

Submission by the National Library and Information Services (NILS) and the IT-Test Consortium to the Productivity Commission Review of the Disability Discrimination Act

Hearing Date & Time:

Friday 25 July, 3:30pm, VCAT 55 King St. Room 6.1

Persons attending

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Key Issues to be addressed

- Impact of the DDA in contributing to the long-term viability of the Australian Information and Communications Technology (ICT) industries
- Importance of DDA scope and HREOC role in addressing systemic issues that can have the effect of severely disadvantaging people with disabilities (with particular reference to access to print based information and to accessible technology).

Impact of DDA on the ICT Industry

Across the world there are moves to ensure that Information and Communications Technology (ICT) products and services are accessible for people with disabilities. Mostly these moves are based on the requirements of a local version of the DDA, as these requirements are applied in particular sectors such as government, telecommunications, online services, education and so on.

For example, the US Government has introduced Section 508 to require government officials to purchase accessible products and services. This will assist the US Government to meet its obligations under the Americans with a Disability Act and related acts regarding equitable access to employment within government.

Similar procurement preference arrangements or requirements on public ICT products and services are being introduced in Europe and Canada.

Australian ICT companies will need to be able to meet the accessibility requirements around the world if their niche products are going to find export markets. Some ICT companies are export oriented from the start of their product development, but most small companies rely first on developing a domestic market before tackling export markets.

As part of a project funded by the Department of Communications, Information Technology and the Arts, the IT-Test Consortium* been talking to small ICT companies in all states and territories about accessibility requirements around the world. The loudest call from these companies is for Australian accessibility requirements to be similar to those applying in the other major ICT markets. The companies argue that if their local customers are obliged to purchase accessible ICT goods and services then it will be economic for them to do the extra work need to test and rectify their products. But this will be to no avail if the Australian requirements are significantly different from those applying elsewhere.

Hence, as much as possible the Australian DDA should reflect the best of similar legislation around the world.

Addressing Systemic Issues

Current Situation (Overview)

HREOC can be involved in addressing broad issues with a specific reference from the Attorney-General (e.g. the work on electronic commerce and the follow up work in relation to electronic banking).

HREOC has also taken a lead in bringing parties together to help resolve systemic issues (e.g. work with universities and suppliers of alternative format materials) and commissioned some work to raise issues (e.g. Discussion Paper on Telecommunications Access for People with Disabilities).

This approach is a very effective way to address systemic (and usually inadvertent) discrimination in relation to access to information and the means to manipulate it.

But, as the HREOC submission says, this work has been severely constrained by resource limitations. A small increase in resources deployed on this sort of work would have a very large impact.

Examples of Disadvantage in Relation to Print Disability

Copyright and Digital Format Materials - Access to print/text based in accessible formats

Restriction on copyright (particularly of digital format material) makes timely access to material very difficult or impossible for people with print disabilities. Recent changes to the Copyright Act have left certain regulations incorrectly amended and have failed to simplify copyright obligations for organizations such as NILS who produce works for print disabled clients.

Statutory and educational licence arrangements are designed to minimise restrictions for people with a print disability by permitting organizations such as NILS to produce items on their client's behalf. However there are still issues inherent in

* The Consortium comprises NILS, RMIT University and PTG-Global

the system that place limitations on any organization producing items for print disabled people. HREOC is committed to addressing these systemic issues and should be empowered to do so.

NILS is sometimes obliged to meet its obligations under copyright law in ways that extend the timeframes and increase costs of production and further compound the inequality experienced by people with a print disability.

By meeting its own obligations under the Copyright Act NILS is in effect, assisting publishers to meet their obligations under Disability Legislation. It seems that the DDA may be insufficiently understood or applied if people with a print disability continue to be disenfranchised by not having equitable, “same time” access to books that are available to sighted persons.

Access to accessible digital information and the means to manipulate it

Information in digital formats is often not provided in technically correct formats (see the HREOC Advisory Note World Wide Web Access: Disability Discrimination Act Advisory Notes Version 3.2 August 2002)

There needs to be a mechanism for HREOC to pressure a wide range of organisations to address this area (e.g. tertiary training institutions to include accessible design in the curriculum; or governments to refuse to buy inaccessible products or services where accessible products and services are available).

HREOC also need the resources and powers to be able to monitor conformance in a meaningful way (The Swedish National Audit Office recently review 92 government websites for conformance with well established government accessibility requirements.)

The issues raised by HREOC in its submission, with respect to the limitations in the scope of the DDA, are also relevant here. For example a person with a disability may need expensive assistive technology to access digital information that is freely available to people without disabilities. We understand that HREOC could not be involved with this sort of issue given the current limitation of the DDA scope.

Proposals for Consideration by the Productivity Commission

- The DDA should be consistent with similar international laws to maximise the market for goods and services that are accessible (particularly ICT products).
- The DDA should be amended to ensure that HREOC has the capacity to address all elements of the cause of discrimination in relation to the core areas of employment, education etc.
- The role of HREOC in addressing broad areas or systems that cause inadvertent discrimination should be strengthened and better resourced.