



5th May 2014

Ms Julia Agostino
Secretary
Senate Education and Employment Legislation Committee
Po Box 1600
Parliament House
CANBERRA ACT 2600

Dear Ms Agostino

**Submission to the Senate Education and Employment Legislation Committee Inquiry into the
Tertiary Education Quality and Standards Agency Amendment Bill 2014**

We welcome the opportunity to provide the Committee with our perspective on the proposed amendments to the Tertiary Education Quality and Standards Agency Act 2011 (the TEQSA Act).

The Council of Private Higher Education (COPHE) is a peak body of private higher education providers.

COPHE member institutions operate from more than seventy campuses across Australia, and offer a diverse range of courses at undergraduate and postgraduate levels which include research degrees. Three members are universities and two others are self-accrediting.

Our members are typically institutions of long standing in the higher education sector and have been through multiple cycles of registration and accreditation. Prior to TEQSA, our members were accredited by state agencies, the standards for which varied considerably despite the implementation of the National Protocols.

COPHE advocated strongly for a single national higher education regulator and welcomed the establishment of the Tertiary Education Quality and Standards Agency (TEQSA) as the national body responsible for registering higher education institutions and accrediting courses of study.

While universities have complained loudly about their issues with TEQSA, the pressure and workload on non-self-accrediting providers has been very heavy, particularly in the early stages of establishing the new regulator. We are pleased to note that gradually the process has improved and the backlog has shrunk. These amendments to the TEQSA Act will improve it further.

Equity | Choice | Diversity

The Review – Professor Kwong Lee Dow AO and Professor Valerie Braithwaite

The previous Government commissioned the Review of Higher Education Regulation (The Review) undertaken by Professors Kwong Lee Dow and Valerie Braithwaite to address concerns about the effectiveness of TEQSA in the Australian regulatory framework.

Professors Lee Dow and Braithwaite produced an insightful and helpful report in a very short time frame. We were pleased with the recommendations in the report and welcomed the endorsement of them by Minister Pyne.

We would want to acknowledge that TEQSA had recognised the need for reform in early 2013 and has been active since in the development of improved processes informed by extensive consultations undertaken with our members and others in October and November 2013.

The findings of the Report of the Review were also informed by extensive consultations, including those with our members and many other stakeholders in the sector.

Quality (Thematic) Assessments

While it is important for TEQSA to maintain a significant role in collecting and analysing data as part of its regulatory function to support quality improvement in higher education, we agree with the Review that the thematic assessment function should be removed.

TEQSA should be in a position to report broad higher education quality issues it identifies to the Minister who can then undertake whatever review is called for using the most appropriate resources available which may be administered through the Department.

Delegation of Decisions

We support provision in the legislation for the effective and appropriate delegation of regulatory decisions within TEQSA. All decisions are not of the same magnitude and every decision having to flow from the Commissioners has slowed decision making and held back the contribution by professional staff to the process.

TEQSA has now assembled a highly competent group of higher education professionals who are well qualified to keep processes moving.

The proposed access to internal review mechanisms should allow timely redress for decisions that are disputed without the need to access the Administrative Appeals Tribunal.

Extension of Accreditation and Registration Periods

Providing TEQSA flexibility in this area is sensible and sound.

In practical terms, what it does is give TEQSA the ability to negotiate a scope of work with a provider, align the timing of a re-registration or accreditation process so that the timing is not driven simply by a date that is fixed from the previous approval date. It means efficiencies for the provider and the regulator.

Courses need to change over time and, as a new course replaces an old one, there is a need for the provider to 'teach out' the typically few remaining students in an old course. The ability to extend accreditation in such a situation makes good sense for an experienced institution seeking to do the 'right thing' by students.

Another example is the ability that TEQSA, as the responsible agency, to align dates for compliance under the TEQSA and ESOS Acts. Currently they do not.

The Appointment of Commissioners

COPHE supports the changes proposed in the context of the appointment of both a CEO and a Chief Commissioner with separate roles.

Appointing both a Chief Commissioner and a CEO

Separating the two roles should enable TEQSA to separate the day-to-day administration of TEQSA from policy regulatory decisions and leadership of the agency. This, however, is not a structure that aligns with the more typical board and executive separation of responsibility in corporations.

We are unsure of the consequences if the Chief Commissioner and the CEO were in disagreement or how it would be resolved. We have however, no expertise in the requirements under the Financial Management and Accountability Act 1997, the Public Service Act 1999 or other applicable legislation.

Notifying Providers of Decisions

The amendments provided in the legislation simplify an aspect of TEQSA that has seemed to be mired in legal complexity, and as such, the amendments are to be welcomed.

Ministerial Approval for Fee Determinations

Most of the fees collected by TEQSA come from non-university HEPS. We have examples of members with less than 100 students paying \$70,000 in a year and 500 students paying \$240,000.

We note TEQSA is a partial cost recovery agency, though how this applies has not been made clear.

We welcome further oversight and will appreciate discussion of how costs may be better managed.

Scope

The amendments proposed clarify the ability of the Minister to give a general direction to TEQSA while still restricting the Minister from given direction regarding a specific institution.

We would be pleased to expand further on this submission if it will assist the Committee.

In summary, we support these amendments as underpinning an improvement in TEQSA as regulator and as an effective agency in dealing with our members who are committed to quality assurance in all their activities.

Yours sincerely

Adrian McComb
Chief Executive Officer