

Community Position Paper

May 2022

Public Procurement of Accessible Information and Communications Technology (ICT)



<https://ableaustralia.org.au/>



<https://ahpa.com.au/allied-health-professions/>



<https://atsa.org.au/>



<https://accan.org.au/>



<https://aslia.com.au/>



<https://autismsa.org.au/>



<https://www.bca.org.au/>



<https://www.accessibility.org.au/>



<https://centreforinclusivedesign.org.au/>



<https://deafaustralia.org.au/>



<https://www.deafnessforum.org.au/>



<https://www.facebook.com/DisabilityVoicesTas/>



<https://www.hearconnect.com.au/>



<https://intopia.digital/>



<https://www.nextsense.org.au/>



<https://www.ozewai.org/>



<https://www.pdcnsw.org.au/>



<https://pwd.org.au/>



<https://printdisability.org/about-us/accessible-graphics/>



<https://www.rsb.org.au/>



<https://tadwa.org.au/>



<https://www.vision2020australia.org.au/>



Blindness. Low Vision. Opportunity.

<https://www.visionaustralia.org/>

The Position

The alliance of organisations listed above represents many Australians with disability. Our unified position is that all Federal, State, Territory and local governments in Australia should immediately adopt clear and effective procurement policies which mandate that all Information and Communications Technology products and services purchased comply with all accessibility standards. Further, we call on all levels of government to implement rigorous monitoring and improvement strategies to ensure ongoing compliance with recognised accessibility standards, thus demonstrating an ongoing commitment to accessible and usable digital services and equipment for use by people with disability who are public service employees, as well as ordinary citizens and residents.

A lack of strong and comprehensive procurement policy mandating accessibility as an essential component across all levels of government causes severe disadvantage and the exclusion of some of our most vulnerable citizens with disability. Further, procurement and deployment of ICT which is not compliant with accessibility standards effectively excludes the employment of people with a disability for the lifetime of those systems, and any public-facing products or services derived from those systems will create barriers to effective use by people with disability. Retrofitting accessibility onto ICT products after-market comes at a much higher cost compared with building it in at the outset. This cost is often prohibitive, resulting in significant barriers to employment, and if external facing services rely on that technology, severe additional costs and delays which lead to members of the public being excluded from accessing those services. As an example, the Covid-Safe app was released in 2020 and was inaccessible to people who use screen-readers. This resulted in attempts to adapt and retrofit for accessibility and has led to significant cost to Government and left many people with disability unable to participate in the program. As well, the purchase of inaccessible office equipment such as photocopiers and telephone systems renders employees unable to perform work related tasks; leading to lower productivity for employees and the risk that employers will see this as a barrier to employing people with disability. Strict adherence to a strong and comprehensive ICT procurement strategy which considers accessibility at its forefront will foster inclusive practices from the outset.

What is Public Procurement?

Public procurement is the process employed when public funds are used to purchase products and services which will be used by Public Sector staff and the general population. An Information and Communications Technology (ICT) public procurement policy outlines the guidelines that governments must use when purchasing computer hardware, software, office equipment, telecommunications products and electronic services. A procurement policy which mandates accessibility for all ICT purchased by Governments, would ensure that government purchases of information and communications technologies and services are accessible and usable by the widest number of people, including the 4.4 million Australians with disability.¹

A whole of Government commitment to the procurement of accessible ICT will help to ensure that:

- All Australian public service workplaces only procure accessible ICT, providing significant benefits for current and future employees with disability,
- All public sector digital information and digital services are accessible and usable for people with disability,
- Greater choice of accessible products and services will be available in the Australian ICT marketplace, and
- Australia will be protected from becoming a dumping-ground for the inaccessible products which are unsellable in those overseas markets where procurement policies requiring accessible ICT are in place.

The Federal Government, through the Digital Transformation Agency, (DTA), has developed rules and guidelines which assist procurement staff with sound decision making in the purchase of products and services. The current Commonwealth Procurement Rules contain requirements for applying Australian Standards including the Australian Standard “Accessibility requirements for ICT products and services” (AS EN 301 549:2020). This policy contains the requirement that procurement officers seek evidence from suppliers and providers of their ability to meet all relevant Australian standards for purchases over \$80,000.

Adopting similar procurement policies across Federal, State and Territory and Local Governments and requiring that accessibility be considered at the forefront of all ICT purchases regardless of cost will alleviate many barriers faced by users of Government services as well as public sector employees, regardless of where they live in Australia. These policies must be clear and unambiguous to ensure compliance with Australian standards. This will assist to foster inclusion for all Australians.

In 2021 Australia adopted a National Digital Economy Strategy with the vision to make Australia a leading digital economy by 2030.² However, this Strategy does not include a framework for increasing digital inclusion across the Australian public. We assert that the implementation of mandatory whole-of-government procurement policies for accessible ICT, and an ongoing commitment to the use and development of accessible ICT must form the cornerstone of this Digital Economy Strategy, to ensure that all Australians can benefit from the nation’s future prosperity and people with disability can enjoy equal rights to participate in employment and other aspects of Australian life

¹<https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/2018>.

² <http://www.nbn.gov.au/nbn-benefits/national-digital-economy-strategy/>

Disability and Employment

There are over 4.4 million people with disability in Australia. According to the Australian Bureau of Statistics “Disability, Aging and Carers” report, in 2018, only 53.4 percent of people with disability were participating in employment, compared with 84.1 percent of people without disability. Further, research conducted in 2018 and reported by Vision Australia in its submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of people with disability, (known as the Disability Royal Commission or DRC), found that the instance of full-time employment of people who are blind or vision impaired is significantly lower, sitting at 24 percent.³ The study found that 44 percent of respondents cited difficulties with accessibility of Information and Communications Technology as a key barrier to finding and keeping a job.

The Australian Public Service (APS) Disability Employment Strategy (published in 2020) outlines the significant fall in the number of people with disability working in the Australian Public Service, siting a decline from 6.8 percent of total public service employees in 1986 to 4 percent in 2020.⁴ The strategy defines a target of 7 percent by 2025. To meet that goal, it will be necessary to employ an additional 4,500 people with disability across the Australian Public Service. Action 12 of the strategy, headed “Agencies must consider accessibility when procuring goods and services”, states:

“The APS can influence the wider Australian community regarding accessibility and inclusivity in the workplace. We should support businesses that focus on accessibility. This includes the acquisition of IT systems, software/hardware, accommodation and travel arrangements for interstate and international travel.”

The adoption of clear and well-developed public procurement policies at all levels of government, mandating compliance with all accessibility standards, will provide greater employment outcomes and significantly increase the efficiency and productivity of employees with disability. increasing the employment of people with disability, which sits at the heart of the Federal Government’s National Disability Employment Strategy,⁵ is a clear demonstration of a strong commitment to and recognition of the fact that people with disability have a right to equal participation in employment, as well as access to government services, enhancing Australia’s potential to meet its obligations under the UNCRPD and Australia’s Disability Strategy 2021-2031.

³ <https://www.visionaustralia.org/about-us/public-policy>

⁴ <https://www.apsc.gov.au/publication/australian-public-service-disability-employment-strategy-2020-25>

⁵ <https://www.dss.gov.au/disability-and-carers/disability-employment-strategy>

Current Australian Inclusion Policies

Australia's 2008 ratification of the United Nations Convention on the Rights of Persons with Disabilities, (UNCRPD), obliges the Government to progressively dismantle societal barriers that disable Australian citizens. The convention specifically articulates the need for signatory nations to dismantle barriers to digital access and inclusion through:

- Article 3 General Principles;
- Article 9 Accessibility;
- Article 21 Freedom of Expression and Opinion, and Access to Information;
- Article 27 Work and Employment; and
- Article 29 Participation in Political and Public Life.⁶

The Commonwealth Disability Discrimination Act (1992) prohibits discrimination on the basis of disability, in employment and access to goods, services and facilities.⁷ Poor access to accessible ICT creates barriers to employment and access to information and potentially renders governments and organisations open to discrimination claims.

In 2011, the Coalition of Australian Governments (COAG) adopted a 10-year National Disability Strategy (NDS) setting out a national policy framework for improving life for Australians with disability. This was reviewed in 2021 and retitled "Australia's Disability Strategy 2021-2031". ACCAN and other organisations representing people with disability in Australia submitted to this review, strongly recommending the whole-of-government strategy for the adoption of public policy for Accessible ICT Procurement. The revised strategy specifically targets employment of people with disability as a priority but does not mention steps which will be taken to ensure accessibility to public sector information, workplaces or built environments. Specifically, no mention is made of standards such as AS EN 301 549:2020 or WCAG 2.1, and the part they play in enabling people with disability to work and participate in employment and public life.

In 2021, the Australian Human Rights Commission published a report titled: "Human Rights and Technology". Chapter 12 of this report discusses the functional accessibility of goods and services which rely on digital technology for people with disability. It makes three recommendations:

Recommendation 24: The Attorney-General should:

- (a) develop a Digital Communication Technology Standard under section 31 of the Disability Discrimination Act 1992 (Cth), and
- (b) consider other law and policy reform to implement the full range of accessibility obligations under the UN Convention on the Rights of Persons with Disabilities, regarding Digital Communication Technologies.

Recommendation 25: The Australian Government and state, territory and local governments should commit to using Digital Communication Technology that fully complies with recognised accessibility standards—especially WCAG 2.1 and Australian Standard EN 301 549, and successor standards. To this end, all Australian governments should:

⁶ <http://www.un.org/disabilities/default.asp?navid=13&pid=150>

⁷ <http://www.comlaw.gov.au/Series/C2004A04426>

- (a) introduce whole-of-government requirements for compliance with these standards, including by:
 - i. providing information that is publicly available about how each agency complies with these requirements, reported annually
 - ii. establishing central line agency and ministerial responsibility for monitoring compliance across government
 - iii. resourcing training and advisory support to assist compliance
- (b) promote accessible goods, services and facilities that use Digital Communication Technology by mandating procurement from entities that implement such accessibility standards in their own activities
- (c) develop policies and targets to increase the availability of government communications in Easy English and provide human customer supports for people with disability who need to communicate with people instead of accessing digital services.

Recommendation 26: The Australian Government Department of Industry, Science, Energy and Resources or the Digital Transformation Agency should conduct an inquiry into compliance by industry with accessibility standards such as WCAG 2.1 and Australian Standard EN 301 549.⁸

The AHRC report further notes the obligation the Australian Government has in relation to its status as a signatory to the UNCRPD (United Nations Convention on the Rights of Persons with Disabilities). It states:

“The UN Committee on the Rights of Persons with Disabilities has recommended that Australia take the necessary legislative and policy measures, including through the use of public procurement policies, to implement the full range of accessibility obligations under the CRPD and ensure effective sanctions or remedies for non-compliance.”

Australian Standard EN 301 549:2020 refers to a standard adopted by Standards Australia in 2016 and further revised in 2020, entitled Accessibility requirements for ICT products and services.⁹ This standard outlines the requirement for products and services to be accessible to people with disability. This standard is referenced in the rules for public procurement of ICT but demonstrated evidence of compliance is not mandatory across the procurement of all ICT products and services.

Our position is that adopting the recommendations in the AHRC report and mandating the development of procurement policies which require adherence to the Accessible ICT Procurement Standard across all federal, state and Local Governments will ensure that all levels of Australian Government will align with the principles of access and inclusion enshrined in the UNCRPD. Furthermore, it will advance the economic, social and cultural participation of Australians living with disability, helping to ameliorate barriers to employment, information and services, and foster a wider marketplace of accessible ICT equipment and services.

⁸ https://tech.humanrights.gov.au/downloads?_ga=2.6094129.301097788.1643930882-1209351907.1643930882

⁹ <https://www.standards.org.au/standards-catalogue/sa-snz/communication/it-040/as--en--301--549-colon-2020>

International Procurement Policies

Internationally, governments are increasingly adopting policies and initiatives to ensure public procurement of ICT addresses digital access and inclusion. For example, in 2017, the United States Government updated the accessibility requirements for information and communication technology covered by Section 508 of the Rehabilitation Act. (1973)¹⁰ which requires all US Federal Departments and Agencies to ensure that “development, procurement, maintenance, or use of information and communications technology is accessible for Federal employees with disability, and that all Federal Government public information and services are accessible for people with “disability. This has had a significant impact on the availability of accessible ICT and has led to many large ICT companies such as Microsoft, IBM, Apple and others considering accessibility at the forefront of their products and services to be considered for government procurement.

In 2010, the U.S Congress passed the Twenty-first Century Telecommunications and Video Accessibility Act, (2010), (CVAA).¹¹ This Act ensures that new Internet-enabled telephone and television products and services are accessible to and usable by people with disability.

In 2005 the European Commission initiated Mandate 376 to standardise ICT for government procurement purposes across the union and allow for free movement of ICT between member states. This has been updated and amended several times, most recently in 2019 when it became the European Accessibility Act” and applies to procurement of ICT in the private sector.¹² Similarly, the European Web Accessibility Directive applies to websites and mobile apps for use by the public sector.¹³

Denmark, Ireland and Canada have implemented E-accessibility Toolkits to provide guidance in the public procurement of accessible ICT. Japan has a public procurement policy mandating that products and services supplied to the government are required to have considered ICT accessibility based on a series of existing standards.

In addition to the arguments of anti-discrimination and access-for-all in the Australian context, there is strong international evidence that governments need to be addressing universal design principles in the area of ICT procurement in order to promote innovation and manage their ICT procurement budgets.¹⁴ Addressing universal design and access-for-all principles in the design and implementation phase of government ICT procurement relieves the extraordinary costs of retro-fitting inaccessible legacy ICT services and equipment. Further, evidence suggests that mandating accessibility and considering the needs of people with disability at the procurement stage enhances productivity of workers, widens awareness of accessibility in the public and makes a significant difference to the lives and wellbeing of people with disability.

As other countries protect their ICT economies from inaccessible products and services, Australia may be at risk of becoming the dumping-ground for inaccessible ICT equipment. The power of the

¹⁰ <http://www.section508.gov/>

¹¹ <http://thomas.loc.gov/cgi-bin/query/z?c111:H.R.3101>:

¹² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0882>

¹³ [https://digital-strategy.ec.europa.eu/en/policies/web-accessibility#:~:text=The%20Web%20Accessibility%20Directive%20\(Directive,mobile%20apps%20of%20public%20services](https://digital-strategy.ec.europa.eu/en/policies/web-accessibility#:~:text=The%20Web%20Accessibility%20Directive%20(Directive,mobile%20apps%20of%20public%20services)

¹⁴ http://www.e-accessibilitytoolkit.org/toolkit/public_procurement/introduction_public_procurement

Commonwealth economy in procurement of accessible ICT has the potential to safeguard the wider Australian ICT marketplace, while at the same time encourage and foster innovation and availability of more accessible ICT products and services.

In the research report ‘Tapping the Potential of Accessible ICT Procurement’¹⁵, comparison of procurement policies across OECD countries provides a strong argument for the mandatory adoption of an Australian public procurement policy for accessible ICT.

Conclusion

Australia has a history of being a nation of early adopters of technology. This enthusiasm for ICT reaches across all aspects of Australian society - economic, social and cultural. Without the market influence of public policy for accessible ICT procurement, our enthusiasm for technology increases the risk of a widening digital divide for many Australians with disability. Without a whole-of-government commitment to the procurement of accessible ICT, demonstrated by the development and implementation of clear procurement policies at all Federal, State and Territory and Local Governments, as well as ongoing monitoring and improvement strategies to ensure compliance with recognised Australian and international standards, Australians with disability will continue to face ongoing barriers to employment, access to information and online services in both the public and private sector.

Given Australia’s rapid uptake and adoption of information and communications technologies, it is increasingly important that public policy is in place to bridge the digital divide between Australians with and without disability. The way in which we engage – with each other, service providers and government agencies – is rapidly changing from face- to-face engagement to the digital domain. It is essential that people with disability do not become further disengaged and disenfranchised through barriers created by inaccessible ICT products and services.

The convergence of technology, coupled with the increasing digitalisation of our society, has the potential to provide increased benefits and opportunities in education, employment and access to information and services for Australians with disability. Accessible and usable ICT can help to transform the way people with disability participate economically, socially and culturally in all aspects of Australian life in the twenty-first century.

We urge policymakers to promote full and equitable participation in all Australian public services for our citizens with disability by adopting our recommendation and implementing clear and robust policies for the public procurement of accessible Information and Communications technology.

¹⁵ <http://ro.uow.edu.au/eispapers/60/>

The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.
