

To the Productivity Commission  
MELBOURNE

**Submission regarding the Disability Discrimination Act 1992.**

General Facts:

When a council made alterations to the Business Centre of the town it removed Pedestrian Zebra Crossings in the main streets and installed "shared" or "Wombat" crossings under which Pedestrians did not have any right of way. Subsequently a citizen of the town became blind and found he was unable to cross major intersections in the main streets despite the use of his guide dog and the training he had received.

On the 13th December 2000 he made a written complaint of disability discrimination against the council to the Human Rights and Equal Opportunity Commission (HREOC).

On the 4th June 2002 the Commission terminated this complaint pursuant to section 46PH (2) of the Human Rights and Equal Opportunity Commission Act 1986 on the ground that there was no reasonable prospect of conciliation.

The blind person then had 28 days in which to refer the matter to the Federal Magistrates Court. Because he was a blind pensioner with little money this was a very daunting task.

It is very doubtful that he could have taken the above action without the help of a sympathiser who was also a retired lawyer.

The Public Interest Advisory Centre of New South Wales was persuaded to take up the cause and with much effort and difficulty referral application was finally made.

I think it would be virtually impossible for an incapable person with limited means to take the action that this blind person took in this case.

Here the blind person had assistance (gratis) from the beginning. It is obvious that in this case the complaint to HREOC was a complete waste of time. It was stressful and frustrating in the extreme to the complainant.

HREOC in this matter could only conciliate and not make any binding orders to assist the complainant.

It is therefore respectfully submitted as follows:

1. The Human Rights and Equal Opportunity Commission should be given the power to hear and make binding orders to give relief to a complainant.
2. In cases such as this one that the complainant should not be saddled with costs or alternatively the hearing before HREOC should be a cost free forum as it is now.
3. If it is felt that if matters such as this are of such importance that it be dealt with by a Federal Court then a much simpler and less costly method be devised for this action to be taken.

4. So as not to deter disabled complainants from taking action in the Federal Courts (if necessary) that costs only be awarded against an unsuccessful complainant if there was absolutely no merit in the case.
5. That some special Fund be set up to aid incapacitated impoverished complainants with disabilities to help them prosecute their cause. This would be a fund separate and in addition to any existing legal aid services.

The above-mentioned case is still to be heard in the Federal Magistrates Court.

Dated the.....24th day of .....March.....2003.

Signed.....

From Derrick Yee  
NSW