TAFE Directors Australia 2015 Conference
Panel Discussion – The Regulator, the RTO, the broker and the lawyer – with apologies to Peter Greenaway

Regulation – shining light into dark places

“A course is a life decision, not a gym membership” – Gerard Brody

“About 40% of all money lent to students in vocational courses will never be recovered” – Andrew Norton

The concept of ‘shared responsibility’ and shared reward is one that is readily applicable to the vocational education and training (VET) sector. Regulators, providers and third party operators all have a role to play, albeit at differing levels.

The recent focus of VET reform on contestability combined with deregulation of the market has led to a greater onus on the role of our regulators. Some commentators see greater regulation as the answer to the increased prevalence of quality issues and unethical practices within the sector. There are, however, only so many rules and restrictions which can be applied and policed. It can be argued the answer lies in front-end, targeted auditing of our RTOs whose primary focus must be quality and completions rather than enrolments and quick returns.

The recent realignment of ASQA’s responsibilities, particularly in the VET FEE-HELP space, is in accordance with this approach. Enhanced information services for new market entrants and greater self-regulation for the proven players allows ASQA to focus on critical areas and operations, unburdened with an onerous auditing regime.

Some see the solution in a return to a TAFE dominated VET market. The public provider certainly has a key role to play. The final report of the House of Representatives Standing Committee on Education and Employment into TAFE and its operations conducted in 2014 advocated for COAG to develop a value statement for TAFE which would recognise that the ‘affordability and accessibility of the training market is underpinned by a strong public sector provider’¹. The Statement would also acknowledge the unique elements TAFE provides to the VET market including coverage of thin markets, foundation skills, second chance training and the delivery of community service obligations across all population centers and groups.

Interestingly, the recent review of VET funding conducted in Victoria acknowledges that ‘if properly implemented, contestability has the ability to drive innovation, efficiency and improvement...’² with the review outcomes predicated on the continuation of the contestable system.

¹ House of Representatives Standing Committee on Education and Employment Report on the inquiry into TAFE and its operations TAFE: an Australian asset, forward xvii
² State Government Victoria VET Funding Review – Issues Paper p 1
What has been evident both in recent Parliamentary Budget Office (PBO) projections and the Competition Policy Review is there will be an ongoing decline in our terms of trade with the levels of government spending experienced over the last decade simply unsustainable.

This has particular reference to the human services sector which, by its sheer size, means even small gains in productivity, driven by competition, provide substantial benefits and savings to government. The clock can never be fully rewound. Contestability and competition for VET are here to stay and as the market continues to develop and mature and appropriate levers are applied by government, through regulation, or consumers through choice, the issues which have inevitably arisen through these reforms will be managed and rectified to ensure the right outcomes can be achieved.

Key to effective market outcomes for the VET sector is well-informed, discerning consumers through access to relevant and timely information. Ongoing improvements in information services are continuing at both a federal and state level in recognition that VET students are now required to navigate a highly competitive further education and training market. Students are being given a greater voice through the publication of their training experience and employment outcomes on the my.Skills website from December this year. The Victorian review is also recommending a star rating system for RTOs. This will provide students with clearer, relevant information, including the identification of poor, low quality operators. Students are purchasing a product and in this regard it can be seen as a similar exercise to obtaining gym membership. Choice will be based on lifestyle, reputation, quality and price. The consumer, if their decision is to be sound and long-term, must take the necessary time to research and compare all relevant products and select that which best suits the outcomes they are seeking.

There are lessons to be learned from the ongoing reforms of the VET market. Regulation has a role but is not the cure-all – all elements of the market must be accountable. What has been evident is that market expansion needs to be conducted in a measured and considered way. The Australian VET sector has a proud history and enviable national and international reputation. The actions of a few rogue operators cannot be allowed to colour the entire system.

Accordingly, should there be a role for the ‘lawyer’? Many would argue if the lawyers are involved there will be no winners, only more, very painful lessons to be learned. If poor and/or unethical operators are unable to flourish within the market, there is no role for the lawyer. Far better to have a system which will not enable the likes of Vocation than to undertake costly litigation which will not alter the fact that government, students and the sector as whole have lost.

The importance of education cannot be understated and opportunities to access training cannot be wasted. It is therefore the collective responsibility of all players to do their part to ensure the sector provides training which is accessible and of high quality and which will lead to the successful attainment of the right skills and qualifications for excellent employment outcomes.