



Australian Federation of Disability Organisations Response to the Draft Report of the 5 Year Review of the Transport Standards

31 March 2008

Introduction

The Australian Federation of Disability Organisations (AFDO), as the peak national body representing organisations of people with disability in Australia, is pleased to provide this response to the Draft Report of the 5 Year Review of the Transport Standards.

This response is divided into two sections. Section One provides comments that relate to the Draft Report as a whole. Section Two provides comments in relation to specific recommendations included in the Draft Report.

SECTION ONE: OVERARCHING COMMENTS

The Final Report would be strengthened by additional work being undertaken in the following areas.

1. Dedicated consultations with people excluded from the consultation process undertaken thus far
2. Improving the demonstrated understanding of disability
3. Undertaking an evaluation of Regulatory Impact Statement cost projections
4. Ascribing relative value to comments
5. Making a conclusion about the success of the Standards

1. Dedicated consultations for excluded people with disability

- AFDO and its members complained last year about the inaccessibility of the consultation mechanisms proposed by Allen Consulting Group (ACG). These were raised with ACG and with the Human Rights and Equal Opportunity Commission (HREOC).

- The Issues Paper was complex and technical, and the public hearing process not conducive to people with disabilities presenting unfavourable evidence or any evidence at all.
- We requested that specific focus group meetings with people with cognitive impairment and/or complex communication barriers be held. This request was refused.
- We note that a dedicated face-to-face meeting was held with government officials.
- AFDO organised a teleconference for its members and ACG to discuss ways to improve the consultation process. Following this, ACG prepared an Easy English version of the consultation paper and provided it to AFDO and its members to review. The paper was then placed on the ACG website.
- We note that none of the above was reflected in the Draft Report outline of the consultation methodology.
- AFDO and the Victorian Council of Social Service (VCOSS) obtained philanthropic funding to run, at short notice, a focus group exploring the transport experiences of people with cognitive impairment and/or complex communication barriers.
- Findings from the focus group meeting were provided to the consultants as part of the VCOSS submission. Key issues raised were ticketing systems and information provision. These are not reflected in the Draft Report.
- Despite the complaints about the inaccessibility of the Issues Paper, the Draft Report was not provided in Plain or Easy English formats. Neither have any dedicated consultation mechanisms been announced to ensure that people with cognitive impairment and/or complex communication barriers can participate equally in the Review.

2. An improved understanding of disability

- As indicated above, AFDO considers that the Draft Report demonstrates a poor understanding of impairment and disability.
- The removal of discrimination has not been extensively explored in the Draft Report. Discrimination is measured using various proxies including accessibility, the perceptions of people with disability, and the provision of specific assistance.

However, the Draft Report does not consider disability in a holistic way, taking into account all of the dimensions of disability, including discriminatory attitudes.

- This is particularly evident in Draft Recommendation 3 about the provision of community transport. Limiting the proposed recommendation to transport that specifically services people with disability or older people fails to appreciate that the aim of removing discrimination is to achieve inclusion in society.
- The Final Report would be strengthened considerably by focus group discussions with people with disability about their experience of the extent of the removal of discrimination.

3. Undertaking an Evaluation of Regulatory Impact Statement cost projections

- The Draft Report aims to establish the success of the Standards by assessing their efficiency and effectiveness. It is surprising therefore that the Draft Report has not explored the cost of implementation compared to the projected costs that formed the basis of the Regulatory Impact Statement (RIS).
- Such a comparison may serve as an indicator of the degree of innovation displayed by the transport industry. For example, the bus industry submission to the RIS stated that it would be required to purchase a substantial amount of new rolling stock due to the loss of seating to allocated spaces for wheelchairs. The bus industry also argued that it would incur additional costs for staffing and ongoing maintenance as a result of complying with the Standards.
- The accuracy of these and other projections could indicate the extent to which industry was able to reduce costs through resourceful design and methods.

4. Ascribing relative value to comments

- The Draft Report does not ascribe relative weighting to comments made by various participants, nor attempt to validate or confirm statements made. This is a substantial weakness in the Report.
- The Draft Report does not attempt to draw conclusions from conflicting comments. Where a number of perspectives are

expressed on an issue, the Report should attempt to provide an objective analysis of the relative merit of each perspective.

5. Making a conclusion about the success of the Standards

- Considering the purpose of the Review, the lack of a concluding judgement about the success of the Transport Standards at the five year point is an obvious oversight.

Comments on Specific Issues Raised in the Draft Report

In addition to the overarching comments above, we provide the following comments about three specific issues that feature throughout the Draft Report:

1. Reporting and monitoring
2. Jurisdictional responsibility
3. Gaps in the Draft Report

Each issue is addressed in more detail in response to specific draft recommendations.

1. Reporting and monitoring

- The Draft Report analysis and recommendations reflect a misunderstanding about the process for reporting and monitoring, and the roles of stakeholders.
- This is particularly apparent in the recommendations for an enhanced role for the Accessible Public Transport Jurisdictional Committee (APTJC). This is primarily a committee of State and Territory transport bureaucrats and excludes:
 - € The transport industry, including the air travel industry
 - € People with disability
 - € Human rights agencies, including Attorney-General Departments and the Human Rights and Equal Opportunity Commission.
- In its submission to the Review, AFDO outlined problems with the operation of the Accessible Public Transport National Advisory Committee (APTNAC).
- The Draft Report recommends that the APTNAC take on responsibility for reporting and monitoring without addressing the problems raised by AFDO and other stakeholders.

- The Draft Report does not explore the role of people with disability in monitoring, and how best to support their participation in oversight activities.

2. Jurisdictional responsibility

- The Draft Report demonstrates an incomplete understanding of the history of joint decision making by people with disability, industry and government in relation to the Transport Standards and their implementation.
- The Draft Report highlights the need for a formal role and place for Local Government Authorities in fora related to the Transport Standards. The Commonwealth Department of Transport and Regional Services has an important role in achieving this.
- AFDO believes that the best way to improve stakeholder cooperation, and to encourage much needed leadership, is to reinforce existing consultative structures through:
 - € Increased resources to provide a body that is independent of government
 - € Greater commitment and leadership from the Commonwealth Department of Transport and Regional Services
 - € Appointing a lead Minister Federally
 - € The inclusion of a clearinghouse of best practice in the consultative body, as was originally proposed
 - € Creating technical advisory groups that have representation from industry and the disability sector
 - € Provide representation to relevant Standards Australia committees

3. Gaps in the Draft Report

The following issues are not adequately addressed in the Draft Report:

- Communication and information provision
 - € The Final Report should contain proposals to assist people with disability to have their rights better explained to them
 - € The Final Report should contain proposals related to disability awareness training programs for transport staff
- Taxis; Review of the temporary exemption process; Airlines
 - € The above problems were well canvassed in the Draft Report, but not aligned with recommendations
- The responsibility of Local Government Authorities
 - € The Final Report should contain proposals to ensure that local government provides better public transport infrastructure
- The role of people with disability
 - € The Final Report should contain proposals to guarantee the participation of people with disability in the development of advisory structures, technical committees, modal committees, the development of a mandatory reporting framework and the dissemination of information

SECTION TWO: RESPONSE TO DRAFT RECOMMENDATIONS

Revisions to the Transport Standards and Guidelines

Draft Recommendation 1

APTJC establish a technical expert group to:

- review technical amendments proposed by this review;
- consider current exemptions as amendments to the Transport Standards when they expire; and
- consider the feasibility of incorporating safety requirements into the Transport Standards.

This group could subsequently be used to review technical issues as they arise, thus reducing the burden on the temporary exemptions process.

AFDO Response

See AFDO comments above about the APTJC not being an appropriate body to undertake work of this nature.

The review of technical amendments proposed in the Draft Report need to be considered by people with disability, industry and government representatives in the same way that all technical review decisions have been made during the Standards' development and implementation.

As AFDO argued in its response to the Issues Paper, the exemption process is onerous and should be overhauled, in consultation with all stakeholders.

We note that safety issues have been considered in sub-committees of APTNAC for some time.

Draft Recommendation 2

The exclusions for dedicated school buses be removed and school bus services be included in the Transport Standards on a delayed compliance timeline.

AFDO Response

Agreed

Draft Recommendation 3

Amend the exclusion for community bus services to include in the Transport Standards those community services whose purpose is to service people with disability or older people.

AFDO Response

The exclusion for community bus services should be removed, with no provisos. Financial support should be provided to operators of these services in rural and remote areas, if required, as has been done in Queensland.

AFDO is aware that confusion has led to courtesy bus providers believing that they are excluded from the Transport Standards. Buses used by clubs such as the RSL, boating and football clubs are a form of public transport and are not a targeted group service with an exemption from the Standards.

It is vital that the exemption requirements for community buses be clearly and unambiguously stated to resolve this problem.

New information processes

Draft Recommendation 4

Modal sub-committees be appointed by APTJC to develop Guidelines under the Transport Standards by mode of public transport. These Guidelines be developed in consultation with APTNAC.

AFDO Response

See AFDO comments above about the APTJC not being an appropriate body to undertake work of this nature.

AFDO notes that the development of modal specific guidelines is already occurring. The Bus Council of Australia produced and launched its guidelines in 2004 and the Australasian Railways Authority is currently developing a Code of Practice.

Our experience is that the development of modal specific groups and codes of practice in some cases fail to account for local government responsibility. Modal specific approaches

can also overlook important cross-modal issues such as interchanges or transfers.

AFDO recommends that the consultants conduct an international review of best practice in the development of monitoring and guideline frameworks and processes and recommend a model for adoption in Australia. The recommendation should pay particular regard to the resource implications of effective models.

Draft Recommendation 5

An APTJC sub-committee to develop a national scheme for labelling mobility aids based on the specifications in the Transport Standards, and establish a clearinghouse of best practice examples of accessible public transport.

APTJC agree individual jurisdictions to take lead in maintaining these schemes.

AFDO Response

Labelling Mobility Aids

See AFDO comments above about the APTJC not being an appropriate body to undertake work of this nature.

AFDO notes that a national scheme for labelling mobility aids has been extensively studied and abandoned in favour of a pamphlet developed and distributed by APTNAC and APTJC called "Safety Issues for Mobility Aids on Accessible Public Transport". This pamphlet was sent to people with disabilities, manufacturers, occupational therapists etc. There have been a number of conferences about mobility aids related to this issue as well.

Efforts to improve public awareness in this area can be improved and should target manufacturers, allied health professionals, and the general community. Mandated dimensions for openings and circulation space do not only impact on people who use mobility devices. They also impact on parents using prams and pushers, people making deliveries etc.

A community awareness campaign in this area needs to be accompanied by work to develop nationally consistent training for public transport staff in the area of disability awareness.

Clearinghouse

AFDO supports the establishment of a clearinghouse of best practice examples of accessible public transport within the consultative body, as was always envisaged.

New HREOC powers

Draft Recommendation 6

HREOC to be provided with powers to refer cases of breaches of the Transport Standards directly to the Federal Court.

AFDO Response

AFDO supports this recommendation.

Expanded HREOC powers should be accompanied by a rigorous negotiation process to ensure that wherever possible HREOC is able to avoid using the powers. In a case where HREOC believed that an organisation or business was breaching the Standards, it would:

- Issue a 'show cause' to the breaching party
- Engage in prompt negotiations
- Seek agreement to a proposed plan of action by involved parties
- Put in place a monitoring process.

If an agreement could not be reached through the above process, HREOC would then take the complaint direct to the Federal Court. The fact that HREOC would have to meet the costs of self initiation should ensure that decisions to proceed to the Federal Court are not taken lightly.

In addition to the change of HREOC powers, there are other reforms that should be pursued. These include:

- Reforming the *Disability Discrimination Act* to make it easier for advocacy groups to make complaints in their own right

- Increasing the funding available for public interest cases to be tested in the Federal Court

In relation to the former, the standing of advocacy organisations to lodge complaints on behalf of aggrieved people should be clearly and unambiguously stated within the body of the Transport Standards.

Reporting and data collection

Draft Recommendation 7

APTJC develop a mandatory reporting framework for Commonwealth, State and Territory governments and implement the framework by end 2008.

AFDO Response

The proposed approach to developing a framework has been tried and did not work. The reasons for its earlier failure persist and we can see no reason that it will work now.

It is essential that industry, people with disability, and human rights departments and agencies are involved in the development of a compliance system.

As stated in the AFDO response to the Issues Paper, it is not enough to leave enforcement to individuals to pursue through complaints. In the United States of America there is a federal enforcement body that inspects conveyances for compliance upon receipt of a complaint. A similar body should be established in Australia.

Draft Recommendation 8

The Australian Bureau of Statistics to include a question on public transport patronage in surveys of people with disability.

AFDO Response

The Australian Bureau of Statistics *Disability, Ageing and Carers Survey* asks extensive questions about public transport (see Table 17). Identified gaps in the questions should be provided to the ABS to consider through its regular consultative mechanisms which include people with disability.

New consultative framework

Draft Recommendation 9

APTNAC and APTJC agree a new consultative framework with additional responsibilities for both committees.

The assessment and conclusions from chapter 12 of this report include a number of suggested changes to the administrative processes around the Transport Standards, to address major gaps in the current approach. For these new processes to work effectively, a new consultative framework around the Transport Standards needs to be implemented.

This framework should include:

- increased meeting frequency for both committee, to a minimum of four meetings per year, to account for the increase in activities;
- APTJC to coordinate modal sub-committees, a technical expert group and sub-committee on labelling for mobility aids;
- APTJC to report on progress of these initiatives to APTNAC, and seek advice from APTNAC on implementing these recommendations;
- An APTJC reporting sub-committee with the task of developing a new reporting framework by the end of 2008.

AFDO Response

See AFDO comments above about the APTJC not being an appropriate body to undertake work of this nature.

We note that a consultative framework must be well resourced to support adequate representation by people with disability. Preferably the consultative body should be similar to the British model and be an independent body that represents all stakeholders.