What are the regulatory challenges for tertiary education from a VET perspective?

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The new structural arrangements

TERTIARY EDUCATION QUALITY & STANDARDS AGENCY (TEQSA)
• 2000: AUQA commenced
• May 2009 – Commonwealth announced a new national regulatory & quality agency for higher education
• To ensure that students receive a high quality education at any of Australia’s higher education providers.
• Independent Commonwealth statutory authority

NATIONAL VET REGULATOR
• 1992: National Framework for Recognition of Training
• December 2009 COAG decision to establish a national VET regulator to
  - build confidence in the quality and consistency of assessment & training outcomes of VET qualifications
  - maximise consistency in application of national standards and regulatory activity in all jurisdictions
  - maximise consistency in the application of sanctions and the treatment of low quality RTOs
  - provide clear lines of accountability and responsibility for quality of VET
  - ensure a coordinated response to emerging quality issues in VET.
• All jurisdictions except Vic. & WA have agreed to (progressively) refer powers to Commonwealth
• Independent Commonwealth statutory authority
### Proposed functions of the regulators

**TEQSA**
- Set standards
- Register and regulate university and non-university higher education providers
- Monitor quality and carry out evaluations of standards and performance
- Protect and assure the quality of international education
- Streamline current regulatory arrangements

**NVR**
- Register RTOs & accredit courses provided by RTOs
- Conduct compliance audits of RTOs
- Advise and make recommendations to the Minister and/or Ministerial Council on VET matters
- Collect, analyse, interpret and disseminate (certain) information about VET
- Publish performance information relating to RTOs
- Enter into arrangements with occupational licensing bodies, other industry bodies, or both, for the purpose of ensuring compliance by nationally registered training organisations
- Develop key performance indicators (agreed by the Minister) against which the NVR’s performance can be assessed each year
- Develop service standards that the NVR must meet in performing its functions

### The market to be regulated

- A well functioning regulatory system will have unique design features shaped by the market that it regulates (McCann Report, August 2010)

- We do not have a clear national picture of the supply side of the market let alone the demand side or the central market dynamics of the market
  - and that affects the design of the NVR
Preliminary estimate of RTOs on Register by Scope of Qualification (exc. WA & Vic) as at 30 June 2010

- "Very Large" RTOs (>100 quals on scope): 76
- "Large" RTOs (50-100 quals on scope): 169
- "Medium" RTOs (5-49 Quals on scope): 1329
- "Small" RTOs (4 or few quals on scope): 1617

Preliminary estimate of the number of RTOs (exc. Vic & WA) as at 30 June 2010

- University - Non-Government Catholic: 0
- Australian Technical College: 4
- Equipment and/or product manufacturer or...: 4
- University - Government: 7
- Professional association: 20
- TAFE – Technical and Further Education...: 31
- School – independent: 79
- Other – not elsewhere classified: 80
- School – Catholic: 90
- Enterprise – government: 90
- Enterprise – non-government: 113
- Industry association: 182
- Community-based adult education provider: 190
- School – government: 268
- Education/training business or centre: 2056
Preliminary estimate of types of RTOs (exc. Vic & WA) as at 30 June 2010

- Private RTOs: 64%
- Schools: 14%
- Universities: 0%
- TAFEs: 1%
- ACE: 6%
- Enterprises: 6%
- Industry & Professional associations: 6%
- Other: 3%

Preliminary Estimate of RTOs Managed by a Delegate (e.g. School Curriculum Board, NARA etc) as at 30 June 2010

- University - Non-Government Catholic
- Equipment and/or product manufacturer or...
- University - Government
- Enterprise – government
- Community-based adult education provider
- Professional association
- Enterprise – non-government
- Australian Technical College
- Industry association
- TAFE – Technical and Further Education Institute
- Education/training business or centre: Privately...
- School – independent
- School – Catholic
- Other – not elsewhere classified
- School – government

Bar chart showing the distribution: 225, 72, 73, 92, 0, 0, 0, 0, 0, 0, 0, 0, 0, 0.
Preliminary Estimate of RTOs Managed by a Delegate as at 30 June 2010

- 134 (26%) Schools
- 372 (74%) Post-school RTOs

Challenge: positioning VET Regulation strategically in the landscape

- Policy settings
- Australian qualifications market
- Purchasing/funding arrangements
- Regulatory System
### Challenge: A large-scale and risky transition

**Deliver on expectations of**
- National consistency
- Greater market confidence
- Better quality outcomes
- Tough sanctions for low quality RTOs
- Clear lines of accountability and responsibility for quality of VET
- Greater public disclosure
- A coordinated response to emerging quality issues in VET

**while integrating**
- Information systems
- Business processes
- State & Territory regulator staff
- Different regulatory cultures and practices
- @ 5,000 individual RTOs
- Managing the implications of WA & Victoria decisions

**but building a new strategic platform**
- Organisational design & staffing
- Financial structure & budget framework
- New, regulatory model including a more sophisticated risk-based / problem solving approach
- A strong investigative and analytical capability and complaints capability
- Communications system
- Introducing new full fee system

**without negatively affecting**
- Students
- Industry
- Staff
- Providers
- Data security
- Service standards
- The integrity of the Australian Qualification
- Australia’s reputation for quality VET

**and meeting all NQC standards & conditions for the NVR itself**

### Challenge: Identifying the real risks and focusing on them early

- Teaching and learning assessment
- International students (on shore and off shore)
- Certificate IV in Training and Assessment
Challenge: What regulatory model?

- Direct or hierarchical ‘command-and-control’ forms of state regulation
  - Crude and ineffective (King 2007)
- Self-regulatory arrangements within ‘smarter’ or more ‘responsive’ forms of regulation (Ayres and Braithwaite 1992; Gunningham et al. 1998; Parker 2002).
- ‘Co-regulation’ –partnership of government and self-regulatory association in which the state recognises, reforms or licenses traditional professional or business sector controls over members (common pool resources; club theory)

The legislation is likely to require, amongst many other things...

- An effective model for regulation
- A responsive approach to regulation that is both strong and balanced
- Ongoing cooperation between all jurisdictions and the NVR
- Consultation and engagement with stakeholders
- Clear lines of accountability and responsibility for quality of VET
The rules of the AQTF obviously apply...

• Principles
  – Consistency
  – Effectiveness
  – Proportionality
  – Responsiveness
  – Transparency
• And in relation to
  – Audit consistency
  – Inter-jurisdictional auditing
  – Managing compliance
  – Handling complaints
  – Risk assessment
  – Industry body engagement

The Hampton Principles

• regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most
• regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take
• no inspection should take place without a reason
• businesses should not have to give unnecessary information, nor give the same piece of information twice
• the few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions
• regulators should provide authoritative, accessible advice easily and cheaply
• regulators should be of the right size and scope, and no new regulator should be created where an existing one can do the work
• regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection
What sort of regulator should we be? (without prejudice)

- Truly Independent
- More than the sum of the constituent parts
- Clearly positioned within the VET system
- Organised for results (ends) not processes (means)
  - Ensuring the integrity of an Australian VET qualification
  - Improving the learner’s experience of VET
  - Restoring public trust and confidence in the VET regulatory system
  - Contributing to an effective and efficient training market
- Responsive & versatile— one size does not fit all
- Public disclosure of regulatory decisions and audit findings
- Problem-solving regulation based on identification of important risks or patterns of non-compliance
- Analytic regulation
- Innovative regulation
- Generating a commitment to quality from those being regulated
- “Client” (?) and market focus but not at the expense of strong enforcement capacity
- Developing and driving a dynamic and reflective national regulatory culture

The Quality Indicators (Learner Engagement, Employer Satisfaction, Competency Completion)

AQTF Essential Conditions and Standards for Initial Registration (9 Conditions, 3 Standards)

AQTF Essential Conditions and Standards for Continuing Registration (9 Conditions, 3 Standards)

AQTF Standards for State & Territory Registering Bodies

AQTF Standards for Accredited Courses

AQTF Standards for State & Territory Course Accrediting Bodies

AQTF 2010 The VET Regulatory Framework