



Australian Government
Australian Skills Quality Authority



REPORT

Marketing and advertising practices of Australia's registered training organisations



20 September 2013

Letter of transmittal



The Hon Ian McFarlane MP
Minister for Industry
Parliament House
Canberra ACT 2600

Dear Minister

We are pleased to provide the report of a national strategic review of the marketing and advertising practices of registered training organisations in Australia's vocational education and training (VET) sector that was undertaken by the Australian Skills Quality Authority (ASQA).

This strategic review was initiated by ASQA Commissioners, because of the serious and persistent concerns raised within the training sector about registered training organisations and other bodies providing misleading information in the marketing and advertising of training services.

Information and data to inform the findings of this review was collected through the interrogation of the web sites of 480 organisations marketing and advertising services. Of these web sites, 421 belonged to registered training organisations and 59 to organisations that were not registered training organisations. The key findings were: up to 45% of the registered training organisations were marketing and advertising misleading information; some practices breach the standards required to be met to offer national training qualifications; organisations that are not registered training organisations are acting as brokers for those that are, which in many cases is misleading consumers; and consumers, including students and employers are often provided with ambiguous and/or insufficient information to make informed training choices.

This strategic review was guided by a management committee drawn from key stakeholders from peak employer associations, industry, unions and government and chaired by ASQA's Chief Commissioner. ASQA's Commissioners are very grateful for the invaluable contribution of the management committee, both collectively and individually, and also for the active support and contribution from other stakeholders.

Key recommendations of this strategic review of marketing and advertising practices of registered training organisations address the need for:

- ASQA to make registered training organisations' marketing and advertising a very high priority in its regulation of registered training organisations;
- ASQA to undertake future and periodic random sampling of web sites to identify potential non-compliance with the standards for the national regulation of VET and to conduct national workshops to reinforce and explain to registered training organisations the requirements of the standards;
- the National Skills Standards Council (NSSC) to enhance the standards for the national regulation of VET that relate to marketing and advertising;
- the NSSC and VET regulators to work together to address volume of learning concerns identified in the conduct of the strategic review in order to feed into the NSSC's review of the standards for the national regulation of VET; and
- consideration to be given to identifying what measures might be necessary to ensure that consumers using VET brokers are fully protected.

ASQA considers the implementation of the strategic review's recommendations will strengthen considerably the quality of the marketing and advertising of national training and assessment and thereby protect consumers.

We commend this report and its recommendations to you.

Yours sincerely

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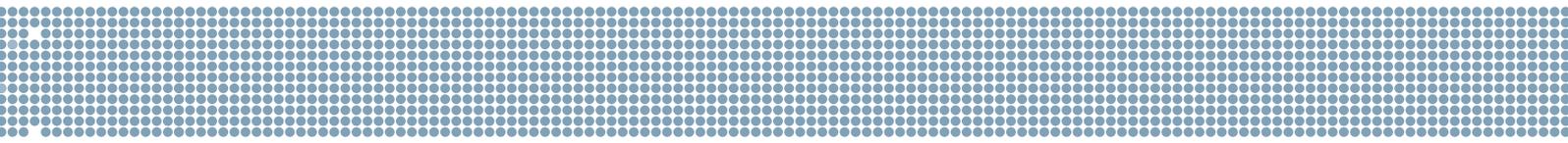
Chris Robinson
Chief Commissioner

Handwritten signature of Dianne Orr in black ink.

Dianne Orr
Deputy Chief Commissioner

Handwritten signature of Michael Lavarch in black ink.

Michael Lavarch
Commissioner



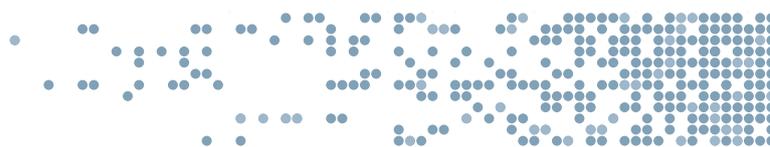
Key Messages

Marketing practices of up to half of registered training organisations are potentially misleading to consumers

Some marketing is also in breach of the national standards governing registered training organisations

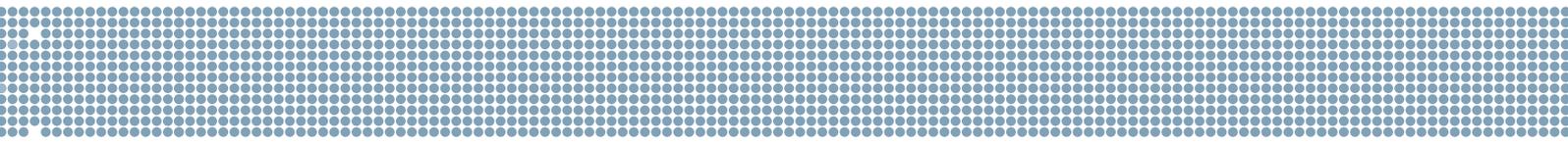
Organisations that are not registered training organisations are acting as brokers, with such arrangements potentially misleading consumers

The national training standards relating to consumer protection need to be strengthened



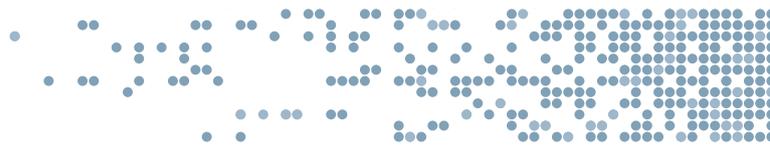
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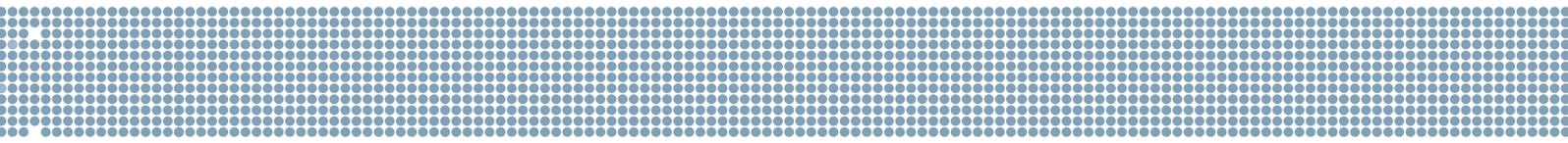
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Executive Summary

The Australian Skills Quality Authority (ASQA) regulates most of the 4920 registered training organisations (RTOs) in Australia to ensure they are compliant with the national standards required for registration as an RTO.

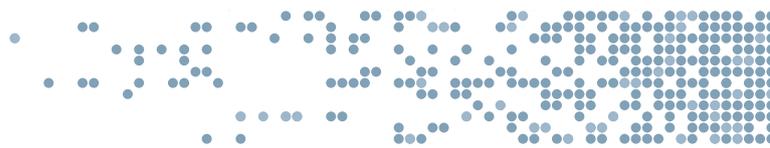
A key part of ASQA's regulatory approach is to contribute to ensuring that students, employers, the public and governments can have full confidence in the quality of vocational education and training (VET) that is provided by RTOs.

An essential element of this work is for ASQA to undertake strategic reviews involving in-depth analysis of a particular issue, sector, qualification or method of delivery when a risk has been identified to the quality of training and assessment. The focus is on examining systemic poor practice and identifying appropriate actions to address the poor practice across the system.

This review was initiated because of persistent concerns raised within the training sector about RTOs and other bodies providing misleading information in the advertising and marketing of their training services. These concerns have been conveyed to ASQA through its complaints process and its information line. Specific poor practice, which corroborates these concerns, has also been uncovered through the ASQA audit program over the past two years since ASQA commenced its national regulation of the Australian VET system.

The key national standards that govern the way RTOs ought to be marketing their services to students (or employers) and that set out the obligations RTOs have when providing information to students are:

- an RTO must ensure its marketing and advertising of VET qualifications, that are issued under the Australian Qualifications Framework (AQF), to prospective clients is ethical, accurate and consistent with what the RTO is registered to deliver (Standard 24.1);
- an RTO must only use the Australian Nationally Recognised Training (NRT) logo for purposes strictly in accordance with its conditions of use (Standard 24.2)
 - this means the NRT logo must only be used in relation to AQF qualifications an RTO is registered to deliver and must not be used in relation to any other training services or products;
- an RTO must manage the transition from superseded training packages within 12 months of their publication on the National Register (or the transition of accredited courses) so that it delivers only currently endorsed training packages or currently accredited VET courses (Standards 25.1 and 25.2)
 - this means that RTOs must not market or enrol students in superseded VET courses;
- an RTO must provide information to each client about all fees and charges, payment terms, non-refundable deposits/administration fees, the nature of guarantees given by the RTO to complete the training and assessment once a student has commenced a course, options available to a student who is deemed not yet competent at the completion of their training and assessment, and details of its refund policy (Standard 22.2);



- where an RTO is not a public RTO, owned by a commonwealth, state or territory government, certain strict conditions apply in relation to fee collection. It must not collect fees in advance of more than \$1000 from a student prior to the commencement of the course, or not more than \$1500 in advance at any other time unless the RTO has a fee protection alternative in place approved by ASQA, or is a member of an approved tuition assistance scheme, or it has an approved unconditional bank guarantee of not less than the full amount of the funds being collected from students (Standard 22.3);
- before clients enrol or enter into an agreement, an RTO must inform them about the training and assessment support services to be provided and about their rights and obligations. In this regard an RTO must not advertise or market any services that are not then provided to a client (Standard 16.3); and
- an RTO must comply with commonwealth, state and territory legislation and regulatory requirements relevant to its operation and its scope of registration (Standard 20.1)
 - this means that RTOs must comply with the Australian Consumer Law (Schedule 2 of the *Competition and Consumer Act 2010*) and all relevant state and territory fair trading laws in any jurisdiction where the RTO operates in relation to marketing and advertising, provision of refunds and meeting all obligations to consumers (just as it applies to all other Australian businesses).

ASQA met Australia's Industry Skills Councils before initiating the strategic review to seek their views on the extent of the problems with advertising and marketing. These meetings provided valuable information and insights that helped to scope and contextualise the review.

This review was overseen by a management committee comprising ASQA; the Australian Chamber of Commerce and Industry (ACCI); the Australian Industry Group (AIG); the Construction, Forestry, Mining and Energy Union (CFMEU); the Shop Distributive and Allied Employee's Association (SDA); and the then Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (DIICCSRTE).

The methodology adopted for the strategic review was to examine the web sites of 480 organisations' marketing and advertising training. Of these 480 web sites, 421 belonged to RTOs and 59 to organisations that were not RTO's.

It has been found in this national review by scrutinising their web sites that 45.4% of RTOs investigated could be in breach of the national standards required for registration as an RTO under the *National Vocational Education and Training Regulator Act 2011* and of the Australian consumer law and/or state and territory fair trading laws with respect to their marketing and advertising.

These potential breaches range from relatively minor concerns that can and should be rectified quickly and easily, to more serious breaches that could involve major sanctions being applied, including a loss of the RTO's registration.

Specific areas identified through the strategic review where ASQA-regulated RTOs may have breached the standards include:

- some 8.6% of RTOs examined are engaged in potentially misleading or deceptive advertising such as guaranteeing a qualification from undertaking their training irrespective of the outcomes of assessment and guaranteeing a job outcome from undertaking training even though an RTO is in no position to ensure someone will get a job as a result of their training;

- one-third of the RTOs (32.3%) examined have web sites that enable the collection of fees in advance, including 22.1% having web sites that enable online payments through a 'shopping cart or other pre-payment portal'. Of these, a sample of 30 gateways were fully tested and half were found to allow up-front fee collections in excess of the \$1500 RTOs are able to collect in advance from students if they are complying with the national standards, while 60% had no details of their refunds policy;
- some 11.8% of RTOs had web sites advertising superseded qualifications past the transition period that is allowed; and
- over half of the RTOs (53.9%) had web sites that were marketing qualifications that they claimed could be achieved in unrealistically short time frames or time frames that fell short of the volume of learning requirements of the Australian Qualifications Framework (AQF). (It is, of course appropriate, for RTOs to match the duration of training to the learning needs of clients and where clients have prior experience relevant to the competencies being assessed to deliver training in periods shorter than the guidance provided in the Australian Qualifications Framework).

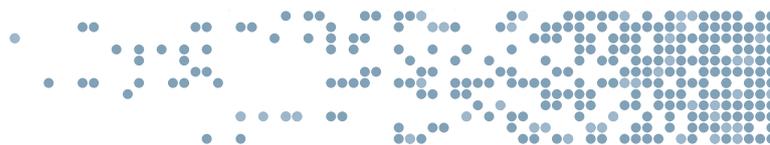
RTOs web sites that have been identified through this national review as potentially breaching the national standards have had their web sites reviewed again to confirm that the breach still exists. Where the breach still exists ASQA will write to each RTO requiring them to remove the offending material from the web site or to explain how the information is compliant with the national standards. ASQA will impose appropriate sanctions on RTOs failing to comply with these requirements.

It was also found that there are a significant number of organisations that are not RTOs, marketing nationally recognised training services, that may be in breach of the requirements of the *National Vocational Education and Training Regulator Act 2011* and/or of the Australian Consumer Law and/or state and territory fair trading laws. Fifty-five web sites were considered to be offering or implying to offer a service to arrange training with an RTO and four were identified as purporting to be an RTO; that is, falsely claiming to be an RTO regulated by ASQA. Areas identified through the strategic review where organisations that are not RTOs may have breached these laws include:

- where an organisation that is not an RTO but is engaged in collecting fees;
- fee practices replicating those of RTOs that have been identified as potentially breaching the *Standards for NVR Registered Training Organisations 2012* in this area of fees; and
- purporting to be an RTO.

Other particular concerns with organisations that are not RTOs have been identified through the examination of their web sites. On the basis of their web site advertising it was difficult, in some instances, for prospective students to identify whether the organisation offering to provide, or place a student in, training was or was not an RTO. This circumstance can make it difficult for potential students to choose a training provider that meets their needs.

In a number of cases, organisations offered a brokerage service for potential students to place them in training. Potential students were provided transparency and some certainty in the case of 26 (44.0%) of the 59 organisations examined, because the RTOs offering the training was identified. However, the remaining 35 (55.9%) did not identify the RTO. The practice of organisations purporting to be brokers for an RTO, but in fact having no business relationship with the RTO, could undermine confidence in the training system both for potential students and the providers of training. At the extreme end of this practice it appeared that some organisations were gathering data from sources such as the National Register www.training.gov.au and creating lists of RTOs to attract students.



As a result of these findings the following recommendations have been made by the review.

Recommendations

The review has found an unacceptably high proportion of RTOs misleading clients with their marketing and advertising, collecting fees in advance in excess of the levels permitted under the national standards, and enrolling students in superseded or obsolete courses.

Recommendation 1:

It is recommended that ASQA makes the scrutinising of an RTO's marketing and advertising, its client fee payment system and whether or not it is enrolling students in superseded courses a very high priority in the regulation of RTOs through:

- *checking the RTO's web site at the risk assessment stage for all applications for initial or renewal of registration for potential breaches with respect to marketing and advertising, client payment systems and the teaching of superseded or obsolete courses; and*
- *the mandatory inclusion of marketing and advertising, client payment systems and whether clients are being enrolled in superseded or obsolete courses in any audit ASQA does.*

The findings of this review have identified that employers, potential students and RTOs themselves are often provided with ambiguous and/or insufficient information to make informed training choices.

Recommendation 2:

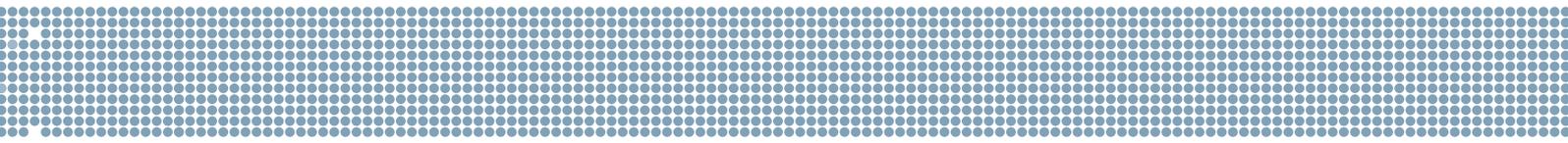
It is recommended that:

- *ASQA provide on its web site clear information for potential students, employers, career advisers and RTOs about their rights (and obligations) as currently provided for in the standards; and*
- *the Department of Industry develop and publish complementary information to ensure that people and organisations purchasing training make informed choices.*

Further steps are also required as part of the process of ASQA giving a very high priority to regulatory scrutiny of marketing and advertising, fee collection and whether RTOs are enrolling students in superseded and obsolete programs.

Recommendation 3:

It is recommended ASQA undertake future and periodic random sampling of RTO web sites to identify potential non-compliance with the national standards governing marketing, student fee protection and the requirements to transition from superseded courses, together with action requiring rectification of such non-compliance.

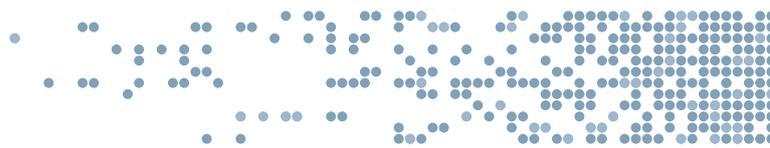


RTOs need to be provided with much clearer requirements about what ethical and accurate marketing means.

Recommendation 4:

It is recommended the National Skills Standards Council, in overseeing the preparation of revised national standards, give consideration to the enhancement of the existing national standard on marketing and advertising along the lines that:

- *RTOs must ensure that their marketing and advertising is ethical, accurate and consistent with their scope of registration (which is consistent with the existing National Standard 24.1);*
- *RTOs must include details of all fees and charges and their refund policy in their marketing and advertising;*
- *RTOs must clearly and accurately describe the training products they are marketing and advertising, including a mandatory requirement that all marketing and advertising materials include the qualification or unit codes and titles so that clients know exactly what courses are being offered;*
- *RTOs must include their unique national registration code in all marketing and advertising material so clients are aware of the organisation that is supplying the training and assessment of any courses in which they enrol;*
- *RTOs must include in their marketing and advertising, in all cases where some or all of the training and assessment is to be sub-contracted to a partner RTO, a full description of the training and assessment services being provided by a partner RTO, including its unique national registration code and all qualification or unit codes and titles that will be delivered on behalf of the host RTO that will actually be issuing the qualification;*
- *RTOs must include in their marketing and advertising materials clear details about who the training products are aimed at when marketing and advertising a course that is shorter than the duration required under the Australian Qualifications Framework (AQF) requirements, such as ‘this course is only open to students who have already completed certain qualifications or units, or who have substantial previous industry experience’;*
- *RTOs must not market or advertise superseded or obsolete qualifications or units;*
- *RTOs must not market or advertise courses that are not currently on their scope of registration;*
- *RTOs must not guarantee an assessment outcome in their marketing and advertising such as ‘100% pass rates guaranteed’ or ‘enrol and you will achieve a certificate or diploma’;*
- *RTOs must not guarantee the completion of a qualification or unit in unrealistically short time frames in their marketing and advertising that fall well short of the requirements of the AQF;*
- *RTOs must not guarantee an outcome from their training in their marketing and advertising that links enrolment in their courses to outcomes outside their control to ensure it is delivered, such as guaranteeing a job or an immigration outcome once the training is completed; and*
- *RTOs must only use the Nationally Recognised Training logo in relation to AQF qualifications and units of competency that they are registered to deliver.*



The issue that web sites examined for this review indicate a significant number of RTOs are delivering programs that fall well short of the current Australian Qualifications Framework (AQF) volume of learning descriptors needs to be urgently addressed.

Recommendation 5:

It is recommended that the National Skills Standards Council should give consideration to convening a group involving industry skills councils; the Australian Qualifications Framework Council; the Australian Skills Quality Authority; the Victorian and Western Australian VET regulators; and appropriate Australian and state and territory training officials, to develop an overall benchmark on and/or clarify:

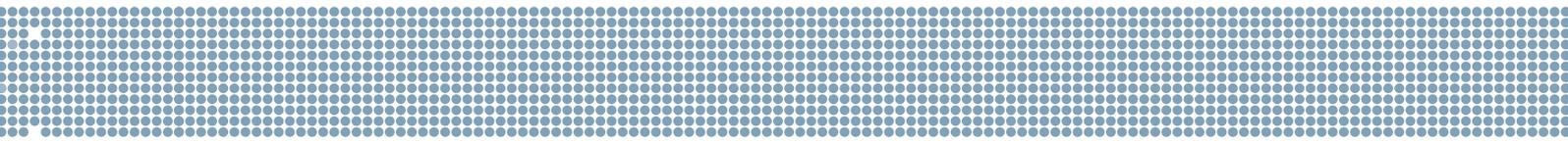
- *the minimum volume of learning for different AQF qualifications;*
- *the minimum volume of learning for different types of units of competency and skill sets;*
- *the different teaching, learning and assessment activities that should be included in the volume of learning;*
- *the appropriate variations to any minimum volume of learning requirements to reflect the acceptability of shorter programs when learners already have considerable industry experience;*
- *any requirements around learning methodology to support variations to duration;*
- *how these requirements should be expressed in the revision of the national standards for the registration of RTOs;*
- *how any such benchmarks should be systematically incorporated into the revision of training packages that is currently underway; and*
- *appropriate guidance for RTOs about how to incorporate such benchmarks into their training delivery.*

RTOs need to have clearer information about what appropriate marketing and advertising involves.

Recommendation 6:

It is recommended that, once the revised national standards are finalised, ASQA provide new information, including on its web site, to RTOs and that ASQA undertake a round of national RTO workshops to reinforce and explain:

- *any new requirements for RTO marketing and advertising as a result of any changes to the national standards for the registration of RTOs resulting from the current revision of national RTO standards;*
- *the key findings of this review and what constitutes good RTO marketing and advertising practice, as opposed to poor and misleading practice; and*
- *what obligations RTOs have with respect to meeting the requirements of the Australian Consumer Law and relevant state and territory fair trading laws.*



To ensure that VET clients, who use the services of the growing number of brokers that are not RTOs, but who are collecting fees and arranging training and assessment, are provided the similar consumer protection as they would be entitled to if they were dealing direct with an RTO (noting that legislation currently exists to allow ASQA to take action against any person falsely purporting to be an RTO).

Recommendation 7:

It is recommended that ASQA and the Department of Industry:

- *examine the National Vocational Education and Training Regulator Act 2011 to determine exactly what powers exist to ensure brokers are:*
 - a. *not engaged in the collection of fees in advance beyond those permitted under the 'Standards for NVR Registered Training Organisations 2012';*
 - b. *not engaged in deceptive or misleading marketing and advertising;*
 - c. *required to disclose a full description of training services being provided, including qualifications and unit codes;*
 - d. *required to disclose what RTOs will provide the training and assessment, including the RTO's national registration code;*
 - e. *required to disclose what services are being provided by the broker and what services are being provided by which RTO; and*
 - f. *subject to similar standards that are required of RTOs; and*
- *identify what gaps in legislation exist and what legislative changes would be required to ensure consumers using VET brokers that are not RTOs are fully protected.*

There is also a need for transparency in the relationship between brokers and RTOs.

Recommendation 8:

It is proposed that the National Skills Standards Council, in the development of the new national standards for RTOs, give consideration to a requirement for all RTOs to include details of any brokerage arrangements in their marketing materials where third parties are recruiting students for them on their web sites.



Chapter 1

Introduction

ASQA's regulation

ASQA commenced operations as the national regulator for Australia's VET sector on 1 July 2011.

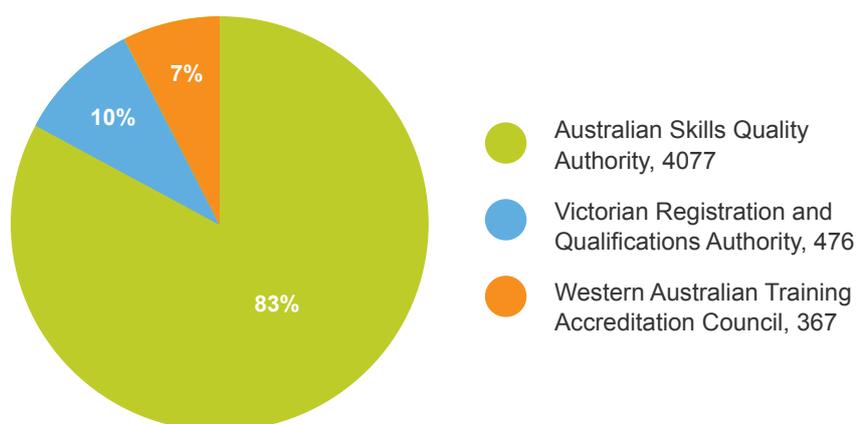
ASQA regulates courses and training providers to ensure nationally approved quality standards are met so that students, employers and governments have confidence in the quality of VET outcomes delivered by Australian RTOs.

ASQA is the regulatory body for RTOs in:

- the Australian Capital Territory;
- New South Wales;
- the Northern Territory;
- South Australia;
- Queensland;
- Tasmania; and
- for RTOs in Victoria and Western Australia that offer courses to overseas students and/or offer courses to students (including through offering courses online) in the Australian Capital Territory, New South Wales, the Northern Territory, South Australia, Queensland, or Tasmania.¹

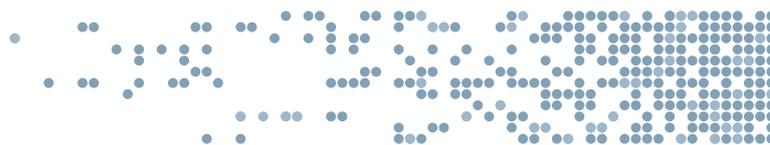
The number of RTOs regulated by ASQA, the Victorian Registration and Qualifications Authority and Western Australian Training Accreditation Council are shown in Figure 1.

Figure 1: Number of RTOs registered by regulator



Source: www.training.gov.au and ASQA, 30 March 2013.

¹ The **Victorian Registration and Qualifications Authority (VRQA)** is the regulatory body for registered training organisations that enrol only domestic learners and enrol learners in Victoria only (or in Victoria and Western Australia only). Western Australia's **Training Accreditation Council (TAC)** is the regulatory body for registered training organisations that enrol only domestic learners and enrol learners in Western Australia only (or in Victoria and Western Australia only).



ASQA's functions include:

- registering training providers as RTOs;
- registering providers that can enrol international students;
- accrediting VET courses;
- ensuring that organisations comply with the conditions and standards for registration, including by carrying out compliance audits; and
- collecting, analysing and publishing information on the VET sector and VET providers.

Under the *National Vocational Education and Training Regulator Act 2011* RTOs that are registered with ASQA must comply with the VET Quality Framework which is comprised of:

- the *Standards for NVR Registered Training Organisations 2012*, that is the standards for ASQA regulated RTOs;
- the *Fit and Proper Person Requirements 2011*;
- the *Financial Viability Risk Assessment Requirements 2011*;
- the *Data Provision Requirements 2012*; and
- the Australian Qualifications Framework.

The rights of students (consumer) in the VET system are referred to in the *National Vocational Education and Training Regulator Act 2011*. This includes the objects of the *National Vocational Education and Training Regulator Act 2011* in particular Section 2A (e) to protect students undertaking, or proposing to undertake, Australian VET by ensuring the provision of quality VET.

ASQA strategic reviews

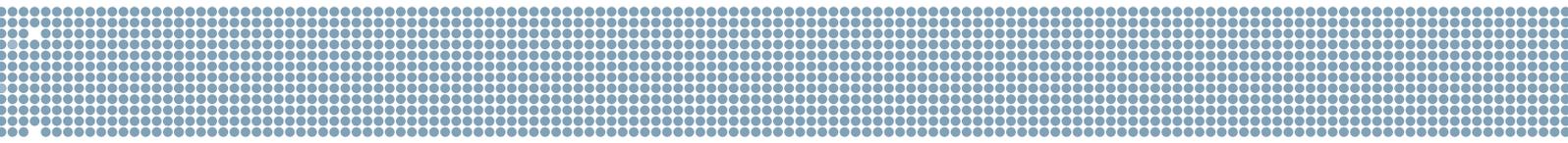
One of the three objectives in ASQA's 2011-2014 Strategic Plan is to *improve the quality of the VET system through regulatory intelligence and advice*. To contribute to this objective ASQA has conducted three strategic reviews in 2012 and 2013 targeting training 'hot spots' where risks have been identified to the quality of outcomes achieved by training delivery and assessment. ASQA's strategic reviews have been conducted to obtain an in-depth analysis of a particular issue, sector, qualification or method of delivery related to the quality of training and assessment. The focus of the strategic reviews is on examining systemic poor practice and identifying appropriate actions to address the poor practice across the system and not just to resolve issues with individual RTOs.

ASQA's three current strategic reviews are:

- VET in aged and community care;
- the entry level occupational health and safety training required to work on construction sites in Australia; and
- marketing and advertising practices relating to nationally recognised training.

In addition to identifying actions ASQA can take to best target its regulatory efforts, the timing is opportune for the outcomes of the strategic reviews to inform a number of related initiatives or reforms which are underway in the VET sector, including:

- the National Skills Standards Council's review of the standards for VET regulation, focusing on issues of quality;
- the implementation of the 2012 *Standards for Training Packages*, which now allow Industry Skills Councils to specify assessment requirements to accompany every unit of competency; and

- 
- the Industry Skills Councils' VET Quality Project, which is proposing that training packages should have the capacity to further define industry requirements relating to how training is delivered and assessed, as appropriate to a specific qualification/unit of competency and based on a suite of nationally agreed measures.

Strategic review on marketing and advertising practices

The aim of this strategic review is to inform and improve future marketing and advertising practice with the ultimate objective to increase transparency, accuracy and consumer and industry confidence in the training system and its services.

The background, methodology and scope of the strategic review are outlined in Chapter 2 of this report.

A number of marketing and advertising practices adopted by RTOs that give rise to concerns and an examination of each of these practices is provided in Chapter 3.

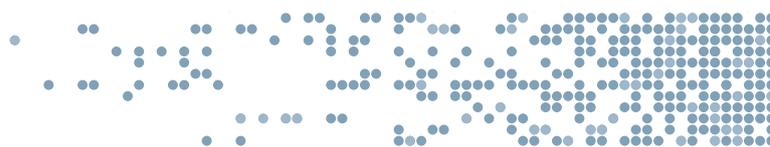
ASQA RTOs are required to be compliant at all times with the *Standards for NVR Registered Training Organisations 2012*. The national standards are one of the five components of the VET Quality Framework. A number of elements of the national standards have been identified as requiring particular scrutiny in this review. (see Appendix A) These are:

- Standard 15 – requires ASQA RTOs to provide quality training and assessment (including Recognition of Prior learning) across all of its operations;
- Standard 16 – requires the ASQA RTOs to adhere to principles of access and equity and maximises outcome for its clients including complaints and appeals;
- Standard 17 – requires each ASQA RTO's management systems to be responsive to the needs of clients, staff and stakeholders, and the environment in which the ASQA RTO operates;
- Standard 22 - Is the financial management standard that NVR RTOs must comply with including information on fee refunds and fees collected in advance. It does not include organisations that are not RTOs;
- Standard 24 - requires the ASQA RTO to ensure that its marketing and advertising is ethical, accurate and consistent with its scope of registration and uses the NRT logo correctly; and
- Standard 25 - requires the RTO to manage the transition of superseded training packages and accredited courses within the required timeframes.

The focus of this review has been on these standards, which are part of the essential standards for the continuing registration of training providers in Australia. These are set out in Part 3 the *Standards for NVR Registered Training Organisations 2012*.

A number of organisations that are not RTOs, but that are providing services in the VET sector have been identified in this strategic review. The implications of their marketing and advertising practices for confidence and quality in the sector are discussed in Chapter 4.

In the final chapter, it is noted that a number of actions are already underway that are relevant to the review's findings. Recommendations for further action by ASQA and other agencies are outlined.



Chapter 2

Methodology for the strategic review

Background

The background to the strategic review of marketing practices is outlined in this chapter including:

- the origin and governance of ASQA's strategic review;
- the methodology adopted; and
- the scope.

2.1 Origin and governance of the review

Since ASQA's establishment in July 2011 it has been regularly advised that some RTOs were considered to be engaging in marketing and advertising practices:

- that do not meet the *Standards for NVR Registered Training Organisations 2012*²; or
- were marketing training services in a misleading way.

This information was received through ASQA's information line, its audit program and its formal complaints process. For example, of the 1521 complaints lodged with ASQA about RTOs or other organisations between February 2012 and February 2013:

- over 13% related to marketing;
- over 6% related to information students believed was either false or misleading; and
- 3% related to the non-disclosure of fee arrangements.

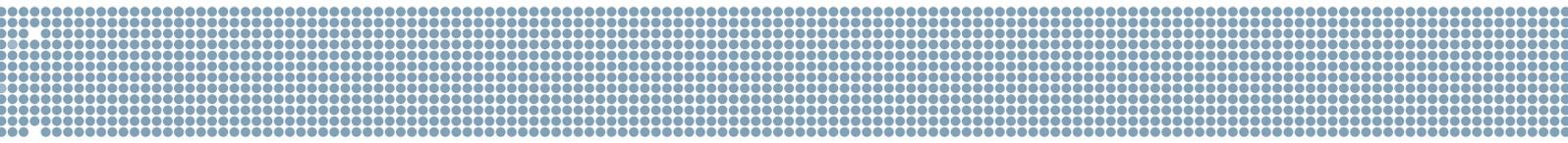
The ASQA complaints data showed 164 open marketing complaints as of the 11 June 2013, with 42 being complaints about non-RTOs.

Concerns included marketing and advertising information that:

- promoted unrealistically short time frames to complete certificate level qualifications; for example promises of completing such qualifications in a weekend;
- provided inaccurate or insufficient information about fees to be charged and refund practices;
- was provided by organisations promoting nationally recognised training that are not RTOs; and
- was provided by a person or organisation not registered as a training provider that was purporting to be an RTO.

Poor marketing and advertising practices have the potential to undermine confidence in nationally recognised training and contributes to the perception that the poor marketing is likely to reflect poor quality training and assessment. As a result of the persistent concerns ASQA initiated this strategic review of RTO marketing and advertising practices.

² See Appendix A for the Standards referred to for this review.



The review was established under the authority of the *National Vocational Education and Training Regulator Act 2011*.

The review has been guided by a management committee, chaired by ASQA and comprising representatives from the Australian Chamber of Commerce and Industry; the Australian Industry Group; the Construction, Forestry, Mining and Energy Union; the Shop Distributive and Allied Employees' Association and the Department of Innovation, Industry, Climate Change, Science, Research and Tertiary Education (see Appendix B). The terms of reference included overseeing the work of the review, approving the methodology, advising on consultations, and reporting to ASQA on the findings (see Appendix C).

Throughout this report a reference to NVR RTOs or RTOs is a reference to those RTOs that are registered with and regulated by ASQA. Non-RTOs are individuals or organisations that are not registered with and regulated by ASQA or registered with any other state or territory vocational education and training (VET) regulator who regulates national recognised training.

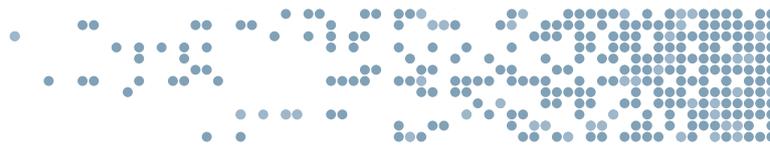
2.2 Industry perspective and context

Prior to commencement of the review, ASQA met with the Industry Skills Councils to seek their views and advice about the practices of training providers (see Appendix D). Industry Skills Councils are responsible for the development and continuous improvement of Australia's nationally recognised VET qualifications in industry training packages³. Industry Skills Councils therefore, have a unique perspective, which is informed by their relationships with both their industry stakeholders and RTOs that they work collaboratively, to provide advice on the quality delivery of training qualifications. Preliminary discussions with the Industry Skills Councils provided the review with strategic context from an industry perspective and supplemented the information provided by members of the management committee. Industry Skills Councils confirmed the issues identified through ASQA's intelligence gathering, particularly in relation to misleading advertising, inappropriately short-duration courses, and organisations purporting to be RTOs. The remainder of the issues raised related mainly to RTO training delivery and assessment practice and general quality of services including:

- inappropriate use of online learning that lacks work-based context;
- training delivery that does not provide the appropriate knowledge and skills which results in the issuance of qualifications to students who have not demonstrated the required competencies;
- inappropriate use of Recognition of Prior Learning;
- trainers who lack recent industry experience;
- enrolling students without the required pre-requisites⁴;
- delivering training that the RTO is not registered to deliver;
- training (delivery and assessment) that varies in quality for certain target groups; and
- pressure to push students through programs quickly to address skill shortages or to deliver qualifications required for employment. This can distort market practice leading to low cost, low quality services delivered by RTOs.

³ General information about training packages is described by Innovation Business Skills Australia at http://www.ibsa.org.au/Portals/ibsa.org.au/docs/Training%20Packages/FAQs/FAQs_General_Info_on_TP.pdf

⁴ Some qualifications and units have requirements that are required prior to commencing.



The information available to ASQA indicated that misleading marketing and advertising practices were not confined to small numbers of RTOs or particular industry sectors, but were prevalent across the training sector. The methodology adopted for the strategic review did not rely on auditing RTOs to gather data and information to inform the review's findings. This is due to the pervasive incidence of misleading marketing and advertising and because the internet and social media are the main vehicles used to advertise and market training. Audits, while offering in depth data about a small number of RTOs could not be expected to capture the range and extent of the issues.

The methodology adopted for the strategic review was to examine the web sites of 480 organisations marketing and advertising training. Of these 480 web sites, 421 belonged to RTOs, and 59 to organisations that were not RTOs.

2.3 Sampling strategy

The strategic review used three strategies to achieve an appropriate sample size and to build a holistic picture of the range of existing marketing and advertising practices. The approach reviewed the web sites of:

- a random sample of 189 RTOs registered with ASQA;
- a random sample of 241 organisations identified through web searches; and
- a sample of 50 organisations that were reported to ASQA during the review or that were the subject of a complaint to ASQA about their marketing and advertising practices.

In total, 480 web sites were reviewed.

The 480 searches identified 421 RTO web sites and 59 web sites of non-RTOs. These non-RTOs have come to the attention of this review and include organisations that may have previously been an RTO but are no longer registered due to cancellation of their registration either by the regulator or through voluntary withdrawal their registration. Of the 59 non-RTO web sites reviewed, eight have previously been an RTO and 51 have never been an RTO.

A non-RTO is a person or organisation that is not shown as being current on the National Register at www.training.gov.au. Non-RTO marketing and advertising practices emerged as a key theme of the review due to the potential impact on transparency, accuracy and consumer confidence in the VET system. This issue is explained in further detail in Chapter 4.

It should be noted that non-RTOs are not required to comply with the national standards for RTOs. However, all businesses, RTOs or not, are required to comply with the Australian consumer law and state and territory fair trading laws. In addition there are a number of provisions of the *National Vocational Education and Training Regulator Act 2011* (refer Sections 114 to 117 and 122 to 129) that expressly prohibit certain types of conduct by non-RTOs. This includes prohibition on:

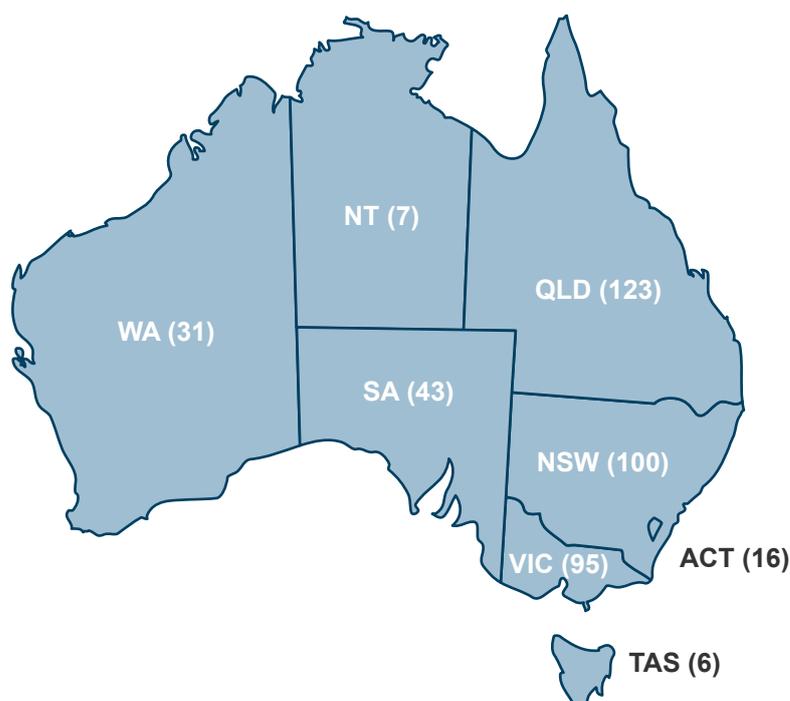
- falsely claiming to be an RTO;
- providing or offering to provide VET courses without registration to deliver;
- making false or misleading representations in advertisements to do with VET courses; and
- purporting to issue VET qualifications.⁵

These are discussed further in the options for action in Chapter 4.

The number and location of RTOs which were included in the web sites assessment is shown in Figure 2. The location was determined according to head office location as recorded on the National Register.

⁵ See Sections 114-129 of the *National Vocational Education and Training Regulator Act 2011*.

Figure 2: Geographic distribution of RTOs included in ASQA's web site assessment



Source: ASQA, 2012.

2.4 Approach to analysis

RTOs registered with ASQA must meet the requirements of the *National Vocational Education and Training Regulator Act 2011* which includes the *Standards for NVR Registered Training Organisations 2012*. The review commenced by considering the requirements of the marketing and advertising standards for continuing registration (Standard 24) which requires RTOs to ensure the accuracy and integrity of marketing.

Standard 24 Accuracy and integrity of marketing

24.1 - The ASQA registered training organisation must ensure its marketing and advertising of the AQF and VET qualifications to prospective clients is ethical, accurate and consistent with its scope of registration.

24.2 - The ASQA registered training organisation must use the NRT logo only in accordance with its conditions of use – i.e. that it is only used in relation to AQF qualifications and units of competency that the RTO is registered to deliver.



The review used definitions of the three key words in Standard 24 to provide a consistent approach to interpretation of the web site searches and analysis of the results.

Marketing is defined as: *‘the act or process of selling or purchasing in a market’* and *‘the process or technique of promoting, selling, and distributing a product or service’*.

Advertising is defined as: *‘To make something known to:*

- *make publicly and generally known (advertising their readiness to make concessions)*
- *announce publicly especially by a printed notice or a broadcast*
- *call public attention to especially by emphasising desirable qualities so as to arouse a desire to buy or patronise’*

Ethical is defined as: *‘conforming to accepted standards of conduct’*⁶

Once the data analysis commenced it became clear that other standards were also relevant to the findings. For example, Standard 25 requires RTOs to market and deliver current qualifications, but many are marketing superseded qualifications. These are referenced throughout this report where relevant.

2.5 Scope of the review

The marketing and advertising practices by RTOs providing vocational education and training (VET) were the primary focus of this review.

In the course of the review, concerns were also identified about the marketing and advertising of nationally recognised training by non-RTOs. Given the potential impact on consumer confidence of these practices, the scope of the review was broadened to examine them.

Many of the concerns identified were common to both RTOs and non-RTOs.

ASQA is also the regulatory body for providers delivering English Language Intensive Courses for Overseas Students (ELICOS) in all states and territories, except in certain circumstances such as delivery by schools or higher education providers. ELICOS providers were not included in the scope of this review.

The data capture for this review was undertaken between January and March 2013 and the analysis and data validation completed in April and May 2013. The focus of the review has been limited to those web site pages that were accessed and reviewed within these timeframes. As web site information is subject to change and can include cached and out of date information it is important to note that the review is a ‘point-in-time’ snapshot.

The review methodology is based on reviews and desktop analysis of web sites. While a desktop analysis may initially indicate that a web site maybe misleading, a follow-up investigation may not substantiate that the advertising was misleading. To determine an RTO’s compliance with the standards a site audit may be required. Hence the analysis does not definitively refer to non-compliance, but instead refers to ‘compliance concerns’.

⁶ According to the definition viewed at <http://www.merriam-webster.com/dictionary>

2.6 Other regulatory considerations

The Australian Competition and Consumer Commission is Australia's competition regulator and has responsibility for national consumer law regulation.

The Australian Competition and Consumer Commission web site provides a rich source of consumer information relating to national consumer law including, information: *'no matter how a business communicates with you – whether it's through advertising, packaging, online, logos, endorsements or a sales pitch – you have the right to receive accurate and truthful messages about the products and services you buy.'*

The Australian Competition and Consumer Commission web site then goes on to reference that *'businesses are not allowed to make statements that are incorrect or likely to create a false impression in relation to:*

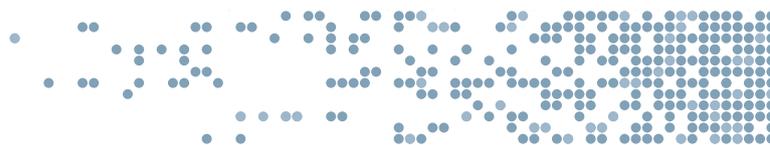
- *their advertising;*
- *their product packaging;*
- *information provided to you by their staff or online shopping services; and*
- *statements made by businesses in the media or online, such as testimonials on their web sites or social media pages.'*

The Australian Competition and Consumer Commission (2013) position is that

'It makes no difference whether the business intended to mislead you or not. If the overall impression left by a business's advertisement, promotion, quotation, statement or other representation creates a misleading impression in your mind – such as to the price, value or the quality of any goods and services – then the behaviour is likely to breach the law.'

It is important to note that an exception is when a business *'may use wildly exaggerated or vague claims about a product or service that no one could possibly treat seriously or find misleading. These types of claims are known as **'puffery'** and are not considered misleading.'* Additionally the practice of what the Australian Competition and Consumer Commission refers to as **'bait advertising'** is *'not misleading if the business is upfront in a highly visible, clear and specific manner about the particular product 'on sale' being in short supply or on sale for a limited time.'*

The marketing standard (Standard 25) requires that RTOs maintain the accuracy and integrity of their marketing. As the regulator of NVR training organisations, ASQA has the authority to take action including compliance audits of RTOs identified through this review. It may also be possible for ASQA to take action under Sections 121–129 of the *National Vocational Education and Training Regulator Act 2011* in relation to the non-RTO organisations identified in relation to their marketing/advertising practices. Where this is not possible under the provisions of the *National Vocational Education and Training Regulator Act 2011* referral to another body such as the Australian Competition and Consumer Commission will be considered.



Chapter 3

Marketing and advertising practices of RTOs

The review identified a number of RTO marketing and advertising practices which give rise to concerns about their compliance with the standards. The practices can be grouped into the following key areas. The standard relevant to each area is also identified:

1. misleading and/or deceptive marketing and advertising (Standard 24);
2. fee practices (Standard 22);
3. arrangements for transitioning from superseded or out-dated qualifications (Standard 25);
4. use of social media in marketing (Standard 24); and
5. course duration (as required by the AQF).

In this chapter an overview is provided of the RTO web site reviews, followed by an examination of each issue.

3.1 Overview of search results

As outlined in Chapter 2, a total of 480 web sites were reviewed, of which 421 were web sites of RTOs. The web sites were identified using web searches and a random selection of RTOs registered with ASQA and from RTOs reported to ASQA because of concerns about their marketing practices. Fifty formal complaints were chosen as part of the sample for this strategic review from those lodged with ASQA.

Within the limitations of a desktop analysis approach the review found that 230 of the 421 RTO web sites reviewed (54.6%) were compliant with the relevant *Standards for NVR Registered Training Organisations 2012* in relation to their marketing, advertising and information provision practices. The remaining 191 web sites (45.4%) were identified as having one or more areas of possible non-compliance concern as shown in Table 1.

Table 1: Numbers of compliant and possibly non-compliant web sites

Jurisdiction	Compliant web sites		Possibly non-compliant ^(a) web sites	
	Number of web sites	Proportion (%)	Number of web sites	Proportion (%)
ACT	9	2.1	7	1.7
NSW	58	13.8	42	10.0
NT	3	0.7	4	1.0
QLD	68	16.2	55	13.1
SA	25	5.9	18	4.3
TAS	3	0.7	3	0.7
VIC	49	11.6	46	10.9
WA	15	3.6	16	3.8
TOTALS	230	54.6	191	45.4

^(a) Where one or more area of possible non-compliance was identified

Source: ASQA, 2012.

Note: based on the 421 RTOs subject of the review.

To confirm whether web site marketing is not compliant with the standards, ASQA would need to take further action. This action may include writing to the RTOs requesting evidence and/or a site audit. ASQA has begun undertaking these actions in relation to the possible non-compliances identified on RTO web sites that were assessed as part of this strategic review.

3.2 Misleading and deceptive marketing

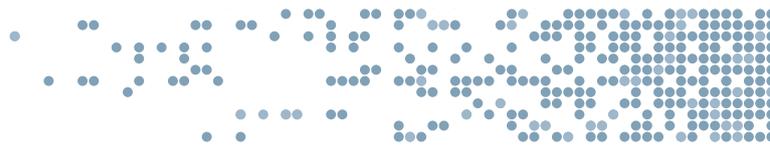
Thirty-six or 8.6% of RTO web sites identified were considered to be including potentially misleading and/or deceptive marketing.

RTOs are required to maintain the accuracy and integrity of their marketing under the marketing standard (Standard 24).

Some complaints about RTO advertising related to the offering of inducements or incentives to purchase training services. Examples of this were also identified during web searches included:

- free iPad upon enrolment;
- two qualifications for the price of one; and
- half-price or discounted course fees.

Such incentives, which aim to attract clients in a competitive market place, are not necessarily misleading and/or deceptive or a breach of the marketing standard, but would become a concern if the incentive led to poor quality of services. If the discounts were so large that they compromised the RTO's capacity to provide quality training and assessment, this would be a concern.



The Australian Consumer Law's 2010 *Guide for Businesses and Legal Practitioners* clarifies what constitutes misleading and deceptive marketing and advertising.

Conduct includes actions and statements, such as:

- *advertisements;*
- *promotions;*
- *quotations;*
- *statements; and*
- *any representation made by a person.*

Business conduct is likely to break the law if it creates a misleading overall impression among the audience about (for example) the price, value or quality of consumer goods or services.

ASQA found examples of misleading and/or deceptive marketing on RTO web sites included statements such as:

- '100% pass rate and a guaranteed job'; and
- 'Best Price Guarantee, 100% pass rate Guarantee and Money Back Guarantee'.

The potential impact to VET consumer confidence of misleading advertising is significant and warrants action.

Information about misleading claims and advertising for consumers is contained on the Australian Competition and Consumer Commission (ACCC) web site, which states:

'No matter how a business communicates with you – whether it's through advertising, packaging, online, logos, endorsements or a sales pitch – you have the right to receive accurate and truthful messages about the products and services you buy.' (ACCC 2013a)

There is one exception to this rule. A business:

'May use wildly exaggerated or vague claims about a product or service that no one could possibly treat seriously or find misleading. For example, a restaurant claims they have the 'best steaks on earth'. These types of claims are known as 'puffery' and are not considered misleading.' (ACCC 2013b)

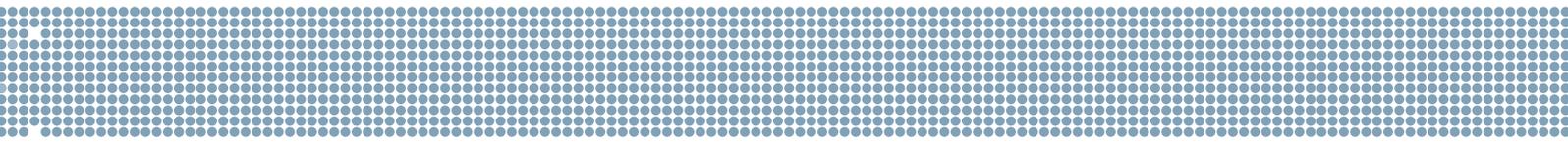
Additionally, the practice of what the Australian Competition and Consumer Commission refers to as 'bait advertising' is:

'Not misleading if the business is upfront in a highly visible, clear and specific manner about the particular product 'on sale' being in short supply or on sale for a limited time.' (ACCC 2013b)

Examples of this include advertising that 'promotes certain (usually 'sale' prices) on products that are not available or available only in very limited quantities.'

The examples identified during the review do not appear to fall within the exceptions of 'puffery' or 'bait advertising'. Instead they appear to represent non-compliance with the marketing standard, which RTOs are required to comply with to remain registered.

While there may be remedies for consumers under the Australian consumer law, through either the Australian Competition and Consumer Commission or state and territory consumer protection agencies, ASQA can, as the national regulator, take action to investigate the concerns and act where non-compliance with the standards is found.



ASQA is in the process of writing to RTOs identified as having compliance concerns directing them to amend the content on their web sites so that they are compliant with the standards.

In addition to contacting the RTOs identified through the review, ASQA will also consider issuing a general direction to all RTOs that clarifies the requirements of the marketing standard. This would assist RTO understanding of and compliance with the marketing standard.

The marketing standard itself could be clarified and strengthened. Given that almost half of the web sites reviewed showed non-compliance in relation to marketing, there appears to be a lack of understanding by RTOs of the requirements of the marketing standard.

The current standard includes the terms 'integrity' and 'ethical', which are subjective in nature. It is proposed that the National Skills Standards Council gives consideration to clarifying and expanding on these terms. The current requirements are:

- that marketing is accurate and consistent with the RTO's registration; and
- that marketing is clear and objective in nature.

The standard should also include a statement that RTO marketing not be misleading or deceptive. This would align the standard with the terms used in the Australian Consumer Law. In addition the standard could be clarified by including in the revised standards what RTOs should do in order to fulfil the requirements of accurate, consistent, and not misleading or deceptive marketing including:

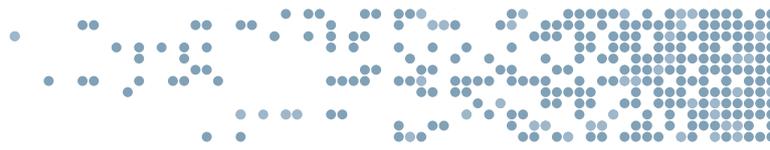
- only marketing qualifications and courses that it is registered to deliver;
- only marketing current qualifications;
- ensuring advertising does not guarantee assessment outcomes or completion of qualifications and courses in short timeframes that do not meet the requirements of the training package, unless clear advice is provided about the target group of learners and the reasons why short duration is appropriate;
- ensuring that advertising does not guarantee a qualification; and
- ensuring advertising does not link enrolment in the qualifications to guaranteed outcomes outside the VET sector such as jobs or migration pathways.

3.3 Fee collection practices

The web site assessment uncovered several issues of concern in relation to the issue of fee practices and the level of transparency available for consumers in an increasingly online business environment. These include:

- collection of fees in advance;
- fee collection methods;
- provision of fee information to clients; and
- refund arrangements.

The standard relevant to RTO fee practices is the financial management standard (Standard 22) which details the fee information (see Appendix A) that must be provided to clients including the amount and type of fees to be paid, the payment terms and the refund policy. This is consistent with the concept of consumer protection and of the obligation of a service provider to disclose relevant information of its service provisions.



The purpose of the standard is to ensure that clients are made aware of the cost and nature of services upfront. The financial management standard also requires that where an RTO collects fees in advance it must comply with one of five fee protection options, one of which is having a bank guarantee for covering all the funds students have prepaid to it. For the purposes of this strategic review, the web searches focused on checking compliance with option 3 (option 3 places a \$1000 cap on the prepayment that can be collected from a student). This is the option most RTOs, that collect fees in advance, rely upon to ensure they comply with the standard⁷.

The strategic review found that RTOs, like other businesses, are increasingly conducting business online. Many RTOs are using their web sites to facilitate enrolments and payments.

The review also found that 166 (39.4%) of the 421 RTO web sites reviewed advertise funding initiatives and programs such as VET FEE-HELP⁸, traineeships, apprenticeships, and other state-based training programs.

Of the 421 RTO web sites reviewed, 136 (32.3%) indicated that the RTOs collect fees in advance and 93 (22.1%) provide for online payments through a shopping cart or payment portal such as PayPal (see Table 2).

Before paying a fee for training and assessment services, consumers should have a clear understanding of what they are buying. Testing of these payment gateways found that this information was often not available until the point of payment. It was only at the payment point that the full value of the payment in advance was revealed and often with no or limited refund or other course information being provided.

Of the 30 payment gateways tested, it was found that all of them allowed potential clients to enrol and pay in full for a course. Eighteen (60%) of these web sites did not provide refund information yet allowed the payment to be made. In 15 (50%) cases of pre-payment, the amount accepted was in excess of the limit allowed under the financial management standard (Standard 22). These RTOs may, therefore, not be compliant with the standard with respect to both the requirement to provide refund information and the requirement to meet the prescribed limit on collection of fees in advance.

Many RTOs that collect fees in advance do so for single units such as Responsible Service of Alcohol (RSA) and First Aid or skill sets such as the assessment units found within the TAE10 *Training and Education* Training Package qualifications. Innovation and Business Skills Australia Industry Skills Council describes in its *Foundation Skills Training Package Implementation Guide* skill sets as being defined as ‘as single units of competency or combinations of units of competency from a nationally endorsed training package, which link to a licence or regulatory requirement, or a defined industry need. Units of competency that form a Skill Set can be drawn from one or more training packages.’ (IBSA 2013a)

In these cases they were unlikely to exceed the limit of fees that may be collected in advance under the financial management standard as the total cost of the course was less than the permissible limit. Nevertheless, they were still not compliant with the requirement to provide refund information.

7 Other options included in Standard 22.3 are relevant to Technical and Further Education (TAFE) providers and providers registered on the Commonwealth Institutions and Courses for Overseas Students. There is also an option for ASQA to approve other fee protection measures of equal rigour. In the main these options were not relevant to the providers identified in the review.

8 VET FEE-HELP is available to assist eligible students studying higher level vocational education and training (VET) qualifications to pay their tuition fees. Higher level VET qualifications are at the diploma level and above; VET FEE-HELP is not available for certificate level courses. VET FEE-HELP can be used to pay all or part of an eligible student’s tuition fees, but cannot be used for additional study costs such as accommodation or text books.

When a full qualification was being paid for through a payment gateway most RTOs were collecting fees in excess of the limit permitted under the financial management Standard (22.3 (c)).

Of concern is not RTOs use of online business practices, but their need to ensure that the business tools used comply with the transparency and fee protection requirements of the financial management standard. Payment methods should ensure the permissible limit for fees paid in advance is not breached and that clients are provided with the fee information upfront prior to finalisation of the payment.

Table 2: RTO fee collection practices by jurisdiction

Jurisdiction	Collect Fees in Advance		Online payment provisions	
	Number	Proportion (%)	Number	Proportion (%)
ACT	3	0.7	2	0.5
NSW	33	7.8	24	5.7
NT	1	0.2	1	0.2
QLD	41	9.7	33	7.8
SA	11	2.6	8	1.9
TAS	2	0.5	1	0.2
VIC	37	8.8	19	4.5
WA	8	1.9	5	1.2
TOTALS	136	32.3	93	22.1

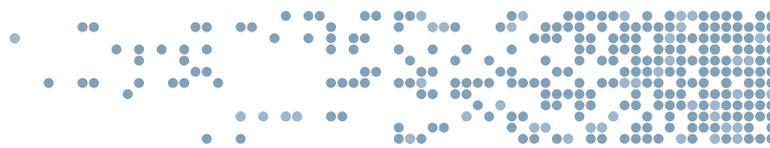
Source: ASQA, 2012.

Note: Proportions based on 421 RTOs examined.

The financial management standard (Standard 22.2) does not provide guidance about the nature of refund policies or arrangements (see Appendix A). It simply requires that RTOs provide information to clients about their refund policy. Similarly the Australian Consumer Law outlines the rights and obligations of businesses and consumers with respect to refunds and the circumstances in which they must be available, but does not prescribe the nature of refund arrangements.

While there is no prescription concerning refund requirements, consumer protection law refers to reasonableness. The review found some refund conditions that on the face of it could be seen as 'unreasonable. For example, 'If written notice of withdrawal is received from a candidate less than 60 days but more than 28 days prior to the initial course commencement, 50% of the tuition fees and 100% course materials costs are refundable.' A deduction of 50% of tuition fees for cancellation between one and three months prior to course commencement seems significant and unreasonable.

Given the prevalence of online business practices, specifically concerning fees and refunds, ASQA could issue a fact sheet informing RTOs of the findings of this review, reinforcing their obligations to comply with the transparency and fee protection requirements of the financial management standard.



3.4 Arrangements for transitioning from superseded courses

Training packages are updated regularly through a continuous improvement process that ensures that training delivery and assessment meets current industry requirements. The transition standard (Standard 25) requires that RTOs manage the transition of superseded training packages and VET accredited courses⁹ so that they deliver only currently endorsed training packages or VET accredited courses. An RTO has a one year transition period from the release of any new training package to ensure that it does not enrol any new students in, or advertise, any superseded qualifications. It is very important that people are offered the latest training package qualifications, rather than the RTOs continuing to offer out-dated programs long after the new ones have been developed and released. Employers and students alike need to get access to contemporary skills and competencies that are needed in the Australian economy. This information is stated in ASQA's general direction on transition and teach-out.

In this review the qualifications that were advertised on each RTO's web site were checked against the registration of each RTO to see if any were superseded. The review identified that 223 (53.0%) of the 421 RTO web sites reviewed had no superseded qualifications advertised (see Table 3) and, therefore, were compliant with the standard. There were 198 (47.0%) RTOs found to have at least one qualification advertised on their web site that was superseded.

This does not necessarily mean these RTOs were in breach of the standards. RTOs are required to manage the transition from superseded training packages within 12 months of their publication on the National Register. The intent is to ensure that RTOs only deliver currently endorsed training packages and currently accredited courses. RTOs must apply to have new (replacement) training package qualifications and units of competency (except version updates) on their scope of registration as soon as practicable but no later than 12 months from the date of publication if the replacement qualification on the National Register if it intends to offer and deliver the replacement qualification. They can still validly enrol new students in the superseded qualification within the transition period until their application is approved and the new qualification is shown on the National Register. In any event, RTOs should not advertise or enrol any new students in the superseded program after the one year transition period.

⁹ Accredited courses have a defined expiry date whereas training package qualifications do not

Table 3: Superseded and non-superseded qualifications being offered by RTOs

Jurisdiction	Registration shows no superseded qualifications		Registration shows superseded qualifications	
	Number	Proportion (%)	Number	Proportion (%)
ACT	9	2.1	7	1.7
NSW	61	14.5	40	9.5
NT	1	0.2	5	1.2
QLD	64	14.8	58	13.8
SA	24	5.7	19	4.5
TAS	3	0.7	3	0.7
VIC	48	11.4	48	11.4
WA	13	3.1	18	4.3
TOTALS	223	53.0	198	47.0

Source: ASQAnet/ www.training.gov.au

Note: Proportions based on 421 RTO web sites examined.

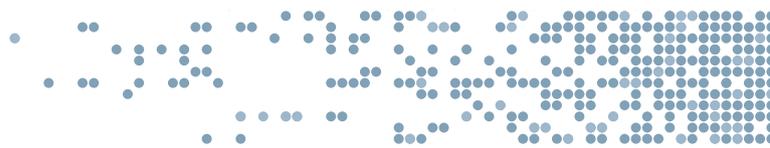
To check whether or not RTOs were advertising a superseded qualification more than one year after the new qualification had been issued, a random sub-sample of 238 of the 421 RTO web sites in this review were further scrutinised. Some 28 or 11.8% of these RTOs were found to be marketing at least one qualification after the one year's transition period had expired, as shown in Table 4.

Table 4: RTOs that are marketing superseded qualification after the allowable transition period (a)

Compliance	Registration shows superseded qualifications	
	Number	Proportion (%)
RTOs complying with the national transition standard	210	88.2
RTOs marketing superseded qualification after the allowable one year's transition period	28	11.8
TOTALS	238	100.0

Source: ASQAnet/ www.training.gov.au

Note: (a) From the random sub-sample of the 238 RTOs whose web sites were further scrutinised as cross checked with their registration.



This highlights the problem of the accuracy of web site information for potential consumers of nationally accredited courses. It is particularly critical because the average consumer would not recognise that the courses being offered are superseded (out-of-date).

While requiring web sites to be accurate will not address the issue of out-dated web site information being accessible through search engines, it can be expected to drive greater levels of compliance with the transition requirements of the standards and is likely, therefore, to reduce the incidence of enrolments in out-of-date qualifications.

In relation to the potential non-compliances identified, it is proposed that ASQA write to each of the 198 RTOs advertising superseded qualifications reminding them of the requirement to maintain compliance at all times with the standards and requesting that they provide evidence of compliance with the transition standard.

Additionally, ASQA has produced a fact sheet entitled *Choosing a Training or Education Provider*. This fact sheet is available on the ASQA web site. It does not include a reference to qualification currency. ASQA will revise this fact sheet in the light of the issues raised in this strategic review about RTOs continuing to market superseded qualification.

3.5 Misuse of the NRT logo in marketing

The marketing standard (Standard 24) requires an RTO to ensure its marketing and advertising is ethical, accurate and consistent with the qualifications it is registered to deliver. In addition, the standard requires that the RTO must use the NRT logo only in accordance with its conditions of use. This means that this logo can only be used in relation to AQF qualifications or units and not in relation to any other training products or services. This aims to provide consumers with an assurance that when they see the NRT logo, it applies only to nationally recognised qualifications that have met quality standards.

The review has found that many RTO web sites that are using the NRT logo as part of legitimate marketing of qualifications are also using social media as part of their marketing, such as Facebook feeds or links that take consumers to other marketing information such as non-accredited training.

Social media feeds are increasingly used as a tool for marketing, with 196 (46.6%) of the 421 RTO web sites reviewed identified as having some form of social media presence on their web site (see Table 5). A sub-sample of 35 (17.9%) RTO web sites that were using social media as a marketing tool were examined in more detail. It was identified that 14 (40%) were in potential breach and 21 (60%) were potentially compliant.

This may potentially mislead consumers to believe the other products being advertised are nationally recognised qualifications. Technically the web sites are in breach of the current requirements for NRT logo use:

Use of the NRT logo is only permitted where there is a direct relationship to an accredited AQF aligned course, training package qualification or a course meeting the requirements of the AQTF. (AQSA 2013d)

When an RTO is promoting the training it offers and wishes to use the NRT logo, its promotional material such as brochures, handbooks and prospectuses must clearly distinguish between nationally recognised training within the scope of registration and that which is not nationally recognised. (AQSA 2013d).

Where the logo was not used with social media, most of the web sites demonstrated compliance with the conditions of use.

It is proposed that where potential breaches of the conditions of use of the logo have been identified, ASQA write to the RTOs reminding them of the requirement to comply at all times with the marketing standard and the conditions of the logo's use and request that they provide evidence of compliance.

Table 5: Web site use of social media

Jurisdiction	RTO web sites that use social media		RTO web sites that do not use social media	
	Number	Proportion (%)	Number	Proportion (%)
ACT	5	1.2	11	2.6
NSW	47	11.2	53	12.6
NT	4	1	3	0.7
QLD	59	14	64	15.2
SA	18	4.3	25	5.9
TAS	3	0.7	3	0.7
VIC	49	11.6	47	11.2
WA	11	2.6	19	4.5
TOTALS	196	46.6	225	53.4

Source: ASQA, 2012.

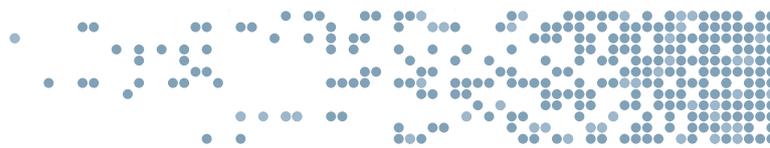
Note: Proportions based on 421 RTO web sites examined.

It was noted that web sites of RTOs that were also registered as providers on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) were more readily identifiable as those belonging to RTOs than non CRICOS RTO web sites. This increased transparency is as a result of the requirement for CRICOS providers to include the CRICOS registration number on education and training materials and information¹⁰.

The review has identified that RTOs are also not consistently providing the qualification code with the title for qualification being advertised. This practice, while often undertaken in a compliant way, does not assist consumers by ensuring that they are accessing the current qualification.

RTOs often do not include their national registration code in their web site advertising and often may only use their trading name. This makes it difficult for consumers (individuals and organisations) to readily identify the RTO that they are considering enrolling with. However, it is not mandatory for RTOs to advertise their national registration identifier as appears on www.training.gov.au.

¹⁰ The Commonwealth Register of Institutions and Course for Overseas Students lists all Australian education providers that offer courses to people studying in Australia on student visas, and the courses offered. See <http://cricos.deewr.gov.au>



3.6 Course duration

ASQA has received 18 complaints during the course of this strategic review from consumers and stakeholders about advertising of courses or programs that appear to be of such short duration as to be ineffective. Some organisations also market the availability of multiple qualifications to be awarded simultaneously.

Examples include:

- an advanced diploma in two weeks;
- a licensing unit such as forklift that can be completed in two hours; and
- two qualifications in eight weeks.

Of the 421 RTO web sites reviewed, 227 (53.9%) market what many consumers and stakeholders refer to as unrealistically short duration programs, some of which also lead to multiple qualification outcomes. Of the 421 RTO web sites reviewed, 194 (46.1%) did not promote short duration programs¹¹ (see Table 6).

While there are legitimate circumstances in which clients might obtain qualifications quickly, for example if they have prior relevant experience and skills, it is these marketing headlines, perhaps more than any others, that generate stakeholder concerns and lack of confidence in VET qualifications.

In designing their training and assessment strategies RTOs must consider the requirements of the qualifications and consult with industry (Standard 15.2). In most cases it is not possible to determine without further investigation and site audit whether the RTOs identified are compliant or not with the training and assessment standard. Standard 15 requires RTOs to provide quality training and assessment and to ensure that training and assessment strategies have been developed through effective consultation with industry.

The marketing of short duration programs has the potential to undermine consumer and industry confidence in nationally recognised qualifications as it is perceived that the training is likely to lack rigor and quality.

The AQF specification for certificate and diploma qualifications provides guidance on the volume of learning. Examples from the AQF 2013 include:

- the volume of learning of a Certificate I or II is typically 0.5 – 1 year;
- the volume of learning of a Certificate III is typically 1 – 2 years. Up to 4 years may be required to achieve the learning outcomes through a program of indentured training/employment;
- the volume of learning of a Certificate IV is typically 0.5 – 2 years. There may be variations between short learning duration specialist qualifications that build on knowledge and skills already acquired and longer duration qualifications that are designed as entry level requirements for work; and
- the volume of learning of a Diploma is typically 1 – 2 years.

¹¹ Short duration programs generally fall into two categories. One is for courses that are usually 1 to 2 days in length often for a single unit of competence and those that are unrealistically short, often for full qualifications. The Australian Qualifications Framework guidance in relation to the volume of learning provides a measure for all qualifications. For example a certificate II qualification will typically take 6-12 months - page 30 Australian Qualifications Framework 2013.

The requirement to provide sufficient training and assessment to assure a student can be certified as competent to receive a qualification is mandated in a number of ways for RTOs including:

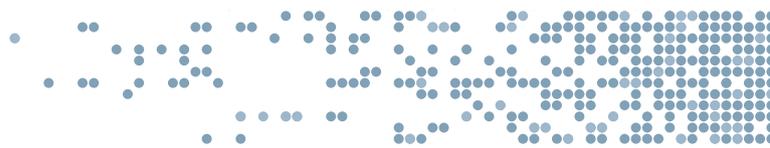
- strategies for training and assessment meet the requirements of the relevant training package (Standard 15.2). The strategy must be developed through effective consultation with industry. If the target group is persons inexperienced in the industry, then the program duration will be commensurately longer to meet their learning needs;
- units of competency often include assessment requirements that use terms such as '*must be assessed over a period of time*', '*must be conducted on more than one occasion to cover a variety of circumstances*', and the candidate '*must demonstrate consistency of performance*'; and
- RTOs' assessments are required to meet the principles of assessment and the rules of evidence which are defined in the standards. The rules of evidence include '*sufficiency*'.

Table 6: Web site promotion of short-duration training

Jurisdiction	RTO web sites that promote short durations		RTO web sites that do not promote short durations	
	Number	Proportion (%)	Number	Proportion (%)
ACT	8	1.9	8	1.9
NSW	56	13.3	44	10.5
NT	5	1.2	2	0.5
QLD	60	14.3	62	14.7
SA	22	5.2	21	5.0
TAS	5	1.2	1	0.2
VIC	55	13.1	41	9.7
WA	16	3.8	15	3.6
TOTALS	227	53.9	194	46.1

Source: ASQA, 2012.

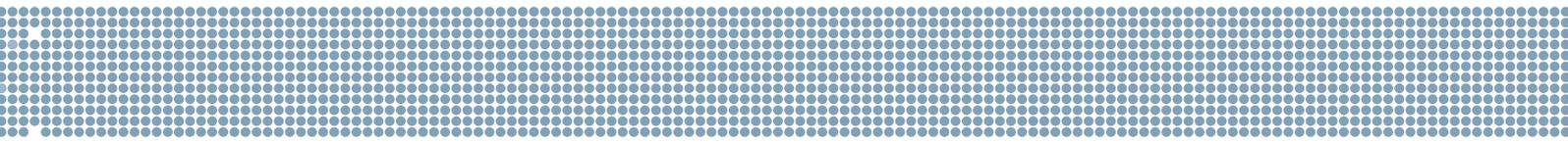
Notes: Proportions based on 421 RTO web sites examined



The review found that the marketing headline of short-duration programs does not always indicate non-compliance with the requirement to provide quality training and assessment. There are sometimes legitimate reasons why clients achieve qualifications in a short time. Examples identified included programs targeting consumers:

- seeking to up-skill who already hold a qualification or have worked in a particular industry for a period of time, for example, upgrading from a Training and Assessment (TAA) qualification to a Training and Education (TAE) qualification in five days. In such cases Recognition of Prior Learning may have been legitimately used as a form of assessment, in recognition of the person's existing skills and experience, reducing the time required to complete the qualification;
- looking for intensive training and assessment often comprising a mixture of face to face and work to be undertaken away from the training sessions. These programs may have had a marketing headline of five days, but on closer examination this often translated into five days of classroom time plus work placement and theory assessments;
- looking for single unit or skill sets in specific industries such as tourism and hospitality (for example, Responsible Service of Alcohol and Barista training), First Aid and mandatory units for working in particular industries such as the construction industry's White Card; and
- seeking-cost effective qualification pathways such as multiple qualifications, for example a Certificate IV and a Diploma qualification where the units are carefully selected reducing the duration and number of units that a learner needs to complete to achieve the two qualification outcome – a legitimate strategy if the training and assessment is completed appropriately. The flexibility of packaging rules in training packages can facilitate completion of more than one qualification.

Overall it is not possible through this desktop review to determine decisively if duration and multiple qualifications on the web sites reviewed are compliant with the assessment standard. This is because ASQA determines compliance or otherwise primarily through site audits examining the RTO's training and assessment strategies, considering the requirements of the relevant training package and of the AQF. It is only at that point that evidence can be obtained to determine whether the marketing headline reflects legitimate practice in compliance with the quality requirements of the standard or alternatively reflects poor-quality training and assessment. Nevertheless, it is clear that the marketing headlines, whether legitimate or not, give rise to significant stakeholders concerns and erode confidence in the VET system. It raises a general issue of whether volume of learning or duration of programs should be specified in VET qualifications, with appropriate flexibility that enables the program to be shortened or lengthened depending on the learners' backgrounds and needs.



Chapter 4

Non-RTOs marketing and advertising nationally recognised training

It became apparent during the course of the web searches conducted for the review that there are organisations that are not RTOs that include within their web site marketing and advertising references to nationally accredited training qualifications. Of the 480 web sites examined during the review, 59 were found to be not RTOs.

These non-RTO web sites fell into three categories:

- those that were offering what is best described as a ‘brokerage service’ where they market nationally recognised qualifications to potential consumers (some taking payment upfront) and then apparently ‘match’ the consumer with an unidentified RTO or RTOs;
- those that were marketing nationally recognised qualifications in partnership with identified RTOs; and
- non-RTOs that were purporting to be RTOs.

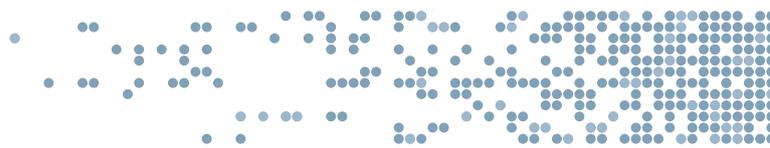
Some of the non-RTOs offering a brokerage service appeared to be taking data from sources such as www.training.gov.au and creating lists of RTOs and services. The RTO listed does not necessarily know about its inclusion on the list. These lists are then included on web site pages, often accompanied by information about other products and services.

The review identified a number of concerns about the nature of non-RTO marketing and advertising services, some of which are in common with the concerns identified in relation to RTO practices including:

- fee information and practices;
- lack of transparency for consumers in the brokerage arrangements and lack of currency of published information;
- conduct that could be seen as potentially misleading and deceptive; and
- non-RTOs falsely claiming to be RTOs or purporting to be able to offer RTO services.

This issue of non-RTO service provision has the potential to undermine the objective of the standards to ensure nationally consistent, high-quality training and assessment services for the clients of Australia’s VET system as non-RTOs are not obliged to comply with the national standards for RTOs.

In this chapter each of the issues of concern is examined in turn and where appropriate options for action are proposed.



4.1 Fee practices

As outlined in Chapter 3 in relation to RTOs, the web site analysis uncovered several issues of concern in relation to the issue of fee practices and the level of transparency available to consumers in an increasingly online business environment. These same concerns were identified for non-RTOs, but with the added concern that the non-RTOs are not required to comply with the financial management standard (Standard 22).

RTOs are required under the financial management standard to make information available to clients about fees, including refund information and to have suitable arrangements¹² in place when collecting fees in advance. The use of non-RTO brokers to collect fees circumvents the consumer protection measures in the financial management standard, unless the broker is an authorised agent of the RTO. If this is the case, the RTO is responsible under the partnership standard for ensuring that the agent meets all aspects of the standards.

Thirty-three (55.9%) of the 59 non-RTOs were found to have a facility to collect online payments, 24 of which collect fees in advance and then apparently match the client to an RTO that provides the training and assessment services. This brokerage practice where the organisation is not an authorised agent of an RTO removes the consumer protection provided by the standards.

In addition, organisations that are not authorised as a broker by the RTO can circumvent the consumer protection given by the pre-enrolment information standard. This standard (Standard 16.3) requires that a consumer is provided with details before they enrol of their rights and obligations and what training and assessment support services the RTO will provide. Because this group of non-RTOs do not have an established relationship with an RTO this preliminary information cannot be provided. The protection this standard gives consumers should not be under-rated. Australian consumer law does require marketing and advertising to not be deceptive or misleading. Therefore, while the broker organisation (non-RTO) is not required to act within the requirements of the standards, the consumer law is intended to ensure that consumers receive information on the services to be provided before they pay for them.

A further consumer protection issue is evidenced in the collection of fees in excess of the quantum allowable in the financial management standard limit (Standard 22). Payment methods should not breach the standard and consumers should be provided with fee information up front prior to finalisation of payment.

4.2 Transparency and currency of information

RTOs are required under the marketing standard (Standard 24) to maintain the accuracy and integrity of their marketing. Where they have an identified partnership or brokerage arrangement with a non-RTO for marketing their services, the RTO will have a responsibility to ensure accuracy and integrity of the information being provided by the non-RTO.

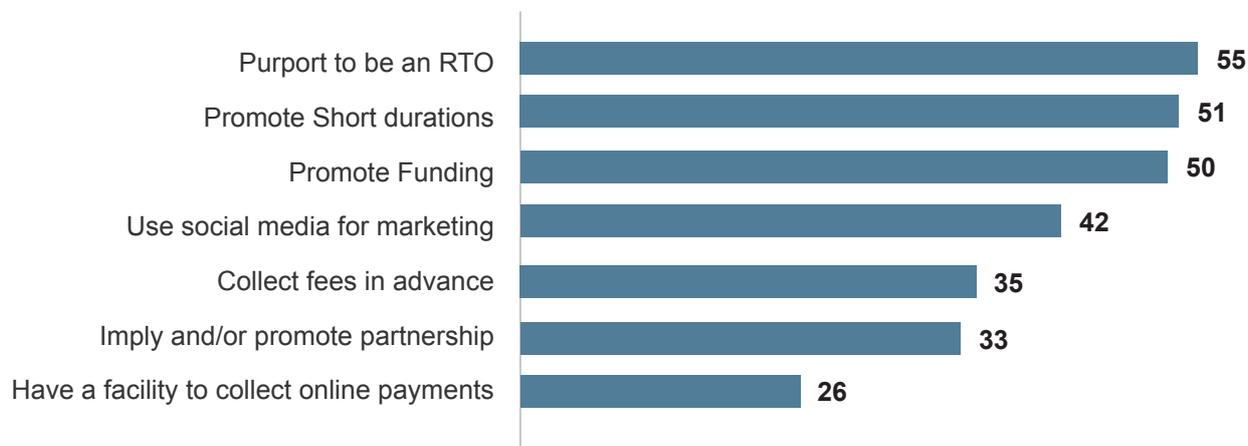
However, the review has found that in many circumstances in which non-RTOs are promoting nationally accredited qualifications on behalf of RTOs, there is a significant lack of transparency for consumers. The published information may also be out of date.¹³

12 Suitable arrangements with regard to fees may include, for example, systems that safe guard the collection of personal information and the security of payments.

13 A lack of or out-of-date information may disadvantage a consumer. For example a consumer may be induced into a course that uses up their entitlement under the national training scheme – e.g. a traineeship.

Many (33 of the 59 or 55.9%) of the non-RTO web sites that were reviewed did not identify any partnership arrangements with an RTO as shown in Figure 3. Most simply promote RTO services and/or nationally accredited qualifications often with marketing inducements such as fee discounts, technology incentives and multiple qualifications for a discounted price. Of these organisations some also actively marketed to particular audiences such as international students seeking a pathway to migration and those seeking to obtain a qualification in short duration. Because there is no partnership arrangement the non-RTO cannot assure a consumer a training and assessment service can be provided at the discounted price advertised. Nor could it ensure the RTO service will address any particular needs of the student.

Figure 3: Numbers of Non-RTOs that did not ...



Source: ASQA, 2012.

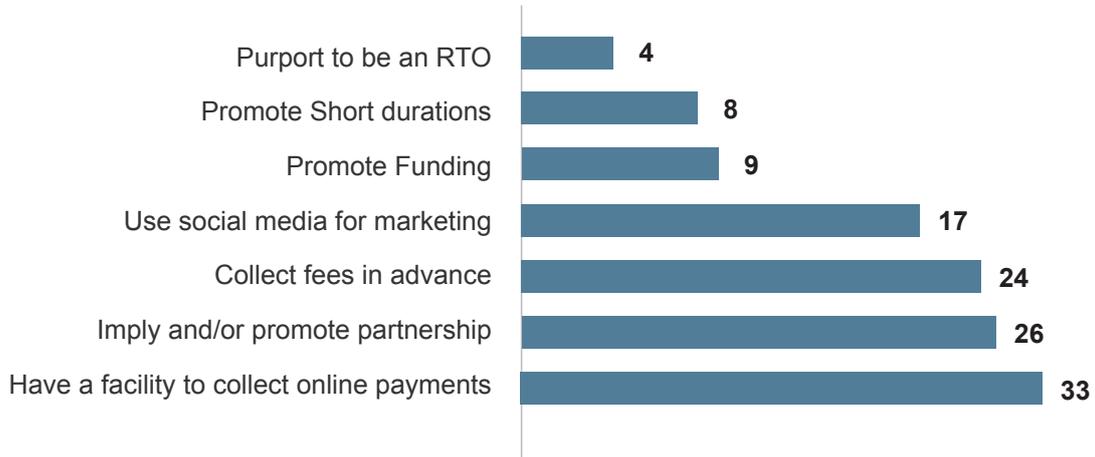
Consumer protection requires transparency in the terms of the agreements. Consumers do not necessarily understand that the organisation marketing the nationally recognised training is not an RTO. They cannot rely on the protection offered by the standards that RTOs are required to comply with. If the non-RTO is an agent of an RTO the consumer will probably be unaware of any terms of that agency arrangement.

Of the 59 non-RTO web sites identified, 26 (44.1%) publish on their web site the RTOs with which they have a partnership as shown in Figure 4 and Table 7. In these instances there is some transparency for consumers providing the information is current. However, it was noted that some web sites identified more than one RTO partnership and that some of these have not maintained the currency of the information as some of the partner RTOs named are not currently registered RTOs listed on the www.training.gov.au web site.

The existence of brokerage arrangements between RTOs and non-RTOs raises other questions, including whom clients contact when they have a complaint.



Figure 4: Numbers of Non-RTOs that do ...



Source: ASQA, 2012.

The issue of how non-RTOs offering brokerage services might be required to ensure that their activities are transparent and properly disclosed to people using their services requires further consideration.

4.3 Misleading and deceptive marketing

Nine (15.3%) of non-RTOs were found from their web sites to be engaging in marketing practices that could be considered to be misleading or deceptive under Australian consumer law.

Examples include:

- one organisation web site targets potential clients from India, stating 'you can become a nurse in 5 weeks' and identifies an RTO partner. The RTO partner was found to be an ASQA regulated RTO but does not have on its current scope of registration any of the qualifications to which the web site referred; and
- the outsourcing of RTO services to an offshore processing centre where 'fully compliant' assessment options were available for the 'special offer' of \$19 per hour. The web site claims that '*by increasing the level of customer service in one of our partnered RTO's was able to turnaround completion rates 8000 generating 1600 units per month to 5000 students generating 7000 units per month within 6 months(sic)*' The RTO partnerships were not identified on the web site.

The provisions of the Australian consumer law in relation to misleading or deceptive conduct have been previously outlined in Chapter 3.

It suggests that there are remedies for consumers under Australian consumer law, through either the Australian Competition & Consumer Commission (ACCC) or state and territory Consumer Protection Agencies in relation to the examples above.

4.4 Non-RTOs purporting to be RTOs

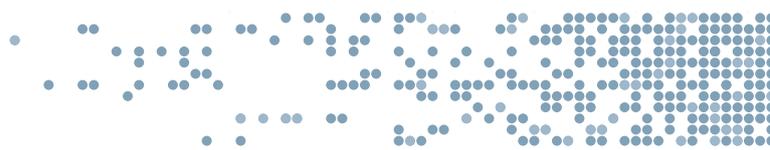
The review found that four of the 59 non-RTOs were falsely advertising themselves to be RTOs as shown in Table 7. While the number is small (6.8%) this has the potential for serious impact on the integrity of the national training system and it is proposed that ASQA take immediate action using its powers under the *National Vocational Education and Training Regulator Act 2011*.

Under Sections 114 and 116 respectively of the *National Vocational Education and Training Regulator Act 2011* (see Appendix E), it is an offence to falsely claim to be an RTO or to provide or offer to provide a VET course without registration.

Table 7: Attributes of non-RTO web site examined

Activity	Observed		Not observed	
	Number	Proportion (%)	Number	Proportion (%)
Imply and/or promote partnership	26	44.1	33	55.9
Collect fees in advance	24	40.7	35	59.3
Online payment facility	33	56.0	26	44
Use of social media for marketing	17	28.8	42	71.2
Promote accessing government funding	9	15.3	50	84.7
Promote short durations	8	13.6	51	86.4
Purporting to be an RTO	4	6.8	55	93.2

Source: ASQA, 2012.



Chapter 5

Conclusions and recommendations

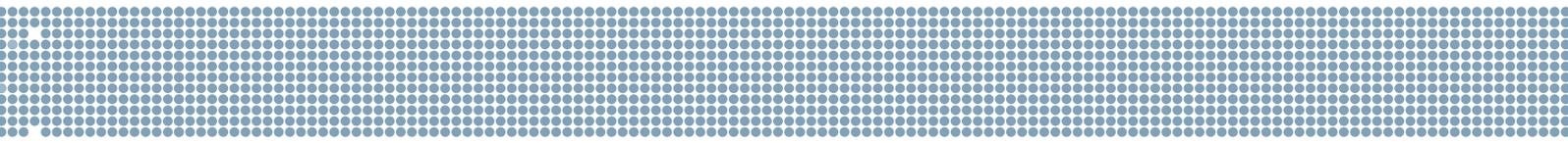
This strategic review was initiated by ASQA following persistent stakeholder concerns about the marketing and advertising practices of RTOs. Concerns included information that was considered false or misleading, providing inaccurate or insufficient information about fees to be charged and refund practices, RTOs promoting unrealistically short timeframes to complete qualifications, and non-RTOs promoting nationally recognised training or purporting to be RTOs. These practices have the potential to undermine confidence in nationally recognised training and the VET system in general.

The review conducted in 2012 and 2013 sought industry perspectives on the issues at the outset and undertook desktop analysis of the web sites of 480 organisations of which 421 were RTOs and 59 were non-RTOs.

The review has found:

- almost half (45.4%) of the 421 RTO web sites reviewed showed one or more areas of potential non-compliance in relation to their marketing, advertising, fee collection, and information provision practices, confirming concerns of stakeholders;
- a small but significant number of RTO web sites (8.6%) were considered to be using potentially misleading and/or deceptive marketing. This is likely to have significant impact on consumer confidence in VET qualifications;
- there is increasing use by RTOs of online tools to facilitate business and of social media for marketing. However, in many cases RTOs' online business and marketing practices are leading them to be not compliant; for example in relation to the requirements of the financial management and marketing standards. Half of the RTOs, where their online payment systems were fully tested, were able to collect more than \$1500 in up-front fees;
- some 11.8% of RTOs are advertising superseded qualifications, past the one year's transition period that is allowed, which are posing risks to consumers who may be disadvantaged by completion of out-dated qualifications; and
- over half RTO web sites use marketing headlines that advertise what many consumers and complainants to ASQA view as unrealistically short-duration courses. While there may be legitimate reasons for some clients to complete qualifications in a short time, these marketing headlines have the potential to undermine confidence in nationally recognised training.

A number of concerns were identified in relation to non-RTO marketing and advertising practices. These practices have significant potential impact on consumers, as non-RTOs are not required to comply with the standards for RTOs.



The recommendations in this chapter focus on responding to each of these findings to achieve positive change in RTO marketing and advertising practices. Actions are also recommended in relation to non-RTO practices. The key areas for action include:

- proposals for the consideration of the National Skills Standards Council to strengthen and clarify the *Standards for Registered Training Organisations 2012*;
- ASQA enforcement of RTO compliance;
- ASQA using the provisions of the *National Vocational Education and Training Regulator Act 2011* that prohibit certain conduct by non-RTOs;
- proposals to increase transparency for consumers; and
- ASQA to consider how it best uses the outcomes of the review to drive better RTO marketing and advertising practice.

The National Skills Standards Council is currently reviewing the standards for the regulation of vocational education and training including the *Standards for NVR Registered Training Organisations*. It has proposed changes to the standards with the objective being to promote integrity and confidence in the VET sector and outputs from it.

The findings of ASQA's strategic review are, therefore, timely and can inform the review of the standards by the National Skills Standards Council.

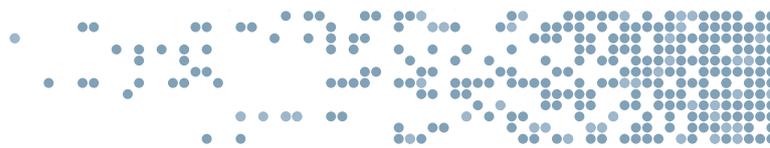
From the findings of this review, there is lack of understanding by RTOs of the requirements of the marketing standard to ensure the accuracy and integrity of marketing and the requirements of the financial management standard to provide clear and transparent information to clients about RTO fees and refund policies.

The current standard includes the terms 'integrity' and 'ethical' that are subjective in nature. It is proposed that the National Skills Standards Council gives consideration to removing these subjective terms. The current requirements are:

- that marketing is accurate and consistent with the RTO's registration; and
- that is clear and objective in nature.

In addition to these requirements it is recommended that there be a requirement that RTO marketing not be misleading or deceptive. This would align the standard with the terms used in the Australian Consumer Law. In addition the standard could be clarified by including in the revised standards what RTOs **should do** in order to fulfil the requirements of accurate, consistent, and not misleading or deceptive marketing including:

- only marketing qualifications and courses that it is registered to deliver;
- only marketing current qualifications;
- ensuring advertising does not guarantee assessment outcomes or completion of qualifications and courses in short timeframes that do not meet the requirements of the training package, unless clear advice is provided about the target group of learners and the reasons why short duration is appropriate;
- ensuring that advertising does not guarantee a qualification by implying the payment of fees will lead to the acquiring of a qualification with no mention of needing to successfully fulfil the training and assessment requirements; and
- ensuring advertising does not link enrolment in the qualifications to guaranteed outcomes outside the VET sector such as jobs or migration pathways.



From the findings of this review, there is a strong case to provide further detail about what ethical marketing ought to encompass. Moreover, the revised standards must also cover things the RTOs must not do in order to fulfil the requirements of 'accurate' and 'not misleading' in their marketing and advertising, including not to:

- market qualifications or courses not currently on its scope of registration;
- market superseded qualifications or expired courses;
- market qualifications or courses contrary to a condition or sanction imposed on the registered training organisation by its regulator;
- guarantee an assessment outcome;
- guarantee completion of a qualification or course in unrealistic time frames; and
- link enrolment in the qualification or course to guaranteed outcomes outside the VET sector. Examples include, guaranteeing employment or in the case of overseas students, Australian residency.

ASQA's submission to the National Skills Standards Council's, standards review does address these issues.

Recommendations

It has been found in this review that an unacceptably high proportion of RTOs are misleading clients with their marketing and advertising, collecting fees in advance in excess of the levels permitted under the national standards, and enrolling students in superseded or obsolete courses.

Recommendation 1

It is recommended that ASQA makes the scrutinising of an RTO's marketing and advertising, its client fee payment system and whether or not it is enrolling students in superseded courses a very high priority in the regulation of RTOs through:

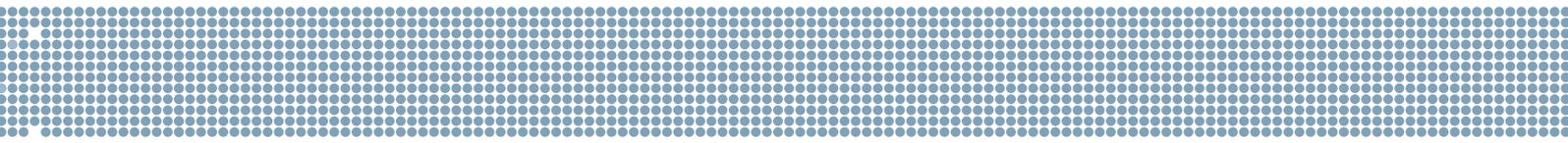
- *checking the RTO's web site at the risk assessment stage for all applications for initial or renewal of registration for potential breaches with respect to marketing and advertising, client payment systems and the teaching of superseded or obsolete courses; and*
- *the mandatory inclusion of marketing and advertising, client payment systems and whether clients are being enrolled in superseded or obsolete courses in any audit ASQA does.*

The findings of this review have identified that employers, potential students and RTOs themselves are often provided with ambiguous and/or insufficient information to make informed training choices.

Recommendation 2

It is recommended that:

- *ASQA provide on its web site clear information for potential students, employers, career advisers and RTOs about their rights (and obligations) as currently provided for in the standards; and*
- *the Department of Industry develop and publish complementary information to ensure that people and organisations purchasing training make informed choices.*



Further steps are also required as part of the process of ASQA giving a very high priority to regulatory scrutiny of marketing and advertising, fee collection and whether RTOs are enrolling students in superseded and obsolete programs.

Recommendation 3

It is recommended ASQA undertake future and periodic random sampling of RTO web sites to identify potential non-compliance with the national standards governing marketing, student fee protection and the requirements to transition from superseded courses, together with action requiring rectification of such non-compliance.

RTOs need to be provided with much clearer requirements about what ethical and accurate marketing means.

Recommendation 4

It is recommended the National Skills Standards Council, in overseeing the preparation of revised national standards, give consideration to the enhancement of the existing national standard on marketing and advertising along the lines that:

- *RTOs must ensure that their marketing and advertising is ethical, accurate and consistent with their scope of registration (which is consistent with the existing National Standard 24.1);*
- *RTOs must include details of all fees and charges and their refund policy in their marketing and advertising;*
- *RTOs must clearly and accurately describe the training products they are marketing and advertising, including a mandatory requirement that all marketing and advertising materials include the qualification or unit codes and titles so that clients know exactly what courses are being offered;*
- *RTOs must include their unique national registration code in all marketing and advertising material so clients are aware of the organisation that is supplying the training and assessment of any courses in which they enrol;*
- *RTOs must include in their marketing and advertising, in all cases where some or all of the training and assessment is to be sub-contracted to a partner RTO, a full description of the training and assessment services being provided by a partner RTO including its unique national registration code and all qualification or unit codes and titles that will be delivered on behalf of the host RTO that will actually be issuing the qualification;*
- *RTOs must include in their marketing and advertising materials clear details about who the training products are aimed at when marketing and advertising a course that is shorter than the duration required under the Australian Qualifications Framework requirements, such as ‘this course is only open to students who have already completed certain qualifications or units, or who have substantial previous industry experience’;*
- *RTOs must not market or advertise superseded or obsolete qualifications or units;*



- *RTOs must not market or advertise courses that are not currently on their scope of registration;*
- *RTOs must not guarantee an assessment outcome in their marketing and advertising such as ‘100% pass rates guaranteed’ or ‘enrol and you will achieve a certificate or diploma’;*
- *RTOs must not guarantee the completion of a qualification or unit in unrealistically short time frames in their marketing and advertising that fall well short of the requirements of the AQF;*
- *RTOs must not guarantee an outcome from their training in their marketing and advertising that links enrolment in their courses to outcomes outside their control to ensure it is delivered, such as guaranteeing a job or an immigration outcome once the training is completed; and*
- *RTOs must only use the Nationally Recognised Training logo in accordance with the conditions specified for the use of the logo (with these conditions being spelled out clearly in the revised standard).*

The issue that web sites examined for this review indicate a significant number of RTOs are delivering programs that fall well short of the current AQF guidelines needs to be urgently addressed.

Recommendation 5

It is recommended that the National Skills Standards Council should give consideration to convening a group involving industry skills councils, the Australian Qualifications Framework Council, Australian Skills Quality Authority, the Victorian and Western Australian VET regulators, and appropriate Australian and state and territory training officials, to develop an overall benchmark on and/or clarify:

- *the minimum volume of learning for different AQF qualifications;*
- *the minimum volume of learning for different types of units of competency and skill sets;*
- *the different teaching, learning and assessment activities that should be included in the volume of learning;*
- *the appropriate variations to any minimum volume of learning requirements to reflect the acceptability of shorter programs when learners already have considerable industry experiences;*
- *any requirements around learning methodology to support variations to duration;*
- *how these requirements should be expressed in the revision of the national standards for the registration of RTOs;*
- *how any such benchmarks should be systematically incorporated into the revision of training packages that is currently underway; and*
- *appropriate guidance for RTOs about how to incorporate such benchmarks into their training delivery.*

RTOs need to have clearer information about what appropriate marketing and advertising involves.

Recommendation 6

It is recommended that, once the revised national standards are finalised, that ASQA provide new information, including on its web site, to RTOs and that ASQA undertake a round of national RTO workshops to reinforce and explain:

- *any new requirements for RTO marketing and advertising as a result of any changes to the national standards for the registration of RTOs resulting from the current revision of national RTO standards;*
- *the key findings of this review and what constitutes good RTO marketing and advertising practice, as opposed to poor and misleading practice; and*
- *what obligations RTOs have with respect to meeting the requirements of Australian consumer law and relevant state and territory fair trading laws.*

To ensure that VET clients, who use the services of the growing number of brokers that are not RTOs, but who are collecting fees and arranging training and assessment, are provided the similar consumer protection as they would be entitled to if they were dealing direct with an RTO (noting that legislation currently exists to allow ASQA to take action against any person falsely purporting to be an RTO).

Recommendation 7

It is recommended that ASQA and the Department of Industry:

- *examine the National Vocational Education and Training Regulator Act 2011 to determine exactly what powers exist to ensure brokers are:*
 - a. *not engaged in the collection of fees in advance beyond those permitted under the Standards for NVR Registered Training Organisations 2012;*
 - b. *not engaged in deceptive or misleading marketing and advertising;*
 - c. *required to disclose a full description of training services being provided including qualifications and unit codes;*
 - d. *required to disclose which RTOs will provide the training and assessment, including the RTO's national registration code;*
 - e. *required to disclose what services are being provided by the broker and what services are being provided by which RTO; and*
 - f. *subject to similar standards that are required of RTOs; and*
- *identify what gaps in legislation exist and what legislative changes would be required to ensure consumers using VET brokers that are not RTOs are fully protected.*

There is also a need for transparency in the relationship between brokers and RTOs.

Recommendation 8

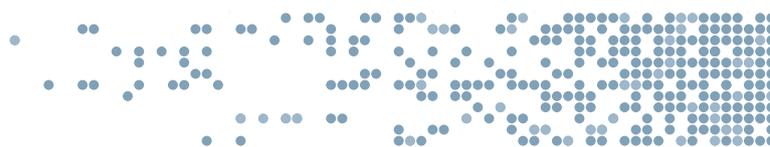
It is proposed that the National Skills Standards Council, in the development of the new national standards for RTOs, give consideration to a requirement for all RTOs to include details of any brokerage arrangements in their marketing materials where third parties are recruiting students for them on their web sites.



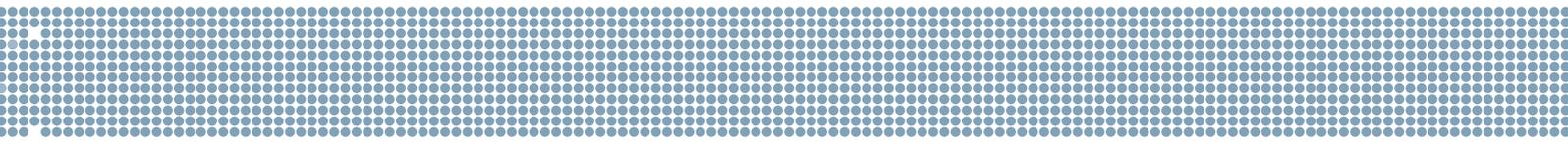
Glossary

Assessment	<p>The process of collecting evidence and making judgments on whether competency has been achieved, to confirm that an individual can perform to the standard expected in the workplace, as expressed by the relevant endorsed industry/enterprise competency standards of a training package or by the learning outcomes of an accredited course.</p> <p><i>Source: 2010 AQTF User's guide to the essential conditions and standards for Continuing Registration. http://natese.gov.au/?a=69353</i></p>
Assessment guidelines	<p>The endorsed component of a training package that underpins assessment and sets out the industry's approach to valid, reliable, flexible and fair assessment.</p> <p><i>Source: 2010 AQTF User's guide to the essential conditions and standards for Continuing Registration. http://natese.gov.au/?a=69353</i></p>
Assessment tools	<p>An assessment tool includes the following components: the context and conditions for the assessment, the tasks to be administered to the candidate, an outline of the evidence to be gathered from the candidate and the evidence criteria used to judge the quality of performance (i.e. the assessment decision making rules). It also includes the administration, recording and reporting requirements.</p> <p><i>Source: 2010 AQTF User's guide to the essential conditions and standards for Continuing Registration. http://natese.gov.au/?a=69353</i></p>
Authenticity	<p>One of the rules of evidence. To accept evidence as authentic, an assessor must be assured that the evidence presented for assessment is the candidate's own work.</p>
Compliance audit	<p>An audit conducted, under s.35.1 of the <i>National Vocational Education and Training Regulator Act 2011</i>, to assess whether or not NVR RTOs continue to comply with the NVETR Act or the VET Quality Framework. They are also conducted under the <i>Education Services for Overseas Students Act 2000</i>.</p>
Course	<p>Course means a course of vocational education and training.</p>
Non-compliance	<p>The evidence reviewed during an audit indicates that the requirements of VET Quality Framework have not been met.</p>
NVR RTO	<p>An NVR RTO is a training organisation that is registered by the National VET Regulator as a registered training organisation.</p>
Partnering (Partnership)	<p>Partnering arrangements apply to situations where an organization conducts training and/or assessment services on behalf of the RTO or vice versa.</p>

Recognition of Prior Learning (RPL)	<p>An assessment process that assesses an individual's non-formal and informal learning to determine the extent to which that individual has achieved the required learning outcomes, competency outcomes, or standards for entry to, and/or partial or total completion of, a qualification.</p> <p><i>Source: 2010 AQTF User's guide to the essential conditions and standards for Continuing Registration. http://natase.gov.au/?a=69353</i></p>
Registered training organisation (RTO)	<p>A training organisation registered by a national, state or territory registering body.</p> <p>A training organisation listed on the National Register as a registered training organisation.</p>
Sampled audit (random sampled audit)	<p>Reviews and examinations of any aspects of NVR RTOs operations to determine any systemic issues relating to the quality of vocational education and training</p>
Simulated work environment	<p>The requirement for a unit of competency to be assessed in a simulated workplace environment may be identified either within the unit of competency itself or within the relevant Training Package Assessment Guidelines.</p> <p>A simulated workplace may be required for the following reasons:</p> <ul style="list-style-type: none"> • The learner may not have access to a workplace. • The available workplace may not use the relevant skill, equipment or process. • Conducting assessments may be disruptive or interfere with work requirements, e.g. there may be ethical, privacy or confidentiality issues to consider. • It may not be appropriate to apply the skills in the workplace due to potential risks such as health and safety or equipment being damaged. <p>For the purposes of assessment, a simulated workplace may be described as one in which all of the required skills are performed with respect to the provision of paid services to an employer or the public can be demonstrated as though the business was actually operating.</p> <p>In order to be valid and reliable, the simulation must closely resemble what occurs in a real work environment.</p> <p>The simulated workplace should involve a range of activities that reflect real work experience. The simulated workplace should allow the performance of all of the required skills and demonstration of the required knowledge.</p> <p>It is critical that when a simulated workplace is being set up, the assessor is thoroughly familiar with the competency standard/s as well as experienced in the current circumstances and environment of the workplace.</p> <p>In deciding whether a simulation or an assessment environment has been adequately set up, the following should be considered.</p>



	<p>Are there opportunities to:</p> <ul style="list-style-type: none"> • Test the full range of equipment • Use up-to-date equipment and software • Reflect times and deadlines • Show the complexity of dealing with multiple tasks • Involve prioritising among competing tasks • Deal with customers, including difficult ones • Work with others in a team • Communicate with diverse groups • Find, discuss and test solutions to problems • Explore health and safety issues • Answer practically oriented, applied knowledge questions • Show the level of written and verbal expression sufficient for, but not exceeding, the work requirements. <p><i>Source: 2010 AQTF User's guide to the essential conditions and standards for initial registration. http://natese.gov.au/?a=69353</i></p>
Training and assessment strategy	A framework that guides the learning requirements and the teaching, training and assessment arrangements of a vocational education and training qualification. It is the document that outlines the macro-level requirements of the learning and assessment process, usually at the qualification level.
Unit of competency	Specification of industry knowledge and skill and the application of that knowledge and skill to the standard of performance expected in the workplace
Vocational education and training (VET)	Post-compulsory education and training, excluding degree and higher level programs delivered by further education institutions, which provides people with occupational or work-related knowledge and skills. VET also includes programs which provide the basis for subsequent vocational programs. Alternative terms used internationally include technical and vocational education and training (TVET), vocational and technical education and training (VTET), technical and vocational education (TVE), vocational and technical education (VTE), further education and training (FET), and career and technical education (CTE).
VET Quality Framework	A set of standards and conditions used by ASQA to assess whether a registered training organisation (RTO) meets the requirements for registration. It comprises: the <i>Standards for NVR Registered Training Organisations 2012</i> , the Fit and Proper Person Requirements, the Financial Viability Risk Assessment Requirements, the Data Provision Requirements, and the AQF.
Volume of learning	The volume of learning is a dimension of the complexity of a qualification. It is used with the level criteria and qualification type descriptor to determine the depth and breadth of the learning outcomes of a qualification. The volume of learning identifies the notional duration of all activities required for the achievement of the learning outcomes specified for a particular AQF qualification type. It is expressed in equivalent full-time years.



Appendices

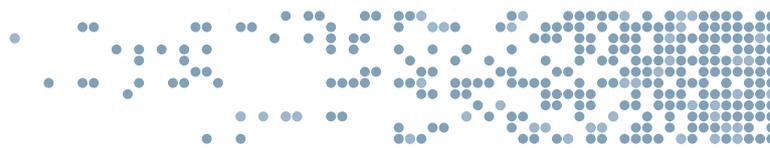
Appendix A SNR Standards referred to in this review

Appendix B Composition of the management committee

Appendix C Terms of Reference

Appendix D Summary of Chief Commissioner's Meetings with Industry Skill Councils

Appendix E Prohibited Conduct



Appendix A

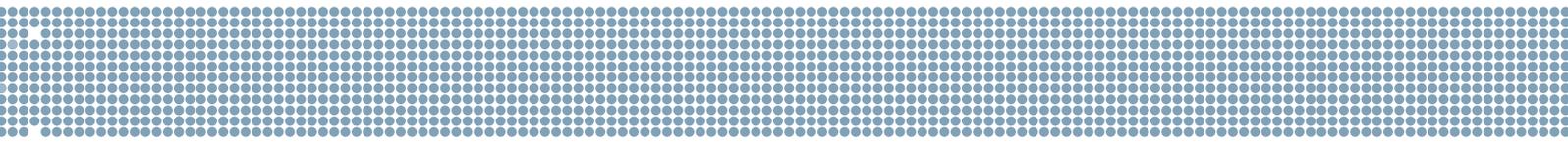
SNR Standards referred to in this review

SNR 15 The NVR registered training organisation provides quality training and assessment across all of its operations, as follows:

- 15.1 The NVR registered training organisation collects, analyses, and acts on relevant data for continuous improvement of training and assessment.
- 15.2 Strategies for training and assessment meet the requirements of the relevant Training Package or VET accredited course and have been developed through effective consultation with industry.
- 15.3 Staff, facilities, equipment and training and assessment materials used by the NVR registered training organisation are consistent with the requirements of the Training Package or VET accredited course and the NVR registered training organisation's own training and assessment strategies and are developed through effective consultation with industry.
- 15.4 Training and assessment is delivered by trainers and assessors who:
 - a. have the necessary training and assessment competencies as determined by the National Skills Standards Council or its successors; and
 - b. have the relevant vocational competencies at least to the level being delivered or assessed; and
 - c. can demonstrate current industry skills directly relevant to the training/assessment being undertaken; and
 - d. continue to develop their VET knowledge and skills as well as their industry currency and trainer/assessor competence.
- 15.5 Assessment including Recognition of Prior Learning (RPL):
 - a. meets the requirements of the relevant Training Package or VET accredited course; and
 - b. is conducted in accordance with the principles of assessment and the rules of evidence; and
 - c. meets workplace and, where relevant, regulatory requirements; and
 - d. is systematically validated.

SNR 16 The NVR registered training organisation adheres to principles of access and equity and maximises outcome for its clients, as follows:

- 16.1 The NVR registered training organisation establishes the needs of clients, and delivers services to meet these needs.
- 16.2 The NVR registered training organisation continuously improves client services by collecting, analysing and acting on relevant data.

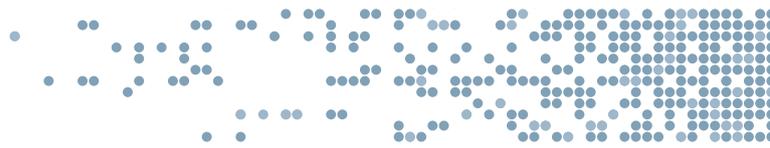
- 
- 16.3 Before clients enrol or enter into an agreement, the NVR registered training organisation informs them about the training, assessment and support services to be provided, and about their rights and obligations.
 - 16.4 Employers and other parties who contribute to each learner's training and assessment are engaged in the development, delivery and monitoring of training and assessment.
 - 16.5 Learners receive training, assessment and support services that meet their individual needs.
 - 16.6 Learners have timely access to current and accurate records of their participation and progress.
 - 16.7 The NVR registered training organisation provides appropriate mechanisms and services for learners to have complaints and appeals addressed efficiently and effectively.
-

SNR 17 Management systems are responsive to the needs of clients, staff and stakeholders, and the environment in which the NVR registered training organisation operates, as follows:

- 17.1 The NVR registered training organisation's management of its operations ensures clients receive the services detailed in their agreement with the NVR registered training organisation.
 - 17.2 The NVR registered training organisation uses a systematic and continuous improvement approach to the management of operations.
 - 17.3 The NVR registered training organisation monitors training and/or assessment services provided on its behalf to ensure that it complies with all aspects of the VET Quality Framework.
 - 17.4 The NVR registered training organisation manages records to ensure their accuracy and integrity.
-

SNR 22 Financial management

- 22.1 The NVR registered training organisation must be able to demonstrate to the National VET Regulator, on request, that it is financially viable at all times during the period of its registration.
- 22.2 The NVR registered training organisation must provide the following fee information to each client: the total amount of all fees including course fees, administration fees, materials fees and any other charges; payment terms, including the timing and amount of fees to be paid and any non-refundable deposit/administration fee;
 - a. the nature of the guarantee given by the NVR registered training organisation to complete the training and/or assessment once the student has commenced study in their chosen qualification or course;
 - b. the fees and charges for additional services, including such items as issuance of a replacement qualification testamur and the options available to students who are deemed not yet competent on completion of training and assessment; and
 - c. the organisation's refund policy.



22.3 Where the NVR registered training organisation collects student fees in advance it must ensure it complies with one of the following acceptable options:

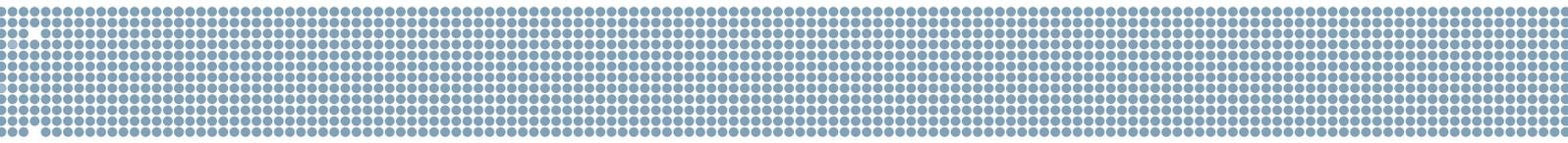
- a. (Option 1) the NVR registered training organisation is administered by a State, Territory or Commonwealth government agency;
 - b. (Option 2) the NVR registered training organisation holds current membership of an approved Tuition Assurance Scheme;
 - c. (Option 3) the NVR registered training organisation may accept payment of no more than \$1000 from each individual student prior to the commencement of the course. Following course commencement, the NVR registered training organisation may require payment of additional fees in advance from the student but only such that at any given time, the total amount required to be paid which is attributable to tuition or other services yet to be delivered to the student does not exceed \$1,500;
 - d. (Option 4) the NVR registered training organisation holds an unconditional financial guarantee from a bank operating in Australia for no less than the full amount of funds held by the NVR registered training organisation which are prepayments from students (or future students) for tuition to be provided by the NVR registered training organisation to those students; or
 - e. (Option 5) the NVR registered training organisation has alternative fee protection measures of equal rigour approved by the National VET Regulator.
-

SNR 24 Accuracy and integrity of marketing

- 24.1 The NVR registered training organisation must ensure its marketing and advertising of the AQF and VET qualifications to prospective clients is ethical, accurate and consistent with its scope of registration.
 - 24.2 The NVR registered training organisation must use the NRT logo only in accordance with its conditions of use.
-

SNR 25 Transition to training packages/expiry of VET accredited course

- 25.1 The NVR registered training organisation must manage the transition from superseded training packages within 12 months of their publication on the National Register so that it delivers only currently endorsed training packages.
- 25.2 The NVR registered training organisation must manage the transition from superseded VET accredited courses so that it delivers only currently endorsed training packages or currently VET accredited courses



Appendix B

Composition of the management committee

Mr Chris Robinson (Chair)

Chief Commissioner, the Australian Skills Quality Authority

John Hayton and Claire Baldwin

Department of Innovation, Industry, Climate Change, Science, Research and Tertiary Education

Jane Wiley

Shop, Distributive & Allied Employees' Association (SDA)

Megan Lilly and Alison Vickers

Australian Industry Group

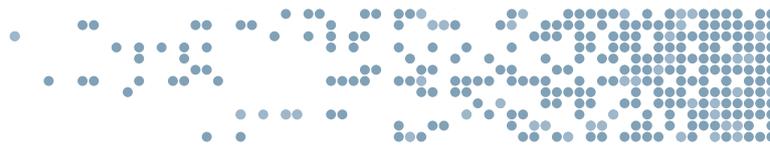
Jenny Lambert

Australian Chamber of Commerce and Industry

Lindsay Fraser

Construction Forestry Mining Energy Union (CFMEU)

***Note:** The Victorian Registration and Qualifications Authority and the Western Australian Training Accreditation Council were invited to be observers to each of the three strategic reviews ASQA undertook in 2012-2013 and provided valuable input.*



Appendix C

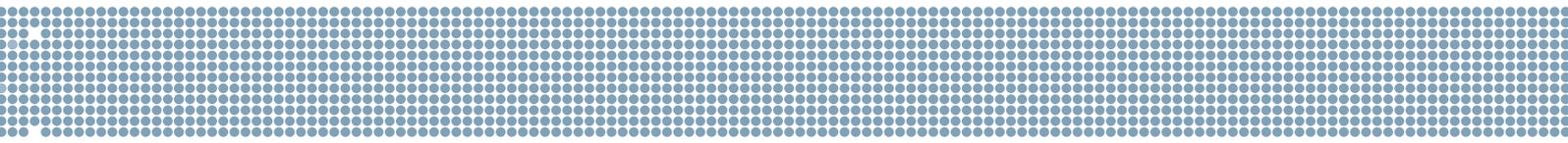
Terms of reference

The Strategic Review of inappropriate marketing & other practices in the training sector has been established by the Australian Skills and Qualifications Authority under the *National Vocational Education and Training Regulator Act 2011*.

ASQA has established a management committee chaired by ASQA and comprising representatives from: two unions nominated by the ACTU (the Shop Distributive & Allied Employees Union and the Construction, Forestry, Mining & Energy Union), the Australian Industry Group, the Australian Chamber of Commerce & Industry and the Department of Innovation, Industry, Science, Research and Tertiary Education.

The management committee will:

1. Approve the methodology to be implemented by the secretariat to the review.
2. Advise on a the consultation process for the review
3. Provide a report to ASQA of the review's findings.'



Appendix D

Summary of Chief Commissioner's meetings with Industry Skill Councils

Preamble

The Chief Commissioner met each Industry Skills Council for about an hour to:

1. Outline the purpose of the review
2. Seek their engagement with the review
3. Seek their preliminary views

Industry Skills Council Visits

9 October 2012: Forest Works Industry Skills Council; Transport & Logistics Industry Skills Council; and Innovation & Business Skills Australia

18 October 2012: Construction & Property Services Industry Skills Council; AgriFood Skills Australia; and ElectroComms & Energy Utility Industry Skills Council

25 October 2012: Service Skills Australia; and Manufacturing Skills Australia

21 November 2012: Government Skills Australia

29 November 2012: Community Services & Health Industry Skills Australia; and Skills DMC

Overview of themes and issues about inappropriate practices

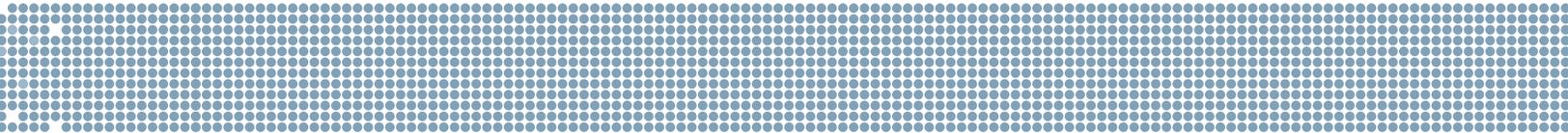
The two key themes that emerged from the visits were that every Industry Skills Council supports the impetus behind the review and they have agreed to work with ASQA to eliminate inappropriate practices by RTOs.

Industry Skills Councils provided a number of illustrations of inappropriate practices:

- RTOs, often with employer support, providing training in extremely short time-frames
 - Certificate IV in Training & Assessment was cited as an example by a number of RTOs
- Training delivery that does not provide the appropriate knowledge and skills
- Classroom or on-line delivery & assessment being used when delivery & assessment should occur in the workplace
- RTOs who engage 'contract' trainers whose pay depends on the students gaining the relevant competency
- RPL being used inappropriately
 - Sub-set is students with different levels of experience completing in the same time; tradesperson *vis-à-vis* a school leaver
- Lack of recent industry experience for trainers



- VET in Schools
 - Teachers not qualified
 - Boards of Studies want to deliver and assess through a curriculum not aligned to training packages
 - Lack of 'on the job' delivery and assessment
 - Work Health & Safety training difficult to deliver in a school
- Enrolling students who have not demonstrated they have required pre-requisites
- Delivering training not on scope
- Non-RTOs purporting to deliver nationally recognised training
- Misleading advertising
- Non-disclosure of third party arrangements
- Assessing students out of the context implicit in the Training Package
- Delaying assessment until the end of the course and thus denying the student the opportunity to change RTOs
- Delivery & assessment driven by a 'capture the dollar' approach
- Issuing qualifications without ensuring the student has the relevant competencies. Not only does this not prepare the student for the work force but it can make him or her unemployable
- For example, if the relevant industrial award specifies a salary for a certificate III qualification, employers will not employ a person with a qualification from an RTO they consider certifies students who have not demonstrated the relevant competencies
- RTOs adopting different delivery & assessment standards for Australian and international students
 - For example, international students not being required to undertake 'on the job' training
- There appears to be a correlation between qualifications that are mandated for employment and funded by government and lax delivery & assessment.



Appendix E

Prohibited conduct

National Vocational Education and Training Regulator Act 2011

Note: One penalty unit = AUD170.00

114 Offence—falsely claiming to be an NVR registered training organisation

A person commits an offence if:

- a. the person holds himself, herself or itself out as an NVR registered training organisation; and
- b. the person is not an NVR registered training organisation.

Penalty: 300 penalty units.

115 Civil penalty—falsely claiming to be an NVR registered training organisation

A person contravenes this section if:

- a. the person holds himself, herself or itself out as an NVR registered training organisation; and
- b. the person is not an NVR registered training organisation.

Civil penalty: 600 penalty units.

116 Offence—providing, or offering to provide, all or part of a VET course without registration

(1) A person commits an offence if:

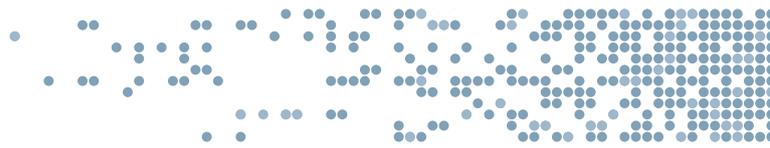
- a. the person provides, or offers to provide, all or part of a VET course in a referring State or a Territory; and
- b. the person is not an NVR registered training organisation.

Penalty: 300 penalty units.

(2) A person commits an offence if:

- a. the person is a registered provider (other than a secondary school); and
- b. the person provides, or offers to provide, all or part of a VET course in a non referring State; and
- c. the person is not an NVR registered training organisation.

Penalty: 300 penalty units.



117 Civil penalty—providing, or offering to provide, all or part of a VET course without registration

(1) A person contravenes this subsection if:

- a. the person provides, or offers to provide, all or part of a VET course in a referring State or a Territory; and
- b. the person is not an NVR registered training organisation.

Civil penalty: 600 penalty units.

(2) A person contravenes this subsection if:

- a. the person is a registered provider (other than a secondary school); and
- b. the person provides, or offers to provide, all or part of a VET course in a non referring State; and
- c. the person is not an NVR registered training organisation.

Civil penalty: 600 penalty units.

122 Offence—making false or misleading representation in advertisement

A person commits an offence if:

- a. the person makes a representation that relates to:
 - (i) all or part of a VET course; or
 - (ii) a course that is held out as being a VET course; or
 - (iii) part of a course that is held out as being part of a VET course; or
 - (iv) a VET qualification; or
 - (v) a qualification that is held out as being a VET qualification; and
- b. the representation is made in connection with an advertisement; and
- c. the representation is false or misleading in a material particular.

Penalty: 60 penalty units.

123 Civil penalty—making false or misleading representation in advertisement

A person contravenes this section if:

- a. the person makes a representation that relates to:
 - (i) all or part of a VET course; or
 - (ii) a course that is held out as being a VET course; or
 - (iii) part of a course that is held out as being part of a VET course; or
 - (iv) a VET qualification; or
 - (v) a qualification that is held out as being a VET qualification; and
- b. the representation is made in connection with an advertisement; and
- c. the representation is false or misleading in a material particular.

Civil penalty: 120 penalty units.

124 Offence—making false or misleading representation relating to VET course or VET qualification

A person commits an offence if:

- a. the person makes a representation that relates to:
 - (i) all or part of a VET course; or
 - (ii) a course that is held out as being a VET course; or
 - (iii) part of a course that is held out as being part of a VET course; or
 - (iv) a VET qualification; or
 - (v) a qualification that is held out as being a VET qualification; and
- b. the representation is false or misleading in a material particular.

Penalty: 60 penalty units.

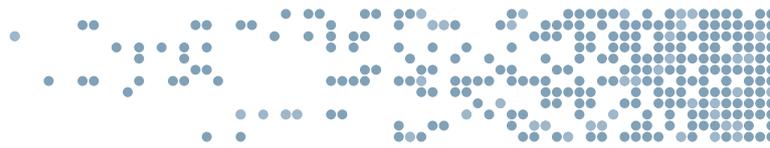
Note: For the liability of an executive officer of a registered training organisation, see sections 133 and 133A.

125 Civil penalty—making false or misleading representation relating to VET course or VET qualification

A person contravenes this section if:

- a. the person makes a representation that relates to:
 - (i) all or part of a VET course; or
 - (ii) a course that is held out as being a VET course; or
 - (iii) part of a course that is held out as being part of a VET course; or
 - (iv) a VET qualification; or
 - (v) a qualification that is held out as being a VET qualification; and
- b. the representation is false or misleading in a material particular.

Civil penalty: 120 penalty units.



126 Offence—purporting to issue VET qualification

A person commits an offence if:

- a. the person purports to issue a qualification as a VET qualification; and
- b. the qualification is not a VET qualification.

Penalty: 300 penalty units.

127 Civil penalty—purporting to issue VET qualification

A person contravenes this section if:

- a. the person purports to issue a qualification as a VET qualification; and
- b. the qualification is not a VET qualification.

Civil penalty: 600 penalty units.

128 Offence—purporting to issue VET statement of attainment

A person commits an offence if:

- a. the person purports to issue a statement as a VET statement of attainment; and
- b. the statement is not a VET statement of attainment.

Penalty: 300 penalty units.

129 Civil penalty—purporting to issue VET statement of attainment

A person contravenes this section if:

- a. (the person purports to issue a statement as a VET statement of attainment; and
- b. the statement is not a VET statement of attainment.

Civil penalty: 600 penalty units.

Reference list

Australian Competition and Consumer Commission 2013a, *Misleading claims and advertising*, viewed 1 June 2013, <http://www.accc.gov.au/consumers/misleading-claims-advertising>.

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