



TDA POSITION ON THE NATIONAL VET REGULATOR

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1. INTRODUCTION

- 1.1 TAFE Directors Australia (TDA) acknowledges the opportunity to have been involved in the recent consultation process for the draft National VET Regulator Bill 2010.
- 1.2 However, TDA wishes to record the views of its representatives at the meeting, who found the process adopted to be limited and not conducive to obtaining frank and considered feedback. This view was also shared by other stakeholders present.
- 1.3 On the other hand, TDA representatives who attended the recent consultation on the Tertiary Education Quality and Standards Agency (TEQSA) Bill commended DEEWR for the open and receptive style in which the process was conducted, even though the same confidentiality requirements applied.
- 1.4 TDA understands that the legislation will be tabled in Federal Parliament when the transferral of powers from the States has been completed.

2. BACKGROUND

2.1 An Over-Supply of Providers and Inadequate Regulatory Resources

TDA maintains that the current VET sector has too many providers for the scope of activity involved and insufficient regulatory resources to ensure quality. The following points support these arguments:

- The latest listings for the VET sector show that there are 5,001 Registered Training Organisations (RTOs) across Australia of which 59 are public sector TAFE institutes. At 1% of the total number of providers, TAFE institutes account for about 85% of accredited training in the sector. In 2009, the total number of students undertaking publicly funded training was 1.7 million. Of those 1.7 million students, just over 1.3 million studied at a TAFE or other government provider, 151,900 studied at a community education provider and 230,200 studied with a private training provider. By an admittedly crude calculation, this means there are around 4,942 providers for 15% of accredited delivery or 400,000 hours of government-funded training.
- The 5001 RTOs are currently registered and audited by the relevant state and territory regulatory authorities. For example, the Victorian Registration and Qualifications Authority employs 50 staff for its registration, accreditation and quality assurance functions that cover schools, VET and Higher Education. The VRQA is responsible for around 1200 RTOs of which 17 are TAFEs. Even if all the VRQA's resources were devoted to regulation of RTOs – which they are clearly not – this would be a ratio of one staff member for every 24 providers.
- There are currently 192 Higher Education Providers with the 39 universities (20%) accounting for 95% of the student load. The current Australian Universities Quality Agency (AUQA) employs approximately 45 staff, a ratio of around one staff member for every four providers.

- If the same ratio were to apply nationally for VET as for AUQA, the regulatory agency would employ 1,250 staff. The VRQA would employ 300.
- According to the National Education Directory 2010, there are 9,831 schools in Australia, including all primary and secondary schools and covering government, Catholic and independent, to service the whole of the school age population. In 2008, these schools catered for around 3.3 million students, 1.9 million primary and 1.4 million secondary, the vast majority of which are full-time.

While TDA appreciates Government's desire to promote competition, the situation in the VET sector is clearly out of control and proved to be a major contributor to the collapse of the international education market. TDA looks to the National VET Regulator to address this situation.

2.2 TDA's Blueprint for Australia's Tertiary Education Sector

In its comprehensive *Blueprint for Australia's Tertiary Education Sector* (hereafter the *Blueprint*), TDA set out nine key position statements relating to the development of Australia's tertiary sector. These were designed to provide a broad framework for the qualifications and organisational structures required to meet Australia's domestic needs, particularly the successful achievement of the COAG targets and improvement in national productivity, and so position Australia competitively in the global education landscape.

Four of TDA's nine positions are particularly relevant in considering the future regulatory environment. TDA endorsed:

- The definition of tertiary qualifications as 'those at diploma level and above, including where these qualifications may embed pathways from the qualification level below'. (Position 2)
- The creation of a set of more unified tertiary education protocols incorporating new nomenclature for a wider range of organisational types and facilitating a single approval process for institutions operation in both Higher Education and VET (Position 4)
- Progressive movement towards a single tertiary regulator framework (Position 5)
- A strong interim National VET Regulator comprised of technical experts, rather than being representational; operating within a risk framework; and with legal and policy structures aligned with TEQSA (Position 6).

The extent to which these positions will be advanced by the National VET Regulator Bill is therefore an important yardstick for developing this response.

3. TDA'S POSITION

3.1 Characteristics of the National VET Regulator

TDA has promoted its policy position in relation to the National VET Regulator in a variety of forums, calling on Government to ensure that it:

- be appropriately resourced to undertake its roles and functions and guarantee a quality system
- have a Board comprised of technical experts rather than be representational
- be supported by all States and Territories with continued attempts to resolve any difference that prevent this from occurring
- move away from a 'one size fits all' regulatory approach by implementing more timely and appropriate risk orientated processes and procedures
- have the authority to implement intervention and preventative procedures, particularly in relation to the international market. (*Blueprint* p 23)

TDA has also argued that for the new regulatory framework to be effective there should also be:

- A review of the Australian Quality Training Framework (now underway)
- A review of the appropriateness of Training Packages as the curriculum currency of the VET system, especially at the Diploma and Advanced Diploma levels.

3.2 One Tertiary Regulator

A key consideration for TDA in promoting its goal of moving towards a single tertiary regulator is the extent of alignment between the National VET Regulator and TEQSA so that a merging in due course could be as smooth as possible. This is important in several critical respects:

- In the *Blueprint*, TDA put the view that the dominant consideration in moving towards a single tertiary regulator should be to improve the opportunity for students to move in both directions between VET and HE study according to their capacities and aspirations at different stages of life.
- TDA also outlined the case for institutions operating in both Higher Education and VET to be subject to only one approval process and welcomed this point being endorsed and emphasised by Bruce Baird in his report '*Stronger, simpler, smarter ESOS: supporting international students*', March 2010.
- Australia's reputation in the international market has been considerably damaged. The introduction of a single, rigorous and coherent regulatory framework is a key step in repairing this damage.
- TDA understands that, while the states and territories have made their decisions about the establishment of the two separate bodies, there is as yet no formally declared position about the merging of them. Lack of alignment will not assist this situation.

The merger of the National VET Regulator and TESQA has been described separately by the Interim Chair National VET Regulator and the Interim CEO TEQSA in public forums as 'aspirational' and not a first order priority. This is small cause for optimism.

In recognising the constitutional issues which necessitate the different legislative approaches to establishing the National VET Regulator and TEQSA, TDA believes it is all the more important for the two bodies to work extremely closely. There is a danger that these differences will act as a disincentive to alignment or, at worst, a convenient rationale for increasingly incompatible approaches.

In this regard, the confidentiality requirements of the parallel consultation processes for the pieces of legislation are not ideal, since features and changes may be agreed in one process that are not considered in another. For example, during the TEQSA consultation process, considerable modifications were agreed to with a small group of university representatives which may or may not be consistent with changes that emerged from the earlier VET consultation process.

TDA is therefore only in a position to comment on the alignment of the two from the point of view of principle.

Based on the elements of the draft National VET Regulator Bill 2010 and consistent with the *Blueprint*, TDA would expect alignment in both agencies in at least the following key areas:

- A commission structure with the CEO being the Chief Commissioner
- Commissioners being independent and appointed on the basis of their expertise rather than being representative, with the possibility of some overlapping of Commissioners between the two agencies
- A risk management approach to regulation that balances proportionality with appropriate powers and which is based on individual provider capability rather than provider category
- Emphasis in the Objects of legislation on the importance of meeting labour market demands, on currency with practice in the relevant industry/field of study and on equipping students for a global future
- Comparable fee structure, that is based on cost-recovery and which would benefit from greater efficiency when the two agencies merge
- Consistent conditions of service for Commissioners and employed staff in the two agencies
- A consistent approach to the separation or otherwise of the regulatory and standard-setting roles in the two sectors.

With regard to the last of these, TDA welcomes the proposed continued separation in the VET sector of the regulatory and standard-setting roles as a means to preserve the integrity of the system. In the event of the Higher Education and VET regulatory agencies combining in future, the inclusion of the two standards bodies in the same structure as the regulatory bodies would be cumbersome and potentially unduly compromise their independence.

4. CONCLUSION

- 4.1 TDA supports the establishment of a single National VET Regulator with the characteristics outlined in 3.1 above as an interim step towards a single tertiary sector regulator.**
 - 4.2 TDA recognises that there is much to be done to improve the regulatory environment in the VET sector before integration with TEQSA will be perceived as possible. This will include support from all States and Territories, much more rigorous and consistent processes, better matching of the resource levels with the number of providers and possibly a reduction in the number of providers in order to achieve this.**
 - 4.3 The differing constitutional bases of the National VET Regulator and TEQSA should not be allowed to prevent maximum alignment of the two agencies from the outset, so that merging of the two agencies is possible in due course.**
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