



www.accan.org.au
info@accan.org.au
02 9288 4000

Submission

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ACCAN Submission to Disability Services Act Consultation

Submission by the Australian Communications Consumer Action
Network (ACCAN) to the Department of Social Services

About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards communications services that are trusted, inclusive and available for all.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

Contact

Elie El-Khoury Antonios
Disability Policy Officer

PO Box A1158,
Sydney South NSW, 1235
Email: info@accan.org.au
Phone: (02) 9288 4000
Contact us through the [National Relay Service](#)

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Executive Summary

ACCAN thanks the Department of Social Services (DSS) for the opportunity to make a submission to the consultation paper on a new Act to replace the *Disability Services Act 1986* (The Act).¹ ACCAN welcomes the commitment of the new Act to affirm the rights and freedoms contained in the United Nations Convention on the Rights of Persons with Disabilities (CRPD). In particular, clauses in Article 3 of the CRPD on full and effective participation and inclusion in society, equality of opportunity and accessibility.² It is ACCAN's long-standing position that access to digital communications technology is a basic human right. Access to digital communications technology enables the enjoyment of other human rights for people with disability, enshrined in the CRPD.³ Many people with disability continue to face digital exclusion due to the "prohibitive costs of digital technologies, the limitations of current technologies and a lack of digital education and training".⁴ For this reason, services which ensure the inclusion of people with disability, must incorporate digital communication technologies.

ACCAN's submission calls for the new Act to facilitate access to digital communications technologies and services, to better enable people with disability to experience positive social, economic and community participation outcomes. It is essential that services and supports delivered under the new Act incorporate the principles of co-design, digital inclusion and intersectionality, to promote the full, equal and active inclusion and participation of everyone with disability in the community.

¹ Department of Social Services (DSS), *Consultation Paper: A New Act to replace the Disability Services Act 1986*, November 2022 https://engage.dss.gov.au/wp-content/uploads/2022/11/Consultation_Paper-Disability_Services_Act_Repeal_and_Replace-28Nov.pdf

² United Nations Department of Economic and Social Affairs, *Convention on the Rights of Persons with Disabilities – Article 3-General principles* <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-3-general-principles.html>

³ ACCAN, *ACCAN submission- Australia Disability Strategy 2021-2031 guiding principles consultation*, November 2022, p. 4 <https://accan.org.au/files/Submissions/2022/ACCAN%20Australias%202021-2031%20Disability%20Strategy%20Submission%20Nov%202022.pdf>

⁴ As above.

Response to Consultation Questions

Question 1: Do you agree with the proposed objects for the new Act? What other objects should be included in the new Act?

Key Comments

- The new Act seeks to affirm “Australia’s commitment to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms for people with disability, as expressed in the CRPD”.⁵ In addition, the new Act intends to deliver services to improve outcomes for people with disability and fulfil the vision of the Australia 2021-2031 Disability Strategy (The Strategy).
- ACCAN agrees with the intention of the Act to give effect to Australia’s obligations under the CRPD. ACCAN asserts that access to digital communication technologies is a basic human right that enables the enjoyment of other human rights for people with disability which are enshrined in the CRPD. These rights have informed the seven priority areas of the Strategy, which are:
 - Employment and financial security.
 - Inclusive homes and communities.
 - Safety, rights, and justice.
 - Personal and community support.
 - Education and learning.
 - Health and wellbeing.
 - Community attitudes.⁶
- Services and supports delivered under the new Act must therefore incorporate the rights contained in the CRPD and also fulfil the commitments and actions outlined in the Strategy to promote the inclusion of people with disability.
- Principle (d) of the objects of the new Act should be amended to include that information about services must be provided in accessible formats including Auslan, Braille, Plain-Language, Easy-English, closed captions and different community languages.⁷ Providing information about these services in accessible formats is an essential part of ensuring equitable access to services and supports for people with communication needs under the new Act.

⁵ DSS, *Consultation Paper: A New Act to replace the Disability Services Act 1986*, November 2022, p. 4 https://engage.dss.gov.au/wp-content/uploads/2022/11/Consultation_Paper-Disability_Services_Act_Repeal_and_Replace-28Nov.pdf

⁶ As above, p. 2.

⁷ As above, p. 4.

Question 2: Do you agree with the proposed approach to the target group? How do you think the target group should be defined?

Key Comments

- ACCAN supports the proposed definition of those people to be covered by the Act because it is reflective of the social model of disability. The model emphasises the removal of barriers to the full and equal participation of people with disability in society.⁸
- ACCAN supports the proposed approach in seeking to recognise and address the intersectionality of the disability community with other identity categories such as race, gender, cultural background, and sexuality.⁹
- It is important to add children with disability and older Australians with disability to these identity categories, because they experience their own barriers to inclusion and participation in society.¹⁰ Therefore, the supports and services delivered under the new Act must address discrimination and exclusion related to the diversity and intersectionality of disability.

Question 3: Do you agree with our suggested principles for avoiding duplication and requiring coordination? What other principles do you think should apply?

Key Comments

- ACCAN supports avoiding duplication of services under this Act and other programs such as the National Disability Insurance Scheme (NDIS). In particular, where a person is eligible for supports or services under more than one piece of legislation, the agencies and providers involved should work together with the person to coordinate the supports and services, avoid duplication, and ensure alignment with the person's goals.¹¹ From ACCAN's perspective, digital communications technologies and services need to be accessible for people with disability eligible for the NDIS, as well as for those who are not eligible for the NDIS. As such, ACCAN supports the principles of the new Act in promoting collaboration between different service providers and agencies to ensure people with disability are provided with the essential supports and services required to participate in the community. For example, access to digital communications and technologies enable people with disability to participate in all aspects of community life such as education, employment and civic duties.
- To ensure all people with disability have access to the supports and services they require, the new Act should introduce a principle that stipulates that if people with disability cannot

⁸ DSS, *Consultation Paper: A New Act to replace the Disability Services Act 1986*, November 2022, p. 5 https://engage.dss.gov.au/wp-content/uploads/2022/11/Consultation_Paper-Disability_Services_Act_Repeal_and_Replace-28Nov.pdf

⁹ As above.

¹⁰ ACCAN, *Submission to Australia's Disability Strategy 2021-2031 Guiding Principles Consultation Paper*, November 2022, p. 10 <https://accan.org.au/files/Submissions/2022/ACCAN%20Australias%202021-2031%20Disability%20Strategy%20Submission%20Nov%202022.pdf>

¹¹ See principle (b), p. 5 of DSS, *Consultation Paper: A New Act to replace the Disability Services Act 1986*, November 2022, https://engage.dss.gov.au/wp-content/uploads/2022/11/Consultation_Paper-Disability_Services_Act_Repeal_and_Replace-28Nov.pdf

access services through the NDIS, they must be provided with the appropriate funding to access these services from other sources such as state and territory programs and initiatives.

Question 4: Do you think the new Act should include a definition for disability? Do you have any additional comments?

Key Comments

- ACCAN agrees that the Act should clearly define which groups of people with disability are eligible for support under the Act, as well as under the NDIS and other state and territory programs. The definition used in the new Act should support the social model of disability and its focus on removing barriers to inclusion and participation in society for all people with disability.
- ACCAN also agrees that the preferred language definitions of disability shift overtime. As such, any new services or policies that are introduced under the new Act need to incorporate and reflect the changing definitions of disability.
- The consultation paper acknowledges that “impairment or impairments that are episodic or fluctuating may be taken to be permanent, and the person may be taken to be likely to require support under the NDIS”.¹² However, the new Disability Services Act should also specify the services and supports that are available to people with disability who have a fluctuating or episodic condition that is not covered under the NDIS. Providing guidance on this support, will help to enable these people with disability to enjoy their fundamental human rights and freedoms.

¹² DSS, *Consultation Paper: A New Act to replace the Disability Services Act 1986*, November 2022, p. 5
https://engage.dss.gov.au/wp-content/uploads/2022/11/Consultation_Paper-Disability_Services_Act_Repeal_and_Replace-28Nov.pdf

Question 5: How do you think quality and safeguarding arrangements should be managed by the new Act?

Key Comments

- ACCAN supports the proposed approach to managing quality and safeguards in the new Act. The consultation paper discusses the potential alignment and cross-collaboration between the disability and aged care sectors to monitor, review and improve quality and safeguarding arrangements.¹³ The alignment between these sectors has been an ongoing focus of the Federal Government, especially in relation to regulating the conduct of workers and responding to instances of non-compliance.¹⁴
- The Act must also consider mechanisms to monitor and respond to quality and safety risks and harms that occur digitally and online against service providers and people with disability. These risks can include:
 - Scams
 - Fraud
 - Data and privacy breaches
 - Misinformation about services and providers
 - Online violence, abuse and exploitation
- Quality and safeguards arrangements under the Act should also include the provision of digital education and training programs, co-designed with people with disability on the harms and risks listed above. These training materials should also be provided to children with disability, older Australians, First Nations communities as well as Culturally and Linguistically Diverse communities. Improving the digital education and awareness of these communities will play an important role in protecting service users with disability from harm and exploitation when engaging with services online.

¹³ DSS, *Consultation Paper: A New Act to replace the Disability Services Act 1986*, November 2022, p. 7 https://engage.dss.gov.au/wp-content/uploads/2022/11/Consultation_Paper-Disability_Services_Act_Repeal_and_Replace-28Nov.pdf

¹⁴ Australian Government, *Aligning regulation across the care and support sectors*, Department of Health and Aged Care, August 2022 <https://www.health.gov.au/our-work/aligning-regulation-across-the-care-and-support-sectors#what-is-regulation>

Question 6: Do you agree with the supports and services listed above? What? other kinds of supports and services should be included in the new Act?

Key Comments

- ACCAN agrees with the broad and diverse range of proposed services to be included in the new Act. ACCAN also agrees that the Act needs to have flexibility to adapt to and accommodate new services and supports as they emerge.
- Other services and supports that should be included in the Act, are access to assistive technologies and digital communications technologies. These technologies play a significant role in enabling people with disability to achieve digital inclusion, participate actively in the community and enjoy their fundamental human rights and freedoms.
- Further, the Act should include a principle on co-designing services with people with disability to ensure they are accessible, inclusive and fit-for-purpose. Co-design and inclusive service design and delivery were a key focus of Public Hearing 31 of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.¹⁵ As such, the new Act must ensure that people with disability are placed at the centre of service design and delivery.
- Information about the services and supports in the new Act, need to be published in accessible formats including Braille, Auslan, Plain-Language, Easy English, closed captions and different community languages. Online information and resources about these services must also meet the highest Web Content Accessibility Guidelines (WCAG) standards. Providing information about these services in accessible formats, will help to enable people with disability to have equitable access to support to participate in the community and achieve a sense of inclusion.

Question 7: Do you consider it necessary to retain separate provisions for employment services and rehabilitation employment program, or could they be combined?

Key Comments

- Employment services and the rehabilitation employment program could be combined to cater to people with permanent and non-permanent disability. The new program would need to be flexible and adaptive to the individual needs of participants, including those with communications needs.
- Information and opportunities on the consultation process for the new employment model, must be delivered in accessible formats to enable equitable participation and input from people with disability.

¹⁵ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 31: Vision for an inclusive Australia, transcript day 4*, pp. 208-217
<https://disability.royalcommission.gov.au/system/files/2022-12/Transcript%20Day%204%20-%20Public%20hearing%2031%2C%20Brisbane.pdf>

Additional Comments

Key Comments

- The new Act must recognise the pivotal role digital communications technologies play in facilitating inclusion in the community for people with disability. This includes promoting inclusive service design, providing access to digital communications services, as well as presenting information about services in accessible formats.
- The new Act seeks to generate positive outcomes for people with disability. All levels of government, therefore, must be held accountable for implementing the new Act in all policies, programs, and services.

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.
