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Tim Watling
Committee Secretary
Senate Education, Employment and Workplace Relations Committee
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Dear Mr Watling

Submission to the Senate Inquiry into the Tertiary Education Quality and Standards Agency (TEQSA) Bill(s) 2011

Universities Australia, the peak body for Australia's universities, welcomes the opportunity to provide this submission to the Senate Education, Employment and Workplace Relations Committee's inquiry into the Tertiary Education Quality and Standards Agency (TEQSA) Bill 2011 and the Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Bill 2011.

The Universities Australia position, stated many times publicly, is that we support the establishment of TEQSA as a national regulator and one that takes a proportionate approach to the management of risk. The current pattern of State-level regulation has operated unevenly, and a national body will assist us to project the quality, strength and integrity of the Australian higher education system at home and abroad. To ensure this, we support the national regulator "having teeth", including the power of de-registration.

Over the last three months, Universities Australia representatives have been engaged in regular and intensive discussions with Commonwealth representatives – both from the Department of Education, Employment and Workplace Relations (DEEWR) and with the interim chair and chief executive of TEQSA – regarding the TEQSA legislation. These discussions began at the level of objectives and principles, and then progressed to mechanics and operational matters.

This is important, complex legislation for Australia, and Universities Australia has welcomed the opportunity to work through the issues with the Commonwealth. In developing our own ideas to put to Government, Universities Australia has involved our Board, as well as other Vice-Chancellors, Deputy Vice-Chancellors, Registrars, and senior university corporate finance and legal officers. The positions developed represent a very high level of accord amongst all member universities.

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We welcome the fact that the Government has been open to discussion and listened to our concerns. For us, a prime objective has been to ensure that the legislation is tailored to its context (that is, higher education and universities) and does not replicate an “off the shelf” regulatory model developed for other sectors. This was certainly a matter of great concern at the outset of discussions.

After several months of consultation and negotiation with DEEWR and TEQSA, Universities Australia is now of the view that the TEQSA Bills are sound and workable, though this position remains subject to caveats.

Most important is the issue of self-accreditation. Self-accreditation – referring to academic autonomy in relation to courses and degree content – is a central characteristic of true universities around the world in their role as long-standing independent centres of knowledge and learning. This in turn underpins distinctive public benefits for our society. It is an issue we believe to be both symbolic and substantively important. At present the main TEQSA Bill does not directly reflect universities’ self-accrediting status, and we are unsure as to what precise form it may appear under in the Provider Registration Standards.

On this matter, Universities Australia is concerned that TEQSA’s powers regarding accreditation (under sections 32 and 33 especially) may pose an unwarranted potential for intrusion into a university’s autonomy as provided by State legislation. The Bill does provide for consultation between State ministers and TEQSA when TEQSA seeks to make changes to university operations, but the overall implications of the Bill for university autonomy remain unclear.

There are also concerns that the Bill does not adequately delineate the States’ powers to establish universities through legislation and TEQSA’s power to register them, or define the process to be followed should there be conflict between them (i.e. if a university is established through a State Act but refused registration by TEQSA). While such a conflict is considered very unlikely, the potential for it to happen suggests that more work needs to be done in this area.

Finally, Universities Australia wishes to express disappointment that the development of the TEQSA Bill has not travelled in parallel with the development of the five-part standards framework which will underpin much of TEQSA’s activity. At this time, only one part of the proposed standards framework is complete (being the Qualifications Standard) and one other has entered a consultative stage (the Provider Standard). The remaining three standards are yet to be revealed in even draft form. Due to this, Universities Australia and other stakeholders have been required to comment on the TEQSA Bill from a background of some ignorance regarding crucial aspects of TEQSA’s operation, and it certainly would have been better for all parts of the TEQSA package to have been available together.

The further development of this standards framework must therefore proceed with full consultation before it is to be finalised.

Critically, TEQSA’s success requires a framework that further supports the contribution of universities to national objectives. Such a framework will ensure that the new organisation will act in a responsible, reasonable and efficient manner that is properly reflective of risk and public benefit.

Universities Australia will be very happy to expand on these points through further submissions or through appearing before the Committee.

Yours sincerely

Professor Peter Coaldrake AO
Chair