

Submission to the inquiry into the Disability Discrimination and Other Human Rights Legislation as follows:

Thank you for the opportunity to submit and express my views on the proposed amendments to the Disability Discrimination Act. I fully endorse any amendments which will provide our disabled community with the ability to access society with equality, surety and without any form of discrimination whatsoever.

My interest is in the particular area of those disabled people who have the life long permanent necessity to be accompanied by a carer/assistant, and the proposed amendments covering direct and indirect discrimination definitions.

Whilst the intentions of the amendments may be to enhance the rights of the disabled, the proposed legislative changes are written by lawyers, for lawyers, the legal and court system, and magistrates. They really do not provide the clarity as to the rights of those who are affected by these amendments. To a layperson such as a parent or advocate, they are difficult and complicated to understand. This seems to me to be counterproductive in that the enhancements proposed are not, or may not be fully understood by those affected. This will be the case for the business proprietors or venue management who also will need to interpret the legislation so as not to discriminate against those who may wish to enter a paying venue.

The particular issue I have been trying to sort out for many years is in regard to fair ticketing for those disabled persons that require the assistance of a carer when accessing society. Most states of Australia have a Companion Card to identify those with the legitimate need to be accompanied by an assistant carer but the backup State and Federal Legislation is ad hoc and not specific. On all the associated websites it is stated that charging an entrance fee to both the disabled person and the carer has the affect of doubling the entrance fee for the disabled person and is discriminatory. This statement has never had a definitive determination by the courts, possibly because it is easier to walk away than to go through the difficult and expensive court process. With this in mind, reading the amendments to the Disability Discrimination Act, I do not see this issue being given the necessary clarity that is required. The "reasonable adjustment" requirement covers a multitude of areas and can provide a multitude of interpretations both by the business sector and the lawyers representing a client. To further add confusion to the "reasonable adjustment" requirement, Indirect Discrimination (3) states "Subsection (1) or (2) does not apply if the requirement or condition is reasonable, having regard to the circumstances of the case". These open ended broad approach statements are the dilution needed to provide a biased opinion as to whether it may or may not be discriminatory to charge a fee to both a disabled person and the assistant carer. Whilst the burden of proving the condition is reasonable lies with those that propose and require a disabled person to comply, the damage may already have been done. A charge of discrimination must be laid for a determination as to whether the condition is reasonable, but that would mean the disabled person either had to pay for both themselves and the assistant carer, or did not enter the paying venue. This does not provide carer reliant disabled people with the guaranteed surety they need to be able to venture into society and have equal and non discriminatory access. The wholesale process of laying a discrimination charge every time a venue considers it "reasonable" to charge both an entrance fee is not an improvement nor is it viable for all concerned. Further it should not be necessary for

a test case to be brought before a magistrate if the intention of the amendments is to advance and enhance the rights of the disabled who are affected by this issue on a regular basis.

I would like to see plain and concise wording, the intentions of the amendments with regard to fair ticketing for those that are accompanied by a carer. This situation is so common and affects tens of thousands of carer-reliant disabled people throughout Australia, that in my opinion, needs further and closer attention in the Act. Both the business sector and the disabled need this unambiguous clarity.

The Federal Government is in the process of issuing a National Companion Card, which will identify those carer-reliant disabled persons that have the legitimate need to be accompanied by an assistant carer. I would like to see a note or attachment to the legislation outlining the intentions with regard to those that present a Companion Card at a paying venue, with the "unjustifiable hardship" defence remaining available.

I further endorse the removal of the comparability wording from the legislation.

Geoff Bridger