

Accessibility for All: The Australian Experience

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Disability Discrimination Act Standards Project

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On October 12, 2000, the Australian Federal Cabinet approved the Draft DDA Transport Standard. The decision requires all intra-city buses to be of low-floor type using boarding aids for wheelchair users in the form of ramps. This article traces the history of the milestone decision as an example and encouragement for the movement for Buses For All in other countries.

ABSTRACT

This paper outlines some of the key events and issues in Australia that have led to the development of National Standards under the Disability Discrimination Act of 1992 (DDA). The Standards will guide the implementation of an accessible public transport system in Australia.

People with physical disabilities have been denied access to public transport in Australia and have had as a replacement segregated, purpose-built 'taxi services'. These taxi services have been limited in numbers and generally been under resourced, therefore have been unable to provide an equivalent means of transport to that which the general public enjoy. This is now changing and is the result of disability activists lodging successful claims to the Human Rights and Equal Opportunity Commission (HREOC), claiming discrimination under the DDA.

As a direct result of 'Landmark Decisions' and Conciliated Agreements that have been negotiated within these Hearings, State and Federal transport Departments are developing integrated transport systems. A set of National Standards and Guidelines have been developed under the direction of the Australian Transport Council (ATC) to assist in the implementation of accessible transport. In June 1996 these Standards were approved by the ATC as a 'technically feasible' way of making public transport accessible and were then subjected to a Regulatory Impact. The development of this regulatory legislation has been frustratingly slow and not without issue. This information paper will outline the significant events from the perspective of a person with a disability who has been directly involved in the process. It also highlights the need for all stakeholders to work through this collaboratively rather than aggressively or defensively.

INTRODUCTION

The move towards an accessible transport system has been a topical discussion point over the past 7 years. At a national level, there was a significant announcement and shift in public transport policy on April 21, 1995 at the Australian Transport Council meeting (ATC). In a media release on the same day of the meeting, Mr Brian Langton, NSW Minister for transport announced that "public transport right across Australia will become far more accessible for people with disabilities as a result of a new strategy endorsed by Australian Transport Ministers."

This was the first real commitment by the ATC to people with disabilities. Its recommendations to develop a "fully accessible transport system" was received with great excitement by the Peak bodies representing the disability sector throughout the country.

Access to public transport by people with disabilities should now be a "fundamental right" and personal choice as it is with other members of the public. It is a right that Australia, as a signatory to the UN Standard Rules on Equalisation of Opportunities, has accepted and recognised in its own processes. To fully understand the issues involved, it is necessary to explore briefly: a historical perspective of disability; relevant statistical information on disability and aging; and describe some of the key events relating to accessible public transport in Australia.

HISTORICAL PERSPECTIVE

If you have a disability you are far less likely to complete secondary school, attend university, have paid employment, own your own vehicle or your own home.

As stated by Deputy Prime Minister Howe when addressing the subject of social justice for people with disabilities, "for too long, this group has suffered the indignity of poverty, segregation and unequal treatment and has been denied opportunities to participate fully in work and life in the community" (Commonwealth of Australia, 1991).

It was for these reasons that the 1991 Social Justice Statement suggested the development of discrimination legislation to help raise awareness and help protect the rights of people with disabilities. As history shows the Disability Discrimination Act (DDA) was enacted in 1992 and made provision for the development of Standards in a number of key areas including public transport and employment.

DISABILITY & THE MOVEMENT

The 1998 Australian Bureau of Statistics (ABS) survey of Disability, Ageing and Carers found that 19% or 3.6 million Australians have a disability, of that, 15.2% were handicapped or had 'core activity restrictions' (2,828,000).

Of these, 1,050,700 reported having difficulty using public transport with over half (544,500) stating that the predominant reason being getting into and out of conveyances

due to steps and doors. A further 297,7000 reported that they had difficulty using public transport because of access to/onto stops/stations (ABS 1998).

In a survey of consumer organisations which was commissioned to determine the "real issues" facing people with disabilities, 88% of all respondents reported that access to public transport was a major problem as it restricted their participation in education, employment, medical appointments, shopping and recreation (Downie, 1994).

KEY EVENTS

In 1994, a number of advocates and people with disabilities who became aware of the progress of accessible transport in Europe and the USA, lodged complaints of discrimination under the DDA against transport operators and State governments in Australia. The complaints were lodged with the Human Rights and Equal Opportunity Commission (HREOC).

On September 13, the HREOC in its first demonstration of strength in this area, granted an interim injunction in South Australia. The complaint and injunction was against the Minister for Transport, TransAdelaide and the Passenger Transport Board and prevented them from proceeding with the purchase of 178 buses which were deemed inaccessible.

On October 12 a Conciliated Agreement was reached in Adelaide between the parties with the SA Government agreeing to:

- "develop an Action Plan which complies with the DDA;
- the State Government also agreed to obtain 3 wheelchair accessible buses to begin trials and announced that
as from July 1995, the first low floor - fully accessible buses with ramps would come into operation at the rate
of one per week;
- the above mentioned buses would form the basis of a pilot scheme leading to the deployment of a more
extensive, accessible public transport for all;"

It was openly acknowledged that this action and the consequent agreement had implications for all other States and Territories.

On October 14, the State and Federal transport ministers met in Adelaide for their regular ATC meeting. After their meeting, the following formal communiqué was issued:

"Ministers identified as an early priority the need to develop a strategy for implementing an integrated national approach to accessible public transport. This strategy should address the best way of improving transport accessibility for all groups of people who currently have difficulty with public transport systems. Ministers agreed to establish a

task-force and its role was to hold consultations in each State, with all key stakeholders in accessible transport and report back to the ATC with a proposal for the implementation of a National strategy to address accessible public transport.

This work was undertaken and six months later at the next ATC meeting the Ministers issued a formal Communiqué which stated that: "Ministers endorsed a national strategy to make public transport more accessible for people with disabilities and agreed to release the report of the task-force for public information.

The Council directed that a task-force be established to develop standards under the DDA for accessible transport. The task-force would comprise of:

- people with disabilities;
- transport service providers;
- Federal Attorney-General;
- Human Rights and Equal Opportunity Commission;
- State and Federal Transport Departments;

The ATC also accepted the report, "Accessible Transport: The Way Forward", a report which outlined an integrated strategy of measures to ensure the public transport industry's compliance with the Disability Discrimination Act 1992. The key elements of the strategy were to:

- issue of standards under the DDA within ONE YEAR;
- vehicles and rolling stock to become accessible by normal replacement processes in preference to retrofit;
- financial assistance to encourage operators to invest in accessible vehicles and rolling stock;
- a funding program for the provision of public transport infrastructure;
- substantial achievement of access within FIFTEEN YEARS;
- full implementation of the strategy in all States and Territories within TWENTY YEARS".

NATIONAL TASKFORCE

The taskforce had as its first task to develop a draft document to initiate discussion and public comment. The disability sector representatives on the ATC taskforce then

conducted an intensive Australia wide consultation process between July 1995 and January 1996. Over 160 written submissions were received from the disability sector. These were then cross-referenced by issue and recommendations and through this process a consolidated report from the sector was presented back to the taskforce. A final Draft was then negotiated via consensus agreement and prepared for ATC.

REGULATORY IMPACT STATEMENT

On June 10, 1996 the ATC endorsed the Disability Standards as a 'technically feasible' way of making public transport accessible and referred them to the Federal Attorney General's Office to consider and authorise after a regulatory Impact Statement (RIS) was prepared.

RI Statements are required by the Council of Australian Governments (COAG) for all proposed new regulations that will impact on business and industry. They are designed to ensure that issues such as necessity and design as well as the impact on business and community welfare are properly assessed before any regulation is enacted. It was also necessary to prepare the RIS for cabinet consideration of the Disability Standards.

The RIS needed to evaluate a range of options for complying with the DDA and in Particular concentrate on two issues referred by the ATC:

- I. the costs and benefits of implementation of the draft Standards (noting the 20 year timeframe and implementation timetable);
- II. the likely extent of the market for use of accessible public transport.

The draft RIS was released for public comment in September 1998. I would like to present a summary of the response to the Draft RIS that was developed by the representatives of people who have a disability.

RIS RESPONSE

Governments were aware then that the ability to move around one's community is a vital factor in whether individuals can actively participate in their community. Clearly people with disabilities, especially those with physical disabilities were prevented from doing so on public transport. This discrimination became even more blatant or obvious when there was a worldwide move to low-floor technology in providing public transport.

Disability representatives were also asked to restate the fact that low-floor technology within public transport is not being implemented world-wide because it provides access to people with physical disabilities, it is because it is efficient and effective for the whole community. The cost of moving to low-floor technology within public transport in Australia therefore, should not be lumped onto the RIS on the draft Accessible Public Transport Standards.

These efficiencies also have benefits for the operators and owners of transport. The 'dwell time' is significantly reduced every time they pick up passengers and the risk of injury to passengers and staff when they board or disembark is greatly reduced. There appears to have been no effort to cost these benefits within the draft RIS.

In general terms, the majority of responses from the disability sector were concerned at the balance of the RIS stating that there was far more emphasis on the costs and any negative aspects as opposed to fully exploring the benefits and the associated savings.

Major Comments

1. The Draft RIS was overly negative and bleak in its presentation and outlook and did not emphasise the benefits
to the quality of life for people with disabilities or the improved economic efficiency for the whole community.
2. The Draft RIS does not address all disability types adequately and concentrates too heavily on the issue of
buses to the exclusion of almost every other public transport mode.
3. There is overall concern about the premises and assumptions upon which the costings were made, and a failure
in undertaking a current international search for material.
4. If the costings and benefits used within the RIS were simply extended to a 30 year timeframe it results
in a \$1.2 billion net profit but this wasn't even acknowledged.
5. That there should be no changes to the Draft Standards or to the timeline before these Draft Standards are
accepted as they are already a consensus agreement between all stakeholders. Any changes should be
made at the first review.
6. There will be no exceptions to the Standards because the equivalent access and unjustifiable hardship
clause already cover those situations.

The development of the Standards and the Regulatory Impact Statement (RIS) has been a long and arduous process but we have not yet seen the final draft.

There was significant progress made in relation to gaining details on exactly what each of the States and Territories have been doing in implementing accessible public transport. A detailed questionnaire was sent out to all State Ministers for Transport and/or their representatives as a directive of the previous ATC meeting.

FINAL APPROVAL

The RIS and the Transport Standards were then tabled and discussed at the April 1999 ATC meeting where again it was recommended that: "In respect of Disability Standards for Accessible Transport ATC:

Agreed that the Draft Standards as developed by the Disability Discrimination Act Transport Standards Taskforce be adopted subject to the exclusion of dedicated school buses, charter services and ferries in open waters. Noted that any jurisdiction has the ability to apply to the Human Rights and Equal Opportunity Commission for exemptions from the Standards. Noted that NSW and Tasmania endorsed the Standards, subject to the Commonwealth funding their implementation.

Agreed that the implementation of the Standards be subject to an audit after one year and that the Standards themselves, which were developed in 1996, be reviewed after two years." (ATC communique, 30 April 1999) The Commonwealth Dept of Transport and Regional Services (DoTRS) and the Commonwealth Attorney General have since been working on amendments to the Standards and preparing a submission to Federal Cabinet.

REVIEW OF STANDARDS

Recently the DoTRS reconvened the ATC working Party with a proposal for an extensive review of the Transport Standards prior to them moving forward into legislation. There was a very swift and emotional response from the disability sector to challenge this proposal which has now resulted in a working group looking at some defined technical aspects of the Draft. It is also expected that these matters can easily be resolved while the Standards move forward into parliament.

DISCUSSION

Why Standards? During the HREOC Hearing in October 1994 it became evident that there was considerable confusion as to what people with disabilities were entitled to and what transport providers were responsible for. "This impetus came from widespread concerns over the level of exposure of transport providers to complaints, and the financial consequences of having to immediately remove discrimination upon a complaint being successful.

Standards were seen to be an effective way of qualifying the open-ended nature of the DDA by providing certainty and compatibility of measures"(NSW position paper to ATC, 1997).

There was also a call for providing a consistent approach to non discriminatory transport. Operators and manufacturers were wanting clear direction on how to comply with the DDA and were hesitant about investing in further capital costs unless there was some assurance that they would not be subject to future complaints.

The Standards are being used across Australia by operators, manufacturers and people with disabilities as a means to check on what and how access provisions can be applied to public transport. The Standards are by no means perfect, with all stakeholders having to make some compromises along the way but they are a starting point.

The process however, has been vital and has by necessity had all players directly involved in lengthy discussions, negotiations and joint problem solving activities. I have had the great opportunity to be involved at a National, State and local level and have learned a great deal throughout the process.

I have had some great debates, arguments and discussions with transport representatives at a National, State and local level and I firmly believe that we have all learnt and benefited from these. One thing that we have all agreed on is that the key to the success of implementing accessible transport is the involvement of all stakeholders at local levels. That includes the operators, local councils, people with disabilities and the general public.

I acknowledge there are significant costs associated with upgrading our public transport system to make it fully accessible but I also happen to think that its a very good long term investment. I believe that the Commonwealth will benefit financially from the 'cross sector savings' in domicillary care services, residential care and income support payments. This is supported by Philip Oxley's research in the UK and by similar projections to the Australian population by Vintilla who has forecasted savings in the order of \$350 million per year once all transport is accessible.

Accessible transport is not about providing access to buses for people in wheelchairs, it is far broader than that. We are talking about local community infrastructure such as footpaths and buildings, and all modes of transport. If we have good access the frail aged, people with temporary disabilities and parents with young children in strollers all benefit. I also believe that the general community will also benefit.

CONCLUSION

Implementation of integrated - accessible transport systems is occurring around the country in most States and Territories. There is now a growing acknowledgment that people with disabilities have a right to travel on public transport with the general public. The Standards, although not legislated, are being used by all stakeholders as the 'yard-stick' to test DDA compliance.

What's more, the favoured technology to enable this to occur with buses, namely low floor buses, are proving to be a success in improving the efficiency of the transport services they operate in. These developments have the potential to entice far more passengers back to the public transport systems and bring with it economies of scale.

People with disabilities and the aged are an ever growing proportion of the population as indicated by the 1998 ABS survey which as one example found that 55% of those over the age of 70 experience some form of handicap. Catering for the access needs of these

groups doesn't hinder the access of others, it's quite the contrary. Good access features benefits the whole community and they tend to respond through increased patronage. It remains vital that all stakeholders maintain involvement at a National, State and local level as I feel we do have opportunities to collaborate our efforts and achieve a win win situation.

Importantly, some of the most vulnerable and isolated members of the community will now be able to travel around their communities at a reasonable cost. Individuals with disabilities, the aged with mobility difficulties and parents with pushes will now be able to fully participate in their communities.

THANK YOU.

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