

SUBMISSION TO THE REVIEW OF THE DISABILITY STANDARDS FOR ACCESSIBLE PUBLIC TRANSPORT 2002

My submission consists of drawing the reviewers' attention to a series of problems which I, as a wheelchair user, have had with Airnorth in flying to Kununurra from both Perth and Darwin in recent years. I drive my own hand-controlled, automatic vehicle with a rooftop wheelchair hoist, so do not use trains, buses, trams, although that would be very difficult because of the locations of stations and stops. I use taxis on an occasional basis and they are fine, apart from the usual delays with both ordinary and multi-purpose taxis.

In summary, my main concerns with small airlines are:-

The way I was treated by Airnorth

1. Public transport (including Airlines) should be spending \$\$ upgrading their stock to enable people with disabilities to more easily access them, not using the cost of retro-fitting as an excuse not to carry them
2. Public transport should not require an accompanying carer if the person with a disability is sufficiently independent not to need a carer
3. Occupational Health and Safety regulations should not be used as an excuse for not assisting people with disabilities. Staff should be trained in correct lifting and safety techniques if necessary
4. The complaints-based system is very wearying and onerous for people with disabilities
5. The complainant also has to be the monitor and regulator of any decision from HREOC
6. The public transporter is not obliged to mediate or make changes as the result of a complaint if they choose not to. The law has no teeth. HREOC is a toothless tiger.
7. In this particular case of Airnorth, the lack of support to myself (and other people with disabilities) from HREOC
8. The result of all my complaints and the submissions to prevent them getting an extension of their exemption was a \$60 Coles voucher!

Hilary Rumley



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NGO in Special Consultative Status with the
Economic and Social Council of the United Nations

3 September 2007

Mr David Mason
Director, Disability Rights Policy Unit
Human Rights and Equal Opportunity Commission
GPO Box 5218
SYDNEY NSW 1042

Dear Mr Mason

Application for Exemption from the *Disability Standards for Accessible Public Transport 2002: Airnorth*

People with Disability Australia Incorporated (PWD) has considered Capiteq Ltd's (Airnorth's) application for temporary exemption from sections 23 and 24 of the *Disability Discrimination Act, 1992* (DDA) and from the operation of the *Disability Standards for Accessible Public Transport 2002* (Transport Standards), regarding:

- Lack of access to aircraft seats for people requiring wheelchair access, where this is prevented by limited aisle width;
- Lack of access to aircraft or seats for passengers requiring lifting, where this cannot be performed in compliance with the requirements of applicable occupational health and safety laws due to space constraints of the particular aircraft;
- Requirements for notice of disability access requirements, where these requirements are reasonable in the circumstances.

PWD has also considered the *Commission's Notice of Temporary Exemption under the Disability Discrimination Act: Airnorth*, dated October 2003. In light of our consideration of the above documents, PWD respectfully recommends that:

- If a further temporary exemption is granted to Airnorth, it should be limited to covering only currently-owned aircraft, rather than extend to aircraft to be purchased by Airnorth in the future (i.e. after the date of the application);
- Airnorth should be required as a condition of the grant of any extension to consult with other airlines and aircraft manufacturers that are providing access for people with disability to small aircraft, and to report periodically to the Commission on the findings from such consultations;

- Airnorth should be required as a condition of the grant of any extension to consult with national representative bodies of people with disability regarding its systems for identifying and responding to disability-related needs, and to report periodically to the Commission on the findings from such consultations;
- The Commission and appropriate representatives of the Australian aviation industry should liaise with aircraft manufacturers to persuade them to design for access for people with disability.

Should you have any queries, please do not hesitate to contact the writer at matthewk@pwd.org.au or on (02) 9370 3100.

Yours sincerely

Matthew Keeley
Senior Legal Officer

Statement of Complaint against Airnorth and its exemption from the DDA Prepared by Hilary Rumley, 17 September 2004

In this statement, I outline several unsatisfactory experiences I have had when travelling with Airnorth in the last year, as well as that of an Aboriginal friend from Kununurra.

- In July, August and October 2003, while I was living in Japan, I had to make three working visits to the East Kimberley. Consequently, I made bookings to fly from Kansai International Airport in Osaka via Singapore and Darwin to Kununurra. The Darwin to Kununurra section is only serviced by Airnorth.
- On the first of the Airnorth flights in July, the seat of my folding shower chair was damaged. It sustained a puncture/tear in the seat which would need to be replaced. This request was refused by Airnorth.
- On the Airnorth return flight from Kununurra to Darwin in August, the pilot apparently insisted that I board the flight up the steps through the front door. This was an inexplicable surprise to the Kununurra ground staff, who were accustomed to using the rear door. I was told that the captain had mentioned something about dirt around the rear door as the reason for not wanting to remove the door. There was obviously some discussion going on between the pilot, co-pilot and the flight attendant on the tarmac beside the plane as I was waiting to board. At this stage, most of my belongings had been taken off me, some were on the tarmac and some had been taken on board. I was using the airport's wheelchair for boarding the flight. It was extremely humiliating, embarrassing and frustrating to be forced to sit in the airport's wheelchair on the tarmac with no assistance from Airnorth and no idea of what was happening. Nobody from Airnorth communicated with me at any stage. It was only when I was finally on board, after having been lifted up the steps by the Kununurra ground staff, that the flight attendant informed me that the gentleman in the aisle across from me had agreed to assist me if necessary. I was amazed to hear that he was my nominal carer because he was an 80-odd year old American who had trouble hearing me. The pilot appeared to be acting as if Airnorth had already received the exemption from the DDA for which they had applied to HREOC.
- On arrival in Darwin, I realised that in the confusion at Kununurra airport, one of my items of clothing (a polo top) was missing. The following morning I checked in at Darwin airport leaving sufficient time to go to the Airnorth counter to find the missing item of clothing. I was told that there had been a "visual" on the top and was assured that it would be delivered to my home address in Perth. This never happened.
- Flying in as I was from Asia, I repeat a point which I made in my original submission to HREOC. That is, where does someone like myself, who is as independent as circumstances allow and does not have a permanent carer, manage to find a temporary carer on arrival in Darwin who is available to accompany me for a period of time during my work? It is a ridiculous suggestion, despite the fare concession offered by Airnorth as part of its application for (and granting of) an exemption from the DDA by HREOC.
- There is an obvious need for Airnorth to upgrade its Brasilia aircraft or to replace them with something more suitable for all passengers. At least

an armrest which is able to be raised and a means of boarding wheelchair passengers travelling independently seem essential. In my opinion, especially with the increased numbers of tourists in the Kimberley, Airnorth's aircraft are far too small to cope with the demand. On one flight, a passenger was sitting on a seat in the cockpit doorway. I read in the in-flight magazine that Airnorth had recently purchased both South Australian Airlines and Emu Airlines, so it would appear that they cannot exactly plead financial hardship. I am also concerned that the exemption from the DDA which Airnorth has received from HREOC could be extended to these other regional airlines.

- Since returning from Japan, I have had to make two working visits to Kununurra from Perth. When possible, I arrange to travel on a Saturday when a direct Qantas Link flight is available which has suitable aircraft, equipment and staff trained to assist passengers with a disability. But on one occasion when undertaking work for the State government, it was not possible to fit work around the Saturday Qantas flight. When necessary, my work colleague travels with me and acts as my 'carer' on Airnorth flights. He physically lifts me up the steps and into a front seat. We tried to arrange flights for a Tuesday but could not get two seats on the same day on the Airnorth flight from Broome to Kununurra and we were thus obliged to delay our travel arrangements and book a Qantas flight via Darwin to Kununurra the following day. This involved a long and uncomfortable delay in Darwin airport and a delay to the commencement of urgent work.
- On the flight from Darwin to Kununurra, I was told by Airnorth staff that now the exemption has been granted, it is really left to the discretion of individual pilots as to whether they allow passengers with a disability to travel or not, regardless of whether they have a carer or not.
- The following is a copy of an email sent on 6.2.04 which shows the confusion which exists in the travel industry in the operation of the exemption granted to Airnorth. It is self explanatory:

Dear Everyone

I want to clarify an unfortunate matter that arose last week with Air North.

Merrilee Powers was told last week by Harvey World Travel that Air North would not take a person in a wheelchair on board unless they were accompanied by a full paying passenger. This advice meant that Ben Ward was unable to meet the Acting Premier with Wayne Bergmann this week.

The advice Merrilee was given is unlawfully discriminatory and after investigation turns out not to be wrong. The CEO of Air North Michael Bridge called to clarify the situation (just as Wayne and I were drafting out discrimination complaint and planning the media line).

Air North do require a person to accompany anyone who cannot get themselves off a plane by themselves in the case of an emergency because there is only one flight attendant on the plane, BUT to offset the discrimination, both the person with the disability and the accompanier only pay 25% of a ticket. The accompanier then gets a free flight back.

Although this policy treats people with a disability differently to others, and means that we have to always find someone willing to fly back and forth from Knx to Broome with Ben, Air North can implement this policy only because they have an exemption (since November 2003) from the Disability Discrimination Act from the Human Rights and Equal Opportunity Commission. This makes it lawful discrimination.

If anyone ever gets told anything different by a Travel Agent, please call airnorth direct.

Cheers

Krysti Guest
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- I hope this statement of complaint provides you with some information on the negative effects which the exemption from the DDA granted to Airnorth by HREOC is having on some passengers with physical disabilities.

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