

RESPONSE TO THE 2014 DRAFT REPORT OF THE REVIEW OF THE DISABILITY STANDARDS FOR ACCESSIBLE PUBLIC TRANSPORT 2002

Submission by the Bus Industry Confederation



July 2014

Introduction

The Bus Industry Confederation (BIC) provides this submission to the Draft Report of the 2nd Review of the Disability Standards for Accessible Public Transport 2002.

This submission addresses the following sections of the Draft Report:

- Section 6 (Accessibility of Buses and Coaches)
- Section 10 (Effectiveness of the Transport Standards)
- Section 11 (Efficiency of Transport Standards)
- Section 12 (Recommendations)

The responses to these sections of the Draft Report are based on the BIC's submission to the second five year review of the Disability Standards for Accessible Transport 2002. This submission presented high level issues and bus technical issues for consideration.

Included in this submission is a supplementary discussion paper that was provided to the Accessible Passenger Transport National Advisory Committee (APTAC) in April 2012.

General Response

The Bus Industry Confederation and the Australian Bus and Coach Industry support the spirit and intent of the Disability Standards and the Disability Discrimination Act 1992 (DDA).

It is, however, a matter of significant concern that the legislation has progressively begun to be interpreted much more literally than was intended or envisaged. Worryingly, provisions and targets in the Disability Standards are being interpreted by many members of the Disability Community, and sector advocates, as a blunt instrument to remove discrimination no matter what the cost.

Applying the Disability Standards in a literal sense without consideration of reasonable practicability can work counterproductively, especially when compliance becomes physically, technologically or economically impossible for public transport providers. This submission contends that such an approach is at odds with the intent of the legislation, namely, to increase accessibility to, and by, public transport services.

In general the BIC is concerned about the lack of progress on many of the issues raised by the industry as part of the first 5 year review. The Final Report of the 2nd Review of the Disability Standards for Accessible Public Transport 2002 provides an important opportunity to check that these standards are:

- efficient and effective at removing discrimination against persons on the grounds of disability; and
- not creating unforeseen or unintended safety, operational or practical problems for disabled persons, public transport passengers in general, and the staff (including contractors) of public transport providers

Section 6: Accessibility of Buses and Coaches

The Compliance Timetable

"Government submissions indicate that the majority of bus services are close to, or have achieved, the 2012 compliance target of 55 per cent for buses. Programs have been put in place to ensure bus fleets are increasingly accessible and meet future Transport Standards compliance requirements. However, the extent that these compliance levels apply to private bus operators is unclear because of a lack of reporting."

The BIC would emphasise that the majority of private bus operations are contracted to State and Territory Governments and compliance rates for contracted services would be factored into the reporting from those Governments. The assertion in the Draft Report that "the extent that these compliance levels apply to private bus operators is unclear" doesn't take into account the extent of information available. The information available about the levels of compliance for contracted services is comprehensive; where it does lag, however, is in the area of coach services.

As outlined later in this response, this would only be the case in instances that State and Territory Government contracted operators are not provided adequate capital incentives within Government contracts to meet the compliance requirements of the Disability Standards.

The BIC in our submission to the 2nd Five Year Review identified a number of issues with the compliance timetable as it was originally designed. At the time of design it would not have been reasonable to expect it to fully anticipate:

- The realities of future passenger transport demand by people with disabilities (i.e. as venues become increasingly accessible there has been consequent surge in the demand for accessible transport)
- The increased demand for public passenger transport services more broadly driven partly by escalating world oil prices, higher density urban planning, as well as community concerns about the environment
- Levels of state and federal government funding directed to accessible passenger transport services
- Whether all of the requirements mandated were workable or achievable within the design and maintenance life of passenger vehicles operating in Australia
- That the ambiguity of the interpretation of the legislation and standards has allowed the purchase of non-compliant vehicles.

The BIC believes that it is reasonable to reconsider the Disability Standards' timetable, and as necessary, reprioritise certain elements and their associated target dates. In the absence of unlimited resources, it is absolutely essential that public transport providers in partnership with Governments and the Disability Community pursue the elimination of discrimination in a structured manner that realistically seeks to deliver achievable outcomes in a sequence or order designed to promote the greatest benefit.

Disability Sector Concern with the Accessibility of Buses

Mobility Devices on Buses and Coaches

The Bus Industry Confederation calls on the Commonwealth Government to make it a requirement for mobility device manufacturers to ensure that all devices are appropriately identifiable as being safe and suitable to be carried on a public transport conveyance and that purchasers of such devices are made aware of the limitations that the standards impose, for example in the areas of size, mass and maneuverability.

Currently there is no requirement or mechanism for bus and coach drivers to determine which mobility devices are suitable for use on conveyances.

Submission by the Bus Industry Confederation

The BIC recognises the work being undertaken by the mobility device labeling working group under the auspices of APTNAC currently but looks to Federal, State and Territory Governments to expedite and implement this recommendation of 2012 Review as soon as it is practical.

Mobility Devices and Safety

A concern for bus and coach operators in relation to mobility devices is the safety of people using them and the safety of other passengers. The areas of concern relate to:

- Mobility devices and their impact on the safety of the user and other passengers on buses in the event of an accident, heavy braking or swerving incident if the device/passenger is not secured.
- The inconvenience caused to other public transport users and the dignity of people with disabilities when mobility devices, which are not suitable for use on a conveyance results in, breaking accessibility ramps on entry, or are not able to be maneuvered into allocated spaces due to their size and turning circle.
- The safety consequences of mobility devices of the “scooter” type that carry wet cell batteries. Wet cell batteries are a major concern due to possible leakage; the fluid is very acidic and flammable. Wet cell batteries have also been known to explode on impact and may be a safety hazard in the event of an accident or some form of impact on the battery.
- The effective restraint of mobility devices is a major concern to the industry. The bus and coach industry is required to meet stringent seat strength and anchorage requirements under Australian Design Rules, ADR 68. Key issues to be considered include seat strength of the mobility device and its safe restraint, unsecured mobility devices and the risk of becoming projectiles, the fitment of anchorage points close to, or affixed to the floor which could inadvertently create trip hazards for other passengers.

The Bus Industry Confederation is concerned that wheelchairs and other mobility devices do not meet any equivalent seat strength or anchorage standard and the actual restraint of such devices to the ADR 68/00 standards is improbable.

In addition, mobility devices vary in their stability and are often at risk of being tipped over, even when restraints, either active or passive, are applied. It should also be recognized that the use of prams with children inside of them are being placed in the wheelchair space unrestrained. This is a significant safety problem and also can prevent a wheelchair from occupying its designated spot.

It is clear that people with disabilities being carried on a bus or coach in a mobility device are receiving a lower standard of occupant safety attention compared to other passengers in ADR 68/00 seats, which raises a number of legal and safety issues that need to be investigated and addressed.

A further issue for all State and Territory Governments who contract bus services is to fully consider the impact of “on – time running” and Key Performance Indicators when people with disabilities are boarding and egressing buses and having to restrain mobility devices. This can, and does, impact on timetables and can result in operators being penalised under contractual arrangements.

Wheelchair Accessible Taxis (WAT) in NSW are guided by the WAT Measurement Protocol, the development of a similar framework for mobility devices on buses would be a valuable undertaking. The BIC supports the recommendation for the Australian Government in collaboration with state and territory governments to develop and implement a national motorised mobility aid labelling scheme.

Submission by the Bus Industry Confederation

Workplace Health and Safety Standards (Drivers Assisting Disabled Passengers)

There is concern that requirements of the Disability Standards can at times conflict with workplace health and safety standards, as well as other legislative and regulatory requirements, that bus operators are obligated to meet.

Compliance with the Disability Standards has led to many instances where passenger safety, vehicle standards, occupational health and safety, and workplace practices have been compromised. As a consequence, industrial injuries have been sustained, passengers have been subjected to additional risk, and bus operators exposed to possible legal liabilities.

It is grossly unfair for any service provider, yet alone those operating small to medium sized passenger transport businesses, to be placed in a position where they are expected to make critical judgements that potentially trade off safety and compliance with requirements of the Disability Standards.

The Bus Industry Confederation is concerned about workplace injuries that are occurring as a direct result of the disability standards for accessible transport.

These injuries tend to occur in the event of drivers assisting people in mobility devices; that are not suitable to travel on buses or coaches; where infrastructure does not provide easy access to accessible buses; or in attempting to provide equivalent access to a person with a disability.

These issues are an unexpected outcome following the introduction of the DDA standards. The current Australian Human Rights Commission (AHRC) process, which relies on consumer feedback and complaints, provides little scope to refuse access to a service for fear of complaint, compromising existing safe workplace practices for bus and coach industry staff and imposing significant costs on the industry in the form of injury, rehabilitation and compensation.

The BIC seeks confirmation that Work Place Health and Safety regulations override the requirements of the Disability Discrimination Act, Accessibility Standards for Public Transport.

Accessibility of Bus Infrastructure

The Bus Industry Confederation is concerned with the provision of compliant infrastructure. Both State and Local Government have lagged behind in relation to investing in infrastructure that is compliant with the disability standards.

This often results in bus and coach operators being unable to provide accessible trips as the surrounding infrastructure, for the “whole trip”, does not allow such a trip to occur. Where an operator does provide accessible vehicles in these circumstances it often relies on significant assistance by drivers and other passengers to assist the person with a disability. This often compromises their dignity, puts both driver and passenger at risk of possible injury and generally results in the bus operator being accused of not providing an accessible service.

The real need is for greater coordination and investment by State and Local Governments to address the “whole of trip” gaps that are evident in the system as a result of inaccessible infrastructure that is not suitable for the provision of low floor bus services.

Consideration needs to be given to how the compliance time frame for accessible vehicles and services can more fairly reflect these circumstances, to allow operators to meet compliance requirements in alignment with the provision of infrastructure that is compliant with the standards.

Accessibility of Coaches

Regional and Remote Bus and Coach Operators

The ‘one size fits all’ approach to implement the disability standards for public transport has created significant financial concerns for rural and regional operators.

Submission by the Bus Industry Confederation

For regional and remote operations, the standards have resulted in increased costs for maintenance and reduced longevity of low floor accessible vehicles operating life. These vehicles are often operating on dirt roads, hilly terrain, frequent road culverts and floodways which take a heavy toll on the vehicles, often when there is little or no demand for such vehicles.

The BIC believes that a review of actual operating circumstances and demand for accessible transport services needs to be undertaken to assess whether bus services in many circumstances are the most cost effective and sensible approach to removing discrimination in many operating circumstances.

This situation is exacerbated in regional and remote areas where the lack of complimentary infrastructure, for example curbing, makes it pointless to operate low floor vehicles.

Charter Services

The Bus Industry Confederation is still seeking confirmation if bus and coach charter services are required to meet the accessible transport standards.

Charter services are services carrying specific groups of people who have booked a dedicated and defined service. If accessible transport is required, this will form part of the charter request by the customer.

The Bus Industry Confederation would like to have confirmed that the standards exclude bus and coach charter services from the requirement to meet the Disability Standards.

Coach Tours

The coach sector has had to deal with a considerable level of financial hardship in relation to the instalment of wheelchair lifts that are rarely used.

The coach sector is seeking greater clarity and a revised guideline regarding equal access to coaches for disabled persons and a common procedure to follow in the absence of wheelchair lifts and/or an accessible toilet. Greater flexibility must be given to allow operators to meet the needs of people with disabilities.

Coach operators are also seeking clarification in relation to destinations and tour visit locations that are not DDA compliant.

Many areas simply do not provide the facilities and/or infrastructure for people with disabilities and it remains outside the coach operators' control.

The Bus Industry Confederation believes that the exemption in relation to 'adventure travel' should be extended to allow coach operators the flexibility to assess the suitability of publically available coach tours and destinations.

Whilst it is clear to the industry that toilets on coaches do not need to meet accessibility standards due to the aisle width restrictions of buses and coaches, some confusion still exists within some jurisdictions on this requirement, for example when specifying vehicles for rail /coach services.

A clear statement from AHRC or the Federal Department of Infrastructure and Regional Development in regard to accessible toilets on buses, in accordance with the ADR requirements for aisle width on buses and coaches, would provide clarity on this matter.

Section 10: Effectiveness of the Transport Standards

Equal Access versus Removing Discrimination

A concern for BIC is the gap between the intent of the legislation, the implementation of the legislation and the enforcement of the legislation.

There is no body or responsible department that a bus operator can approach where an issue arises that can clarify the intent, the implementation or enforcement of the Disability Standards. The complaints process through the AHRC provides little clarity in relation to definition or interpretation and often results in expensive legal proceedings that do not resolve the issue. There is a need for a body to be able to "make the call" and provide clarity in relation

Submission by the Bus Industry Confederation

to the interpretation and implementation of the Disability Standards to all public transport providers. This should not be the courts.

As a result of Industry experience since 2002, industry is uniquely positioned to articulate opportunities to improve the Disability Standards. It is the BIC view that a process should be established for industries, through their national peak bodies, to develop co-regulatory arrangements for the application and amendment of the Disability Standards as they apply to their respective sector. The BIC supports the work that the Attorney General's Department has been undertaking in this area but continues to be concerned about the lack of progress since this was raised in the first 5 year review.

Submission by the Bus Industry Confederation

As a further case in point, a range of exemptions for the purpose of providing clarity and certainty of obligations for both operators and passengers has been sought over time by public transport providers including bus operators through the Australian Human Rights Commission. This exemption process has worked effectively in most cases and provided the required flexibility for public transport providers to meet the requirements within a reasonable timeframe and without unjustifiable hardship. The recognition of these difficulties as evidenced by the granting of a number of temporary exemptions to the requirements of the Disability Standards by AHRC highlights the need for specific amendments to the Disability Standards and/or the need for agreed Industry Codes of Practice to provide clarity to public transport operators, people with disabilities, State and Territory jurisdictions and enforcement authorities, (who ever they might be).

From a bus industry perspective, a “Code of Practice for Bus Operations and Disability Standards” will provide practical advice and guidance to operators at a national level on how to meet the requirements of the Disability Standards, and provide guidance on appropriate equivalent access provisions. A further benefit of the Code will be an increase in the consistency of approach being adopted by operators across Australia, thus providing people with disabilities with greater confidence and certainty on the layout and operation of public transport services nationwide. These Industry Codes should be recognised by the law.

Effectiveness of Institutions

APTAC – APTJC Effectiveness

The BIC is a member of Australian Passenger Transport National Advisory Committee (APTAC).

Notwithstanding our support of and participation in the recently reconvened APTAC, BIC holds concerns about the effectiveness of the APTAC and the APTJC Committees.

The structure and functionality of both these committees has been inadequate to progress a number of issues to a satisfactory resolution. It is to be noted that APTAC is merely an advisory committee, and the merit of maintaining APTJC as a separate committee is unclear. BIC believes that in the context of interpretation and implementation of the disability standards, the APTAC and APTJC committees should have the power to agree and recommend to the Attorney General, the Federal Minister for Infrastructure and Transport and AHRC on:

- Interpretation of how the disability standards can be met by public transport providers
- Practical implementation, (including compliance timeframe changes) practices.

Australian Human Rights Commission

AHRC has played a key role in keeping an even-handed approach to the implementation of the Disability Standards and in addressing exemption issues as they have arisen.

However, there is a concern that discretion exists with complainants as to where they direct their complaints about disability discrimination in a public transport context. Presently, complaints can be directed to the AHRC or to a respective State / Territory based Anti Discrimination Commission, Tribunal or Board. There appears to be no mechanism in place to ensure congruency of decision making between these entities, especially in terms of penalties, sanctions or remedies, and accordingly the potential exists for markedly different outcomes to spring from what are otherwise similar circumstances. This lack of national consistency creates uncertainty for bus operators.

AHRC should be the sole agency to deal with complaints related to Disability Standards for Accessible Transport and the BIC recommends the re-appointment of the Disability Rights Commissioner as the point of contact in handling complaints from disabled passengers to public transport providers.

Local Government

Part of the objectives of the Disability Standards was to ensure that the “whole of trip” eliminates as far as possible, discrimination for those with a disability.

While it is generally true that each of the different transport modes have used their best endeavours to meet, or progress toward meeting the Disability Standards, the same cannot be said for some local government authorities in relation to the provision of infrastructure, access to services, bus stops, buildings and so on.

As a result, inaccessible surrounds in some local government areas effectively isolate fully compliant passenger transport access points, (bus stops, rail stations, taxi ranks). Furthermore, bus stops in outer urban areas might not only lack concrete footpath access but not even have kerb and channel associated with them.

Local Government has not been able to achieve outcomes in compliance with the Disability Standards’ timetable because they have not been provided with the required funding. Accordingly, special State and Commonwealth financial assistance is urgently required, as is an extension to the compliance timeframe for public transport providers and local government to make “whole of trip” accessibility a reality.

Section 11: Efficiency of the Transport Standards

Implementation of the Standards

State Government Contracts

An important aspect of the implementation of the accessible transport standards that needs to be addressed by State Governments, AHRC and this 2nd 5 year Review is the nature of contractual arrangements that are entered into between State governments and private bus operators to provide contracted route services.

In some States route service contracts do not provide the funding to allow bus operators to upgrade their fleet to meet the compliance timeframe of the disability standards.

For example in NSW and Victoria the Government contracts include a minimum age of fleet requirement as well as including the cost of capital as an inclusion in the contract to assist operators meet the age of fleet requirements.

The BIC believes that the Final Report should recommend that contractual arrangements in each state be assessed, and where contracts do not provide incentives, or the financial support to renew the bus fleet and meet the compliance timeframe of the Act, as outlined above, consideration be given to providing a general exemption to the bus and coach industry in that State.

An additional concern raised with regards to contracts are the Key Performance Indicators for bus operators in service contracts to State Governments. Under New South Wales

Compliance Percentages

A further issue is the definition of service and what percentages of services are required to meet the compliance requirements of the disability standards for accessible public transport. This creates confusion amongst State Governments and operators and the requirements within a service contract. Industry holds the view that a service is a trip. For example an inward and outward trip is two services unless it is a circuitous route then it is a single trip.

So 55% of services having to be compliant to the standards is how industry defines the requirement. 55% of trips must be compliant, not 55% of the bus fleet in a bus operation.

Vehicle Technical Issues in Implementation and Compliance

Grab Rails

Since December 2012, operators are required to be 100% compliant with grab rails according to the standards. The BIC notes that Brisbane Transport has received a 5 year exemption for grab rails that are fitted to buses where retirement is within the 5 year timeframe. The BIC raises this in the context of any possible future complaints (unlikely) and future consideration of this along similar lines to Brisbane Transport for other operators if a complaint were to be made.

Allocated Wheelchair Spaces

The bus and coach industry has concerns in relation to the two allocated spaces that are required by the Disability Standards.

Due to the positioning of the spaces, the first seat on the bus has no 'compartmentalisation' for passengers and has resulted in this area becoming a safety concern for passengers travelling in these positions. This is of greater concern as these positions are usually reserved for the elderly.

After 12 years of monitoring the actual use of allocated wheelchair spaces on bus and coaches, the BIC recommends the requirement to provide one or two allocated spaces for wheelchairs to be relaxed. A reduction to one allocated wheelchair space would also assist in addressing the problem identified above and also provide greater scope to have holding devices and poles in place for standing passengers.

School Bus Exemption

The BIC does not support the recommendations of the either 1st or 2nd five year review to have school buses meet the Disability Standards. These school services are provided currently through specialised school services or directly by parents.

This requirement will impose significant costs in replacing the entire school bus fleet Australia wide. This requirement will create a number of operational challenges for bus operators and result in social and personal interactions in loading passengers and addressing their needs that bus drivers are not trained to manage. The BIC does not believe that these interactions fall within the purview of a driver's and duties they should not be required to perform them.

Section 12: Recommendations

In this section the BIC's responds, firstly to the recommendations from the Draft Report of the 2nd Review and the recommendations from the 1st Review, and then to outline recommendations for consideration in the Final Report.

Response to Recommendations from Draft Report (2nd Review)

Recommendation 1 — National reporting on compliance

That the Australian Government, jointly with state and territory governments, establish a national framework for reporting on compliance by 30 June 2016.

The BIC supports this recommendation.

Recommendation 2 — Modernise the Transport Standards

That the Australian Government, jointly with state and territory governments, commence a process for updating and modernising the Transport Standards. This work should be undertaken in close consultation with industry and the disability sector, and include research on the technical issues raised in this review, the development of options, and assessment of the impact of any proposed changes to the standards, with this work to be completed by 30 June 2016.

The BIC supports this recommendation.

Submission by the Bus Industry Confederation

Recommendation 3 — The complaints process

That the Australian Government considers the concerns raised about the complaints process.

The BIC supports this recommendation. The complaints process should be improved and retained and all complaints managed centrally through the AHRC and the Disability Rights Commissioner.

Recommendation 4 — Whole-of-journey accessibility

That the Australian Government, jointly with state, territory and local governments, develop accessibility guidelines for a whole-of-journey approach to public transport planning by 31 December 2015.

The BIC supports this recommendation.

Recommendation 5 — National motorised mobility aid labelling scheme

That the Australian Government in collaboration with state and territory governments to develop and implement a national motorised mobility aid labelling scheme.

The BIC supports this recommendation.

Recommendation 6 — National wheelchair accessible taxi compliance milestones

That the Australian Government, jointly with industry, state and territory governments, develop consistent national compliance milestones and response times for wheelchair accessible taxis by 30 June 2016.

N/A

Recommendation 7 — Review of Disability Access Facilitation Plan

That the Department of Infrastructure and Regional Development, in close consultation with the Aviation Access Forum, undertake a review of the Disability Access Facilitation Plan initiative by 30 June 2015, with the aim of improving the overall effectiveness and accessibility of the plans.

N/A

Response to Recommendations from 1st Review

Recommendation 1

Establish a national framework for Action Plan reporting and annual reporting by each state and territory government.

The BIC supports this recommendation. As referred to earlier in this response the BIC emphasises that Government reporting on bus fleets should include reporting on Government contracted services provided by private operators and that this is recognised when evaluating the rate of reporting and availability of data.

Recommendation 2

Request the ABS include questions on public transport patronage in their disability surveys.

The BIC supports this recommendation and would like to see this included in future SDACs from the ABS.

Recommendation 3

A technical experts group be convened, with Standards Australia, to develop technical standards specifically suited to public transport conveyances and infrastructure. Once developed, these standards should be referenced in the Transport Standards, and made available for public use.

The BIC does not support this recommendation. The policy making infrastructure and frameworks for the development of technical standards for buses are already in place within the Commonwealth Government, State and Territory Governments and the Industry participates in these processes. This would constitute a doubling up and could be a source by creating two separate sets of technical requirements for buses.

Submission by the Bus Industry Confederation

Recommendation 4

Mode specific guidelines be developed by modal sub-committees. These guidelines would be a recognised authoritative source for providers that can be used during a complaints process.

The BIC supports this recommendation and refers the Department to our recommendation that the Commonwealth and jurisdictions support BIC in the development of an Industry Code of Practice for Bus Operations and Disability Standards.

Recommendation 5

A mobility-labeling scheme be developed that identifies the weight of the mobility aid and whether its dimensions fit within the dimensions for allocated spaces, boarding devices, access paths and manoeuvring areas on conveyances, as specified in the Transport Standards.

The BIC supports this recommendation.

Recommendation 6

A best practice clearinghouse be established in a government agency or research body to collect and disseminate best practice solutions and ideas relating to accessible public transport.

The BIC supports this recommendation.

Recommendation 7

Federal, state and territory governments provide funding for projects in regional and rural regions where local governments are unable to resource upgrades of public transport infrastructure.

The BIC supports this recommendation.

Recommendation 8

The AHRC be tasked with providing greater support for representative complaints on behalf of people with disability, reducing the legal cost burden on individuals.

The BIC supports this recommendation but notes the AHRC has removed its current Disability Rights Commissioner and intends not to fill this position from July 2014.

The BIC recommends the re-appointment of the Disability Rights Commissioner as the point of contact in handling complaints from disabled passengers to public transport providers.

The outcome that needs to be avoided, for the sake of disabled passengers and Industry is for every complainant to be forced to seek resolution through the courts.

Recommendation 9

Recommendation 9 New governance arrangements be implemented to establish accountability for progressing recommendations from the five-year Review. APTJC should have coordinating responsibility for new initiatives (including modal committees and the technical experts group) in partnership with APTNAC.

N/A

Recommendation 10

The 2017 compliance milestone for tram conveyances and infrastructure be reduced from 90 per cent to 80 per cent to better reflect vehicle replacement cycles.

N/A

Submission by the Bus Industry Confederation

Recommendation 11

The taxi modal sub-committee be tasked with developing a staged implementation timeframe similar to that for other modes of transport, and an appropriate performance measure to replace the 2007 milestone for Wheelchair Accessible Taxi compliance.

N/A

Recommendation 12

Government commission research into the safety of passengers travelling in conveyances whilst seated in mobility aids. This research should make recommendations around whether there is a need for an Australian Standard addressing this aspect of safety for mobility aids.

The BIC supports this recommendation. Please refer to the section on mobility aids in this response and see our response to Recommendation 5 from the Draft Report of the 2nd Review.

Recommendation 13

The Transport Standards be amended to require new community transport vehicles greater than 12-seat capacity to comply with the Transport Standards commencing in 2017, (with full compliance by 2032).

The BIC supports this recommendation and encourages the Commonwealth Government and jurisdictions to undertake the data collection required to make a decision on this matter.

Recommendation 14

The phased application of dedicated school bus services to physical access requirements in the Transport Standards, commencing in 2029 and being fully required by 2044.

The BIC does not support this recommendation. Please refer to our response in this submission.

The BIC's Recommendations for Consideration in the Final Report

- Provide confirmation that charter services are exempt from the Disability Standards'.
- Provide a clear statement from AHRC or the Federal Department of Infrastructure and Regional Development in regard to accessible toilets on buses, in accordance with the ADR requirements for aisle width on buses and coaches.
- Provide confirmation that Work Place Health and Safety regulations override the requirements of the Disability Standards'.
- Reconsider the Disability Standards' timetable, and as necessary, reprioritise certain elements and their associated target dates
- The Commonwealth Government and jurisdictions support BIC in the development of a Code of Practice for Bus Operations and Disability Standards (recognised in law) to provide practical advice and guidance to operators at a national level on how to meet the requirements of the Disability Standards, and provide guidance on appropriate equivalent access provisions.
- Contractual arrangements in each state be assessed, and where contracts do not provide incentives, or the financial support to renew the bus fleet and meet the compliance timeframe of the Act, as outlined above, consideration be given to providing a general exemption or relaxation of the compliance timeframe be provided to the bus and coach industry in that State.
- The requirement to provide one or two allocated spaces for wheelchairs to be relaxed.
- The continuation of the exemption for school buses from the Disability Standard for Accessible Public Transport.
- Compliance percentage requirements for services should be clarified to mean compliance percentage requirements relate to trips.
- The AHRC should be the sole agency to deal with complaints related to Disability Standards for Accessible Transport.

Mobility Device and their Restraint on Buses and Coaches
Accessible Public Transport 2012
Bus Industry Confederation

April 2012
Issues Paper

Updated May 2013

Introduction

This paper reflects specific issues and concerns as they relate to the bus and coach industry, the use of mobility devices, their restraint, identification of compliant mobility devices by drivers and practical operational issues that impact on the ability of bus operators to meet the requirements of the accessible transport standards.

Mobility Devices – Identification

The bus and coach industry believes that a system is required to have mobility devices clearly identifiable as being able to be carried on relevant modes of public transport.

Currently there is no satisfactory requirement or mechanism for bus and coach drivers to determine which mobility devices are suitable for use on accessible buses and coaches.

The Bus Industry Confederation would like to see a requirement introduced for mobility device manufacturers to ensure that all devices are appropriately identifiable as being safe and suitable to be carried on a particular public transport conveyance and that purchasers of such devices are made aware of the limitations that the standards impose, for example in the areas of size, mass and manoeuvrability.

Larger buses are expected to have useful life of 20-25 years and the need for suitably labelled device is going to grow, not diminish.

This labelling process should be supported by a State by State education program for people with disabilities to understand the requirements of the standards for mobility devices.

Bus and Coach Drivers need to be authorised to refuse access to a device that is not appropriately labelled.

Mobility Devices – Safety

A concern for bus and coach operators in relation to mobility devices is the safety of people using them and the safety and amenity of other passengers.

The areas of concern relate to:

- Mobility devices and their impact on the safety of the user and other passengers on buses in the event of an accident, heavy braking or swerving incident if the device/passenger is not secured.
- The inconvenience caused to other public transport users and the dignity of people with disabilities, when mobility devices which are not suitable for use on a conveyance results in accessibility ramps breaking on entry or the devices not being enabled to be manoeuvred into allocated spaces due to their size and turning circle. Devices are getting stuck requiring “man handling” to free the device.
- The safety consequences of mobility devices of the “scooter” type that carry wet cell batteries. Wet cell batteries are a major concern due to possible leakage, the fluid is very acidic and flammable. Wet cell batteries have also been known to explode on impact and may be a safety hazard in the event of an accident or some form of impact on the battery.
- The effective restraint of mobility devices is a major concern to the industry. The bus and coach industry is required to meet stringent seat strength and anchorage requirements under Australian Design Rules. Key issues to be considered here are seat and mobility aid strength and mobility devices that are not secure becoming projectiles.
- The restraint of mobility devices is an ongoing area of uncertainty. The actual restraint of mobility devices is an imperfect science that results in people with disabilities being put at greater safety risk in order to obtain equal access to services.

- Australian Design Rules provide for seat strength and seat anchorage requirements that provide a level of occupant protection that cannot possibly be met by the mobility device, whether it is restrained or not. Further the wheelchair spaces on buses do not provide the compartmentalization benefits provided to other seated passengers.
- In relation to the restraint of mobility devices the accepted wisdom and practice is for mobility devices to be rearward facing against what is known as an “ironing board device”. Some passengers with disabilities tether their device to the ironing board device. The practice of facing rearward is not accepted by many people with disabilities who wish to face to the front of the vehicle like most other passengers. This is a less safe option.
- Some discussion has been raised that active restraint of mobility devices be introduced for buses similar to taxis. This option is considered impractical due to the varying types of mobility devices that would be required to be restrained, the cost impacts, the vehicle mass increase, the inconvenience that would be imposed on other passengers and as outlined below driver responsibility issues.
- Bus operators’ company policy varies on the instructions to drivers regarding leaving their seat to engage the wheelchair ramp to assist passengers with mobility devices and prams etc. In some cases the driver needs to make an assessment of the relevant circumstances including security of the cash box, number of passengers affected, suitability of the bus stop/kerbside.
- The BIC from broad consultation with Industry has summarized the Industry operational policy and advice given to drivers as:

“the driver should only leave the driving position to assist a passenger to enter or leave the bus to set and return the access ramp. This should only occur after the driver believes it is safe and reasonable that the bus is secure. All other reasonable assistance that is required should be provided by a carer, e.g. getting on and off the bus and manoeuvring into an allocated wheelchair space or seating and for any restraint requirements”.

Specific Coach Issues

- A number of specific concerns were raised by coach operators who operate in the deregulated long distance, tour, charter and express sector of the Industry.
- Some companies do not allow for people to travel on coaches without transferring to a seat belted passenger seat.
- Some users of wheelchairs and mobility devices request that they travel in their device. Coach operators are inclined to accept this request despite the fact that this is the less safe option and restraint of the device can in no way meet the requirements of the ADR’s for seats, seat belts and seat anchorages. There are also concerns that drivers could injure a person in a wheelchair or themselves in attempting to restrain a wheelchair where no restraint or wheelchair strength standard exists and no crash testing simulation has been undertaken for when a wheelchair is tied down in a coach.
- In the above circumstance a coach operator will have to remove 4 seats to accommodate 1 chair space and six seats to accommodate 2 wheelchair spaces. This is a timely and costly exercise in the workshop and requires 2 people to undertake the seat removal task. If the journey is only one way the operator loses the seating capacity for the return trip.
- People using wheelchairs and other mobility devices to travel on coaches are boarded using a wheel chair lifter. A wheel chair lifter if used requires that 4 or more seats are removed from the bus to allow access into the bus and allow manoeuvrability into a seat or wheelchair space. Due to aisle width requirements for bus and coaches it is impossible for people in wheelchairs or other mobility devices to have access to water fountains and toilets and are restricted to remaining in the left hand of the bus for the duration of the trip. This places an extra burden on the operator and the driver to ensure that the person with a disability is

afforded the necessary rest breaks. This has flow on effects to timetables and driving hour's law requirements. This is further compounded as many refreshment stop businesses are not DDA compliant. Given that refreshment breaks are part of the overall service, operators are concerned that they might be made accountable for non compliance.

- A wheelchair lifter and the required engineering to install and operate it can add up to 600 kilograms to the Gross Vehicle Mass of the bus, this can mean, depending on the type of bus, more seats having to be removed to remain under the legal mass limits. Wheelchair lifts also add up to \$40,000 to the cost of purchasing the vehicle. Operators in effect are double whammied, they pay more for the vehicle to have a lifter and when it is required for use they lose seats and therefore cannot maximize the productivity of the vehicle. Depending on the location of the fitment of the lifter there is also a significant loss of luggage space.
- It should also be recognized that the floor height of some large coaches means that a wheel chair lifter cannot be fitted
- Coach operators thought that greater flexibility was required to meet the needs of people with disabilities and sub-contracting out services to meet the persons need should be accepted as delivering the mobility outcome desired.
- Coach operators strongly believe that based on actual use of wheelchair lifters and seat productivity losses that a strong case exists to argue unjustifiable hardship in meeting the requirements of the Act.

Workplace Injury and Practices

With the increase in safety requirements through operator's accreditation, service contracts, WHS Act, NHVR, there is greater focus on assessing and reducing the risk of bus incidents. The number of wheelchairs, mobility device incidents and driver safety concerns warrant the release of agreed guidelines that are consistent with OHS and other safety mechanism practices.

DDA Compliant Bus Stops

BIC is also concerned about the lack of mobility device suitable infrastructure at bus stops and the path areas to get to bus stops. It would appear local councils are not providing adequate infrastructure to meet the needs of people with disabilities to board and alight from buses. It should be noted that some local councils are working to provide adequate infrastructure such as Brisbane City Council, but much more needs to be done. There are instances of passengers falling from their devices, even with driver assistance because of unsuitable ground areas.

BIC proposes that the Federal Government establish a summit for all the key stakeholders to work out a suitable process that would cover mobility device labelling, overall bus passenger safety, infrastructure challenges and instructions to drivers consistent with safety standards.