over 28,000 people working in Australian higher education. As the only nationally based trade union for the tertiary education sector, we wish to provide the following feedback in relation to the Tertiary Education Quality and Standards Agency Amendment (Prohibiting Academic Cheating Services) Bill 2019.

In summary, while the NTEU supports the intent and objectives of the legislation there are a number of issues relating to the potential impact of legislation and its enforceability that must be addressed. We outline our concerns with these in this submission.

Overview

We note that the intent of the Bill is to make it an offence to provide or advertise academic cheating services. We agree that the focus should be on those providing the cheating services and not aimed at the students using them, who will remain subject to policies and disciplinary procedures or sanctions of the institutions in which they are enrolled.

We understand that the primary intent of Bill is to stamp out the provision of what the Department of Education’s overview of the legislation describes as commercial and other organised (contract) academic cheating services which are defined in proposed Clause 114A.

While the NTEU is generally supportive of the intent of the Bill, the following issues warrant further consideration:

i. whether the current wording of the Bill might inadvertently capture family members or friends who might unwittingly breach the law by helping a family member or friend with an assignment, and

ii. the enforceability of the proposed offences, and especially whether TEQSA has the resources and skills to be able to fulfil the requirements in relation to not only supporting providers with educational materials to deal with contract cheating but also to gather intelligence and support prosecutions under the new law.
i) Wording of the Bill

While we understand that the wording proposed in Schedule 1 – Amendments 5 At the end of section 8 limits the scope of the offence (proposed 114A) to issues over which the Commonwealth has Constitutional authority, this would not necessarily rule out a friend or family member inadvertently being captured by the legislation simply by helping out a student with an assignment, especially if that assistance was provided over the phone, by text message or email. Any such instances of cheating, if they were to be characterised that way, should be dealt with, as they currently are, by the institution as an academic breach by the student.

Therefore, in order to minimise the potential for what we believe to be unintended consequences of the legislation, we would suggest the following amendment to the provision, to make it clear that the offence relates to the provision by commercially or organised ‘cheating’ services:

114A Prohibition on the provision etc. of academic cheating services

Offence

(1) A person commits an offence if the person provides, offers to provide or arranges the provision of a commercial or organised service of a kind mentioned in subsection (3) to a student enrolled in a course of study.

ii) Enforceability

While the NTEU understands that the proposed Bill is meant to act as much as a deterrent to would be providers of commercial or organised academic cheating services as it does to define the offence itself, it seems that such a deterrent will be largely ineffective if there no successful prosecutions.

According to TEQSA, as part of the 2018-19 Commonwealth Budget, it was awarded an additional $3.1million over the forward estimates to deal with academic integrity and contract cheating. Given the complexity of the issues and especially considering that many contract cheating services will be based offshore, the NTEU seriously questions whether such a modest level of resourcing will be sufficient to provide TEQSA with necessary resources to successfully prosecute offenders. Without any such prosecutions, we fear the Bill will effectively be redundant.

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28 June 2019

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