COMMENT BY AUSTRALIAN CATHOLIC UNIVERSITY ON “MEETING THE CHALLENGES”

Australian Catholic University (ACU) believes it is entirely appropriate that the activities of public universities be regulated and monitored to ensure public accountability, and agrees with Government in believing that committed and rewarded staff is the university’s most valuable resource. A key issue is that flexibility is needed for staff to adjust to their employment circumstances. This issue is germane to Workplace Reform both locally at the institutional level and sectorally.

Aspects of the Government’s Issues Paper, “Meeting the Challenges,” sit somewhat incongruously together. Industrial Relations and Governance, for instance, are two relatively independent issues, albeit they jointly impinge on the welfare of Universities and the efficiency of their functioning.

INDUSTRIAL RELATIONS

With most of the sector moving into what is effectively Round 4 of the Enterprise Bargaining process, the issue of increased flexibility in workplace relations is critically important. The Issues Paper seriously underestimates the pressures that are placed upon Universities by the current Workplace Reform process. The cost of the exercise to date is extraordinary both in human and financial terms and the current process is widely perceived in the sector as negative in character. This may explain, in part, the conclusion drawn by the Issues Paper that reforms to date have not been optimal sectorally, despite a diversity of changes being achieved at the local level. The Issues Paper recognizes the challenge of having to find increased flexibility in workplace practices, but does not indicate specific suggestions for change or outline options to maximize its intent to solve the problem. It is this University’s opinion that there is an integral association between increased flexibility and workplace reform; both cannot occur while the existing process is held in place and legitimized by current legislation that fails to constrain pattern bargaining. This University suggests that the perpetuation of this approach alone inhibits much workplace reform in the sector contrary to the interests of Universities and the Government. This approach should be discouraged from continuing through legislative reform.

Universities and Government must work together to foster the achievement of significant workplace reform and it is disappointing that the Issues Paper is almost entirely silent on Government’s specific intent. While it is feasible to ask whether the Commonwealth can do more to facilitate such reform, it is reasonable to expect that the importance of this task would produce clearer and more precise intent on Government’s part about how to achieve its goals. In this respect, the Issues Paper does not encourage Universities to join with the sector to achieve mutual aims; it fails to confront workplace reform processes and procedures; and desirable outcomes (such as increased flexibility) are appreciated in
principle and on a fairly narrowly defined definitional base (i.e. the 14 criteria established in the Workplace Reform Programme), but there are no firm indications of involvement on Government’s part to achieve them.

Although the Workplace Reform processes have achieved some very good outcomes, it has been at a high price for the sector as a whole. ACU agrees with Government in its conclusion that the Workplace Reform Programme has only had modest success and its overall impact in encouraging reform in the sector is not clear. There is greater need for flexibility than has been evident to date. Specifically, the current legislation has to be changed and accessibility to workplace reform funds needs to be loosened up. The cost and strain on the system is too much for the outcomes that are produced. Utilisation of a centralized approach, however may not assist either. The Paper downplays the capacity of Universities to negotiate at an enterprise level with their own staff and uphold the crucial sense of community (both workplace and scholarly) that is integral to the concept of community and effective operation of a university. The Government is not taking responsibility for its role in shaping a better process to help Universities do that.

To be of greatest assistance the government should break the national veto, change the Act and its regulatory constraints, and be more flexible in making changes contingent on access to funding. In this regard a broadening of the areas in which workplace reform might be stimulated would help this University more flexibly pursue its long established, and successful, internal enterprise-focused workplace reform processes which have been underway and systematically progressed for over ten years. For example an adjustment of the range of criterion-areas for reform may expand the options available to universities to follow their own strategic directions – say nine out of an adjusted twenty criteria - so catalysing genuine flexibility and diversity at the workplace. Such an approach would also uphold the principles enunciated in the Workplace Relations Act.

Conditions must be encouraged by Government to make it less possible for the sector to be so fraught with conflict. The sector wants more flexibility in relation to employment, but cannot achieve it in the existing climate. Government must step in to help rather than admit to the problem and step back. Helping, however, may not be possible while Government holds the attitude that Universities’ lack of efficiency is the reason why they cannot achieve a high level of change. There are good reasons when one considers the process in place why the status of AWAs, for instance, is problematic and it is possible that AWAs will not achieve what Government clearly expects of them. In particular the two criteria pertaining to AWAs in the Workplace Reform criteria seem to be of marginal relevance especially when trends in industry broadly and in the public sector – both Commonwealth and State - suggest that interest in this mechanism may be shifting.

It is notable that there has been less than 50% success with the five changes listed in the Government’s paper some of which are perhaps most needed by the sector. Twenty-three universities have reported that they had applied for second round funding of whom 10 have applied under all 14 of the criteria. The five criteria with the lowest success rates in the first round are the least used by Universities in the second round applications. These five (unsuccessful) changes are:
1. Simplify procedures for redeployment and retrenchment;
2. Provide for Australian Workplace Agreements to be made with staff;
3. Engage AWAs to operate in conjunction with certified agreements;
4. Give all employees, collectively and individually, equal opportunity to participate in future bargaining processes; and
5. Promote an institution-specific focus.

Radical help and action are required for Government to achieve the change it wants. Some alternatives that present themselves are: Change current legislation; work within the Act in a radical, more flexible way; broaden the parameters for flexible and diversified reform; redefine the nature of the EB process; and/or restrict the process to eliminate its high costs and negative impact.

GOVERNANCE

ACU agrees that the terms “governance” and “management” are often used interchangeably and that there are fundamental differences between the two. We agree with the distinction set out in Clause 7 (p. 2) of the Issues Paper:

“Governance is the structure of relationships that bring out organizational coherence, authorize policies, plans and decisions, and account for their probity, responsiveness and cost-effectiveness. Management is achieving intended outcomes through the allocation of responsibility, resources, and monitoring their efficiency and effectiveness.”

Appendix 1 to the Issues Paper sets out the examples of the objects and functions of five universities in the sector. Appendix A to this submission outlines the objects and functions of the ACU Senate. ACU adheres closely to the recommendations of the Hoare Report, and in 1998 reduced the size of the Senate from 25 to 16 members.

The major tension point in the sector is the blurring of Government and Management and the lack of understanding of that distinction by those in the sector. A second major problem, which is acknowledged in the report, is the difficulty of isolating “field of interest” from proper representation on Government Councils. Representation must clearly be on behalf of the institution as a whole, and not a part of it.

There is a serious anomaly or incongruence that rests in Universities being essentially controlled by States but resourced by Federal Government. Common sets of principles are needed (e.g., attributes, skills, composition or balance, behavioral criteria and legal responsibility) to determine appropriate representation on Government bodies, and there should be wide agreement on a common set of principles and processes.

Professor Peter W Sheehan AO
Vice-Chancellor
Australian Catholic University
August 2002
APPENDIX A

Governance

1. Review and endorse strategic directions and priorities; and monitor progress against agreed goals.

2. Oversee the establishment and effective operation of key policies.

3. Ensure adequate risk management procedures and associated internal controls are established and effectively maintained.

4. Oversee the effective and prudential operation of the University, including approval and monitoring of budgets and financial plans.

5. Require and monitor compliance with statutory and regulatory obligations.

6. Ensure that all the University’s assets and resources are properly managed.

7. Effectively manage its own operations with due concern for proper and appropriate accountability.

8. Appointment of Vice-Chancellor.

9. Ensure a clear definition of Senate’s role and the delegated responsibilities and authorities it assigns to the Vice-Chancellor and other officers, Standing & Finance Committee, Audit Committee and the Academic Board.

There has been efficient streamlining of the work of Senate, as performed by its Advisory Committees, and there is a general confidence that Senate is fulfilling the role expected by its stakeholders – Church, Government, students, staff, business and community – and as prescribed by the Company Constitution. There is a particularly close relationship between Senate and the Academic Board. Further, the structure of Senate and its advisory committees is considered to be very effective in filtering, reviewing and acting on information provided by management.