24 September 2003

Mr Tony Hinton
Commissioner
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

Dear Mr Hinton

Response to the Productivity Commission's draft research report on the Evaluation of Mutual Recognition Schemes

Thank you for providing the opportunity to respond to the preliminary findings of your evaluation of the Mutual Recognition Agreement (MRA) both in writing and at your recent round-table discussion.

As stated in your draft research report ANTA's efforts to improve the interface between industry licensing and the Vocational Education and Training (VET) system's Training Packages has been significantly assisted by the existence of the MRA. ANTA sees this evaluation of the MRA as an opportunity to secure even greater improvements by outlining action to be taken across all levels of government and industry to secure greater improvements for clients.

It is important for the Productivity Commission to be aware that the original submission from ANTA and the issues raised in this letter were both developed from extensive consultation and reflected the experiences of experts from our National Industry Licensing Working Group (for membership see Attachment 1) as well as practitioners, peak industry organisations, and regulators from thirteen separate industry sectors. (The bodies consulted in the last six industry round-tables are identified in Attachment 2). It is clear that the problems extend beyond ANTA's authority, and have been highlighted to ANTA by various industry and regulatory organisations across the country.

ANTA is of the view that the concerns it raised with the Productivity Commission could be explored further in the next report in order that continuing obstruction to occupational mobility, duplication in the use of government resources and unnecessary costs to individuals can be further reduced. Specifically, it is the sphere of occupational licensing and the regulatory differences across States and Territories that is creating tension and causing inefficiencies for the customers of the national vocational education and training system.

From the perspective of the VET sector the intention of the MRA should enable those with an occupational license in one jurisdiction to operate in another jurisdiction without the need to requalify for that licence. This increases labour mobility and reduces costs to individuals and the economy. However, it is clear that the theory has not translated well to practice in all industries and all jurisdictions. This can be illustrated through the hairdressing profession where, for example, an occupational license is required before a hairdresser can work in NSW and WA. By contrast, while an implied license exists in this profession in SA, the remaining States and Territories do not require a hairdresser to be licensed at all.

While agreeing that the Mutual Recognition Agreement has aided ANTA's efforts to bring the Vocational Education and Training (VET) system into harmony with the occupational licensing arrangements of regulatory authorities, the real success stories are those where the Commonwealth has been involved through a concerted national effort and has driven the agenda to gain a nationally consistent approach such as in the aviation, maritime, road transport and finance arenas. While progress is being made in other areas, a seamless interface between skill formation and occupational licensing and portability across jurisdictions cannot be assumed for all industries.

ANTA's initial submission provided a comprehensive environmental overview of the issues pertinent to the national training system and various findings from its own research, and recommended to the Productivity Commission that:

- the Mutual Recognition Agreement be extended so that it applies in all cases where jurisdictions impose competency-based requirements through regulation, whether or not a physical licence is issued; and

- the operation of the MRA will be enhanced when industry regulators recognise compliance with equivalent national standards (where they exist) for the competency of an occupation as sufficient for meeting their regulatory competency requirements. That is, achieving a national competency standard under a Training Package would satisfy the competency requirements of jurisdictional regulators.

In considering the draft research from the Productivity Commission ANTA re-iterates its suggestion that further research be undertaken to clearly identify the costs to the economy where the requirements of the MRA are ignored. It is anticipated that more hard data would reveal the true extent of the problem, particularly in the many and diverse occupations that are being trained and qualified through a vocational education and training qualification that has been developed with a national focus.

In general, the points raised in the Productivity Commission's draft research report that are particularly pertinent to the vocational education and training sector relate to:

- the ongoing need for accountability across jurisdictions regarding mutual recognition obligations;
- the ongoing need to improve labour mobility through mutual recognition;
- the ongoing need to increase dialogue with and between regulators and to increase awareness of mutual recognition and reduce the incidents of jurisdictional shopping;

- the finding that business licenses should be separated from occupational registration;
- the occurrence of negative licensing, which currently lies outside the scope of the mutual recognition schemes.

ANTA agrees with the first three points above and will continue to implement practical solutions in collaboration with a range of regulatory authorities to make improvements in these areas. Indeed, ANTA has recently had a good deal of experience dealing with issues of mutual recognition, particularly in the area of recognising qualifications and Registered Training Organisations across State boundaries, and these issues have been raised with ANTA's Ministerial Council (MINCO). Significant progress has occurred through the establishment, extension and monitoring of the Australian Quality Training Framework. Further, agreement has been reached with the States and Territories on model clauses as the basis for amending VET legislation in each jurisdiction to achieve national consistency objectives. Over the next six to twelve months ANTA proposes to implement an approach to linking the VET sector and regulatory arrangements that includes:

- Continuing to canvas opportunities for improvement at a higher level and across government.
- Involving industry regulators through collaborative reform, streamlining VET system processes and creating opportunities for communication.
- Improving information flow between the VET sector and other arms of government.

One of the practical outcomes of this approach will be the clarification of how nationally endorsed and unendorsed training products can meet regulatory training requirements.

In terms of the Productivity Commission's proposal to separate occupational licensing from business licensing, ANTA supports this finding, but would seek to ensure that there be a clear and unambiguous separation between the two.

With regard to negative or implied licensing, the current MRA does not apply in cases of occupational regulation by jurisdictions where a licence is not actively issued, but people are still required to attain certain levels of competency or qualifications – that is, where implied licences operate instead of physical licences. The impact is that labour mobility is restricted between jurisdictions with implied licences versus those that issue physical licences. This was identified as a barrier to labour mobility in the findings of ANTA's report "A Licence to Skill" covering a review of issues raised by seven industry sectors in 2002. This has been flagged as an important issue to ANTA's MINCO.

ANTA considers that the MRA should be extended so that it applies in all cases where jurisdictions impose competency-based requirements through regulation, whether or not a physical licence is issued. That is, the test for the application of the MRA principle should be that there is an occupational requirement imposed by legislation, not that there is a physical licence issued.

Extending this reform would overcome some labour mobility problems between jurisdictions where the only real difference is that a licence is implied in one jurisdiction but physically issued in another. Further, this reform is likely to become increasingly important as regulatory regimes change over time, as the use of implied licences appears to be increasing. It is noted that the Productivity Commission reports that the 1998 review of the MRA considered these forms of occupational registration and recommended:

> *That the COAG Committee on Regulatory Reform examine the potential to extend the Mutual Recognition Agreement to cover non-traditional, statutory-based forms of occupational regulation such as negative licensing and co-regulation.*

We would want to see this recommendation included again in this Review Report.

Over the last decade, the national training system has undergone substantial improvements. ANTA is committed to continuing to create opportunities to work in partnership with stakeholders to improve outcomes for individuals and industry through the national training system. Differing training and regulatory requirements across jurisdictions have posed challenges for labour mobility in certain occupations; we look forward to assisting to further dismantle these barriers where the responsibility clearly lies within the VET Sector and to working with regulators where joint action is required. Awareness raising of mutual recognition benefits and obligations is one strategy, assisted by leadership and action across government.

You may recall that at the discussion forum on August 14th I relayed some of the experiences of ANTA and the VET sector in continuously improving our products and services to satisfy the needs of clients. In particular I referred to our recent deliberate attempt to work together with industry regulators in this regard. There is no doubt that advances have occurred through a collaborative approach and that in some industries this has been a key to action, alongside a range of other strategies. This is, however, a "piecemeal" approach; it is for this reason that requesting the Productivity Commission to go further by ensuring that the MRA is more inclusive of occupational licensing issues would add further weight to the solution. Understanding the perspectives from all viewpoints, lifting confidence and acting collaboratively is crucial to success.

To remove conflicting signals across jurisdictions regarding competency and registration standards for occupational licensing, it would be important for Australian governments to agree to establish nationally consistent competency-based requirements for the regulation of the same occupation between and within jurisdictions. The establishment of consistent regulatory and occupational licensing regimes for Australian industry and the complete and successful operation of the MRA are fundamental to uninhibited labour mobility and the reduction of costs to governments and individuals.

The pursuit of this action would complement the Productivity Commission's Preliminary Finding 5.7 that encourages jurisdictions to reduce differences in relation to registration requirements. However, while some industry regulators are working towards national consistency of regulations for the same occupation across States and Territories, the motivation to make the changes necessary to do so may be low where there is no real driving force to comply with the legislation. It is a costly exercise, but the benefits gained through such improvements would be felt at an individual, enterprise and government level through greater consistency and efficiency.

The national vocational education and training system is well placed to support the training requirements that may eventuate from streamlining regulations associated with occupations as its core products, units of competency, provide the common ground between the competency requirements of industry and regulatory authorities.

ANTA is currently in the process of developing an Action Plan to ensure further improvements for the clients of the VET system. An important element of this Plan is to collaborate with industry regulators to harmonise the two systems where they intersect. However, this process could be progressed at a faster pace through the leadership able to be provided by the Productivity Commission from a whole of government perspective to ensure improvements in mutual recognition related to occupational licensing across jurisdictions. As such, ANTA would like to see the Productivity Commission's advice focus on the need for further targeted reform across the regulatory authorities so that the different regulatory requirements and occupational licensing conditions that exist across jurisdictions for the same job can be eliminated.

ANTA would appreciate any opportunity for future collaboration with the Productivity Commission to promote the benefits of mutual recognition and enhance outcomes for the national vocational education and training system and Australian industry.

Yours sincerely

Adrian Stephens
Acting General Manager

Attachment 1

Representative bodies of ANTA's National Industry Licensing Working Group

Australian Chamber of Commerce and Industry	National Occupational Health & Safety Commission
Office of Training & Tertiary Education Vic	NSW Workcover
Accreditation & Registration Council SA	National Road Transport Commission
NSW Department of Education & Training	Australian Industry Group
Office of Post-Compulsory Education & Training Tasmania	Construction Forestry, Mining & Energy Union
NT Department of Employment, Education and Training	Commonwealth Department of Education, Science and Training
Qld Department of Education & Training	Property Services Training Australia
WA Department of Training	Manufacturing, Engineering & Related Services Industry Training Advisory Body
Australian National Training Authority	Department of Industry, Tourism & Resources

Attachment 1

Organisations that ANTA has consulted with (November 2002 to March 2003) regarding occupational licensing issues

Real Estate Industry Round-table
18th November 2002

NSW Department of Fair Trading
Sydney Institute of Technology
Department of Consumer and Business Affairs Victoria
QLD Office of Fair Trading
Property Services Training Australia
Real Estate Institute (REI) of WA
REI NSW
Real Estate Employees Union Victoria
REI Victoria
DET NSW
REI Tasmania
REI ACT
REI SA
CIT Solutions

Fire Protection Services Round-table
12th December 2002

Queensland Fire & Rescue Service
Tasmania Fire Service, Building Safety
ACT Fire Service
Fire Protection Association Australia
Property Services Training Australia
Construction Training Australia
Tyco Technical Services
Chubb Fire Australia

Attachment 1

Hamilton Lloyd Fire Protection
National Fire Contractors Federation
Resource Risk Management
BSAP and FPAA Qld
Tas Building Regs and FPAA
WA Fire Service
NSW Fire Brigade
Department of Urban Affairs & Planning NSW
Building Control Commission Vic
Qld Fire Protection Industry Assoc
Communications Electrical & Plumbing Union
Australian Workers' Union

Road Transport Round-table
13th December 2002

Transport & Distribution Training Australia
National Road Transport Commission
NSW Road Traffic Authority
Transport Workers' Union of Australia
Transport WA
Queensland Transport
Mills Transport
Australian Trucking Association
Workcover NSW
Department of Transport & General Services
Worksafe Victoria
Vic Roads
Mayne Logistics

Attachment 1

Seafood Industry (Diving) Round-table
29th January 2003

South Australian Fishing Industries Council
Pearl Producers Association
NORTAS
Tasmanian Abalone Council Ltd
Fishing Industry Services
Department of Industry Tourism & Resources (ADAS)
Australian Workers Union
South Australia Underwater Training School
Agriculture, Fisheries & Forestry Australia
Worksafe Victoria
Divebell
Australian Fisheries Academy
Error! Reference source not found.
Workplace Services (SA)
Western Australian Fishing Industry Council

Maritime Transport Vessel Operations Round-table
30th January 2003

TDT Australia
Maritime Union of Australia
Australian Shipowners Association
NSW TAFE
National Marine Safety Committee
Adsteam Marine
Australian Maritime Officers Unions
Quicksilver-Connection
Australian Seafood Industry Council

Attachment 1

Marine and Safety Tasmania
Marine Safety Victoria
Polaris Marine
Australian Maritime Safety Authority
Australian Fisheries Academy
Australian Maritime College
Marine Safety Queensland

Hairdressing Round-table
18th March 2003

National Wholesale Retail And Professional Services (WRAPS)
Shop Distributive and Allied Employees Association
Hair & Beauty Council of Australia
Hair & Beauty Industry Association
Professional Hairdressers Association (NSW)
Hair Federation of Tasmania
Pivot Point
TAFE NSW
Vic WRAPS
WA WRAPS
NSW Department of Education and Training
Vic Office of Training & Tertiary Education
Australian Council for Private Education and Training