Dear Dr Holland

Inquiry into the National Vocational Education and Training Bills 2010

We refer to the recently announced above inquiry and the invitations to our two organisations to make a submission to it by March 1st. Given the short time-lines, we wish in the first instance to jointly raise for the Committee’s attention a number of high-level concerns we have related to substantive matters of principle underpinning the Bills. We also wish to address the processes of the Committee inquiry.

Matters of Principle

1. Alignment of TEQSA and the NVR

Our organisations have been informed by the Minister that the Government remains committed to a single tertiary regulator in the future. In this context it would appear eminently sensible for there to be as much alignment as possible in the legislative architecture, principles and obligations establishing both the Tertiary Education and Quality Standards Agency [‘TEQSA’] and the National Vocational Education and Training Regulator [‘NVR’] as well as the administrative and regulatory frameworks within which these bodies are to operate.

Our organisations view the principles and processes being undertaken to establish TEQSA as being significantly at variance to those underpinning the establishment of the NVR.

2. Regulatory Standards

Our organisations have significant concerns with:

- the lack of transparency about the content of the Standards that are being proposed,
- the lack of significant stakeholder involvement in the development of the Standards, and
- the adequacy or appropriateness of the ‘Standards’ for the new regulatory system proposed to be administered by the NVR.
As a minimum, the Standards must be broadened to include:

- that NVR RTOs have as a primary or significant purpose, the education and training of students;
- that NVR RTOs are required to also act in the best interests of their students and not purely in the best interest of shareholders or the company or the purchaser of the training per se;
- that NVR RTOs be subject to prudential regulatory control so that students are guaranteed continuation of their study/training programs irrespective of the financial exigencies of the business environment their NVR RTO might find itself in;
- that the conditions for registration of NVR RTOs are broadened to require demonstration of the adequacy of their physical and human resource infrastructure AND the educational viability including educational governance structures;
- that the NVR is obliged to assess the teaching and training standards, practices and procedures of a NVR RTO and not just whether the outcomes can be checked off against the required accreditation standard.

We note that the above matters are well-covered in the TEQSA documentation, which could be usefully used as a model for the NVR.

3. Non-referring States

Two states have currently indicated their operations will not be subject to regulatory control by the NVR and will not be signatories to the Intergovernmental Agreement underpinning the Bills. Our organisations believe that efforts to secure the agreement of these two states should be redoubled. Differences in approach should be worked through until agreement is reached so that a truly national approach can be achieved. If the two states have more rigorous approaches to regulation than is proposed by the NVR then these should be adopted by the NVR.

4. Provider Category Standards

The NVR would ideally have coverage of well over 5,000 RTOs. Our organisations believe that, consistent with and building on the TEQSA process, provider categories should be introduced to enable students to make more informed choices. Such categories might relate to the breadth, depth and capability of the providers concerned.

5. The International Student Market

The international student market has been seriously damaged, with quality of provision being a key contributing factor. Our organisations therefore convey as a separate concern, but one that is related to all of the above, the need for the NVR and TEQSA to work closely together to do everything in their power to restore this situation, including the issue of student visas. The current situation with lack of disclosure and consultation on the risk platform under NVR is not conducive to this occurring.

Matters of Procedure

The timeline established for submissions to the Inquiry is effectively 2 weeks. Our organisations request that the Committee commit to scheduling a day of hearings and invite interested stakeholders to appear before it. At these hearings our organisations would expand in detail on
the points raised above. We draw attention to the fact that there have already been two full days and one half day of stakeholder consultation on the TEQSA Bill and can see no reason why consultation on the NVR Bill should fall so far short of these arrangements. We are of course prepared to appear anywhere at the Committee’s convenience. But given that the lack of stakeholder consultation was at least one reason for the reference of the Bills for inquiry by the Committee, our organisations consider it imperative that stakeholders be afforded the opportunity to appear in person.

Yours sincerely

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