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***Red Tape or Gift Wrap:  
Regulation for exceptional tertiary institutions***

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When I was asked to speak at this inaugural conference I leapt at the chance.

Some people have the curious idea that the topic of regulation is somewhat... dry.

I take the opposite view. I say that regulation is the Chief Executive Officer's best friend!

That's at *least* as true as the old saying about a man and his dog.

Mind you, there are many dogs you wouldn't want as your best friend. Yappy ones, that won't let you get on with your work. Expensive ones, that keep the vet bills coming in. Vicious ones, that scare away the gardener.

And the same is true of regulations: they can slow you down, cost you money and limit your market.

Either because they were badly conceived, or simply grew old.

But get it right – and you have a healthier life and a happier home.

I have had the opportunity to consider what “good” regulation looks like from several perspectives.

First, as a student and researcher.

Second, as a developer of medical devices.

Third, as a journalist and commentator.

Fourth, as an architect of education programs.

Fifth, as a policy adviser.

Six, as Chair of the National Research Infrastructure Roadmap.

Seventh, as one of the three members of the Ferris, Fraser, Finkel Research and Development Tax Incentive review.

And now eighth: as the Chair of the National Electricity Market review.

In all of those roles, I have felt the frustrations of regulation done badly – and pursued the returns on regulation done right.

So I say with absolute confidence that TEQSA's role is vital to the future of higher education, just as higher education is vital to the future of Australia.

Nick Saunders understands this, as does Anthony McClaran. That's why they have been leading TEQSA to find just the right touch.

Where else would I rather be than the opening session of the inaugural TEQSA conference?

And I want to launch this event with perhaps a different message than we usually hear.

If you can forgive the pun, I want to repackage red tape – and unwrap the opportunity inside.

### **The global context – not just the Australian challenge**

And I'm going to pick up the thread with a short diversion to Sweden.

In June this year a Swedish university was sued by an American student for awarding her a 'worthless degree'.

Wait for it... the student won.

The court ruled that her course offered students "no practical value". The compensation was assessed at 20 thousand US dollars.

The course in question was "Analytical Finance" – which somehow taught the student enough to know she had been duded, but not enough to actually be useful. Clearly, a dangerous combination.

I hasten to add that I am unaware of any similar cases involving Australian universities. But it does raise questions about the purpose and direction of higher education at the heart of our deliberations today.

As a human institution, the university is almost one thousand years old – and for all that time, it has served us well. It has unleashed knowledge, empowered individuals and energised progress. And so it takes much of the credit for the shape of the world as we know it: a world in which change is constant, and knowledge is king.

But what is higher education's place in this world that knowledge has created?

What are the sector's responsibilities to all the people it serves: from students and staff; to business and the community; to science and society?

How do we, as leaders and administrators, make the countless small decisions that add up over time to transformational change?

When we talk about regulation, we are really looking for answers to these questions – and asking ourselves what we can reasonably expect.

### **The winds of change**

And "reasonable", in this context, could be settled in many ways. Who decides?

Is it the sector? Is it the students? Is it their parents? Is it employers? Is it government? Is it the market?

Is it some undefined balance of them all?

On any given topic, there will be multiple interests in play.

And the world won't wait whilst we work through the debate, any more than the tide will wait whilst we work out how to swim.

We all feel the headwinds of change, but let me put them briefly:

**ONE:** we are catering to many more students, with a broader spread of interests and abilities.

**TWO:** we have a globalising market of providers, giving students far more freedom to shop around.

**THREE:** new technologies are changing student expectations, bringing in new players, and opening up a whole new front for competition.

**FOUR:** there is growing pressure on public budgets, with clear direction from government to seek funding from private and philanthropic sources.

And **FIVE:** all of these changes are playing out in a TripAdvisor world, where everyone has an opinion, most of us have the means to comment, and many of us are calling for better metrics to assess those claims.

Put it all together, and yes – it's complicated.

That is the context in which we meet today to determine what best-practice regulation will achieve; in whose interests; and how.

### **Building on a platform of strength**

Let me repeat – it is the global context that counts.

In global terms, our universities have answered the call to change extremely well.

Let me pay homage here to the leadership of our Vice-Chancellors who for more than two decades have coaxed their massive institutions to embrace disruptive change, rather than succumb to it.

On any measure, our country is a destination of choice for international students.

We have maintained our quality brand through a time of unprecedented growth in domestic enrolments.

At the same time, our position in the international rankings has steadily improved.

High rankings and booming markets are more than just bragging rights, they are beacons that attract those with the ambition to truly excel.

So we ought to be proud of our achievements, and determined to keep up the pace. Our regulatory system should support that ambition.

### **The ingredients of innovation**

And let me emphasise – accepting change does not mean framing the future negatively!

On the contrary, it simply shifts the competitive advantage in favour of those like Australia – who are adept at riding the trends.

We can call it ingenuity, innovation, nimbleness, agility, or any number of words. The essence of the idea is the same, and so are the four ingredients that any organisation needs to be competitive. And I have listed these four ingredients in many forums in recent months.

**The first is leadership.** It is true for a school, a university, a company or a country. The leader sets the vision, delivers the inspiration and ensures delivery against the objectives.

**Second – human capital.** Every organization needs a skilled workforce to make sure the leader looks good! And, more importantly, to make things happen creatively and efficiently.

**Third – venture capital.** Actually, it doesn't matter where the money comes from, as long as it appears. It could be venture capital, bank borrowings or government grants.

**And, last but not least – effective regulation!**

With effective regulation, the organisation knows the limits and can get on with business.

With effective regulation, risk is taken out of the business because it is playing by the rules.

With effective regulation, your competitors cannot game the system to reap an unfair advantage.

As I said, effective regulations are a CEO's best friend.

And here is the most important thing to keep in mind about regulations. From the public policy perspective, the purpose of regulation is twofold: first, to ensure consumers benefit; second, to facilitate commerce.

Let me repeat that.

First, to ensure consumers benefit.

Second, to facilitate commerce.

In the first instance we advance the legitimate interests of the public, in the second we build the economy.

Both of those objectives are served by a system that rewards the pursuit of excellence – because quality is, and must remain, our national brand.

This approach applies to all industries, as I am constantly reminded.

Take, for example, the Australian trucking industry.

I have a colleague, Peter Hart, who is now a national authority on truck safety and fire hazards. He made the point to me that the public doesn't like trucks in general, and big trucks in particular.

We do like cheap freight. So there's a balance to be struck.

Twenty years ago, every jurisdiction would strike a different balance. Roads would cross borders – but the rules wouldn't.

Now we are reaping the benefits of the push to a national approach.

With care, we have liberalised the length, mass and configuration limits to make way for giant B-triple combinations and BAB-quad road trains. And bigger trucks means fewer trucks, and cheaper freight.

Peter describes the approach as “carrot and stick”. You can have a bigger truck – if you accept a higher safety threshold.

The higher safety thresholds are achieved by requiring that new trucks meet performance based standards, as opposed to prescriptive rules.

In trucking, as in all industries, prescriptive regulations become outdated when technology advances and people find a better way of achieving the same end.

The end result has been good for the public and good for commerce, with safer trucks that are more cost effective to operate.

Further, because compliant trailers are not available from international suppliers Australia has maintained an innovative local manufacturing industry worth two and a half billion dollars per annum.

Enlightened legislation – good for the public and good for commerce.

### **From trucks... to textbooks**

Now I acknowledge that higher education is a very different game – but the same basic principles of good regulation apply.

We want to see institutions competing for new ways to excel – not locked into a specific definition of what “excellence” entails.

TEQSA arguably didn't get the approach right when it was first formed, but in the last few years it has adopted performance based standards, just as road managers did for trucks.

Operating within performance based standards, I can envisage any number of new means by which providers might want to offer a quality service, in line with our quality reputation.

In the last ten years we have seen prolific growth in platforms such as Blackboard and Second Life, as well as increasingly sophisticated approaches to their use. We

have also seen globally competitive ed-tech startups such as Smart Sparrow, FutureLearn and Canvas make it easy for instructors to develop online material.

In Australia we have a Fin-Tech sector built around our strong and stable banks. We have a Mining Technology sector built around the big miners. We ought to back Australian Ed-Tech as well.

That does not mean that face to face teaching is doomed, any more than the spread of Nespresso machines has put an end to the local café. The human experience has always been the heart of university life, and that will not change.

In my contrarian moments, I envisage a day when courses will be marketed “guaranteed robot-free”.

But whether it’s a human or a hologram at the front of the class is not the point. What we want, and what I believe TEQSA will provide, is the scope to pursue ideas. And through those ideas we will be able to ensure the provision of choice.

By “choice”, I mean a range of quality options that consumers have the capacity to assess.

I do not mean the situation we saw emerge in the Vocational Education and Training (VET) sector – where many new entrants fraudulently took money from the government and left unsuspecting students with heavy debts and no acquired skills.

There, the regulator had no teeth. There, the barriers to entry were much too low: an ABN number and a few hours to tick the boxes on a form. And as we know, it played out to an unfortunate conclusion... dragging the quality providers through the mire.

Whilst we work through the consequences and rebuild trust, we do have to think very carefully before encouraging the drift of degree awards from universities to non-university institutions and private providers.

At the very least, we want to insist that the non-university providers be subject to extremely tough standards, with a high burden of proof, rigorously evaluated.

No more than we ask of our universities.

And we should all reflect on the difference that good regulation can make.

Like a good student, we should learn from others.

If trucks were not a sufficient example, look at cars. Public safety has benefitted hugely from regulations in the car industry. Annual deaths per billion miles travelled have fallen nearly tenfold in the last 40 years in Australia. And commerce has been facilitated by the ever tightening safety regulations that push car makers to respond with ever clever designs that consumers – especially parents – want to buy.

By analogy, we *all* have a stake in TEQSA’s lasting success.

So by all means, let’s have a robust debate about the details of the regulatory arrangements. But let’s remember, the goal is *good* regulation, which is not

necessarily *less* regulation – there are many rules we should be very grateful that we have to obey.

### **The basic shape of good regulation**

So with our eyes ever open to opportunity, let me frame today's debate by setting out the four basic parameters on which we can agree.

**ONE: Good regulation will set the bar high, with incentives for constant improvement.**

**TWO: Good regulation protects the fair expectations of consumers.**

The consumers in this case are the student, the taxpayer who helps to cover their costs, and the employers who hire them on the strength of their degrees.

For all three groups, the fair expectation is that students will emerge from their degree *work-capable*.

It is *not* fair, or helpful, to insist that they be *job-ready* – precisely engineered for the requirements of a specific role, which may or may not exist in the form we expect, in the numbers we predict, at the time the students graduate.

To today's gathering, there is a modicum of rationality in describing the difference between work-capable graduates and job-ready graduates as being like the difference between performance-based regulations and prescriptive regulations.

**The THIRD parameter: Good regulation insists on truth in advertising.**

Where data can play a meaningful role in a good decision, we should collect it and harness it.

Further, we should make it available to all consumers in a convenient, accessible and consistent form.

**And number FOUR: Good regulation facilitates collaboration as well as competition.**

We should be thinking about how universities can work with Ed-Tech startups – just as the major banks are working with the rising Fin-Techs.

We should be working out how to incorporate meaningful experiences in industry settings into degree programs, without cutting back on rigour or discipline content.

And we should also welcome discussions about how universities can combine in different patterns to share resources and build critical mass. The Melbourne biomedical cluster is a standout example – but of course, there are many more.

Whatever the configuration, good regulations should reward those collaborations that genuinely lift the quality of the service provided.

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So – four ingredients for innovation; and four parameters for good regulation. A recipe for excellence squared – and I hope an arena for a good clean fight today.

Work within that square, set the dial to excellence, and we are primed for the race to achievement.

An Australia with the regulatory edge in education – a sector on the high road to success.

THANK YOU