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29 April 2009

Mr Mark Dreyfus QC MP
Chair
House of Representatives Standing Committee on
Legal and Constitutional Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Mr Dreyfus

While we appreciate that the period for formal submissions on the inquiry into the draft Premises Standards has ended we would like to raise an issue that so far has not been brought before the Committee.

That is the issue of access to the films shown in cinemas for Deaf people, blind people and people with a vision or hearing impairment.

Cinema access in this context means access to captions and audio description.

As you will be aware captions is the visual display of dialogue and significant other sounds whereas audio description (AD) is a service where additional commentary is provided to narrate the visual elements of a movie.

While there are a number of technologies that can deliver both captions and audio description there are currently only 11 cinemas in Australia that have the capacity to show captions. There are no cinemas in Australia equipped to provide audio description.

What this means is that while there is an abundance of films around the world which are captioned and/or audio described, the absence of infrastructure in Australia in the form of cinemas with the appropriate equipment installed, means that the enjoyment of cinema is only available for people who are Deaf or have a hearing impairment if they can access one of the 11 cinemas around Australia, and for people who are Blind or have a vision impairment, there are NO cinemas they can access. This limits access not just for those people, but includes their family members who want to accompany them, such as spouses, grandparents who want to take their grandchildren on an outing, parents whose children are Deaf, blind, or have a hearing or vision impairment, or people who are Deaf, blind, or have a hearing or vision impairment enjoying a social outing with friends to the cinema.



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The cinemas that do have captioning capacity have been operating for more than 7 years and despite vigorous attempts by the disability sector to gain the support of industry to expand this program there has been little change.

In frustration the disability sector has tried to achieve improvements through making discrimination complaints, but generally industry has refused to conciliate. Individual complainants have understandably been reluctant to pursue their complaints in the Federal Court (which is a costs jurisdiction) despite our strong belief that cinemas would not have access to a defence of unjustifiable hardship.

The Committee has heard testimony over the past few months about why it is so difficult to achieve systemic improvements in access to buildings through discrimination complaints processes and why therefore the Premises Standards are so important.

This issue is a perfect example of where systemic change is required and we believe important change could be achieved through the Premises Standards.

While the Premises Standards and Building Code of Australia (BCA) are primarily concerned with the actual construction of buildings there are parts of both that address how people actually use a building and access services operating out of it. Signage is one example.

A better example, however, is the provision in the Premises Standards and BCA for Hearing Augmentation. Hearing augmentation is required in very specific circumstances, principally where there is a built in PA system in places like cinemas, theatre and conference centres.

Like captioning and audio description, hearing augmentation can be delivered in a number of different ways and provides access for people with a hearing impairment to whatever event is taking place within the rooms where the augmentation is required.

A requirement, in specific situations, for the delivery of captioning and audio description in new and renovated cinemas through installation of audio description and captioning transmission facilities, would be similar to the existing Hearing Augmentation requirements of the Premises Standards and BCA.

While we would look to the ABCB for appropriate wording this issue could be addressed by simply including a requirement for a means of delivering captions and audio description in Class 9b buildings that are used primarily for the showing of feature films.

While the Minister for Broadband, Communication and the Digital Economy is currently undertaking an investigation into media access any recommendations he might make are likely to focus on the need to retro-fit existing cinemas in order to achieve parity with overseas cinema access requirements. He is unlikely to propose any new legislation or regulation in relation to cinemas.



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Addressing access in new and renovated cinemas through the Premises Standards is the most appropriate strategy and we would urge the Committee to make recommendations on this matter.

We would, of course, be happy to provide further information or evidence to the Committee should it be required.

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