
18 December 2023

Policy and Strategy - Better Regulation Division
Department of Customer Service
Locked Bag 2906
LISAROW NSW 2252

To whom it may concern:

PROPOSAL FOR CO-REGULATION IN BUILDING AND CONSTRUCTION

On behalf of the Air Conditioning & Mechanical Contractors Association of Australia (AMCA), thank you for the opportunity to provide a submission regarding the proposed Co-Regulation Framework in Building and Construction.

AMCA Australia is the national peak body for member companies operating in the commercial and industrial heating, ventilation, and air conditioning industry. Our members are highly skilled operators with expertise in the design, manufacturing, fabrication, and installation of air conditioning and specialised ventilation systems, as well as the ongoing service and maintenance of plant, equipment, and other building services infrastructure.

This submission is made from two relevant and important perspectives:

1. As representatives of our members, we consider whether the co-regulation approach meets the needs of industry, consumers, and the broader public.
2. As an industry association, we provide commentary on the proposed model based on our interest in becoming an accreditation authority and delivering and administering continuous professional development to licence holders.

The AMCA would welcome the opportunity to discuss further any opinions raised in this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Scott Williams'.

Scott Williams
Chief Executive Officer



Submission

Co-Regulatory Framework

December 2023

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About our industry

Heating, air conditioning and ventilation (HVAC) is a significant industry. It contributes over \$8 billion to the Australian economy annually, has over 6,400 businesses, and employs over 18,900 people.

The services provided by these businesses are omnipresent in the homes, workplaces and public buildings occupied by the entire community—providing safe, comfortable, healthy, and productive spaces for people to live, work, and recreate. These services include:

- Heating and cooling for comfort, well-being, and productivity
- Ventilation and indoor air quality
- Fire and smoke control systems
- Air purification for hospitals, laboratories, and other sensitive environments
- Climate control and air quality for commercial and industrial facilities premises

Post-COVID, the importance of our industry has become even more widely recognised due to the role HVAC systems play in supplying the air we breathe.

With people spending around 90% of their time indoors, the air supplied by HVAC systems is a critical factor in respiratory health, mental health and well-being, workforce productivity, and general quality of life.

The sector's importance is further emphasised by the fact that HVAC systems account for approximately 50% of a building's energy consumption. Indeed, in buildings with older or less efficient systems, HVAC can account for upwards of 75% of total energy usage.

Scope of submission

This submission is made from two relevant and important perspective:

1. As representatives of our members, the submission considers whether the co-regulation approach meets the needs of industry, consumers, and the broader public.
2. As an industry association, we provide commentary on the proposed model based on our interest in becoming an accreditation authority and delivering and administering continuous professional development to licence holders.

Submission response

Overview

Q1. Are you supportive of this co-regulation model being used in the construction industry for competency assessments? If not, why?

Yes. Industry bodies are better placed to perform competency assessments due to their proximity to industry practitioners, employers, and training providers. A co-regulation model would also give the industry greater ownership of the standard of practice, which we believe would lead to better outcomes for consumers and the broader community.

Other reasons to involve industry in the co-regulatory model include:

- A better understanding of competency requirements
- Access to specialist knowledge from within the industry
- Understanding of training delivery options and challenges
- Feedback from the industry about the quality of training delivery
- Design assessments that best match the performance of work
- Industry associations have better access to the latest practices
- Giving the industry greater ownership of the assessment process

A secondary benefit of the scheme is that it would help to legitimize the role of industry associations in driving standards and professionalism across the industry.

Q2. Does your industry association consider there are any roadblocks in the proposed model to be able to establish themselves as an accreditation authority?

The most significant hurdle for AMCA Australia is the financial viability of the venture. While it presents an opportunity, it will undoubtedly require significant investment in upfront costs and ongoing operating expenditures, thereby adding risk to our business. More information is needed to develop a comprehensive business case, including factors that would allow the estimation of the following financial inputs:

- Project implementation costs
- Capital investment
- Ongoing operating expenditure
- Pricing
- Forecasts of the volume of assessments

Such business planning is also critical to the integrity and sustainability of the overall regulatory framework. Under the proposed co-regulatory model, accreditation authorities will play a central role in the licensing of practitioners. Therefore, any risk to these businesses is also a risk to the regulatory framework. Government must ensure that these organisations are financially stable, with sound business practices, to ensure they are able to deliver the assessment services needed.

A second hurdle is the administrative duplication and overall burden associated with needing to comply with multiple governance oversight bodies. For example, an organisation such as the AMCA would need to comply with requirements under the Professional Standards Scheme and the Australian Skills Quality Authority. In our view, the systems needed to meet the requirements of these bodies are *substantively* the same but would take different forms and therefore incur additional administrative costs. It is important to note that most industry associations, while often non-profit entities, are subject to the same commercial realities as other businesses. Administrative burden is a significant issue and will be a key consideration when organisations make decisions about the financial viability of the venture.

Finally, the need to establish a Professional Standards Scheme presents a significant—and, in our view, unnecessary—hurdle. Our preliminary review of the requirements to become a Professional Standards Scheme has identified several hurdles, the most significant of which is that the schemes are primarily targeted at associations of an occupational group. AMCA Australia is an association of member companies, which makes the application and readiness process even more arduous and may require significant changes to the AMCA's structure, governance arrangements, constitution and more. According to the Professional Standards Council's website, applications for the Professional Standards Scheme take approximately 18 months. This is likely to be considerably longer for AMCA Australia and comparable associations.

Q3. How long would it take for your industry association to stand up a co-regulation framework internally?

With details about the scheme design relatively scarce, it is difficult to estimate the time required to establish as an accreditation authority. If pressed, we provide 12 months as a rough estimate. The 12-month estimate is based on the time required *after* full details of the scheme requirements become more apparent. A more precise estimate requires more information about the project scope, including the range of items identified in our response to question 3.

Concerning the Professional Standards Scheme, the Professional Standards Council's website states that applications take approximately 18 months. However, as noted in our answer to question 2 above, Professional Standards Schemes are primarily targeted at associations for occupational groups. This means that the application and readiness process for associations like AMCA Australia are likely to be more complex and longer.

Establishing the framework

Q4. Are there any key aspects of the model that you would need to know before your industry association would consider becoming an accreditation body?

The table below outlines the information we believe is still needed for us to develop a business case that can enable an informed decision about the financial viability of the venture.

Area	Relevant questions	Why it's important
Charges	How much can be charged for competency assessments?	Needed to estimate revenue and financial viability
Estimated volume of assessments	What volume of competency assessments can be expected? Is data available about the number of expected annual licence applications? Is data available for when existing licence holders will be expected to renew?	Needed to estimate revenue and financial viability. Also needed to estimate cost of services (e.g., assessor wages) and operating expenses (e.g., finance support, etc.)
Technology	What are the basic technology requirements? Will a new technology platform be required, or can we leverage existing platforms? What level of security will be needed?	Needed to estimate capital expenditure, ongoing information technology operating expenditure, etc.
Key persons	What types of knowledge and skills are required for competency assessors? Do they need to be licensed practitioners? What is the likely administrative burden? Do they need to hold formal Training and Assessment competencies?	Needed for resource planning and to estimate wages and administrative expenses, etc.
Auditing and compliance	What are the likely auditing and compliance requirements? What frequency? Will external auditors be required?	Needed to estimate auditing expenses and operating expenses.
Competency assessments	What does competency assessment involve? How resource-intensive is the assessment process? Does the assessment need to be conducted by a licence holder?	Needed to estimate resource requirements and associated costs.

Administrative and reporting requirements	What is required to effectively administer the scheme? What level of reporting is required? Will reports be in a standard form? How frequently is reporting required? What type and level of data is required?	<p>Needed to estimate human resource requirements and associated costs.</p> <p>Needed to estimate capital investment in technology platforms.</p> <p>Other cost impacts include staff training, information technology support, etc.</p>
Access	How does the government propose to address the needs of regional and remote applicants? What expectations will the government have about ensuring accreditation authorities can meet the needs of individuals with culturally diverse backgrounds?	Needed to estimate costs associated with providing opportunities to people of varied backgrounds, locations, learning styles, language capabilities, etc.

Q5. Would you suggest any changes to the co-regulation model proposed? If so, what changes would you suggest?

In brief, the AMCA makes the below suggested changes to the proposed model. More information about these suggestions can be found elsewhere in this submission.

- The role of accreditation authority should be reserved for industry associations and non-profit entities that can demonstrate (via their constitution or equivalent) that their purpose aligns with the objectives of driving higher industry standards of practice and professionalism.
- Accredited authorities that are also registered training organisations should be able to perform competency assessments provided adequate conflict of interest systems are in place (e.g., separate qualification assessments from competency assessments)
- Reconsider whether a Professional Standards Scheme is required to deliver and administer continuous professional development, especially for registered training organisations.
- Consider aligning the compliance requirements for accreditation authorities with those required by the Australian Skills Quality Authority. Further reasoning for this suggestion is covered elsewhere in this submission.
- Accreditation authorities that do not have RTO status or a Professional Standards Scheme should be subject to additional quality standards.
- Duct installation should be elevated to medium risk. AMCA members consistently report duct installation as being the highest risk to their business due to a combination of factors, including health and safety risk, estimating risk, and the role played by duct in fire and smoke safety systems (e.g., penetrations of firewalls, fire, and smoke dampers, etc.).

Q6. Is the renewal of an accreditation authority every five years too burdensome? If so, what should it be and why?

A five-year renewal is sensible. To complement the five-year renewal, AMCA Australia also suggests the introduction of an annual self-audit, whereby the accreditation authority would be required to submit a declaration to the government that it continues to meet the financial, operational, and governance expectations. The annual declaration could be similar to those required of registered training organisations and include declarations relating to certain standards or requirements.

As covered elsewhere in this submission, AMCA Australia encourages the government to consider alternatives to the Professional Standards Schemes for organisations that seek to deliver and administer continuous professional development. To ensure the integrity of any potential alternative, a schedule of annual compliance declarations and independent self-audits every two years could be established to complement the five-year renewal. The below table gives an example of how such an approach could work.

Year	Requirement
1	Annual declaration
2	External self-audit plus annual declaration
3	Annual declaration
4	External self-audit plus annual declaration
5	Five-year renewal
6	Annual declaration
7	External self-audit plus annual declaration
8	Annual declaration
9	External self-audit plus annual declaration
10	Five-year renewal

Q7. What are the practicalities of executing ring-fencing requirements that should be considered?

It is likely that many of the organisations that apply for recognition as an approved accreditation authority will be Registered Training Organisations. We encourage the NSW government to recognise that these organisations are already subject to significant compliance obligations under the Australian Skills Quality Authority (ASQA).

Where an organisation is both an RTO and an accreditation authority, AMCA Australia does not agree that it is necessary for competency assessments to be undertaken by entirely different entities. Instead, the potential conflict of interest can be managed through institutional arrangements that separate the responsibility for qualification competency assessment (i.e., trainer and assessor) from licensing competency assessment.

This would require a different person within the business to be appointed as the responsible assessment officer, who may also be required to make a declaration to the effect that their assessment has been conducted in accordance with government guidelines and meets conflict of interest standards.

Other checks and balances, such as those identified in the monitoring and enforcement section of the discussion paper, would support the integrity of the assessment process.

Implementation

Q8. Guidelines explaining how an industry body can apply to be an accreditation authority will be developed. What topics would you like the guidelines to cover?

In deciding whether and how to apply to become an accreditation authority, AMCA would expect the following information to be available:

- Eligibility criteria
- Application costs and any annual fees
- Roles and responsibilities
- Financial requirements, including insurance
- Governance requirements (e.g., policies, procedures, etc.)
- Data capture, storage, security, and privacy requirements
- Expectations around regional and remote licence holders
- Pricing caps and review processes
- Industry consultation and continuous improvement requirements
- Quality assurance requirements
- Processes for managing conflict of interest, complaints, and dispute resolution

Q9. What digital option would you support for information sharing between the Regulator and the accreditation authority?

AMCA supports the cloud-based portal for information sharing. While this option will require more upfront investment from all parties, especially the government, it is likely to offer the most sustainable solution long term and will foster the greatest amount of collaboration and innovation.

10. What other ways could we incentivise industry bodies to become PSS accreditation authorities, including ensuring they are appropriately recognised as having taken additional steps to professionalise their profession?

As stated in our answer to question 1, the greatest hurdle to participation for industry associations is undoubtedly the financial viability of the venture. Taking on the role of Professional Standards Scheme arguably requires an even greater investment than becoming an accreditation authority, so the incentives would need to be commensurate with the increased costs and risks. Please see our response to question 2 for more information about the hurdles involved in becoming a Professional Standards Scheme.

With this in mind, AMCA Australia submits the following features for consideration:

1. Introduce compulsory continuous professional development requirements for licenced occupations
2. Restrict participating organisations to industry associations and other non-profits that can demonstrate (via their constitution or equivalent) that their purpose is aligned with the objectives of improved standards of practice and professionalism
3. Provide a degree of pricing flexibility to participating organisations

These requirements would provide a strong and certain market for continuous professional development services that would strengthen the business case for taking on the costs associated with establishing and administering a Professional Standards Scheme.

Having said this, AMCA Australia encourages the government to consider alternatives to the PSS requirement, especially for organisations that are registered training organisations regulated by the Australian Skills Quality Authority. In our view, the principles and systems involved in meeting the integrity and quality requirements under a PSS and RTO are *substantively* the same. As such, organisations should be able to be accepted as an authorised provider of CPD, either a PSS or an RTO.

Type of organization	To become an accreditation authority	To become a provider of Continuous professional development
RTO	Must apply to become an accreditation authority	Must apply to become a provider of CPD under their RTO status
Non-RTO	Must apply to become an accreditation authority. Refer to our suggested changes in response to Question 5.	Would not be able to deliver and administer.
PSS	Demonstration of PSS enables organization to apply to become an accreditation authority and a provider of continuous professional development.	

AMCA also recommends that a panel be established to act as an independent body for providing advice regarding CPD needs. This panel would use data from all accreditation authorities to inform industry needs and trends. This suggestion is based on the Queensland model under the *Plumbing and Drainage Act 2018*, which has established the Services Trades Council and Services Trades Licensing Advisory Panel for a similar purpose. Also, see our response to Question 12.

Monitoring and auditing

Q11. Are there any aspects on the model that you could provide further information on such as guidelines?

No response.

Q12. Where a person does not pass the competency assessment, what review mechanisms could be considered to ensure procedural fairness?

If an individual believes their assessment was unreasonable, they should be able to request that it be reviewed by a second assessor. This could potentially be done by another accreditation authority.

AMCA also recommends that a panel be established to act as an independent body for dealing with complaints and disputes relating to assessments. This suggestion is based on the Queensland model under the *Plumbing and Drainage Act 2018*, which has established the Services Trades Council and Services Trades Licensing Advisory Panel for a similar purpose.

This panel could be the same group formed under the department to review applications from industry bodies referenced under the implementation section of the discussion paper.

Finally, individuals who do not pass their competency assessment should receive a clear rectification plan that identifies the areas they need to focus on.

The accreditation authority

Q13. What costs would an accreditation authority expect to incur in setting up and running a co-regulation model?

As stated in our response to questions 1 and 2, further detail is required to develop a comprehensive business case. As a rough benchmark, AMCA Australia is aware that comparable schemes required an investment of \$1 million in upfront implemented costs. This is likely to be at the high end. Our RTO operating budget of \$400-500k annually is also a useful comparator.

Project implementation	
Project management	Scoping, establishing project requirements, technical writing, workshops to obtain feedback, etc.
Human resources	Project manager, recruitment costs for assessors and administrative personnel, staff training, potentially consultancy charges, etc.
Technology	Will a new or dedicated technology platform be required? What technology requirements need to be captured and addressed?
Documentation	Development of systems, processes, procedures, templates, and other documentation.
Costs of services	
Human resources	Administration and assessment personnel wages
Building, offices, or facility hire	Costs to establish fit-for-purpose assessment facilities
Insurance	Professional indemnity, public liability etc.
Quality assurance	Reviews and updates to assessment systems (e.g., assessment materials, etc.)
Auditing	Annual self-declaration process, potential engagement of independent auditor, etc.
Operating costs	
Human resources	Wages associated with finance, information technology, and other support personnel.
Technology	Ongoing information technology support, software upgrades, security audits, etc.
Communications	Costs incurred due to communications activities, website maintenance, etc.

Q14. What is your view of the Regulator setting a cap on assessment charges to be able to manage the cost impacts for applicants?

AMCA agrees that the costs to applicants should be kept to a minimum. It is worth noting that industry associations are often not-for-profit organisations and would suffer reputation damage in the eyes of members and potential members if perceived to be charging excessive fees.

In setting a cap, the government must consult closely with accreditation authorities to ensure the ongoing financial viability of the venture. It is important that caps are not set arbitrarily, so information on operating budgets and the estimated number of assessment applications could be required to set realistic pricing.