



Arts Access Australia

30 January 2009

91 Canal Road Lilyfield NSW 2040
Phone: 02 9518 0561 Fax: 02 9560 9035
ed@artsaccessaustralia.org
www.artsaccessaustralia.org
ACN 084 007 321

Mr Peter Hallahan
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Via Email: legcon.sen@aph.gov.au

Dear Mr Hallahan,

**RE: The Disability Discrimination and Other Human Rights Legislation
Amendment Bill 2008**

Arts Access Australia is the national peak body for arts and disability. We understand that the deadline for written submissions has now closed though we would appreciate your consideration of our input. We see the bigger picture potential of the Amendment Bill to effect a mainstream shift in thinking and expectations around disability and access to all areas of life including the ones we represent.

Accordingly we endorse the submission of the Australian Human Rights Commission and their recommendations.

In addition we wish to bring the following two international legislative examples to your attention as we know of the positive impact they have had in the arts and cultural sector and other areas of life for people with a disability:

1) USA Rehabilitation Act 1973 Section 504

In the US, the law states that if an organisation receives federal funding it must employ an access officer, commonly known as a 'section 504 coordinator'. The name refers to the relevant section of the Rehabilitation Act of 1973, which prohibits discrimination against people with disabilities. It is then the section 504 coordinator's role to raise the profile of access issues within the organisation.

2) UK Disability Equality Duty 2006

In December 2006, the UK Disability Discrimination Act of 1995 was amended through the Disability Equality Duty to place a positive duty on all public bodies to promote

disability equality. The intention is to bring about a shift in the legal framework from relying on individual people with disabilities complaining about discrimination, to a situation where the public sector becomes a proactive agent of change.

Informed by UK and US examples, Arts Access Australia expects that people with a disability will increasingly demand systemic change rather than feeling obliged to accept a piecemeal approach to access. The current legislative framework in Australia, under the Disability Discrimination Act, where an individual who has been discriminated against must complain to have their rights upheld is fundamentally inequitable. Instead Arts Access Australia wishes to see a positive duty placed on government and commercial providers of goods and services to be accessible. We are therefore particularly pleased to see the Amendment Bill:

- Making it explicit that a refusal to make a reasonable adjustment for people with disability may also amount to discrimination.
- Clarifying that the onus of proving unjustifiable hardship falls on the person claiming it.
- Shifting the onus of proving the reasonableness of a requirement or condition in the context of indirect discrimination from the person with disability to the respondent.

Finally, we are part of a partnership with the Arts Law Centre of Australia, University of Technology Sydney and Accessible Arts (NSW) investigating the relationship between disability discrimination and heritage legislation. We urge you to consider the 'Removing the Obstacles' report, submitted by Accessible Arts (NSW), as additional material.

Please contact me if you require clarification or further information by phone on 02 9518 0561, 0419 201 338 or email ed@artsaccessaustralia.org

Yours sincerely



Gareth Wreford
Executive Director