



**Regulation Impact Statement on Draft Disability Standards for Accessible Public
Transport
Canberra
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TABLE OF CONTENTS

ABOUT THIS REGULATION IMPACT STATEMENT

SUMMARY

BACKGROUND

SCOPE

CONTENT

CONCLUSION

1 INTRODUCTION

1.1 DEVELOPMENT OF DRAFT STANDARDS

1.2 ROLE OF A REGULATION IMPACT STATEMENT

1.3 THIS DOCUMENT

2 CONSULTATION

2.1 DEVELOPMENT OF DRAFT STANDARDS

2.2 CONSULTATION ON THE CURRENT DRAFT STANDARDS

2.2.1 Submissions

2.2.2 Travel Patterns Survey

2.3 RIS CONSULTATION PROCESS

2.4 DRAFT RIS CONSULTATION STATEMENT

3 DEMAND FOR ACCESSIBLE PUBLIC TRANSPORT

**3.1 CURRENT MARKET ANALYSIS - PEOPLE WITH MOBILITY
HANDICAPS**

3.1.1 Overall Demographic Statistics

3.1.2 Mobility Handicaps by Severity

3.1.3 Ability to Use Mainstream Public Transport

3.2 CURRENT TRAVEL PATTERNS

3.3 FUTURE DEMOGRAPHIC AND MARKET TRENDS

3.4 EFFECTS OF IMPROVED ACCESSIBILITY ON PATRONAGE

3.4.1 Passenger Attitudes

3.4.2 Overall Patronage Impacts

3.4.3 Wheelchair Patronage Impacts

3.5 PROJECTED USAGE OF ACCESSIBLE MAINSTREAM SERVICES BY PEOPLE WITH DISABILITIES

3.5.1 Prospects for Increased Mobility

3.5.2 Likely Patronage Impacts from People with Disabilities

3.5.3 Likely Patronage Impacts from other Market Segments

4 APPRAISAL OF POTENTIAL OPTIONS

4.1 POTENTIAL OPTIONS

Option 1 Status Quo

Option 3 Industry Self-Regulation

Option 4 Non-Mandatory Guidelines

Option 5 Improving Specialised Transport Services

Option 6 Disability Standards for Accessible Public Transport

Option 7 Weaker Standards and/or Longer Compliance Timetable

Option 8 Stronger Standards and/or Shorter Compliance Timetable

4.2 DEVELOPING A 'SHORT LIST' OF OPTIONS

4.2.1 Options Rejected

4.2.2 'Short-Listed' Options

4.4 ASSESSMENT RESULTS

Option 1 Status Quo

Option 4 Non-Mandatory Guidelines

Option 6 Disability Standards for Accessible Public Transport

4.5 CONCLUSIONS ON PREFERRED OPTION

5 EXPECTED IMPACTS OF ADOPTING THE DRAFT DISABILITY STANDARDS

5.1 GROUPS AFFECTED BY IMPROVED ACCESSIBILITY

5.2 COMMUNITY IMPACTS

5.2.1 People With Disabilities

5.2.2 People Without Disabilities

5.2.3 Carers Of People With Disabilities

5.3 MAINSTREAM PUBLIC TRANSPORT SECTOR IMPACTS

5.3.1 Patronage Impacts

5.3.2 Operational Impacts

5.3.3 Financial Impacts

5.3.4 Impact on small business bus operators

5.4 OTHER TRANSPORT SECTOR IMPACTS

5.5 IMPACTS ON OTHER GOVERNMENT SERVICES

5.6 NET IMPACTS

5.7 CONCLUSIONS

6 FUNDING

6.1 MAINSTREAM PUBLIC TRANSPORT SYSTEM COSTS

6.2 POTENTIAL SAVINGS - OVERVIEW

6.3 DEDICATED SCHOOL BUS SERVICES - A SPECIAL CASE

Options

6.4 CHANGES TO REAR AXLE MASS LIMITS

6.5 ACCELERATED REPLACEMENT AND RETRO-FIT

6.6 PROVISION OF WHEELCHAIR SPACES IN FULL SIZED ROUTE BUSES

6.7 LIMOUSINES/HIRE CARS

6.8 SMALL AIRCRAFT

6.9 MECHANISMS FOR PROVIDING GREATER CERTAINTY

6.10 POSSIBLE FUNDING OPTIONS

PUBLIC TRANSPORT PROVIDERS

PUBLIC TRANSPORT USERS

GOVERNMENTS

7 IMPLEMENTATION OF THE DRAFT STANDARDS

7.1 IMPLEMENTATION TIMETABLE

7.2 ENFORCEMENT MECHANISMS AND ISSUES

7.3 FLEXIBILITY OF STANDARDS

7.4 CONSISTENT APPLICATION OF THE STANDARDS

7.5 INTER-RELATIONSHIP WITH OTHER STANDARDS & REQUIREMENTS

8 REVIEW PROCESS

8.1 REVIEW MECHANISMS

8.2 OTHER REVIEW ISSUES

BIBLIOGRAPHY

ABOUT THIS REGULATION IMPACT STATEMENT

This Regulation Impact Statement (RIS) has been prepared by the Commonwealth Attorney-General's Department to assist Governments to make decisions regarding the provision of non-discriminatory transport services to people with disabilities. The early preparatory work for this document was carried out on a consultancy basis by transport consultants, Booz Allen and Hamilton (Australia) Ltd. In May 1997 the Australian Transport Council (ATC) requested that the RIS be prepared using up to date figures from each State and Territory. This process was facilitated by the development of a questionnaire which was responded to by each State and Territory by March 1998, with the exception of the Northern Territory whose response was received in June 1998. Information received from the Northern Territory has been included in this final RIS.

The consultancy contract with Booz Allen did not provide sufficient funding for them to be involved in this final stage of the process. However, Booz Allen & Hamilton did complete a brief review of the Attorney-General's Department interpretation, and use, of information provided by the States and Territories in relation to bus and coach services.

While others have assisted in the preparation of this document, it is finally the work of the Commonwealth Attorney-General's Department which remains responsible for its content. The content of the RIS has been cleared by the Office of Regulation Review.

The RIS is a summary of the findings of a series of working papers also prepared, on the whole, by the Attorney-General's Department. These working papers cover the various modes of transport, as well as revenue and cross-sector benefits issues. The working papers on cross-sector benefits, impacts of improved accessibility, potential patronage impacts and other transport sector cost impacts were prepared by the consultants, Booz Allen & Hamilton. Copies of these supporting documents are available from the Attorney-General's Department. All documents are available in a range of accessible formats.

The process of consultation on the draft of this document is outlined in Chapter 2. The final RIS has been prepared taking into account the wide range of views expressed during the consultation phase. Where possible, comments on the content of the draft RIS have been directly incorporated into this document. In some areas, however, submissions on the draft RIS reflected diametrically opposed views on the document. Where these views are irreconcilable, they have been summarised in Chapter 2 in a qualitative manner.

Adoption of the preferred option (Option 6 - Disability Standards for Accessible Public Transport) has been estimated in the RIS to result in quantifiable costs of \$3,744 million, and quantifiable benefits of \$2,655 million over 20 years. These figures do not include costs and benefits of a qualitative nature, nor do they include outcomes from the adoption of recommended changes to the draft standards discussed in Chapters 6 and 7. Further, due to a lack of information, it has not been possible to comprehensively assess the costs and benefits of adopting the preferred option for all transport sectors.

SUMMARY

Background

Access to mainstream public transport is something that the majority of us in urban Australia take for granted. For those with mobility disabilities access is, for the most part, simply not available. Federal, State and Territory Parliaments have recognised that people with disabilities should, as far as possible, have access to the same rights as their fellow citizens. Section 3 of the Commonwealth's *Disability Discrimination Act 1992* (the DDA) states that the objects of the Act 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 persons 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 persons with disabilities have the same fundamental rights as the rest of the community.

However, the DDA also recognises that these rights do not mean access at any cost; there must be a balance between benefit and cost. Phrases such as 'as far as possible' and 'as far as practicable' highlight the need for a balanced approach. The legislation is necessarily broad in its wording, leading, when combined with the need for balance between competing interests, to significant uncertainty.

The DDA contains a number of mechanisms to deal with this uncertainty. These include the development of disability standards, designed to spell out in greater detail the rights and obligations provided by the DDA. The Regulation Impact Statement process is a structured mechanism for assessing whether the correct balance has been achieved in the development of such standards.

The preparation of this RIS has taken two years. This is, in itself, an indication of the complexity of the issues concerned. There has been significant involvement of all key stakeholders in this process.

The initiative to develop the draft disability standards, entitled 'Disability Standards for Accessible Public Transport' came from the Australian Transport Council. The ATC adopted the draft standards in principle in May 1996, subject to the development of a RIS.

Scope

The impact of the draft standards on all modes of transport has been assessed in the RIS, taking into account the up-to-date information provided by all States and Territories, and the wide variety of views expressed during the consultation phase.

It should be noted that there were a number of discrepancies between the information provided by the different State and Territory governments in response to our questionnaire. In most cases it has been possible to reconcile these differences, which were often based on a different interpretation of the original questions asked. However, in some cases it has not been possible to reconcile them, and in those cases the information provided by the various sources has simply been reproduced. Given our lack of technical expertise in the area of transport, this was agreed by most stakeholders to be the most appropriate approach to take in the circumstances. It should also be noted that we have recently been informed that Tasmania is currently undertaking a review of the figures provided to us in early 1998 for inclusion in the draft RIS. Officers from the Tasmanian Department of Transport have informed us that, as a consequence, some information in the final RIS document may not accurately reflect the current status in Tasmania.

The RIS does not provide detailed costings for the airline industry, nor for limousines and hire cars. Separate consultations have been undertaken with the Regional Airlines Association and with airport operators in relation to access. An application is expected to be made to the Human Rights and Equal Opportunity Commission (HREOC) for an exemption regarding aspects of regional airline services. Assuming the application is received as expected, HREOC will hold a public inquiry into this application. If for some reason the application is not received, HREOC will conduct some other form of public inquiry into issues in the area. We believe that HREOC's inquiry will provide an opportunity to determine best practice in relation to this area of the industry. We have therefore recommended, in so far as physical access is concerned, that Ministers reserve this area of the industry from the draft standards until the results of this inquiry are known.

In relation to limousines and hire cars, we note that, as these vehicles do not operate on the same basis as taxis, and are a pre-booked and often unique service, there is a strong argument that it would not be practical or viable to have the draft standards apply to them as they would apply to a standard taxi service. On this basis, and

following detailed discussion with State and Territory transport officials, we have recommended that Ministers consider removing provisions relating to limousines and hire cars from the draft standards.

It has not proved possible to obtain comprehensive estimates of the cost of complying with the draft standards from all major ferry operators. For example, little information was received from the States and Territories regarding the incremental capital costs associated with implementation. However, an estimate of minimum cost has been made.

For the purposes of assessing costs, we have not included any vessel smaller than 20m in length. This decision was made on the basis of detailed discussions with the States and Territories. Given the considerable structural, safety and infrastructure difficulties associated with making small vessels accessible in accordance with the draft standards, we have recommended that Ministers consider excluding, in relation to physical access, vessels less than 20m in length from the application of the draft standards. In our view, any such vessel would, in any case, be unlikely to be covered by the draft standards on the basis of unjustifiable hardship.

Safety issues associated with implementation of the draft standards in the marine context are not limited to small vessels. Issues relating to appropriate restraints, emergency escape procedures and appropriate boarding facilities also arise in the context of sea-bearing vessels. Following discussions with State and Territory transport officers, we have also recommended that Ministers consider limiting the operation of the draft standards, in so far as physical access features are concerned, to vessels operating river and estuary services.

Content

The objects of this RIS are two-fold:

- (1) to decide how best to move towards better access for people with a disability to public transport while at the same time balancing the costs to industry and the community; and
- (2) to provide greater certainty to all stakeholders than is currently possible under the DDA and equivalent State and Territory legislation.

Chapters 1 & 2

Chapters 1& 2 of the RIS outline the process that has been undertaken to this point and, in particular, detail the consultations that have taken place up to now.

Chapter 3

Chapter 3 assesses the likely demands for accessible public transport. It is clear that increasing demand for accessible public transport will come from a variety of groups, in particular in relation to buses and trains. These groups include parents with small children, aged persons and people with heavy shopping or luggage. People with temporary disabilities will also benefit. This is in addition to people with a permanent mobility disability and, in particular, people in wheelchairs. On the basis of the available evidence, Booz Allen & Hamilton have estimated that the increase in patronage on low floor buses will be in the order of 5%-13% in the longer term. There

has been considerable controversy concerning this estimate, with some commentators claiming that it is too high and others suggesting that it is much too low. On balance, we believe that the estimate is reasonable. It should be noted that, for the purpose of calculating increased revenue, an overall patronage increase of 5.5% has been assumed to be realised by year 20. This is based on an assumption that there will be a 9% increase in patronage on low-floor buses, and no increase in patronage on high floor buses, 20 years from the date of implementation.

Chapter 4

Chapter 4 of the RIS outlines the eight options considered in this RIS, and the reasons for choosing Option 6: 'disability standards for accessible public transport' for further consideration. In essence, disability standards offer a means of clarifying the obligations of service providers under the DDA by providing a detailed time table of implementation. Further, because the draft standards are performance based, they offer flexibility in implementation. That flexibility is improved by the addition of the concepts of unjustifiable hardship, and equivalent access.

'Unjustifiable hardship' provides a defence for non-compliance with the draft standards where the imposts of compliance would outweigh the benefits. 'Equivalent access' allows a service provider to achieve the desired outcome by an alternative means. For example, by providing a manually deployed ramp instead of an hydraulic one.

The definition of 'equivalent access' in the draft standards expressly excludes separate or parallel services as a means of compliance. The question of running parallel services as a means of providing equivalent access was raised during the consultation phase, in particular by the private bus and coach industry. People with disabilities have always rejected the use of para-transit as an alternative to accessible mainstream public transport on the basis that parallel services are not equivalent services. This conclusion is based on the fact that parallel services are generally not run on a regular and frequent time table, do not run on the same lines as regular route services, often require booking ahead, and do not allow for interaction with other members of the public.

This is not to say that parallel services should not be used in circumstances where an operator has been able to demonstrate that unjustifiable hardship applies. Nor is it to say that people with a disability are entitled to better services than the general public. Where, due to passenger demand, irregular mini bus services (for example) are run in a particular town or suburb, equivalent access requires only that people with a disability have access to an equivalent service. It does not have the effect of limiting an operator's flexibility to choose suitable mainstream public transport services for that town or suburb.

The draft standards should increase the likelihood of a consistent approach to the issue of accessible public transport, ensuring compatibility between conveyances, premises and infrastructure. The standards approach therefore achieves greater certainty for all stakeholders and should have the capacity to provide seamless access for people with a disability.

Chapter 5

Chapter 5 of the RIS assesses the costs and benefits of implementation of the draft standards. It is estimated that the overall costs of implementation of the draft standards will be in the order of \$3,744 million over 20 years. This figure takes account of estimates for additional revenue flowing from the potential increase in patronage. Based upon the projected increase in patronage for buses and trains, it includes an additional revenue estimate of \$591 million over the 20 year period. Consultations on the draft RIS have revealed that there is considerable controversy surrounding the question of costs. Submissions on the draft were received from eminent academics arguing that the figures were too low. Others were received arguing that the figures were too high. This issue is more fully discussed in chapter 5. Recognising that any estimate of cost in these circumstances can be no more than a projection, and that the cost estimates in the RIS are based up-to-date operational information provided by the States and Territories, we believe that they represent a fair and reasonable compromise between the two irreconcilable extremes.

The RIS separately considers the cross-sector benefits that may flow from implementation of the draft standards. Identified cross-sector benefits include reduced expenditure on the provision of community services (such as home care, social work visits, residential and day care). They also include the potential for greater employment opportunities for people with a disability resulting from increased mobility. Costs associated with transport to and from work (for example in taxi fares), as well as the unreliability associated with existing options, are currently a very significant disincentive to people with a disability taking employment (see the background paper on Cross-Sector Benefits). A submission on the draft RIS from an employment agency for people with disabilities provided specific examples of clients being forced to give up employment due to the cost of travelling to and from work in taxis (which in some cases equalled approximately 45% of daily gross wages). Cross-sector benefits were estimated by our consultants at \$2,655 million. A number of submissions on the draft RIS were critical of this estimate and it remains controversial.

In summary, taking into account the cross-sector benefits estimated by Booz Allen & Hamilton, the overall net cost is in the order of \$1,089 million over 20 years. A significant part of this estimated cost relates to the need for additional buses to compensate for capacity lost due to the allocation of floor space to wheelchairs. This cost is estimated at \$693.4 million. Another substantial cost relates to the need to modify bus and rail infrastructure. The estimated cost for modification of bus stops and railway stations over the 20 year implementation period is approximately \$628 million and \$767 million respectively. Chapter 5 notes that a mechanism needs to be developed to ensure the equitable distribution of both costs and benefits resulting from implementation of the draft standards.

Chapter 6

Chapter 6 looks at options for funding. Before detailing these options, however, it outlines a number of issues that should be considered by Ministers as a means of reducing the potential cost of implementation of the draft standards. The most significant issue discussed in this context relates to dedicated school bus services. Dedicated school bus services transport students to and from school daily. It is estimated that the cost of making these services accessible is \$1,265 million over 20 years. Removing that cost would reduce the total cost of implementation of the draft

standards to approximately \$2,479 million. As there is very limited access by the general public to dedicated school bus services, the benefits of improved accessibility on these services do not extend to parents with small children, people with shopping or luggage, the frail aged or people with temporary disabilities who are able to benefit from improved accessibility on mainstream public transport services. Further, dedicated school bus services run on a very small profit margin and are almost entirely government funded.

The benefit to be derived from compliance of these services with the draft standards does not appear to justify the resulting costs. Chapter 6 outlines a range of alternatives for dealing with this issue.

A large number of submissions were received, during the consultation phase, from dedicated school bus operators who highlighted difficult terrain, poor infrastructure, cost, potential legal liability and lack of demand in support of the proposal to exempt dedicated school bus services from the draft standards. Against this background, and taking into account a number of submissions received from representatives of the disability community which advocated the development of solutions at a local level in consultation with relevant stakeholders, we have recommended that Ministers consider exempting dedicated school bus services, in respect of physical access, from the operation of the draft standards. This should be on an understanding that the relevant State/Territory Government and the school bus service provider will develop a regional action plan to provide appropriate solutions to access, where required, at a local level. We do not recommend that this exemption cover other access issues such as signage, symbols and the like.

Chapter 6 also points out that there are significant costs, in particular in relation to buses, trains and trams, associated with accelerated replacement and retro-fitting of conveyances to meet the time table set out in the draft standards' compliance schedule. Retro-fitting of rolling stock in relation to rail alone is estimated to cost approximately \$155 million. If the timetable in the compliance schedule was extended, these costs would become negligible. Chapter 6 recommends that the time table for compliance with the draft standards be extended to 30 years for trams and trains. It also recommends that the target of 90% compliance in bus fleets by year 15 be reduced to a target of 80%. This change would not affect the need to achieve full accessibility by year 20.

We note that a proposal is currently being considered by the National Road Transport Council to allow for additional weight over the rear axle of full sized route buses. If this proposal is accepted, it will have a significant impact, in particular for New South Wales State Transit, on the costs associated with lost capacity resulting from implementation of the draft standards. The RIS on this proposal is expected to confirm that, if the rear axle limit was raised by one tonne, there would be no difference in standing capacity between a high floor accessible bus and a low floor accessible bus. State Transit has confirmed that if the proposal was to go ahead, the eight standing positions that would have been lost as a result of implementation of the standards would be regained. This has a significant effect on cost figures for New South Wales.

The question of providing greater certainty than is achievable through the complaints process, in particular in relation to issues such as unjustifiable hardship and equivalent

access, was considered during the consultation phase. Chapter 6 outlines a number of possible options for dealing with this issue. These include amending the draft standards and the DDA to allow the Human Rights and Equal Opportunity Commission to give an up-front exemption from the operation of a provision of the standards, and any corresponding provision of the DDA, on the basis that unjustifiable hardship or equivalent access applies in respect of particular circumstances.

Finally, Chapter 6 suggests that a mixture of possible funding options appears appropriate. The sole three possible sources of funding are: public transport users; public transport operators; and governments.

Chapter 7

Chapter 7 deals with implementation issues and highlights the major problem of dealing with the interim period before the public transport system is made fully accessible. It highlights concerns expressed about the complaints process (through the Human Rights and Equal Opportunity Commission) being the principal means for enforcing the standards.

It also outlines some concerns regarding the practical application certain elements of the standards. Submissions on the draft RIS from a number of States and Territories indicated that experience with the draft standards to date has identified a number of areas where the technical detail may need modification. These submissions emphasised that a mechanism needs to be established to review the specifics of some elements of the draft standards prior to implementation. A list of the identified problem areas is included in Chapter 7. Many of these problems appear to relate to the fact that some clauses in draft standards require compliance with Australian Standard 1428.2; 'Design for access and mobility; Enhanced and additional requirements - Buildings and facilities' to ensure compliance with the draft standard in a particular area. As AS 1428.2 relates to buildings, not conveyances, it would appear that reference to AS 1428.2 is not appropriate in all circumstances.

Chapter 8

Chapter 8 considers issues relating to monitoring and review. It has become clear, through discussions with the States and Territories as well as a number of stakeholders, that an early review of the draft standards should be conducted. We have recommended that the first review occur within two years of their coming into force.

Conclusion

The RIS process has demonstrated that the concept of a disability standard relating to accessible public transport is sound. There is a great need for as much certainty as possible, in particular for transport owners and operators, in the application of legal obligations for the provision of accessible public transport. On the other hand, the cost of implementation of the draft standards will be high. Some of that cost will be borne exclusively by transport operators and infrastructure providers, such as Local Government. This will be particularly so in the early years of implementation.

In assessing the potential impact of implementation of the draft standards on public transport operators, the broader context of that impact must be borne in mind. The operation of legislation like the DDA, and equivalent State and Territory anti-

discrimination laws, has a cost in itself. That cost is unquantifiable, but it is likely to be significant and is necessarily ad hoc, resulting in inefficiencies.

Whether or not the appropriate balance has been struck by the draft standards will in the end be a matter for governments to decide. The consultation process has confirmed that there are a wide variety of diametrically opposed views on the magnitude of any costs or benefits resulting from implementation of the draft standards. What is clear both from the RIS and the consultation phase, however, is that there are very large costs associated with implementation of the draft standards. What is also clear is that there are significant and unquantifiable benefits, especially for people with disabilities, but also for the general community, in having an accessible public transport network. Apart from the obvious benefits of accessible public transport to parents with children in prams, people with shopping and luggage, the frail aged and people with temporary disabilities, the benefit of improved public transport accessibility to people with disabilities, and hence to all Australians, should not be underestimated. Improvement of opportunities for participation by all members of our society in everyday life has an inherent, if unquantifiable, benefit for our whole community.

1 INTRODUCTION

People with disabilities face barriers to equal enjoyment of many activities that others take for granted. In response to broad community concern for the rights of people with disabilities, legislation has been developed at both the Commonwealth level — *Disability Discrimination Act 1992* — and the State and Territory level to assist in breaking down the social and economic barriers faced by people with a disability, and to provide people with a disability with the same opportunities and choices as other members of the community.

In the transport area, the current extent of this disadvantage is revealed by statistics dealing with comparative travel patterns for people with a disability and the general community. In particular, people with disabilities:

- travel less frequently than members of the general community — typically making about 8 as opposed to 24 trips weekly;
- are much less likely to be able to drive — making only 23% of their trips as drivers where adult members of the general community make 60% of their trips this way; and
- rely extensively on often unreliable and/or expensive passenger modes, including special bus services, taxis and private car travel as a passenger which, in aggregate, account for 65% of all trips they make; members of the general community, by contrast, make only 23% of their trips by dependent modes (Vintila, 1997).

These travel patterns contribute to reduced levels of personal independence and social integration, which adversely affect the quality of individual lives and increase the community support burden. In particular, people with disabilities:

- rely much more heavily on income support than members of the general community — people with mobility disabilities aged 15-64 are half as likely to be in the workforce and twice as likely to be unemployed;
- earn less than members of the general community — almost twice as many people with mobility handicaps of working age earned less than \$300 per week compared with the general community; and

- are less likely to share in recreational and social lives of the communities in which they live — US research has shown, for example, that they are much less likely to go to the movies, to live theatre, to sports events or to restaurants (Vintila, 1997).

1.1 DEVELOPMENT OF DRAFT STANDARDS

Following the introduction of the *Disability Discrimination Act 1992*, a Standards Working Group was established by the former Attorney-General to advise on the need for, and development of, disability standards under section 31 of the Act. That Group identified employment, access to premises, transport, education and Commonwealth information services as priority areas for the development of standards.

Disability standards are designed to spell out in greater detail the rights and obligations provided by the DDA.

In 1995, a Taskforce was established to develop disability standards for accessible public transport. This Taskforce reported to the Australian Transport Council (ATC), the peak decision making body of the Federal, State and Territory transport Ministers. It was chaired and supported by the New South Wales Department of Transport and comprised representatives of key stakeholder groups, including representatives from the States and Territories, the disability community and the Australian Bus and Coach Association.

The Taskforce Secretariat developed an initial draft of disability standards for accessible public transport, which was released for comment in September 1995. Following the receipt of submissions, the initial draft was reviewed by the Taskforce Secretariat and modified draft standards were accepted in principle by a consensus vote of the Taskforce.

The draft standards cover a range of areas, including access paths and manoeuvring areas, symbols, signs, lighting, handrails, street furniture and information services. Each paragraph in the draft standards states whether it applies to conveyances (buses, ferries, charter boats, trains, trams or light rail), premises and/or infrastructure. For example, the draft standards require that access paths allow unhindered passage to be provided along walkways, ramps and landings. This requirement applies to conveyances, premises and infrastructure. A schedule outlines the proposed time table for compliance with the standards' requirements. Target dates are set at 5, 10, 15 and 20 years. As an example (subject to the operation of the 'unjustifiable hardship' provision outlined below), 25% of buses must be accessible in accordance with the standards within 5 years of formulation; 55% within 10 years; 90% within 15 years; and 100% within 20 years.

In a June 1996 communiqué, the ATC noted that the standards were a 'technically feasible' way of making public transport accessible over the next 15-20 years in accordance with the DDA and relevant State/Territory legislation. It also re-affirmed its support for a standards based approach as the preferred means of responding to the DDA and similar State/Territory based legislation.

The ATC referred the draft standards to the Attorney-General for consideration and authorisation following the preparation of a Regulation Impact Statement. The ATC noted that it was particularly interested in receiving additional information on the likely costs and benefits of implementing the standards, and on the likely number of people with a disability who would make use of accessible public transport.

The development of this draft was overseen by a Steering Committee, chaired by the Commonwealth Attorney-General's Department, with representatives from:

- public and private sector public transport operators;
- Local Government;
- State/Territory transport departments; and
- consumer organisations.

The Steering Committee met with the Office of Regulation Review to discuss the detailed requirements of a RIS. In December 1996, Booz Allen & Hamilton (Australia) Ltd was commissioned to commence preparation of the RIS relating to the implementation of the draft standards.

An initial draft was prepared by Booz Allen. Given the short time frame initially set for this exercise the consultants had to rely on existing evidence. Much of what was then available was from overseas. As a result the ATC was concerned about the ability of such data to form the basis of an accurate cost/benefit analysis.

In May 1997 the ATC requested that States and Territories provide up to date and accurate information on the impact of the implementation of the draft standards, based upon actual operating experience. There was not sufficient funding for the consultants to be involved with this phase of the exercise. A detailed questionnaire was prepared by the Attorney-General's Department in consultation with State Transport Departments. That questionnaire was circulated in August 1997. It was comprehensive and required significant original research. As a result final results were not available until mid-March 1998.

This RIS draws extensively on the preparatory work done by Booz Allen but in terms of the statistics, particularly for cost estimates, relies primarily on new information provided by the States and Territories. It also draws on updated material from individual bus operators, and organisations such as the Australian Bus and Coach Association and the Australian City Transit Association. Where possible, the RIS also incorporates material received during the consultation phase on the draft RIS.

While this document is essentially the responsibility of the Commonwealth Attorney-General's Department, significant input and assistance has been provided by others. Throughout its development there has been extensive discussion with State and Territory Transport Departments and with members of the RIS Steering Committee. Booz Allen & Hamilton completed a brief review of our interpretation, and use, of information provided by the States and Territories in relation to the bus and coach industry.

There is new information coming to light on this issue on almost a daily basis, with the effect that there will always be scope for additional work to be done to further refine estimates of cost and benefit in this area. However, this document represents the best material that could be gathered in the time frame, and with the resources, that were available.

1.2 ROLE OF A REGULATION IMPACT STATEMENT

Since 1985, the Commonwealth Government has had in place a policy for assessing regulations and their impacts. This policy requires that new or amended regulations impacting on business be referred to the Office of Regulation Review (ORR) and be accompanied by a Regulation Impact Statement, or if applicable, a waiver granted by the ORR. The requirement for the preparation of a RIS has been extended to include other situations such as reviews of regulations as part of the Competition Principles Agreement.

The RIS procedure involves a systematic and comprehensive assessment of a regulatory proposal, and alternative means, for overcoming specified social or economic problems. The RIS is required to cover four broad areas:

- the objectives being sought;
- a number of options or alternative means for achieving the objective;
- an assessment of the impacts, or costs and benefits, of the proposal on consumers, business, government and the community as a whole; and
- issues relating to implementation and review of the preferred option.

The RIS document is designed to bring together key information on the effects of a regulatory proposal, and its main options, to assist decision making by government. It is also designed to allow for input from interested parties through the requirement for consultation with key stakeholders. Ideally, the RIS should demonstrate that a preferred option is necessary to overcome a specified problem, cost effective and in the best interests of the community.

1.3 THIS DOCUMENT

This Regulation Impact Statement provides an assessment of the preferred option for implementing the requirements of the DDA (and parallel State and Territory legislation) in the public transport area against the following objectives:

(1) to decide how best to move towards better access for people with a disability to public transport while at the same time balancing the costs to industry and the community;

(2) to provide greater certainty to all stakeholders than is currently possible under the DDA and equivalent State and Territory legislation.

This RIS focuses on identifying and assessing potential options to best implement these objectives. It assesses the merits of the disability standards for accessible public transport, which is the preferred option of the ATC, relative to other options. As required by the RIS process, this document also considers the impacts of improved public transport accessibility and associated implementation and review issues.

2 CONSULTATION

Consultation is an integral part of the RIS process. The development of the current draft standards incorporated significant input from consultations, and further consultation opportunities arose through the RIS process. This chapter summarises the key elements of those consultation processes.

2.1 DEVELOPMENT OF DRAFT STANDARDS

The initial draft disability standards developed by the Standards Taskforce on Accessible Public Transport were released for public comment in September 1995. A total of 205 submissions were received on the initial draft representing a broad range of organisations and interests including:

- people with disabilities and groups representing people with physical, intellectual, visual, aural, chemical, psychiatric, and head injury disabilities;
- groups and individuals providing support services to people with disabilities;
- transport operators covering rail, bus, coach, air, and taxi services etc.;
- community transport providers;
- health service organisations;
- representatives of the elderly;
- legal centres and services;
- Local Government; and
- State/Territory and Commonwealth Government departments representing transport, community services, the aged and people with disabilities.

These submissions raised a number of concerns and issues that were taken into account in the development of the current draft standards, which were publicly released in June 1996.

2.2 CONSULTATION ON THE CURRENT DRAFT STANDARDS

As a first step in the consultation process associated with the development of the RIS, the current version of the draft standards was forwarded to a wide range of people for information and comment. In line with ATC concerns, information was sought particularly on the likely costs and benefits of implementing the standards and the likely number of people with a disability who would make use of accessible public transport. In addition to a copy of the draft standards, people with disabilities were forwarded a questionnaire seeking information on the likely usage of accessible public transport, current travel patterns and costs, and likely benefits of accessible public transport. People were also alerted to development of the RIS and were encouraged to comment on the draft RIS when it became available.

Consultation with people with a disability was undertaken with the assistance of the Disability Standards Project which is a group of peak representative bodies of people with a disability. This body is funded by the Attorney-General's Department.

2.2.1 Submissions

Submissions from a range of organisations were received by the Attorney-General's Department on the current draft of the disability standards. In addition, a total of 750 representations were made by dedicated school bus operators seeking exemption from the draft standards for their operations.

2.2.2 Travel Patterns Survey

A self-completion survey intended to provide some evidence of current transport usage and the likely use of accessible public transport by people with disabilities was distributed by the Attorney-General's Department in conjunction with the current version of the draft standards.

Approximately 5,000 responses to this questionnaire were received from people with a disability. The principal results of the survey can be summarised as follows:

- Only 35% of respondents currently use mainstream public transport (i.e. buses, trains, trams and ferries).
- Nearly half of all respondents (47%) indicated that they rely primarily on accessible taxis to meet their travel needs, although most indicated that they would readily switch to public transport if it was accessible.
- The main impact of switching to public transport for those largely dependent on accessible taxis will be financial. The average user of accessible taxis spends four times as much as mainstream public transport users on transport. Some 16% of respondents indicated that their activities are restricted due to the cost of accessible taxis. 26% of respondents indicated that they have given up, or refused offers of, work because of the cost of daily travel in accessible taxis. These people believe that with accessible public transport they will be able to find and maintain employment.
- Accessible taxi users also spend more time travelling (including waiting time) than people using mainstream public transport (3.8 hours compared with 2.5 hours a week, on average). Many indicated that one of the key benefits of accessible mainstream public transport would be the ability to make spontaneous journeys.
- Of current public transport users, around 60% indicated that they would make at least two extra return journeys each if there was better signage, lighting, hearing loops, ramp infrastructure and physical access to buses.

As part of the process of developing this draft there were discussions with many interested parties, and members of the RIS Steering Committee were very active in consulting with the groups they represent.

2.3 RIS CONSULTATION PROCESS

The RIS consultation process effectively commenced with the release of the current draft standards in June 1996 and the subsequent provision of submissions to the Attorney-General's Department. This process has continued throughout the last two years.

Consultation on the draft RIS involved distribution to and/or discussions with:

- peak industry bodies and individual operators from each public transport mode (bus, rail, taxi, air, sea etc.);
- State/Territory and Commonwealth transport departments;
- Local Government;
- the Commonwealth Attorney-General;
- State/Territory and Commonwealth Transport Ministers; and

- representatives of the disability community (via a comprehensive round of consultations developed in co-operation with the Disability Standards Project, and incorporating people with disabilities from diverse cultural and linguistic backgrounds).

In addition, submissions were received from a wide range of interested parties. A detailed consultation statement outlining the views of the various stakeholders follows.

2.4 DRAFT RIS CONSULTATION STATEMENT

The consultation process

The draft Regulation Impact Statement was released for public consultation on Friday 14 August 1998. Submissions on the draft RIS were sought by Friday 9 October 1998. Some allowance was made for late submissions in light of the unavoidable delay in the release of the draft RIS.

A total of approximately 975 submissions were received on the draft RIS. The best part of these were form letters from the disability community (750) and from rural bus and coach operators (100). Approximately 125 substantive submissions were received. These submissions were made by a range of stakeholders, including: peak industry bodies; bus and coach operators; taxi operators and co-operatives; ferry operators; limousine operators; airlines; airport operators; peak disability bodies; peak bodies representing the aged; peak bodies representing carers; individuals with disabilities; community legal centres; employment agencies; local government associations; and Local, State and Commonwealth Government agencies. A list is included at the end of this document.

Submissions received

While submissions on the RIS varied significantly, there were a number of common themes. The following paragraphs briefly summarise comments received in a number of key areas. Where possible, comments on the content of the draft RIS have been directly incorporated into the final RIS. In some areas, however, submissions on the draft RIS reflected diametrically opposed views on the document. Where these views relate to estimated costs and benefits, and are unreconcilable, they have been summarised in the RIS in a qualitative manner. The corresponding figures remain unchanged.

Options

Chapter 4 of the draft RIS discussed a number of possible options for improving the accessibility of mainstream public transport. After briefly considering the merits of each option, it concluded that Option 6 (disability standards for accessible public transport) was the preferred option.

All but one submission received from the disability community supported this conclusion. Similarly, each of the State Government submissions supported Option 6 in principle. The Australian and South Australian Local Government Associations indicated support for Option 4 (non-mandatory guidelines). This position was based on the fact that neither Association was confident that adequate Commonwealth or State funding for implementation would be forthcoming. Both Associations

highlighted the critical need for communities, transport providers, operators, State/Territory and Local Government to address the poor coordination of public transport services. Despite the views of their peak representative bodies, a number of individual Council submissions indicated support for implementation of the standards.

The Commonwealth Treasury submission suggested that some of the other options mentioned in the RIS might warrant further discussion. The key question raised by that submission was whether there 'are cheaper ways of achieving the desired outcome'. Treasury suggested that the option of improving specialised transport could be elaborated on. A more detailed discussion of parallel transit services is provided below. The Treasury submission also suggested that the RIS should explain how the disability standards proposed in Option 6 are consistent with the Council of Australian Governments ('COAG') 'Principles and Guidelines on Standard Setting and Regulatory Action', given the prescriptive nature of some elements of the existing draft standards. The Office of Regulation Review ('ORR') has advised that the COAG Guidelines do allow for a certain amount of prescription in standards, provided that the case for that prescription is adequately made out. As noted above, the content of the RIS, including Chapter 4, has been cleared by ORR.

Submissions from the Commonwealth Departments of Veterans' Affairs and Social Security, and the former Department of Health and Family Services, indicated support for the draft disability standards. New South Wales State Transit expressly stated its support for the standards, noting that the standards have an important role to play in improving certainty and clarity. State Transit's view is that the standards should be supported and introduced without further delay.

Private industry submissions on the draft RIS did not expressly reject or state support for any of the options outlined in Chapter 4.

Cost estimates

A number of submissions raised concerns about the comprehensiveness of the cost information provided in the draft RIS.

The Tasmanian Department of Transport noted the lack of comprehensive cost information in relation to the airline, limousine and ferry industries, and indicated that lack of this information made it difficult to make a final decision about general application of the standards within the proposed time frame. The Commonwealth Treasury indicated a similar view and suggested that full costings should be obtained that could be agreed on by all relevant transport and infrastructure providers and jurisdictions. Given the vastly different views on the accuracy of the costings in the draft RIS, this was not possible within the given time frame. However, additional cost information has been provided in relation to the airline industry, and relevant recommendations have been made to Ministers to accommodate concerns relating to the potential impact of the draft standards on the limousine/hire car and ferry industries.

The Australian Bus and Coach Association commissioned the University of Sydney (Professor Hensher, Director of the Institute of Transport Studies) to review the cost estimates in the draft RIS. Professor Hensher suggests that the draft RIS under-

estimates the costs of compliance with the standards for the private bus industry by at least \$1 billion. In his view, good commercial practice (in line with social obligations under the current passenger Transport Acts in the States and Territories) would not have directed the investment program that would be needed to comply with the proposed standards.

On the other hand, a submission received from Dr Sandra Rosenbloom (Professor of Planning, Director of the Drachman Institute, the University of Arizona) estimates that the draft RIS over-estimates costs by at least \$600 million. In Dr Rosenbloom's view the draft working papers and the draft RIS show a decided preference for selecting those assumptions which show increased costs and reduced benefits.

Many submissions drew attention to discrepancies in cost estimates between the States and Territories, suggesting that different approaches to the issue of access improvement had affected the final costings in the draft RIS. Two State submissions suggested that the potential for ambit claims from transport providers as a means of obtaining extra funding was a cause for concern. Several submissions from the disability community expressed disappointment that it had not been possible to independently evaluate the information provided. Some suggested that, as well as reflecting the different physical, economic and regulatory environments of transport operation, the discrepancies reflected different political, ideological and cultural environments in the various States and Territories.

Several submissions from industry, the disability community, and from State Government departments recommended that the estimates for costs and benefits associated with implementation of the standards be calculated for a 30 year period (rather than the 20 year period calculated in the draft RIS). From the perspective of the disability community, this would take account of likely improvements in design and technology during that time. It would also allow for the fact that where access improvements are not made until towards the end of the 20 year implementation period, the off-setting benefits will not be experienced until after that time. From the perspective of industry, it would take account of the fact that the additional costs associated with purchasing accessible rolling-stock (such as low floor buses) are not one-off, but are incurred each time a vehicle (accessible or otherwise) is replaced. It is possible that these factors would, by and large, cancel one another out. Given this, and the substantial amount of work that would be required to provide cost and benefit estimates for a 30 year period, the 20 year projections in the RIS have been retained.

A number of bus operators and one State transport department raised concerns about the absence of cost estimates for third party liability. This was thought to be a serious issue given the potential risk of injury to passengers resulting from the carriage of unrestrained mobility aids. Other submissions drew attention to the potential for implementation of the standards to reduce the risk of liability due to passengers falling on stairs while boarding etc. Given these conflicting views, and the amount of time available to finalise the RIS, no attempt was made to quantify costs associated with third party liability.

Increased patronage impacts

Submissions received on the draft RIS reflected a wide and contradictory range of views on the estimated patronage impacts of implementation of the standards. Broadly, submissions received from industry and from State, Territory and Local

Government suggested that the estimated increase in patronage predicted in the draft RIS was overstated, while submissions from the disability community claimed that the estimates were significantly understated.

A number of State transport departments highlighted the need to be clear about the sensitivity of any patronage projections, and noted the clear potential for the eventual outcome to be significantly different to (possibly less than) the predictions contained in the draft RIS. New South Wales State Transit indicated that, in its two years of using low floor buses in Sydney, there had been no identifiable increase in patronage. Several submissions, including the submission from the Australian Bus and Coach Association, raised significant concerns about the extrapolation of English patronage figures to the Australian context. On the basis of advice provided by Professor Hensher, the ABCA submission suggested that revenue projections for the private bus industry (based on patronage increases) were significantly over-stated in the draft RIS.

On the other hand, the submission from Dr Rosenbloom suggested that the draft RIS had under-estimated revenue by a minimum of \$500 million. Dr Rosenbloom's view is that, while paying lip service to changing demographic trends in Australia, the draft RIS did not consider in any depth the profound impacts on ridership of those trends.

Similarly, the Western Australian Department of Transport raised concerns about some of the conservative assumptions in the draft RIS regarding the potential demand for accessible services. That Department's submission noted that Perth's Central Area Transit system has seen more than a 60% increase in ridership as a result of the modern accessible design of new buses.

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Cross-sector benefits

Submissions on the estimated cross-sector benefits of implementation were equally varied. Again, (with the exception of Western Australia) submissions received from industry and from State, Territory and Local Government generally suggested that the cross-sector benefits predicted in the draft RIS were overstated, while submissions from the disability community claimed that the estimates were significantly understated.

The Western Australian Department of Transport submission stated a view that the draft RIS did not appear to have adequately considered the positive effect of improved accessibility of public transport services on the need for parallel transit. That submission suggested that, based on studies in Perth alone, the predicted growth in the future demand for para-transit services was reduced by 50% as a result of providing accessible services consistent with the draft standards. This has been estimated to equate to a saving of by as much as \$300 million over a 30 year period.

Dr Rosenbloom's submission also suggested that the draft RIS had far too narrowly calculated the impact of accessible transport services on other sectors. Referring to a recent report by the US Transit Cooperative Research Program, Dr Rosenbloom noted that, while many North American systems had not yet experienced significant diversion from para-transit services, many had experienced enough diversion to bring the costs of accessible mainstream services below those of providing specialised services.

On the other hand, the New South Wales Ageing and Disability Department submission indicated that preliminary research by that Department showed that the need for parallel services changes only minimally with the introduction of accessible public transport. The Commonwealth Treasury submission raised serious concerns about the extrapolation of United Kingdom data to the Australian context and suggested that the cross-sector benefits, along with the other benefits mentioned in the draft RIS, should only be discussed in a qualitative sense. The Australian Bus and Coach Association submission suggested that cross-sector benefits had been over-estimated in the draft RIS by approximately \$2.56 billion.

Submissions from the disability community indicated that taxi travel was now becoming financially impossible for many people with disabilities. In addition to the cross-sector benefits outlined in the draft RIS, improved accessibility of public transport was therefore considered likely to lead to increased profits for clubs, picture theatres and social and sporting events.

Funding

A number of State, Territory and Local Government submissions indicated their support for the majority of the recommendations in the draft RIS, subject to suitable funding arrangements. The submission from the Tasmanian Department of Infrastructure, Energy and Resources expressed the view that, as a general principle, if the Commonwealth Government was to set the standards under the framework of Commonwealth legislation, then it should fund the cost of implementing the standards either directly, or indirectly via taxation concessions or investment allowances. A similar view has been expressed orally by the New South Wales Department of Transport. The Western Australian Department of Transport suggested that an option might be to suggest that funding be provided where the standards impact on the normal replacement, refurbishment and maintenance programs of State, Territory and Local Government, and industry operators.

The Commonwealth Department of Transport indicated in its submission that it did not regard the Commonwealth as responsible for funding implementation of the standards. This position was said to be based on the fact that public transport is the responsibility of the States and Territories. It was also said to be due to the existence of parallel anti-discrimination legislation in each of the States and Territories, except Tasmania.

The Australian Bus and Coach Association submission stated a view that, if the draft standards were to be introduced in their current form, Government would need to fully fund the private bus industry in order to cover the costs of compliance.

Submissions from a number of disability community organisations noted that people with disabilities are currently bearing the cost of inaccessible public transport.

Capacity loss

Estimates of how much capacity is lost per wheelchair space in each bus remain varied. The draft RIS noted that, to some extent, discrepancies in capacity loss figures between the States and Territories reflected the physical, economic and regulatory environment within which providers operate. A number of submissions questioned

these inconsistencies and recommended that the Attorney-General's Department attempt to find a consensus view on capacity loss. Despite ongoing discussions with a number of stakeholders, this has proved impossible. As a result, the capacity loss estimates in the RIS continue to reflect the figures provided by the States and Territories and the Australian Bus and Coach Association in early 1998.

Many submissions have indicated a view that the issue of seat loss can be dealt with by improving the interior design of buses, and by the installation of fold-down seats. These submissions have come not only from the disability community, but from private bus owners and operators.

Mechanisms for monitoring and review

Submissions received on the draft RIS indicated unanimous support for ongoing and regular review of the operation of the standards, if implemented.

The Victorian Department of Infrastructure suggested that consideration be given to reviewing the operation of the standards within two years after their release. The Australian, New South Wales and Queensland Physical Disability Councils rejected this suggestion on the basis that, due to lack of certainty, it would be at least two years before an increase in patronage from people with disabilities was realised.

The Victorian Department of Infrastructure also suggested expanding the role of the Accessible Transport Working group to incorporate a review role. A similar suggestion was made by ACROD (a national industry association for disability services) whose submission also proposed, as alternatives, a possible role for Australian Standards committees or for a new body modelled on the US Accessibility and Transportation Barriers Compliance Board. ACROD's view was that, while the specification of standards and requirements should be at the Federal level, enforcement should be at the State and Local level. The Queensland Department of Transport submission expressed a view that State transport authorities, who are presently responsible for ensuring that vehicles meet safety and other requirements, should monitor and approve vehicles' compliance with the requirements of the standards. That submission subsequently noted, however, that this would create additional administrative costs for State Governments.

A large number of submissions also suggested a need for a monitoring and enforcement mechanism that does not rely on a complaint to the Human Rights and Equal Opportunity Commission at first instance. Several Government agencies and industry representatives indicated that, while 'unjustifiable hardship' and 'equivalent access' would have to be determined on a case by case basis, some mechanism for achieving 'up-front' certainty would be preferable. In this context, some submissions indicated there was a need for the establishment of a central body responsible for information exchange and the provision of advice on compliance. The Commonwealth Department of Workplace Relations and Small Business indicated that it had strong reservations about the use of enforcement mechanisms involving substantial paperwork requirements. Submissions from the disability community indicated that, while people with disabilities were supportive of the introduction of an enforcement mechanism, they did not wish to see implementation of the proposed

standards delayed while the issue was being considered. A discussion of issues relating to 'up-front' certainty is contained in Chapter 6.

The Australian Local Government Association indicated that, while Councils would not be able to fund modifications to all of the infrastructure affected by the standards, they would be able to contribute to increased accessibility through a consultative approach with local communities and bus operators. In the Association's view, the issue of compliance or non-compliance should be addressed within a planning context, rather than a legal one. The Association has recently concluded a study designed to identify the issues in the draft standards affecting Local Government, and to develop suggestions on how accessible public transport can be improved on local roads. This study is known as the 'AustRoads' project. The major finding of the project is that the key to providing accessible services is establishing mechanisms for effective strategic planning at the national, State and local levels. At the national level, the AustRoads report recommends that the Commonwealth establish a facility for information exchange on best practices for all stakeholders, including Councils.

Modification of the standards prior to implementation

Submissions from a number of States and Territories indicated that experience with the draft standards to date has identified a number of areas where the technical detail may need modification. These submissions emphasised that a mechanism needs to be established to review the specifics of some elements of the draft standards prior to implementation. A list of the problem areas identified by the States and Territories is included in Chapter 7.

Exemption of dedicated school bus services

Chapter 6 of the draft RIS suggested that there was a case for excluding dedicated school bus services from the draft standards. A large number of submissions were received from dedicated school bus operators, who highlighted difficult terrain, poor infrastructure, cost, potential legal liability and lack of demand in support of the proposal to exempt dedicated school bus services from the draft standards. Several submissions stated a need for a clear definition of a 'dedicated school bus service'. A number of submissions stated a preference for the provision of parallel school transport services for children with a disability in rural areas. The standard form submissions received from dedicated school bus operators raised the question of whether, if exempt from the standards, school service providers would be exempt from complaint under the Disability Discrimination Act. A range of options for dealing with this issue are discussed in Chapter 6 of the RIS.

Submissions from the disability community on the subject of dedicated school bus services reflected some differences in opinion. While all of these submissions supported the view that it was inefficient and inequitable to continue to ask students, and parents/carers of students, with a disability to bear the burden of inaccessible school transport services, there were varied views on the best means of providing accessible transport services. Many submissions rejected the notion of exempting school bus services on the basis that accessible school bus services promote awareness, inclusion and understanding of children with disabilities. However, most of these acknowledged that it would be unnecessary and infeasible to require that all

school bus services be accessible, and recommended that the standards be amended to apply only where there was a demand for accessible school services. They further recommended that solutions be developed at a local level in consultation with the relevant stakeholders. A few submissions from the disability community acknowledged the advantages of para-transit in the provision of school transport services, in particular in those areas where the provision of mainstream accessible school services would result in unjustifiable hardship.

Each of the State Government transport agencies (with the exception of the Northern Territory and New South Wales from whom submissions were not received) supported the exemption of dedicated school bus services in favour of locally developed and cooperative solutions where accessible services were required. The New South Wales Anti-Discrimination Board and the New South Wales Ageing and Disability Department strongly rejected any such exemption, noting that school bus services were critical to meeting the transport needs of isolated communities.

The Australian Local Government Association submission indicated support for the exemption of dedicated school services, and stated a preference for a cooperative local approach to the issue. However, a number of submissions from individual Councils raised concerns about the proposed exemption, and indicated a view that accessible school bus services are very important in effecting positive attitudes towards children with disabilities.

Infrastructure

Chapter 5 of the draft RIS summarised estimated costs and revenues associated with implementation of the draft standards. While infrastructure costs were included in these estimates, a number of submissions, in particular from Local Government, indicated a view that insufficient attention had been given to this issue.

The Australian Local Government Association submission, among others, noted the potential impact of ultra low floor buses on road infrastructure, and raised the possibility of additional costs to Councils in this area. In relation to bus stop infrastructure, the Association stressed the importance of focussing on whole of journey accessibility rather than a prescriptive set of infrastructure standards. In the Association's view, the approach to assessing infrastructure costs adopted in the RIS has the potential to encourage Councils to focus on infrastructure at a small number of stops, rather than on accessibility outcomes for a whole route.

Several submissions suggested that it was premature to estimate costs associated with modification of infrastructure in accordance with the standards in light of the fact that the Australian Local Government Association had only recently commenced a study aimed at identifying the relevant costs. In fact, due to a range of unquantifiable impacting issues, the AustRoads project was not able to identify the costs associated with implementing the draft standards. While large amounts of money are involved in modifying kerbing and bus stop infrastructure, discussions with the Australian Local Government Association have suggested that most kerbing and bus stop modifications required to comply with the draft standards could, with appropriate planning, be accommodated within normal upgrade time tables. However additional costs to

Councils associated with modification of roundabouts, traffic calming devices and other road infrastructure should be borne in mind.

Allocation of wheelchair spaces

Chapter 6 of the draft RIS noted the current requirement in the draft standards that space for two wheelchairs be provided in every bus with a capacity of 32 seats or more. It indicated that some transport operators had queried the need for two spaces, and sought the views of interested parties on this issue.

The majority of submissions received from State and Territory transport departments on this issue indicated strong support for maintaining the requirement to provide space for two wheelchair passengers. The South Australian Passenger Transport Board proposed a compromise position which would require two wheelchair spaces on all route buses with a capacity of 32 seats or more. The Australian Capital Territory Department of Urban Services suggested that the standards should be amended to provide for two wheelchair spaces on all such buses, except where fold-down seats could not be fitted.

All submissions received from the disability community strongly rejected an amendment to the draft standards in this area. This position was based on the fact that, where only one wheelchair space per bus provided, people in wheelchairs would be prevented from travelling with friends and family who were also in a wheelchair. It was also thought that providing two wheelchair spaces would reduce the number of incidents where a wheelchair passenger was unable to board due to the wheelchair space already being occupied.

A small number of industry submissions indicated support for amending the draft standards to provide for only one wheelchair space in buses with a capacity of 32 seats or more. In addition to the cost factor, transport providers raised problems associated with the absence of grab rails near allocated wheelchair spaces in support of this argument. New South Wales State Transit indicated that it had received complaints from a number of elderly and other less mobile passengers who had experienced difficulty in negotiating the open area of the wheelchair space. A submission received from the Council on the Ageing raised a similar concern.

Accelerated replacement and retro-fit

The draft RIS noted that significant cost reductions would result from amending the draft standards to provide for a 30 year compliance schedule for trams and trains. Many submissions from the disability community rejected this option, indicating a view that the suggested extension of the time frame for trains and trams ignores the synergy and interdependence of the various transport modes. That is, if a trip involves using a train and a bus, the inaccessibility of the train undermines the value of the accessible features of the bus. One submission noted that there was no corresponding analysis of the benefits, through increased social, vocational and educational opportunities, to people with a disability of retaining the existing 20 year compliance time table for trains and trams.

However, a submission from the Victorian Department of Infrastructure noted that the retro-fitting of Victorian trams has been rejected by Melbourne's disability

community. Victoria, and all of the other State and Territory transport agencies who dealt with the issue, strongly supported a modification to the compliance time table in relation to trains and trams. This was on the basis that the excessive costs associated with retro-fitting could be significantly reduced if the time table allowed for vehicles to be replaced at the end of their economic life.

Fare increases

Chapter 6 of the draft RIS identified gradual fare increases as a possible option for funding implementation of the standards. A number of submissions expressed resistance to this proposal, suggesting that any increase may not be in the best interests of the overall transport system. This view was held by the Australian City Transit Association which indicated that, in its view, a better option would be to require the private motorist to fund accessibility.

The South Australian Passenger Transport Board submission suggested that consideration be given to modelling the impact of fare increases on patronage using demand elasticities on a State by State, mode by mode basis. Adopting this suggestion would have taken a considerable amount of time, and was not possible without a significant injection of resources.

The Hensher report commissioned by the Australian Bus and Coach Association suggested that, if the proposed standards were to be implemented, the additional cost per passenger trip over the next 20 years in \$98 would be 24.6 cents. A fare increase of this amount was estimated by Hensher to result in a reduction in total demand of 2.13%.

Positive impacts of implementation

The majority of submissions received from the disability community expressed concern and disappointment about the perceived lack of emphasis in the draft RIS on the wider community benefits of accessible public transport. The Western Australian Department of Transport expressed a similar concern, noting that the introductory comments in the draft RIS should acknowledge and emphasise the fact that accessible services and designs benefit the entire community.

A number of submissions also questioned the emphasis in the draft RIS on mobility disabilities. These submissions suggested that, although the draft standards clearly contain requirements relating to visual, hearing and intellectual disabilities, the draft RIS concentrated on the costs and benefits of providing accessible public transport to people with physical disabilities. Costings in the RIS do take account of requirements in the draft standards relating to access for people with non-mobility disabilities. However, the greatest cost associated with implementing the draft standards comes from the need to make public transport and supporting infrastructure accessible to people in wheelchairs. As a result, this has been the most controversial element of the draft standards, and is the area where most work has been undertaken to accurately quantify associated costs and benefits.

Rear axle loadings

Submissions received on the draft RIS unanimously supported changes to rear axle limits to allow for greater mass in the rear axle of buses, while still retaining the existing overall gross vehicle mass. One bus operator indicated a view that this change would overcome all problems associated with seating loss. Several submissions from the disability community noted that the change would reduce the need for additional buses in New South Wales, with a resultant decrease in the cost of implementing the proposed standards in that State. On the basis of information provided by the New South Wales Department of Transport, we agree with this conclusion. We have therefore identified and highlighted in the RIS the reduced cost that would result from implementation of the draft Standards in that State if the proposal were to be accepted.

Impact on small business

Prior to approving the release of the draft RIS for consultation, the Federal Office of Regulation Review requested that some explicit assessment of the impact on small business bus operators be included in the RIS following the consultation phase. This assessment is contained in section 5.3.4. A number of submissions on the RIS have raised concerns regarding the potential impact of the standards on small business, including the Commonwealth Department of Workplace Relations and Small Business which suggested that consideration should be given to exempting small firms from the standard where the costs of applying the standards would not justify the benefits. The unjustifiable hardship provision in the draft standards will, in fact, have this effect for individual businesses. Without major additional research, it would be very difficult to ascertain at what point, in terms of fleet size, a small business bus operator should be exempt from the draft standards. A discussion of a possible means for providing greater certainty for small business operators is included in Chapter 6 of the RIS.

Parallel services

The definition of 'equivalent access' in the draft standards expressly excludes separate or parallel services as a means of compliance. People with disabilities have always rejected the use of para-transit as an alternative to accessible mainstream public transport on the basis that parallel services are not equivalent services. They do not run on a regular and frequent time table, generally require booking ahead, and do not allow for interaction with other members of the public.

In its submission on the draft RIS, the Australian Bus and Coach Association recommended that the draft standards be amended by deleting the words 'it does not include segregated or parallel services' from the definition of 'equivalent access'. This suggestion was made on the basis that the draft standards were financially unrealistic. Submissions from a number of dedicated school bus operators indicated a view that the most cost effective and efficient means of providing accessible school transport would be by para-transit, with associated costs being borne either by the family of the child with a disability or by the Government.

The Western Australian Department of Transport submission recognised a role for the use of parallel services in accommodating those people with disabilities who will not be able to use even the most accessible forms of public transport. That submission noted the need to recognise this exception in order to avoid resolvable complaints.

The New South Wales Ageing and Disability Department noted the value of parallel services in providing options for interim public transport services until the standards took full effect. That Department's submission stressed, however, that provision of parallel services must be in addition to, not instead of, implementation of the standards. As an alternative, the Australian City Transit Association suggested that, in the early years when there were limited numbers of accessible vehicles available, people with disabilities could give 24 hours advance notice of the need to use an accessible service.

Coach and charter services

The Western Australian Department of Transport submission recommended that a more acceptable approach needed to be found in the area of coach and charter services. Their suggestion in relation to coach services was that the draft standards be amended to provide that accessible services be provided to certain destinations with a specified and agreed amount of notice. In relation to charter services, their submission suggested that it might be more reasonable for the draft standard to provide that a proportion of the charter fleet be made accessible. Discussions with the other State and Territory Departments of Transport have revealed that a requirement to provide access with a specified amount of notice could cause difficulties for small operators with a limited number of vehicles, in particular if long distances were covered. On this basis we have not recommended any change to the draft standards in respect of coach and charter services.

Ferries

A number of submissions raised possible safety and geographic issues as barriers to compliance with the standards in relation to ferries. For the purposes of assessing the cost of compliance with the draft standards in respect of ferries, we have not included any vessel smaller than 20m in length. This decision was made on the basis of detailed discussions with the States and Territories. Given the considerable structural, safety and infrastructure difficulties associated with making small vessels accessible in accordance with the draft standards, we have recommended that Ministers consider excluding, in relation to physical access, vessels less than 20m in length from the application of the draft standards. In our view, any such vessels would, in any case, be unlikely to be covered by the draft standards on the basis of unjustifiable hardship.

We understand from our discussions with the States and Territories that safety issues associated with implementation of the draft standards in the marine context are not limited to small vessels. Issues relating to appropriate restraints, emergency escape procedures and appropriate boarding facilities also arise in the context of sea-bearing vessels. These issues are exacerbated by extreme tidal variations. We have therefore recommended that Ministers consider limiting the operation of the draft standards, in so far as physical access features are concerned, to vessels operating river and estuary services.

Limousines

The sole submission received in relation to limousines indicated that the limousine industry wishes to be recognised as an area where providing full access in accordance with the draft standards would be a significant disadvantage to the operator/owner. This view was based on a number of factors, including the potential cost, the potential structural and safety impediments to compliance, and the potential for modifications to make limousines unattractive to other users, hence limiting their market. In addition, the industry's view is that the service offered by a limousine operator is a luxury service, not a public transport service used by all members of the community. Following detailed discussion with State and Territory transport officials, we have recommended that Ministers consider removing provisions relating to limousines and hire cars from the draft standards.

Taxis

A submission received from St. George Cabs Co-Operative in New South Wales raised a number of concerns regarding current licensing conditions for accessible taxis in that State. Several submissions received from the taxi industry argued for a sales tax exemption for wheelchair accessible taxis.

Scooters

A number of submissions noted that the draft standards do not address the needs of scooter users. This group is said to be growing rapidly. The ACROD submission indicated a view that this issue should be dealt with before the draft standards are implemented. We have recommended that this issue be dealt with in the first review of the draft standards following implementation.

3 DEMAND FOR ACCESSIBLE PUBLIC TRANSPORT

This chapter summarises the current and projected demographic data on people with a mobility disability in Australia, and assesses the potential increased usage of more accessible public transport services by people with disabilities and other groups in the community.

3.1 CURRENT MARKET ANALYSIS - PEOPLE WITH MOBILITY HANDICAPS

3.1.1 Overall Demographic Statistics

The ABS (1993) estimates that 3.17 million Australians, equivalent to 18.0% of the total population, have some form of disability. Of these, 1.83 million, or 10.3% of the total population, experience handicaps which affected their mobility. This ABS definition of 'mobility handicap' includes a person who has difficulties in:

- moving around away from home/establishment;
- moving about the house/establishment;
- transferring to and from a bed or chair;

- using public transport;
- walking 200 metres;
- picking something up from the floor; and
- walking up and down stairs.

That is, it includes not only people with a physical disability, but also people whose mobility is limited due to blindness, deafness, inability to read signs or timetables etc.

While this provides an initial assessment of the potential ‘target market’ for more accessible public transport, it is important to note that:

- 6.4% of people under 65 and 40.0% of people over 65 have some mobility handicap (i.e. the aged are over six times as likely to suffer from mobility handicaps than younger Australians); and
- people over 65 account for 11.3% of the total population but for 44.8% of people with mobility handicaps.

This much greater incidence of mobility handicaps among older people is expected to result in substantial increases in the number of people with mobility handicaps as the population ages.

ABS (1993) also indicates that only about 6% of people with disabilities live in retirement villages, hospitals or institutions. Thus, the great majority of people with disabilities require access to suitable transport in order to participate in many of their day-to-day activities.

3.1.2 Mobility Handicaps by Severity

In terms of ABS definitions, 1.01 million of the 1.83 million people with mobility handicaps are classified as having ‘mild’ handicaps, implying that they have limitations in walking (200 metres), in going up/down stairs or in using public transport. It is this group that is likely to be most assisted by improved public transport accessibility. The other groups (0.82 million people) with greater mobility handicaps (moderate, severe or profound) will mostly be unable to use even more accessible public transport services, principally because of the difficulties in walking to/from the stop or station. People in wheelchairs, however, will be able to directly benefit from improved public transport accessibility provided that the associated infrastructure is accessible.

The ABS estimates that 0.60 million people (3.4% of the population) cannot easily walk 200 metres, and hence will often not be able to take advantage of improved public transport.

The ABS data also indicates that about 80,000 people (0.44% of the population) use wheelchairs, while a further 460,000 (2.61%) use other mobility aids.

3.1.3 Ability to Use Mainstream Public Transport

ABS (1993) provides a classification of people with mobility handicaps according to their difficulties in using current mainstream public transport services. It is apparent that:

- 1.36% of the population cannot use mainstream public transport at all;
- 0.62% of the population can use some forms of public transport, but only with difficulty and/or assistance; and
- a further 2.44% of the population can use all forms of public transport, but with difficulty and/or assistance.

Overall, some 6.8% of the population is either unable to use mainstream public transport services or can only do so with difficulty and/or assistance. By implication, other people with mobility handicaps (5.9% of the population) are able to use mainstream public transport relatively easily.

3.2 CURRENT TRAVEL PATTERNS

A comparison of the travel patterns of people with disabilities, relative to the general Australian population, reveals the extent of the 'mobility deficit' for people with disabilities and the extent of their reliance on relatively expensive forms of transport (i.e. taxis).¹

- For people with a motor vehicle available, the public transport trip rates of people with disabilities are about 35% of those for able people.
- For people with no motor vehicle available, the relative public transport trip rates are about 45%.
- Among people with a car available, those with disabilities make a much smaller proportion of their trips by car (and particularly as car driver) than the general population.
- In all cases, people with disabilities make a much smaller absolute number of trips by mainstream public transport than do able people.
- When all forms of public transport services are included (i.e. including taxis, specialised taxis, specialised bus services etc.), people with disabilities still generally make a lower **number** of trips by public transport. However, people with disabilities make a higher proportion of their trips by public transport modes.
- People with disabilities make between 3 and 10 times as many trips by (conventional) taxi as do other people: their proportion of all trips made by taxi is between 5 and 20 times that for other people.

3.3 FUTURE DEMOGRAPHIC AND MARKET TRENDS

As is the case in most other developed countries, the Australian population profile is ageing. This will have a substantial impact on the growth of the future potential market for accessible public transport services.

An EPAC forecast indicated that the Australian population is expected to grow from the 1993 level of 17.63 million to between 26 million to 30 million by year 2051.²

As shown in Table 3.1, the ageing of the population will result in a substantial increase in the proportion of people aged over 65 - from 11.2% (1991) up to 20.5% by

year 2041. Within this overall ageing, there will be an ‘ageing of the aged’: the proportion of these people aged over 75 years will also increase.

The effects of this population ageing and other societal trends on the proportion of people experiencing mobility handicaps cannot be predicted with any precision. Nonetheless, if it is assumed that the proportionate incidence of mobility handicaps for younger and older Australians were to remain stable at the 1993 levels (i.e. 6.4% and 40% respectively), then the population with mobility handicaps in future will grow as shown in Table 3.1. The proportion with mobility handicaps will increase gradually, from 10.2% of the overall population in 1991 up to 13.5% in year 2041. Over this same 50 year period, the absolute numbers of people with mobility handicaps will more than double, from 1.77 million to 3.84 million.

TABLE 3.1 DEMOGRAPHIC PROJECTION - POPULATION TOTAL AND WITH MOBILITY HANDICAP				
			POPULATION WITH MOBILITY HANDICAPS	
YEAR	TOTAL POPULATION (MILLION)	% OF POPULATION AGED 65 AND OVER	NUMBER (MILLION)	% OF POPULATION
1991	17.3	11.2	1.77	10.2
2001	19.5	12.1	2.07	10.6
2011	21.9	13.4	2.41	11.0
2021	24.1	16.4	2.91	12.1
2031	26.4	19.1	3.44	13.0
2041	28.5	20.5	3.84	13.5
2051	30.3	20.4	4.07	13.4

Source Derived from Clare and Tulpulé (1994, p.36). Based on mid-range growth scenario.

3.4 EFFECTS OF IMPROVED ACCESSIBILITY ON PATRONAGE

To forecast the likely patronage attracted by improved accessibility to public transport services in Australia, it is useful to examine the international evidence from situations

where more accessible services have been provided. This evidence is summarised in this section. It relates principally to low floor buses, which are likely to be the most common approach to providing more accessible bus services in Australia. There is very little evidence relating to rail-based or other public transport modes.

The relevance of this international evidence to Australian conditions has been disputed, in particular by Professor Hensher in his report on the draft RIS prepared for the Australian Bus and Coach Association. Professor Hensher has asserted that the UK evidence relied upon below is 'substantially anecdotal'. Further, in his view, the transferability of UK evidence to the Australian context is false. This is said to be due to the local infrastructure and the door-to-door challenges in using buses. The growth in patronage from wheelchair users and the aged witnessed in the UK is said to be likely to be much smaller in Australia due to the poor state of pedestrian access and egress.

The submission from the Australian Bus and Coach Association suggested that the draft RIS estimates of additional revenue for the private bus industry were overstated by between 5 and 13%. This was based on Professor Hensher's estimate that a revenue gain of between 1-3%, and a maximum increase in one way trips of 1%, was the best that could be hoped for. In arriving at these estimates, Professor Hensher relied upon a sample telephone survey of 417 people in New South Wales and Victoria. The survey was conducted on behalf of the Institute of Transport Studies by a national survey research firm. It identified current bus use, reasons for using and not using buses and potential to increase use of buses if they were low floor. The survey showed that 31.8% of the sample would consider low floor buses as a positive enhancement in possibly increasing their use of buses. On Professor Hensher's figures, this translated into a doubling of trip rates for the elderly and the young, and an average increase per bus per day of approximately 5 one way passenger trips. However, Professor Hensher's report subsequently dismissed these conclusions as over-estimates on the basis of 'commitment bias' - that is, the possibility of exaggeration of responses in support of new products and services. The responses were therefore discounted by an undisclosed factor to take account of this stated bias.

It should be noted that central to Professor Hensher's estimate of a 1-3% revenue gain was an assumption that supporting infrastructure would remain at its current level of service. Given that the draft standards contain a range of requirements for improvement of infrastructure as well as rolling stock, and that the total estimated cost of compliance with the draft Standards identified in the RIS includes cost estimates for these improvements, this would appear to be an erroneous and inappropriate assumption to make.

Dr Sandra Rosenbloom, Professor of Planning at the Drachman Institute, the University of Arizona, has criticised the estimated effects of improved accessibility on patronage outlined below on the basis that the assessment 'conceptualises ridership due to vehicle accessibility far too narrowly and in direct contradiction of its own data and experiences from abroad'. In a submission to the Attorney-General's Department on the draft RIS Dr Rosenbloom stated that the experience of US systems with lift-equipped buses was very relevant to the discussion and was ignored in the working papers. Her submission stated that many US systems were experiencing thousands of wheelchair users each month on high floor lift-equipped buses - 'a very small subset of those who could benefit from low floor buses'.

The following patronage projections were developed by our consultants, Booz Allen & Hamilton, on the basis of the evidence available at the time. They have been quoted approvingly by the UK's Professor Philip Oxley, a world renowned expert in this area. On balance, and taking into account the diametrically opposed views on the patronage projections contained in the draft RIS, we believe that the following estimates represent a reasonable assessment of the possible patronage effects of implementing the draft standards.

3.4.1 Passenger Attitudes

The weight of evidence from the use of low floor buses in Australia, the UK and the USA/Canada is that these buses are generally favourably regarded by passengers, principally because of their easier access/egress. They are particularly favoured by people with mobility handicaps, and people with young children, strollers or luggage. These groups of passengers are predominantly off-peak users.

3.4.2 Overall Patronage Impacts

There is insufficient evidence available world-wide to date to be able to make a confident judgement about the likely patronage effects of introducing low floor buses in the Australian context.

With the exception of a small survey undertaken in Adelaide in 1996, there is no reliable evidence from Australia or New Zealand on the effects of the low floor buses introduced to date on overall patronage levels.

The best evidence available on this issue is from the United Kingdom, where 'trials' of low floor buses were initiated in a number of areas during 1996-97 (York (1995)). Table 3.2 provides a summary of the changes in patronage for those trials where this has been systematically recorded. In interpreting this data, it needs to be kept in mind that:

- In many cases, a significant proportion of the patronage gain may be by people transferring from other routes: the extent of this effect is unclear.
- Some of the patronage gains may well be from replacement of older buses by new buses, rather than result from the 'accessibility' features of the new buses. Typical experience elsewhere is that the 'new v old bus' effect may account for a few percent (say 1-3%) increase in patronage. (Booz Allen & Hamilton estimates.)

Based on this UK evidence, the best assessment is that the net patronage increase likely to result in the short term from the replacement of inaccessible buses by low floor buses (of otherwise similar age, condition etc.) is probably in the range 1-4% on average - provided that adequate seating capacity is maintained. (Booz Allen & Hamilton estimates.)

TABLE 3.2 SUMMARY OF PATRONAGE IMPACTS ON UK LOW FLOOR BUS TRIALS
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LOCATION	% CHANGE IN RECORDED PATRONAGE	NOTES
N. Tyneside	5	Replacement of double deckers by low floor buses on 1 route. Result for first 6 months.
London	5	Replacement of double deckers with low floor buses on 5 routes. Result for first 6 months.
Essex	No change 5	Two routes - no significant change. Two routes: most of increase due to transfers from other routes.
Blackpool	18	One route. Diversion from other routes unknown.
Solihull	No change	Low floor minibus replacing conventional minibus - one route.

Most of this patronage increase is likely to be in the off-peak periods: the percentage increase in these periods would be about twice this 1-4% range. The extra patronage generated in the short term would be primarily from people with small children, strollers or luggage, and probably secondarily from people with disabilities (as conventionally defined).

However, it should be noted that the above range is subject to significant uncertainty, and that there are considerable apparent differences between effects on different routes. It should also be noted that these results are based on relatively short-term responses, typically after the trials have been running for some 6 months. Perhaps not surprisingly, over this period most of the new passengers appear to be people with shopping, small children etc., rather than people with disabilities. A substantial proportion of any additional patronage from people with disabilities is only likely to build up over the longer term: this needs to be kept in mind in interpreting the results and potential application of these trials.

3.4.3 Wheelchair Patronage Impacts

A particular mention is made here of evidence on the usage of accessible buses by people in wheelchairs, as the requirement for wheelchair access and on-board space has a specific significant impact on bus capacity requirements and hence capital and operating costs.

USA evidence from fully accessible urban bus systems (generally with lift access) is that the proportion of passengers in wheelchairs is typically in the range of 0.16 - 0.29%. Generally these proportions have tended to increase as accessibility has been progressively introduced in any system, but then have stabilised once the system is fully accessible.

Two Canadian systems (one with lift access, one with low floor and ramp access) have 0.08% and 0.10% of their total passengers in wheelchairs.

The early data from trials of low floor buses in Adelaide is somewhat conflicting:

- A survey undertaken of City Loop passengers indicated that 2.2% (26 passengers) of the sample had boarded the vehicle in a wheelchair. It is not clear whether this high proportion was affected by delegates to the Lions Conference being held in Adelaide at the time of the survey. However, it is worth noting that a submission on the draft RIS from the NSW Ageing and Disability Department indicated that, on a service in Western Sydney that was recently the subject of a trial by that Department, wheelchair users/scooter users comprise 2.6% of total patronage.
- The proportion of wheelchair passengers on all low floor bus services in Adelaide is estimated at around 0.5%, based on information provided by drivers, although there is some doubt about the accuracy of this data. 0.5% is the approximate proportion of the total population that uses wheelchairs.

There is very little data from the UK or Europe on this issue. What data there is from the UK indicates similar usage patterns to those set out above.

3.5 PROJECTED USAGE OF ACCESSIBLE MAINSTREAM SERVICES BY PEOPLE WITH DISABILITIES

3.5.1 Prospects for Increased Mobility

This section addresses the potential increase in usage of mainstream public transport services by people with disabilities, particularly over the longer term. Such increases will arise not only through the introduction of more accessible public transport services, but also through other changes in physical environment and community attitudes which may be expected to occur over an extended period. These changes seem likely, in combination, to reduce the 'mobility gap' between people with disabilities and the general population which is evident from the analysis of the previous section.

Aside from the improved accessibility of public transport services, other factors which are likely to gradually increase the mobility of people with disabilities are:

- The increasing community pressures, from people with disabilities and others, to reduce barriers which restrict people's participation in the full range of community activities, and hence suppress transport demand.
- The progressive introduction by governments throughout Australia of social policy reforms geared to greater integration and independence for people with disabilities. These reforms include the DDA and parallel State and Territory legislation.
- The increasing recognition by transport sector authorities, in response to the above trends, of the need to ensure that transport systems are made more accessible to all people in the

community. This recognition is reflected in the development of DDA Action Plans and the introduction of low floor buses and more accessible rail systems.

These considerations support the view that the physical, social and psychological barriers that affect some participation in the community by people with disabilities will gradually reduce. As a consequence, demand for transport by this group is likely to gradually increase and the current mobility 'gap' will correspondingly reduce. While the time scale of such change is problematic, it will undoubtedly be prolonged: gradual adjustment over a period of 25 - 50 years is suggested. (Booz Allen & Hamilton estimates.)

3.5.2 Likely Patronage Impacts from People with Disabilities

A scenario approach was pursued as a means of estimating future long-term trip rates by people with disabilities on mainstream public transport once it is made fully accessible (according to the draft standards) and other societal changes have occurred. For the range of scenarios considered, Table 3.3 shows that the additional trips made by people with a disability were estimated to increase the total demand for public transport services by between 3% and 11% once services are made fully accessible (i.e. Year 20), increasing to between 4% and 14% by Year 30 (see the Potential Patronage Impacts working paper for full details).

It is open to conjecture as to where in this range the 'true' figure might lie: there is insufficient relevant evidence internationally to give much assistance in such conjecture. Booz Allen's judgement is that the patronage increase from people with disabilities is more likely to be towards the lower end of this range, for the following reasons:

- The trip rate increase assumptions in the scenarios have been applied to all people who state that they have difficulty using public transport (6.8% of the population). In practice, a substantial proportion of these will not be able to use even a more accessible system. Various surveys indicate that the ability to get to/from public transport services (often involving a walk of more than 200 metres) is one of the major impediments to the use of services. This will not be resolved by the draft standards proposals.
- The scenario analyses have assumed that the existing levels of vehicle availability of people with disabilities will remain unchanged in the future. These levels are currently very low relative to the general population. There is little doubt that, over time, there will be some closing of the vehicle availability 'gap' as with the overall trip-making gap. This will tend to result in some reduction in the public transport usage of some people with disabilities as they acquire a car, and will partly offset the increase for other people modelled in the scenario.
- The limited evidence to date shows that where public transport systems have been made more accessible, the trip rates for people with disabilities remain substantially lower than for the general population. Thus, any scenarios that assume that people with disabilities will achieve public transport trip rates comparable with other people are probably on the optimistic side.

On this basis, Booz Allen judged that there will be a long-term patronage increase among people with disabilities towards the lower end of the range given by the scenarios; say 3%-5%.

TABLE 3.3 PHASING OF POTENTIAL PATRONAGE GROWTH ASSOCIATED WITH ADDITIONAL TRIPS MADE BY PERSONS WITH A DISABILITY

YEAR	% OF SYSTEM ACCESSIBLE	% POTENTIAL PATRONAGE GROWTH	
		LOW	HIGH
5	25	0.5	1.7
10	55	1.3	4.4
15	90	2.5	8.9
20	100	3.2	11.1
30	100	4.0	13.9
40	100	4.1	14.4

Source Booz Allen & Hamilton estimates.

3.5.3 Likely Patronage Impacts from other Market Segments

The international evidence summarised earlier indicated that the short-term patronage increases associated with improved bus system accessibility (principally low floor buses) are typically in the range 1% - 4%. It appears that the major part of these increases comes from people with strollers and/or young children, people with luggage etc. (rather than, in the short term, from people with disabilities).

Over the longer term, it would be expected that the patronage response of such groups would increase further, to perhaps double the shorter-term response (based on evidence on demand elasticity patterns elsewhere). This indicates a longer-term response of perhaps 2% - 8% by this group. (Booz Allen & Hamilton estimates.)

3.5.4 Overall Patronage Impacts

Continuing the projected patronage increases for people with disabilities (3% - 5%) and for other groups (2% - 8%) implies overall patronage increases in the long term in the range **5% - 13%**. We take this as the most likely long term patronage increase expected from the provision of fully accessible mainstream public transport services (consistent with the draft standards). (Booz Allen & Hamilton estimates.)

As noted earlier, this patronage increase (particularly the component from people with disabilities) will gradually build up over a considerable period, and is unlikely to be fully realised until at least 10 years after the full implementation of the standards.

The major part of the patronage increases will be outside peak periods: this will probably be true both of the extra trips made by people with disabilities, and by the other groups. If we assume that 90% of these extra trips are off-peak, this corresponds roughly to an increase in off-peak patronage of 9% -23%. (Booz Allen & Hamilton estimates.)

Most of these extra off-peak passengers are likely to be able to be accommodated without any additional service capacity being required. The overall financial impacts associated with the extra patronage are considered in Chapter 5.

4 APPRAISAL OF POTENTIAL OPTIONS

This chapter sets out the options identified by the Steering Committee for improving the accessibility of mainstream public transport, together with details of the assessment completed to arrive at a preferred option. A thorough impact analysis of the preferred option is presented.

4.1 POTENTIAL OPTIONS

The eight options considered were:

- Option 1 Status quo;
- Option 2 Review the DDA under the Competition Principles Agreement;
- Option 3 Industry self-regulation;
- Option 4 Non-mandatory guidelines;
- Option 5 Improving specialised transport services;
- Option 6 Disability standards for accessible public transport;
- Option 7 Weaker standards and/or longer compliance timetable;
- Option 8 Stronger standards and/or shorter compliance timetable.

Option 1 Status Quo

This is effectively a 'do nothing' approach. Under this option, operators and consumers would have no guidance on what is regarded as complying behaviour under the DDA other than their own interpretations of the legislation and determinations made by HREOC. Compliance with the DDA would continue to be enforced primarily via the HREOC complaints mechanism. Accordingly, depending on the extent to which the complaints mechanism was used, the pace and scale of improvements in public transport accessibility to meet DDA requirements would rest with individual operators.

Option 2 Review the DDA under the Competition Principles Agreement

This option offers the possibility of dealing with this issue in a broader perspective taking into account the overall effectiveness of the DDA. It would provide an

opportunity for all potential stakeholders to comment as well as offering a chance to see the impact of the Act on industry generally. If such a review were to take place it would be likely to get input from sources, such as academics and others with a general interest in this area, who probably would not be involved with an exercise aimed only at improving access to public transport.

This option would also allow for a range of other options for dealing with disability discrimination to be canvassed which may be more effective than the DDA.

It would not, however, provide any guidance to industry now, and to choose such an option in this context would be likely to raise concerns from people with disabilities about such a review. That concern would be principally about the delay caused to the provision of certainty for people with disabilities as well as for industry.

Any result from such an option is likely to be up to two years away. This assumes the review itself will take about 12 months and that there would need to be consideration by the Government of the results of that review. There would then need to be legislative amendment if a different approach were taken to that adopted in the DDA. Such delay is not likely to be well received by any of the stakeholders.

This sort of review would meet the competition principles agreement requirement to review legislation affecting competition. Should such a review occur it could also look at the impact of any other option, particularly option 6, that may be adopted.

Option 3 Industry Self-Regulation

This option is similar to Option 1 in the sense that both would largely allow industry to determine the method and pace at which accessible public transport is implemented. However, this option differs in an important respect: there is some degree of control or guidance to industry participants regarding what is required. This guidance would be determined by participants in the industry, each accepting 'mutual obligations', rather than by an external body such as Government.

This option could be enhanced by any changes that may flow from the review of the DDA referred to in option 2. If and until there are any proposed changes to the DDA flowing from results of the review, the outcomes that would arise under this option are difficult to predict as they are dependent on the system established by the industry. There is no obvious mechanism currently in place that would provide a model for such self-regulation.

Unlike the building industry, for example, where there exists a national building code in the Building Code of Australia, the public transport industry is very much regulated on a State and Territory basis. There are some national rules encapsulated in national design rules but, in the main, the industry is not subject to nationally consistent regulation.

This is not to say that such a national code could not be developed in the longer term. The bus and coach industry, in particular, appears to have only a small number of peak representative bodies in the Australian Bus and Coach Association and the Australian City Transit Association. There has been considerable dialogue between these bodies and the disability community during the past three and a half years. It may be possible for there to be some form of industry code developed, perhaps drawing on the work already undertaken in relation to the draft disability standard.

To achieve maximum certainty, this option would require that State and Territory anti-discrimination law also be modified so that the code would operate instead of existing laws in those jurisdictions.

For this option to be most effective, it would require the completion of the review mentioned in option 2. It therefore suffers from the problems of delay that option 2 suffers from. It would, however, have the advantage of considerable flexibility and would reduce the extent of government regulation in this area.

Option 4 Non-Mandatory Guidelines

Under this option guidelines on implementing the DDA would be established but it would not be mandatory for industry to follow them. Nor would a timetable for implementation necessarily be specified. As under Option 1, implementation of accessibility would be left to the discretion of operators, except for requirements imposed through the HREOC complaints process. It is true to say that significant advances have, in the absence of mandatory standards, been made in the provision of accessible mainstream public transport since the enactment of the DDA in 1992. The Australian market reflects the international trend towards improved accessibility as a means of catering for, and attracting the patronage of, parents with children in prams, people with shopping and luggage and the frail aged. However, given that progress has been limited in some transport sectors, it can be expected that the absence of a mandatory compliance timetable would result in a slower transition to accessible mainstream public transport services. The main difference between the two options is that while actions by operators under this option are still voluntary, some structured guidance to operators and consumers regarding what is required by the DDA would be provided in the form of guidelines.

The longer term value of this option is open to some question. At the moment complaints under the DDA are dealt with by the Human Rights and Equal Opportunity Commission. This includes the making of a determination on the complaint if conciliation is unsuccessful. Guidelines by HREOC can be expected to be persuasive while the Commission retains the determination function. However, under amendments presently before the Parliament, this function of HREOC would be transferred to the Federal Court. That Court will make its own independent assessment of the requirements of the DDA. Compliance with a provision or requirement in a guideline endorsed by HREOC would not necessarily be considered by the Federal Court to amount to a defence to a complaint under the DDA. Money spent on attempting to comply with non-mandatory guidelines could therefore be found to have been wasted in the event of a successful complaint of discrimination under the DDA.

Option 5 Improving Specialised Transport Services

This option would aim to improve transport accessibility by people with disabilities through making improvements to specialised transport services (eg. community transport services). Used in conjunction with improvements to accessibility of mainstream public transport, or as an interim solution, this option could further the objectives of the DDA. Further, if the cost of making mainstream public transport accessible is such that it would fall generally within the unjustifiable hardship provisions of the DDA then it may be that this solution would be the most appropriate.

Should the review referred to in option 2 recommend a different approach to improving access for people with a disability than that set out in the DDA, then this option may also have more appeal. International experience suggests that specialised transport services can, however, be expensive particularly if they are run as a parallel service to the mainstream. In fact, as indicated in paragraph 5.4 one British researcher (Oxley 1995) suggests that such services can be as much as 10 times more expensive. We are unaware of any other country which has adopted specialised transport as its primary approach to making public transport accessible. The disability community has made clear in consultations on the draft standards that people with a disability want access to mainstream services where practicable.

On the other hand, specialised services can be very much tailored to the needs of particular people with disabilities. Further, it is likely that at least some of these services will be required into the future for those people with a disability who have particularly high support needs. It is also likely that these services will need to continue to operate in conjunction with accessible mainstream services until at least 20 years after implementation of the draft standards, should any decision be made to adopt option 6 below.

The public transport system has already moved towards improved accessibility and seems likely to continue to do so, at least to a limited extent, even without adoption of the draft standards. In order for it to be effective, Option 5 would require the development of some form of national guideline or standard, either under the DDA or whatever emerges from the review in option 2. This would take a period even longer than the review itself, and would therefore not be likely provide certainty to stakeholders for probably three years.

Option 6 Disability Standards for Accessible Public Transport

This option refers to the draft disability standards for accessible mainstream public transport developed through the ATC process. It incorporates the use of mandatory standards (supported by guidelines) for conveyances, premises and infrastructure and covers all modes of public transport for general use. The standards incorporate a timetable for achieving full compliance - with target dates set at 5, 10, 15 and 20 years. Subject to certain caveats, mainstream public transport would be fully accessible in 20 years.

Option 7 Weaker Standards and/or Longer Compliance Timetable

This option would be similar to Option 6 but would impose more lenient requirements (such as requiring fewer changes to infrastructure) and/or extend the time frame over which accessibility would be implemented. However, this option would still need to conform with the DDA requirements.

The Attorney-General's Department's legal view is that disability standards under the DDA are intended to better reflect the requirements of the DDA. They are not intended to add to nor detract from the DDA. The draft disability standards are also intended to reflect a fair and reasonable balance between the interests of the relevant stakeholders. Significantly weaker standards would not accommodate these concerns.

On the other hand, there are clearly issues in the draft standards where opinions differ as to what the DDA requires. As pointed out in Chapter 6, there are some

consequences of the operation of the draft standards which may mean that the defence of unjustifiable hardship would apply. To this extent, the absolute requirements of the draft standards may be modified. While it is very difficult to undertake a cost benefit analysis of this option overall, Chapter 6 states that further consideration of this option can occur without seriously weakening the impact of the draft standards.

Option 8 Stronger Standards and/or Shorter Compliance Timetable

Again, this option would be similar to Option 6 but would impose stricter requirements in terms of the time frame allowed for implementation, and/or by making the standards themselves more stringent.

This is not an attractive option given the cost-benefit analysis undertaken below on option 6. The cost-benefit analysis suggests that there are considerable costs associated with implementation of the existing draft standards. To significantly increase the requirements of the draft standards, (eg requiring that all parts of all buses be accessible) would not significantly improve access for people with a disability, but would add substantially to the overall cost burden.

4.2 DEVELOPING A 'SHORT LIST' OF OPTIONS

4.2.1 Options Rejected

The preferred option selected through the RIS process must be consistent with the objects of this RIS. They are:

- (1) to decide how best to move towards better access for people with a disability to public transport while at the same time balancing the costs to industry *and the community*; and
- (2) to provide greater certainty to all stakeholders than is currently possible under the DDA and equivalent State and Territory legislation.

In our view, options 3 and 5 do not satisfy either of the two objectives. Option 2 does not satisfy the second objective.

- **Option 2 Review the DDA under the Competition Principles Agreement** This review may provide, in the longer term, a different solution leading to better access at reasonable cost. It will not, however, lead to certainty in the short to medium term. In addition, relying on this option at this time may well destroy the goodwill that has been developed in this exercise up to this point.
- **Option 3 Industry Self-Regulation** Despite the fact that industry is gradually moving towards improved access, it is unlikely that industry would move to fully accessible transport in the near future. Secondly, this option would not provide the certainty that all stakeholders seek, especially in the short term. In this case, therefore, self-regulation is not a preferred option.
- **Option 5 Improving Specialised Transport** This option does not meet the object of providing access to mainstream public transport. Nor does it provide certainty, at least in the shorter term. There are no nationally consistent guidelines for the provision of specialised transport and the costs of such transport are likely to be very high (see paragraph 5.4).

While Option 5 is not satisfactory as a general solution for all people with disabilities in all situations, it may represent the only feasible and cost effective solution in some cases. For instance, in scarcely populated areas, accessibility improvements to some mainstream services may be so costly that they may make provision of the service unviable. In such cases, the provision of a comparable transport service through another means may be the only option that benefits both people with disabilities and the rest of the community.

While it is not appropriate that this option be pursued in the place of improvements in access to all mainstream services, it may be used to complement improvements to mainstream services. Some alternative services will always be required, even when mainstream public transport is accessible, as some people with disabilities will not be able to use these mainstream services. However, this option will not be further considered here as it does not comply with either objective, but principally because it does not provide access at a reasonable cost to the community.

Options 7 and 8 both involve a set of amended standards (i.e. weaker and stronger respectively). Depending on how they are interpreted, both of these options could satisfy DDA requirements. However, stronger standards in particular would not be consistent with the concept of unjustifiable hardship as set out in the DDA. The draft disability standards for accessible public transport (Option 6) are the result of detailed technical work and extensive consultation undertaken by the ATC Taskforce and, recognising the need for some practical amendments, could thus be presumed to represent a solution that has regard to all competing interests in a balanced manner (subject to their draft nature at this stage).

While the options concerning amended standards will not be considered further here, the timetable for implementing accessibility deserves comment. In some cases a longer timetable for implementation (as raised under Option 7) could provide a preferred solution. For instance, the costs to smaller operators of improving accessibility could be reduced as over time the cost of technology incorporating accessibility improvements would fall. In addition, any retro-fitting requirements and costs could be reduced if the timetable was longer for selective aspects.

In other cases, a wider range of options may need consideration. For example, the impact of the draft standards on dedicated school bus services may mean that other options should be considered for this sector. While there is no detailed cost/benefit analysis considered for option 7 it is, in essence, further detailed in Chapter 6.

4.2.2 'Short-Listed' Options

The remaining options (listed below) will be assessed further in Section 4.4:

- **Option 1** Status Quo
- **Option 4** Non-Mandatory Guidelines; and
- **Option 6** Disability Standards for Accessible Public Transport.

4.3 ASSESSMENT CRITERIA

The development of a preferred option to achieve public transport accessibility was based on a comparative assessment of each of the three 'short listed' options against the following six criteria:

- **Achievement of Public Transport Accessibility:** the extent to which each option meets the main objective of eliminating discrimination against people with a disability by ensuring that public transport accessibility is achieved.
- **Clarification of Obligations and Rights:** the extent to which each option clarifies the obligations of service providers and the rights of consumers under the DDA.
- **Flexibility of Approach:** the flexibility of each option for service providers to help contain costs while ultimately meeting the requirements of the DDA.
- **Consistency of Approach:** the extent to which each option provides a consistent level of accessibility across public transport modes and operators, to the extent that this is possible, without exposing operators to 'unjustifiable hardship'.
- **Compatibility of Approach:** the extent to which each option is consistent with ensuring that a 'seamless' approach is pursued with respect to improvements in the accessibility of conveyances, premises and infrastructure.
- **Certainty of Outcome:** the extent to which each option provides certainty for consumers, providers and operators by providing a definitive time frame for implementation, including appropriate performance milestones.

The comparative assessment of each option against the six assessment criteria set out above was approached from a qualitative perspective. This was appropriate given that none of the six assessment criteria was readily amenable to any form of comparative quantitative appraisal. For example, while it is possible to assess the qualitative costs and benefits of achieving full public transport accessibility per se, it is not feasible to complete a comparative quantitative assessment of the costs and benefits under each of the options.

In this case, the key difference between the three options lies in 'how' and when' accessibility is achieved under the respective options, which, in turn, will define the respective cost and benefit streams. Only Option 6 (disability standards) and the associated 20-year implementation timetable provides sufficient information as to both 'how' and 'when' public transport accessibility will be achieved and, even then, there are uncertainties, particularly in regard to the application of 'unjustifiable hardship' provisions. Nonetheless, this provides a reasonable basis from which to estimate the cost and benefit streams associated with moving to public transport accessibility over time. By contrast, the path to public transport accessibility under the other two short-listed options is largely indeterminate. For example, under Option 1 (the 'status quo'), the extent to which the HREOC complaints process might be used by persons with disabilities to attain public transport access will play an important part in the progress toward fully accessible public transport. However, it is impossible to speculate on the extent to which the HREOC complaints process might be utilised, or indeed the outcomes of such complaints.

4.4 ASSESSMENT RESULTS

The respective merits of each option are considered below against the assessment criteria developed in Section 4.4.

Option 1 Status Quo

- Degree to which accessibility is achieved depends on industry initiative and requirements imposed on industry through the HREOC complaints mechanism.
- This option does little to clarify the requirements of the DDA. Some clarification is provided through determinations made through complaints.
- Very high degree of flexibility as industry determines both when and how accessibility will be achieved (subject to requirements imposed through the complaints process).
- No mechanism in place to ensure that improvements in public transport accessibility will be either consistent across modes and operators or compatible in terms of the interfaces between conveyances, premises and infrastructure.
- Very little certainty for consumers as the process is driven by industry alone (supplemented by the complaints process). For both consumers and the industry as a whole, progress towards public transport accessibility is uncertain as implementation is left to operators and to the complaints based process.

Overall, this option only goes a small way to satisfying the assessment criteria.

Option 4 Non-Mandatory Guidelines

- Degree to which accessibility is achieved depends on industry response to the guidelines and requirements imposed on industry through the HREOC complaints mechanism.
- The guidelines, while non-mandatory, would provide some guidance and clarification as to how the objectives of the DDA may be achieved.
- The guidelines provide some guidance as to how public transport accessibility may be achieved but this option also has a very high degree of flexibility as the guidelines are non-mandatory. Therefore industry still determines both when and how accessibility will be achieved (subject to requirements imposed through the complaints process).
- Relative to Option 1, the provision of guidelines would significantly increase the likelihood of consistent approaches being adopted across modes and operators to improve public transport accessibility and the compatibility of approaches in terms of the interfaces between conveyances, premises and infrastructure. Problems associated with consistency and compatibility could, however, still be expected, given that the guidelines would be non-mandatory.
- By providing some guidance on what is required to achieve DDA compliance, this option does improve certainty for industry and to some degree relative to Option 1. Timing is subject to industry initiative and requirements imposed by the complaints process and represents another element of uncertainty (particularly for consumers) as to when accessibility will be achieved.

Overall this option represents an improvement on Option 1 as it goes some way to satisfying all of the assessment criteria.

Option 6 Disability Standards for Accessible Public Transport













- The draft standards are mandatory and set out how accessibility will be achieved through a mix of performance and design-based standards. The time frame for implementation requires accessibility by a certain date and includes intermediate performance milestones. This therefore makes it likely that a given level of accessibility will be provided earlier and with greater certainty than under the other two options.

- The standards clarify the DDA requirements by including technical specifications for meeting the legislation’s objectives. If the standards are met, industry and consumers can be confident that the requirements of the legislation have been met.
- By allowing operators to meet the technical specifications of the standards or by allowing them to provide ‘equivalent access’, the standards allow for some degree of flexibility in their application. The ‘unjustifiable hardship’ provisions of the DDA also provide added flexibility. However, as the standards are mandatory and include a timetable for implementation they are necessarily less flexible than the other two options discussed.
- Relative to Options 1 and 3, the provision of standards significantly increases the likelihood of a consistent approach being adopted across modes and operators and achieving compatibility with respect to the interfaces between conveyances, premises and infrastructure.
- The standards require all operators across all modes to implement accessibility according to the same timetable (except for cases of ‘unjustifiable hardship’), thereby increasing certainty for all stakeholders.

Overall, this option sacrifices some flexibility (when compared to the other two options) for greater certainty and clarification of the DDA, for the likelihood of a consistent approach being adopted across modes and operators and for greater compatibility with respect to the interfaces between conveyances, premises and infrastructure.

4.5 CONCLUSIONS ON PREFERRED OPTION

Table 4.1 summarises the merits of each option against each of the assessment criteria drawing on the above discussion.

TABLE 4.1 DEGREE TO WHICH EACH OPTION SATISFIES THE ASSESSMENT CRITERIA			
	OPTION		
CRITERIA	Option 1 — STATUS QUO	Option 4 — GUIDELINES	Option 6 — STANDARDS
Achievement of Public Transport Accessibility			
Clarification of Obligations and Rights			
Flexibility of Approach			
Consistency of Approach between Modes &			

Operators			
Compatibility of Approach between Conveyances, Premises and Infrastructure	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
Certainty of Outcome	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>

<u>Key</u>
<input checked="" type="radio"/> Fully meets criteria
<input checked="" type="radio"/> Substantially meets criteria
<input checked="" type="radio"/> Partially meets criteria
<input checked="" type="radio"/> Remotely meets criteria
<input type="radio"/> Does not meet criteria.

The table shows that, overall, Option 6 (i.e. disability standards for accessible public transport) is the preferred option as it best satisfies the assessment criteria for achieving this proposal's objectives.

In particular, relative to Options 1 and 4, Option 6 provides:

(1) Full accessibility over a time scale which is a reasonable compromise between:

- the desirability for consumers of improving access as soon as possible;
- the effective lives of most public transport infrastructure and vehicles (limiting the need for highly expensive retro-fitting or premature replacement of assets); and
- the time reasonably required for suppliers and operators to plan for, design and introduce more accessible vehicles and infrastructure.

(2) Provision of a reasonable amount of flexibility for service providers, as the draft disability standards are responsive to specific market and operator circumstances in meeting the objectives of the DDA. This flexibility is provided primarily through the 'equivalent access' and 'unjustifiable hardship' clauses.

(3) Far greater likelihood of a consistent approach being adopted across modes and operators and greater likelihood of compatibility with respect to the interfaces between conveyances, premises and infrastructure.

(4) A large measure of certainty for all parties concerning what can be expected and by when (relative to the inherent uncertainties of depending on the HREOC complaints process). This will assist in clarifying the rights of both consumers and providers. Operators and suppliers will be able to plan with some confidence which in itself will help to contain any extra costs associated with accessibility improvements.

Disability standards would appear to be generally supported by all key stakeholders. This is subject to the proviso of some transport operators and infrastructure providers such as Local Government, that adequate funding is provided by government to offset net costs associated with the implementation of disability standards.

Further, this is the approach adopted in both the United Kingdom and the United States. In the US there are detailed accessibility standards issued by the Architectural and Transportation Barriers Compliance Board under the Americans With Disabilities Act which set out specific requirements for both transport vehicles and infrastructure. Those standards also contain a compliance schedule. The Disability Discrimination Act 1995 of the United Kingdom provides powers for the making of regulations on access for people with a disability to public transport vehicles. Draft Public Service Vehicle Regulations have now been released. Again, those regulations contain detailed provisions in terms of the design of vehicles and an implementation timetable.

Disability standards are formulated by the Attorney-General under section 31 of the DDA and are required to be laid before each House of Parliament within 15 sitting days of their formulation. If no notice of motion to amend the disability standards is given within 15 sitting days of their being laid before each House, they take effect from the following day. If a notice of motion to amend the disability standards is given in either House of Parliament, and the standards are subsequently approved in that form by both Houses, the standards take effect in the approved form from the day on which approval is given by both Houses.

It is unlawful for a person to contravene a disability standard. However, compliance with a standard is not enforced other than by means of the complaints process provided for in the DDA. Compliance with a disability standard is a complete defence to a complaint of discrimination under the DDA. For example, five years after adoption of the standards, a bus operator with a 25% accessible fleet could not be found to be in breach of the DDA on the basis that one of their buses falling outside that accessible fleet was not accessible in accordance with the DDA.

At present, compliance does not prevent a complaint of discrimination being brought against a transport owner or operator. Chapter 6 discusses options for amending the draft standards to allow for operators to seek an up-front exemption from the operation of a provision of the standards, and the corresponding provision of the DDA. An exemption of this nature could provide immunity from the complaints process for the term of the exemption. Similarly, Chapter 6 suggests a number of options for amending the draft standards to reduce the costs of implementation and address operational difficulties associated with full compliance. Transport sectors and operators who were exempted from the operation of the standards as a result of any of these options being adopted would be free to seek from the Human Rights and Equal Opportunity Commission a corresponding administrative exemption from the operation of the DDA.

Given the results of this assessment, the remaining sections of this draft RIS focus on assessing the impacts of the draft disability standards (on a quantitative basis wherever possible) relative to the present accessibility situation. The remainder of the document also discusses implementation issues and processes.

5 EXPECTED IMPACTS OF ADOPTING THE DRAFT DISABILITY STANDARDS

This chapter discusses the benefits and costs expected to result from improving accessibility to mainstream public transport through the progressive implementation of the draft disability standards. In some cases little quantitative data, particularly with regard to benefits, is available. This highlights the importance of monitoring or reviewing the impacts of the proposal after it has been in place for some time.

5.1 GROUPS AFFECTED BY IMPROVED ACCESSIBILITY

A wide range of individuals and organisations will be affected by initiatives to improve accessibility to mainstream public transport. Those individuals and organisations fall broadly into the following three categories:

- the Australian community;
- the transport sector; and
- Government service providers.

Potentially, these three groups could be further sub-divided into narrower categories. For instance, public transport operators may be split by mode and geographic location (urban versus rural); people with a disability can be grouped according to type of disability and degree or severity of disability; and other users can be classified according to age, peak/off-peak use and ease in using public transport services. However, a discussion of the impacts of the option with reference to the broad groups identified above captures the key issues.

5.2 COMMUNITY IMPACTS

5.2.1 People With Disabilities

Adoption of the draft disability standards is expected to have a significant beneficial impact on both current and potential users of public transport services who have a disability.

The benefits to these users are difficult to quantify but nonetheless very important.

As people need to be able to move freely to engage in opportunities to work, learn, pursue leisure opportunities and interests and share in community life, the importance of access to transport is difficult to overstate. That access is also inextricably linked to improvements in infrastructure.

The main benefits to people with disabilities of improved access to public transport services are increased independence, self-reliance and quality of life through:

- increased participation in the community/reduced isolation;
- better access to goods and services;

- improved ability to obtain and get to work and hence the ability to earn comparable incomes;
- improved access to education opportunities; and
- increased ability to participate in recreational and leisure pursuits.

Surveys of stated need indicate that transport assistance is a major requirement for people with disabilities, ranked just behind home help and home maintenance. This importance tends to increase as age increases. Further, as discussed in Chapter 3, the transport needs of people with mobility problems are expected to increase as the population ages. De-institutionalisation and changing attitudes towards people with disabilities and mobility handicaps are also resulting in an increased need for accessible transport.

In addition to the benefits outlined above, improved accessibility across mainstream public transport services can reduce reliance on more expensive modes of transport, such as subsidised taxi services. Savings in transport costs can represent significant benefits to people with disabilities, many of whom are low income earners incurring other additional costs associated with their disability, such as the purchase of aids and appliances or additional medical services.

The extent to which the benefits outlined above may be realised depends on the existence of a linkage between improved accessibility to public transport and an individual's engagement in a range of other activities. That is, they depend on the degree to which people who currently have problems accessing mainstream transport take advantage of improvements in accessibility to increase their participation in these other activities.

While there may be reasons other than a lack of suitable transport options that prevent people from participating in some activities (for example the range of suitable employment for someone with a particular disability may be narrow) there is evidence to suggest that reduced transport opportunities reduce these opportunities further and constitute a significant part of the problem.

For example, research conducted in Britain (Fowkes et al 1994) suggests that up to 40% of people with disabilities may feel hampered or disadvantaged in their quest for work by 'unfriendly' transport services. The same study concluded that, while a number of factors affect a person's quality of life, access to public transport is certainly one of those factors.

The degree to which benefits for users from more accessible public transport are realised is also dependent on the accessibility of infrastructure beyond bus stops and stations etc. directly associated with the provision of a service. This issue highlights the importance of co-ordinating and linking across agencies improvements in accessibility to vehicles and infrastructure. This provides users with increased confidence that a service that is accessible between home and the drop-off station or bus stop for example, is also accessible between the drop-off station/bus stop and the end point of the journey.

5.2.2 People Without Disabilities

In considering the impacts of making public transport accessible, it is inappropriate to focus solely on the benefits to people with disabilities (who are the focus of the

DDA). While improvements to accessibility are expected to benefit these individuals significantly, other users are also likely to benefit in terms of ease of access.

The most obvious users, other than people with disabilities, likely to benefit from improved accessibility are elderly people. People travelling with children and strollers are also likely to benefit. However, even those who typically do not have problems accessing public transport may appreciate improvements to accessibility, such as the removal of steps, particularly when carrying heavy shopping or luggage.

The benefits of improved public transport accessibility for the broader community have been directly reflected in the observed patronage increases where low floor accessible services have been introduced. This evidence is summarised briefly in Section 5.3.2 and presented in detail in Chapter 3.

5.2.3 Carers Of People With Disabilities

People with disabilities bear the bulk of the costs and burdens associated with their restricted mobility and hence are most likely to benefit from more accessible public transport. However, other individuals providing support services to people with disabilities would also benefit from the increased independence that accessible transport may afford those they care for.

Improved accessibility should reduce the calls made on family and friends, and other support networks, to provide transport thus providing these carers with additional time to pursue other activities such as employment, recreation and so on. A survey of home carers conducted by the ABS in 1990 indicated that 87,000 of 322,000 home carers provided assistance with public transport and 220,000 provided assistance with shopping and driving (Vintila, undated).

Measures designed to increase individuals' independence would be expected to become increasingly valuable as the population ages and relies on a smaller proportion of the working age population for assistance and support.

Formal care for people with disabilities and the elderly is provided by professional health workers (largely funded by taxpayers) staffing programs offering various levels of support. This support falls into two broad categories: domiciliary care (or support offered in the home) and residential care for those deemed no longer capable of living independently. Potential savings in these areas resulting from improved public transport accessibility are considered in Section 5.5.

5.3 MAINSTREAM PUBLIC TRANSPORT SECTOR IMPACTS

5.3.1 Patronage Impacts

In considering the operational and financial effects of any patronage changes brought about by improved accessibility, it is important to distinguish between patronage impacts in:

- Peak periods — where extra passengers will often require extra capacity provision (at least in the medium term) and hence extra costs, and will in some cases reduce operator cost recovery and profitability; and
- Off-peak periods — where extra passengers can often be carried at negligible incremental costs, and will thus result in improved operator viability.

In Chapter 3, it was pointed out that the overall long-term patronage increase associated with the implementation of the draft standards should be in the range of 5% to 13% (10 years after the full implementation of the draft standards). It was also suggested that perhaps around 90% of these extra trips would be off-peak trips.

5.3.2 Operational Impacts

From an operational perspective, the most significant effects for public transport operators associated with the implementation of the draft standards are tied to:

- the impact that improved accessibility exerts on the demand for public transport services, particularly peak demand, discussed above; and
- the loss of effective capacity associated with the requirement to provide allocated space for wheelchairs or similar mobility aids.

Collectively, these two factors potentially impact upon the fleet requirements of public transport providers. That is, the net impact on peak fleet requirements of the increased demand for peak period services, together with any reduction in the effective capacity of conveyances, must be considered.

Based on the likely increase in the peak period demand for public transport services (see Section 5.3.1 and Chapter 3), together with anticipated capacity reductions associated with the provision of allocated space(s), it has been concluded that the requirement to increase fleet sizes as a direct consequence of the implementation of the draft standards will be limited to bus operations, specifically route and school services. Moreover, this requirement will be driven almost entirely by the effective loss of capacity associated with the requirement to provide two allocated spaces in buses with more than 32 fixed seats and one space in each bus with 32 or less fixed seats.

The extent of any reduction in capacity varies widely across the States and Territories. For example, the reduction in capacity on private sector buses in NSW is estimated (on figures originally provided by the Australian Bus and Coach Association and recently confirmed by Professor Hensher's report) at 10%. This compares with Victoria where, based upon the existing accessible bus fleet, the reported overall loss of capacity is 0.6%. (This estimate of capacity loss in Victoria has recently been confirmed by the Victorian Department of Infrastructure in response to correspondence from the Australian Bus and Coach Association suggesting that it was grossly under-stated.) Given our lack of technical expertise in this area, and the fact that, to some extent, these views reflect the physical, economic and regulatory environment within which providers operate, no attempt has been made to calculate an average loss of capacity applicable to all operators. Rather, information provided by industry and by the States and Territories has been translated directly into calculations of costs associated with loss of capacity.

The other important potential operational impact associated with the implementation of the draft standards is tied to the impact of improved accessibility on passenger boarding and alighting times. Once again, this issue assumes greatest importance in the bus context (i.e. the impact on bus running times).

With respect to low floor buses, the potential impact on bus running times is two-fold. That is:

- the sporadic increase in boarding plus alighting times at individual stops associated with the carriage of wheelchair passengers; and
- the overall reduction in average bus boarding plus alighting times that can be achieved through the introduction of low floor buses.

Based on a review of available evidence, Symonds Travers Morgan (1995) concluded that typical boarding plus alighting times on ramp equipped, low floor buses for wheelchair passengers would be around 2-3 minutes, compared with around 5 seconds for an ambulant passenger. However, it needs to be recognised that, even based on the most optimistic forecasts of the future demand for accessible bus services by wheelchair users, wheelchair boardings will typically remain 'relatively rare events'. As suggested by Symonds Travers Morgan (1995), the obvious approach would not be to vary standard running times, concluding that occasionally a trip may run 2 (or even 4) minutes late as a result of wheelchair passengers — but this would be treated just like the results of unexpected traffic congestion or other incidents. Submissions received on the draft RIS from members of the disability community currently using accessible bus services would suggest that alighting times for wheelchair passengers travelling on ramp-equipped low floor buses are in fact more likely to be in the range of 40-50 seconds than 2-3 minutes, reducing the impact of wheelchair passenger boardings on total trip times.

From an overall perspective, Symonds Travers Morgan (1995) concluded that there is clear evidence that low floor buses result in reduced boarding times, although the impacts are generally modest. The same study noted that the time savings likely in any given situation may depend critically on the ticketing procedures used — if the ticketing transaction time is the critical factor governing total boarding time (as it is in many operations), then there may be no effective time saving associated with low-floor buses.

It is important to emphasise that, while the above discussion suggests that the impacts on bus running times will be largely neutral, it only pertains to situations where low floor buses are introduced. It is expected that approximately 95% of public route buses, and in most cases only 30% of private route buses, could potentially be replaced by low floor vehicles. (This difference reflects the different topography where the respective operators provide services.) The balance of private route buses would be replaced by lift-equipped, standard floor vehicles, where average boarding times for wheelchair passengers would be significantly greater than that for ramp equipped, low floor buses and boarding times for ambulant passengers would remain unchanged. It is possible that there will be significant benefits in reduced boarding times from accessible buses.

It is also significant that the number of accessible buses in the fleet has increased from about 1% two years ago to up to 6.9% for the public sector and 2.8% for the private sector (Responses to Attorney-General's Department Questionnaire 1998). While not all of these buses fully comply with the draft standards, it is clear that the move to accessibility is gaining momentum. Most operators are replacing buses with low floor vehicles capable of complying with the draft standards.

5.3.3 Financial Impacts

Estimates of the net incremental costs (i.e. incremental capital and recurrent costs less incremental farebox revenue) associated with achieving compliance with the draft standards, by mode, are summarised in Table 5.7 below.

Table 5.7 shows that the estimated incremental cost associated with implementation of the draft standards is approximately \$3,744 million over the 20-year implementation period, in 1998 prices.

A significant single part of this cost stems from the purchase of extra buses in order to replace capacity lost as a result of the provision of allocated wheelchair spaces. This cost is estimated at \$693.4 million, as shown in Table 5.8. Some of this cost would be eliminated if a proposal by the Australian Bus and Coach Association to increase the rear axle loadings on full sized route buses is accepted by the Ministerial Council for Road Transport. This is particularly relevant to New South Wales, where State Transit have indicated that there would be a significant loss in standing capacity (8 passengers) resulting from implementation of the draft standards unless the proposal goes ahead. This is said to be due to the additional weight of the underfloor super structure required for low floor buses. The estimated reduction in costs to NSW State Transit if the proposal was accepted by the Ministerial Council for Road Transport is approximately \$209.2 million. This issue is discussed further in Chapter 6 on funding.

It should be noted, in relation to costs associated with lost capacity, that our calculation of reduced seating capacity per bus assumes that wheelchair spaces are not occupied and that flip down seats provided can be used by other passengers. This assumption is made on the basis that, in any one day, a relatively small proportion of bus services provided will carry a passenger in a wheelchair. Discussion in Chapter 3 indicates that this is even more likely to be the case during peak periods, when bus capacity is an issue. This assumption has not been questioned by any of the stakeholders who made submissions as part of the consultation process.

The submission received on the draft RIS from the Australian Bus and Coach Association suggests that the percentage loss in capacity used in calculations for the private bus industry (10%) is an under-estimate of actual capacity lost per bus. This assertion is said to be supported by an attachment to Professor Hensher's report which indicates that seating capacity is reduced from 53 to 47 (11.3%). Taking into account the additional 7.4% loss in standing capacity (reduced from approximately 27 passengers to 25 passengers), the attachment to Professor Hensher's report in fact confirms an **overall** capacity loss of approximately 10% (reduction in overall passengers from 80 to 72).

It should also be noted that a 1995 US report, 'Evaluating Transit Operations for Individuals with Disabilities', showed that none of the case study operators involved had actually added buses to make up for lost seating capacity. For the purposes of that study's analysis, it was therefore assumed that the number of buses required for service would not change as a result of using low floor buses.

Another significant part of the total cost relates to the dedicated school bus fleet. There has been no change to the costings done on dedicated school buses by Booz Allen and Hamilton, as little additional information was made available to us regarding these services. What information was available appeared to confirm the original cost estimates. The cost estimate for modification of the school bus fleet in accordance with the draft standards is \$1,265 million. This issue is dealt with further

in Chapter 6 which recommends that Ministers consider exempting dedicated school bus services from the operation of the draft standards in so far as they relate to provision of physical access to children with disabilities.

There are also major costs associated with infrastructure. The estimated cost of modification of rail infrastructure in compliance with the draft standards is approximately \$767 million. The costs associated with modification of bus stops are estimated at approximately \$628 million. The details of these calculations are outlined in the rail, tram and bus working papers.

There are significant costs associated with accelerated replacement (to meet the compliance schedule in the draft standards) and retro-fitting of existing trains and trams. The costs of train and tram retro-fitting are estimated at approximately \$88 million and \$68 million respectively. These costs could be reduced, if not avoided altogether, if Ministers agreed to extend the time frame for full compliance with the draft standards by train and tram operators from 20 to 30 years. Consultation in Victoria has led to the conclusion that retro-fitting of trams is not a satisfactory response to the DDA (see Sections 2.4 and 6.7). However, total replacement of trams would be considerably more expensive than retro-fitting, and the relative attraction of these two approaches is very dependent upon the requirements of the compliance time table.

Booz Allen and Hamilton have estimated that there will also be moderate increases in revenue resulting from implementation of the draft standards. In relation to buses, this additional revenue is estimated to be in the order of \$456 million over the twenty year period. In relation to rail patronage, the figure is in the order of \$135 million.

The likely patronage impacts of progressively moving to a fully accessible bus fleet are addressed in detail in the potential patronage impacts working paper, which concludes that an overall increase in patronage of 5% - 13% might be expected in the long-term (i.e. around 10 years after the implementation of the draft standards). Drawing on this result, Booz Allen and Hamilton assumed that patronage increases of 9% and 11% would be realised on low floor buses by year 20 and year 30 respectively. As discussed in section 5.3.2, it is expected that approximately only 95% of public route buses and 30% of private route buses could potentially be replaced by low floor vehicles. The balance would be replaced by lift-equipped, standard floor vehicles, where average boarding times for wheelchair passengers would be significantly greater than that for ramp-equipped, low floor buses and boarding times for ambulant passengers would remain unchanged. The estimated 9% patronage increase on low floor buses by year 20 corresponds to an overall patronage increase of around 5.5% on route bus services by Year 20, given the assumption that only around 60% of the total private and public route bus fleet would be replaced by low floor vehicles.

These costings are clearly still estimates. However, the estimated cost of implementation of the draft standards has been reduced from the \$6,900 million originally projected by Booz Allen to the current estimate of \$3,744 million. This is principally due to a reduction to the original estimate of the cost associated with lost capacity on peak route buses. Original estimates were based upon projections of possible seat loss. It is no longer necessary to make projections, because numerous low floor accessible buses are now in operation throughout Australia. Through

innovation and improvements in internal design it has been possible to reduce that loss significantly.

It should be noted that, based on Professor Hensher’s report, the Australian Bus and Coach Association has questioned the accuracy of the cost estimates relating to the private bus industry contained in the RIS. Professor Hensher’s report suggests that the incremental costs of full compliance by the private bus sector have been underestimated by between \$1,040 and \$1,130 million. In coming to this conclusion, Professor Hensher has assumed a 50:50 or 33:67 division between incremental costs for public and private operators in respect of capital, accelerated replacement and additional buses. In relation to increased revenue, he has assumed that the revenue contribution from the private sector represents 50-65% of the total revenue identified in the draft RIS. These assumptions were made on the basis of a view that ‘the cost and revenues associated with the private bus sector are hidden amongst the full costs and revenues of the bus sector’. In fact, a full break down of costs and revenues for both the public and private bus sectors was, and is, included in the spreadsheets attached to the working paper on buses.

Professor Hensher’s assumptions have a significant impact on the validity of his cost and revenue comparisons with the RIS. Given that the RIS assumes that only 30% of private route buses could potentially be replaced by low floor vehicles, the revenue projections for the private bus industry are significantly lower than those for the public bus industry. They represent approximately 4% of the total estimated revenue, not the 50-65% assumed by Professor Hensher. A similar problem exists with comparisons made by Professor Hensher in relation to costs.

It should also be noted that Professor Hensher’s report refers, in a number of places, to figures and tables that appeared not in the draft RIS released for public consultation in July 1998, but in an earlier draft document provided to members of the RIS Steering Committee on an ‘in confidence’ basis in June 1998. Indeed, the introduction to Professor Hensher’s report states that an assessment was undertaken by the Institute of Transport Studies ‘over the period June 27 to August 30, prior to and subsequent to the release for comment of the draft RIS’. The use by Professor Hensher of outdated figures, taken from an earlier draft document, as the basis for comparison with his own cost analysis is problematic. This is particularly the case in relation to revenue estimates where Professor Hensher’s report incorrectly states the total estimated in the draft RIS.

The following tables summarise cost information contained in the various working papers. As different base operational and cost assumptions have been made in relation to route buses, dedicated school buses and coaches, the total costs for these services are listed separately. A distinction has also been drawn between private and public bus fleets.

TABLE 5.2 estimated costs and revenues - buses

Buses (\$ millions)	
Australian Capital Territory	10.6
New South Wales	415.7

Queensland	141.4
Tasmania	2.4
South Australia	29.5
Western Australia	10.5
Northern Territory	6.7
Victoria	3.5
New South Wales private fleet	228.9
Private fleet	251.5
Infrastructure (interchanges)	25.6
Infrastructure (stops)	628.0
Dedicated school buses	1,265.6
Coaches	174.4
Total	3,194.3
Revenue	456.0
Total cost (incorporating revenue)	\$2,738.3

TABLE 5.3 estimated costs and revenues - ferries

Ferries	
Incremental capital costs (Vic & NT only)	\$8,800,000
Infrastructure, (excl Vic, WA)	\$46,882,000
Patronage changes	\$0
Maintenance (NT only)	minimum

	\$60,000
Staffing (NT, Qld and Vic only)	minimum \$1,285,000
Total identifiable cost	minimum \$57,027,000

TABLE 5.4 estimated costs and revenues - taxis

Taxis	
Accelerated capital/maintenance cost	\$51,353,800
Capital cost	\$33,933,960
Maintenance	\$31,147,200
Staffing	\$1,502,400
Infrastructure	\$10,708,310
Total cost	\$128,645,670

TABLE 5.5 estimated costs and revenues - trains

Trains	
Retro-fitting costs (metro)	\$43,802,000
Retro-fitting costs (non metro)	\$43,531,800
Maintenance (all)	\$0
Additional staff (all)	\$14,700,000
Infrastructure (excl WA non metro)	\$767,338,400
Great Southern	\$4,200,000

Total	\$873,572,200
Revenue	\$134,700,000
Total cost (incorporating revenue)	\$738,872,200

TABLE 5.6 estimated costs and revenues - trams

Trams	
Retro-fitting costs (excluding W-class trams)	\$68,000,000
Patronage changes	\$0
Maintenance (all)	\$0
Staffing (all)	\$0
Infrastructure (all)	\$13,553,000
Total	\$81,553,000
Revenue	\$0
Total cost (incorporating revenue)	\$81,553,000
Grand Total	\$3,744,397,870

TABLE 5.7 Estimated total costs and revenues - draft standards compliance (\$m)

	Buses	Ferries	Taxis	Trains	Trams	Total
Cost	\$3,194.3	\$57.0	\$128.7	\$873.6	\$81.6	\$4,335.2
Revenue	\$456.0	n/a	n/a	\$134.7	\$0	\$590.7

Total	\$2,738.3	\$57.0	\$128.7	\$738.9	\$81.6	\$3,744.4
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Table 5.8 Estimated total costs - loss in capacity: buses (\$M)

Loss in capacity - buses (\$m)	
Australian Capital Territory	0
New South Wales	303.9
Queensland	64.7
Tasmania	0
South Australia	0
Western Australia	0
Northern Territory	0
Victoria (private)	0
New South Wales private fleet	146.4
Private fleet	178.4
Total	\$693.4

5.3.4 Impact on small business bus operators

In clearing the draft RIS at the consultation stage, the Office of Regulation Review requested that some explicit assessment of the impact on small business bus operators be included in the final RIS. The ORR has indicated that this assessment need not be quantitative, but should highlight the particular impact of implementation of the draft standards on small business bus operators.

As indicated in the consultation statement in section 2.4 above, submissions on the draft RIS were received from a large number of rural bus and coach operators regarding the potential for implementation of the draft standards to impact negatively on the viability of their business. Particular concerns outlined in these letters included:

- the costs associated with making buses accessible in accordance with the draft standards;
- the difficult nature of the terrain in areas serviced by remote and rural operators;
- difficulties associated with accommodating boardings for people in wheelchairs in rural and remote areas where there are no 'formed' bus stops; and

- the lack of demand for accessible services in rural and remote areas.

The concerns of small business bus operators in non-rural and remote areas centre around the issue of cost.

There is no doubt that the cost of providing accessible bus services is prohibitive to full compliance with the draft standards by some small business bus operators. For example, a submission on the draft RIS received from one small business bus operator estimated that, assuming a 2% increase in patronage due to increased accessibility, compliance with the draft standards would generate an additional \$2,600 per year in additional revenue. By comparison, the estimated additional cost of compliance would amount to an additional \$90,000 per annum for 20 years, leaving a shortfall of approximately \$87,400 per annum. Understandably, the submission concluded that the result of compliance with the draft standards for the operator concerned would be the closure of their business and the reduction of public transport services in the area.

However, the draft standards do not require the provision of accessible public transport at any cost. Like the Act itself, the terms of the draft standards reflect the fact that there must be a balance between benefit and cost.

If the draft standards became law, they would not send small business bus owners or operators out of business. This is because of the unjustifiable hardship provision. It is not a breach of the Act to fail to comply with a requirement of the standards if to do so would impose unjustifiable hardship.

A range of circumstances must be taken into account when assessing a claim of unjustifiable hardship. They include: any additional capital, operating or other costs, or loss of revenue, that would be reasonably likely to result from compliance; the extent to which the service concerned is required to operate on a cost-recovery basis; and any effect which compliance with the relevant requirement is reasonably likely to have on the financial viability of a person or organisation attempting to comply. They also include any effect that compliance with a requirement is reasonably likely to have on the provision of a service or a feature of a service. Compliance with a requirement of the draft standards would therefore not be required where it would cause a service to be withdrawn.

It is well recognised that many country bus stops, in particular school bus stops, are no more than a space by the side of the road. They are often moved according to demand, and are rarely connected to a passenger's home by means of an accessible pathway. Similarly, many country bus services operate on unsealed roads, sometimes requiring drivers to negotiate creeks, hair-pin turns and steep gradients. In many areas there is little or no demand for accessible bus services. The draft standards make specific reference to the need to consider any exceptional operational, technical or geographic factors, including at a local or regional level, when considering a claim of unjustifiable hardship. This includes difficult terrain, unpredictable and rapid variations in service routes, and demand for certain types of vehicles. The draft standards also require that consideration be given to any benefits that may arise (both to people with a disability and to other passengers and people concerned) from compliance with a requirement. The absence of a demand for accessible services is relevant in this context. The same sorts of considerations would apply equally to urban bus services.

While the unjustifiable hardship provision would prevent a complaint of discrimination from being successful where unjustifiable hardship was shown to apply, it does not assist small business bus operators seeking to determine, in the absence of a complaint, whether the provision applies to their specific circumstances. That is, it requires a determination to be made in the context of a complaint before a bus owner or operator can be certain that they are not in breach of a provision of the draft standards.

The bus and coach industry has recently expressed a desire for the introduction into the draft standards of an up-front mechanism for providing that certainty. A small working group of the Accessible Transport Working Group was convened to consider this issue. The working group comprises representatives from the Bus and Coach Association, the disability community, State/Territory and Commonwealth transport departments, the Attorney-General's Department and the Human Rights and Equal Opportunity Commission. HREOC undertook, at an October 1998 meeting of that group, to prepare a paper outlining possible proposals for introducing a certainty mechanism into the draft standards. This issue is discussed further in Chapter 6.

Many rural and remote small business bus operators run dedicated school services. Chapter 6 of the RIS recommends that Ministers consider exempting dedicated school bus services from the draft standards in so far as they relate to physical access. This exemption should be on the basis that the relevant State/Territory Government and the school bus service provider develop a regional action plan to provide appropriate solutions to access, where required, at a local level. The benefit of developing an action plan is that, once lodged, the Human Rights and Equal Opportunity Commission is required to take a plan into account when considering a complaint of disability related discrimination made against the service provider.

5.4 OTHER TRANSPORT SECTOR IMPACTS

One expectation associated with improved accessibility of mainstream public transport is that the demand for alternative or parallel transport services, currently meeting the travel needs of people with mobility difficulties, will fall as patronage shifts away from these services to accessible mainstream services. This shift in patronage is expected to result in an overall reduction in the cost of providing transport for people with disabilities and mobility difficulties. All of the evidence reviewed on the cost differential between mainstream and specialised services finds that the costs of providing parallel services are higher than the costs associated with making accessibility improvements to mainstream services. For example, one prominent British researcher has suggested that door-to-door services are likely to be 10 times more expensive than accessible mainstream public transport services on a unit cost basis (Oxley 1995) and Western Australian research has suggested a 7 fold difference (Vintila 1996).

In making the observation that specialised services are generally more costly to provide than accessible mainstream services, it is important to note that the provision of these services for some passengers will always be required as a proportion of people with disabilities and the elderly will not be able, due to the nature and/or severity of their disabilities, to use accessible mainstream public transport even after accessibility is improved. That said, overseas experience (Vintila, 1994, pp. 41-42) suggests that these people represent no more than 2%-3% of the population and that,

depending on the accessibility and scope of fixed route services, only some of these people will be fully dependent on door-to-door services.

While overseas evidence suggests that there is a benefit to be derived, through cost savings, from patronage shifts away from specialised to mainstream public transport, the evidence on actual patronage shifts once accessibility has been improved is less conclusive.

Although overseas evidence suggests that patronage does increase on mainstream services once accessibility is improved, it is not clear to what extent demand for specialised services falls. A number of factors would affect whether, and the degree to which, patronage will shift away from specialised transport to mainstream public transport services. The most significant of these factors include the restrictions placed on usage of specialised services, and the relative attractiveness of the price-service mix offered by mainstream versus specialised services.

5.5 IMPACTS ON OTHER GOVERNMENT SERVICES

It is often suggested that the expenditure associated with improving public transport accessibility can be justified on the basis of off-setting public sector financial savings that will accrue in areas other than transport (i.e. so-called 'cross-sector' benefits). Cross-sector benefits can be defined as follows:

Cross-sector benefits represent efficiencies of resource use within and between sectors as a result of providing disabled and other people with accessible public transport (Fowkes et al 1994).

The work undertaken by Fowkes et al (1994) for the Joseph Rowntree Foundation in the United Kingdom remains the most comprehensive study conducted in this area. Moreover, it seems to be the only study which has attempted to provide monetary estimates, albeit highly indicative, of the likely magnitude of cross-sector benefits across a broad spectrum of activities assuming that public transport was made accessible. These activities included:

- chiropody (replacement of home visits by visits to clinics);
- meals (reduction in the number of meals provided in the home);
- general practitioners (replacement of home visits by visits to the surgery);
- home care (reduced provision of home care services);
- social work (reduction in the number of home visits);
- residential and day care (net saving associated with greater proportion of persons supported by day rather than residential care);
- employment (savings in unemployment benefits paid plus increases in income tax payments made by those persons with disabilities able to enter the workforce as a direct result of improved public transport accessibility; and
- patient transfer services (savings in non-emergency ambulance costs).

The estimates prepared by Fowkes et al suggested that the potential benefits in the employment category are by far the most important, accounting for around 50% of total benefits. By comparison, the next most significant class of potential benefits

identified in the residential and day care area only represented around 15% of total benefits.

Indicative Australian estimates of cross-sector benefits in each category (other than employment) were derived by simply adjusting the Fowkes et al estimates for the United Kingdom for relative populations and exchange rates. Given the overall significance of the employment category, Booz Allen completed a comprehensive review of the methodology used by Fowkes et al to estimate employment-related benefits and considered its application in the Australian context.

This analysis provided indicative annual estimates of the *present, potential* scale of cross-sector benefits, were Australian public transport accessible. To generate a 30-year benefit stream, these annual estimates were re-scaled in two important ways:

- Firstly, to reflect the actual level of public transport accessibility in each individual year (i.e. in accordance with the performance milestones established in the draft standards); and
- Secondly, to reflect growth in the number of beneficiaries across the 20-year implementation period and beyond. Potential employment benefits were assumed to increase in line with general population growth (i.e. this was assumed to mirror the growth in the number of persons with disabilities in the workforce), while all other potential benefits were assumed to increase in accordance with the growth in the number of persons with mobility handicaps.

The working paper on cross-sector benefits provides further details of the approach used to estimate the likely magnitude of potential cross-sector benefits in the Australian context.

The principal results of the analysis are summarised in Table 5.9. In accordance with the approach followed by Fowkes et al, 'high', 'medium' and 'low' projections are presented. It is important to stress that these estimates must be considered highly indicative, given that they are based largely on the results of the study conducted by Fowkes et al in the United Kingdom context. In particular, the transferability of these results to Australia is far from clear, given the policy and demographic differences between Australia and the United Kingdom.

Key observations that can be drawn from Table 5.9 are as follows:

- estimated benefits grow strongly under all three scenarios over the 20-year draft standards implementation period; and
- cumulative benefits over the first 30-years (i.e. \$2,600M to \$10,400M) are broadly twice as great as estimated benefits over the first 20-years (i.e. \$1,400M to \$5,300M). This reflects the fact that benefits in Years 21 to 30 are maximised (i.e. 100% accessibility is achieved by Year 20), together with the sustained growth in the forecast number of persons with mobility handicaps.

TABLE 5.9 INDICATIVE ESTIMATES OF CROSS-SECTOR BENEFITS

DRAFT STANDARDS COMPLIANCE

SCENARIO	PER ANNUM \$M 1996 PRICES						TOTAL \$M 1996 PRICES	
	1-5	6-10	11-15	16-20	21-25	26-30	1-20	1-30
Low	15.0	46.0	88.2	127.3	138.9	151.4	1,353	2,618
Medium	29.5	90.2	173.1	238.2	273.3	302.7	2,655	5,235
High	58.4	179.0	343.2	472.7	542.0	600.3	5,267	10,377

Source Booz Allen & Hamilton estimates.

Based on the report prepared by Professor Hensher, the Australian Bus and Coach Association has suggested in its submission on the draft RIS that cross-sector benefits have been over-estimated by approximately \$2,560 million. Professor Hensher's report states that two factors contribute to this alleged over-estimation:

- the patronage estimates are over-stated; and
- an excessively high value is placed on the value to individuals of cross-sector benefits.

The question of patronage impacts was dealt with in section 3.4 above. Central to Professor Hensher's estimates of increased patronage is an assumption that supporting infrastructure would remain at its current level of service. As discussed in section 3.4, the draft standards contain a range of requirements for improvement of infrastructure as well as rolling stock, and the total estimated cost of compliance with the draft Standards includes cost estimates for these improvements.

In relation to the value to individuals of cross-sector benefits, Professor Hensher's report suggests that the benefit of employment for a person with a disability who gains employment as a result of improved public transport accessibility can be no greater than the cost of the alternative transport available. That is, the report assumes that the benefit to people with a disability of improved accessible public transport can be no greater than the difference in cost between catching an accessible taxi to work and catching public transport to work.

On the other hand, submissions from the disability community indicated that taxi travel was now becoming financially impossible for many people with disabilities, prohibiting them from obtaining employment at all. In their submission on the draft

RIS, Jobmatch, an employment service for people with disabilities in New South Wales, highlighted the experience of one of their clients to illustrate this point. The client concerned resided in the Sydney suburb of Strathfield and worked in Epping, commuting to work daily by taxi. She was employed for five hours a day at an hourly rate of \$11, leaving her a gross income per day of \$55. The cost of travelling to work and home daily was \$25. That is, 45% of her daily gross wage. The client sustained the position for two and a half years before leaving the position due to the excessive costs of commuting.

As discussed in section 2.4, the Western Australian Department of Transport submission stated a view that the draft RIS did not adequately consider the positive effect of improved accessibility of public transport services on the need for parallel transit. Dr Rosenbloom's submission also suggested that the draft RIS had far too narrowly calculated the impact of accessible transport services on other sectors. Referring to a recent report by the US Transit Cooperative Research Program, Dr Rosenbloom noted that, while many North American systems had not yet experienced significant diversion from para-transit services, many had experienced enough diversion to bring the costs of accessible mainstream services below those of providing specialised services.

Submissions on the RIS from the Physical Disability Councils of New South Wales and Queensland stated a view that people who do not currently have a disability or a member of the family with a disability would draw comfort, and therefore benefit, from having an accessible environment in the event that they or a family member acquired a disability. The submissions suggested that, while there was no market for insuring against the loss of socio-economic participation because of a disability, the application of a 'shadow' insurance premium of 0.1% across the population was a 'fair value risk-neutral' premium given that the probability of acquiring a disability is greater than 1,000 to one. Applying this estimate to National Income, the Physical Disability Councils concluded that the net benefit across the population was an estimated \$420 million per annum, or \$8.4 billion over 20 years.

5.6 Net impacts

With estimated incremental costs associated with implementation of the draft standards at \$3,744 million over twenty years (see Section 5.3.3) and estimated cross-sector benefits of \$2,655 million over twenty years (see Table 5.7, Medium Scenario), the net costs of implementing the draft standards are estimated to be \$1,089 million over twenty years. The equivalent net costs for the Low Scenario are \$2,391 million. Should the High Scenario eventuate, there will be a net benefit of \$1,523 million.

Assuming 6.8% of the population is currently either unable to use mainstream public transport services or can only do so with difficulty and/or assistance (see Section 3.1.3), and a population of 18 million, the minimum number of people likely to benefit from the draft standards will be 1,224,000.

This means that under a Low Scenario the net cost per beneficiary would be \$1,953 over twenty years. Under a Medium Scenario the cost per beneficiary would be \$890 over twenty years, but under a High Scenario there would be a net gain of \$1,244 per beneficiary over twenty years. These outcomes are likely to be conservative as the

true number of people who will be assisted by the disability standards may be considerably larger and include such groups as people with strollers or heavy shopping, and carers of people with disabilities on whom there will be a reduced call for assistance.

5.7 CONCLUSIONS

It has not been possible to do a formal cost-benefit analysis on implementation of the draft standards due, in particular, to the difficulties associated with assessing the benefits that may flow from improvements in the accessibility of public transport. It has not been possible to get hard data on cost from all transport sectors and modes. To some extent, therefore, the net costs of implementation are still based on projections. Further, no attempt has been made to quantify what are likely to be major social benefits for people with a disability flowing from greater participation in community life generally that will flow from this initiative.

Notwithstanding these limitations, a detailed quantitative analysis of the likely cost impacts resulting from implementation of the draft standards has been conducted. In addition, an attempt, admittedly highly indicative, has been made to assess the increased patronage and cross-sector benefits that may be realised. Other benefits that have been identified include the improvements to greenhouse gas emissions that will flow from increased use of accessible public transport in favour of private transport.

The estimated costs of implementation of the draft standards identified by this RIS must be seen in their context. That context is the continued operation of the Disability Discrimination Act itself. There are unquantifiable, but undoubted, costs associated with the operation of the Act. These potential scope of these costs was highlighted in the complaints processes that lead to the development of the draft standards. Not the least of these costs is the potential for ad hoc complaints to interfere with the efficient and effective planning of the public transport system. There are clearly benefits in adopting a planned approach with reasonable implementation time frames that allows industry time to evolve and adapt.

The profile of costs and benefits are quite different. Costs tend to be up-front and are often borne by transport operators (both public and private) and infrastructure providers, such as Local Government. Benefits, particularly cross-sector benefits, will flow in the longer term, largely to the community and to State/Territory and Commonwealth Governments. However, as noted above, it is likely that some benefits will flow to operators in the form of increased patronage.

6 FUNDING

6.1 MAINSTREAM PUBLIC TRANSPORT SYSTEM COSTS

The results from Chapter 5 indicate that the total incremental costs (not taking account of cross-sector benefits) for the mainstream public transport system of implementing the draft standards will be in the region of \$187 million per year over the twenty year period. The net costs cover incremental capital expenditure and incremental operational expenditure (to year 20), less the increase in farebox revenue (from additional passengers). The net costs taking account of cross-sector benefits will be in the order of \$54.5 million per year over 20 years.

6.2 POTENTIAL SAVINGS - OVERVIEW

The incremental provider/operator costs associated with the mainstream public transport system would be partially offset by:

- (i) savings in costs for alternative (para-transit etc.) transport services; (as noted earlier, these are estimated broadly at some \$50 million per year, with a Present Value of some \$500 million over 30 years; Booz Allen & Hamilton estimates); and
- (ii) 'cross-sector' benefits, through savings in government expenditure in sectors other than transport; (these are estimated on the medium scenario as reaching \$250 million per year by year 20, with a 30 year Present Value of \$1,600 million; Booz Allen & Hamilton estimates).

It is clear that any such savings will accrue to governments, people with disabilities and the community more generally.

6.3 DEDICATED SCHOOL BUS SERVICES - A SPECIAL CASE

While the above analysis suggests that significant benefits for the community as a whole will flow from most of the expenditure required by the draft standards, this cannot be said in relation to dedicated school bus services.

State and Territory Governments generally subsidise dedicated school bus operators to ensure a minimum level of service is provided. Extensive representations were made both during and prior to the consultation phase by operators of such services regarding the perceived impact of the draft standards on their operations. The question of exclusion of dedicated school bus services has arisen following identification of extremely high costs of compliance within the draft RIS for dedicated school bus services (\$1,265 million). Operators claim that:

- they are small business people, generally using older and often second hand vehicles, turning them over less frequently;
- there is little or no demand for accessible services; the cost is not warranted by the limited demand;
- it is unlikely that there would be an accessible pathway between the bus stop and home so that improvements to buses would not be utilised; and
- bus stops are generally unformed, sometimes merely the space required for the bus to pull over on the roadside.

Evidence suggests that dedicated school bus operators often use buses obtained second hand from other operators. Their profit margins are small and they are largely government funded. Given the small number of students likely to be able to take advantage of wheelchair access (largely due to the problems of getting to and from bus stops), the cost involved in providing such access, and the small profit margins of such operators, the Steering Committee recommends that alternative proposals be developed with this sector for gradual provision of accessible services.

School bus services are regarded as a prime case for unjustifiable hardship and/or the provision of equivalent access. Given the low demand for accessible services, the fixed nature of patronage and passenger familiarity with the service, there is opportunity in this area for operators to liaise with passengers and their families to organise services around:

- use of a portable bus ramps or development of (temporary) platforms at relevant stops (could be earth formed if compacted or a wooden platform able to be moved when no longer required);
- the driver providing personal assistance with the loading/unloading of a passenger with a disability and getting them seated (removing the need for mechanical lifting devices, tactile tiles, coloured handrails etc); or
- the family providing access to an agreed bus stop which may not be the closest bus stop but one which allows safe entry/exit from the conveyance as well as space for parking/pick-up.

Consideration was given to the exclusion of dedicated school bus operators from the draft standards during their development, but was rejected on the basis that it did not provide a solution to the need for students with disabilities to have access to transport to school.

Exemption could be reconsidered, along with other options as outlined below, on the basis that the relevant State/Territory government and the transport provider develop a regional action plan to provide more appropriate solutions. If dedicated school bus services were exempted from the draft standards without the development of an action plan, options would be limited to:

- the provision by government of a para-transit option, effectively duplicating the school bus service;
- the development of special subsidy arrangements for rural school bus and bus stop provision (in recognition that the requirement to provide access would only impact on operators servicing a route where a person with a disability lives or attends school); or
- responsibility remaining with parents, with costs either being borne by the family or through a subsidy being provided by government.

Options

The options include:

- provision in the draft standards for a longer target date for implementation by dedicated school bus operators, enabling them to move to accessible vehicles in the second replacement cycle rather than the first; (this would require them to be accessible within approximately 30 years); (note that this would need to be balanced against the future desirability for this sector to broaden its business base through hiring out etc.);
- funding of research to identify low cost options for modifying existing buses and/or bus stops (eg low ramp with raised formed earth or wooden platform);
- development of a package of information for operators outlining options and indicating best practice for the handling of people in wheelchairs where personal assistance is being given;
- direct funding of accessible dedicated school bus services by State and Territory Governments - if the services were exempted from the draft standards, it would be possible for such governments and the service providers affected to develop action plans on a regional basis, in direct consultation with the relevant disability community;
- seeking agreement by relevant parties to action plans developed on a regional basis for the upgrading of bus stops, based upon regional needs and in direct consultation with the relevant disability community; and
- provision of a subsidy package for acceleration of accessible bus purchase and of bus stop construction, where demand exists.

In our view, a co-operative approach between the service provider, the service funder and the affected disability community should lead to a workable result without the need to impose the draft standards on this sector of the industry. In this regard, the process adopted by the South Australian Passenger Transport Board in consultation with the disability community offers a model that might be appropriate for dealing with the issue.

The Steering Committee has indicated that it does not believe that the costs identified for this sector (\$1,265 million) justify the corresponding benefits likely to be obtained. We recommend that Ministers consider exempting dedicated school bus services from application of the physical access provisions of the draft standards on an understanding that the relevant State/Territory Government and the school bus service provider will develop a regional action plan to provide appropriate solutions to access, where required, at a local level. We do not recommend that this exemption cover other access issues such as signage, symbols and the like. As indicated in section 5.3.4 above, the benefit of developing an action plan is that, once lodged, the Human Rights and Equal Opportunity Commission is required to take an action plan into account when considering a complaint of disability related discrimination made against the service provider. It is also possible that, after some time, the development of action plans would lead to the development of accepted standards for the provision of services in this area.

6.4 CHANGES TO REAR AXLE MASS LIMITS

The Australian Bus and Coach Association has put a proposal to the National Road Transport Council to allow for greater mass on the rear axle of buses while still maintaining the overall gross vehicle mass of 16 Tonnes.

This proposal is currently being considered by the National Road Transport Commission and is expected to be put to the Ministerial Council for Road Transport early in 1999 for Ministers' consideration. If this proposal were adopted, it would have an impact on the loss of effective capacity resulting from the allocation of space for two wheelchair passengers in full size route buses.

This would be particularly so in relation to full sized public route buses in NSW. Currently capacity loss experienced by NSW State Transit associated with implementation of the draft standards results in the need for an extra 254 buses at an estimated cost of \$303.9 million over the twenty year time frame. This is partly due to the loss of eight standing passengers resulting from the additional weight of the underfloor superstructure required for low floor buses. Discussions with the New South Wales Department of Transport have confirmed that State Transit has advised that, if the rear axle limit was raised by one tonne, there would be no difference in standing capacity between a high floor accessible bus and a low floor accessible bus. That is, the eight standing positions would be regained. As a result of acceptance of this proposal, the costs to State Transit of compliance with the draft standards would therefore be reduced from \$415.7 million to \$206.5 million. This equates to a reduction in costs associated with lost capacity of approximately \$209.2 million.

6.5 ACCELERATED REPLACEMENT AND RETRO-FIT

The cost benefit analysis has identified a number of instances where the requirements of the draft standards lead to a need for either accelerated replacement of vehicles and rolling stock or for retro-fitting.

If changes are made to the compliance timetable in the draft standards, much of this cost could be reduced or, in some cases, eliminated. For example, a significant amount could be deducted from costs associated with accelerated replacement in NSW if the compliance timetable in relation to buses was altered so that at the 15 year period the level of compliance was 80% rather than the current 90%. This would not change the overall timing of achieving full accessibility over 20 years.

In relation to trams, the cost of retro-fitting is estimated to be \$68 million, and the cost of accelerated replacement some \$700 million. Retro-fitting to provide physical access to people with disabilities, while significantly cheaper than accelerated replacement, is difficult to justify on a cost to benefit basis as it only provides a benefit to wheel chair users (who only make up a small percentage of mobility impaired passengers) and does not improve access for other categories of mobility impaired people and parents with prams, customers with shopping etc. Further, the retro-fitting of Victorian trams has been rejected by Melbourne's disability community. Victoria has lodged an application for temporary exemption regarding the physical accessibility of trams with the Human Rights and Equal Opportunity Commission. The application to HREOC is not sought to permit authorities to do nothing, but to establish a timetable for making Melbourne trams accessible to people with disabilities. Victoria, and all of the other State and Territory transport agencies who dealt with the issue in their submissions on the draft RIS, strongly supported a modification to the compliance time table in relation to trams. Leaving aside the need to resolve significant technical issues, increasing the time frame for the provision of physical access to trams, to allow for compliance upon replacement at the end of the commercial life of existing vehicles, would essentially have the effect of eliminating any additional capital cost associated with implementation of the draft standards.

The estimated cost of retro-fitting in relation to trains is some \$88 million. There are greater difficulties concerning the possible extension of the time frames for rail rolling stock, due to the long life span of trains. However, on the basis of information provided by the States and Territories, it appears that the bulk of existing rail rolling-stock has about a 30 year life span. If the compliance time table for trains were extended to 30 years, the bulk of the retro-fitting costs associated with trains would not need to be incurred.

Bearing this in mind, and on the basis of discussions with State and Territory transport officers, we recommend that Ministers agree to amending the compliance time table in the draft standards to allow for physical accessibility on trains and trams by year 30, rather than year 20. We do not recommend that this extension of the time frame cover other access issue such as signage, symbols and the like.

6.6 PROVISION OF WHEELCHAIR SPACES IN FULL SIZED ROUTE BUSES

The draft standards contain a requirement that two wheelchair spaces be provided on each bus with a capacity of 32 seats or more. Some transport operators have queried

the need for two spaces, suggesting that one is sufficient. In addition to the cost factor, transport providers have raised problems associated with the absence of grab rails near allocated wheelchair spaces in support of this argument. For example, New South Wales State Transit indicated in its submission on the draft RIS that it had received complaints from a number of elderly and other less mobile passengers who had experienced difficulty in negotiating the open area of the wheelchair spaces.

A decrease in the number of wheelchair spaces required per full size bus would result in a significant reduction in capacity loss for bus operators. It would, however, also result in a significant reduction in the benefits to be gained from providing accessible services. The decision to include two wheelchair spaces was made, after much deliberation, by the ATC Working Group that developed the draft standards. As indicated in section 2.4 above, all submissions received from the disability community during the consultation phase strongly rejected an amendment to the draft standards in this area. This position was based on the fact that, were only one wheelchair space per bus provided, people in wheelchairs would be prevented from travelling with friends and family who were also in a wheelchair. It was also thought that providing two wheelchair spaces would reduce the number of incidents where a wheelchair passenger was unable to board due to the wheelchair space already being occupied.

Discussions with State and Territory transport departments have revealed strong support for maintaining the requirement to provide space for two wheelchair passengers. On this basis, we recommend that Ministers agree not to amend the draft standards in this area.

6.7 LIMOUSINES/HIRE CARS

Discussions with transport officials in the States and Territories, as well as submissions received during the consultation phase, would suggest that both limousines and hire cars should be exempt from the draft standards. There is a strong argument in relation to veteran and antique model vehicles that to make such vehicles accessible would involve unjustifiable hardship. This is particularly so given that this industry appears to be comprised of a relatively large number of operators with a small number of vehicles. This contrasts with the position for much, but not all, of the taxi industry. In relation to later model vehicles, it is true to say that the distinction between limousines/hire cars and taxis is being broken down in some areas. For example, limousines/hire cars are now competing directly with taxis for business at places such as airports. However, in most cases limousines and hire-cars must be pre-booked and cannot sit at taxi ranks. This would suggest not only that response times are not an issue, but also that limousine and hire car operators are competing with taxi operators only in a very limited sense.

As limousines/hire cars do not operate on the same basis as taxis, and are a pre-booked and often unique service, there is a strong argument that it would not be practical or viable to have the draft standards apply to them as they would apply to a standard taxi service. On this basis, and following detailed discussion with State and Territory transport officials, we recommend that Ministers consider removing provisions relating to limousines and hire cars from the draft standards.

6.8 SMALL AIRCRAFT

It is clear that more work on what is structurally possible for lower capacity aircraft is necessary before it can be ascertained whether and how these aircraft can be made accessible within the terms of the draft standards. Problems associated with making smaller aircraft accessible include:

- restricted physical confines of the aircraft cabin, making it difficult for passengers to transfer from a wheelchair to a seat;
- insufficient luggage space for storing a wheelchair; and
- limited weight carrying capacity of some aircraft.

The Human Rights and Equal Opportunity Commission is anticipating an exemption application in early January 1999 regarding aspects of regional airline services. If received as expected, the exemption application will be the subject of a submission and inquiry process by HREOC. If for some reason the application is not received as expected, HREOC intends to conduct some other form of inquiry into this area. On this basis, we recommend that Ministers consider, in the short term and pending the findings of HREOC's inquiry, amending the draft standards to exclude their application, in respect of physical access, to low capacity aircraft. For these purposes, we suggest a definition of low capacity aircraft that incorporates any aircraft with 29 seats or less. We do not recommend that this exemption cover other access issue such as signage, symbols and the like.

Based on information from the 1997 Regional Airline Directory, it would appear that an exclusion of this nature would affect approximately 72% (or 166 of 230) aircraft operated by regional airline operators. It would also affect the vast majority of chartered aircraft.

Comments were received on the draft RIS from a number of Local Councils in their capacity as airport/aerodrome operators. A number of these airports/aerodromes are not staffed by regular employees, but are opened by Council staff each morning and closed by the last commercial flight scheduled for that day. Others are opened only two or three days each week, and are serviced largely by non-commercial or charter flight operators. Indeed, many of these airports/aerodromes are not licensed to accommodate Regular Public Transport ('RPT') services.

A number of Councils have indicated a view that blanket application of the draft standards to non RPT licensed airports/aerodromes would not be equitable. This is said to be due to the fact that:

- (a) these airports/aerodromes do not generate the volume of revenue necessary for capital improvements; and
- (b) there is little call for accessible services in these locations.

Bearing this in mind, and assuming that Ministers accept our recommendation to exclude, in the short term, application of physical access aspects of the draft standards to low capacity aircraft, we recommend that Ministers consider amending the draft standards to exclude non RPT licensed airports/aerodromes from their coverage.

6.9 MECHANISMS FOR PROVIDING GREATER CERTAINTY

While an operator can point to unjustifiable hardship as a defence to a complaint of discrimination, the draft standards do not currently allow for an operator to determine, in the absence of a complaint, whether the unjustifiable hardship provision applies to their specific circumstances. That is, a determination must be made in the specific circumstances surrounding a complaint before a bus owner or operator can be certain that they are not in breach of a provision of the standards, and therefore of the DDA. This makes it difficult for transport owners and operators to make informed decisions about the purchase and upgrading of equipment and infrastructure.

As previously indicated (section 5.3.4), the bus and coach industry has recently expressed a desire for the introduction into the draft standards of an up-front mechanism for providing greater certainty. A small working group of the Accessible Transport Working Group was convened to consider this issue. The working group comprises representatives from the Bus and Coach Association, the disability community, State/Territory and Commonwealth transport departments, the Attorney-General's Department and the Human Rights and Equal Opportunity Commission. HREOC undertook, at an October 1998 meeting of that group, to prepare a paper outlining possible proposals for introducing a certainty mechanism into the draft standards. That paper canvassed the possibility of amending the draft standards to allow for HREOC, acting with the benefit of advice received from an appropriate advisory body, to certify that unjustifiable hardship applied to compliance with a provision or provisions of the draft standards in certain circumstances. It also canvassed the possibility of identifying, through regulations, particular bus and coach specifications that could be regarded as 'deemed to satisfy' the draft standards. This approach is strongly supported by the Australian Bus and Coach Association.

Legal advice has recently been received from the Commonwealth Chief General Counsel to the effect that HREOC does not have power under its existing statutory functions to certify that unjustifiable hardship or equivalent access applies to certain circumstances. An amendment to the Disability Discrimination Act would be required in order to implement a mechanism of that description. However, it is possible that a similar power could be conferred on the Minister and delegated to some other body (without defined statutory powers). It should be noted that this power would have to be a fairly limited power to certify the existence of unjustifiable hardship or equivalent access in respect of individual operators' compliance with particular parts of the draft standards. It would not be legally valid to exempt categories of persons from the draft standards as a whole.

In respect of 'deemed to satisfy' provisions, legal advice from the Commonwealth Chief General Counsel suggests that, if the proposed 'deemed to satisfy' provisions can be identified, they should be included in the draft standards or in amended draft standards. Chief General Counsel's view is that there are considerable legal difficulties in using regulations to deal with this issue.

It remains open to Ministers to agree to the provision of greater up-front certainty for transport owners and operators. It would appear that this could be achieved by:

- amending the Disability Discrimination Act and the draft standards to allow for the Human Rights and Equal Opportunity Commission to give an up-front exemption from the operation of a provision of the standards, and any corresponding provision of the DDA, on the basis that

‘unjustifiable hardship’ or ‘equivalent access’ applies in respect of particular circumstances; and/or

- amending the standards to provide for a schedule of optional best-practice compliance methods.

A schedule of optional best-practice compliance methods would allow, for example, compliant models of buses and coaches to be developed and included in a schedule in the standards over time. Conveyances and equipment listed in the schedule would be deemed to satisfy the requirements of the standards, and hence the DDA. The schedule would thus provide a guarantee that money spent on such conveyances and equipment would not be found to be wasted in the event of a complaint of discrimination under the standards. Each amendment to the standards by way of a new addition to the schedule would be subject to Parliamentary approval.

6.10 POSSIBLE FUNDING OPTIONS

The cost-benefit analysis set out in Chapter 5 suggests that most of the cross-sector benefits that likely to flow from the implementation of the draft standards will flow to governments and the community sector. Most of the up-front capital and operating costs will be borne by operators and infrastructure providers such as Local Government. Some transfer of the possible benefits of implementation to those responsible for bearing the costs of implementation would appear to be necessary to the effective operation of the draft standards.

There are a range of options to be considered. Given the lack of detailed data on existing subsidies and funding programs, the options outlined below do not include the possible redirection of existing programs to meet some of the costs. Clearly, if government agrees to meet some of the cost, an option would be to redirect at least part of such funding.

There are relatively few areas from which funding for implementation of the draft standards can possibly be drawn. They appear to be:

- public transport providers and operators;
- public transport users; and
- taxpayers in general, through governments.

Public Transport Providers

Option: Partial Industry absorption

While some costs may well be able to be absorbed by transport providers, the evidence supplied to the steering committee suggested that there was little room for further efficiencies, and that, on the whole, transport operators functioned on relatively small profit margins. However, it is necessary to balance this with the inevitable need for the industry to continue to adapt and evolve in order to maintain passenger numbers. This is particularly important given Australia’s ageing population, and world wide moves to provide greater accessibility in public transport

Innovative design and the choice of appropriate methods of service provision that provide for equivalent access may well open the door to further reductions in costs. Should there be full subsidy for all costs associated with implementing the draft standards, there would be little incentive for innovation and best practice.

The most powerful argument in favour of some contribution from industry appears to be that the introduction of low floor technology, even with its increased cost and reduced seating capacity, would have ultimately been demand driven irrespective of the draft standards. Indeed, it seems clear that such technology would eventually have been introduced without any intervention in this area. Further, Price Waterhouse (1997) suggests that customer service improvements, such as greater availability of information concerning services, would ultimately have been introduced in the absence of the draft standards.

It is estimated, for example, that, irrespective of the draft standards, 2-4 seats per bus will be lost because of the move to low floor chassis. Depending upon which configuration is adopted, this might represent 30% of the reduction here attributed to the draft standards. Greater accessibility for tram and rail rolling-stock is also likely to become the norm given world-wide moves in this direction.

The private bus industry has indicated to government that it is prepared to bear some costs relating to greater accessibility. Operators' strong objections lie in bearing costs associated with wheelchair access. The Australian City Transit Association has indicated strong objection to any suggestion of industry absorption, given the difficult financial circumstances of its members. The Australian Bus and Coach Association submission stated a view that, if the draft standards were to be introduced in their current form, Government would need to fully fund the private bus industry in order to cover the costs of compliance.

Public Transport Users

Option: Gradual Fare increases

The introduction of standards will not only benefit people with a disability. Other groups who would also benefit include the frail-aged, people caring for young children, people with heavy or bulky parcels such as luggage or shopping and people suffering from a temporary disability.

The experience of transport users in Australia generally appears to suggest that passengers perceive that there are significant benefits to be gained from improving transport accessibility. This is consistent with overseas experience.

While fare increases are never popular, it would appear that a modest increase introduced over the time of the implementation of the draft standards might well be reasonable given the benefits to users. Such increases are consistent with current user pays policies in a number of areas. This option would involve an additional contribution to the costs of the service. It would not mean that the full cost of the service would be borne by users.

However, increases in fares have the potential to reduce the number of passenger boardings and are strongly opposed by the Australian City Transit Association for this reason. There appears to be general industry opposition to any proposal for fare increases. However, if the increases are small and are spread over the entire

implementation period, and the benefits of more accessible transport are realised, it seems that any negative impact on passenger numbers could be contained.

The Hensher report commissioned by the Australian Bus and Coach Association suggested that, if the proposed standards were to be implemented, the additional cost per passenger trip over the next 20 years in \$98 would be 24.6 cents (assuming an average fare per passenger of \$1.73). A fare increase of this amount was estimated by Hensher to result in a reduction in total demand of 2.13%. This was said to cause a decline in total patronage of 14.8 million passengers per annum. A further adjustment was subsequently made by Hensher to compensate for this loss of patronage in order to recover the costs of compliance. An iterative process was said to be required until equilibrium was established. This equilibrium is estimated by Professor Hensher to occur at a fare increase of approximately 27 cents, giving a total fare of close to \$2.00 per passenger trip. On Professor Hensher's figures, this amounts to a 15.6% fare increase.

On these figures, it would appear that a 4 percent increase in fares every 5 years during the 20 year period of implementation of the draft standards would go a significant way to covering the costs of their implementation. However, it is suggested that this option should not be implemented without further study as to its likely impact.

Governments

Option: A mixture of Commonwealth and State funding based upon cross-sector benefits derived.

Governments appear to have some funding responsibility in this area, not least because the estimated cross-sector benefits that are likely to flow from the introduction of the draft standards will flow primarily to government. The move to accessibility in public transport, however, is about good business and equal opportunity. It is not a matter of social welfare, and should therefore be a shared responsibility.

Savings resulting from implementation of the draft standards will flow, in particular, to Commonwealth, State and Territory Governments. These Governments have a joint responsibility for the provision of accessible public transport on two grounds. Firstly, the provision of public transport is a jointly funded responsibility, although the States and Territories have primary responsibility for actual service provision either through government owned public transport or through private sector providers. Secondly, State and Territory Governments, with the exception of Tasmania, have parallel anti-discrimination legislation which makes discrimination on the basis of disability unlawful in the area of access to public transport. Therefore, obligations in this area do not flow exclusively from the DDA.

Booz Allen and Hamilton have developed estimates of cross-sector benefits which indicate that there is potential for benefits to flow from a number of areas. One of these areas is employment. If the medium scenario suggested by the consultants is adopted, the direct benefits to government from reduced unemployment payments are likely to be about \$23 million per annum, with increased income tax collections in the order of \$15 million. These benefits will flow primarily to the Commonwealth. The remainder of the figures suggest that there are likely to be savings in the order of \$120

million per annum flowing to all levels of government, giving a total of about \$160 million per annum. There may also be other benefits to government, such as the possibility of the draft standards leading to expanded employment in industries supplying the transport industry.

7 IMPLEMENTATION OF THE DRAFT STANDARDS

The RIS process requires that a range of issues relating to implementation of the preferred option be discussed. This chapter discusses the timetable for achieving accessible public transport consistent with the draft disability standards. It also discusses the consistent coverage of the standards across public transport modes and operators, and the degree of flexibility contained in the standards to account for varying circumstances.

One key issue which has emerged is the question of how to deal with the period before full accessibility is reached, in particular in so far as encouraging people with a disability to use emerging accessible public transport services is concerned. In essence, how can a person with a significant disability be sure that when they make use of accessible public transport services in the morning, they will be able to use accessible public transport to get home?

To assist the implementation of the draft standards, the Australian Transport Council has established an Accessible Transport Working Group comprising representatives of the public transport industry, the disability community, and Commonwealth, State, Territory and Local Government. That group is considering a range of issues relating to implementation, including the possibility of a number of demonstration projects to test possible options for the interim period.

7.1 IMPLEMENTATION TIMETABLE

Once authorised, the Disability Discrimination Act makes it unlawful for anyone to contravene a disability standard.

From the date of authorisation, all new public transport systems would be required to comply with the requirements of a disability standard. If the current draft standards are adopted, existing public transport will progressively become accessible over a 20 year period. However, substantial access is required within 10 to 15 years

From the date of authorisation, the draft disability standards will apply to:

- new public transport conveyances, premises and infrastructure;
- conveyances, premises and infrastructure that have undergone significant refurbishment or alteration;
- additional or replacement equipment on conveyances or in premises and infrastructure;
- new or revised ancillary services provided by the public transport operation; and
- new or updated information supplied to the public.

Existing conveyances, premises and infrastructure will be required to comply at the dates set out in the compliance schedule contained in the draft standards.

The compliance schedule includes target dates set at 5, 10, 15 and 20 years after authorisation. The schedule lists the standards to be complied with by that date and the percentage of each type of service that is required to comply.

7.2 ENFORCEMENT MECHANISMS AND ISSUES

Public transport operators and providers will be responsible for complying with the standards and enforcement will be provided through complaints made to the Human Rights and Equal Opportunity Commission. Complaints may cover failure to meet the actual requirements of the standards themselves or failure to adhere to the compliance schedule.

HREOC has a significant role to play in administering the legislation. Section 67 of the Act outlines the Commission's functions. Amongst its other functions, HREOC is required to:

- inquire into allegations of discrimination in contravention of the Act, and attempt to achieve a settlement through conciliation;
- monitor the operation of disability standards; and
- promote understanding, acceptance of, and compliance, with the Act.

Determinations made by HREOC may be enforced through the Federal Court process established in the DDA. However, compliance with the requirements of the standards and with the compliance schedule is regarded as sufficient grounds for any complaint to HREOC to be rejected. It should be noted that it is the intention of the Commonwealth Government to transfer HREOC's power to make determinations to the Federal Court. Legislation is currently before the Parliament to achieve this.

A number of submissions made to an earlier draft of the disability standards expressed doubts about the use of HREOC as an enforcement mechanism. These doubts were largely raised by people with disabilities and included a range of concerns and suggested alternatives to the complaints mechanism. These alternatives included:

- requiring operators to prepare action plans or implementation plans and provide progress reports on implementation in their annual reports;
- incorporating the monitoring of compliance with standards into the tendering, accreditation and licensing process that State/Territory transport departments employ; (this would 'mainstream' the issue of accessibility to general service delivery and funding; a concern with this approach, however, is that State transport departments would be involved in both the specification and procurement of services as well as enforcement of the standards, thereby creating a potential conflict of interest);
- incorporation of an inspection mechanism for ensuring compliance with the disability standards, to be undertaken by existing inspection facilities and as part of current checking procedures that are in place for various modes; or
- making the grant of a licence to operate conditional on meeting the requirements in the disability standards.

These suggestions were based on a view that:

- it is inappropriate to rely on consumers to enforce the standards through the complaints mechanism, as they often would not have access to sufficient information to determine whether an operator was complying with the standards;

- making a complaint to HREOC can be a lengthy, time-consuming process that some people may find daunting or may not be capable of completing; and
- HREOC already has a number of responsibilities and would require additional resources to adequately deal with added responsibilities brought about by the disability standards.

Other submissions emphasised the need for training and education of public transport staff to complement the standards.

A number of these issues may warrant further consideration in the draft standards.

7.3 FLEXIBILITY OF STANDARDS

A clear advantage of standards is that they provide a degree of certainty for stakeholders who need to know what actions would be regarded as compliant behaviour under legislation. A potential shortcoming of standards, however, is that they can be inflexible, thereby imposing higher costs and requiring constant updating to keep them in line with technological developments.

The draft disability standards for accessible public transport provide a large degree of certainty for industry and consumers, but also incorporate flexibility in three key ways.

Firstly, the draft standards are essentially performance-based, as opposed to design-based. That is, the draft standards are not, in general, hardware specifications. Rather, the draft standards assume that a variety of solutions will satisfy any potential requirement.

Secondly, the draft standards allow operators and providers to comply with the requirements, and hence the DDA, by following the specifications provided in the document or by providing an alternative means for achieving 'equivalent access'. For instance, an operator may choose to provide equivalent access to bus services by using a high floor bus with a boarding platform rather than a low floor bus with a ramp, or an operator may choose to meet target dates for accessibility through a combination of replacement and retro-fitting of facilities. Where the standards have not been fully met, direct assistance to a passenger may also be a means for providing equivalent access.

Thirdly, the DDA provides exemptions in cases where 'unjustifiable hardship' can be demonstrated. This provision provides added flexibility in those cases where it can be shown that unjustifiable hardship exists. The standards incorporate a wide range of criteria that will be taken into account to determine whether unjustifiable hardship exists. Claims of unjustifiable hardship will be assessed by HREOC. Adopting this approach in the place of a set of specific exemptions introduces a further element of flexibility into the standards. Bearing this in mind, however, the standards do require compliance to the maximum extent possible, including exhausting opportunities for 'equivalent access'.

Action Plans, provided for under the DDA, may also be prepared by service providers as a means of setting out their intention to comply with the standards. These Plans are voluntary but, if prepared, include details such as: a review of practices to identify discriminatory actions; a set of objectives to achieve compliance with the DDA; and a means for evaluating the Plan's success and strategies to communicate its contents to

employees. Action plans are taken into account in determining exemptions for unjustifiable hardship.

7.4 CONSISTENT APPLICATION OF THE STANDARDS

The standards provide for the consistent application of accessibility improvements in public transport across all modes and operators to the greatest extent possible, given that some requirements are not relevant to some modes. For example, the requirement for conveyances that stop on request to be fitted with complying signal devices does not apply to aircraft or train services.

Some variations in the accessibility of public transport will also occur if some operators are granted timetable extensions or exemptions from the standards under the 'unjustifiable hardship' provision. Consistent application of the standards will depend to a large degree on the extent to which this provision is used. At this stage it is impossible to know how many operators will claim 'unjustifiable hardship' or how many claims will be upheld.

While it is clear that some degree of inconsistency in the application of the standards will result from use of the 'unjustifiable hardship' provision, however, this provision is important in minimising the detrimental impact of the draft standards on some individual operators, and in lowering the overall costs of achieving accessibility without unduly compromising the objectives of the DDA.

It would appear that a mechanism is required to ensure that national implementation is as uniform as possible and, just as importantly, to provide for the sharing of information particularly about equivalent access options. This would also allow for the monitoring of implementation of the standards, and for recommendations for change to the standards, should experience indicate that this is necessary.

7.5 INTER-RELATIONSHIP WITH OTHER STANDARDS & REQUIREMENTS

An issue raised in some submissions made on the draft standards and on the draft RIS is the need to ensure a smooth interface between the requirements of disability standards for accessible public transport and other standards, particularly standards and requirements relating to buildings and contained in the Building Code of Australia.

As noted in some submissions, clarity of regulatory requirements for providers would be improved if all standards relating to a particular issue, such as buildings, are contained in one, rather than several, standards. Alternatively, actions taken by operators that comply with one set of standards should also satisfy corresponding parts of another standard, reducing confusion and costs for those required to comply.

Based on comments received in submissions, including a submission from the Australian Building Codes Board, it appears that the issue of inter-relationships between standards may require additional attention in the draft disability transport standards. For example, discussions with the Western Australian Department of Transport have revealed a concern about reference in the draft standards to Australian Standard 1428.4 in respect of tactile ground surface indicators. This Standard is

currently regarded as a guideline only and is under review. We recommend that Ministers agree to a review of all provisions in the draft standards that call up Australian Design Standards in the initial review of the draft standards. It is expected that, by this time, the boundaries of accessible design and the law relating to access to premises will be clearer.

Another key issue that may require additional consideration in the draft standards is the need to co-ordinate agencies involved in the provision of public transport services and those responsible for providing other infrastructure such as roads, kerbs and footpaths. Similar to the issue of consistency between standards, consistent and complementary application of improvements to all areas relating to the provision of an accessible journey on public transport are required to ensure that implementation of the Standards produces anticipated benefits for consumers. The Australian Local Government Association has highlighted the critical need for communities, transport providers, operators, State/Territory and Local Government to address the poor coordination of public transport services.

7.6 MODIFICATION OF THE DRAFT STANDARDS PRIOR TO IMPLEMENTATION

Submissions on the draft RIS from a number of States and Territories indicated that experience with the draft standards to date has identified a number of areas where the technical detail may need modification. These submissions emphasised that a mechanism needs to be established to review the specifics of some elements of the draft standards prior to implementation. The following is a list of the identified problem areas. Many of these problems appear to relate to the fact that some clauses in draft standards require compliance with **Australian Standard 1428.2**; 'Design for access and mobility; Enhanced and additional requirements - Buildings and facilities' to ensure compliance with the draft standard in a particular area. As AS 1428.2 relates to buildings, not conveyances, it would appear that reference to AS 1428.2 is not appropriate in all circumstances.

Access Paths

An access path is required to have an unobstructed width of not less than 1200mm to comply with AS 1428.2. Further, AS 1428.1 requires clearance between a handrail and an adjacent wall surface or other obstruction of not less than 50mm. The width of the handrail is required to be not less than 30mm and no more than 50mm. With the need to provide handrails, in some settings an access path that was originally required to be 1200mm minimum in width in reality is required to be 1360mm minimum in width. Using 50mm handrails could result in a requirement that an access way be up to 1400mm wide in some areas. The effect of this inside conveyances, such as buses, trains and trams, is the potential to further increase seating loss resulting from implementation of the draft standards. The requirements for access paths in AS 1428.2 are said to deal with access between buildings. They are designed directly for the built environment rather than the internal environment associated with public transport conveyances. The benefit of compliance with these requirements in the context of internal carriage or bus design is not clear.

Passing points

AS 1428.2 requires at least one passing area of 1800mm minimum width to be provided after the first six metres of any access path. This requirement is not regarded as feasible in relation to ferries or train and tram carriages. Operators would incur significant costs and the potential loss of up to 18 seats per train/tram carriage if it became law. State submissions on the draft RIS would suggest that a solution more appropriate to moving conveyances would be a requirement that a passing bay 1600mm by 1600mm be provided at not more than 25 metre intervals, and less where there is no clear line of sight. This would enable passing bays to be put at the end of each carriage, and would significantly increase the level of available seating in rail and ferry systems without detracting from desired outcomes.

Boarding devices

AS 3856.1 requires the effective overall width of ramps and platforms to be not less than 760mm (780mm is desirable). It also requires a slip resistant surface and a safe working load of 300kg. On the other hand, the draft standards require a boarding device to be a minimum of 850mm wide, and to support a total weight of 200kg. Submissions from a number of States have suggested that further research needs to be done on the viability of increasing the width of boarding devices. South Australia has suggested that new test procedures should be developed to ensure that the extra width is factored into strength and safety. No such consideration has previously been given to these issues.

Hearing augmentation - listening systems

Discussions with the States and Territories would suggest that, while some people with hearing impairments are dependent on hearing loop technology to enhance their hearing, the reality is that such technology was designed for application in buildings rather than conveyances. The lack of a commercially available hearing loop system that can be readily transferred to mass-produced vehicles, such as buses, is cause for concern. In addition, the requirement for each and every vehicle to be subsequently tuned poses special problems in the form of technical resources required to undertake this task. South Australia has recommended that some formal strategy for the introduction of hearing loop technology on public conveyances be developed. However, in the short term, South Australia has recommended that provisions relating to hearing loops be removed from the draft standards.

Lighting

The draft standards require the provision of lighting that complies with minimum levels of maintenance illumination for various situations shown in notes to AS 1428.2. These illumination levels apply primarily to internal living arrangements and are viewed by the South Australian Passenger Transport Board as inappropriate for passenger conveyances. There is considerable cost involved in upgrading lighting to the levels required in the draft standards.

Signs

The draft standards state that "presentation of words or numbers on electronic notices are to be visible for at least 10 seconds" (clause 17.5). This has a significant impact on time critical processes such as ticket validation. South Australia has recommended that the draft standards be amended to provide that the display can be capable of being terminated when accessed by another passenger.

We recommend that Ministers give consideration to the amendment of the draft standards to take the above concerns into account, prior to their implementation.

8 REVIEW PROCESS

An important component of any regulatory proposal is the strategy it contains to review or monitor its effects over time. This chapter discusses the review mechanisms contained in the draft disability standards. It also raises a number of other issues that should be considered when reviewing the standards.

8.1 REVIEW MECHANISMS

The draft standards require the Federal Attorney-General to review their effectiveness at intervals of 5, 10 and 15 years after the date of authorisation. The draft standards require the review to consider:

- whether discrimination has been removed, as far as possible, according to the compliance schedule; and
- any necessary amendments to the standards.

The draft standards also contain a specific provision to review the threshold of 32 seats in buses as the cut off point for the provision of one or two allocated wheelchair spaces. This issue is to be jointly reviewed by operators and consumers two years after the standards are authorised.

The DDA (Section 67) also provides for a review mechanism in relation to standards by requiring HREOC to monitor the operation of the standards and to report to the Minister on any such monitoring.

As discussed in section 2.4 above, submissions received on the draft RIS indicated unanimous support for ongoing and regular review of the operation of the standards, if implemented. On the basis of these submissions, we recommend that Ministers consider amending the draft standards to provide for an initial review of all aspects of the draft standards within two years of implementation. Particular attention should be given at that time to clauses in the draft standards referring to Australian Design Standards. Attention should also be given to other emerging accessible transport issues, such as the use of scooters and the potential need for wheelchair restraints on moving conveyances.

Any disability standard in relation to accessible public transport will be the responsibility of the Commonwealth Attorney-General. However, overall policy

responsibility for the development of accessible public transport will remain with the Australian Transport Council.

It is particularly important that accessible public transport be developed in conjunction with other major public transport initiatives, not independently. As indicated earlier, accessible public transport may well assist in implementation of initiatives that may result from attempts to increase the use of public transport in response to climate change targets.

8.2 OTHER REVIEW ISSUES

The reviews required by the standards at five-year intervals should also explicitly address the impact on operators and providers of compliance with the draft standards. This is particularly important given that the costs of implementing the standards and the precise effects on patronage and revenues remain uncertain. Given the concerns raised regarding the enforcement mechanism contained in the standards, it may also be appropriate to explicitly review its performance after some time.

It may be appropriate to introduce more frequent on-going evaluation and review in the early years following authorisation of the standards, given that these appear likely to be the first set of standards developed under the DDA. Five year intervals for review may not be appropriate given the rapid technological change that is occurring in the field of accessibility. Improvements to technology may in fact make it possible to achieve accessibility sooner than is outlined in the compliance timetable.

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ENDNOTES

¹ Data on respective travel patterns drawn from Street, Ryan and Associates (1988) for people with disabilities and the 1986 Perth Travel Survey for the general community. While both these sources are now somewhat dated, more recent data on trips by people with disabilities is not readily available and it is considered that these sources are adequate for the comparative analysis involved.

² These forecasts involve a range of higher and lower fertility rate assumptions together with higher and lower levels of immigration in various combinations - see Clare and Tulpulé (1994 pp. 12-13). The probability of lower rather than higher rates of immigration in the foreseeable future suggests that growth predictions at the lower end of the range modelled by Clare and Tulpulé look increasingly likely.