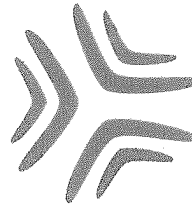


27 February 2009

Committee Secretary
House of Representatives
Standing Committee on Legal
and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

Submission No 61

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SM

Dear Secretary

RE: Draft Disability Standards for Access to Premises.

Arts Access Australia is the national peak body for arts and disability. As such we have a particular interest in how the Draft Disability Standards for Access to Premises will apply to cultural events, performing arts venues, museums and galleries, entertainment centres and cinemas.

We therefore note with approval Mr McClelland's statement on 2 December 2008 that: "The Rudd Government's view is that access to public and commercial buildings for all members of our society is critical for achieving social inclusion."

The particular value of the Standards, from Arts Access Australia's perspective, is that they will greatly reduce complexity by aligning building law and discrimination law.

In addition we see the need for the Premises Standards to be considered in the context of other legislative changes across Government including the implementation of the United Nations Convention on the Rights of Persons with Disabilities and the outcomes of the current Senate Standing Committee on Legal and Constitutional Affairs Inquiry into The Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008.

Arts Access Australia notes with approval the significant proposed changes that would place responsibility on the owner of the premises to provide adequate access including:

- 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.

Beyond the scope of this Inquiry, though of great practical interest for the implementation of the Premises Standards, is consideration of a specific funding program to assist arts and cultural, heritage and community based organizations to develop access plans that

include access to premises. Similarly we see a need for a resource publication that spells out the many things an organization can do with its goods and services and employment strategies, as well as improving physical access, to include people with a disability. The USA 'Design for Accessibility: A Cultural Administrator's Handbook' is a useful example that could be adapted and extended to suit Australian requirements:
<http://www.nea.gov/resources/accessibility/pubs/DesignAccessibility.html>

Arts Access Australia is 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*. This partnership has produced the 'Removing the Obstacles' report, by Carmen Siu and Courtney Weller. A central finding of the research is that: 'Heritage and disability legislation can co-exist such that physical access is provided for people with a disability while not impacting significantly on the heritage value of the venue.' The report goes on to recommend that the Premises Standards apply to existing buildings and reduce heritage as a factor in determining unjustifiable hardship.

In line with the 'Removing the Obstacles' report recommendations Arts Access Australia's particular issues with the draft Premises Standards are that:

- They will not apply to existing buildings, unless they are undergoing *significant* upgrade work. We ask that the Premises Standards apply to renovations, new additions, and existing buildings as part of their ongoing capital expenditure on maintenance and operational expenditure that affects the fabric of the building.
- In our experience, there is significant confusion about the relationship between heritage status and access issues and we are therefore concerned about the potential impact of the use of heritage alone as grounds for claiming unjustifiable hardship. We ask that the Premises Standards clearly articulate an expectation that heritage buildings are required to implement changes to improve access.

We recognize the concern among some community based organizations, especially those using inaccessible and / or heritage spaces, about potential adverse affects of the proposed Standards on the viability of their operations. Arts Access Australia encourages the Committee to provide hypothetical examples of the practical implementation of the Standards at the local level.

To discuss or clarify this submission please contact me by phone on 02 9518 0561,
or email ed@artsaccessaustralia.org

Yours sincerely

Gareth Wreford
Executive Director