

SUBMISSION TO THE SENATE INQUIRY

TERTIARY EDUCATION QUALITY AND STANDARDS AGENCY BILL 2011

Introduction

While South Australia supports the establishment of a national regulator for higher education and sees it as a positive development in achieving quality and national consistency in the sector, we wish to raise several substantive policy and governance issues in establishing TEQSA.

The Making of the Higher Education Standards Framework (s58)

South Australia continues to be concerned with the extent of the role of the Commonwealth Minister in establishing the standards for higher education providers and the relegation of the Ministerial Council for Tertiary Education and Employment (MCTEE) to, at best, an advisory role.

The *Tertiary Education Quality and Standards Agency Bill 2011* (the Bill) at Part 5, Division 1, s.58 describes the making of standards. Through this section of the Bill, responsibility for the development and approval of the standards will move from MCTEE to the TEQSA Standards Panel and the Commonwealth Minister. The Bill includes MCTEE as a point of consultation only.

Given MCTEE's ongoing strategic role in setting the national policy agenda for higher education, (subject to the priorities of the Council of Australian Governments) we would argue that MCTEE's role in both the development and setting of standards be strengthened in the Bill. In this regard, we recommend that the s168: Functions [of the Standards Panel] also be reviewed and the role of MCTEE in the consultation processes of the Panel be included.

We would also recommend that s3 Objects; include a statement that clearly articulates the principles /philosophy for the setting of standards.

Higher Education Standards Panel (Part 9)

South Australia's preferred position is for the complete separation of standards setting from regulation as is the case in the Vocational Education and Training (VET) sector, where the National Standards Panel will be a separate entity from the National VET Regulator. The Commonwealth's position that the Standards Panel will be a statutory committee within TEQSA is acknowledged but not supported.

Of ongoing concern is the lack of any clear statements regarding the *independence* of the Standards Panel. Inclusion of clauses in Part 9, Division 2, s. 170 (2) of the Bill that a Commissioner cannot be appointed as a Panel member or act as a Panel member is acknowledged. However, we would argue that this does not go far enough in addressing the fundamental independence of standards setting from regulatory operations. Noting s135 which explicitly states the independence of TEQSA we would recommend that that Part 9 of the Bill be revised to include an equivalent clause to make explicit the independence of the Standards.

As suggested above with regard to the setting of standards, the principles for the independence of the Standards Panel could also be included in s3: Objects.

Establishment of universities

State universities, whether public or private, are established under State Acts and it is our view that this will continue to be the case. The current construction of the Bill includes consultation for certain regulatory activities related to universities (see for example s20) but implies that regulation takes precedent over the process of establishment. We would argue that both processes are equally necessary and that the Bill should provide a structure within which the mutual requirements for the establishment (State responsibility) and registration (TEQSA responsibility) of a new university (whether public or private) are appropriately accommodated.

It is further argued that the Bill and draft Provider Standards do not adequately cover processes to support overseas universities who may wish to operate in Australia. This is of particular concern as South Australia is the only State to currently host overseas universities and it is important that in establishing a national regulator for higher education that we do not hamper the attraction and success of international universities in Australia. To that end it is important that an appropriate consultative and operational framework for TEQSA that addresses the process of registration of providers seeking to operate here at the invitation of the State Government be established.

Operational framework for TEQSA

While not directly related to the content of the Bill, South Australia holds further concerns over the business operations of TEQSA and the absence of any detail about whether TEQSA will have state offices or operate entirely from Melbourne. Locally, the *Training and Skills Development Act 2008* charges the Department of Further Education, Employment, Science and Technology with the regulation of approximately 28 higher education providers. There is significant and complex regulatory work in this State and the absence of a local office in South Australia is likely to hinder responsiveness to regulatory requests (as in instances of new training provider entrants).

Concluding remarks

Universities and other higher education providers in South Australia, as in other jurisdictions, contribute significant social and economic benefits to the State. As such, it is vitally important that national regulatory reform in the sector provides an effective platform and operating environment that enables both universities and tertiary education providers to thrive.

South Australia retains in-principle support for the establishment of TEQSA and is keen to ensure that the new regulatory arrangements reflect a genuine partnership between the Commonwealth, States and Territories to guarantee the quality and stability of the higher education sector in the future.

8 April 2011