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Branch Manager  
International Quality Branch  
International Group  
Department of Education, employment and Workplace Relations

14 April 2010

**Re: Proposed amendments to ESOS Regulations**

Dear Tulip,

Thank you for the opportunity to comment on the proposed amendments to the ESOS Regulations as set out in your letter dated 30 March 2010.

TAFE Directors Australia (TDA) would like to make the following observations and comments:

1. Requiring providers to only use education agents who:

- Belong to a professional association where one exists
- Have completed an appropriate training course
- Comply with their home country requirements

TDA supports the intent of this amendment but has some concerns over the implementation of such a regulation. What penalty would apply if providers did not conform? Would penalties apply if all three criteria were not met or if just one or two criteria were not met?

Who would be responsible for identifying the appropriate home country requirements and monitoring these on an on-going basis? Who would determine what is an appropriate training course?

2. Introducing financial penalties for providers whose offshore agents act unethically

Additional detail on how such an amendment would be framed and regulated is needed before we can support such a change.

Who will set the standards by which unethical actions are judged and who will carry out the appropriate level of investigation before any penalties apply?

How will financial penalties be structured? Will there be a sliding scale based on the severity of the action?

On the basis that an Agents Register is to be established by each provider, TDA would prefer an amendment which deregistered the agent if unethical behavior was proven. This in itself should act as a financial penalty for providers who have been using their services.

The use of a non-registered agent should be grounds for losing CRICOS registration.

3. Disclosure of agents' commission structure to both students and regulators

TDA supports the intent of this amendment but it needs to include any other forms of payment to agents which would not normally be considered as commission such as reimbursement for marketing and promotion expenses, participation in education fairs etc. This will ensure full disclosure of the financial arrangements between providers and agents and prevent any attempt to spread commission fees across other income generating activities

4. Prohibiting the payment of any commission or inducement to anyone for securing the transfer of any currently studying onshore international students

TDA supports the intent of this amendment

5. Requiring providers to have a written agreement with all agents before they accept any students, if there is a minimum of 10 referrals within a six month period

TDA supports the intent of this amendment

6. Standard agent-provider agreements to include additional information, for example details of course information provided to students and the content of any provider promotional material which is distributed to agents

TDA supports the intent of this amendment. In addition, TDA would like to see specific regulations relating to the content of advertisements promoting agent services and study in Australia.

7. Providers to keep up to date records of their accepted students' academic progress and to give this information to DEEWR at any time on request. These records to be available to students at any time and in the case of provider non-compliance or default, to be provided by DEEWR on receipt of a written request from the student.

TDA supports the intent of this amendment noting all TAFE institutes are already required to maintain accurate and up to date records on all students' attendance and achievement and to make these available to students on request.

We look forward to further discussions as the detail of the amendments is drawn up.

Yours sincerely



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