

26 June 2020



Commissioner Alastair McEwin AM
Royal Commission into Violence, Abuse,
Neglect and Exploitation of People with Disability
via email: DRCEnquiries@royalcommission.gov.au

Dear Commissioner McEwin,

Re: Disability, Communications Technologies and Human Rights

On behalf of the Australian Communications Consumer Action Network (ACCAN), we would like to let you know about a project that we have recently undertaken in relation to communications consumers with disability. We feel this project helps to illustrate why the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Royal Commission) should inquire into the experiences of people with disability in Australia relating to communications technologies.

As you know, ACCAN has always been a strong voice for consumers with disability in the communications arena. We are proud to have a wide range of disability organisations as members, and as valuable contributors to and supporters of our work.

After celebrating ACCAN's 10-year anniversary in 2019 and reflecting on the accessibility improvements that ACCAN and our members have contributed to in that time, we started contemplating what accessibility improvements ACCAN would like to see in the communications sector in 2020 and beyond. We extended these conversations more broadly to the disability sector, and from December 2019 to February 2020, sought feedback from a range of organisations supporting people with disability.

As part of this consultation process, we asked about the top three communications issues that were currently affecting people with disability, the top three communications issues that contributors thought would affect people with disability in the future, and suggestions for possible solutions to address these existing and anticipated communications issues. Through this broad community engagement, we received responses from 35 organisations, including Disabled Peoples Organisations, advocacy groups and disability service providers, as well as 9 individuals with disability who offered insights independently of any organisation.

The insights offered by contributors illustrate that people with disability encounter a range of barriers to equitable communications access, and there are concerns that these barriers will continue (or worsen) in the future. As outlined in the Convention on the Rights of Persons

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with Disabilities (CRPD), people with disability must be ensured equal access to information and communications technology (ICT), systems and products.¹ However, many of the contributors reported that this is not the current experience for people with disability in Australia. Contributors were concerned that without appropriate and affordable access to communications technologies, people with disability in Australia would be left unable to enjoy their human rights on an equal basis with others. This observation is similar to that detailed by the Australian Human Rights Commission in their recent Human Rights and Technology Discussion Paper, in which they refer to accessing digital technologies as an enabling right for people with disability.²

Access to accessible and affordable digital and communications technologies can lead to increased opportunities for people with disability.³ With greater access to accessible technologies comes greater inclusion within society and more equal enjoyment of human rights, including for instance more inclusive workplaces,⁴ better access to education (including lifelong learning),⁵ and greater participation in political and public life,⁶ cultural life, in recreation activities, leisure and sport.⁷ Functionally equivalent access to communications technologies is directly related to the equal enjoyment of human rights for all.

ACCAN therefore remains concerned (like many of the project contributors) by the numerous challenges and barriers that people with disability in Australia experience when engaging with various forms of communications technologies. Many of these accessibility barriers cut across different parts of the communications sector and have broader implications on the inclusion or participation of people with disability in society more generally. Most, if not all, of these accessibility barriers will require collaborative, strategic and sustained advocacy to achieve greater access and participation.

As a result of this consultation, our ongoing concerns, and in recognition of the need for shared goals, ACCAN developed the Ideal Accessible Communications Roadmap.⁸ This roadmap outlines what it would look like if people with disability in Australia had full and equal access to all communications technologies and services. The roadmap encompasses areas such as the accessibility of telecommunications services and devices, online

¹ As articulated in article 9(1)(b) of the CRPD.

² Australian Human Rights Commission, 2019. *Human Rights and Technology: Discussion Paper*, pp148, 153. Available: <https://tech.humanrights.gov.au/consultation>

³ ACCAN's submissions to the Australian Human Rights Commission's Human Rights and Technology Issues and Discussion Papers discuss this in more detail. These are available on ACCAN's website: <http://accan.org.au/our-work/submissions/1543-hr-tech-issues-paper>; and <http://accan.org.au/our-work/submissions/1706-human-rights-and-technology-discussion-paper>

⁴ As articulated in article 27 of the CRPD.

⁵ As articulated in article 24 of the CRPD.

⁶ As articulated in article 29 of the CRPD.

⁷ As articulated in article 30 of the CRPD.

⁸ Attached for your reference, and also available on ACCAN's website here: <http://accan.org.au/our-work/1765-accessible-comms-roadmap>

environments, and audio-visual content; the affordability of communications technologies; and the safety and reliability of communications technologies for people with disability in Australia.

ACCAN will use the roadmap to keep track of accessibility improvements within the communications sector, and we encourage others to do the same. In our ongoing collaboration with the roadmap contributors we are in the process of developing Solutions Action Plans. These plans will outline activities and tactics that could contribute to the realisation of the shared goals outlined in the roadmap. Progressing these activities will help Australia move towards a fully accessible communications sector in which people with disability have equitable access to communications, supporting greater realisation of their human rights.

We believe that this consultation and the resulting roadmap identifies some areas where Australia is currently falling short in relation to promoting and upholding the human rights of people with disability. We also believe that many of the barriers encountered by people with disability in the communications sector constitute systemic violence and in some instances neglect, and should therefore be considered by the Royal Commission under its Terms of Reference. There is much that the Royal Commission could look into in relation to communications technologies for people with disability in Australia. We offer the following insights drawn from the roadmap and consultation process to illustrate some of these areas for consideration.

Inclusive telco services

In relation to the accessibility of telecommunications services, our consultation illustrated three key areas where accessibility could be improved for people with disability. Some of these accessibility improvements are also required at a broader, societal level.

Firstly, there is room for much improvement to the accessibility of information, plans and contracts. Access to information is vital – not only as a means of achieving equality,⁹ but also as a core human right, explicitly articulated in article 21 of the CRPD, that must be actively upheld. The ability to obtain, communicate and distribute information on an equal basis with others is central to the protection of a variety of other human rights.¹⁰ Despite the importance of information to broader human rights protection, many people with disability do not have equal access to digital or non-digital information, such as accessible contracts or information about communications devices.¹¹ ACCAN's previous work has shown that information about

⁹ Jaeger, P. T., Wentz, B. and J. C. Bertot, 2017. 'Chapter 4: The Intersection of Human Rights, Social Justice, the Internet, and Accessibility in Libraries: Access, Education, and Inclusion', in J. Lazar and M. A. Stein (eds) *Disability, Human Rights, and Information Technology*, University of Pennsylvania Press, Philadelphia, p58.

¹⁰ Ibid pp60-62.

¹¹ For instance, not all telecommunications providers currently offer people with disability free directory assistance, reducing access to information and choice of telecommunications provider for some people with disability.

accessible technology itself can be inaccessible, with companies often not knowing which of their products or services are appropriate for consumers with disability.¹² Services that do offer this information, such as ACCAN's Accessible Telecoms project¹³ which provides information about the accessibility of different communications devices, apps and training, are insecurely funded, despite offering necessary and valuable information to people with disability in Australia.

Questionable selling practices combined with inaccessible information can result in people with disability purchasing inaccessible devices and signing contracts that they do not understand nor have the financial capacity to service. This raises a second issue – that of staff training and interactions with customer service or sales staff. Our consultation illustrated that staff working in the communications sector often lack awareness or understanding about disability, and as a result may not appropriately support or engage with consumers with disability. Many contributors reported the need for inclusive disability awareness training for staff in the communications sector, including call centre staff. Some called for broad disability awareness training, while others identified specific types of training that may be required to address the diverse needs of different cohorts of people with disability, such as people with intellectual disability, people with communication disability, people with autism or Deaf people.

Contributors to the consultation also identified issues relating to the National Relay Service (NRS), including concerns that NRS users do not have equitable access to telephony services. Currently not all NRS call options are available 24/7, and nor do all options allow NRS users to be called via a direct line. Some contributors reported that NRS users feel as though they are being discriminated against (by the Government and the NRS provider) by not having this equal access. Furthermore, we received feedback that the NRS does not currently meet all the needs of NRS users, and because of this some people with disability rely on someone else (e.g. family member, friend, neighbour or carer) to place a phone call on their behalf. These respondents reported that relying on others was a violation of their privacy and dignity, and that the NRS call options must be improved to better serve their needs.

Accessibility of devices

Similarly, contributors to this project raised issues regarding the accessibility of communications-related devices. As outlined in the CRPD, Australia must actively research, promote and procure accessible technology for people with disability.¹⁴ The feedback we received in relation to this project indicates that this is not currently the case. While Australia adopted the European Standard AS EN 301 549 'Accessibility requirements suitable for public

¹² ACCAN, 2014. ACCAN's Disability Mystery Shopper Report, available: <http://accan.org.au/our-work/submissions/953-accan-s-disability-mystery-shopping-report>

¹³ Available at www.accessibletelecoms.org.au

¹⁴ As articulated in article 4 of the CRPD.

procurement of ICT products and services’, this is not yet implemented by all levels of government. Public procurement of accessible devices could have a huge impact on the accessibility of technologies more broadly available in Australia and could in turn improve the affordability of such devices. Furthermore, contributors felt that many communications technology designers or developers lacked disability awareness and did not prioritise the involvement of people with disability in these processes. They expressed their desire for people with disability to be involved in the design, development and procurement of accessible communications devices from the earliest possible stage, to ensure that devices appropriately meet the needs of people with varied accessibility needs.

Affordable communications technology

Accessible communications technologies (both hardware and software) can be quite expensive and are often unaffordable for people with disability to purchase. The contributors to this project were concerned that the cost of these technologies can lead to greater inequalities for people with disability, and were particularly concerned about the flow on effects of this given the ubiquitous nature of technology in today’s society.¹⁵ While contributors were aware that some financial support is available (for instance, Disability Equipment Programs), they were keen for more to be done.¹⁶ Some contributors reported that existing financial supports could be ad hoc and could leave people with disability unaware of what funding was available to them. For instance, we are aware that attempts to obtain accessible communications technologies through the National Disability Insurance Scheme (NDIS) have had inconsistent outcomes. Successfully obtaining NDIS funding for communications technologies appears to depend on a range of factors, such as the technical understanding of NDIS staff involved in processing the application, what type of plan the NDIS participant is on and how well the NDIS participant can self-advocate. This further entrenches inequality and digital exclusion for people with disability, especially those on low incomes.

Safe and reliable communications technologies

Contributors raised concerns about the reliability and resiliency of communications technologies and services. For instance, power outages can result in people losing access to fixed voice services, which can be particularly dangerous in emergency situations or in regional, rural and remote areas where landline connections play a vital role in keeping people connected. Contributors were also keen to ensure that people with disability with health and wellbeing concerns are supported to stay connected to their communications technologies. Some contributors were concerned about remaining connected for health and telehealth services, and others were concerned about barriers to full and equal access to the emergency call service and other emergency information. There was a consensus that the emergency call

¹⁵ Contravening article 5 of the CRPD and other human rights instruments (such as, for instance, articles 2 and 26 of the ICCPR, and article 2 of the ICESCR).

¹⁶ Some contributors suggested the development of loan schemes, new subsidies and other supports to cover the costs of installation and updates to communications technologies.

service should be more accessible to people with disability in Australia, in addition to accessible information about the emergency call service (such as when to use it, its reliability and what to do if you can't get through to Triple Zero on a device). Some contributors suggested next generation emergency call service options, such as SMS to Triple Zero, as ways to improve the accessibility of this vital service.

Contributors also reported that people with disability are susceptible to scams and cyber security issues. They felt that people with disability, especially older people with disability and people with disability from culturally and linguistically diverse backgrounds, are currently disproportionately affected by scams. Contributors suggested that accessible education or awareness raising programs could be implemented to help improve the understanding of people with disability around scams and the safe use of communications technologies. It was felt that this could help protect people with disability from online or phone-based abuse or exploitation.

Inclusive online environments

Contributors reported that people with disability in Australia experience barriers when accessing websites, online content and services. This leaves people with disability unable to enjoy their fundamental human right to access information and services. This is despite the existence of standards regarding the accessibility of online content and information. Contributors were concerned that online content and services are often designed without much thought given to accessibility, leaving industry to retrofit accessibility as an afterthought, which does not result in particularly accessible nor usable online environments. In addition, contributors explained that even if a website or other online offering technically meets accessibility criteria, if people with disability were not involved in the development it is not uncommon for these 'accessible' online environments to be difficult or unintuitive for people with disability to use, resulting in poor user experiences.

Contributors reported that these poor user experiences could have the effect of further marginalising or excluding people with disability from certain online environments or content. This exacerbates the existing digital divide between those with and without readily available (and affordable) access to online environments and digital communications technologies. Contributors felt that specific and accessible digital inclusion training, targeted to people with disability regardless of their existing digital skills, could help address this digital divide. Contributors also outlined that peer education could be an inclusive and supportive means to deliver this important training. Given the digital divide and the difficulties that some people with disability experience when accessing online content and services, contributors argued that it is essential that people with disability are afforded full choice and control when it comes to online environments. This would include having the opportunity to choose how and through what methods they could access the internet, online services or supports. Online

options or services must not be thrust upon people with disability without adequate consultation and training.

Accessible audio-visual content

Unequal access is also pervasive when it comes to broadcast television, streaming services and other forms of audio-visual content. Accessibility features (captioning, audio description and Auslan) are not consistently provided across a range of platforms, including broadcast television, catch-up television, streaming services, cinemas and social media. While quotas exist for captioning across free-to-air and subscription television, these are limited and there is no requirement for captions to be made available on online catch-up platforms. Similarly, there is no legislative obligation for broadcasters to provide audio description, with SBS and ABC only recently receiving limited funding to provide audio description on their main broadcast channels.¹⁷ This leaves people with disability in Australia unable to fully enjoy their right to participate in cultural life, performances and services on an equal basis with others.¹⁸

Future opportunities

During this project ACCAN was specifically interested in the issues that people with disability experience in relation to communications accessibility, and the possible solutions to these issues. While we have interrogated the human rights implications of some of these issues, more work could (and should) be done in this area. We know that there is more to learn when considering how these communications-related issues can lead to or exacerbate existing violence, abuse, neglect and exploitation of people with disability. Similarly, the disability community may also have insights into how communications technologies may be used to prevent violence, abuse, neglect and exploitation.

We believe that this community consultation is necessary and is permitted under the Royal Commission's Terms of Reference. For instance, such community engagement could help inform 'what should be done to promote a more inclusive society that supports the independence of people with disability and their right to live free from violence, abuse, neglect and exploitation.'¹⁹ ACCAN is confident that community-driven policy, legislative and structural reforms, similar to what we and others have been working on for years, will greatly improve the accessibility of the communications sector for people with disability in Australia. As outlined above, with communications technologies acting as an enabling right, these improvements will have flow-on effects to broader society and the enjoyment of countless other rights for people with disability.

¹⁷ Fletcher, P. 2019. Television audio description for blind and vision impaired Australians. Media Release 16 December 2019. Available: <https://minister.infrastructure.gov.au/fletcher/media-release/television-audio-description-blind-and-vision-impaired-australians>

¹⁸ As articulated in article 30 of the CRPD.

¹⁹ As outlined in section (c) of the Royal Commission's Terms of Reference.

As such, ACCAN welcomes any opportunities to assist the Royal Commission to further examine the communications-related experiences of people with disability in Australia, and how these specifically relate to experiences of violence, abuse, neglect and exploitation. We would be happy to liaise with our membership or broader networks to facilitate further community engagement around this issue.

Please do not hesitate to contact us should you wish to discuss the roadmap or future opportunities for community consultation in more detail.

Yours sincerely,

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