

# BHERT Higher Education Symposium

Social engineering through  
funding? A discipline level  
perspective

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# Structure of paper

- The recent history of legal education funding, from the RFM to *Backing Australia's Future*
- Some consequences of BAF

Not speaking in representative capacity

# Funding higher education

- Relative Funding Model (1990)
- HECS (1989) and differential HECS (1996)
- *Our Universities: Backing Australia's Future* (2003)

# Relative Funding Model (1990)

- DEET's estimate of actual teaching costs for each discipline
- applied to current loads taught to determine Block Operating Grant
- in 1990s, changes permitted to university's discipline mix without BOG effect

## RFM

- Law placed in lowest cluster of 5 at 1.0 wt
- Fundamental miscalculation of real costs of law teaching
  - unfortunate law school sample selection?
  - included legal studies in cost calculation?
  - CALD has sought between 1.6 (computing, languages) and 2.2 (engineering, science)
- *pace* DEET, RFM widely applied for internal resource distribution

# HECS

- 1989: flat rate contribution for all students
- 1996 Budget introduces 3 HECS bands
- Law placed in Band 3 along with medicine, dentistry and veterinary science (all RFM cluster 5 courses)
- general increase in student contrib'ns (40% average; Law by 122%)

# HECS

- Rationale for banding? Course costs and average graduates earnings
- Law's unique outcome: highest charge band and lowest funding band
- HECS banding has no funding consequences for Law (not paid to universities)

# Backing Australia's Future (2003)

- BOG replaced with CGS comprising
  - CCC by 12 discipline clusters *and*
  - HECS imposed by universities in range of 0-130% of current HECS
- CCC determined by agreed discipline mix, *precisely* (internalisation effect)

## BAF

- Confusion re basis for CCC but  
semble CCC represents shortfall  
between standard 2005 HECS and  
implied RFM differentials
- thus CCC replicates RFM in  
conjunction with standard HECS
- CCC preserve RFM anomalies-
  - eg, \$7,392/\$4,937 for computing/math

## BAF

- CCC per EFTU range from \$1,509 for Law to \$16,394 for Agriculture
- At standard HECS, a Law student will pay 81% of total course funding; at maximum HECS (130%), 85% (105% of total funding at standard HECS)
- For all other courses in HECS Band 3, the figures are 29% and 35% respectively
- For humanities courses: 48% and 55%

# BAF funding: issues for law

- Unfairness for law students: subsidy discrimination most acute for Law
  - simply restores RFM but with
  - law students likely to meet their full teaching costs
- Inadequacy of implicit justification-average income of award holders
- CCC confusion: may be seen by universities as course cost measure

## BAF funding: issues for Law (ctd)

- the RFM straitjacket: need for transparent updating of relative teaching costs (not simply historical but normative choice)
- Inbuilt pressures for HECS increases above standard HECS and for fee-paying UG enrolments
  - internal distribution issues since HECS *implicitly* shifted from tax to funding

# BAF's consequences: overview

1. Access to legal education
2. Quality of legal education
3. Graduate destination outcomes

# Access to legal education

- Relatively poor rep'n of disadv'd in law schools, especially low SES
- Concentration of those from low SES and from families new to higher education in newer law schools
- Deterrent effect of 1996 changes on low SES participation in Band 3 courses / *over*

## Access to legal education: DEST study

- ‘No apparent adverse effect’ of diff<sup>1</sup> HECS on low SES overall, *but*
- 22% fall in share of Band 3 students among commencing students in 1996-2001
- 38% fall in male low SES in Band 3, from 300 to 200 students; females steady
  - high law proportion in Band 3

*Source:* Aungles et al, 2002 (DEST)

# Quality of legal education

- Staunching effect of RFM upon quality amelioration post Pearce
  - Pearce modeled better resourced law schools
  - RFM shaped 3<sup>rd</sup> wave schools away from Pearce's reforms

## Quality impacts (ctd)

- Arrested teaching developments
  - professional skills
  - interactive teaching, not lectures
  - clinical legal experience
  - Library/ IT/ computer based research skills
- Internal distribution of CCC *plus* HECS
  - uncertain in light of history of HECS as tax

# Graduate destination outcomes

- Justification for Law's Band 3 is high average incomes of LLBs
- But average conceals diversity of graduate destinations and incomes
  - active community, suburban, legal aid sectors

## Graduate destination outcomes (ctd)

- High debt channels graduates into better paid legal work
  - from social and personal plight lawyering to commercial sector
- US school debt remission for public interest work
  - less well developed community, legal aid sector
  - remission not feasible here

# Combined effects of BAF, diff HECS and RFM

- strengthen further the socially advantaged character of law student populations
- cluster the declining proportions of disadvantaged law students in the newer schools
  - whose resources may well decline under BAF because of HECS competition
- channel law graduates into destinations that further concentrate access to legal resources

## Combined effects (ctd)

- entrench inadequate resources for legal education through RFM
  - uncertain ability of schools to achieve RFM through standard HECS
  - also, signalling of CCC as a course cost measure, with severe internal distribution risks

# Why the post-1996 changes?

- To depress law graduate numbers?  
(Coulston, 1996)
- To transfer student preferences to, eg, science?
- To return the LLB to a purely professional qualification?
  - but Law graduates have not moved far from professional destinations