

Draft Outline of Oral Submission to the Productivity Commission's Inquiry into the *Disability Discrimination Act 1992*

By Sue Tait

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Co-Author: *Acting against Disability Discrimination – A Practical Manual for using the Disability Discrimination Act*. Commonwealth of Australia 1994.

Author: *A User Guide to the Disability Discrimination Act* Villamanta Publishing Service 1995

Presentation in person 11.30 am Tuesday July 22 at 55 Kings Street Melbourne.

Background

- Importance of understanding historical context of the *DDA*.
 - Social reform agenda - Brian Howe
 - Human rights context
 - Challenge to medical model of disability
 - Deinstitutionalisation and desegregation of people who have a disability
 - Legislation part of a package of reform.

General Issues for the Commission's Inquiry

- Impact of *DDA* hard to measure because no benchmarks to give a 'before' and 'after' picture in many areas (especially conciliated matters.) *DDA* part of a package of reform (eg. Disability Support Pension, Carer's pensions, move from sheltered workshops to productivity wages, Commonwealth State Disability Agreements, reciprocal State legislation). No real census data on 'cost of disability to community / carers' compared to costs to invest in infrastructure to remove barriers to economic and social participation.
- Changes to mainstream community attitudes / behaviour towards people who have a disability harder to achieve because more entrenched in ignorance, stigmatisation or 'specialness' of disability. People without disability find it harder to understand difference in 'ability' compared to race, gender or culture – hard to achieve recognition of rights through 'social pressure'. Educational activities of HREOC limited in focus due to resources. Few sanctions for disability discrimination (Compare to society's changes in attitudes to drink driving)
- People who have a disability are not a 'class' – only common experience / interest is discrimination – This is experienced very differently depending on the nature of the person's disability.
- There is a true cost to disability that has not been addressed in the social reform package. Who should pay for the Auslan interpreter when a Deaf person sees a General Practitioner who bulk bills under Medicare? Inequities exist in support payments – compare Disability

Support Pension to visually impaired who work compared to people who have a disability who don't.

Comments on some issues raised in the Commission's discussion paper

- Definition of Disability – Should remain broad to reflect discrimination is social response to disability not something within the person.
- Competition issues enhanced by *DDA*. Commercial catch cry is 'innovation' and 'consumer friendly' targeting to 'individual needs' Mainstream get market edge on being 'disability' friendly. People who have a disability tend to be more innovative – innovation can be learnt from them. Adjustments for people who have a disability benefit others, eg. Access to buildings, universal signage, plain language information.
- Small business should be protected from unfair burden through appropriate application of 'unjustifiable hardship'.

Some problems with DDA

- Complaints driven – People who have an intellectual disability don't complain.
- Standards – is the effort worth the compromise to get a minimalist 'McDonalds' approach to disability.
- Action plans focus should be on engaging with people who have a disability.
- Special measures exemptions used to support the specialist disability support sector defeat the notion of true equality before the law. Wages in supported employment services are tokenistic yet these businesses compete in the 'open market'. Specialist housing and support services deny tenancy rights and use restrictive practices without challenge or scrutiny.

Some suggestions

- We need to fill the gap left by specialist measures exemptions
- Resource HREOC to initiate it's own complaints and investigations – Provide an inspectorate and prosecution arm? Require an annual report to Parliament.
- Focus on Action Plans to be endorsed by people who have a disability.
- Divert resources currently taken up in the Disability Standards work to community education using the extensive work done by the American Disability Acts as benchmarks or standards that can be used as leverage for removing barriers and improving adjustments for people who have a disability.