

Presiding Commissioner Helen Owens
Disability Discrimination Act Inquiry
Productivity Commission
Locked Bag 2
Melbourne 8003

May 2003

Dear Commissioner Owens

Please find attached a Submission from Women With Disabilities Australia (WWDA) to the National Competition Policy Review of the *Disability Discrimination Act (DDA) 1992*. Women With Disabilities Australia (WWDA) is the peak organisation for women with all types of disabilities in Australia. WWDA is run *by* women with disabilities, *for* women with disabilities. It is the only organisation of its kind in Australia and one of only a very small number internationally.

Included with WWDA's submission to the Productivity Commission's DDA Inquiry, is a copy of a recent report published by WWDA. The Report entitled "*There is no justice - THERE'S JUST US*" - *The Status of Women with Disabilities in Australia (WWDA 2002)* details the status of women with disabilities in Australia and demonstrates how women with disabilities in Australia continue to encounter discrimination on several levels, each of which restricts their options and opportunities for equal participation in the economic, social, and political life of society.

Please contact me if you require any further information or if you would like more copies of WWDA's report "*There is no justice - THERE'S JUST US*" - *The Status of Women with Disabilities in Australia*.

Yours sincerely

Carolyn Frohmader
Executive Director

**Submission from Women With Disabilities Australia (WWDA) to
the National Competition Policy Review of the *Disability
Discrimination Act (DDA) 1992***

1. About Women with Disabilities Australia (WWDA)

Women with Disabilities Australia (WWDA) is a national voice for the needs and rights of women with disabilities and a national force to improve the lives and life chances of women with disabilities. The objectives of Women with Disabilities Australia (WWDA) are:

- to actively promote the participation of women with disabilities in all aspects of social, economic, political and cultural life;
- to advocate on issues of concern to women with disabilities in Australia; and
- to seek to be the national representative organisation for women with disabilities in Australia by:
 - undertaking systemic advocacy;
 - providing policy advice;
 - undertaking research; and
 - providing support, information and education.

2. Background to this Submission

As stated in the issues paper and terms of reference on this review, the review is focusing on whether the objectives of the DDA are being met. This submission will focus on what those objectives are and how they have affected women with disabilities. It is not our role however to do research and analysis for those doing the review and therefore references for reports and articles with further information will be listed rather than summarised. It is also relevant to note that there is not a lot of statistical data available in regards to women with disabilities and how they are experiencing discrimination, so there is a significant amount of anecdotal evidence that is not backed up by statistical data. This does not lessen the importance of this evidence, but rather shows the reality of the discrimination experienced by women with disabilities in our society.

2.1. Objects of the Disability Discrimination Act 1992

The objects of the DDA are:

- a) to eliminate, as far as possible, discrimination against persons on the ground of disability in the areas of:
 - i. work, accommodation, education, access to premises, clubs and sport; and
 - ii. the provision of goods, facilities, services and land; and
 - iii. existing laws; and
 - iv. the administration of Commonwealth laws and programs; and
- b) to ensure, as far as practicable, that people with disabilities have the same rights to equality before the law as the rest of the community; and
- c) to promote recognition and acceptance within the community of the principle that people with disabilities have the same fundamental rights as the rest of the community.

(Source: Disability Discrimination Act 1992, s. 3)

3. Symbolism of the Disability Discrimination Act 1992 (DDA)

In general the promise that the DDA held to improve participation and overcome social and economic disadvantage for people with disabilities has not eventuated for women with disabilities. However it still has important symbolic value for women with disabilities and provides women with a sense of legitimacy and protection when arguing for their rights within society. Even if the detail of the Act is not known and the mechanisms for complaint are not used, many women with disabilities know there is something that says they have 'rights'.

4. The Status of Women with Disabilities in Australia

Women with disabilities are, from the government record, one of the most marginalised and disadvantaged groups in Australia. Analysis of data available from a variety of sources, gives us the following information about women with disabilities in Australia:

- There are 3.6 million people in Australia with a disability, making up 19% of the total population. The proportion of males and females with a disability is similar although it varies across age groups.
- There are 1.8 million women with disabilities in Australia. There are more women with disabilities in the older age groups, most notably those 79 years onwards.
- 616,000 women have a profound or severe core activity restriction. Among older people with disabilities, the rates of severe and profound disability are markedly greater for women than for men.
- Over 57% of women with disabilities living in households need assistance to move around or go out, shower or dress, prepare meals, do housework, undertake property maintenance or paperwork, or communicate with others.

4.1. Employment

- Women with disabilities are less likely to be in paid work than other women or men with disabilities. Men with disabilities are almost twice as likely to have jobs than women with disabilities. Despite women's employment disadvantage, in 1997-98, 67% of people with disabilities assisted by open employment services were men. The percentage of women with disabilities being assisted by these services continues to decline. (The Annual Census of Commonwealth Government).
- Women with disabilities are less likely than men with disabilities to receive vocational rehabilitation or entry to labour market programs. Commonwealth Rehabilitation Services statistics for 1994/95 indicate only 35% of referred clients were female with women more likely to be rehabilitated to independent living (45%) than vocational goals (36%).

4.2. Income

Women with disabilities earn less than their male counterparts. 51% of women with a disability earn less than \$200 per week compared to 36% of men with a disability. Only 16% of women with a disability earn over \$400 per week, compared to 33% of men with a disability.

4.3. Education

Women with disabilities are less likely than their male counterparts to receive a senior secondary and/or tertiary education. Only 16% of all women with disabilities are likely to have any secondary education compared to 28% of men with disabilities.

4.4. Housing

- Women with disabilities are substantially over-represented in public housing, comprising over 40% of all persons in Australia aged 15-64 in this form of tenure. Women with disabilities are less likely to own their own houses than their male counterparts.
- Women with disabilities pay the highest level of their gross income on housing, yet are in the lowest income earning bracket. Some women with disabilities pay almost 50 per cent of their gross income on housing and housing related costs.
- Women with disabilities are more likely to be institutionalised than their male counterparts.

4.5. Health Spending

Women with disabilities spend more of their income on medical care and health related expenses than men with disabilities.

4.6. Disability Services

- Women with disabilities have a consistently higher level of unmet need but are less likely to receive appropriate services than men with equivalent needs. 60% of recipients of disability support services funded under the Commonwealth/State Disability Agreement are men with disabilities.
- Men, particularly men without disabilities, are also most likely to manage disability services and disability advocacy organisations.

4.7. Violence

- Regardless of age, race, ethnicity, sexual orientation or class, women with disabilities are assaulted, raped and abused at a rate of at least two and a half times greater than non-disabled women.
- Women with disabilities are often forced to live in situations in which they are vulnerable to violence. They are more likely to experience violence at work than other women or men with disabilities.

4.8. Telecommunications

Access to telecommunications is a major area of inequity for women with disabilities in Australia. A national survey in 1999 found that 84% of women with disabilities are restricted in their access to telecommunications. Restrictions included affordability; poor equipment design, lack of training; lack of information; and discrimination. Given the importance of the telephone as a form of communication for many women this lack of access is critical in considering the social isolation of women with disabilities.

Attached to this Submission is a copy of a recent report published by Women With Disabilities Australia (WWDA) entitled "*There is no justice – THERE'S JUST US*" – *The Status of Women with Disabilities in Australia*. This Report, published in June 2002, discusses definitions and models of disability. It outlines the demographic data available that compares women with disabilities with men with disabilities, and women in general in relation to key socio-economic factors. The Report documents the major social and economic issues confronting women with disabilities based on the most recent data and research literature available, and also look at the exclusion of women with disabilities from both the disability and women's movements. The Report also outlines the need for a specifically funded national peak body for women with disabilities in the context of the status of women with disabilities in Australia. This context includes the relative absence of research, data collection and policy development to improve the social and economic status of women with disabilities and the historical neglect of the skills and abilities of women with disabilities by governments, industry and the community as a whole.

5. Effective Elimination of Discrimination

5.1. Complaints Based Legislation

The use of a complaints based mechanism to eliminate discrimination presupposes a number of factors, most specifically education and access to information. Women with disabilities are probably the most marginalised group in our community with generally low education, low socio-economic status, limited access to information etc. Add to this the fear of incurring costs and lack of support particularly from women (see 5.6), and it is understandable why it is hard for women with disabilities to make complaints. DDA does not cover discrimination in the form of domestic violence etc. It continues to maintain a separation between the public and the private sphere.

5.2. Access to the Law

For women the DDA assumes that men and women have equal access to the law which research has shown to be far from the case. Removal of HREOC's powers to undertake hearings of complaint cases that could not be conciliated has compounded this situation. Women with disabilities are more intimidated by the fact that cases have to be heard by the Federal Court of Australia - as costs can be awarded against them. Women who are dependent on their partners will not have access to legal aid.

5.3. Funding Cuts

Reduced funding to the Commission and Disability Unit is hampering the ability to achieve the objectives of the DDA. This is most obvious in the lack of public education campaigns undertaken by the disability unit. Education on the DDA is given to community and disability groups and it is only people with disabilities who have access to these groups who are then gaining this information. Apart from the initial hype that accompanied the DDA there has been very little in terms of public advertising or campaigns. Women with disabilities are less likely to access services and therefore less likely to gain this knowledge and education.

5.4. Disability Discrimination Commissioner

The abolition of the position of the Disability Discrimination Commissioner (the first and only commissioner was a woman with a disability) was a powerful reminder to women with disabilities that their views would no longer count and that commitment to social justice for people with disabilities is no longer a priority. This is compounded by the fact that the Acting Disability Commissioner already has another portfolio.

5.5. Reasonable Accommodation

The reasonable accommodation provision of the DDA differentially affects women compared with men. Since the burden of reasonable accommodation is required to be met by the individual employers or service providers it is too easy for them to claim unjustifiable hardship. This tends to exacerbate the documented discrepancies in levels of training and education between men and women with disabilities. The reality is that women with disabilities are less likely to be employed or to be seen as employable.

5.6. Equality in Practice

Although there are people with disabilities employed in the Disability Rights Unit of HREOC, there are no women with disabilities employed and this means the Commission is not seen to represent women with disabilities.

5.7. Statistics

No statistics are kept regarding the number of complaints by women with disabilities which means that it is difficult to judge the benefits that the DDA has had for women.

5.8. Discrimination in the Disability Service System

Looking at the current state and federal budgets, there is still the ongoing situation of need for services not being met by the service system. This leads to people with disabilities competing against each other for limited resources by coming up with the most horrific sob stories to be funded for essential services. Then there is the difference between people who acquire traffic injuries and receive compensation and care (more men than women) compared to people who have disabilities from birth and age (probably more women than men) who are reliant on the 'welfare' system for their support needs, and who are the group with the most unmet needs. This systemic discrimination is not covered by the DDA.

6. Anecdotal Evidence

There is a wide range of anecdotal evidence that shows that women with disabilities are still experiencing discrimination everyday. For example:

- Women with disabilities in domestic violence situations who cannot access refuges because of attendant care, physical access and/or communication access.

- Women with disabilities experiencing abuse from carers in institutional settings.
- Information and access to regular pap smears and breast examinations from female doctors not occurring for women with disabilities in institutional care and/or women with intellectual or other disabilities who are assumed to not be sexually active.
- Illegal sterilization of young girls and women with disabilities.
- Women with disabilities with children who can use accessible toilet facilities in accessible shopping malls only to find the parents room is inaccessible physically eg. sinks, change tables, bottle warmers etc. are out of reach and difficult to use. This highlights the assumption that women with disabilities don't have children.
- Women with disabilities being ignored in fashionable retail clothing stores.
- Major renovations occurring in businesses in strip shopping areas that do not address access issues, because it is renovations not a new building.
- Girls with disabilities being discouraged to continue in further education.

7. Competition and Business Perspective

Women with disabilities should be thought of as a not insignificant consumer group and businesses are missing out on their custom if they continue to discriminate. For every woman with a disability, there are family members and friends who may also factor access into their decision not to use particular businesses and services. For these reasons it is also in the interest of community business precincts to have a general policy of access.

There is also a wealth of skills and experience amongst women with disabilities that is currently an untapped resource.

8. Monitoring and Assignment of Responsibility

It seems that the only effective way that change is happening is through the complaints procedures that is on an individual case-by-case basis and does not address more systemic needs.

The DDA does not go far enough in actually setting up mechanisms to ensure that the access actually does happen when there are renovations to buildings; that job descriptions and interviews in employment situations are equitable; that potential tenants with disabilities are being given a fair go; that the things the DDA stands for actually do happen in society.

People with disabilities are never sure who is responsible for monitoring the particular aspects of the DDA relevant to them at the time. People with disabilities need to know who to speak to, to get changes to happen before it reaches the point where a formal complaint is the only solution and when it may be too late to make changes because of "unjustifiable hardship".

9. References and Resources

The following resources are all available on the WWDA website which can be found at: <http://www.wwda.org.au/papers.htm>

WWDA Acceptance Speech to the National Human Rights Award (2001)

On December 10, 2001, Women With Disabilities Australia (WWDA) was awarded the prestigious National Human Rights Award (Community Category) by the Human Rights and Equal Opportunity Commission. Helen Meekosha, WWDA President, accepted the Award at a function in Sydney. This is a transcript of WWDA's acceptance speech.

'In/Different Health: Rethinking Gender, Disability and Health'- By Helen Meekosha (2001)

A Keynote Address presented by Helen Meekosha for Women With Disabilities Australia to the 4th Australian Women's Health Conference, held in Adelaide, February 2001. The paper examines, amongst other things, what is disability?; the position of women with disabilities in Australian society; prenatal testing and selective abortion; voluntary euthanasia; health policy models, and more. The paper also looks at what disability can teach the women's health movement.

'Going Inclusive: Access to Health Care for Women with Disabilities'- By Keran Howe and Carolyn Frohmader (2001)

A paper presented by Keran Howe for Women With Disabilities Australia to the 4th Australian Women's Health Conference, held in Adelaide, February 2001. The paper examines the status of women with disabilities in Australia, and looks at a number of solutions to address the myriad of issues women with disabilities face.

'Changing Discourses of Disability and Human Rights in Australia'- By Helen Meekosha (2000)

'Disability' has become a term embedded in a number of competing discourses, each of which have an institutional determination - either formal or informal. The critical interface lies between medical, individualised and social discourses. The conflict at this interface is revealed in the struggle over human rights for and by people with disabilities. In 2000 a new national Action Plan on human rights is being devised by the Australian federal government, in an environment of governmental hostility to human rights and UN conventions. This paper explores the power relations of disability discourses through competing interpretations of interests and issues in the human rights field.

'Women, Gender and 'Disability' - Historical and Contemporary Intersections of "Otherness" - by Della Perry and Ruth Keszia Whiteside (1995 & 2000)

Working in an area which is considered to be about something called "disability", poses considerable challenges for any person who wishes to reflect upon the kinds of cultural and historical determinants which underwrite such a concept. Who or what has decided, and still decides, upon the allocation of one person to the 'able' category, and another to the 'dis'-abled category? Although we will claim that these simple terms have most often appeared as obscuring, and in denial of the complex nature and experience of any person, we will also consider them as powerful ideologies, influencing and informing who people think and feel they are or ever can be. Some people would suggest that we have neutral measurements and criteria which can objectively indicate 'intelligence', as quantifiable and as something 'real'. Whether one believes or not, that intelligence testing measures anything at all, we must also ask if any kind of 'evidence' expresses something fundamental enough about a person, to confer upon them a totalising and representative label - like that of 'normal', or 'genius', or 'disabled'. To unravel some of these ideas and questions, we will in this paper, focus upon the historical construction of the idea or concept of 'intellectual disability'. We would like to stress however, that most versions and varieties of disability are not mutually exclusive and that the general idea of 'disability' as an homogenising label, (informing as powerfully as it reflects individual and social experience), is always implicated in our discussion. Likewise, the category of 'woman', as determined

by particular and essential qualities, (regardless of whether these are understood as biological or cultural in nature), will be considered as often intertwined and enmeshed with concepts about 'disability'. That these determinations and their combinations, are not accidental, arbitrary, natural or self-evident, but reflect particular social and political interests, is the central theme of this paper.

'Disability and Human Rights'- by Helen Meekosha (1999)

For many people with disabilities, Australia, at the end of the millennium, is experienced as a war zone. At a time when citizenship is a catch-cry in public debate, disabled Australians are effectively denied many of the simple rights their fellows take as given. This brief paper focuses on the processes which constrain and restrict the access to basic rights of disabled people. Human Rights are provided not solely in legislation, but most directly through services and activities in the community. When these ignore, deny or exclude disabled people no legislation is sufficient.

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