

Consumer Protection in Cross-Border E-Learning Delivery¹

A White Paper to Guide Discussion for the International Seminar
Regulation of E-Learning: New National and International Policy Perspectives

October 11, 2005

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There are several different groups of people involved in higher education that have different types of concerns about protecting consumers of e-learning programs. Governments and multi-national organizations want to protect their citizens from fraudulent institutions that have a fancy website and seem to offer a good deal. Institutions and their faculties want to protect the integrity of their degree or diploma. Parents and students want to get the best deal for their money, but also want a degree that has value. There are different approaches that are necessary to address all of these consumer concerns.

Protecting E-Learners across State Lines

When higher education quality standards were first developed, they were locally based. Governments or associations of institutions created standards to assure quality for colleges and universities that served students in discrete geographic areas. In the U.S., this took the form of regional accrediting associations that were formed about 100 years ago. Each of these organizations is a formally defined group of colleges and universities that are located in specific U.S. states. These associations were recognized by the federal and state governments as the gatekeepers of higher education quality standards. Since then, a number of other types of accrediting associations have developed. Some focus on specific disciplines, like the American Psychological Association or the Accreditation Board for Engineering and Technology (ABET); others focus on specific types of institutions, like the Accrediting Council for Independent Colleges and Schools (ACICS). Each of these and the regional associations operate quite independently and develop their own quality standards. In most U.S. states, the government uses an institution's status with its accreditation agency as a primary factor for protecting its higher education consumers.

As electronic distance learning became widespread in the 1990s, the state where the student was located and the state where the institution was located were not always the same. In many cases, this meant that the institution and the student were in different regions. That began to cause concerns for the states that relied on its "local" regional association. As a result of some of these pressures, the regional accrediting associations came together to form the Council for Regional Accrediting Commissions (C-RAC) and created a common set of Principles of Good Practice for Electronically Delivered Degree and Certificate Programs.² These Principles assured government agencies that regardless of which regional accrediting organization examined an institution's e-learning activities, their citizens/consumers would be protected as if a local agency had worked with the institution.

Students Act like Consumers

Even a decade ago, two-fifths of U.S. students did not take all of their classes for their degree from a single institution. Of the students graduating in the 1999-2000 school year, 59% had attended more than

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² The C-RAC Principles' primary authors were John P. Witherspoon and Sally M. Johnstone of WCET. Available at: <http://www.wcet.info/resources>

one institution. Of those students, 35% had attended two institutions, 16% had attended three, and 8% had attended four different institutions (Peter & Cataldi, 2005). An examination of the U.S. national transcript data found many instances of simultaneous enrollment at multiple institutions and of “reverse transfer” from four-year to two-year institutions (Adelman, 1999). This tendency has been called “swirling,” and the institutions through which such students “swirl” may not even be aware of one another. The phenomenon is hard to track because most of the data we have about student enrollment behavior in higher education comes from institutions, not students. But it seems highly unlikely that this trend has slowed in recent years.

The “swirling” student expects all of the credit hours that he or she has earned to count toward a degree. The student (or his or her parents) typically does not recognize any difference between the calculus courses he or she took online at a community college and those offered by a research university. But faculty *do* think there are differences, and this sets up quite a challenge for traditional institutions whose faculty base their degree requirements on the assumption that the courses that students take fit together as intended. Most institutions did not anticipate this new, consumer-oriented approach to course-taking that has been adopted widely by today’s college students and enabled by e-learning opportunities.

It seems that U.S. students are acting like consumers of education. They are shopping for the best deals or the approach to teaching that matches their needs; however, institutions are still tracking progress toward a degree based on credit-hours. Many institutions still do not make it easy for students to transfer credits from a different institution. There are reasons for this that relate back to the assumption that a particular course *fits* into the curriculum in a specific way. This assumption carries with it the idea that regardless of who teaches the course, as long as that person is in the same department that has designed the curriculum, there will be a good fit. While there is a certain level of validity to this, such a practice does make it difficult for students to take advantage of e-learning courses that are available from other institutions. When students do take advantage of distance learning options, there are quality concerns regarding the integrity of the degree granted by an institution. One way to handle this new type of quality issue is to develop a system of “learning outcomes.” Using a metric of student learning instead of time-in-class could be a more progressive approach to academic program quality and protection for the student/consumer (Johnstone, Ewell & Paulson, 2002).

International Consumer Protection Through Increased Transparency

The existing consumer protection initiatives in cross-border e-learning initiatives at the international level are in general characterized by efforts to increase *transparency*. This is, for example, done through strengthening international co-operation and networking between national or sub-national quality assurance, accreditation and recognition of qualifications bodies, and making information available on quality assurance and accreditation procedures and systems in different countries. Increasing the transparency and information level about the quality of the cross-border education courses is seen as a way to limit the activities of rogue providers and degree mills.

There are a few existing international guidelines that are addressing the need of students/learners to be protected from rogue providers, diploma mills, and qualifications of limited value. Examples of such internationally established initiatives are the UNESCO Conventions on the Recognition of Qualifications and the UNESCO/Council of Europe “Code of Good Practice in the Provision of Transnational Education.”

The above mentioned conventions and codes/guidelines do not specifically address cross-border e-learning initiatives but include them as part of cross-border higher education activities in general. It is generally acknowledged that cross-border higher education encompasses a wide span of modalities that range from face-to-face (taking various forms such as students traveling abroad and campuses abroad) to

distance learning (using a range of technologies and including e-learning). These codes/guidelines are often non-binding for the countries that ratify or subscribe to them; they are based on the principle of mutual trust and respect among countries and on the recognition of the importance of international collaboration in higher education. They also recognize that countries have national or sub-national sovereignty over higher education.

UNESCO/OECD Guidelines for Quality Provision in Cross-border Higher Education

The most recent international initiative on consumer protection in cross-border higher education is a joint initiative by UNESCO and OECD entitled Guidelines for Quality Provision in Cross-border Higher Education. The purposes of the Guidelines are explicit “to protect students and other stakeholders from low-quality provision and disreputable providers as well as to encourage the development of quality cross-border higher education that meets human, social, economic and cultural needs.”

The UNESCO/OECD guidelines acknowledge that the increased cross-border mobility of students, academic staff, professionals, programs, and providers presents challenges for existing national and sub-national quality assurance and accreditation frameworks and bodies as well as for the systems recognizing foreign qualifications. Some of these challenges are:

- National capacity for quality assurance and accreditation often does not cover cross-border higher education. This increases the risk of students falling victim to misleading guidance and information and disreputable providers, dubious quality assurance and accreditation bodies and low-quality provision, leading to qualifications of limited quality.
- National systems and bodies for the recognition of qualifications may have limited knowledge and experience in dealing with cross-border higher education. In some cases, the challenge becomes more complicated as cross-border higher education providers may deliver qualifications that are not of comparable quality to those which they offer in their home country.
- The increasing need to obtain national recognition of foreign qualifications has posed challenges to national recognition bodies. This, in turn, (at times) leads to administrative and legal problems for the individuals concerned.
- The professions depend on trustworthy qualifications. It is very important that users of professional services, including employers, have full confidence in the skills of qualified professionals. The increasing possibility of obtaining low-quality qualifications could harm the professions themselves, and might in the long run undermine confidence in professional qualifications.

The Guidelines aim to provide an international framework for quality provision in cross-border higher education that responds to the above-mentioned challenges. The Guidelines recommend action to six stakeholders: governments, higher education institutions/providers, student bodies, quality and accreditation bodies, academic recognition bodies, and professional bodies.

The Guidelines are non-binding for the above-mentioned stakeholders and, once again, emphasize the need to enhance consumer protection through increasing the transparency of the quality of cross-border higher education, including e-learning activities, and through stronger international collaboration in

quality assurance, accreditation, and recognition of qualifications. It is expected that the Guidelines will be adopted by the UNESCO General Conference and the OECD Council before the end of 2005.³

The adoption of the Guidelines does not automatically lead to stronger consumer protection in cross-border e-learning activities. Especially developing countries often lack comprehensive frameworks for quality assurance, accreditation, and the recognition of qualifications. Capacity-building in many developing countries is therefore crucial for the successful implementation of the Guidelines and should form an important part of the overall strengthening and coordination of national and international initiatives.

Considering New Consumer Trends

This may be the time to start considering a shift to new ways of accounting for student progress toward a degree as we move into the use of new technological applications for learning. With the advent of Open Educational Resources, highly motivated students could work through whole sets of course materials virtually on their own (Johnstone, 2005). Should there be a way to formally recognize that student's efforts? As younger people begin to use the Worldwide Web in new ways, higher education professionals need to be ready to recognize these new learners' formal contributions to specific fields of knowledge. We are now beginning to think about how computer games can be used in formal learning environments (Prensky, 2000). While highly motivating, the learning resulting from playing even well-structured games is likely to be more individualized than is currently the case for students working through all the same material at the same pace. That means that we have to be thinking about new ways to protect consumers of higher education experiences and the validity of a higher education degree.

Finally, we need to consider the individual experience of a potential e-learning student. It can be difficult for a person to know what questions should be asked of a potential provider. It may be confusing and difficult to comprehend what technologies and technical proficiencies will be required to be successful in a particular course. In order to help with this aspect of quality assurance, WCET wrote the *Distance Learner's Guide* in 1999 with a revision in 2005. The goal of this brief book was to help anyone thinking about taking an e-learning course know how to assess the provider. There are so many online learning options now available to potential students, it is important to empower them to make good choices (Johnstone & Connick, 2005). The ultimate protection of the consumer must be in his or her own hands.

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³ More information about the UNESCO/OECD Guidelines can be found at (OECD, 2004). Available at: <http://www.oecd.org/edu/internationalisation/guidelines>

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