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Review of the Disability Standards for Accessible Public Transport
Bus Industry Confederation response to the Allen Consulting Group
Draft Report

Introduction

The Bus Industry Confederation (BIC) provides the following comments in regard the Review of the Disability Standards for Accessible Public Transport by the Allen Consulting Group.

The BIC comments will be presented under the key headings

- 1. General Comments**
- 2. Draft Recommendation Comments**

1. General Comments

The following general comments relate to issues raised by the BIC and other passenger transport modes that have not been addressed in the Draft report and should be taken into account as part of the final report and at a minimum presented in the final report as issues that require attention but are not within the Terms of Reference of this review.

In relation to the 6 stakeholder questions at page 174 of the report, most are answered in the text that follows and other questions relate to the consultation process that BIC is not inclined to comment on further

Equal Access V's Removing Discrimination

The BIC as part of its joint submission with the Australasian Railways Association, the International Public Transport Association and the Australian Taxi Industry Association to the Review raised the concern that the Accessible Transport Standards have progressively been interpreted much more literally than was intended or envisaged.

The concern was raised that 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 and this was counterproductive to achieving a practical access outcome for people with disabilities.

This general observation by the four key national organisations representing a majority of passenger transport providers in Australia needs to be included in the body of the report to the Minister and Attorney General.

The BIC believes the above observation is supported by the recommendation in the draft report to provide HREOC powers to refer breaches of the Standards to the Federal Court.

This was certainly not the view presented by the Industry groups outlined above and this should be reflected in the final report if this recommendation is to remain.

Conflict with Safety Standards

Concerns were raised in the joint submission by passenger transport providers in relation to the compromise that has occurred in relation to existing regulatory and legislative requirements such as Australian Design Rules and Occupational Health and Safety and the implementation of Accessible Transport Standards.

The draft report touches on some of these concerns in the body of the report but does not take any real action in the recommendations in the draft report, “consider the feasibility of incorporating safety requirements not the Transport Standards”.

The BIC believes that these compromises put at risk the safety of people with disabilities, other passengers and staff. A full investigation is required to identify where these compromises exist. Some examples were outlined in BIC’s submission (attached) and joint submission. This investigation would ensure that the Accessible Transport Standards are not putting the removal of discrimination for a few ahead of vehicle safety and the personal safety of many. BIC believes this should be a specific recommendation into the final report.

One Size Fits All – Regional and Remote Bus Operations

The BIC raised in its submission to the Review issues specific to regional and remote operations as a result the introduction of the Accessible Transport Standards.

The BIC believes that the Review should recommend that the actual operating circumstances and demand for accessible transport services and available alternatives be considered for regional and remote operations and that this be considered as part of the exemption process. A “horses for courses” approach.

The BIC is concerned that the One Size Fits All approach that currently exists for all public transport operations no matter where they operate was not raised in the draft report as a recommendation to be considered. This is particularly surprising when this has often been the reason different positions have been adopted by Australian Governments when addressing the geographic challenges of Australia and the country – city divide.

Coach Tours

The draft report does not paint the Tour or Coach Sector in a good light in relation to improving accessibility for people with disabilities. The BIC disagrees with the reports comments which are largely based on anecdotal evidence from people with disabilities.

As the whole process for measuring the accessibility standards is driven by complaints, it is unlikely that the positive stories of a successful coach trip were presented as part of the consultation process.

Industry advice would suggest that most if not all coach operators can provide accessible tours if requested, however on many occasions some coach trips are not suitable, i.e. adventure travel experiences, or the appropriate infrastructure or facilities are not available at many destinations.

BIC requests that the report recognise this in the body of the report and recommend the Standards be amended to allow a Coach operator the capacity to assess the suitability of a coach tour and destinations for a person with a disability. This should be based on available infrastructure and facilities not under the control of the operator and allow the operator to advise that the tour is not suitable for people with disabilities without fear of complaint.

2. Draft Recommendation Comments

Draft Recommendation 1 – Establish a technical expert group

The BIC supports this recommendation but does not believe that it is the role of this technical expert group to “consider the feasibility of incorporating safety requirements in to the Transport Standards”.

As mentioned above BIC, ARA, ATIA and UITP all have major concerns about the compromises to personal safety for passenger with disabilities, other passengers and staff that have already occurred. An interdepartmental committee made up of Federal and State Vehicle Standard officials and experts, Occupational Health and Safety officials and practitioners, Road safety officials and experts and industry representative bodies should be formed to review and recommend to the technical group a way forward on these matters.

Draft Recommendation 2 – Removal of exclusion for dedicated school buses

As presented at the APTNAC held on 18 February the BIC is opposed to this recommendation and believes the exception for dedicated school services should be retained.

The reasons for this are that dedicated school services are;

- a closed access service
- school children with disabilities have a range of dedicated services provided by a variety of sources including State Governments
- accessible vehicles can be provided by the system as required

Draft Recommendation 3 – Amend the exclusion for community buses to include community services whose purpose to service people with disabilities or older people

The BIC believes that all community transport service should be required to meet the Accessible Transport Standards. Community transport is generally provided to meet the broad community needs of people with disabilities, the elderly or disadvantaged and should therefore have to meet the requirements of the Standards to ensure their mobility needs are met

Draft Recommendation 4 – Develop Guidelines under the Transport Standards by mode of public transport

The BIC supports this recommendation and the development of the Guidelines by a committee appointed by APTJC that includes bus and coach operators and manufacturers

Draft Recommendation 5 – Labeling of mobility devices for identification as suitable to travel on public transport

The BIC supports this recommendation and a scheme that will label mobility devices so to identify them as able to be carried on public transport because they meet the specifications of the Accessible Transport Standards.

The BIC believes that this scheme should be legislated and the manufacturers of mobility devices made responsible for meeting the labeling requirements

Draft Recommendation 6 – HREOC give the powers to refer cases of breaches of the Standards to the Federal Court

As outlined above the BIC is opposed to this recommendation and is unsure of where it may have emerged in the consultation process and from whom. The BIC sees this as a serious threat to much of the good work that has been achieved through APTJC, APTNAC and HREOC. BIC believes that this approach would result in lengthy court cases and rulings, great expense and will in the end provide no greater clarity to the Standards due to the nature of the Standards and individual circumstance for both public transport operators and people with disabilities. The mechanism currently in place to apply to the Federal Court within 28 days if a complaint is terminated is adequate.

As outlined in the joint submission from public transport providers a preferred approach was to invest more power into HREOC to manage all complaints in relation to Accessible Transport Standards so some level of consistency in relation to interpretation of Standards is maintained.

Currently complaints can be directed to HREOC or to respective State based Anti Discrimination Commission, Tribunal or Board. There is no mechanism for consistency of decision making between these entities, especially in terms of penalties, sanctions or remedies.

The BIC believes the solution is that HREOC be appointed as the single body to deal with all complaints as they relate to the Standards or discrimination claims in a public transport context.

BIC strongly urges the Review to reconsider this option and recommend the solution outlined above.

Draft Recommendation 8 – Australian Bureau of Statistics include a question of public transport patronage in surveys with people with disabilities

BIC supports this recommendation

Draft Recommendation 9 – APTNAC and APTJC agree a new consultative framework with additional responsibilities for both committees

BIC supports this recommendation

Conclusion

The BIC has outlined a range of issues that we believe should be included in the final report either in the body of the text to highlight specific issues that were not identified or not given the level of importance they require or as specific recommendations that in our view will assist in the implementation of the Accessible Transport Standards.

The BIC is happy to discuss the issues raised in this paper directly.

Yours Sincerely

Michael Apps
Executive Director