



Submission to the National Qualifications Authority of Ireland

Submission S/05/001

January 2005



The Competition Authority
An tÚdarás Iomaíochta

Introduction

1. This submission is a response to the National Qualifications Authority of Ireland's Consultative Paper – *Draft Policies and Criteria for the Inclusion of Awards in the National Framework of Qualifications*. This submission focuses on Questions A and B of the Consultative Paper.
2. The Competition Authority welcomes NQAI's intention to extend the framework for the recognition of qualifications beyond the awards of public bodies in the State¹. By including professional awards, and awards in the State by international bodies, NQAI will provide non-State education and training providers with an opportunity to access an external quality benchmark. This new recognition of learning and quality benchmark will benefit learners in Ireland, the Irish economy and Irish society.
3. The proposed expansion of the National Framework of Qualifications will empower learners (and their employers) in their choice of qualification path. In doing so, it will further facilitate and encourage education and training. The Framework will increase the comparability of Irish qualifications and non-Irish qualifications, thus giving Irish providers of education and training an incentive to maintain and increase the quality of their awards. As a result, the desirability of many educational and training qualifications delivered in Ireland will increase.

Professions Having a Basis in Law

4. However, while the multiplicity of awarding bodies and professions in Ireland is indicative of the vitality of the educational and training sector in Ireland, it also presents significant challenges for NQAI. In a short timeframe, NQAI has to assess knowledge, know-how and competencies in a wide variety of fields. Considering all professions simultaneously may thus be impractical. To address this issue, NQAI proposes to prioritise the professions that have a basis in law. This proposal faces a number of issues.
 - The fact that a profession may not be "recognised" by legislation, or that it does not have a basis in legislation, does not, in itself, imply that its awards are in any way of a lesser quality or standard than those of bodies which are not so "recognised" etc. Moreover, the fact that legislation may confer a competence on a particular body to make awards does not mean that other bodies are not so competent.
 - As the Consultation Paper recognises, awards by professional bodies can mean different things in different cases – and these multi-layered meanings do not in general correspond to any test as to whether the profession has a basis in legislation. In the most basic of cases, a professional award may connote merely a

¹ For example, the Further Education and Training Awards Council, the Higher Education and Training Awards Council, the Dublin Institute of Technology and the Universities.

recognition of achievement or distinction. In other cases, it can also confer an entitlement to sole use of a professional title. In yet further cases, it can confer an entitlement to actually practise the profession concerned.

- Another difficulty is that the roles conferred on (or claimed by) professional bodies in Ireland do not follow a homogenous model. There are at least three distinct roles which may be fulfilled by a professional body – education, representation, and regulation. The Competition Authority is aware of various examples whereby a particular body fulfils one of these roles only, or two of them, or indeed all three, and can provide details of these to NQAI if required.

Competition Authority Proposal

5. In the light of these difficulties, The Competition Authority has the following concerns regarding the effect of NQAI's proposal to allow only State-regulated professions into the Framework for the present –
 - First, it could have the unintended consequence of giving those professions – and branches of professions - with a statutory basis for regulation an unfair commercial advantage over competing professions which do not have a statutory basis.
 - Second, professional bodies whose profession has no basis in law would have an incentive to seek legal recognition or reservation of functions for the sole purpose of achieving recognition of their awards in the Framework.
 - Third, foreign or new Irish providers of educational and training services may have a disincentive to enter the Irish market.
 - Last, there is also the potential for "lock-outs". This would arise where a particular body "signs up" to the Framework, with the effect (or indeed even the intention) of excluding others – whether by way of bolstering their case for exclusive use of a professional title, or by underpinning their claimed "best in field" status.
6. The objective of the National Qualifications Framework is *"the development, recognition and award of qualifications in the State, based on standards of knowledge, skill and competence to be acquired by learners"*. The Competition Authority accepts that it may be impractical to attempt to include all professions and foreign awarding authorities in the Framework at the same time, and that a phased approach may there be required for expanding the Framework.
7. To avoid the difficulties set out above, The Competition Authority suggests that NQAI should consider, as an alternative to the "statutory recognition" approach suggested in the Consultation Paper, instead identifying phases of implementation according to sector or field of professional competence. This would involve moving forward with a particular profession or group of professions (e.g. medical, legal etc.) to begin with. Such an approach would be more inclusive, and would avoid

the pitfalls, set out above, associated with distinguishing professions by whether or not they have a basis in law. It would also be in line with NQAI's overall objective. NQAI may also want to disentangle knowledge, know-how and competences relevant to specific professions from the actual practice of the professions concerned. Such an approach would neutralise the competition issues which could emerge if only professions with statutory recognition were to be included in the Framework.

Conclusion

8. Overall, by expanding the National Framework of Qualifications to include professional qualifications and non-Irish qualifications, in an appropriate manner, NQAI could make a very significant contribution towards more competition between providers of professional services. Such expansion of the Framework will enhance the competitiveness of the Irish educational and training sector and ensure that the economy can benefit from a large spectrum of professional competences, including the highest level of professional expertise.
9. The Competition Authority would be happy to elaborate further on this submission with NQAI, and indeed to work together with NQAI to address the potential difficulties in relation to competition policy identified above.

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