



Victorian Equal Opportunity
& Human Rights Commission

Submission to the 2012 Review of the Disability Standards for Accessible Transport

14 June 2013

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Introduction

1. The Victorian Equal Opportunity and Human Rights Commission (**Commission**) welcomes the opportunity to make a submission to the 2012 Review of the Disability Standards for Accessible Public Transport (**2012 Review**).
2. The Commission is a statutory body that has responsibilities under a number of laws which are relevant to the provision of public transport in Victoria, including the *Equal Opportunity Act 2010* (Vic) (**EO Act**) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (**Charter**).
3. As discussed below, the Charter requires public authorities, which can include public transport operators, to act compatibly with human rights when they deliver public transport services. The EO Act makes it unlawful for public transport operators to discriminate in the provision of public transport services and in relation to the access to, or use of, public premises (including vehicles).

Consultation and community feedback

4. In preparing this submission, the Commission:
 - conducted an online survey to seek community feedback about accessibility to different modes of public transport in Victoria for people with disabilities
 - consulted with its Disability Reference Group (**DRG**), which meets quarterly to discuss systemic discrimination and human rights issues that impact on people with disabilities
 - attended the Disability Advocacy Resource Unit's public forum on the 2012 Review, and
 - attended the Department of Infrastructure and Transport's public consultation session in Melbourne on Friday 31 May 2013.

The Commission's online survey

5. The Commission's online survey asked participants whether their accessibility to trains, buses, trams and taxis had improved, gotten worse or stayed the same over the last year. It also gave participants the opportunity to describe their experiences of public transport in Victoria.
6. At 3 June 2013, 153 people had responded to the survey. Twenty six per cent of survey participants live in Melbourne public transport zone 1, 42 per cent live in Melbourne public transport zone 2, and 32 per cent live outside of Melbourne.
7. The majority of survey participants experience a physical disability (35 per cent), a sensory disability (14 per cent) or autism spectrum disorder (11 per cent). The remaining participants experience an illness or medical condition, mental health disability, behavioural-related disability (including attention deficit hyperactivity disorder), intellectual disability or a combination of disabilities.

The Commission's interest

8. The Commission's primary interest in the 2012 Review is to improve access to public transport for people with disabilities. Improving access to public transport is not only about improving participation in employment opportunities, goods and services, education, social and cultural life – it is ultimately about improving a person's quality of life and upholding their right to equality.

9. The 2012 Review is an opportunity for the Australian Government to review the *Disability Standards for Accessible Public Transport 2002 (Standards)*, make any necessary amendments to better meet the policy objective of the Standards and clarify particular issues. Importantly, it is an opportunity to keep pace with emerging issues (such as the use of new technology) and the community's developing understanding of the experiences of people with disabilities.
10. While the Standards were originally drafted with a focus on improving physical infrastructure, the broader understanding of accessibility issues has progressed since they were introduced. As an example, the Commission considers that the Standards should better consider access to public transport for people with disabilities other than physical and sensory disabilities (including behavioural-related disability, autism spectrum disorder and mental health disability).
11. The 2012 Review is also an opportunity to consider the fundamental purpose of the Standards – to remove discrimination from public transport services – and to consider how the Standards can be shaped in the future to achieve this purpose and to address current and emerging issues regarding accessibility.
12. The Commission notes that little progress has been made to address the recommendations arising from the 2007 review of the Standards. In order to ensure that the 2012 Review is both effective and meaningful, it is imperative that the 2012 Review is completed promptly and that any recommendations are considered and progressed as a matter of priority.
13. Although the Victorian Government's response to the 2007 review reported that 'Victoria exceeded or met most requirements of the first milestone on 31 December 2007 for trains, stations, buses, and bus stops', the experience of the Victorian community is that most public transport is still not wholly accessible for people with disabilities. As set out below, compliance with the Standards does not necessarily lead to accessibility outcomes.
14. The Victorian Government's response to the 2007 review also reported that the 2007 milestones for trams were not met. The Commission notes that it is unlikely that the 2012 milestones for trams will be met either.
15. These are issues that require further work at all levels of government.

The human rights framework

The Charter

16. The Charter protects the fundamental rights and freedoms of all people in Victoria. It requires public authorities to act compatibly with human rights and to properly consider human rights when they make decisions, develop policies and deliver services to the community.
17. For the purposes of the Charter, public authorities include government departments, public transport operators, and private companies that are contracted to provide public transport services.
18. A key right under the Charter that is relevant to the provision of public transport is the right to equality – that is, the right of every person to enjoy their rights without discrimination, including people with disabilities.
19. Another important right under the Charter is the right to freedom of expression, which includes the freedom to obtain information about public transport in accessible formats.

Equal Opportunity

20. The EO Act makes it unlawful in Victoria to discriminate on the basis of disability in relation to the provision of goods and services (including transport),¹ and in relation to access to, or the use of, public premises (including vehicles).²
21. A key objective of the EO Act is to promote and facilitate the progressive realisation of equality, by recognising that 'discrimination can cause social and economic disadvantage'.
22. One of the ways it does this is to impose a positive duty on organisations covered by the Act to take reasonable and proportionate measures to eliminate discrimination.
23. This means that public transport providers in Victoria have a legal obligation to take proactive measures to prevent discrimination in the provision of public transport on the basis of particular attributes, including disability.

Disability Discrimination

24. Public transport providers are required to comply with the federal *Disability Discrimination Act 1992 (DDA)* which, in relation to transport, is further articulated through the Standards.
25. Public transport operators are also required to comply with the Disability (Access to Premises – Buildings) Standards 2010 (**Premises Standards**). The object of the Premises Standards is to 'ensure that dignified, equitable, cost-effective and reasonably achievable access to buildings, and facilities and services within buildings, is provided for people with a disability'.
26. Compliance with both Standards is a vital starting point for achieving continuous accessible paths of travel for people with disabilities. Both Standards form part of the framework for progressing accessibility outcomes for people with disabilities and need to be considered together.
27. In Victoria, the Accessible Public Transport Action Plan 2006-2012 (**Action Plan**) sets out the steps for meeting the requirements in the DDA and the Standards. The Victorian Government recently released the draft Action Plan for 2013-2017. The Commission had the opportunity to comment on the draft Action Plan but notes that the Victorian Government did not consult widely in the development of the draft Action Plan.

National Disability Strategy 2010-2020

28. The National Disability Strategy 2010-2020 (**Strategy**) represents a strong commitment to address the challenges faced by Australians with disabilities.
29. The 2012 Review of the Standards is an opportunity to consider how the Standards can be improved to help to achieve the desired outcomes and vision of the Strategy – 'an inclusive Australian society that enables people with disabilities to fulfil their potential as equal citizens'.
30. The Strategy covers six major policy areas, one of which is 'inclusive and accessible communities' (including public transport).

¹ *Equal Opportunity Act 2010* (Vic), s 44.

² *Equal Opportunity Act 2010* (Vic), s 57.

31. The Strategy recognises that:

The ability to move around the community underpins all aspects of life for people with disability and is essential to achieving all the policy outcomes outlined in this strategy—from learning and skills, to employment and to the enjoyment of rights. In order to move freely around the community, people with disability need access to private as well as public transport. This can be achieved through modified motor vehicles and accessible parking. However, people with disability are often still unable to make use of footpaths, cycle paths and local roads as many of these have not been designed to be fully accessible. A continuous accessible path of travel for people with disability needs to connect public transport nodes with local services and accessible housing.³

'I am sick of having to leave hours earlier than able bodied people to account for non-disabled-accessible services and incompetent, rude staff. I have a life and things to do like everyone else. I'm a full-time university student with a strict schedule and public transport often prevents me from accessing life'.

Survey participant

Convention on the Rights of Persons with Disabilities

32. Following the initial 2007 review of the Standards, the Australian Government ratified the international Convention on the Rights of Persons with Disabilities (CRPD). This means that Australia now has additional obligations under the CRPD, including in relation to transport.
33. Relevantly, Article 9 of the CRPD states that in order to 'enable persons with disabilities to live independently and participate fully in all aspects of life', parties to the convention must, amongst other things, take appropriate measures to ensure that people with disabilities have equal access to transport. This includes the requirement to identify and eliminate obstacles and barriers to accessibility.
34. The Standards need to be improved to ensure they are a mechanism to help Australia meet these obligations.

Comments on the Standards

Enforcement

35. Section 32 of the DDA provides that 'it is unlawful for a person to contravene a disability standard'.
36. However, in the recent decision of *Haraksin v Murrays Australia Ltd* (No 2) [2013] FCA 217, the Federal Court of Australia found that non-compliance with the Standards does not of itself constitute unlawful discrimination. As such, it does not provide a sufficient basis for a person to lodge a complaint alleging unlawful discrimination under the *Australian Human Rights Commission Act 1986*.
37. To ensure that the Standards are enforceable, it is essential that the DDA clearly states that a breach of the Standards (and therefore, a breach of section 32 of the DDA) provides a standalone mechanism for lodging a complaint of unlawful discrimination with the Australian Human Rights Commission.

³ Council of Australian Governments, *National Disability Strategy 2010-2020*, [32]

Recommendation 1: The Standards should put more emphasis on the need for service providers to take proactive steps to assist people to access their services.

Recommendation 2: That the DDA is amended to provide that a breach of the Standards provides a standalone mechanism for lodging a complaint of unlawful discrimination with the Australian Human Rights Commission.

Reporting

38. The Australian Government's response to the 2007 review of the Standards noted the 'lack of detailed and comparable reporting' to measure progress against the five year milestones in the Standards.
39. The lack of detailed and consistent reporting on accessibility has a number of negative impacts, including a lack of data to review the effectiveness of the Standards and a limited ability to monitor non-compliance with the Standards.
40. Without the ability to measure progress against the Standards, there are currently no real consequences for a public transport operator that fails to comply with the Standards.
41. The Commission recently commented on Public Transport Victoria's draft Action Plan for 2013-2017. In particular, the Commission commented on:
- the need to incorporate and develop robust reporting on measures of progress and accessibility outcomes.
 - the need for accountability, through a commitment to consultation, focused prioritisation and detailed public reporting, and
 - the need to provide planning and progress reporting on compliance with legal obligations, including the Standards.
42. The Commission submits that a robust and transparent reporting framework must be developed in accordance with recommendation 1 from the final report on the 2007 review.

Recommendation 3: Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory government

Education and training

43. Effective customer service is an important element of accessibility to public transport for people with disabilities. People with disabilities are often reliant on staff to assist them to access public transport (whether to provide information, to manually deploy a boarding ramp, or to remember that a person has to disembark a train at a particular station).
44. The Commission's consultation and community feedback confirmed the need for better education and training on disability awareness for public transport staff who are at the front line of delivering public transport services. This will help to prevent poor customer service being an additional and unnecessary barrier to accessing public transport for people with disabilities.

'Generally the attitude of many toward those with disabilities is still living in the dark ages. Training of all levels of staff is required regarding the dignity and rights of those with disabilities. Only yesterday I was told that prams on town buses take precedence over disability aides'.

'It should be compulsory for all drivers to undertake some form of training. Some are fantastic but some drivers need to understand how to support someone with a disability and why it is important. They are customers too!'

Survey participants

45. Part 37 of the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3) (**Guidelines**) provides guidance on customer service in public transport services, and notes that 'attitude is one of the main barriers to non-discriminatory access for people with disabilities'.

46. The Commission submits that Part 37 of the Guidelines would be more effective if it was included in the Standards, rather than the Guidelines.

Recommendation 4: That Part 37 of the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3) is included in the Standards to emphasise the importance of effective customer service. The Standards should also require compulsory disability awareness training and education for all public transport staff.

Discriminatory caps on services

47. The 2012 Review also presents an opportunity to consider issues that fall outside the current scope of the Standards, to better ensure that the fundamental policy objective of the Standards is met.

48. A key issue that is not addressed in the Standards is the current practice of public transport operators placing a cap on the number of passengers with disabilities (for example, by having a policy that only two passengers with wheelchairs can board a particular service at any given time).

49. This practice constitutes unlawful discrimination unless a public transport operator can establish otherwise.

50. For example, under the EO Act in Victoria, a public transport service provider must make reasonable adjustments for people with disabilities to ensure that they can participate in or access the service.⁴

51. If a public transport service provider places an unreasonable or arbitrary cap on the number of passengers with a disability, this will constitute unlawful discrimination and may breach a person's right to equality under the Charter.

52. The Commission notes that the Department of Infrastructure and Transport has recently released an issues paper regarding the 'two wheelchair policy' of some Australian domestic airlines. The Commission considers that the practice of placing a cap on the number of passengers with disabilities should be considered more broadly in relation to all forms of transport.

Compliance codes

53. The Australian Human Rights Commission (**AHRC**) does not currently have the power to make compliance codes under the DDA. However, the issue of whether

⁴ *Equal Opportunity Act 2010* (Vic), s 45.

this is an appropriate mechanism to facilitate compliance with the DDA is currently being debated.

54. The Commission considers that a co-regulatory system (i.e. self-regulation by an industry or organisation in conjunction with the Australian Government) is not a feasible option unless there is clear, effective and transparent consultation with State and Territory governments, State and Territory anti-discrimination bodies and the broader community to determine the scope of the power to make a compliance code.
55. Although the Commission recognises the AHRC's expertise in human rights and discrimination issues at a national level, the Commission is concerned that the AHRC may not have the standalone expertise to certify a compliance code that would cover the provision of public transport in each State and Territory, and which may affect people's rights under the Charter in Victoria.
56. The Commission is particularly concerned about enabling public transport operators and industry to negotiate codes of compliance without a clear and transparent regulatory process, including broad consultation across relevant States and Territories. Appropriate consultation will help the AHRC to consider the full impact of a code which effectively enables a particular industry or organisation to operate outside of the Standards and may in practice operate to limit people's rights under the DDA.
57. If compliance codes arise as a possible mechanism to facilitate compliance under the DDA (and the Standards), it is vital that the AHRC be required to engage in appropriate and broad consultation prior to certifying a code.

Accessible journeys

58. In order to achieve meaningful access to public transport, there must be greater emphasis on improving whole-of-journey accessibility outcomes for passengers with disability, rather than piecemeal compliance with the Standards.
59. This means that the focus needs to shift from minimum compliance with the technical requirements set out in the Standards, to creating a continuous accessible path of travel for people with disabilities.

The Victorian Council of Social Service's (VCOSS) 2011 report, *Creating Accessible Journeys*, identified the 'focus on making isolated pieces of public transport infrastructure compliant with accessibility standards, while often ignoring broader concepts of accessibility, whether these pieces fit together, or failing to consider the impacts of operational decisions or the skills of staff on access outcomes. If a journey does not provide a continuously accessible path from beginning to end, then it cannot be used, regardless of how many pieces of compliant infrastructure exist along the way'. Put another way, 'compliance involves reaching the standard, whereas accessibility involves reaching the destination'.

60. The Commission's online survey asked participants about their experiences of using multiple modes of transport for their usual travel journey. The survey found that of the 83 survey participants that use multiple modes of transport:
- 38 per cent of people felt that using multiple modes of transport had gotten worse in the last year
 - 49 per cent felt that it had stayed the same, and

- 12 per cent of participants felt that accessibility to multiple modes of transport had improved.

61. Key issues identified by survey participants and the DRG in relation to using multiple modes of transport for their usual travel journey include:

- the lack of visual displays and audible announcements about delays and/or changes to connecting services
- difficulty getting from one mode of transport to another (for example, there may not be a continuous accessible path of travel from one mode of transport to another, or the path may not be well signed), and
- poor signage.

62. Concerns with poor service delivery include:

- unreliable connections between different modes of transport
- the lack of coordinated timetables and services.
- insufficient time to reach and/or find a connecting service.
- infrequency of accessible modes of transport (particularly accessible buses), and
- last minute timetable changes resulting in missed connections.

'Getting from train to bus and vice versa can be difficult at some stations as you have to cross railway tracks and negotiate different obstacles at some locations which is unsafe when blind. Waiting for the connecting transport means standing in exposed locations for considerable time which is unpleasant when the weather is bad. Being blind means you can't see better places to stand and you can't see the approaching bus or train from a distance and therefore can't get back to the stop on time'.

'Time delays often mean that the bus for the next leg of the journey has already left. This can leave people who have limited coping/planning isolated and vulnerable as they struggle to know what to do when the expected routine has been disturbed'.

'I don't use multiple modes because it is too difficult. The linkages both timetabling and physical are often poor. Often there is inadequate seating, assistance, signage and understanding of the nature of the obstacles'.

'Social occasions after hours is a nightmare as trams are just not viable, maxi taxis, if not booked are non-existent and sometimes don't arrive even when booked, buses from and to railways stations aren't always accessible which makes the most efficient mode of transport for me, trains, redundant because I cannot reliably get home'.

Survey participants

Accessibility to trains

63. The Commission notes that there are a number of ongoing issues with trains in Victoria that create significant barriers to access for people with disabilities.

64. The Commission's online survey found that:

- 25 per cent of survey participants felt that the accessibility of trains had gotten worse in the last year
- 46 per cent of participants felt that it had stayed the same, and
- 12 per cent of participants felt that it had improved.

65. Key issues identified by survey participants and the DRG include:

- the inability to negotiate steep ramps in a manual wheelchair
- the lack of visual displays and audible announcements at train stations and during train journeys (including information about approaching stations, delays and cancellations)
- the lack of *clear* audible announcements
- last minute changes to platforms
- poor signage to indicate which station the train is pulling into
- the lack of room to accommodate passengers in the front carriage (for example, if a train is crowded, there are bicycles in the way, or there is a cap on the number of passengers with wheelchairs)
- passengers with wheelchairs on regional trains being required to sit in the baggage compartment, without access to the buffet car or an accessible toilet, and
- the lack of time for passengers to board and disembark a train safely.

‘For people who are low vision the signage is appalling. The station names are quite small and can only be read, if at all, when the train has stopped and the sun is not shining on them ...I am sick of being a second class citizen, forced to accept a lower standard of convenience because I can’t drive’.

‘Trains stop in stations for too short a time for getting on and off safely without panic for someone with clumsy mobility, autism and other cognitive impairments.’

Survey participants

Failure to include ramps at new train stations

66. The Commission is concerned that newly constructed or renovated train stations in Melbourne have been designed and built without ramp access to the train platforms. For example, Epping and Thomastown train stations only have access to platforms by lift or stairs. Members of the community have raised concerns with the Commission about the accessibility and availability of lifts.

67. Part 14.1 of the Standards provides that stairs must not be the sole means of access to public transport infrastructure. However, it is essential that alternative means of access are both accessible and available for use by people with disabilities.

‘Many times trains come in on different platforms, and for those in wheelchairs it can take ages to catch a lift, which may be used by vendors restocking their supplies at their food outlet, or prams, or scooters, etcetera, so you can often only have one or two in each lift. They travel up and down slowly. Some platforms, like Caulfield have no lift but steep ramps, which can be low to propel yourself up, especially when in a rush if the train has changed platforms’.

Survey participant

68. Although the new stations have accessible lifts, there is no alternative form of access for people with mobility devices in the event of a lift failing (for example, if there is a power outage, fault or vandalism). If a lift fails, a person with a mobility device may not be able to access the platforms or may get stuck on a platform. This is not only a major inconvenience, but a serious safety hazard. These issues

are compounded when there is no active communication when lifts are not working.

Recommendation 5: That the Standards specify that all new public transport premises and infrastructure must be accessible. That operators be required to have plans in place to address mechanical failures, such as when lifts are not working. This may require a range of alternative means of access be made available and a communication strategy which can be activated when problems arise. In addition, public transport operators should be required to consult with the community in the design and renovation of public transport premises and infrastructure.

Level access boarding on trains

69. On metropolitan trains in Melbourne, level access boarding is only available at the first door of the first carriage, and is provided by the manual deployment of a boarding ramp by the driver. On country trains, the manual deployment of a boarding ramp is available at all carriage doors.

70. Although this practice is technically compliant with the Standards, it presents a number of concerns including:

- the need for driver intervention to manually deploy a ramp. There are many reports of drivers forgetting to assist a passenger with a wheelchair to disembark the train, or not offering to deploy a ramp if the driver considers that the train is too crowded.

‘Some drivers are not willing to get the ramp out for fear of being late. On a number of occasions I have been left at the station with nothing to do but hope that another train comes soon. I have also been the victim of verbal assaults by train drivers angry at me for ‘throwing off their schedule’. There should be an automatic ramp at each door so that I can access the train like anybody else and remove the human error from the equation’.

Survey participant

- the need for passengers with a wheelchair to wait at a designated place prior to boarding. In many cases, the designated place is not under shelter, may be at the far end of a platform, and may not be clearly marked. One survey participant noted that it can be ‘very scary and isolated’ waiting at the end of the platform.

‘Many stations don’t have rain shelters near the end of the platform, so people in wheelchairs/scooters have to wait in the rain’.

Survey participant

- trains not always stopping at the designated place for wheelchair access.

71. This demonstrates that compliance with the Standards does not necessarily lead to accessibility outcomes for people with disabilities. In order to achieve meaningful accessibility outcomes, public transport operators need to build on the minimum compliance measures set out in the Standards in a practical and innovative way.

‘Only being able to get on the train on the first carriage can be dangerous especially when – the train is about to leave – you don’t know which end the start of the train will be – the platform is too crowded and we have to drive our wheelchairs over the yellow line and dangerously close to the edge in order to get to the first carriage of the train’.

Survey participant

72. The Commission supports best practice for long-term level access boarding set out in VCOSS' 2011 report, *Creating Accessible Journeys*. The report recommends that level access boarding on trains, trams and buses should be 'independent, gapless and equal':

- Independent access – Allowing people to board a vehicle without intervention or assistance from another person
- Gapless access – Ensuring that no part of a person, their equipment or possessions can be caught or fall into a gap
- Equal access – Ensuring that all people can use all of the entrances and exits on a vehicle.

Replacement buses

73. Replacement buses that are deployed when there is a disruption to a train service are often not accessible for people with disabilities because:

- there is a lack of appropriate and accessible information about the replacement service (such as signage, visual displays and audible announcements).
- the pathway to the replacement bus may not be accessible and the replacement service may be difficult to locate, and
- the replacement bus may not be accessible for people with mobility devices – passengers with disabilities often have to wait a longer period of time than others for an accessible bus.

'When the replacement bus stop is located away from a manned station people with disability have to rely on other passengers to get them to it'.

Survey participant

74. Service disruptions and changes to timetables can create significant challenges for people with autism spectrum disorder and intellectual disability. Accessibility to public transport is not just about providing accessible information (such as signage and announcements), it is about the way that the service is delivered and the impact of any changes on people with disabilities.

'It is too confusing when something happens to the train and you have to change to a bus. They are too crowded and I get frightened'.

'My 18 year old daughter relies on the train to get to a course once a week. There have been many times the train has been delayed or replaced by buses causing her to be late for class. The impact that this has on her anxiety levels is significant and effects her ability to focus and learn in class'.

Survey participants

Recommendation 6: That the Standards specify that all replacement services must be accessible and that general information about replacements services must be communicated in accessible formats.

Accessibility to taxis

The Commission's research

75. In 2006, in response to stakeholder feedback and complaints from people with disabilities, the Commission conducted research on the accessibility and quality of taxi services for people with disabilities. This research formed the basis of the Commission's submission into the 2007 Review of the Disability Standards for Accessible Public Transport.
76. The resulting report, *Time to respond: Realising equality for people with a disability utilising taxi services*, identified aspects of the provision of taxi services that may discriminate against people with disabilities.⁵ In 2010, the Commission produced a follow-on report, *Time to Respond – three years on*, charting progress against the recommendations from the initial report.⁶
77. Since the release of the initial report, the Commission has worked closely with the Victorian Taxi Directorate (VTD) to progress the Commission's recommendations. However, as our recent survey demonstrates, there is still a lot of work to do to achieve accessibility to taxi services for people with disabilities.
78. The Commission notes that the Victorian Government's response to the 2011 Taxi Industry Inquiry was released on 29 May 2013. The Victorian Government's response recognises that people with disabilities 'compromise a considerable proportion of taxi customers but continue to experience unacceptable levels of service quality, availability and accessibility'.
79. The Commission commends the Victorian Government for supporting the introduction of a Central Booking Service for Wheelchair Accessible Taxis in Melbourne. This should be designed and implemented as a priority to ensure that wheelchair accessible taxis are more responsive and meet the 2007 milestone relating to response times.
80. The Commission's online survey found that:
- 23 per cent of survey participants felt that the accessibility of taxis had gotten worse in the last year
 - 36 per cent of participants felt that it had stayed the same, and
 - 13 per cent of participants felt that it had improved.

Waiting times

81. The 2007 milestone in the Standards relating to response times for accessible taxis has still not been met. Passengers with wheelchairs continue to experience unacceptably long waiting times for wheelchair accessible taxis, or in some cases, non-attendance of wheelchair accessible taxis.
82. This concern is highlighted by the following public comments made by the Commission in December 2012:

'Just last week, the need for reform was again highlighted when members of the Commission's Disability Reference Group were forced to wait more than one hour for wheelchair accessible taxis that had been pre-booked. While they

⁵ <http://www.humanrightscommission.vic.gov.au/index.php/our-resources-and-publications/reports/item/161-time-to-respond-realising-equality-for-people-with-a-disability-utilising-taxi-services-nov-2007>

⁶ <http://www.humanrightscommission.vic.gov.au/index.php/our-resources-and-publications/reports/item/162-time-to-respond-three-years-on-oct-2010>

were waiting on the street many empty taxis slowed down as they went past, however they soon sped up upon seeing the wheelchairs.

Unfortunately, this is not an uncommon experience for people with disability... In fact, just two months ago the same group of people waited more than two hours for their pre-booked taxis'.⁷

83. There are existing contractual and legislative obligations that require wheelchair accessible taxi drivers to prioritise wheelchair jobs (such as the introduction of a performance-based booking system to make network service providers accountable for the performance of their fleet in responding to wheelchair accessible taxi bookings).
84. However, this has failed to effectively audit or manage the serious issue of drivers passively rejecting wheelchair accessible jobs. A request by the Commission to the Victorian Taxi Directorate to determine the number of wheelchair accessible taxis that had refused to pick up a passenger with a wheelchair from the Commission offices in 2012 highlighted this issue.
85. The Commission was informed that of 64 available wheelchair accessible taxis in the vicinity over the 90 minutes that the passenger was waiting for the taxi, only five taxis could be audited, because they had actively rejected the job. The Commission was advised that the other 59 taxis could not be audited for non-compliance due to the resources required to review the case and a view that only active refusal of the job constituted a breach of regulations.

Other key concerns

86. Other than response times, the Standards fail to address any of the key issues that people with disabilities face in relation to accessing taxi services.
87. Survey participants and the DRG identified the following key concerns:
- taxi drivers refusing to stop for, or take, passengers with wheelchairs, assistance animals or guide dogs
 - wheelchair accessible taxis prioritising airport jobs
 - the refusal of conventional taxis to pick up people with mobility devices who do not require a wheelchair accessible taxi
 - drivers parking at a distance from kerb ramps and requiring people with wheelchairs to navigate long and unsafe distances on major roads to access taxis
 - taxis not having operational eftpos equipment necessary for the use of discount travel cards
 - quality of taxi services, including driver awareness and safety.

'I have a guide dog – I no longer go anywhere I cannot reach via public transport as taxis so often refused service or took me the long way, at times costing triple the usual fare. This was met by indifference by the companies when a complaint was made'.

'Most taxi companies, if notified of the disability are pretty good, but some drivers won't take the fare leading to very long waiting times. I've often been left waiting for at least 1-2 hours when not in peak times'.

⁷ <http://www.humanrightscommission.vic.gov.au/index.php/news-and-events/item/509-commission-welcomes-customers-first-service-safety-choice-taxi-industry-inquiry-report-12-dec-201>

'I constantly see wheelchair accessible taxis at Dandenong station parked waiting to pick up non-disabled passengers yet when you ring taxi directory there is always a long wait. This system is not reliable and I rely on making connections with individual drivers to maintain a reasonable service'.

'I have a constant fight to get a seat belt. They often try and talk me out of having a seat belt, and then spend 20 minutes rummaging. If they do manage to find tie-downs and a seat belt that works, they don't know how to use it. Often they place a seat belt over my shoulder and around my neck (i.e. the sash) without any lap component. When I point out that this would probably strangle me if I had an accident they claim it's "how it was designed".

'I use regular taxi drivers, but when it is not possible to use them, I find taxi drivers do not want to get out and lift the fold up wheelchair into the car. Some even ignore me all together'.

'Drivers do not understand how they can simply help people with a vision impairment'.

Survey participants

Accessibility to trams

88. The Melbourne tram system is well short of meeting the 2007 and 2012 milestones in the Standards. In particular, there are still very few opportunities for level access boarding.

89. Although the Standards state that a boarding device must be provided if a vehicle has a boarding gap that exceeds 40mm horizontally and 12mm vertically, the majority of trams are still inaccessible due to the boarding gaps exceeding the requirements in the Standards.

90. The Commission's online survey found that:

- 10 per cent of survey participants felt that the accessibility of trams had gotten worse in the last year
- 31 per cent of participants felt that it had stayed the same, and
- 19 per cent of participants felt that it had improved.

91. Key issues identified by survey participants and the DRG include:

- the lack of low floor accessible trams – There have been 50 new low floor trams on order since 2009, which will bring the total number of low floor trams to 150. However, variables such as passenger load or lack of accessible tram stops will mean that the majority of trams are still not accessible. The Commission is concerned that the specifications for the purchase of new trams may not meet the requirements in the Standards.
- the lack of 'super stops' – As at March 2013, Public Transport Victoria's website noted that only 360 of the 1770 tram stops in Melbourne have been upgraded.
- the lack of accessible tram stops at both ends of a journey - passengers who board at an accessible tram stop may not be able to disembark at their destination if the stop is not accessible.

'Getting on board from one accessible tram stop doesn't mean there will be another accessible stop at the end of the journey'.

Survey participant

- difficulty accessing information about which trams, routes and stops are accessible (for example, most timetables do not indicate when a low-floor tram will be deployed).

'The new tram access stops are great, but how do you know where they are?'

Survey participant

- inaccessible timetables at tram stops (for example, timetables may be too small or too high).
- the lack of visual displays and audible announcements at tram stops and during tram trips.

'Although more super stops are appearing, there are often few or even zero accessible trams on the routes. Most importantly, when an accessible tram does arrive at a super stop the step and the gap between the platform and the tram almost always make it unusable for me, even though I have one of the most common electric wheelchairs ... I am generally only able to get an 'accessible' tram when I have a friend with me and I use my trusty portable ramp to bridge the inaccessible gap. Another point: It's possible to get on at one super stop with a perfectly accessible 3 centimetre gap and then arrive at another super stop with an insurmountable 10 or 12 centimetre gap'.

Survey participant

Accessibility to buses

92. The Commission's online survey found that:

- 13 per cent of survey participants felt that the accessibility of buses had gotten worse in the last year
- 31 per cent of participants felt that it had stayed the same, and
- 20 per cent of participants felt that it had improved.

'People in wheelchairs still can't catch any bus they can because – the old buses have steps – the old buses which have ramps have damaged handles or no handles so some drivers can't flip them open – the new buses which have electric ramps don't work all the time and some drivers don't know how to operate properly – buses get too crowded during peak times so there is no room for wheelchairs on the bus – there aren't enough wheelchair spaces'.

Survey participant

93. Key issues identified by survey participants and the DRG include:

- the lack of low floor buses (particularly in regional Victoria)
- uncertainty about which timetabled buses are low floor buses
- the lack of announcements for approaching stops
- the lack of awareness regarding assistance animals

- poor signage and timetables at bus stops
- high steps on older buses
- the lack of visual displays and audible announcements at bus stops about the number or route of approaching buses
- drivers not stopping to pick up passengers who have limited physical mobility and are unable to hail the bus, and
- drivers taking off before passengers are seated or accelerating too fast.

'Having vision loss means you can't see when the bus is approaching and can't read the number to know if it is the correct bus. I can't see where the door of the bus is making it difficult to board. I am completely reliant on the public to assist which is not satisfactory as there isn't always someone willing and available to help'.

'Some drivers will not lower the bus to save time, making the ramp too steep to ascend'.

'Drivers in some cases need to have a reality check, and when someone with a disability comes to access the low floor bus, actually get out of their seat and put a ramp down!'

'Buses have driven straight past myself and my guide dog'.

'Being told that they can not get on the bus because it will take too long and the driver has to get the students on the bus to school in time ... What about those with disabilities who have appointments or work?'

Survey participants

94. Survey participants noted that the introduction of the SmartBus network has increased accessibility to buses in Melbourne. The SmartBus network is an example of a public transport system that has achieved greater access outcomes for people with disabilities. However, there are some reports of announcements on SmartBuses not being made, or being difficult to hear.

'Being legally blind with a guide dog, drivers persist not to have the audio on in the SmartBuses or have music so loud you cannot hear the next stop coming up'.

Survey participant

Accessibility of information

95. Access to public transport for people with disabilities is not just about physical access – it is about good customer service, effective communication and clear accessible information.

'Ultimately, there is a gap in the way in which instructions are provided from an ASD (autism spectrum disorder) perspective. By providing clear, simple and minimum instructions, it would help ASDs significantly and it would work well for foreigners/tourists/visitors to the city'.

Survey participant

96. The Standards provide that general information about transport services must be accessible to all passengers, and that all passengers must be given the same level of access to information on their whereabouts during a public transport journey.

97. The target date for full compliance with these standards was 31 December 2007 (other than at bus stops). The target date at bus stops was 25 per cent compliance by 31 December 2007 and 55 per cent compliance by 31 December 2012.

98. However, a number of ongoing issues have been identified by survey participants and the DRG, including:

- information about public transport, whether prior to or during a journey, is generally not accessible – Information is often inconsistent, unreliable or inaccurate. In many cases, information is not available at all
- information is not always available in formats that are accessible for people with particular disabilities (for example, the size and height of timetables at tram and bus stops may not be accessible)
- changes to timetables present particular challenges for people with intellectual disabilities and autism spectrum disorder
- new technology and websites that provide information about public transport are not always accessible
- signs that display train platform numbers are usually installed parallel to the train tracks. These signs would be easier to see if they were installed at right angles to the train tracks
- signs for train station names are too small and difficult to read
- the lack of visual displays and audible announcements (about delays, cancellations, approaching stops/stations, platform changes etc), and
- audible announcements are commonly inconsistent, incorrect or inaudible.

Blind Citizens Australia – Report on audible announcements

In 2012, Blind Citizens Australia released a report on audible announcements on Melbourne transport.

29 participants in the project completed a survey of the consistency of audible announcements over a two week period on trains, trams and buses in Melbourne.

The report found that:

-On metropolitan trains, over one in eight trips during the morning and over one in five trips during the afternoon had no audible announcements.

-On trams, approximately three out of five trips during the morning and over 60 per cent of trips during the afternoon and evening had no audible announcements.

- On buses, only one trip in the morning (of 28 trips) and 1 trip in the evening (of 24 trips) had automated announcements. Of the total bus trips, four were on a SmartBus. However, announcements were not made on two of those trips despite the availability of technology.

Source: *'Tell me where I am! Audible announcements and the experience of people who are blind or vision impaired on Melbourne transport – A report prepared by Blind Citizens Australia'*.

Accessibility of ticketing

99. We also note the issues raised about the myki ticketing system by Janine Young, Victorian Public Transport Ombudsman, in her submission to this review.

- Consumers with intellectual disabilities and acquired brain injuries being charged a higher default fare for forgetting to touch off at the end of their journey – something they did not have to do with the previous ticketing system
- Consumers with a vision impairment having difficulty using myki ticket vending machines due to the colours and contrasts on the screens.
- Consumers with disabilities being unable to purchase a concession myki card at card vending machines as only full fare myki cards are dispensed.

100. We support Ms Young's comment that '[w]ith any new system, continual review of how consumers interact with it needs to be undertaken to ensure that accessible design will result in accessible journeys'.

Communication access

101. Communication challenges can create a significant barrier to accessing public transport services.

102. The 2012 Review is an opportunity to think beyond physical access to public transport, to broader notions of accessibility, including communication access.

103. Communication access is 'about communicating with people who do not use speech or have speech that is difficult to understand'.⁸ It involves treating a person with dignity and respect, taking the time to communicate, using different methods of communication (including gestures), ensuring that signs are easy to see and read, and ensuring that information is available in different formats (such as Easy English, large font, Braille or audio).⁹

Recommendation 7: That Part 16 of the Standards (Symbols) includes reference to Scope's Communication Access Symbol.¹⁰ The Communication Access Symbol should be used to identify public transport premises, conveyances and infrastructure that are 'communication accessible' (i.e. they meet Scope's criteria and assessment for communication access).

Recommendation 8: The Standards should put more emphasis on the needs of people with a range of disabilities, not just physical disabilities.

Accessibility of public toilets

104. The Commission is concerned about the ongoing practice of locking accessible toilets at train stations in the Melbourne CBD and metropolitan area.

105. Part 15.1 of the Standards provides that there must be at least one accessible unisex toilet in public transport infrastructure.

⁸<http://www.scopevic.org.au/index.php/site/whatweoffer/communicationresourcecentre/communicationaccess>

⁹ Ibid.

¹⁰ <http://www.scopevic.org.au/index.php/site/mediacentre/pressreleases/communicationaccesssymbol>

106. However, people with disabilities who use accessible toilets often need to attract the attention of staff, obtain a key for the toilet and return the key when they have finished using the facilities. This is in contrast to the practice employed for standard toilets which remain unlocked during daylight hours.
107. In April 2011, the Commission investigated the practice of locking accessible toilets at Melbourne train stations.
108. As part of the investigation, Commission staff visited 35 Metro train stations in Melbourne and made the following observations:
- the accessible toilets were locked at 29 stations while the standard toilets remained unlocked
 - the location of accessible toilets in relation to staff would make it difficult to obtain a key (i.e. staff were sometimes on another platform or on the other side of ticket gates)
 - a person with a disability may not have the mobility to manipulate the toilet key independently, and
 - some stations did not have clear identification signs (i.e. Braille or tactile signage and/or handles on the doors).

Recommendation 9: That accessible toilets are provided with the same availability as standard toilets at public transport premises.

Changing places

109. The Changing Places project was established in 2006 in the United Kingdom in response to the need for more appropriate fully accessible toilets in major facilities such as shopping centres, train stations and airports. It recognises that standard accessible toilets do not meet the needs of all people with disabilities.
110. The Changing Places Victoria consortium (including representatives from Maroondah City Council and Knox City Council) advocates for the installation of Changing Places toilets in all major facilities in Victoria, including premium train stations and airports.¹¹
111. Without appropriate accessible toilets, people with disabilities may have to be changed on a public toilet floor, go home when in need of a change, or have to sit in wet incontinence pads.
112. Changing Places toilets provide a safe and clean environment with features such as adjustable adult-sized changing benches, ceiling hoists, extra space to accommodate carers, and screens or curtains for extra privacy.

Recommendation 10: That Part 15 of the Standards requires new public transport premises to include a Changing Place toilet to ensure that people who require accessible toilets have a safe and dignified place to change.

Dedicated school buses

113. Dedicated school bus services are currently excluded from the physical access requirements in the Standards.

¹¹ <https://www.facebook.com/changingplacesvictoria>

114. The Australian Government response to the 2007 review supported the recommendation to phase in the application of dedicated school bus services to the physical access requirements in the Standards. However, this has not been progressed.
115. The Australian Government response recognised 'the importance of providing students with a disability every opportunity to participate in community life, including being able to travel alongside students without disability on dedicated school bus services'. It also noted the merit in examining the 'scope to commence earlier or shorten the phase-in requirements'.
116. The dedicated school bus exclusion is counter to the purpose of the Standards to 'enable public transport operators and providers to remove discrimination from public transport services'.
117. The exclusion discriminates against students with disability and limits their ability to participate in normal community life.

Recommendation 11: That dedicated school bus services are phased in to the physical access requirements in the Standards.

Community transport

118. Community transport services for targeted groups of people are also excluded from the Standards.
119. This means that community transport services do not have to be accessible unless they are providing services to the general public. However, many targeted community transport services are intended to provide transport for people with disabilities and older people. This exclusion also runs counter to the purpose of the Standards to remove discrimination from public transport for people with disabilities.
120. The Australian Government response to the 2007 review supported the objective of removing the exclusion relating to targeted community transport vehicles. However, this has not been progressed yet.

Recommendation 12: That the Standards are amended to require new community transport vehicles to comply with the Standards.

Thank you for the opportunity to make a submission to the 2012 Review. For more information about this submission, please contact emma.coetsee@veohrc.vic.gov.au.

Yours sincerely

Karen Toohey
Acting Commissioner

Summary of recommendations

Recommendation 1: The Standards should put more emphasis on the need for service providers to take proactive steps to assist people to access their services.

Recommendation 2: That the DDA is amended to provide that a breach of the Standards provides a standalone mechanism for lodging a complaint of unlawful discrimination with the Australian Human Rights Commission.

Recommendation 3: Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory government

Recommendation 4: That Part 37 of the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3) is included in the Standards to emphasise the importance of effective customer service. The Standards should also require compulsory disability awareness training and education for all public transport staff.

Recommendation 5: That the Standards specify that all new public transport premises and infrastructure must be accessible. That operators be required to have plans in place to address mechanical failures, such as when lifts are not working. This may require a range of alternative means of access be made available and a communication strategy which can be activated when problems arise. In addition, public transport operators should be required to consult with the community in the design and renovation of public transport premises and infrastructure.

Recommendation 6: That the Standards specify that all replacement services must be accessible and that general information about replacements services must be communicated in accessible formats.

Recommendation 7: That Part 16 of the Standards (Symbols) includes reference to Scope's Communication Access Symbol.¹² The Communication Access Symbol should be used to identify public transport premises, conveyances and infrastructure that are 'communication accessible' (i.e. they meet Scope's criteria and assessment for communication access).

Recommendation 8: The Standards should put more emphasis on the needs of people with a range of disabilities, not just physical disabilities.

Recommendation 9: That accessible toilets are provided with the same availability as standard toilets at public transport premises.

Recommendation 10: That Part 15 of the Standards requires new public transport premises to include a Changing Place toilet to ensure that people who require accessible toilets have a safe and dignified place to change.

Recommendation 11: That dedicated school bus services are phased in to the physical access requirements in the Standards.

Recommendation 12: That the Standards are amended to require new community transport vehicles to comply with the Standards.

¹² <http://www.scopevic.org.au/index.php/site/mediacentre/pressreleases/communicationaccesssymbol>

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