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Dear Sir/Madam,

REVIEW
OF
DISABILITY STANDARDS FOR ACCESSIBLE PUBLIC TRANSPORT

Introduction

The Regional Aviation Association of Australia (RAAA) represents 20 regional aviation operators and 45 of the associated regional aviation businesses and agencies which support them. Its airline members operate aircraft ranging in size from 6 seat twin piston engined aircraft providing air services on marginal routes in remote areas through to 100 seat jets operating on significant mining and other routes. They include all the major regional airlines with the exception of QantasLink and National Jet, and carry well over two million passengers per year on scheduled services to and from around 140 regional ports. Its other operator members provide unscheduled aeromedical and charter services to and from virtually all parts of the country, and some provide flight training.

The RAAA acknowledges at the outset the desirability of making public transport as accessible as possible to all who wish to participate, and makes the point that its members go out of their way to assist wherever possible and reasonable. However it also recognises that there are practical limitations to the extent to which transport especially in small aircraft can be made accessible to those with extremely limited mobility or, for example, gross obesity, extreme psychological problems, or some infectious diseases. Thus the RAAA believes that it is not possible to eliminate all discrimination, and notes that some discrimination must be exercised in the public interest.

The RAAA further notes that this was recognised by the drafters of the Disability Discrimination Act 1992 in setting out the objects of the Act in Section 3.

Finally, the RAAA notes that there are very real financial and operational costs associated with making transport accessible to many of those with disabilities, which as responsible members of the community, our member operators have generally borne without complaint. Where the industry has objected to certain requests, it has more often been on the basis of the potential impact on the safety of other passengers or staff, a conflict between the Disability Standards for Accessible Public

Transport and Civil Aviation Regulations, or to the physical impracticability of the request, rather than on the basis of cost per se. However the fairness of requiring the airlines to cover the very real additional costs of accessible public transport is questionable.

Need For Clarification of Applicability

In general, the RAAA believes that the Disability Standards for Accessible Public Transport (the Standards) as they currently stand are reasonable and responsible in their intent. However, there are a number of areas where they lack clarity, possibly as the result of haste in drafting. These include:

Applicability to 'Small Aircraft'

It seems clear that the intent of the drafters was to exempt 'small aircraft' (defined in sub-section 1.24 as those 'with less than 30 seats for the carriage of passengers') from the need to comply with the requirements of the Standards. This has been the stance of the Department of Transport and Regional Services (DOTARS) and of the industry for some time. However on reviewing the Standards, it has become apparent that there are a number of requirements which it had been assumed were not meant to apply to small aircraft, but which still technically apply because small aircraft were not formally exempted in each case. These include a number of individual requirements listed and addressed at Annex A. It is not argued that small aircraft should necessarily be exempted from the requirements of all of these sub-sections, but that the individual sub-sections should be reviewed to specifically determine whether they should remain applicable to operations involving small aircraft.

Applicability to Other Than RPT Aircraft

It seems reasonably clear from the Standards that the drafters intended that the requirements would apply only to aircraft (and road and rail vehicles) being used to provide a "public transport service". The only form of air service which can reasonably be described as a "public transport service" is "Regular Public Transport" (RPT), since seats in aircraft engaged in other categories of operation including Charter or Aerial Work are not available to the public. It would seem then that such operations may have been inadvertently captured by the 'public transport service' definition at sub-section 1.23.

This view is supported by the Standards specifically differentiating between infrastructure generally and airports that do not accept regular public transport services as defined in sub-section 1.10 and paragraph 206 (1) (c) of the Civil Aviation Regulations 1988.

The RAAA maintains that to extend the requirements of the Standards to Charter or other non-RPT operations would be illogical. The nature of charter operations is such that they are not open to the general public. Rather, the entire aircraft is hired to perform a particular task, and the cost is negotiated between the hirer and the operator based on the anticipated cost of the flight or flights. In such cases it would be in the interest of the operator to ensure that the passenger(s)

received a very high level of service and good value for money. In this regard, normal charter operations are no different from limousine and chauffeured hire car operations, neither of which are captured by the Standards.

Furthermore, while RPT operations operate between fixed bases and on fixed schedules, charter operations typically do not. The whole point of charter operations is that they are generally conducted when required and to places as required by the hirer. Since this effectively means that every airport in the country is a potential destination for a charter flight, it follows that it would be totally unreasonable to expect an operator to comply with a requirement to provide lifting facilities and trained staff at every potential destination.

Mining company charters (such as Fly In/Fly Out operations) are somewhat different, in that they typically carry a larger number of passengers over set routes and to set schedules, however they are not open to members of the public. In any event, the principle remains the same: the hirer and the operator negotiate and agree on a level of service and a price, and it is in the interest of the operator to provide good value for money.

Thus the RAAA believes that the current definition of 'public transport service' should be amended to ensure that it captures only those aircraft engaged in 'Regular Public Transport' operations.

With the Schedule 1 Part 1 Target Date of 31 December 2007 rapidly approaching, it is important that the Standards be clarified urgently so that operators can be sure of what they are required to achieve, if anything, prior to 31 December 2007.

The Impact of Transport Standards

General

While accepting the desirability of the Disability Discrimination Act 1992 and the related Disability Standards for Accessible Public Transport, there is no doubt that their introduction has created added difficulties and costs for our member airlines. The costs have ranged from relatively minor in the case of those operators limited to small typically 19 seat aircraft such as the Metro, which have been able to claim exemption from the requirements, to quite significant in the case of operators of larger aircraft.

The cost of maintaining specialist staff to be available to provide direct assistance to passengers with disabilities on those occasions on which such passengers wish to travel is simply beyond the reach of many operators of regional services. Consequently, some of our members, while declining to provide direct assistance themselves for either OH&S or legitimate cost reasons, nevertheless provide exceptionally low cost travel to disabled travellers' carers. In this way, by transferring the responsibility for, but not the cost of, the provision of assistance to the passenger, adequate safety and other requirements can be met but without the wasted cost of having to hire additional staff.

At least one RAAA member airline provides ticketing for both disabled traveller and carer for a combined fare which is less than the fare for a single traveller, in an effort to provide accessible transport. While this practice represents a substantial cost to the operator in respect of an otherwise fully booked aircraft, it is believed to be an acceptable solution to a difficult problem, and one of which the participating airline can be proud.

One of the unusual and unexpected non-monetary 'costs' incurred by some airlines has been the stress resulting from altercations between a very small number of passengers with disabilities who have unrealistic and unreasonable expectations in relation to air travel in very small aircraft, and airline staff who try to assist despite the small aircraft exemption. Indeed more than one RAAA member's staff has been subjected to what amounts to harassment by a particular individual with grossly unreasonable expectations.

Mobility Aid Issues

The requirement to carry mobility aids, as currently stated in the Standards, presents an increasingly costly and potentially dangerous problem for aircraft operators and their staffs. Members report that the weight of mobility aids is growing, with a typical weight of between 100 and 120 kg, but with some reportedly weighing as much as 200kg.

Simply lifting these items and manoeuvring them into allowable cargo areas of even large aircraft sometimes present unacceptable hazards to airline staff. When the weight of mobility aids exceed around 64kg, they are no longer capable of being safely loaded into an aircraft by hand, and thus expensive lifting devices are required. However even when loaded using such devices, their size and weight, and the difficulty of manoeuvring them in the confines of a luggage bay, may still make their safe handling impossible.

A further complicating factor is the effect of the carriage of mobility aids on the capacity of the aircraft to carry other passengers. Unlike road passenger transport vehicles, where the maximum loaded weight is rarely an issue, aircraft are very strictly limited to a number of maximum weights, including Maximum Takeoff Weight (MTOW) and Maximum Landing Weight (MLW). These weights are determined by the area and lifting efficiency of the aircraft's wing, the amount of power available and the structural strength of the airframe. They are governed by the laws of physics, and cannot be ignored. Compliance with them is also mandated by regulation. The maximum weight in each case includes the empty weight of the aircraft, crew, passengers, baggage, catering and fuel, (and anything else on board), and can vary depending on temperature, air density and runway length available. Either the MTOW or the MLW is usually the limiting factor on how many passengers and/or how much freight can be carried on a particular flight. It does not follow that a passenger can be carried just because there are empty seats available, and this must be clearly understood.

The key point to note from the above is that every item of equipment required by a person with a disability will reduce the capacity of the aircraft to carry other people and cargo.

Since in general terms the average weight of a passenger and luggage today is in the order of 100 kg, it follows that a single 100 kg wheelchair being carried by an airline will reduce the passenger carrying capacity of the aircraft by one. A 200 kg wheelchair will reduce the passenger carrying capacity by two. The potential costs of such passenger carrying reductions are not inconsequential in any sized aircraft, but become increasingly significant in inverse proportion to the size of the aircraft. It therefore seems entirely reasonable that the Standards should specify a maximum size and weight, and possibly some other criteria, for mobility aids which must be carried under the Standards.

The problem caused by the need to carry mobility aids is exacerbated when a passenger presents with a mobility aid without prior warning, particularly if it is a heavy item. In the event that the aircraft was fully booked prior to the presentation of the wheelchair, it is quite likely that one or more other passengers would have to be refused carriage to allow for the carriage of the wheelchair. Such situations present a dilemma to the operator, since they inevitably result in a safety and regulatory requirement to discriminate against either the passenger with the disability, or the one or more who have to be denied passage to make weight available for the mobility aid.

This problem is further accentuated when more than one person presents, each with an unannounced mobility device, as has happened on previous occasions when competitors at sporting events have been travelling to or from the same event. While the importance to the passenger of travelling with his or her friends and with their mobility aids in such cases is well understood, the practical implications are immense. The combined weight and bulk of a number of heavy mobility aids, coupled with the time needed to recalculate the aircraft weight and balance and to load and secure such items, can create very significant operational difficulties, but it can also require the offloading of significant numbers of other passengers, and lead to unreasonable costs.

The RAAA notes that sub-section 28.1 of the Standards specifically allows operators to request ‘advance notice of a requirement for accessible travel.’ The RAAA strongly believes that the wording of sub-section 28.1 should be amended to allow operators to ‘require’ advance notice and to refuse boarding in cases where advanced notice is not given and where such boarding would require the offloading of other pre-booked passengers or freight or the carriage of less than optimum fuel.

The RAAA also strongly believes that the Standards should be amended to allow operators to set reasonable limits to the number of heavy mobility aids they are required to carry on a single flight.

Indicative Program Costs

The cost of developing and managing an accessible transport policy will vary depending on the size of the operator, the number of routes flown, the facilities available at the airports served and a number of other factors. It is not possible to provide a ‘rule of thumb’ to predict likely costs. However the capital cost of providing:

- a wheel chair to provide a passenger with a disability with mobility after his or her own mobility device is withdrawn for loading and until it has been unloaded,

- a lifting device to load that passenger onto, or to offload that passenger from, the aircraft, and

- a lifting device to move the passenger to and from the aircraft seat,

is currently around $22,000. Compliance with the Standards requires this capital expenditure at each and every airport to which the airline operates. At major airports, additional sets of equipment might be required to cater for simultaneous requirements. Thus for a small to medium sized regional airline serving 10 ports, the capital costs alone would be close to $250,000.

Maintenance costs vary depending on location, climate, weather protection, and the likelihood of vandalism. Consequently it is not possible to provide a meaningful estimate of an average cost. However one of our larger regional airline members employs one staff member virtually full time on maintenance of lifting devices at their various ports.

The typical life of the equipment is not yet established, but it might be reasonable to expect that it would require replacement every ten years. Thus the equipment cost can be estimated at somewhere in excess of $22,000 per airport served, plus maintenance and depreciation.

Lost revenue directly due to the provision of transport to carers, assistance animals and/or mobility aids will also vary considerably, depending on the route, the number of passengers with disabilities, and the number of assistance animals and wheelchairs carried. While the RAAA can not provide an “average”, the overall cost can be substantial.

Conclusions

The RAAA and its members accept the desirability of enabling accessible transport to as many people as possible, but recognise that universal accessibility is neither possible nor practicable. It is a fact of life that there will always be cases where accessible transport is simply not possible, or is not possible without unfairly risking others’ health and safety.

The review has created uncertainty over the applicability of some aspects of the Standards to ‘small aircraft’ and those engaged in operations other than RPT. This uncertainty should be removed as quickly as possible to ensure that operators can understand their obligations in relation to the Schedule 1 Target Dates.

The impact of the Act and the Standards appears to have been to improve the accessibility of air travel to people with disabilities, particularly in relation to the larger aircraft, but at substantial cost to operators.

The extent of the costs imposed on operators to provide accessible public transport could and should be limited to some extent by introducing reasonable limits to the size, weight (and possibly some other characteristics of mobility aids required to be carried), and by requiring that passengers requiring the carriage of mobility aids declare that requirement when booking flights. To be reasonable, such prior warning should be given at least 48 hours prior to boarding unless exceptional circumstances apply.

The RAAA believes that it would also be reasonable to limit the number of mobility aids which must be carried on any particular flight.

Some suggestions have been made in Annex A in regard to the total exemption of small aircraft from the requirements for accessible transport.

Recommendations

It is recommended that the Standards be amended to:

(1) limit their applicability (in relation to aviation) to Regular Public Transport operations only, which appears to have been the intent of the drafters, by amending the definition of 'public transport service' at sub-section 1.23;

(2) remove the uncertainty surrounding the applicability to small aircraft of those sections of the Standards detailed in Annex A:

(3) remove the requirement for operators to carry mobility aids exceeding certain size and weight criteria, or failing to meet certain other design criteria (primarily related to their potential for causing injury to baggage handlers or damage to the aircraft);

(4) limit the number of mobility aids required to be carried on an individual aircraft; and

(5) allow operators the option of refusing boarding to passengers who fail to declare the requirement to carry a mobility aid, including details of its size and weight, when booking the seat. This option should be available when the only alternative is the offloading of other passengers or their baggage to make space or weight available. Operators would still be able to make appropriate decisions where special circumstances exist.

While it is anticipated that not all the recommendations will be welcomed by all, it is stressed that they aim only to make the current requirements more reasonable, by preventing compliance from requiring active discrimination against, or risk to, other passengers or airline staff.

It is stressed that the RAAA and its members support the aim of the Act and the Standards, and generally support the Standards themselves, particularly if amended

in line with the recommendations made. However, it needs to be recognised that there are very real costs involved which are rather unfairly carried by the airlines.

Thank you for the opportunity to provide input into the Review of the Disability Standards for Accessible Public Transport 2002.

Yours faithfully,

Terry Wesley-Smith
Chief Executive Officer

Annex: A. Proposed Review Requirements

ANNEX A
TO RAAA SUBMISSION
DATED 22ND AUGUST 2007

PROPOSED REVIEW REQUIREMENTS

Sub-Section	Requirement	Recommendation	Reason
2.9	On-board wheelchairs or direct assistance	Exempt small aircraft	Requirement appears to be unintended
16.1	Symbols to identify access path and which facilities and boarding points are accessible	Exempt small aircraft	Probably not necessary in small aircraft due to small size and obvious nature of doors. May also be more appropriate to have accessibility requirements like this built into CASA requirements for RPT
16.2	As above	Exempt small aircraft	As above
16.3	As above	Exempt small aircraft	As above
17.1	Height and illumination of signs	Exempt small aircraft	As above
17.6	Size and position of Braille if used	Exempt small aircraft	As above
19.1	Emergency Warning Systems	Exempt small aircraft	(1) Emergency warning systems are prescribed in aircraft certification. (2) May be more appropriate to have requirements included in CASA requirements for RPT.
20.3	Dimming of lighting	Exempt small aircraft	Not relevant

27.1	Access to information	Exempt small aircraft	Not really practicable
27.2	Direct assistance	Exempt small aircraft	Not practicable and not possible in aircraft with no flight attendant (less than 19 seats)
27.3	Font size	Exempt small aircraft	Not relevant if 27.1 and 27.2 exempted
27.4	Information on whereabouts	Exempt aircraft	Not practicable in the case of hearing impaired
28.3	Location of carers assistants and animals	Exempt small aircraft	Not practicable in single row seating. Adjacent seating may be possible.
28.4	Retention of accessible seats	Exempt small aircraft	Not practicable in small aircraft.
30.1	Disability aids in addition to baggage allowance	Review this requirement	Acceptable in principle for small items but not necessarily acceptable in the event of bulky or heavy aids which can run to 200kg. Physically not possible in very small aircraft, and extremely limiting in the case of small aircraft even some larger than 30 seats, particularly if more than one at a time. At least 48 hours prior warning should be mandatory to reduce risk of having to off-load other passengers or baggage
32.1	Effect and application	Review this requirement in respect of small aircraft	There are currently NO low capacity (less than 38 seats) airliners in

			production in the world, nor likely to be in the foreseeable future due to non-viable operating economics. Thus new aircraft entering service will be depreciated used aircraft and the costs of modification to meet the standards would be prohibitive even if they were possible, which is not certain.
32.2	Manufacture to be completed before target date	Review this requirement in relation to small aircraft	It is still not clear if the standards apply only to RPT, and which standards do in fact apply to RPT
33.1	As above	As above	As above
33.2	As above	As above	As above