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TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

INQUIRY INTO DISABILITY DISCRIMINATION ACT

MRS H. OWENS, Presiding Commissioner
MS C. McKENZIE, Associate Commissioner

TRANSCRIPT OF PROCEEDINGS

AT HOBART ON WEDNESDAY, 11 FEBRUARY 2004, AT 11.35 AM

Continued from 4/2/04 in Canberra

MRS OWENS: Welcome to the resumption of hearings for the Productivity Commission inquiry into the Disability Discrimination Act 1992 which we will refer to as the DDA. My name is Helen Owens and I'm the presiding commissioner on this inquiry. My associate commissioner is Cate McKenzie.

On 5 February last year the government asked the commission to review the DDA and the Disability Discrimination Regulations 1996. The commission released a draft report in October last year. The purpose of this hearing is to provide the opportunity for interested parties in Hobart to discuss their submissions and to put their views about the commission's draft report on the public record. Telephone hearings have been held in Melbourne and public hearings commenced in Canberra last week. Hearings will also be held in Sydney, Melbourne and Brisbane. When we complete these hearings in March we will redraft the report and submit it to the government by the end of April. It is then up to the government to release and respond to the report.

We like to conduct these hearings in a reasonably informal manner, but I remind participants that a full transcript is being taken. For this reason, and to assist people using the hearing loop, comments from the floor cannot be taken because they won't be heard by the microphones. If anyone in the audience does want to speak I'll be allowing some time at the end of the proceedings today for you to do so. If you would like to take up this opportunity please identify yourself to a commission staff member. Participants are not required to take an oath but are required under the Productivity Commission Act to be truthful in their remarks. Participants are welcome to comment on the issues raised in other submissions. The transcript will be available on the commission's web site in Word format following the hearings.

I would like to welcome our first participant this morning, Tasmanians with Disabilities Inc. I would like to thank you all for appearing and for your submission in point form that we have received. For the benefit of the transcript I would like you each to give your name and your position with the organisation.

MS WILKINSON: Okay, I'll start. My name is Robin Wilkinson AM. My position in the organisation is vice-president.

MR EADINGTON: My name is Patrick Eadington and I'm an active volunteer member of Tasmanians with Disabilities.

MR GORDON: I'm David Gordon. I'm the southern chair for Tasmanians with Disabilities.

MRS OWENS: Thank you. I understand you would like to introduce some of your points for us so I might hand over - is it Robin that is going to do this?

MS WILKINSON: Yes, that's right.

MRS OWENS: You're all welcome to say anything.

MS McKENZIE: We're Cate and Helen. Are you happy if we call by your names?

MS WILKINSON: Yes, that's fine. If you don't mind Cate and Helen, we're happy with Robin, Patrick and David.

MS McKENZIE: I'm happy to just about answer to anything.

MS WILKINSON: We were really pleased with the report and it echoes some of the concerns that the consumer rights movement in Tasmania has had about the implementation of the DDA. We would really like to emphasise the theme that was the Physical Disability Council of Australia's theme last year which was "nothing about us without us". What we will be saying today actually really reflects that, that people with disabilities need to be involved in all areas of their lives and right from the beginning of all processes so that it's not other people making decisions about our lives. So everything within this review should be coming from people with disabilities is our belief. We're the ones that know best about our lives and what makes life easy for us and what makes life equitable for us.

We believe that disability action plans are a very useful tool as is said in the report, but they should involve people with disabilities from the very beginning. An example of that is using the telecommunications industry where Telstra developed its disability action plan and then went round and consulted with people with disabilities about it. Optus, on the other hand, involved people with disabilities right from the beginning of the drafting of the action plan. It came from people with disabilities and the action plan also reflected their mission statement to make it a live document.

We would like to comment on four specific areas within the report. They are the cost of disability and various things under that. We will also be looking at the cost of disability and employment and giving three personal accounts of that, and what are the positives within employing people with disabilities. We also want to talk about the complaints process and why it's so difficult for us to participate. We also want to look at flexibility on the meaning of equity within the act. We agreed with what the report said. We would also like to comment a little bit about self-regulation versus co-regulation and we also would like to talk a little bit about defences and exemptions because they actually further disadvantage us.

The cost of disability is really right across the board. Again, I go back to the report, whereas we emphasise employment in this situation, but if you haven't had a suitable education and perhaps above average qualifications your chance for employment is pretty bad. If you haven't got access to transport to get you to and from work, an accessible transport that's affordable, then you can't get yourself necessarily to and from work.

The other thing covers the goods, services and facilities. If you haven't got - for example, if you need personal care services, if you haven't got someone to provide you with those services to get you up and dressed and ready in the timing that you need to get to work, again looking for work is a bit of a useless exercise because you're not - so it's all of that thing about the cost of disability and who pays for it and how it's met and whose responsibility is it. That affects us all before we can even start to look at employment.

I guess a lot of our thinking would be that really it should be government that meets the cost of disability to a large extent. I know the report talks about copayment but sometimes that's really difficult for people and we have to remember that in the cost of disability people with disabilities on very limited incomes are already meeting some of that cost themselves through various forms. It might be through, for example, having to pay HACC fees. It might be through having to buy equipment because no equipment scheme is available, those sorts of things. So often individuals meet the costs themselves as well as perhaps the employer or the government so we're not without those things.

So we're sort of saying government should meet the cost. We would like it to be explored very much more about a disability allowance. There was a paper done by the Physical Disability Council of Australia about offsetting the costs of disability towards a disability allowance and we recommend that to you. We will include that as part of our submission later, that we do. Who meets the cost in cases of discrimination? Well, again, I think because people with disabilities are mostly amongst the poorest of the poor, the thought of cost and recrimination and a whole lot of things actually prevents people putting forward cases of discrimination.

Again, I think it needs to be government, not the person with the disability, and via the government process. If it's proved that a person has been discriminated against, then obviously it's the firm or the agency or the whatever. But I think unless it's up-front government stuff first, I think people with disabilities are really advantaged [sic] and the impact upon our everyday living activities, including leisure and everything else, but it also can impact upon the cost of employment. If I was in the workforce, for example, and having to go to some conference or other, it would have to be at a fairly expensive hotel to meet my disability requirements. I just can't use the run-of-the-mill accommodation that is perhaps cheaper. You haven't got any of those options if you've got a disability. You haven't got options if you need to use taxi transport, of paying that extra cost of the taxi transport, even though they're subsidised often by state schemes.

So it's in everything. There are instances where, for example, people - and I'm sorry, Cate, but we do use vision impairment as one. If people are in employment and they want to really look good and they can't see that their clothes are neat and tidy, they might send them off to dry-cleaning rather than washing and ironing them as other people might do. So, again, that's a hidden cost that is really important to be met for people with disabilities. How we do that we're not quite sure, but I have some very strong views about that. I think if the extra cost of disability is actually recognised in form of a grant of an allowance, then maybe people can afford to do those things. The other thing about employment is that sometimes when you get into employment you actually lose your health benefit card and for a lot of people with disabilities that's a very important issue. I would now like to ask David and Patrick to talk about their experiences and then I will follow up.

MRS OWENS: We will come back to some of the issues you have raised and talk about them after we hear David and Patrick.

MR EADINGTON: Can I just start. Being a person with a disability and going through the education system, there are not a lot of job opportunities or prospects because having a disability it is a struggle on a day-to-day basis just to get the education. So that puts you behind the eight ball first, without looking to the long-term future of going to TAFE or university and getting a degree or skills that will enable you to get a job or gain employment.

I went to TAFE - and so what skills have I got? So my number one skill was I am able to have a lot of skills in the disability sector. So I base my skills and ability to learn that and move on to certificate 3 in community work, but there is no opportunity in TAFE to encourage people with disabilities to go on to higher education. I was the only person in my TAFE that got certificate 3. Number one, resources in education system when I went to TAFE about four years ago, they didn't have the equipment or resources, or even the skills that teachers and lecturers had about those students with disabilities; so I was behind the eight ball, but a lot of people with disabilities haven't got the nous or the resources to cope with the struggle of their day-to-day lives let alone education and they will never have - we were talking earlier about struggling and also with getting employment you have got hidden costs like transport; resources (indistinct) and my worry is that as employers - like the education system are struggling with trying to understand how to accommodate a person with a disability and so they create barriers within the environment of people with disabilities, so all their skills and knowledge is second. It comes second and to jump the hurdle they have to do more. There has to be more understanding of the worthiness of people with disabilities in the workforce.

MS WILKINSON: Are you finished?

MRS OWENS: Thanks. David?

MS WILKINSON: I'd like to come back to some of the issues that Patrick raised.

MS McKENZIE: Yes.

MR GORDON: Basically, similar to what Patrick was saying, and I'll give you the scenario in my own case. Back when I went through my education as being visually impaired, originally having a school that was actually set up in the state for blind and visually-impaired children, eventually over the years that got scaled down and now one of the biggest problems situated out there is these children - and this also forms across other disability groups now as well - the inclusion of them into the mainstream schools, is the resources that actually folded them up.

With the resources, we were talking about teachers. In the particular case of Tasmanian visually-impaired children, those resources are limited to where they may get a teacher that's specifically trained in visual impairment only accessing that child for between maybe an hour or up to four hours per week, which is really in my own view insufficient. From that, once they get their education done, is the actual cost of their equipment needs and that. One group that I'm also involved with - Tasmanian Visually Impaired Children - actually, when they established 15 years, established an equipment bank, and sought funding to get equipment needs partially met - and I put it in inverted commas "partially", for the simple reason there's still a great demand out there for equipment that we just can't provide because there is insufficient funding coming from both government or whatever fundraising that we can do to make that available.

A lot of children have to cope with basically the everyday mundane equipment that they can get through, instead of probably getting them up to a level where they can get through with more up-to-date equipment. That's one of the biggest problems we've got. With a lot of them, we're finding that they started a schools' options program that was supposed to look at resources of children going on to secondary and tertiary education, and that has now collapsed in this state because, once again, we're back to the funding costs of it.

In the case of visual impairment, I was only just saying coming into this meeting that for myself to go back into full employment, doing similar sort of work that I'm doing at the moment on a voluntary basis, you would be looking at anything up to about 30 to 35 thousand dollars just to get the type of equipment that I would need to do it. When I was working up to 1992 as a fully-qualified chef, the last two years was basically the decision for me - part of one of the decisions - to retire, was equipment needs. It wasn't being met, even though I was working for the state government. It wasn't going to be met, because they were looking at the cost factor, and that was a big problem in that area.

We've got other members of Tasmanians with Disabilities: one particular person has three degrees - arts, law and economics - and is unable with those degrees - it's okay to go to uni and get these degrees, but looking at the possibility of getting employment from it is next door to impossible, and up to this point she hasn't been able to obtain work, other than very minimal part-time work, in the fields that she has actually done her training in.

MS McKENZIE: I would assume there are a lot of reasons why you think that's the case, but is one of the reasons the difficulty of equipment and actually paying for it?

MR GORDON: That's part of it. One of the biggest things that I'm noticing, especially through the vision impaired side of the community of people with disabilities is that now we've got this new law that came in that you have to disclose your disability before you start. That is even affecting a lot of people when they put an application in for a position. There are cases out there where they don't even get an answer back, and that is demoralising to that person with a disability - that they don't even make the grade to getting an interview. It may be a case of discrimination, but then again it's a case you have to prove it.

This is the other area that we've really got problems with - is we've got to always be proving ourselves, much better than a normal able-bodied person. That, again, is demoralising, and it gets to a point where somebody with a disability, they try and try and try, and keep on getting knocked back, and we end up with people just going behind a door and locking it, and then life just goes by. That's basically it.

MS WILKINSON: Can I follow on from both Patrick and David. I think also one of the problems with regard to employment of people with disabilities is that people have perceptions of what we can't do and aren't able to think laterally about ways around it and how we may be able to do whatever. So it's that perception of what we cannot do, rather than what we can do. The other thing is that I think people tend to put an accent on our disabilities, rather than what our abilities are. That happens right across the board. Patrick and David both talked about education, and I really go for mainstreaming of children with disabilities into so-called normal schools, but the supports and resources must be in place in order for that to happen.

My particular case with employment - and I worked for the Commonwealth government as a social worker in the Commonwealth Rehab Service. I hope you like the irony. I was dismissed on the grounds that they would have had to pay for equipment. At that time it would have cost them $5000, and for personal care once a day within the workforce. So that was unable to be provided.

MRS OWENS: How long ago was that?

MS WILKINSON: 1989. It was all tried to be fixed up before the act came into place, so I didn't have a case because it was prior to the act. The thing is that if they had provided me with that equipment of $5000, my taxes in a year would have more than covered that. So it seems to me that it's a false economy to retire people out on the grounds of their disability because you have to provide them with equipment, when if over a number of years you can actually recoup that money back. I think there are a lot of advantages in people with disabilities being taxpayers rather than tax recipients. I think that's one of the benefits to putting people with disabilities in employment.

The other thing is that a lot of people with disabilities are underemployed, and we have in a report that we did to the Senate inquiry into poverty in Australia some of the figures about that. For example, some of the statistics they gave was that a person with sensory impairment averaged $250 per week. However, the median income for those with an intellectual impairment was $170 per week, and those are the ABS statistics of 1998. I'm sorry they're a bit old but it's hard to get their more updated information.

MRS OWENS: That will be out soon.

MS WILKINSON: Yes, that's what we're told. Sorry. We've talked about the cost and we've talked about education and resources. We've talked about underemployment and, again, the person that David referred to with the three degrees is working on a part-time casual basis with a department here but is totally - her abilities are totally underestimated. The work she's doing does not equate with what her qualifications are. It's also often hard for people with disabilities, once they do have a job, to progress through a system to get higher positions within an agency or a firm or whatever. Again, I think it's to do with some of these perceptions that you can't do a job, because of your disability you'd be unable to do it, instead of actually trying it out and thinking laterally of ways around it.

MR GORDON: Sorry, Robin. Just giving you an example of that, it was similar to the last two years of my employment as a qualified chef. As far as I know, I was the only legally-blind chef in this state that I've known, because I didn't disclose when I first started in employment that I had a sight problem, and it was only in the last two years of my employment that I'd actually done that. But the moment I mentioned that, they turned around and they said, "But you might go and put salt in where you're supposed to have sugar," and I said, "Well, look, I haven't really lost my sense of taste." But it didn't really make any difference. They tried to come up with every other excuse of my primary disability - of why I couldn't do the job.

MRS OWENS: They were thinking about the worst-case scenarios, rather than thinking about all the ways that you'd been managing to do the job up to that point - successfully, I presume.

MR GORDON: When it came to the point of looking at, say, ordering for the department that I was working in, looking at the technology side, they just weren't prepared to look at the costs of the adapted technology to enable me to do the job. I was quite able to do that, and that meant I didn't have to touch anything.

MS WILKINSON: Moving on, who meets the cost? We believe that if the government meets the cost, then it gives all of us equity with everybody else. Who meets the cost in cases of discrimination? People with disabilities should be able to lodge a complaint without a cost, and then if it's proved, if there's going to be fine - I mean, it's taken people with disabilities, I believe, a while to get used to the idea of having mediation and - sorry, I've forgotten the word, but I'm sure you know what I mean - but sort of trying to mediate and solve the problem, and I think a lot of people at first found that really difficult because they didn't get any sort of money contribution but I think if there is a cost to a firm, for example, because they have been proven to be discriminatory, then some of that money needs to be put into training of that firm or the community generally about the advantages of employing people with a disability, and some disability awareness stuff generally, and also a little bit about discrimination and what that does to the whole society; that should be almost like a forced component of it. Have I made it clear?

MRS OWENS: Yes.

MS McKENZIE: Yes.

MS WILKINSON: And also we believe very firmly that we should not be talking about meeting the special needs of people with disabilities, but just about meeting our needs, particularly - and again, I go back to the telecommunications industry which is the one that I know the best. There have been lots - people with disabilities have had a lot of trouble within the industry, of having their needs met, partly because in the industry, when you're dealing with the industry, they say, "But the DDA solves that." It's not part of the Telecommunications Act that they have to do it. "We do that separately under DDA." Then they say, "But they're meeting special needs and that's extra cost and we can't do it because we can't meet that cost," whereas if you look at it that our needs are often not necessarily more expensive or whatever; they are just needs as are the people from rural and remote areas who have specific telecommunications needs, as people from diverse backgrounds have other needs within telecommunications.

So we're really anxious that we talk about meeting needs and not making special - not making things like extra - I know this is a bit contradictory to what I was saying before, but if you talk about the extra cost of disability that puts fear in people and say, "We can't meet it," whereas if you're just talking about meeting people's needs generally, they have to meet the needs. A firm has to be consumer friendly, has to be making adjustments, if you like, for various forms of customers and in the provision of services. I think it's a benefit to just talk about meeting needs rather than special needs.

The positives with regard to employing people with disabilities are that we - as I said earlier - actually pay tax rather than be benefit recipients. Also, the persons themselves gain skills, knowledge and abilities to work in a wide range of jobs and employment gives people - because of the way our society works it actually gives people a status and a self-esteem that can't be met, it seems to me, in other ways really. The better skills - one of the long-term effects of that is that if you have a job, you're paying, and your workplace is paying, towards a superannuation fund. Again, you have superannuation rather than being a recipient of services.

Research repeatedly shows that employees with disabilities are more loyal and better employees and that comes from the Prime Minister's Employer of the Year Awards. While we've really focused on employment because that's what we felt we had to do, many of the chapters and issues in the draft report - many of the issues we've raised with regard to employment could apply to many of the chapters and the issues in the draft report, and we ask that you take them into account and apply it across the issues, ranging from education, public premises and transport, goods and services and facilities, including social participation. Whilst the act puts that in with goods and services, I think social participation should almost be a separate entity in itself and also the changing of community attitudes - if those were the areas that were really focused on in the act, hopefully we'd have a more equitable society for all Australians.

Then we ask the question - getting off that - why is it so difficult for so many people with disabilities to go through the complaints process? As far as we know no-one at Tasmanians with Disabilities has been through the complaint process themselves. What's the reason for this? It doesn't mean that Tasmania is Utopia and that there are no problems here.

MRS OWENS: I was going to ask that. There has obviously been no discrimination in Tasmania.

MS WILKINSON: I wish. We can dispute that and we already have done, I think, at Commonwealth levels of government - - -

MRS OWENS: Can we get on to the transcript that that was meant to be a facetious remark.

MS WILKINSON: Yes. At Commonwealth levels of government, state levels of government and in the private sector I think we've proved our case. The complaints process needs to be made more accessible and more flexible.

MR GORDON: More easily understood.

MS WILKINSON: And more easily understood. One of our suggestions for that would be that you have a five-step plan. I'm showing my one hand with five fingers on it.

MRS OWENS: We can't show that on the transcript.

MS WILKINSON: I know, I'm sorry. That's why I thought I'd mention it. I thought I'd better explain it for Cate. We are suggesting an easy five-step plan or a guide to making a complaint. It might only be in dot form stuff, but something that is "For step 1 you do this, for step 2 you do that, step 3 you do that," because people can follow that. But I think the process from my point of view seems to be a bit too vague. There needs to be an awareness of the value of the complaint process, not only to the person that's making the complaint, but to the wider community - because I believe you use the examples actually for wider community benefit.

There is also, we believe, a need for a support scheme of some sort for people actually going through the process; something that people can perhaps access by either phone or email, because when you're going through a complaints process it can be very lonely and frightening for one thing, the stress of it can be all overwhelming and you can often feel very alone in that process. It's not the 9.00 to 5.00 kinds of hours that you have your problems. You can usually ring someone up during those hours. But it's at night, when you're lying in bed thinking, if you haven't got someone to discuss it through, "Is my thinking right, or is my thinking off beam here?" You might be having nightmares about it; all of those sorts of things and lots of worries concerning it all the time. So we just think there needs to be some sort of support in place and it needs to be a formal mechanism because I don't think informal ones have worked to date.

MS McKENZIE: Almost like some kind of help line?

MS WILKINSON: Yes.

MR GORDON: Because you do end up feeling whatsaname - and I've partially gone through this - both myself and my daughter did with a case here a couple of years ago - to the point where you just end up pulling the plug because you are actually made to feel as if you're the guilty party. To start off with you've got to prove that you weren't a guilty party.

MS WILKINSON: Yes, I think I did start the process before HREOC before the DDA, but in the end it just got all too hard and you just give up, because you're usually - other things are going on in your life and you're pretty stressed at that time anyway. I might say that when I left the public service it took them two years to resolve the process which they did - again, before the act was actually - just the December before the act was implemented.

The other thing is that we actually liked, within the report, referring particularly to box 4 which was that "equality" can have different meanings. We believe that really needs to stay in place, because maybe in different interpretations or the different - sorry, maybe the different interpretations of "equality" might apply to different situations for people with disabilities, or different types of disabilities. The outcome we'd like to see is always the best outcome for people with disabilities. In some cases the formal equality is appropriate where we want to be treated exactly the same as everyone else; but as it says in here, sometimes treating a person with a disability exactly the same as a person without a disability will not remove the barriers to participation. We can give examples of that later, if you would like, in our written submission.

We like the equality of outcome with the right to end up with the same outcome as other people, because that task is much more with equity. The substantive equality refers to the middle course, and sometimes the middle course is appropriate. So we really want those to be kept there. Again, we - - -

MRS OWENS: We thought that box was a useful box to put both in our overview and to have some discussion in the body of the report, just because often people mix up those concepts.

MS WILKINSON: Yes.

MRS OWENS: We wanted to make it really clear what we were talking about and what the act was about, so everybody understood where we were coming from.

MS WILKINSON: Our suggestion to that would be, too, that you add two or three examples, so that people really understand it. Our experience has been that - and it's the same with direct and indirect discrimination - there needs to be two or three examples so that people really get it. Our experience is that people haven't got it. It's obvious to us who work in it all the time, but it isn't really obvious to a lot of the community out there.

MRS OWENS: And it's tricky and hard to understand.

MS WILKINSON: Yes.

MRS OWENS: Even for people who work in it all the time.

MS WILKINSON: Yes.

MRS OWENS: Sometimes get pulled up and think, "Where does that fall?"

MS WILKINSON: Because disability is so diverse it needs to be that the individual has the best outcome and even if - I think for the person with a disability, that even if the case isn't proved to be one of discrimination, that there has been something learnt through the process so that the person doesn't feel as though they've failed again and that they had some issues which needed to be resolved, but maybe this wasn't they way it could be resolved.

I'd like to now go to the bits about - I'll do the regulation because that's the easiest perhaps for me to do, about self-regulation and co-regulation. Again, I use the telecommunications industry. They have been required to self-regulate that industry and the uptake of the various telcos to sign to the various codes has been a really hard, long and arduous process. It's only when ACA was finally given the power to say, "You must comply," that in actual fact some of the telcos have been actually complying with some of the codes.

The whole thing with disability and again the so-called special needs of disability - it was really hard to even get some guidelines, let alone any code or whatever, let alone getting any - and they just said, "Well, disability is too hard." I can still see this meeting where they said, "Disability is too hard and it's all too expensive. We want to back out of it." Again, at that hearing, we as disability reps had to actually form together and try and enlist the support of the person from HREOC in the circle, and I remember literally eyeballing this guy and saying, "We as people with disabilities would have the right, then, to say this self-regulation process isn't working for us," and we'd go to the minister and do that, and they'd say, "Robin, you wouldn't do that, would you?" I said, "I wouldn't do it. I'd be doing it on behalf of my constituency." But it was only when we really, really called their bluff they even took about two steps towards us, let alone what we were really asking for.

MRS OWENS: So Robin, they weren't doing this in a voluntary capacity? It was something - - -

MS WILKINSON: It was through the Australian Communications Industry Forum that they were doing it in a voluntary capacity. Again, the forum gave the chairmanship of that subcommittee working group to a service provider, not to a person with a disability, and I guess we didn't feel we had ACIF on side. I think ACIF has done a whole turnaround about its attitude to the needs of people with disabilities, but at that stage they really didn't understand what we were talking about. So, for me, seeing the self-regulation process, or the voluntary regulation process, it doesn't really work. Again, to me, it has got to be this co-regulation with people with disabilities involved in the process, particularly where it affects their lives, and saying, "But you really need to do this. This is why you need to do it. It's to do with equity and justice and a whole lot of things," because otherwise they seem to opt out.

MS McKENZIE: Do you think you also need the backup of having some authority, like the minister under the DDA for example, that if things were not going to work out, a standard could be made to enforce or to put some sort of set of regulations in place?

MS WILKINSON: Yes. In a sense, again, I would like to have seen that within the telecommunications industry as part of the Telecommunications Act, rather than them always saying, "But you've got the DDA to resolve that for you." And that was said to me, and said through ACA as well - the Australian Communications Authority - time and time again.

MS McKENZIE: So was that a sort of excuse for not doing anything?

MS WILKINSON: Yes. So that's why I'm using this as an example - and I hope I'm not going to be torn to shreds from people within the industry - but this is why it really needs to happen. Once the ACA and once ACIF understood exactly what we were saying and where we were coming from, and why it had to be that we had to be involved at the very beginning and in all steps of the process, things began to change. I've been one single voice representing all people with disabilities quite often, at a lot of these forums, which is (a) a really hard thing to do and when you're dealing with the telcos and the manufacturers and the big industry stuff, and they all gang up against you, it's a really powerful force and very difficult to deal with. I mean, I didn't know some of their language. They talk a different English language to what we talk within the rights movement, and I think there has got to be some understanding of that and you have to learn that, so you can speak in their terminology and they understand what you're saying. At the same time, they should be willing to learn to understand our speech and what we're saying from our perspective. So I think there needs to be often that two-way process. At the moment it seems very one-way, where we're learning their speech.

MS McKENZIE: I mean, the advantage in the end maybe of having - and maybe there's some way it can be made less difficult and perhaps faster as well - a process is that ultimately they did begin to move, and that maybe then they will be more willing to start to build into their industries what they should be building into them, than if you just jumped on them with a stand from the beginning and said, "Do this."

MS WILKINSON: I like the theory, Cate, and I wish I could have done it. But you see, it has been 10 years now, and it has only been in the last, say, six months, from my perspective, that there has been the turnaround, and that's because things like the ACA and ACIF were given more authority to do stuff and in fact enforce them. So it is still under this self-regulation label, but they're actually being forced to comply with codes and sign up to them.

MRS OWENS: So you'd say, Robin, that there were flaws in the process originally which could be learnt from.

MS WILKINSON: Yes.

MRS OWENS: But you would say now things are looking okay?

MS WILKINSON: Still a long way to go, but getting there. I think if some of the disability stuff was actually really within the Telecommunications Act rather than them saying, "But you're covered with the DDA under that. If you want to lodge a complaint, do it through the DDA," whereas if it was part of the Telecommunications Act, with still cross-reference to DDA, that would be, to my way of thinking, a much easier way to go. I think you talked in the report here about doing something - I think it was the builders code stuff, and I think that sort of cooperation is a much better way to go.

Just quickly, about some of the exemptions, and again, we'll use the transport industry, it seems to us that often exemptions have worked against us. Originally there was to be the 20-year thing with the transport industry to get its act together and then it suddenly was 30 years. The thing with some of the smaller airlines, in not carrying people with disabilities and their equipment and stuff, means that we often can't participate in things, and that's a big issue in this state, when they might be going down to even smaller planes between here and the mainland. Where does that leave people with disabilities in trying to get out of the state? So I think the transport industry, where they're often given exemptions for very good reasons from their point of view, from our point of view it totally puts us in a quagmire. I'm trying to be polite.

MRS OWENS: Does the 30-year time frame also mean a problem, because - - -

MS WILKINSON: Well, I'll be dead before the 30-year time frame - - -

MRS OWENS: Exactly. It's all very well for the next generation, but for this generation, you face a long period of non-compliance.

MS WILKINSON: Yes.

MR GORDON: It's similar to the tourist industry, with the vehicles that they're using through there - the charter buses. Now, for somebody with a disability, a lot of those buses - it's just completely non-accessible, and to hear that they're going to talk about it and it's probably going to take 30 years, people in the disability movement just throw their hands up in the air. Well, why bother, you know. We won't be around in 30 years' time. It's just being able to get them to actually comply. One thing that happened here with Metro was, just prior to the actual act being implemented - and then they, of course, went and applied for a further exemption after it - they went and upgraded their fleet with new buses, but they were all non-accessible buses. So those vehicles have got a lifespan of at least 20-25 years. That's why they got the exemption and the reason was because those vehicles are not going to be replaced until that period is over.

MRS OWENS: Can I just ask, are you against having exemptions altogether, because there are areas where maybe there is a justification. Are you saying there should be none?

MR GORDON: Well, one of the justifications of hardship - well, providing there's a really good substantiated reason for hardship, yes. But sometimes it's like in the cases of the area that I'm actually working with - Access Advisory - some of the reasons they come up with why they reckon it might be a hardship case are pretty pathetic, but it has really got to be - I don't know exactly how we go ahead to solve it.

MS WILKINSON: In answer to the question, I would really like to almost see that section totally abolished, although I understand there may be some things, but I would say if there is an alternative solution, like using the airlines, if there were one or two flights, for example, out of Tasmania, with a big plane so that we could actually sometimes get out and get back into the state, I might agree to some of the smaller light airlines having some of those sorts of exemptions, but when there's no other way to do it, I just think that it really puts us again behind the eight ball. We've got nowhere to turn, no room to move.

MR GORDON: The other side of that coin is, with that argument, you're looking at, say, a larger aircraft and you only have - for argument's sake you might have Qantas and you've got your other two airlines that are operating. They're using smaller aircraft but their cost factor is down and Qantas's argument would be, "We can provide a large aircraft, but it's going to cost you more." This is where this hidden cost comes into it, of having a disability.

MRS OWENS: Maybe there needs to be a lot more people move into Tasmania, and then they'll keep using large aircraft, and you might have to wait.

MS WILKINSON: And spoil our uniqueness.

MRS OWENS: No, that's a flippant remark, but I don't know whether you've got more you want to say on this, because I'd like to - we've been here a while, and I want to actually ask Patrick a couple of questions.

MS WILKINSON: Okay. I just would like to say that, where it said about the DDA imposing a passive requirement on employees not to discriminate, we wondered if it could turn around to be active. Otherwise, again, I just want to finish off with, we would like to re-stress, "Nothing about us without us," and everything within this review should come from people with disabilities. We're the ones that know best about our lives, and disability action plans should involve people with disabilities again from the beginning, or any resolution needs to continually try to involve us in the process.

MRS OWENS: Thank you for that. You've done exceptionally well. You've covered quite a lot of the issues I was going to ask you about. I'd like to come back to Patrick because we heard from Patrick earlier about his own experiences, and I think he made a few really very salient points. Are you currently employed, or are you mainly working as a volunteer, Patrick?

MR EADINGTON: I'm currently with Anglicare Disability Employment Service. I volunteered there for 18 months beforehand just to get my skills and confidence up, and then I'm also hoping to apply to be a client of them, of disability services at Anglicare. So in order to - once you leave TAFE and there are no other job prospects, and you've got a disability and you haven't got projects or opportunities to further develop and enhance those skills, your self-confidence and self-motivation drops. So we people with disabilities, you've really got to create or redefine yourself and so you need to grab any project, any voluntary work, any committee groups to enhance your job prospects.

MRS OWENS: So you've really got to work that much harder. You've got to really persevere and keep going, whereas other people out there have an easier time of it, so it makes it that much harder for you.

MR GORDON: It's a case of having to prove yourself, time and time and time again.

MRS OWENS: All the time.

MR GORDON: And it does wear you down.

MS McKENZIE: Whereas other people with the same background having, say, finished TAFE, would not have to keep doing that.

MR GORDON: No. Patrick and I both agree that we try to stem away from this idea that anybody with a disability needs to be looking at, say, sheltered workshops - God forbid it. We need to get away from that idea. They're only sweatshops as far as I'm concerned..

MRS OWENS: HREOC - Human Rights Equal Opportunity Commission - one of its responsibilities is to provide education, get the word out there. Do you think that that educative function has been working well, or do you think there's more that could be done? We're talking about how do you change community attitudes. That's a big ask, because the community - there are certain views that tend to prevail.

MS WILKINSON: Yes, and again, I think there needs to be more emphasis through HREOC, and I don't know quite how you do it, because I think it's hard for HREOC as well to actually do some of that educative role. But I think it has got to be a lot more, and it has got to be seen almost like - I know the deputy commissioner has got a disability and all of that - ordinary people with disabilities can also get jobs, whereas I think people see Graham a little bit as extraordinary, and in many senses he is, whereas some of us that are just the ordinary - HREOC perhaps needs to show the way in that employment of people with disabilities, too, that we've got these people and they're quite able to do this work and they're able to come out and do some of the education.

We believe that in the changing of community attitudes - again, we are the people who are often best able to talk about that. We're the ones who live our lives and, I mean, maybe we need to be getting some really good scenarios but also what happens in a bad scenario. Like, what are all the hidden costs of that, if you like? Like, all of us with either not getting a job or being put out of work because of our disability, what effect that has on you as a person. It's much greater than the actual financial stuff. It's a whole-of-life image stuff. So again it is, say, talking about the consequences of not doing certain things. This is what happens.

MR EADINGTON: Can I also just say with gaining employment and, yes, people with disabilities have gained employment and have hidden costs and barriers but it's always for the government to say, "Yes, you've got skills and abilities and so therefore you can participate in the job market and we don't have to support you." They just go for the short term. These days the job market is contract work and so do you have to adapt and diversify in various ranges of skills and abilities? So with people with disabilities, I feel they need to look into the long-term benefit of gaining employment in various skills and abilities, not just one skill and ability but look at the long-term effect and the benefits of participating in society, and this can be for several competencies and several schemes, and then you can actively participate in the financial sense of the word.

MR GORDON: You see, one of the other areas as far as employment is concerned, and it affects the whole lot of us if we were employed, is the amount of time that we are actually able to do a job without getting to a point - I know I, visually, with what little bit of sight I get, after a prolonged period of time of actually trying to read something or look at a screen and that, I fatigue. Robin would feel the same case and I know Patrick would. It's having the opportunity, and I suppose this looks at the employer themselves, in allowing for that additional time for that person with a disability to be able to take a break somewhere along the line. I suppose in a lot of things that they look at nowadays they look at productivity as far as the job is concerned, but I feel, in some cases, that a person with a disability, because they are so determined they have got to prove themselves to do the job well, in the long run they would probably do the job better than an able-bodied person because they are proving themselves; but it's just a matter of taking that time to enable them to do the job properly.

MRS OWENS: But it's just a matter of thinking through these things laterally and being flexible in the sense that you adapt to the workplace.

MR GORDON: This is what Robin was getting at in the early stage - we need to start looking at it on a more lateral plane, instead of looking at it in one direction, you know - this is point A. That's point B - but we've got to go for the other bits in between.

MS McKENZIE: Is it a question of ignorance or false assumptions as well?

MS WILKINSON: I don't think you could ever say it was one thing. It's a combination of all of those sorts of things. You know, I think people do make assumptions about what - because they can't imagine how they would do something if they had a certain disability, they don't think that we've already thought that through and overcome it. I think it is that thing that people aren't able, often, to step into another person's shoes and see life from their perspective. That's one of the things about education. It is obviously very important, but I have to say I'm concerned that if you're an employer and you go and attend seminars about disability issues, that may not educate you nearly as much as actually having an employee with a disability would educate you.

MRS OWENS: Maybe you need the whole approach, though.

MS WILKINSON: Maybe you need all of it.

MRS OWENS: Yes.

MS McKENZIE: Robin, you made a number of suggestions about the complaints process and the five-point plan and I've written all that down. I thought that all sounded very interesting, but you said that there needs to be some sort of support scheme for people going through the process. Now, there is already in every state disability legal services and so on, and advocacy groups. You're talking about something in addition to those existing arrangements?

MS WILKINSON: Yes. It might even by that you sort of contract out to some disability group and just even put it to somebody that, you know, if you really want to discuss some of these issues a bit further you might like to go through - I'm just using it off the top of my head - say, Tasmanians with Disabilities as an example. Or maybe a hotline, as Cate suggested, whereby somebody can ring. Or it may be through the email stuff that when you're not able to sleep and you're worrying about it, that you can write - those that can. I understand that - but you actually write down your stuff in an email and somebody can get back to you the next day or the next working day to actually start to talk it through with you, all of those sorts of things, because my concern has been, right from the beginning that, yes, there are some of those formal things already in place but they seem a little bit more distant than if you had somebody who perhaps has been through that process and understands where you're at, on that human level, as opposed to the formal workplace level. Does that make sense?

MS McKENZIE: Well, you do already have advocacy groups and voluntary groups that provide support and some others have said, well, what we could be thinking about is more adequate resourcing for those groups.

MS WILKINSON: Yes, it might be that.

MS McKENZIE: By human interaction, I suppose, with the person.

MS WILKINSON: You've got to remember we suffer from Tasmania's isolation complex, you know. If it's something that's based on the mainland we're less likely to do it. Now, I know we have the legal advocate up in Launceston here and the few times we have that sort of liaison it's really good, and we also have links into other advocacy services, but I think people don't necessarily think to use them when they're actually going through a claim. My concern is the long dark hours of the night stuff.

MS McKENZIE: Out of working hours.

MS WILKINSON: Yes.

MR GORDON: That's what it basically boils down to. Okay, your advocate may be working 9.00 to 5.00 from Monday to Friday, but what do you do when you're dwelling over something that starts on Friday night and by the early hours of Sunday morning you're beside yourself and saying, you know, "I need somebody to talk to," and there's just nobody there.

MS McKENZIE: The concern is that kind of worry and anxiety might actually lead you to give it up, to give up your case.

MR GORDON: And this is what has happened.

MS WILKINSON: That's exactly right, and it also might lead you to acquire another disability in the area of psychiatric disability because you're becoming really anxious. I'm not meaning to be flippant about that. I'm really actually very serious about it.

MR GORDON: I do know of cases where people have in fact tried suicide.

MS WILKINSON: And when you're trying to deal with systems that seem to be very antagonistic - yes, it's a really difficult one. When you're dealing with systems in Tasmania, quite often you end up with a psychiatric disability as well as all your others, I promise you.

MRS OWENS: Some volunteers are untrained and they do it because they have been through the system or they've got a disability themselves, but is there room for more training for people to get into this sort of work through the TAFE system, doing disability support training?

MS WILKINSON: Absolutely.

MS McKENZIE: Is that something that we could be thinking about there?

MS WILKINSON: I think Jenny did those sort - - -

MS McKENZIE: I think Patrick did some certificate. I don't know how many people go through those sorts of courses. Were there many people doing that when you went through, Patrick?

MR EADINGTON: Well, I found that - when I did my certificate course between 2000 and 2002 and I found out that there were 100 clients that did it in five years and I was the only actual person with a disability that did it. But my own difficulty is that we've got all these services out there but if you come to move from another state or move from another city, Launceston down to Hobart, you've got no idea of the services, the people that are out there that are going to assist you with day-to-day life or complaints or different issues. But I would like to see - well, it's a dream of mine - a one-stop shop where persons with a disability who don't know the state, Launceston or Hobart, can go to the one-stop shop where they look at people with disabilities and other people to actually provide brochures and information about the various issues, services and the works, all sorts of simple things about what is available and where else you can look, taxi vouchers - all easy access. There should be a one-stop shop where you can find out about funding, find out that you are entitled to something. That is my ideal dream.

MS WILKINSON: Patrick is right, that information is only given out in very limited little bits. You're only given so much and at the same time you're told there is no funding so you can't really ask for stuff.

MRS OWENS: But it's disjointed and it's probably coming from different sources, and what Patrick is saying is a one-stop shop.

MS WILKINSON: Yes, absolutely.

MRS OWENS: We have been talking about a one-stop shop but a different sort of one-stop shop, because we found a lot of people were confused, if they wanted to put in a complaint, about whether they could go through HREOC or the anti-discrimination division in the particular state, but this is a broader idea - - -

MS McKENZIE: This is a one-stop shop with all sorts of services.

MS WILKINSON: Yes, information resources.

MRS OWENS: You could find out then about your entitlements for disability support pension.

MS WILKINSON: Yes.

MRS OWENS: You can find out about your entitlements for transport, for taxi vouchers and about whether you want to make a complaint.

MR GORDON: You see, there is confusion here with HREOC as far as whether, here in Tasmania - like, we've got with the Anti-Discrimination Act, you've got a federal act, you've got two here - in Tasmania you've got two other acts. Now, if you were lodging a complaint it's very hard to work out which one of those acts that it actually falls under. For the average person they just don't know and sometimes it's even confusing for the people who are actually working at HREOC.

MS WILKINSON: Yes, and we didn't mention but we did support the idea of some sort of co-location between HREOC and the state anti-discrimination commissioner, which seems to be a really good idea. That's a separate issue to Patrick's idea of a one-stop shop information bureau.

MS McKENZIE: Patrick, your idea is a much bigger one-stop shop with all the information, so you don't have to go through the maze to try and get it.

MR EADINGTON: It is a big dream but it is ideal to me, because also we talked about people with disabilities going into employment in sheltered workshops. If we had a one-stop shop going we could provide opportunities for people with disabilities who have got the knowledge, got the resources and abilities to actively advocate on behalf of people with disabilities to provide employment so that, yes, it would inevitably incorporate a whole different environment and opportunities at various levels.

MS WILKINSON: Tasmanians with Disabilities is one organisation that gets lots of queries that are really general and right across the board and hopefully we can refer people to the right place for that, but there is a big lack here of services available over holiday periods, particularly Christmas and New Year, and particularly again in mental health services. We often get inquiries through our organisation because some of the mental health after hours emergency numbers are actually mainland numbers. I rang it to prove it and you ring up and they just say, "Well, we're only staffed between 9.00 and 5.00, Monday to Friday, blah, blah, blah," but if you were someone in a crisis situation and you don't know where to go, then they ring us sort of as the last resort because they've been through the phone book and can't find anybody else to ring. They have to actually ring our office and then ring, for example, me as an alternative number. So they have to go through quite a complicated process to do that and I just think that's really worrying about local access.

MR GORDON: It all boils down to an organisation similar to ours with Tasmanians with Disabilities. Our main office operates only on a three-day a week basis, for the simple reason of the cost. An organisation like ours could operate further if we got adequate funding, which isn't available at the moment. You've already got the organisation. The desperate part of the whole system is that you've got an organisation that is already established, it's already doing part of this work and, in a lot of cases, doing lots of other work that it's really not - it's not that it's unable to do it but beyond what it should be doing, because there is a desperate need out there.

MS McKENZIE: There's no other body to meet the need.

MR GORDON: No. There's no other organisation doing it or able to do it, and it's only a matter of appropriate funding for an organisation similar to ours to be able to make it so that it actually would be operating at greater capacity.

MRS OWENS: I think we have both covered what we wanted to discuss with you, but I think you all made it very clear. You've raised a number of very interesting issues, and we have in our draft report, looked at this issue of who should pay and who should be meeting the costs and asked this question about adequacy of government resourcing in terms of adjustments. We were looking at it in the context of who should be funding adjustments, say, in the workplace. So we've looked at that, but you've also added to that today, and we've heard from a number of people about problems with the complaints process, so we'll think further about what you had to say there. This issue of a one-stop-shop, Patrick, we will give that some thought, too.

We have a chapter in our draft report at the moment which is basically talking about a range of other issues that don't quite fit with our terms of reference but we've got this chapter which does talk about resourcing. We were looking at the resourcing of HREOC, for example. We are prepared to at least float some other ideas that people have had in that chapter, but thank you all. I'm sorry it has taken us longer than you probably expected.

MS WILKINSON: Thank you for giving us the time.

MR GORDON: Thank you.

MRS OWENS: We'll now break and we will resume at 1.30.

(Luncheon adjournment)

MRS OWENS: The next participant this afternoon is Mr Daryl McCarthy. Would you like to repeat your name and, for the transcript, state the capacity in which you are appearing today.

MR McCARTHY: My name is Daryl McCarthy and I am an individual and my submission is about TAFE services.

MRS OWENS: Good, thank you. We have both read your submission and we are very pleased to receive something on TAFE, but I will hand over to you and you can run us through the main points you want to make.

MR McCARTHY: Thank you, commissioner. My first point, complaints in education - and I'm taking it directly from the bibliography review of the Disability Discrimination Act 1992, the draft report, and it is page 89 of the text that I'm referring to, and just quote:

> DDA complaints increased in all the education sectors except TAFE colleges, table 5.3. These numbers are very small in absolute terms and should be interpreted with caution.

I would like to say that that is slightly biased. Whilst you say "interpret the results with caution" - and I would endorse that - I would ask the commission to do further research and have a look at the figures or the complaints within the DDA and the ombudsman's offices throughout the state. The number of complaints per year against the TAFE college in Hobart on the average - at least in Hobart, Tasmania - is about 25 - and this is anecdotal information because I haven't got access to the information. I would assume now it has gone down to about 14, and that's a rough estimate.

MS McKENZIE: This is ombudsman complaints or - - -

MR McCARTHY: Yes, complaints, commissioner, with the ombudsman's office.

MRS OWENS: Was that last year?

MR McCARTHY: I would say last year but - all right, it's guesswork because I haven't got the information. That's just to illustrate a point, and I'm illustrating a point where those statistics would be more beneficial than the HREOC statistics which I think, as I said, are biased and very small in number.

MRS OWENS: I guess we were looking at those. I think we acknowledged in the report that there would be complaints through the other anti-discrimination bodies in each state, but it was interesting for us to look at the relative number of complaints across areas, as well, but I do take your point that just because there's been few complaints to HREOC doesn't mean to say that there aren't concerns in a particular sector when you bring all the other forms of complaint together.

MS McKENZIE: The other thing that occurs to me is that people might complain to the ombudsman about what is in fact discrimination; in other words, they will have chosen to go to the ombudsman rather than to HREOC.

MR McCARTHY: Yes.

MS McKENZIE: Or they may not be aware that they could have complained to HREOC. They just complain to the ombudsman because perhaps that's the body they know.

MR McCARTHY: Yes, and I would like to further that if I can, commissioner.

MRS OWENS: Yes.

MR McCARTHY: That would be true in the early days prior to the DDA. I think Robin, our participant this morning, mentioned a complaint with HREOC, and might I add, in this state - whilst they had an office in this state at the period of time before the DDA - the process was rather cumbersome for TAFE students - probably still is. The process is not fully outlined, even in some of the publications by the DDA. Students don't know what they are fronting and, nine times out of 10, students leave the TAFE college. They've lodged their complaint, they've gone out of the education system; nothing has happened, and so the information gets archived, if you like, and it is a waste of time, whether it goes to HREOC in Sydney or, in the old days, it used to be here - because they had an office in the AMP building.

Again that's anecdotal information but, being in the TAFE system, I have heard from other students who lodged complaints with HREOC and encouraged me to do so. The reason I went to the ombudsman's office at that time was because I wasn't convinced that HREOC would handle my complaint adequately, and I am going on the advice of other students rather than myself. Also I want to back that up: in the bibliography which I referred to earlier, the review of the Disability Discrimination Act 1992, page 286, states:

> Where (delay across an education et cetera) the claimant has little chance of beneficial outcomes in Tasmania after four years. The child was then at school leaving age.

And that's mentioned in the publication here and that illustrates the point. It illustrates, I suppose, the inefficiencies of the system, or the process of the system;

not HREOC, as such, but the process is not fully outlined, or at least the students in TAFE - they lodge their complaint, they hear the complaint, and they've heard nothing since, and this is an example at secondary level, I guess, which is reported in your report here. I am just emphasising the point there. In the second point in my submission, page 57 of the text again, the same text:

> The harassment provision of the DDA in education relates only to harassment by educational staff, not to harassment by other students.

As I say here in my submission, students can be disempowered if educational staff harass them, limiting their academic performance. This in turn is reflected by other students' attitudes towards students - in other words, it has a ripple effect or a spin-off effect. If the teacher can't stand - you're a disabled person in the class, you tend to be ostracised a bit. Team leaders at TAFE colleges - and I have overheard this myself; it hasn't happened to me, but in the School of Welfare Studies - which I'm picking on, as you know - within Hobart TAFE services - there's a high percentage of disabled students have had career closures. They've just had to go out of the system because they can't proceed, even if they have lodged a complaint or have not lodged a complaint.

I think that would be backed up by Dr Jocelynne Scutt's office, locally anyway, with the DDA, I guess. Team leaders at TAFE colleges can instruct staff, "He or she must go," and that generally happens. If the head teacher or the team leader says to a staff member, "If you're having problems with Jill or Jack or whatever, then get rid of that student," and that has happened before.

MRS OWENS: What's a team leader in the context - - -

MR McCARTHY: A team leader is head teacher, if you like - team leader or, you know, head teacher, I guess. Nowadays I think they're called team leaders in the relevant sections. I would consider that, as I said here in my submission, a waste of government taxes. I don't mind saying that to the government. If you accept students in the system without any biases - as we understand the DDA just says that - that you accept the students, providing they have got the entry criteria, and that would be true, otherwise whether disabled or not, you're not accepted if you haven't got the entry criteria, so there's no bias in there whether you're disabled or not disabled. You're accepted as a student per se.

Where the biases come in, if you like, is after two or three years of training, you might be put into block training in industry for about 14 weeks at a time. The discrimination doesn't happen in the agencies. Usually the agencies are very good in the community. It is the TAFE teachers who are assessing you - and, might I add, can be very hard on a person doing psychology, very tough. There's something wrong with you to begin with and they pick on that, and I don't think that is justice, as I said in my earlier submission. Hence students go out of the system.

I haven't heard, in my eight years of TAFE years ago, any student that has lodged a complaint with HREOC - and, again, in the old days the office was here in this state, which is not relevant now, of course, and this was prior to the DDA - no student I'm aware of - and I know about five or six who have lodged complaints locally with the HREOC office here - have had their complaints conciliated at all. They have gone out of the system - as one student told me - disgracefully: "Nothing has been done. I've lodged a complaint. It's in the archives somewhere." End of story. I think that needs looking at - probably if other states have that experience or they don't.

I would have to say my earlier submission I felt was a waste of time, with no insults or biases intended on that. What we had to say to you earlier was not really taken up in your report here, and I think it was glossed over, saying earlier that things have improved. Things have improved, sure, but there are problems in the system and HREOC isn't a sufficient advisory organisation to say that the problems are solved because they're certainly not.

I think that's a fallacy and it's a gloss-over, and that's why I think our original submission on TAFE services, quite frankly, "was a waste of time" - unless the information that we've giving the commission here is used to advantage, at least with the federal minister for education when they see this final report. I want to pick on not my old submission - I think we've had that one, so to speak - but I want to pick on here a publication Disability Discrimination Act Inquiry Issues Paper. I got this from Dr Jocelynne Scutt's staff, and I think it was put out by the commission as a preamble to the inquiry.

MRS OWENS: Yes. We put it out very very early on in the process and things have moved on somewhat since that time.

MR McCARTHY: Certainly, yes, sure. I just want to quote from this because I think it's very good. Again, Disability Discrimination Act Inquiry Issues Paper I'm referring to, page 49 of the paper. I'm referring to the last paragraph:

> Students with disabilities must meet essential entry criteria, et cetera. However, education providers are required to make adjustments in order to accommodate a student with a disability -

et cetera. "Changes to the method of assessment" - this refers to longer - sorry?

MRS OWENS: The paper you are referring to only goes up to page 36.

MR McCARTHY: I can pass you this in a sec, if you like. Can I read on, just briefly, and then I'll pass it across.

MS McKENZIE: Yes. No problem.

MR McCARTHY: Can I just repeat - - -

MS McKENZIE: Yes.

MR McCARTHY:

> However, education providers are required to make adjustments in order to accommodate a student with a disability -

et cetera. "Changes to the method of assessment", et cetera - you know, longer periods for examination and oral assessments I think is excellent, and that happens in other areas of TAFE, but not areas of psychological assessment within the diploma of community services as it's called nowadays. It used to be welfare studies, whatever. That does not happen. You're assessed by teachers who are qualified in psychology and sociology and so on. You either pass, and that's it; so there is not a set examination. But I'd like to further that and I would like to say assessments - assessment, yes - by your placement in industry by your supervisor in the workplace to be modified a little, if you like, and assessment by TAFE teachers - in the old days if you said to a TAFE teacher - in my own case with part-eyesight - "I can't adequately see something in the workplace," then I automatically failed, and again there's no provision there for modification of the assessment criteria.

I'm not referring to examination procedures, because in other areas of TAFE - as you know, I've been through TAFE in accounting - that does happen, you are given longer time to read the paper and so on. But this does not apply when you're doing sociology and psychology. It's purely and simply a subjective assessment of you as a student. I think there's a dilemma in there. I think that really needs looking at when you're talking about the standards of education.

MRS OWENS: That's a very useful comment for us, because at the moment we're just pondering what we do in the act to make it clearer what is meant by "adjustments" and what's needed, and we thought for areas such as education, we could give some examples which could go into the act.

MR McCARTHY: Yes.

MRS OWENS: Is that right, Cate?

MS McKENZIE: Yes.

MR McCARTHY: That's what I'm advocating, Cate, yes, and Helen.

MS McKENZIE: Yes. So allowing more time for examinations might be one example, but also - - -

MR McCARTHY: That's one example, yes.

MS McKENZIE: - - - you would say that where the education involves workplace placement and assessment a duty to make reasonable adjustments to accommodate the person with disabilities should apply there, as well?

MR McCARTHY: Yes, I think so. Whilst, as you can appreciate, I've done law - the same as yourself, Cate - I mean, you're examined and so on and you're given extra time to pass that exam. That's fine. It is operative if you are doing contract law or admin law and so on in TAFE. Doing an accountancy course it works fabulously well but, in areas of sociology and psychology and whatever, where it's more subjective on the teacher whether the said teacher is going to fail or pass you, then there's no consideration given. It allows that teacher, whether he or she, to say, "You didn't see what went on in the workplace. You are unsuitable for industry" - and hence you fail. Many students, who have sat the appeals procedure within the education system, within the structure of the by-laws of education, within the TAFE network - and these questions have been brought up in the appeal room - can I use that point, quote, unquote - the appeal room where you are asked these questions: "You didn't see the instructor's or the supervisor's comments on your work in the workplace. If you can't do that, for example, then I'm sorry, you have failed."

I question that. Is there adequate assessment of you within the laws of natural justice to let you pass? I think one area of fallacy there, in assessment criteria - a lot of students in the areas of TAFE, of sociology and psychology go out into the workplace and they don't tell the workplace that you have a disability. It's only after a while that the agency or the workplace finds you have a disability. Usually they make modifications and they are very good, as I say, in community services. I did some work for the Asthma Foundation, in a project with them, and they were fabulous.

Going back to TAFE teachers: "You weren't quite up to scratch. I'm sorry. We've got a failure. You are unsuitable to work in areas of welfare." It has not only happened to myself, it has happened to other students. On behalf of other students I have said in my original submission, "That is career closure and is an injustice and a waste of taxes," as I said earlier. The government maintains that you have to be educated. You do your best. You try, but can't proceed further. The power of the teacher, if you like - that one individual has the right in sociology and psychology to fail you without any formal examination procedures is purely subjective. This is where you need the allowance for the assessment, if you like, of the standards of education. That's an example. I'm giving a spelt-out scenario.

MS McKENZIE: There's no reason why that couldn't be another example, it's true.

MR McCARTHY: Yes.

MS McKENZIE: If the act could make it clear, that that's another area that has to be taken into account.

MR McCARTHY: Yes, I think so. I would like to advocate that.

MRS OWENS: We don't want our final report to be - in your words - a waste of time.

MR McCARTHY: Yes. That's right.

MRS OWENS: What we are trying to explore today is just some of the things we can do to make things clearer.

MR McCARTHY: Yes.

MRS OWENS: I should just correct the transcript for the issues page that you referred to. It's page 31 on my copy.

MR McCARTHY: Pardon. Which? Here?

MRS OWENS: This is our issues paper. You mentioned, I think, page 49, but that's only a small matter. I know where you found it, now.

MR McCARTHY: I'll pass it over.

MRS OWENS: That may have been an earlier version, or it might have come off the web, or something.

MR McCARTHY: Possibly. I got it from Dr Scutt's staff.

MRS OWENS: It might be a different version.

MR McCARTHY: Possibly. I'll hand it over when I've finished here.

MRS OWENS: Thank you.

MR McCARTHY: I've lost track there. Where am I, first?

MRS OWENS: We were talking about making adjustments.

MR McCARTHY: I think I have adequately covered that, unless you would like to ask me further questions.

MS McKENZIE: No. I understand the point you are making.

MR McCARTHY: That's great. I'm glad I got my point across there. I think it's an important one for other students in the area of sociology and psychology. Nowadays I'm retired. It doesn't affect me now, but on behalf of other students I think it's very important. No doubt it happens throughout Australia. I know at university level in psychology the lecturers there can be fairly tough on students, for example. You can fail if you have a disability, whether it be eyesight or physical or whatever.

As I said, I think it's very poor to take a person on board - you have passed your entry criteria, like the other students, and all of a sudden you hit a brick wall. It's very disconcerting and you can't go anywhere. Patrick made that point earlier today, in his submission with TWD. He says he has a certificate 3, as I understand it and if I heard him correctly. He also says he was the only disabled person on that particular course, if I heard him correctly. He says, I suppose, that there are no supports - probably not to go further in education either. It is lacking in the area of education, or can be. You talk about vilification, and I'm referring again to the review of the Disability Discrimination Act 1992 draft report. I can't see the page quick enough, I guess. I should be able to.

MRS OWENS: We can look for that later.

MR McCARTHY: I might have it here. Pardon me for a minute. In this other publication here - A Users Guide to the Disability Discrimination Act, copyright, first published 1995 - at firstly page 23 of this publication - and you talked earlier about - and it's mentioned in the report by Dr Jocelynne Scutt in there, our DDA commissioner here, if I remember correctly - if you lodge a complaint, particularly in this state, or any other state, for example, it says in this publication, which backs this up, "Complaining to your local anti-discrimination authority might be faster, but may not get the best result."

As I understand it, if you lodge a complaint with Dr Jocelynne Scutt's office here with the commissioner, it would be up to her to determine whether the complaint probably should go further - in consultation with you - whether it should go to HREOC or not. I outlined earlier the pitfalls of lodging a complaint with HREOC. Whilst not condemning them by any means, the process is not known to students on how to handle that process. It's very vague and it's still vague in publications, I must admit that.

MS McKENZIE: We said some things in the draft report about the need for further education of the community and also of the disability sector of it.

MR McCARTHY: Yes.

MS McKENZIE: Would you agree that people need to be more aware of what processes are available to them to complain, particularly to HREOC?

MR McCARTHY: Speaking on behalf of TAFE students, for example, they know HREOC exists. In the old days they knew it existed more, if you like, because the office was here in the AMP building. Okay. They know all about HREOC and you are educated towards that when you first go on a course in TAFE, really. It's part of the orientation when you go to TAFE, in all sectors of TAFE; so you are aware of it. What you are not aware of is the process. What happens if I do lodge a complaint? What's the time line? What's going to happen? Is it going to conciliation? And so on; whereas if you go to Dr Jocelynne Scutt's office - the commissioner for the DDA in this state - her staff or herself will give you that information. So it doesn't need to be out, I suppose, in the education field because you know the commissioner exists and you know that the commissioner's staff will outline and explain the process to you.

This is not necessarily so when HREOC was in this state years ago, and I suppose it doesn't exist now because they are in Sydney, or wherever. It has become more vague than what it was before. That's the reason students exit the system and can't be bothered with the HREOC process; it's because the process is not known. They know HREOC, but beyond that the process needs to be outlined more. It needs to be more translucent or transparent.

MRS OWENS: Mr McCarthy, before lunch you were in the audience when we were talking to Robin Wilkinson.

MR McCARTHY: Yes.

MRS OWENS: She had the idea of maybe trying to clarify the process with a simple five-point guide.

MR McCARTHY: Yes.

MRS OWENS: I don't know whether that would help, that sort of idea?

MR McCARTHY: Yes, I think it's excellent. Yes, I do. Can I reiterate - and I was going to come on to this later, but can I pick up the cue for a minute. The tech college or TAFE services have a disabled liaison officer, but so does the university: I think they are called DLOs nowadays. That person knows of HREOC and knows of the DDA, but let me say that in both areas of tertiary education they are not educating staff, other teaching staff, of what HREOC is all about and what the DDA commissioner is all about. I think that could be a role for the DLOs, the disabled liaison officers employed by TAFE and paid, if you like, by the Commonwealth government, not state government.

It should be part of their role to educate other staff and if necessary, I suppose, go to the classroom and educate the students. You know, part of the orientation. Probably that person could give the students a couple of hours in a lecture in the morning or afternoon, on the issues and how to go about them. It's all very well to have them on paper and read them. They are all there on the stacks, like these bibliographies are here. Do people pick them up and read them? No, they don't, because students have too many other things to have a look at. It's all very well to have them on the racks in the foyer, but that's not the answer. There needs to be more than that. I think that could be a role for a disabled liaison person in the TAFE system and, I suppose, university. Such positions exist nowadays.

Getting back to Robin's point, with the - what was it, four or five-point - what HREOC was all about and how you go about it, so to speak. I think that could be brought in. If you have it on paper it's the students' experience that people don't necessarily read what's in the racks in the foyer. It needs explanation. It needs to go into the curriculum somehow - probably at orientation. I just throw that in for what it's worth.

In this publication - A Users Guide to the Disability Discrimination Act, and I refer again to the publication of 1995 copyright - it mentions areas of harassment. Can I just please turn to page 11? I will pass this through later. In here, in the draft review of the Disability Discrimination Act 1992 draft report, you split up there vilification and harassment. In this publication it says that the DDA does not cover vilification, necessarily so - in my terms. Can I refute that for a minute, for the sake of argument?

In this publication, the latter publication that I'm referring to here, at page 11, there's the caption "harassment" - harassment goes on to talk about "offends" - for example, interfering with a disability aide; hiding crutches, et cetera; humiliates;

asking a student with vision impairment to describe a painting intimates a person; insulting them, and so on; mimicking a person who is handicapped. My word, I have seen that happen in TAFE services and other areas of TAFE, where the teacher might scratch the eye and go like this, if the person has a hearing impairment.

All right, you might say this is subtly done by some - and a minority of teachers, not all teaches. Usually people who are highly educated don't do these things and I'm sure you would agree with that. But you get the odd one that will mimic and take a disabled person off, which can be quite cruel, if you are sitting there as a student, and quite embarrassing. That type of staff member needs challenging and brought to account. This doesn't happen because the teacher has the power of the classroom, or the group dynamics if you like, so I think that's relevant.

I don't agree that vilification is not covered by the act per se because this particular publication covers all of these areas under the title of Harassment. So I suppose we have semantics there, or whatever. I will pass that across to you shortly. I just make that point.

MS McKENZIE: The real problem, as far as you see it, is that even if the act covered what is done how can you complain, because you are the student and this is your class teacher? You think that it's difficult for someone to complain about that?

MR McCARTHY: I think if you need to pass it's difficult, because you will fail.

MS McKENZIE: Yes.

MR McCARTHY: You will fail and inevitably you will go down the tube. You are going to fail if you complain about your teacher. What you are there for is that you want to pass. Some disabled students will put up with anything, providing you are not physically attacked, I guess. But the provision of the act allows for that. I think that vilification mentioned here - you mentioned, I think, the Indigenous Act, or something in there, where it's covered in those areas of Indigenous people, you know, Aboriginals. If I do that to them it's certainly against their act, can I use that colloquially? What you are saying is that vilification is not necessarily covered by the DDA. Can I refute that, if you like, because it's mentioned in this publication as harassment?

MS McKENZIE: Although the act is the act and that's just a guide to the act.

MR McCARTHY: It's a guide to the act, but if it says it's mentioned in here - intimidation and so on - it is misleading.

MRS OWENS: Yes. I think that the Racial Vilification Act covers more.

MR McCARTHY: Yes.

MRS OWENS: What the Racial Vilification Act doesn't cover is public insults, not so much by a teacher to a student, but insults in public places, for example - insulting language. The Disability Discrimination Act is, in that way, narrow. It doesn't cover those things, if they're grounded on disability.

MR McCARTHY: I think that needs spelling out, Cate, if I might say, in here a little bit more.

MS McKENZIE: Sure.

MRS OWENS: Yes. We can make that clearer.

MR McCARTHY: Let's be clear. It's not clear to me.

MRS OWENS: We just want the act to be as clear as possible in relation to what it does cover.

MR McCARTHY: Yes. Can I put it forward to you that what you're saying, Cate, I think, needs to be spelt out in the final report a little bit more fully.

MS McKENZIE: Yes, I understand that.

MR McCARTHY: Because I'm reading into it from another publication, and it's not confusing, but it's not precise enough, for me as a member of the community, if you like, and I'm sure with other people reading both - and I just happen to read both, if you know what I mean. The education standard - and, again, I'm a member of the Blind Citizens of Australia myself, and I'm picking on their publication, Blind Citizens News December 2003, which was just last year. Again, I'll hand these over towards the end, but I'll just pick on a reference here with HREOC. I want to say something positive now about HREOC. Page 14 of this publication I've got here, parenthesis (c) -

> recommends to Blind Citizens of Australia that a communique to the Commonwealth, state and territory education ministers -

might I add, can I just say for the record, our minister Paula Wriedt, endorses an education standard -

> its support for the immediate enactment into law of the current draft Disability Discrimination Act education standard.

I think if there was an education standard passed by law within the DDA Act, half these problems with grey areas of discrimination would be sharpened up and people would become more accountable. I think in the report it could be said that the DDA - whilst I suppose you're non-political, and that's fair enough, I would like to see in there mention that the education standard is a good thing, and hopefully the federal government will pass that. I'll say it again: I think it would be an excellent vehicle to stop a lot of discrimination, at least in the teaching field, which goes on even today.

I picked up the point earlier about TAFE teachers - this goes on my original transcript eight months ago - not informing agencies in the community of students with a disability. You might argue that if a teacher tells an agency or a workplace that you have a disability there might be biases and discrimination intended in there, but I think nine times out of 10 the workplace needs to know if a person is disabled or not. Hence, getting back to the argument of assessment we mentioned earlier within the education standard - if it's passed by the federal government, and we hope so, as we said - modifications can be made, modifications not only in the workplace - you're accommodated for if you're a disabled student - but modifications and assessment criteria by TAFE teachers.

MRS OWENS: I suppose it's a matter of who should take responsibility for informing, say, the employer of that disability; whether it should be the teacher who may be really infringing on that person's right to privacy, or whether it should be the individual. Shouldn't it be the individual themselves that should have that responsibility?

MR McCARTHY: No. Can I disagree with that in a polite way, Helen? No, I don't think so. I think for a disabled person in an agency to tell them - for example, I was posted at Probation and Parole, and they challenged me to a game of eight ball, and they found me, with part-sight, I was slightly slow, and so the supervisor of Probation and Parole says, "Come in here," and I went in the office and he said quite politely, "There's something wrong with your eyesight, isn't there?" and I said, "Yes. I've got part eyesight." He said, "Why the hell weren't we told that? I just happen to notice because you were slow playing eight ball and I noticed you probably had a problem." I said, "Well, thanks for picking that up. Does that affect me here?" "Not at all. We'll put you doing this, but probably not over the prison doing that," and so on, and that was great.

When I went back to TAFE and told them this information, "Oh, you shouldn't have told them that." I said, "Why? Why didn't my teacher" - or my placement teacher, as it's called, I guess - "tell the agency I had part-sight to begin with? It would have made it a lot easier for the agency, which they outlined to me privately; it would have made it a lot easier for yourself here as well." I think it's embarrassing, if you like, for a disabled person to say, "You're not pushing the barrow; hence, I'm disabled. I want extra help and so on," which you probably don't want. You don't want to make an issue of it, because the workplaces don't want you to make an issue of it. They want you to be one of the team, to do what everyone else does, and that's fine, and that's what's expected of you. I think it's up to the staff member to tell industry that you have a disability, if it's going to affect your performance in the workplace.

Hence my argument for that is simply, when you sign your entry form nowadays to be a student in TAFE services - and I assume university - it simply says your name, address - "Any disability, please state". By the way, on those forms, if I didn't say I had part-sight and TAFE find out that I did have part-sight - and quite rightly so - I can be asked to leave as a student, and I think that's fair and reasonable. So what I'm telling TAFE is that, yes, I do have a disability, and that's fine. The teachers know that already, and most of the forms in TAFE, at least the entry criteria - I question that, whether it's public knowledge or what - I think that information could be transcribed to the workplace by your teacher responsible for you.

MRS OWENS: Maybe you'd have to sign a release for that to happen though, because some students may prefer for that information not to go any further than the TAFE system, for whatever reason, so maybe you could just sign a release to say, "I'm happy for this information to be passed on to relevant parties."

MR McCARTHY: Yes. I think that's excellent, and that covers the legal side and everything, of course. I think that's excellent. That's an excellent move, but I don't think that's up to the student to do that personally. It's embarrassing. You might find as a disabled person it's intimating - "Hell, I'm going to fail now because I've told the workplace" - and nine times out of 10 the workplace would want to know that information first.

MS McKENZIE: It may be able to be sorted out that way before you ever go to the placement.

MR McCARTHY: I think so.

MS McKENZIE: So that it doesn't become a matter of surprise and perhaps undue concern for the person whose workplace it is.

MR McCARTHY: Yes. I think that. I think a combination of both - in tandem with the student and in tandem with the student signing a release form - probably is a good way to go, and I think that's excellent. The student gives their permission for the teacher - after all, the teacher is talking to your workplace before you even get there and gives your workplace knowledge of your skills, your strengths and your weaknesses, because they need to know that; it's like you're being employed.

MRS OWENS: But in some situations, the particular disability may not be at all relevant for that workplace.

MR McCARTHY: That's right.

MRS OWENS: In which case nothing needs to be said. It only really needs to be made public to the extent that it's going to affect what you do or if there's an occupational health and safety issue, for example.

MR McCARTHY: Yes, that's right. That's the other legal side, and I think that's excellent, because if anything happens to you, yes, the workplace needs to know that. The workplace needs to know that even if you're not a student and you're an employee, sure. They need to know that as well. I think you should be treated like a prospective employee for 14 weeks. You should have the same rights, and you're certainly covered by insurance. You're certainly covered by that as a student in the workplace, as you know. I think you should be treated just normal like anyone else. If you've got a disability, is it going to affect your performance? It should be made known.

Then up-front - I suppose I shouldn't say this - you're either discriminated against and said, "No. Sorry, you're not suitable for my agency." You go to another agency: no, you're not suitable there. Obviously, you're not suitable for that type of course, because of you know, et cetera, et cetera - whatever it may be. But nine times out of 10, industry and the workplace are fantastic when they have a disabled student, providing they know the information up-front. Yes, it's how you go about it, and I think a release form is excellent. But someone in command, if you like, teaching staff, should take responsibility for that, because after all they're paid to teach you and they're paid to assess you, and they're also paid to place you and pass you - all those issues. I think as staff they need to take that on board.

MS McKENZIE: In that sense, the work placement is really part of the course as well, and so you can understand why the teacher should have an involvement.

MR McCARTHY: Yes, I think so. Thanks, Cate. Yes, I endorse that. As I said earlier, getting in the system is no problem. It's when you're halfway through the system, and again, the education standard simply points out that education providers - and they don't generally discriminate against people going through the system, providing you've got the prerequisites to go through the system - your entry criteria, and I think that is excellent. The problems are halfway through the system, and that's where we come into the assessment side of things. I would have to say in Hobart -

and can I just pre-empt this just to put it on the record in our transcript today - that when HREOC existed here before the DDA implementation and before the commissioner was appointed, you can appreciate there were a lot of grey areas because no-one - you went to HREOC and that was that, and the commission wasn't established here then, you can appreciate.

Let me say before that, can I just say, "Was TAFE a good facility for disabled students?" and I'd like to condemn TAFE and say, "No, it wasn't." Can I back my premise up, and can I say that I'm not biased, in effect? There are several letters to the Mercury, which is our Hobart publication newspaper here, our major newspaper that you're well aware of. There were a lot of letters to the editor, which I haven't got here today because we're getting back about eight or nine years, condemning welfare studies, if you like, within the TAFE system. There were letters by students, and I was not one of those. There were several letters to the editor in the Mercury condemning the system - "I am being discriminated against. The staff are rotten to me," and so on.

It was fairly well spelt out, I suppose in aggro language - aggressive language - and for better or worse, that was published by the editor - letters to the Mercury. That will give an example: yes, the evidence is there - was there - and I think similar things might have happened around Australia as well, but I question whether things have improved or not in areas of psychology studies within the TAFE system. I question that, and that's why I pick on the bias, if you like, of HREOC's complaints numbers. I think they're small, relevantly, and it doesn’t give a skewness across the complaints system with tertiary education.

It is slightly biased for me. Stats need to be picked, as I said, from discrimination, DDA commissioners or the ombudsman's office or whatever. You need a cross-section to compare and then you will see HREOC, Commission for DDA, the ombudsman's office, and then you would see statistically where the problems are. You would see, I guess - and I'm only guessing because we haven't got the stats here - that there would be a high correlation between higher figures than what HREOC has. But getting back to the point that people did not use the HREOC network simply, because as we mentioned before the process was not known, and we're getting back to that point of education, which we're advocating for sure.

MRS OWENS: I think you've exhausted your points on your submission.

MS McKENZIE: On the submission that's the end of the points but - - -

MR McCARTHY: Yes. I'd just like to say again for the record and for this transcript: can I ask myself a question and answer it? Is TAFE a reputable institution to go to in areas of study? Of course it is. I've been through the accounting system in TAFE - passed law and accounting. Definitely so. Are there still problems in the areas of psychology in TAFE or the diploma of community services? I question that. I'd like to put a question mark there and say it needs investigation. As a result of today, I've talked to Dr Jocelynne Scutt.

What I had to say today and previously: I'm going to put an issues paper together for her to make her aware of the problems that did exist. I said to her the other day, "I'm not lodging a complaint since I'm out of the system," but, as I said, "I'll be saying to the Productivity Commission" - hence now today - "that I'd like to make it known, yes, there were problems." There probably still is, but she needs to know what has been done before and what hasn't been done, I think, and the improvements that can be made to the system, so if any other student in TAFE would lodge a complaint now, she's armed, if you like, with a bit of background information; and I said to her, "archival information", and she said she would look at it and respond. I appreciate that. I think that's necessary.

MRS OWENS: Thank you very much for your submission, and for appearing.

MS McKENZIE: Excellent. Thank you very much indeed.

MR McCARTHY: Thank you.

MRS OWENS: You made some very valuable points about just the limitations of the complaints data that we're looking at, that doesn't necessarily reflect the broader picture. We'll take on board the need to just make it clearer with examples about what's meant by adjustment, and we'll try and clarify what we mean by vilification and what we are talking about in terms of ensuring the act is clear in that regard.

MR McCARTHY: Thank you, commissioner. Can I pass you the relevant bibliographies in case you want them for reference.

MRS OWENS: Yes, certainly. So you're tabling some documents.

MR McCARTHY: Yes, please.

MS McKENZIE: Thanks very much.

MRS OWENS: Thank you very much.

MR McCARTHY: My pleasure.

MRS OWENS: Okay. We'll just break for a minute.

MRS OWENS: We'll now resume. The next participant this afternoon is Mr Keith Pennefather.

MR PENNEFATHER: Yes.

MRS OWENS: Welcome to our hearings again, and I'll ask you to repeat your name and to state the capacity in which you're appearing today.

MR PENNEFATHER: My name is Keith Pennefather. I'm retired and this is an individual submission in regard to the general perambulations of a person in a wheelchair as it applies to the government, the semi-government and the private sector.

MRS OWENS: Good, thank you. We got your original. I know you've given the staff a fuller version of your submission today and I'll hand over to you and you can just run through some of the main points you want to raise with us.

MR PENNEFATHER: Yes, if I could. In my preamble, it's been over 10 years since the enactment of the DDA and supplementary state legislation, and during that time I feel that not much has been accomplished in the way of the betterment to the disabled people in this state. The DDA has too many enshrined exemptions and ongoing loopholes that can be used very effectively by the way of state government, local government and the private sector, to avoid having to implement some very everyday functions for the disabled.

It's my intention to give you some specific examples of the ongoing act of the above sections of government and the private sector. The act itself is lacking in teeth, due to the inbuilt exemptions, and without the support of the sectors involved, any increase in the advancement of the disabled is negligible.

I'll start with the state government. Our state government is in the (indistinct) division and the only thing we get use of is the Transport Access Scheme. It's a scheme started by the transport where we received taxi vouchers and we had a little dashplate logo. With a disabled logo to put on your dashboard, you could go and park in the city council carparks and such. With the scheme, when a person is say disabled, under the classification there's 40 per cent which may be physical, mental, audiovisual or such. Sixty per cent is medical. Now, what I've made out from 60 per cent is a person with a broken arm, shoulder blade, leg. He's not classed as physical, he's just medical because he gets over it, but he's issued with one of these and the dashboard logo, irrespective.

I was in hospital and I never woke up for 46 days and when I woke up one of those was shoved under my nose - and said, "Go home and use it," but the point is -

this is what riles me. Now, I checked with the manager of the section and I said, "How many of these logos and stuff have been issued?" She said, "30,000 to date." How 30,000 - you can't tell me that people - 30,000 in Tasmania with a population of 480,000 - that's a little bit over the top - is one thing I can't believe, because 40 per cent of that is what we class as physical, mental, intellectual and audiovisual. 60 per cent of people get over it, and they've all got one of these.

Now, I said to the manager, "What does" - she said, "As soon as they go into hospital, we get a chitty signed by the doctor and away he goes." Now, the doctor is trying to do the right thing by his patient, so he makes it look as bad as possible, so he gets one of these and the little logo for his car. I said to the manager that runs this, "Do you reassess them?" She says, "No," and I said, "Well, how do you find out what's going on with the dead, deceased, otherwise dealt with?" and she said, "We check through the registration of motor vehicles and transfers of motor vehicles." Well, it means she goes through and picks up a name and says, "He sold the car," but has he got another car? She doesn't know, but if he's deceased it's an estate. Somebody should have it.

But what I've been told, it goes with the vehicle. So you have one of these in your glove box and irrespective of whether you've got four legs, four arms or otherwise, you put in on the dashboard and you can't do anything about it. Now, they're fighting with the people that are entitled to have them for a very highly prized asset, which is a disabled carpark and the ability for a carpark, and I'm not at all happy to say that 18,000 - that's 60 per cent - are using a facility which is highly prized by the people that need it, and they're not entitled to have that docket, but it happens.

So that's the main thing in the state government, but if the state government got down and issued these parking memos, the logo ones, with a colour, say blue permanent, yellow temporary, with a date on them, their parking inspector can say, "That one's out of date," and give him a docket, but they won't do that. They said, "Oh, no, it's too much like hard work." But it would save the state government a terrific amount of money over a year for the subsidised dockets, which I send in if I use them. That's the main thing.

It is the responsibility of the state government to take action by way of cancellation of all the concessions, and require another registration with supporting documentation, I feel, as to the type of disablement, signed by a medico, in order to bring the scheme into real figures, and I think it could be done, but the state government are very lax in doing it. The manager told me, she said, "They won't do it. It costs too much money."

MRS OWENS: It's going to cost money but you're saying it can save money.

MS McKENZIE: In the end.

MR PENNEFATHER: Well, over that long thing when a use-pays principle has been applied. I don't mind paying $10 a year to get my disablement figures fixed up. I don't mind doing that in a year, and they're going to save 18,000 of them. They're not going to pay this for them, because they've all got one of these books, and I bet they're using it. And we've also got these people using disabled carparks which are scarce as hen's teeth, fighting for the other 11,000 that are entitled to have them, and there's 18,000 of them in there on the free. But that's the only point I make at this time. But they're not complying with the spirit of the act. That's what it really amounts to. They go halfway and let it ride at that.

The Hobart City Council - this is the semi-government body - well, this body could not be described as disabled-friendly overall in all its actions. It has taken full advantage of the DDA in relation to parking for the disabled in both the provision of the spaces and where they are sited. Disabled carparking in Hobart - in some areas it's great. In some areas of parking, where there's an odd spot, make it a disabled carpark. It could be on a ramp like that. Well, for myself to transfer into a car on a ramp like that is nigh well impossible. If I didn't have my carer with me, the wheelchair would roll back as soon as I moved out of the driver's seat, because I've got to winch over the driver's side. But other areas you'll find an odd one, and this is happening all the time, especially in car spaces, the older ones. The people with prams have got more carparks than the disabled.

MRS OWENS: Do they get wider spots?

MR PENNEFATHER: No, they get a carpark for a person with a pram.

MRS OWENS: What, they get a sticker or - - -

MR PENNEFATHER: They've got them marked on the bottom, and "Pram parking only" written up on the wall. We've got our disabled logo. I went to the Hobart City Council and I said - well, in Salamanca Square I use it considerably to go to the market. There are two beside the main door. There were three. They took one and said, "We're going to use it for motorbikes and bikes." At present it's being used as a wheelie bin storage. They haven't given us back - they gave us another one up the other end of the paddock, which is on an 18-degree angle, which makes it nigh well impossible to negotiate without a carer, and I should be able to get in and out of my car with my winch singly. But these are the sort of things that the council doesn't appreciate and they're not very interested in doing it.

MS McKENZIE: But given that Salamanca is a main market - - -

MR PENNEFATHER: It is.

MS McKENZIE: - - - and that not only residents will use that, but also people who come perhaps as tourists, two seems too few.

MR PENNEFATHER: Well, the residents - there's three layers of carparking. The residents have got a top one and there's another one for business and the third one is for the public, and we go down there, and that's where the disabled carpark is. I encroached on Mr Parker from the council. I went to him and he'd been pretty good in all these - he missed the shortcomings. I said, "These two in front that have got just the logo" - I said, "Will you put 'Wheelchair and walking frame only'", and he's put those underneath it, but he said, "I can't enforce it, Keith." He said, "They can drive in with a" - and I'm saying I can't kick them out. While they've got that dashboard ticket, I'm dead in the water." But that's the other point there. They're working on of course the funding again for these odd sods and everything else.

But the other point that worries me are the kerbs and gutters. Like every other council - we go deal with the Glenorchy Council, the Hobart City Council and Kingborough Council - Glenorchy go along very nicely and they come along the footpath and they'll put the big scoop in at the point of the intersection, a beautiful big scoop going down through the gutter kerb, but when you hit the bottom, the angle of gutter is such that your wheelchair digs in, and the angles are not changed. Now, they work in accordance with the formwork, which is in accordance with a formalised set of plans called a barrier kerb and channel, type B1, and this will stand in drawings, urban roads and kerbs profiles SD/1005. Now, that formwork is laid down when they do the gutters and I know for a fact if the tarmac is a little bit hot they'll jack the angle up to get in, but that doesn't help me. I go down and I'm still digging. The only way that I can adequately get across a road is find an access for a vehicle which has been put there in the first place. Then I've got to tackle it on an angle to put one wheel up and one wheel down.

MS McKENZIE: And it's still very difficult.

MR PENNEFATHER: It's very difficult but you've got to go down the street and go in front of oncoming traffic. I go to my surgeon down by the Royal Hobart Hospital here and we go down the road against oncoming traffic to get onto the footpath to get into his office.

MRS OWENS: Sounds hairy and dangerous.

MR PENNEFATHER: Yes. Well, I mean, I go across with the lights and then I go down the street, go in where he parks his car behind and come up the street again and into his office. But that's just another point that I can't seem to get across to the government.

MS McKENZIE: We have a transport standard but presumably that really only covers access to - I know it's got some provisions concerning access, I think.

MR PENNEFATHER: Yes.

MS McKENZIE: But that's really only insofar as it relates to public transport itself. I think, similarly, the premises standard when it actually comes to pass - - -

MR PENNEFATHER: Yes, well, the Commonwealth standards - I believe there is an amendment out somewhere but I haven't seen it. I mentioned it to somebody - when I was talking about the formwork, when I spoke to Mr Parker in the council. He said, "There is some new Commonwealth standard coming out in relation to this." "But," he said, "whether it encompasses - I don't know." But it's just a matter of the council being interested in the DDA in its application. You know, "Put a disabled carpark there. It's an odd shape but it'll do for them" - just so we had a parking space. They have cut down the width of carparks but I've got to have an extra width of one car door for my winch to come over the driving side. So I've got to have an extra width of at least another metre to adequately park my vehicle.

MS McKENZIE: My recollection is from last time that the - does the council have an advisory committee or a committee of people with disabilities?

MR PENNEFATHER: They have got an access committee but I think they only go there for tea and biscuits. You know, as long as the biscuits and tea is coming they'll sit there and slumber. I'm not privy to what goes on there but Mr Parker said they only come for the tea and bikkies.

MS McKENZIE: We perhaps shouldn't mention that immediately following your presentation to us, afternoon tea follows, Keith.

MR PENNEFATHER: It's a little bit different. I just might edit Mr Parker's name out because he works at the council and he's the fellow on their access committee. But what's on that access committee I don't know. It's a very big body and it's got everybody in it, of course. You've got the mentally, physically and such that everybody has got a - with anything with access. I know that the so-called peak organisation of us, ParaQuad, have got a representative there, but I quite agree with Mr Parker, what he's saying in relation to that. Anyhow, that's just the point there. Anything, of course, that - in relation to the formalisation of this drawings would require, you know, a resubmission of drawings and there would be a cost. I don't think it would be very cost-effective but it would lay out a lot of funds. It would help us if they're prepared to say, "Yes, we've got to get across in a wheelchair." Consideration is pretty lacking overall, I think.

MS McKENZIE: I don't know whether it would mean that the council would have to redo these - - -

MR PENNEFATHER: These drawings are drawn up by - they're councils. These are municipal standing drawings. They're drawn up by, I suppose, a collection of municipal council - they're semi-government bodies that decide to use this. Launceston uses the same. Glenorchy and Hobart are the same. Kingston. But they're all the same form but Kingston is not affected because they have been awake to the fact that they've got to have a ramp down so they've chocked it out very nicely. They're not going in after the job is done. They do it when they do the formwork.

MS McKENZIE: Yes. For any new formwork that's done surely they have to take this into account.

MR PENNEFATHER: Yes, but it's only where you go cutting through an existing kerb. They make a nice sweep here and you hit the bottom and your angle is there. You get a fairly obtuse one, even obtuse. My feet dig in. I can't lift back because the wheels are digging in. I've got to take the feed off, put my feet up, back off and go without the feed. I can get off the kerb very nicely because there is all this concrete nicely kerbed, but as soon as I hit the bottom I'm in trouble.

MS McKENZIE: Yes. You can't get any further.

MR PENNEFATHER: People in walking frames, they would be battling because they've got four wheels usually and they've got brakes and they go down and they've got to pick them up and push it up over the hill. But where they cut through the kerb is a consideration that must be made by the government, but the workers don't worry about it. They cut through the kerb and say, "He's got a hole through to the gutter," but he's not in a wheelchair and I think they should get somebody to test run.

MS McKENZIE: Yes. A very sensible idea.

MRS OWENS: Yes, that's the solution is to get you around or somebody else around to test these gutters.

MR PENNEFATHER: One fellow said if the tarmac is a bit high they'll lift the angle of the gutter to fit the tarmac. Because the roadway is a great expanse it's dearer than the kerb. But he said they'll leave a lip. And the formworkers got the little bubble in the middle for the - just so it will drain off and then you've got two angles. They had, what was it? 110 degrees out, going to the Hobart one, and it's

80-odd degrees in. So you're coming downhill and you're hitting like this way and you come through there and you'll bend this wheel in and you can't get out because you haven't got the width. The formwork is still the same. But that's another point for the semi-government. Yes, well, that one where they put the wheelie bins in, they didn't give it back to us. It's still empty. So I might change that to say, well, can we have it back and make three points in Salamanca Market because wheelie bins can be stored elsewhere.

The other one is the private sector. Now, I'm always out and about with my carer and we go to lunch, we go everywhere. And when we come to access, since the commencing of the TT line, ships, there has been an upsurge in people in cars that are disabled around the place. And they've got either little mini-vans with slide ramps on the side, they've got back ramps, they've got much the same as my - and everybody uses it. Now, there is a glossy publication called Dine Tasmania. It's put out by the restaurant and catering institute. They use features and amenities in all these, what's-his-name, here. They've got a cocktail bar, they've got vegetarian, nonsmoking, BYO licence. Access for people for disabilities. Amenities for people with a disability. So they're the ones, the two bottom ones, we need.

Now, pricing, we're not very interested but when we get to it - now, I went through it bit by bit and I've noticed - and a lot of these we've been in them - the access for people with disabilities is 121. The amenities for people with a disability are 67. The total number of premises surveyed was 168. Now, in the foregoing, "access" could mean anything. It could be a hole in the wall. It could be a place - access and you find there's a four-inch step in front of it because "access" is so loose. I mean, "access" means going through that door but it doesn't say what's in front of the door. We should have freedom to run through without any barrier.

MRS OWENS: So it's not really accurate.

MR PENNEFATHER: No, and the amenities down here are thin. See, all they're saying in the foregoing could mean anything as long as it covers the entrance and the guttering on the basis of the entrance to it is the most - disabled person. They have said the less disabled person is their definition of access. The person with a buggered arm can walk over a step, yes. But a bloke in a wheelchair has got to get up the top of a four-inch step and then push up. Now, that's not on but it would still be classed as access. So I think access in the act should be tightened up to say it is set at the most involved person or the most physically disabled person, that's in a wheelchair, even an electric wheelchair. I don't know - Mrs Guy. I couldn't see her going into that place at Eaglehawk Neck, Linda, could we? Up that ramp in her electric wheelchair, could we?

MRS PENNEFATHER: No. The ramp is a bit steep for it.

MR PENNEFATHER: Yes. See, that's 1:14 feet.

MRS PENNEFATHER: I was pushing you and it was hard going.

MR PENNEFATHER: Would be pushing like hell to get up the - yes.

MRS OWENS: It's a bit difficult to talk from the audience because of the transcript.

MR PENNEFATHER: I'm sorry, yes.

MS McKENZIE: Linda might want to come up.

MR PENNEFATHER: I just mentioned that as an aside, but that's just the private sector.

MRS OWENS: Coming back to the numbers, you're talking about 121 premises that claim to have access, but then 67 had amenities.

MR PENNEFATHER: Had amenities.

MRS OWENS: So there is a whole lot of them, half of them, you can go there but they've got no amenities once you get there.

MR PENNEFATHER: No.

MRS OWENS: So you can't go to them anyway.

MS McKENZIE: But even then you might not be able to go to them because it's access for the person with the least degree of disability.

MR PENNEFATHER: Yes. Well, a matter of point, if we say - on the west coast there is one with amenities. It's Strahan.

MS McKENZIE: And "amenities" means?

MR PENNEFATHER: Facilities for disabled persons, say, toilets and such. If I go from Strahan and I want a pump ship, I've got to go to Queenie and then I've got to find one, and my nearest one away is Burnie. It's a long while between ships.

MRS OWENS: That's a long way.

MR PENNEFATHER: Yes, but that's just here, while I work on here, you see. It happens. Now, the newer buildings, in the last 10 years, have always had good amenities, but it's the old ones, say, renewing of facilities, are low - I visited a place called Kettering on the weekend. We went for a meal there.

MRS OWENS: A nice spot.

MR PENNEFATHER: Yes, it's very nice and the meal was very good, but he hasn't got any amenities for disabled. I can get in, the access is good, but there is a step in front of the men's toilet and I said, "You did a lot of renovations." And I said, "Well, when you were doing the renovations, this cost more than $1500," and he said, "Yes, it did, but I cut the bill in half." It was over $3000. So he doesn't have to comply with the alterations to the toilets. If you go over a certain amount the Kindred Council says, "Yes, put in the toilets." But if you cut below that $1500 you don't have to make the amendments. So everybody is working the act to the disadvantage of me, because it is a step, a four-inch step into the toilet, and we haven't got disabled toilets when we're there.

These are the things that come to me. They're mostly ill-conceived - in the main are ill-conceived and poorly sited, any amenities, in the old places, but the newer ones, of course, over the last 10 years have been good because the council have applied - said, "Well, you had better put in - you've got a female, a male and you've got a disabled." They're the main points, I feel. It puts us at a disadvantage. I always say we're just going - we should be less talk and more do and the only way with the act at this stage, of course, you've now got to always be on the thing of consultation rather than confrontation. I would rather confront rather than consult because it's the only way you'll get something done, is to jump up and down.

MRS OWENS: Would you consult first, then confront?

MR PENNEFATHER: Yes, but most of these where - on the system now we go to consultation and if you don't get what you want you go to arbitration. Then there will be a decision made, but the person it is made against doesn't have to do it. You have got to sue him in court before you can bring him to court. So you've got - and he could handle it out for two years. In the meantime we're still disadvantaged, but if we had compulsion more within the act, say, appointment with registration, or legislation amendments, of people like a policeman with a warrant card, you could write him out a docket. I would gladly go round these restaurants for you and you would have a lot of business. But if you can do something - they look at me and say, "Well, what are you going to do about it?" If I got out of my car - a wheelchair - I would pull his arms out, but in a wheelchair you're in a bandage all the same.

MRS OWENS: You could run over him.

MR PENNEFATHER: Yes. Well, that's it. As I say, to appoint special disabled officers to enforce the foregoing - talking about, you know, the compulsion sort of thing, but we can't do it unless you amend the act. I don't know when your drafting section would look at it. I've gone through it in bits and pieces, and I see there are inbuilt exemptions all the way, allowing for the councils to move their way within fiduciary rights and also even the private sector, but I think a lot of private sector people would be compelled. They can be compelled to do it, but at present they just hide behind it. The same at Kettering; he laughs, Mr James - "I just cut the bill in half, Keith," he said. I got two bills, and I haven't received the 1500 bucks in any one of those, yet he knocked a wall down and put things on a dance floor, and I know enough to say, "Well, that's more than $1500," but he got it in two bills, so he admitted it; said, "You don't have to worry about the disabled facilities. You've got access."

That's all I have to say. Admittedly, it is the bones, but I feel that if they really go to all sections of government - the private sector or semi-government - and said, "We'll comply with the act," and get in the spirit of the act, we'd get more done, but at present they hide behind what they've got and they just give lip service only - "Do what you've got to do and if you get forced into it, we'll do it, but we'll do it with very bad grace." That's the end of the lesson.

MRS OWENS: Thank you. Before we started today you did mention your experiences this morning. I think you said you were going to get a licence.

MR PENNEFATHER: Yes.

MS McKENZIE: Tell us about that.

MRS OWENS: Do you want to go through that on the transcript?

MR PENNEFATHER: Yes. With our licensing, it used to be done by the Transport Commission which has been demolished down there in Liverpool Street now - they've got a set of penthouses and such in there - and it's done by Service Tasmania. Service Tasmania has got an office in Macquarie Street - which I could never find a parking spot anyhow, and I rang them and they said, "You'd better not come up here, mate. You'd never be able to park your car. Go over to Bellerive," over there in the big section over there. That houses Coles and Woolies - the whole works.

We drove over there and we parked, and we drove virtually into the building. They had a ramp, a nice little ramp, and I parked in front; had a disabled carpark, a little ramp put up the gutter over that quite easily, done very nicely; in through the main door. I thought, well, I'm going to be in trouble here. They had the camera tilt, took the photograph, took my money and away I went. What we had over there - I had to have the drive over admittedly to the eastern shore - I reckon I would have been about two hours longer finding a carpark in Hobart, a disabled carpark. I would have had to have gone to one of the government carparks, and their disabled ones are very, very limited. Then I would have had to be wheeled up Macquarie Street, and then wheeled back and into the car, whereas as I said the car where it was parked was - couldn't leave the commissioner there - and there was no worry at all. The job was done.

MS McKENZIE: So that's a really positive experience.

MR PENNEFATHER: That was really positive. I thought we were going to have a route march actually.

MRS OWENS: It's negative in another way, to the extent that you felt constrained - - -

MR PENNEFATHER: I've got to go over to the eastern shore.

MRS OWENS: - - - you had to go to the eastern shore.

MR PENNEFATHER: Yes.

MRS OWENS: I don't know how many kilometres that is.

MR PENNEFATHER: That would be about five, six - be about 14 return, I reckon.

MS McKENZIE: Whereas if there were proper carparking in Macquarie Street, then you would not have to do that.

MRS OWENS: No. You can't park in Macquarie Street because I'm the extra width and it's one way, and you'd only find limited carparking, and below the Service Tasmania building there is a carpark there, but it's for staff; for people they rent the building from, because they're only on the ground floor. The rest is private sector upstairs, and they've got their carparking allotted.

MS McKENZIE: Could they not perhaps allocate some of the carparks that were staff carparks to people with disabilities?

MR PENNEFATHER: I think they'd most likely be in conflict with the people who've got the leases to the building, but you could always break a lease. But I don't think the Transport Department and the state government want to upset anybody to the betterment of the disabled, which are a very big minority in Tasmania, and they're getting much income from their private sector upstairs above them, because they only run the ground floor.

MRS OWENS: Perhaps they should be choosing their locations more carefully - well, they've done okay over the other side - so that people on this side can have access.

MR PENNEFATHER: An ordinary person wouldn't need to worry. He could walk up from his office basically and buy his licence, but as the officer said to me when I rang up, he said, "Not much good coming here, mate." He said, "You can't park your car. You're in a wheelchair. Go over to the eastern shore." So we decided we'd spend a couple of hours over there this morning and go over there, and I found it very good. We just rolled in and rolled out; the main work of course was getting there.

MS McKENZIE: That's a really excellent facility. There should be a similar one, without having to drive that far.

MR PENNEFATHER: Yes. They've got the building for it, but they haven't got the parking facilities for people in a wheelchair, and we're only 2.4 really of physical people in a wheelchair of the 40 per cent which are classed as disabled.

MRS OWENS: Thank you.

MS McKENZIE: Thank you very much, Keith.

MRS OWENS: I think we've covered everything with you that we wish to. Is there anything else, Keith, you'd like to raise with us?

MR PENNEFATHER: No. I think less talk and more do, and with the present act it's amend and regulate for the future. But that's left with the powers that be. I might be a voice crying in the wilderness, but I'm working on the person, the physically disabled one in a wheelchair, walking frame, and visual and mentally. The mentally people and visual people, of course, are not driving cars, they just can't get a licence, but they have carers that drive vehicles and they come in minivans and such and are quite entitled. But the other 60 per cent that have got this docket shouldn't have it, and if they can force the state government to say, "Right, we'll charge $10 a year. The ones that are physically disabled get it once, the rest come up for renewal all the time."

But the manager of that subsection said to me - I rang her up. I said, "How many have you issued today?" and I had 14,000 at the time - that was back in 1992. I said, "14,000", and she said, "Oh, I can double that. Over 30,000 we've issued to date and she said they're coming in fully all the time." Of course they were issued by the Hobart private hospitals; your medico fills out one of these forms, sent it in, and you get the docket back, which I did when I recovered and started to take notice after 46 days.

The thing is, you can overdo a good thing, and I think it's been to the disadvantage of the people that should have it, so it makes it easier on highly-prized assets such as disabled carparks, when people are not entitled to use them, they use them, and the 11,000 are battling to get into them.

MRS OWENS: Thank you very much for that.

MS McKENZIE: Keith, thank you very much.

MR PENNEFATHER: That's all right, it's been a pleasure.

MS McKENZIE: A really good submission. Thank you.

MRS OWENS: We'll break now and we'll resume at 3.30.

MRS OWENS: We will now resume. The next participants this afternoon is Women With Disabilities Australia. Welcome to our inquiry hearings. Could you please each give your name and your position with the organisation, for the transcript.

MS BRIDGE-WRIGHT: I'm Jenny Bridge-Wright. I'm a member of the management committee and the treasurer for WDA.

MRS OWENS: Thank you.

MS SALVANESCHI: My name is Sam Salvaneschi and I'm a member of the management committee for Women With Disabilities Australia. I'm not an office bearer.

MRS OWENS: Thank you. I'd like to thank you very much. You've given us an earlier submission and more recently we've read your draft submission based on our draft report. Thank you for presenting your final submission today. I understand, from our discussions before we started, that there are no major differences between the draft and the final.

MS SALVANESCHI: No, not at all; it's just referenced a little more comprehensively so that if the commission wished to, you can see better what sources we were relying upon for our evidence.

MRS OWENS: Good, okay. Thank you. I understand, Sam, you would like to introduce your submission for us.

MS SALVANESCHI: The submission, as you would know, from the draft submission that Women With Disabilities Australia put to you earlier, is one that comments by exception on the draft report. It makes exceptional comments on the basis of having read the other submissions that have been put to the commission, and on the commission's web site, and making an assessment about what we believed had not yet been covered as much as perhaps we would like. We expanded on those particular things. However, there are a number of other points that we would endorse, that have been made by other people who have made submissions and I'll briefly talk about those in a moment.

The submission begins with a roll-out of its conceptual framework and speaks to how it believes the national competition policy has a number of limitations with respect to recognising the sorts of costs of not having robust, enforceable disability discrimination regulation, and the sorts of savings that are accrued from having such strong enforceable legislation in place, and policy surrounding that legislation; the sorts of education and information campaigns and so on that make the act alive and implemented, as it were.

As a consequence our first recommendation is that the commission think very carefully, as no doubt I'm confident you would have, having spoken with both of you earlier - look very carefully at the sorts of definitions and the biases in those definitions of anticompetitiveness and efficiency and cost benefit ratios and so on, to ensure that benefits for a minority group are ones that are conceived as benefits for society at large when it comes to human rights protections. I suppose what is implicit in that is the historical lesson that when there is better respect for minorities' rights, when the rule of law is adhered to, not just with respect to majority groups, but also minority groups, it strengthens the rule of law and human rights protections for everyone across society, and strengthens that society as a consequence.

The second recommendation is with respect to recommendation 10.2 of the draft report. That recommendation specifies "the criteria for determining unjustifiable hardship in the Disability Discrimination Act should be amended to clarify that community-wide benefits and costs should be taken into account" and the remarks I've just made endorse that. We would strongly recommend that that recommendation remain in the final report.

Our third recommendation was that draft finding 9.2 should remove the statement, "A definition of disability based on the social model is not practical," and amend that definition so that the concepts of disability and discrimination are explicitly situated within the World Health Organisation's international classification framework, called the international classification of functioning disability and health. You'll see from the submission that Women With Disabilities Australia is very concerned as we note the Australian Institute Health and Welfare was - is, rather - about the implications of not having a definition that conforms with that international classification, because there is currently very limited data about people with disabilities and women in particular with disabilities in terms of their access to substantive citizenship rights.

Whether one looks at the Australian Bureau of Statistics data sets or the Australian Institute of Health and Welfare sets, it's very often incomparable data, it's very often data that will talk about people with disabilities but not break it down by gender, and so on. We note that the Australian Bureau of Statistics and the Australian Institute of Health and Welfare have both adopted this international classification for further data collection and analysis. We would suggest that HREOC could report - or whatever a future commission might be called, whoever administers the act - under a definition of disability and discrimination that conforms with that classification.

If they can say, "So many complaints were brought by people of this disability type" - and when they point to a certain category, it is the same category the ABS is using and it's the same category the Australian Institute of Health and Welfare is using - that we will be able to better assess next time the Productivity Commission or the Australian Law Reform Commission or someone, reviews the efficacy of the act, we will be able to better tell who it is that is making complaints, who is it making complaints, what sorts of remedies are being arrived at in conciliated agreements, or in orders of the Federal Court with respect to complainants with certain characteristics; whether that be the race or the gender or whether the complainant has a disability of a psychiatric type or a physical type and so on. Without being able to make such accurate judgments it's very difficult to know who has access and who doesn't to this national disability discrimination remedy regime.

MS BRIDGE-WRIGHT: Can I just say, too, if you were able to achieve such a thing then the flow-on effects throughout the community would mean there would be more standardised definitions, because when you apply for whatever benefit it might be, depending on who regulates it, or whether it be a superannuation benefit, there are all these varying definitions of what constitutes disability, or whatever. It makes it very difficult for people in accessing entitlements in the community, to know where they stand, depending on what it is they're trying to access.

MRS OWENS: We're at the moment looking at the AIHW submission to us on this issue of - - -

MS SALVANESCHI: Great.

MRS OWENS: - - - using the ICF and seeing what we can do in our chapter, which is reporting on the data. We are just seeing how far we can go with that.

MS SALVANESCHI: Sure.

MRS OWENS: We were actually thinking this through but into - maybe this would be a good spot just to break for those three recommendations.

MS SALVANESCHI: Yes.

MRS OWENS: Then we can go on to the others, otherwise we'll get lost.

MS SALVANESCHI: Yes, I agree.

MRS OWENS: So we will stick with this one for a moment. What I wonder is that you say that the ABS and AIHW don't tend to break up their data collections by gender. Does the ICF classification make a difference to that, or not? That's not going to be an answer to that issue, is it, really?

MS SALVANESCHI: No, it won't be. It won't be, but organisations like ours are in the process of attempting to persuade organisations like the Australian Bureau of Statistics and the Australian Institute of Health and Welfare that gender is a category that is imperative to be in any data set. The Australian Institute of Health and Welfare tends to be better at it than the Australian Bureau of Statistics and the Australian Bureau of Statistics, as you probably know, has been working on a set of disability questions for the next census. I think they are quite assiduously looking at what are the deficits in our data sets on disability, on people with disabilities and their access to certain services and so on.

You are right, but HREOC - I think because it administers sex discrimination law, race discrimination law, disability discrimination law - does tend to break down its data collection into gender and disability. There's not a lot of argument about gender - who is what gender.

MRS OWENS: You mean they are doing it separately; where they are doing sex discrimination, or they would look at - - -

MS SALVANESCHI: No. I think because they do administer this as well I think that is what induces them to know to do this with respect to their disability data, and they do. They do break down the disability data, on complaints and so on, by gender. But I think that when it comes to comparing the HREOC data sets with the ABS and AIHW ones for the purpose of talking about who has substantive citizenship among people with disabilities and who doesn't, with respect to education, access to employment support and so on, it's very difficult unless those data sets are comparable. I think the ICF will help dramatically on that because whilst there is a lot of debate about what disability is, they do tend to share the same definition of gender.

MRS OWENS: I thought your earlier submission, where you did give us some facts and figures broken down by gender, was really interesting. I think some of the same material ended up in Women's Health Victoria and the Women With Disabilities strategic consumer advocacy project - that combined submission.

MS SALVANESCHI: Yes.

MRS OWENS: I think they used some of the same material. I found it really quite interesting.

MS SALVANESCHI: Yes. If the commissioners please, Women With Disabilities Australia has brought the research that is referred to in our submission in case the commission wishes to refer to that any more. Those reports are on sterilisation of women without consent, violence against with women with disabilities and its effects, information and communication technology and inaccessibility to many women with disabilities. There is no justice report. The particular discrimination impacts against women with disabilities as opposed to men, with respect to a panoply of areas, including education and employment and health. So we will table those if - - -

MRS OWENS: Thank you, that would be useful.

MS McKENZIE: Yes, very tremendous.

MRS OWENS: But your earlier submission also just presented some material based on training and employment and participation rates in the labour force.

MS SALVANESCHI: Yes.

MRS OWENS: And so on, which also I think just adds to our background knowledge.

MS SALVANESCHI: Yes.

MRS OWENS: While we're talking about ICF, the other thing that puzzles me is that you said you'd be able to get the complaints data by particular categories of disability, and I just wonder how that fits in with your view about definitions based on a social model, because once you categorise your people in that way, as I understand it, you're still back there in that medical model.

MS SALVANESCHI: Yes.

MRS OWENS: This is what I'm still trying to grapple with; what all this actually means in practice.

MS SALVANESCHI: I think it's an excellent question. One of the great merits of the international classification that the World Health Organisation has come up with in consultation with nation states through the World Health Assembly is that it integrates the medical and social models. It integrates them. Women With Disabilities Australia maintains that to concentrate exclusively on the social model of disability has, as many commentators have well evidenced - people like Tim Shakespeare and Helen Meekosher have well evidenced that, concentrating on that social model to the exclusion of looking at the medical aspects - can leave on the cutting floor the embodied experience of people - that people do need, for example, very often, greater access to health services when they have some disabilities; that people do need a car spot that isn't going to require them to be in a great amount of pain by the time they walk to the steps of the Family Court that they are trying to enter, and so that integration of the social and medical models is what we think is ideal and that is one of the chief merits that Women With Disabilities Australia has argued for in the submission, as has the Australian Institute of Health and Welfare.

There are a lot of disability advocates who do - or at least seem to - concentrate on the social model of disability to the exclusion of what has become known as "the medical model" and, as I've said, we would suggest that that obscures that it is, like all experiences - because we're not sort of souls that float in the air - an embodied one and, if we don't think about the body, then there's a whole lot of discrimination that you can't think about.

MS McKENZIE: Yes. It's like leaving out one whole dimension of the problem.

MS SALVANESCHI: Exactly, and so, Helen, I think your question is a very pertinent one and we would stress that there does need to be an integration of some sort. The act in toto - as you would know better than I do - does adopt a social model of disability to the extent that it is all about how is a society in direct and indirect ways discriminating against people with disabilities, particularly with respect to the indirect discrimination, as defined in the act, it does get to a whole lot of systemic discrimination rather than the smaller liberal kind - that is, Mr Jones, who runs the local employment support network, discriminates against that particular individual because he thinks that psychiatric disabilities are fairy tales and therefore this person doesn't have a disability.

Women With Disabilities Australia receives calls about such discrimination all the time, and of course that's very important. The indirect discrimination limb of the act does get better to that systemic discrimination; that is, acts and omissions that disproportionately inflict harms on a certain group, and our submission recommendations about representative actions and actions in an organisation's own right and funding to properly support the implementation of those is about making that indirect discrimination limb, as well as the standards limb of the act, far more concrete in its effects.

MRS OWENS: So you can sort of beef up the social model throughout the act, and there are other things that we're thinking about to make it clear about the need to make adjustments?

MS SALVANESCHI: Yes, and we highly commend that.

MRS OWENS: Okay, which is not - as a result of Purvis that's a bit up in the air and we thought that maybe that needs to be made much clearer, so it's a matter of if that's enough or whether you need to do something with the definition and you recommended in your submission that there could be additional words put into the definition. Problems in body function or structure - - -

MS SALVANESCHI: Yes.

MRS OWENS: Such a significant deviation or loss, and those really fit with the ICF's definition - when they're referring to impairments - - -

MS SALVANESCHI: That's correct, but at the same time it does leave the social model in.

MS McKENZIE: Yes.

MRS OWENS: But we've got the social model in in other ways - we've just said that - so it's a matter of whether you need to put that in there as well. Is it the social model because it's about impairments; and the social model, as I understand it, is about the barriers that people will encounter and so on.

MS SALVANESCHI: Yes, what those impairments disabling, as it were.

MRS OWENS: Yes. I am just wondering whether it actually does do what you think it's doing, which is to incorporate the social model, or whether it's just trying to make the definition more consistent with the ICF - - -

MS SALVANESCHI: Rope?

MRS OWENS: It might be useful to do for another reason, but I don't know whether it's necessarily giving you what you actually want, which is a definition weighted more heavily to the social model.

MS SALVANESCHI: The preponderance of my explanation about that recommendation is about comparability of data. The act is predicated on a social model disability notwithstanding that particular provision that defines disability is particularly medical model in its bent. We don't have a problem with the fact that it's medical model in its bent because that is embedded within an act that is wholly predicated on the social model.

MS McKENZIE: But do you reckon it's not wide enough? Is that your problem, that there are things it doesn't pick up?

MS SALVANESCHI: No. My problem is that I think we're very concerned about (a) the sorts of things Jenny was referring to before about consistency of messages and categories used by agencies that deprive people of certain liberties or confer upon them benefits and that's not just so that when I go to this agency for an entitlement they're thinking about disability in the same way as that agency over there. It's also because in terms of the education of society, the Australian Bureau of Statistics, the Australian Institute of Health and Welfare, the Human Rights and Equal Opportunity Commission, parliamentarians and so on, are all talking about it in the same way, I think it has far more of a reformist impact on people's thinking and, if they are all going to talk about it in the same way, I would suggest very strongly that they talk about it in terms of a model that integrates both the medical and the social models, as they have come to be known.

There are going to be problems with comparability of data, I think, if we just make a policy that HREOC uses the international classification because the president of the commission today might think that's a great idea, but the president of the commission who is there in a generation's time - presuming we're still using the international classification - may not think it's a great idea. This government might think it's a great idea, that government over there mightn't think it's a great idea. I think if it's statutorily enshrined it may be that there's more comparability of data - I think it's very probable there'll be more comparability of data. That said, I understand the great problems in accommodating these sorts of drafting changes and any run-off effects that may be unintended.

MRS OWENS: I suppose it's a matter of making sure that you're clear about why you have a drafting change and that drafting change may not necessarily have any practical impact in terms of interpreting the legislation, but it might be a useful thing to do just to get this consistency.

MS SALVANESCHI: And also because of what it says to people. I think that when you read Tracks whoever it's written by - if it's written by the Pedestrians Association of Australia or if it's written by the Australian League of Rights, some far right wing organisation - if they're quoting the definition of "disability" from the act, and they do, then I would rather, in terms of the impacts on society, that they were quoting a definition that integrates the social and medical models, not just the medical model because they don't quote the entire act. They say, "This is what a disability is" and they get that definition from the act and the definition itself - as opposed to the whole act - is pretty much the medical model only, so I think in terms of education purposes and in terms of data comparability, to enshrine it in the legislation is worthwhile.

MRS OWENS: I'm still not totally clear in my mind as to why the definitional change you suggest does incorporate the social as well as the medical model, but we'll continue to think about this. We'll ponder.

MS McKENZIE: The other thing I'm not sure about is whether this suggested definition is actually going to be wider than what is currently there - I'm just not sure. It might be.

MS SALVANESCHI: Yes, and, as a drafting expert, Cate, you would know far more about that than I do.

MS McKENZIE: It might be wider.

MS SALVANESCHI: I mean, I would suggest, Helen, that it's the environmental factors that the classification refers to that make it explicit.

MRS OWENS: The classification may - I accept that - but the suggestion that you've made is still back there talking about problems in body function or structure, such as significant deviational loss. It's still talking about impairment.

MS SALVANESCHI: And my explanation goes on to talk about how the act could also refer to the environmental factors in the classification when speaking about the sites of discrimination, such as education, access to premises and so on.

MRS OWENS: So it's basically part of a package?

MS SALVANESCHI: Yes.

MRS OWENS: So you're not getting the social model into the definition itself. The social model is being brought - - -

MS SALVANESCHI: Three areas, yes.

MRS OWENS: - - - in through the change in the definition and the other changes you're suggesting.

MS SALVANESCHI: With respect to the use of the ICS, yes.

MRS OWENS: Okay.

MS SALVANESCHI: This is something that could be prescribed in subordinate legislation. I don't know.

MS McKENZIE: No. If it's going to be changed in the definition of "disability", no.

MS SALVANESCHI: No, no, no, not the definition. I mean the use of the ICF with respect to data collection purposes.

MS McKENZIE: I can't see why that couldn't be done by some ministerial policy.

MS SALVANESCHI: Directive, yes.

MS McKENZIE: Directive. That's a possibility.

MS SALVANESCHI: Perhaps that's the way to go. Perhaps, with all things considered, it's not something that necessarily needs to be in the statute.

MRS OWENS: At least we're seeing AIHW and ABS embracing this approach, but what you're worried about is what might happen in the future.

MS SALVANESCHI: I've looked at the HREOC data sets and they're not comparable with the ABS ones or the AIH ones. That said, the AIH ones and the ABS ones aren't comparable at the moment either but, because they are both adopting the ICF - - -

MRS OWENS: It's transitional at the moment.

MS SALVANESCHI: Yes. Because they're both adopting the ICF we are going to be able to compare those data sets. There may be some problems, but more or less it will be better in terms of comparability.

MS McKENZIE: Clearly that would be the case, too, with HREOC. It would be really helpful to be able to compare data sets than not being able to.

MS SALVANESCHI: Absolutely. In terms of a commission of inquiry into the efficacy of the act, if we can point to data saying, "Look, the ABS says there are X number of people in Australia with psychiatric disabilities"; it says that the ABS says, or the Productivity Commission says, according to this international classification, that there is an unmet demand for support services for people with psychiatric disabilities of this amount, but then we go and look at the data at HREOC and find that hardly anyone with a psychiatric disability is making a complaint with respect to access to those health services, then notwithstanding that we would have to control for other factors, that is surely something significant, and we're not going to be able to do that unless HREOC does it with the ICF.

It may seem like a very academic concern, but it's very difficult for an organisation like ours to say to the government or for the Department of Family and Community Services to say to a Senate estimates committee or in a budget proposal, "There really needs to be more resources invested in this in this way." This is the smart thing to do, because there is this unmet demand and we've got people saying that there's discrimination of direct and indirect kinds going on.

MRS OWENS: Yes.

MS SALVANESCHI: Which you know is probably causing some of that unmet demand because, if you go to a service and people are discriminating against you as an individual - that is directly or indirectly - you're either not going to turn up or you're going to go and somehow not receive the appropriate service.

MRS OWENS: Okay. We've got the other recommendations to go through.

MS SALVANESCHI: Yes.

MRS OWENS: I am just wondering - Cate, do you want to go back to recommendation 1 or 2 first?

MS McKENZIE: Do you want to say anything about competition?

MS SALVANESCHI: Yes, perhaps I will.

MRS OWENS: I thought your recommendation 2 was quite clear about our recommendation 10.2 about the criteria on unjustifiable hardships.

MS SALVANESCHI: Yes, that's not a problem.

MRS OWENS: I don't think we need to discuss that, but the first recommendation you made was in relation to what you called "the biases in the competition policy".

MS SALVANESCHI: Yes.

MRS OWENS: Our terms of reference - well, it is a competition policy review, but we also are required to assess costs and benefits of the DDA and we have to have due regard to a variety of factors, like social welfare and equity considerations.

MS SALVANESCHI: Yes.

MRS OWENS: When we do our reviews we always take a broader community-wide perspective in what we do, so it's not just a matter of saying this is about competition and the competition principles agreement approach.

MS SALVANESCHI: Sure.

MRS OWENS: It is also looking at the effectiveness of the act and we are looking at a much broader range of issues which, I think, if we were just doing a competition policy review that Cate would not have been interested in participating - - -

MS SALVANESCHI: No. I agree. It's something that, as an organisation, is an advocacy one. It's incumbent on us to say this, notwithstanding it's in your terms of reference, because people will look at our submission and say, "Have Women With Disabilities Australia properly emphasised that those community dimensions of the measurement of costs and benefits are properly taken into account?"

MS McKENZIE: It's also a question of weighting those factors properly.

MS BRIDGE-WRIGHT: Exactly.

MS McKENZIE: What you've mentioned about the protection of minority groups strengthening the rule of law and therefore society, and also this question of what are the costs of not having protection.

MS BRIDGE-WRIGHT: I suppose unless you appreciate the dynamics of the impact of disability on your social experience then it's really difficult to actually have a model that attributes a true dollar value, or whatever it might be; how you actually value it. What are the benefits for, for example - I don't know - if society more readily accepts people with disabilities in all sorts of forms, that social capital that comes from them being able to participate more fully in society, whether it be in the local sporting group or whatever it might be, or just that there's an extra cycle track put out that now someone with a physical disability can more easily get themselves about and get out and about more, whatever it might be, but those sorts of issues, or valuing those sorts of things and recognising them actually fall through the traps quite often and they are not something that economists put a value on.

MRS OWENS: Economists sometimes recognise and talk about intangible benefits. As soon as you get to think about those things it all becomes very hard.

MS BRIDGE-WRIGHT: Exactly.

MRS OWENS: That's not to say you don't think about them.

MS SALVANESCHI: Of course.

MRS OWENS: It's very hard to put that dollar value on them.

MS BRIDGE-WRIGHT: And that's the concern. It's because these things become difficult and difficult to attribute a value that's accepted within an economic model, that then the relative importance slides with regard to things you can actually attribute a dollar value to, as opposed to the cost of doing a readjustment in the workplace for a person with a disability. You can put a physical dollar value on that but you can't necessarily - the sense of wellbeing that a person gets and the self-esteem that they get from actually being more readily accepted within society.

MS McKENZIE: Although that may well be equally important.

MS BRIDGE-WRIGHT: Yes.

MRS OWENS: We did try very hard to address this issue of disability in human rights as one issue, in chapter 2.

MS SALVANESCHI: We commend that. Yes, we did commend that.

MRS OWENS: And have had to try and bring together our preconceptions as economists and the views of my colleague, as a lawyer, who is used to working in that paradigm. I am used to thinking about things in an economic framework. Bringing those two perspectives together has been a very interesting and challenging exercise.

MS SALVANESCHI: Yes.

MRS OWENS: We are trying very hard. If there is anything in our report that you feel is inadequate, in terms of trying to address these broader issues, you can certainly let us know.

MS SALVANESCHI: I suppose one concrete thing that Women With Disabilities Australia would say, with respect to the relative weighting of costs and benefits, is that we know the Human Rights and Equal Opportunity Commission submission, among others, including the New South Wales Anti-Discrimination Board one, refers to ensuring that there are in the act provisions which prescribe standards, as it were, in order to better define what constitutes reasonable adjustment.

We know that it has been an extremely difficult and incoherent process in many ways, this working group on disability standards and people trying to reach consensus on them. Notwithstanding that we live in a pluralist society and notwithstanding that I'm very grateful for the benefits of debate and liberal democracy, it is very problematic that there are a number of standards that the Human Rights and Equal Opportunity Commission has been earnestly attempting to have people settle on, and it's just not happening.

I think a lot of that is because people will come to the table with certain vested interests and I don't think, culturally and psychologically, many businesses are ready to accord to certain standards. Also, without subsidisation from taxation revenue I don't know that many of them can implement many of these standards, particularly when it comes to small to medium-sized enterprises.

So without a fund of some sort to help businesses apply certain standards I think they are going to be very ill disposed towards agreeing to certain standards. Now, parliament putting them into a statute isn't going to altogether cure that at all. In fact I think it would cause a lot of cynicism about the act, a lot of preponderance towards not complying, if there were not resources assigned to help businesses apply some of these standards: government agencies alter the library steps with a ramp, or whatever it is that is needed. That's a real issue.

If those standards are put in there and it's not resourced, and that cynicism is created, it causes some backlash against the very idea of disability discrimination law, I think. That's well borne out by a number of studies that have been done on changes in regulatory schemes. There would also need to be a well-resourced education program about it, so that Con the Fruiterer at the corner knows what he needs to do, and Con the Fruiterer can find out quite easily what he needs to do.

MRS OWENS: We are talking, in our report, about what the role of government should be and who should pay for what.

MS SALVANESCHI: Yes.

MRS OWENS: We do have a discussion about this, and it was in a broader context than just introducing standards.

MS SALVANESCHI: Absolutely.

MRS OWENS: It was about who should pay for adjustments under the act.

MS SALVANESCHI: Yes.

MRS OWENS: We have been thinking about how much additional cost is involved in implementing standards. Is the incremental cost that great? If organisations are complying with the act it may not necessarily be that great unless the standards are going beyond where the act sits at the moment. It may be a broader question of who should pay. We have basically come to the conclusion that maybe there is a role for government, and there are existing programs and so we have asked for information about the adequacy of those programs. Maybe there is also a role for the individual, because individuals sometimes do have to fund some of their equipment. You may not agree with that but there may be a role for businesses as well. It may be a shared responsibility.

MS BRIDGE-WRIGHT: I think when you start to talk about these issues of funding, this is where, to me, it's really so important that you are actually able to in some way attribute a concrete value to the importance of people with disabilities being included within society and actually being accepted as the norm within society, which we in fact are: one-fifth of the population has some form of disability, looking at the ABS statistics.

When we come to talk about things like reasonable adjustment and modifications to buildings and standards, and the costs that come with that, then that's where I think it needs to be weighed up against the value of the development of our society as opposed to our economy and our economic costs. It's the social capital issues that are really important to place a value on.

I really keep harking back to this argument because if you don't put, or aren't able to recognise, the true value to society of being more inclusive of people with disabilities then you will always come up with the fact that it's far too expensive to fund - or how would we fund? - all of these adjustments, or whatever it might be that take place. Also in my mind it's really important that you fund an organisation of some kind that actually provides education for small business, or for everybody within society, with regard to what they need to do to meet standards but also how to go about it, whether it be with regard to reasonable adjustment for somebody in the workplace, whatever it might be, so that it actually overcomes some of those systemic barriers that exist now because people just look at it and go "Oh, too hard," or "Too costly," immediately.

MS SALVANESCHI: I think that what the Public Interest Advocacy Centre stated in their submission with respect to respondents often exaggerating the costs of potential reasonable adjustment are very accurate. It's difficult without an organisation that is properly resourced to investigate and research such matters and economically model such matters, which is something that would be wonderful if the commission was able to do this in an ongoing way rather than us having an exceptional inquiry where the Productivity Commission may come up with some economic modelling of these benefits, or some economic modelling of what it's going to take for certain amounts of reasonable adjustment to be done by certain sectors of the economy.

It's very difficult to dispute at the moment some of the claims that are being made about just how costly some of this reasonable adjustment is going to be. Certainly I think while there is no educating and funding of reasonable adjustments there is even higher incentive for respondents to exaggerate just how costly certain adjustments are going to be.

With respect to the individual paying for assistive aids - as they are often called - I think there is an enormous amount of evidence to suggest that people with particular disabilities are already doing that; they are already bearing that cost in a very large way because no-one else is going to. The welfare state, as you know, has been rolled back, much more narrowly targeted in Australia since the 1980s, notwithstanding that it wasn't eroded to the extent that Thatcher and Reagan did. So there is very little state subsidisation. An assist debate is going on at the moment. It's the individual doing it. If they don't do it they don't have it.

MS BRIDGE-WRIGHT: They are at significant economic disadvantage. Principally - I can speak for Women With Disabilities - proportionally we are more economically disadvantaged than any other group of people with disabilities. So to impose the cost on the individual, although people are bearing the cost because they have to in some instances, it comes with a huge economic cost for them and whether it has - - -

MRS OWENS: It raises an equity issue.

MS BRIDGE-WRIGHT: Yes, and WWDA has examples of women who have become disadvantaged through these various sorts of traps that exist within society, where you might have been subsidised through the welfare system to a degree with regard to your health costs and so on. Once you actually get employment all of a sudden - you know, your income isn't necessarily that big but you are carrying the burden of all the costs that come with your disability, whether it be a new motorised wheelchair, or whatever it is, to get about, you become more disadvantaged sometimes through being employed than you did through not being employed. So there is a whole heap of barriers that exist out there with regard to the imposition of economic cost on the person with the disability.

MRS OWENS: Perhaps we should move on. We were up to recommendation 4. There are a couple of important issues that we need to cover. You have a recommendation here about clarifying substance dependence as a disability. Do you know about the bill?

MS BRIDGE-WRIGHT: Absolutely

MS McKENZIE: The bill doesn't actually restrict the definition of disability, but it does - - -

MS SALVANESCHI: Which bill?

MS McKENZIE: The amendment bill in relation to substances of dependence. What it does do is insert an exception provision into the act, which hasn't got a wholesale exclusion of addiction to substances of dependence to be covered by the act. It doesn't, for example, cover where you're undergoing a treatment program.

MS SALVANESCHI: No. It's illicit ones, isn't it?

MS McKENZIE: Yes. If you're undergoing treatment, that substance dependence is still picked up if it's part of the disability. Also if it's one in the past, if it was a substance dependence in the past or the future, or it's an imputed substance dependence, all of that is still picked up.

MS SALVANESCHI: Yes.

MS McKENZIE: So as I understand the amendment bill, it's excluding substance dependence, apart from those matters.

MS SALVANESCHI: Yes. I would suggest that there is an enormous amount of evidence to bear out why it is very often the case that people dependent upon illicit substances are not undergoing treatment, and I think some of that is definitely due to inadequate services - inadequate both in terms of the quality and quantity of those services. If, Cate, you may be suggesting that an amendment to the definition isn't required?

MS McKENZIE: I don't think there's an amendment required to the definition of disability. That remains as broad as ever. What the bill does is to put in an exception which really takes out of the act, partly, people who have substance dependence.

MS SALVANESCHI: Yes. I suppose there is a hope for many organisations that have suggested this amendment in this submission, including Women with Disabilities Australia, that if it is explicitly recognised, this would deter such reformist efforts in the future, because it will be to explicitly recognise as a disability something that is very often not recognised as a disability, and that is substance dependence. I think that it would be a little more difficult, culturally speaking, for the government to be putting this amendment, and for the New South Wales parliament to have passed similar amendments for their legislation as you would know, if it had been long explicitly recognised under the law in a public way.

Now, whether that's through publicisation of case law - because you've got representative actions going on which will attract a bit more publicity in the Daily Telegraph and the Sun Herald because it's a group of people, much like the deep vein thrombosis action that was brought by Slater and Gordon, and other such cases - if it's publicity that is getting people to understand that substance dependence is part of that definition, and therefore making it very difficult for a government to legislate a minority who are not undergoing treatment out of the act, as it were, away from the act's protections, if that publicity and education was there, then perhaps it would be less necessary for it to be in the definition.

MS McKENZIE: The other thing to say, I suppose, about that is that in a way our reference is about the act as it is, but obviously the bill is relevant in the sense that it's something that might be passed, but it's not passed yet.

MS SALVANESCHI: No.

MS McKENZIE: The last thing to say is that we've looked at exceptions generally, and really we've followed the sort of general policy strand that's behind what we've said about all the exceptions that we've looked at - that first they've got to be necessary; in other words they shouldn't be unnecessarily broad - and that's why we said, for example, that in the Migration Act, while policy matters might be something that ought to be covered by an exception, day-to-day routine administration is another matter altogether. Then we've also said that really there need to be appropriate policy reasons to justify taking away the protections of the act from these particular areas, and it may be that you think that a similar policy should be applied when looking at this subject as well.

MS SALVANESCHI: Well, I would suggest that it is inappropriate public policy to base an amendment on an idea that has been put by Minister Ruddock in his explanation of the bill, that somehow one is going to incentivise or induce people to seek treatment by depriving them of the human rights protection. We would suggest that's not appropriate public policy. Harm minimisation is what has been found to work in terms of policy, and this is not consistent with harm minimisation. That said, I take your point that it may not be that a definition or amendment is required. If I had more hope that there was going to be test-case resourcing from the government, and if I had more hope that there would be resourcing of wider education and information campaigns on the act, I wouldn't be suggesting that it be in the definition, because I think the definition adequately covers it at the moment, and that's why the bill is needed.

MS McKENZIE: Yes. All right.

MRS OWENS: Now, your next recommendation - you were talking about representative actions and possibly requesting the Australian Law Reform Commission to inquire.

MS SALVANESCHI: Yes. I made that recommendation because the Australian Law Reform Commission has, as you would know, referred reports to parliament on the standing issue, and also access to justice issues - access to justice in terms of the financial costliness of court proceedings and also whether court proceedings at the moment, in terms of their adversarial nature, are very suited to many people who need to use the courts, particularly if they're an unrepresented litigant. So it's very clear, it would seem to me, that the Australian Law Reform Commission has a store of evidence there on standing issues and on access to justice issues already. So it seems to make sense for them to do it.

MS McKENZIE: We've made some recommendations as you know - or at least not recommendations. We've made some suggestions and asked for information about whether disability organisations should be able to make complaints and what kind of connection there should be to the subject matter of the proceeding if that were the case, and whether HREOC should be able to initiate complaints. They were matters directly related to the DDA, which is why we thought we should consider them.

MS SALVANESCHI: Yes, and we commend that those questions were asked. In terms of the draft report's request for information, with respect to the victimisation or potential victimisation of potential complainants, we would suggest that a representative action, where the aggrieved individual or individuals are allowed to remain anonymous, is something that does take care of not only that potential reprisal issue, but also the issue that is canvassed in the draft report regarding the difficulties of certain groups accessing the complaints process.

Now, those difficulties have different layers. If you are in a group of society that disproportionately has a very low income, if you are in a group of society that is discriminated against in terms of access to information communication technologies and so on and so forth, it's going to be more difficult. If one is not verbal, if one is, as they say in disability services for people with developmental disabilities, someone who is averbal - I have problems with that term - but anyway, if you don't communicate in the way that the four of us do, there are problems with that complaints process. If you're not fluent in English, there are problems with that complaints process. However, the president of the Human Rights and Equal Opportunity Commission, or an advocate for Women with Disabilities Australia, is going to be far better resourced to cope with the sorts of imposts that come with bringing such an action.

MRS OWENS: It's all relative. They'll say that they need more resources.

MS SALVANESCHI: Well, I think that it's very cost-efficient to have an organisation do it, because the likelihood that some individual is going to be able to do the sorts of research required to bring an action, and getting the sorts of emotional and financial wherewithal together suddenly to bring such an action - if indeed they're in a low-income group and with a disability that often causes them to be out of action, as it were - that's all going to prevent that individual from bringing that complaint, whereas an organisation can do that.

I think the other cost-efficiency about it is that if you bring an action for a class of people, the remedy that the court orders is far more likely to be a systemic remedy rather than the highly individualistic remedies that tend to be ordered at the moment. I think also it's far more likely to be less privatised justice, as it were. That is, if it's a representative action, I think the Daily Telegraph and the Sun Herald are far more likely to report it. They're the highest circulating newspapers in the country. Channel 9 is much more likely to report it. That's good for the DDA.

MRS OWENS: At the moment under the act, it is still possible to bring representative actions, at least to HREOC.

MS SALVANESCHI: It is.

MS McKENZIE: Some difficulties have been raised with that procedure though.

MS SALVANESCHI: Absolutely. I would suggest that some very well-informed organisations who are in the business of policy research and advocacy don't know about it.

MS McKENZIE: That's one of the difficulties.

MRS OWENS: There has been quite a lot of confusion about whether you can do it or not.

MS SALVANESCHI: Yes.

MRS OWENS: I mean, we presume you can, but there's a question of - even with the ones that do know why there hasn't been more use of that capacity - - -

MS SALVANESCHI: I would suggest it's because it's an expensive process, and since Brandy, since that piece of case law, it's even more expensive to obtain an enforceable decision.

MS McKENZIE: First, it looks as if there may be a problem if there's an anonymous aggrieved person, even when you start with the commission and, second, it looks as if there will be an even bigger problem if you want to go to the court, because you have to be an aggrieved person to actually go to the court. So, yes, there are difficulties.

MS SALVANESCHI: Yes.

MS McKENZIE: Then there's the cost question which we have talked a little about in our report as well.

MS SALVANESCHI: Yes.

MRS OWENS: Can I just come back to this conciliation phase, because there are no costs at that point, so what's - - -

MS SALVANESCHI: There are costs in terms of the individual turning - there are costs, perhaps not of the dollar kind, although I would suggest there are of the dollar kind for lots of people with disabilities. Not everyone is on a mobility allowance. Not everyone is going to come out of the conciliation process without heightened pain - physical and mental pain - without harm to their capacity to earn, look after their children, et cetera, after such a conciliation. Those are the costs I'm talking about.

With respect to Brandy, the reason I think those particular costs are heightened at the conciliation stage is because you know when you go there that that conciliated agreement isn't enforceable. I think there are psychological costs that attend upon that on the complainant. In fact, I think many complainants - I would suspect many potential complainants - aren't going to conciliated agreement because they know just how few of the decisions that are made in conciliated agreements are actually followed through, without a Federal Court order. I'm sorry, Jenny.

MS BRIDGE-WRIGHT: I was also going to raise the issue of the power dynamics and the actual way in which those processes might actually accommodate some disabilities, whether it be an intellectual disability or whatever it might be, there are some factors which - I mean you can look at all sorts of things in society now with regard to the way that police and so on may deal with a domestic situation, with regard to a person with a disability as opposed to one who doesn't. Someone who has got an intellectual disability or a limited capacity to communicate verbally, or whatever it might be, will quite often be taken less seriously, or not actually listened to. Their message doesn't get across effectively, and it's sort of how you make sure that those sorts of issues are actually accommodated effectively in those sorts of conciliation processes when it's the individual who has to attend and deal with it.

MS SALVANESCHI: Our submission does refer explicitly to evidence which shows that the amount of violence that is perpetrated against women with disabilities is often a deterrent to bringing a complaint, particularly where the discrimination that may be a component of or separate to the violence is perpetrated by someone upon whom they are very dependent, as it were. If you are a group of people who are highly disadvantaged in the labour market, the housing market, in terms of accessing services that you as a minority need, for example attendant care services, it's very difficult to make a complaint because you don't want to lose that service that happens to know your case history, et cetera. Or you are stuck in that service, you're living there and you don't want the reprisals.

I mean, the sorts of things that Jenny has just pointed out are well-evidenced. Women with intellectual disabilities who do manage to go to the police and make a complaint, or someone goes with them and facilitates them making that complaint, are not believed very often. There are widespread prejudices amongst police officers that women with intellectual disabilities are sexually rampant, that they are liars, that they can't tell the difference between a fact and a lie and so on. If you've had that sort of experience with the authorities, if you've been discriminated against by various authorities, I don't think going to Human Rights and Equal Opportunity Commission as an individual is going to be a terribly attractive proposal, whether you have been assaulted sexually in the past or whether it's just been that some Centrelink officer has said to you, "Well, you don't really have a disability because I can't see it," or implied that.

So I think, as has been written about for I don't know how long by Marshall Neave, I think, who is the current administrator of review council, and various other people, relying on an individual complaints process, particularly if you cannot get a body to bring a complaint for you because they are resourced to do so, by the law allowing them to do so and by some fund allowing that body to bring the complaint. It's not going to be brought or it's going to be brought and there will be a conciliated agreement and none of us will know about it, so it's very difficult to see what's happening in terms of what remedies are being agreed upon, what remedies are not being agreed upon, what the stories are.

I was just speaking to Cate earlier about how the International Commission for the Reparation of Holocaust Survivors, notwithstanding how much Holocaust testimony has been recorded on paper and digitally over the years, have been hearing many, many stories about things that happened that we had no idea about. Those stories particularly pertain to the torture of death camp inmates via medical experimentation. Now, it seems to me that, if after all the recording of Holocaust testimony, all of a sudden disconnected individuals are telling very similar stories about what happened to them or their twin brother or sister in medical experimentation and we haven't got evidence of this, it's because if they have been telling anyone they have been telling people away from the public sphere.

The more that we have, it seems to me, complaints in a privatised way, that is secret conciliation, notwithstanding that there is a place for that - if we don't have it balanced by some publicly-celebrated cases, you're not going to hear those stories, and the education and the learning of society and the moral evolution isn't going to happen.

MRS OWENS: Okay. Thanks. I think we should move on to the last point: Point 6, recommendation, which relates to the Workplace Relations Act.

MS McKENZIE: I thought that the commission can intervene in proceedings under the act but if I'm right, looking at what the New South Wales act permits, the thing that the commission can't do is appeal from a decision of the ARC through a single commissioner. That's certainly one thing that can't be done. It may be that the power of intervention is perhaps more limited than the one provided for under the New South Wales act. Is that right?

MS SALVANESCHI: I think your interpretation is a correct one but at the same time I think that these intervention rights are even lesser known about, or as less known about as the representative action provision, and that's a problem; not because the president of the Human Rights and Equal Opportunity Commission won't know about it. I'm sure they know about it.

MS McKENZIE: But because the workers don't go to the president to ask for intervention nor does the person who is disadvantaged.

MS SALVANESCHI: That's right. The union or - - -

MS McKENZIE: Yes.

MS SALVANESCHI: Or a newspaper doesn't say, "Well, why isn't the president of the Human Rights and Equal Opportunity Commission" - you know. I mean, if it's not known about it's not as legitimised for the president to go and do. and I don't think there is as much pressure on the president to go and do it and there's not as much pressure on government to resource it. I mean, a lot of this and I'm sure you're quite bored - bored rigid, in fact - with hearing - I'm sure many, many of the people who have made submissions to you have said - I know they have said, "This commission needs resourcing." It lost 80 per cent of its resources at a point in time when a number of things were going on that don't need to be elaborated on here. I think, in a sense, its capacity to fulfil its mandate for education, intervening in actions, bringing representative actions, doing research, spreading the word about what sorts of complaints are being brought to it, et cetera, is highly, highly limited. Now, I don't wish to - - -

MRS OWENS: We have heard that and we have raised it in our draft report but I was just a bit puzzled, given that you've acknowledged that there is a right for HREOC to intervene now, what is it that is in the New South Wales Industrial Relations Act that you talk about - exemplary rights?

MS McKENZIE: Two things, if I'm right. One is, if I'm correct, the power to appeal from a decision of a single member of the commission - - -

MS SALVANESCHI: That's correct.

MS McKENZIE: - - - where that decision appears to HREOC to be inconsistent with the provisions of the DDA; and the second is to apply to the commission to vary what HREOC considers to be a discriminatory award. Otherwise, you see, the power to intervene which there is no question HREOC has got, is only whether it's a proceeding on foot. These are really where there's not a discrimination on foot but there is some other discrimination problem. Is that right?

MS SALVANESCHI: Yes, and Helen, your question underlines that I should have made that clearer, that it's as Cate says, when there are not proceedings on foot that there is a bit of a problem at the moment. There's a vacuum, or a void, rather, in the legislation terms of taking care of that.

MRS OWENS: But I sort of wonder - it's only New South Wales that has got that provision. The Workplace Relations Act requires all agreements to have clauses in them addressing discrimination.

MS SALVANESCHI: But there's no enforcement of it with respect to anyone being able to intervene who is an expert on what those provisions say, unless, you know, I'm sure the president might ring the head of the Australian Industrial Relations Commission and say, if they are mates, "I really don't think these awards comply with these objects of these particular Human Rights acts at the national level in Australia." As Cate was suggesting, you cannot go and appeal something and make it true, as it were, or you cannot intervene when there is no proceeding on foot and say, "Right. There's a legacy here of this award being this way. We need to change that." It leaves it up to the commissions of the Australian Industrial Relations Commission.

Now, the draft report, I think, very commendably talks a lot about integrating the responsibilities of the Human Rights and Equal Opportunity Commission and other organisations, agencies, tribunals et cetera that should be responsible for furthering the objects of the act. I think this is one way to get that synthesis happening between HREOC and the Australia Industrial Relations Commission.

MRS OWENS: But it implies to me that the Australian Industrial Relations Commission potentially isn't doing its job correctly and needs HREOC to help it along. To me, it undermines what the Industrial Relations Commission is doing. I just wonder whether - you know, what is the need for this? Has there been a demonstrated need out there that says that this is something, that the Industrial Relations Commission is falling down, either in terms of awards or in terms of looking at proposed certified agreements where - - -

MS McKENZIE: You can always notice the intervention power, though. I mean, theoretically you could look at the intervention power in the same way. Why should HREOC have one of those when AIRC should be able to do its job?

MS SALVANESCHI: Okay. I think they are excellent questions. The first thing is that I can go and dig out and, post this, if the commissioners please, table evidence which shows that women and women with disabilities are, at the moment in a disadvantaged position under industrial awards. Now, the Australian Industrial Relations Commission is reactive in the same way the Human Rights and Equal Opportunity Commission is and one or both of you may know much more about this than I do. It seems to me that the Australian Industrial Relations Commission is not an organisation that is about going out, roving round, auditing awards and fixing them with respect to discrimination of various types. That is why people bring cases of various sorts to the commission.

MRS OWENS: Are you talking about HREOC commission?

MS SALVANESCHI: No, I'm sorry, to the Australian Industrial Relations Commission. Because the Australian Industrial Relations Commission is not an auditor-general that goes around saying, "This is wrong," and yet has more powers than the auditor-general by being able to fix it and amend the awards so that it doesn't do something that falls foul of some national legislation, people have to bring cases to it. Now, it seems to me that unions, federations, business associations and so on, nor industrial relations commissioners, are not necessarily people who have at the forefront of their minds what it is to directly or indirectly discriminate against various minorities, and there is much literature, as you would both know, suggesting that the history of industrial relations in Australia has been one that has disproportionately favoured men.

This is why, for example, there was officially allowed an audit by the commission on unequal wages between women and men for so long. I don't think that legacy has stopped altogether having its effects and I do think there is value both in terms of publicity, education that comes from that publicity, and the expertise of the commission being used properly if there is an intervention right when proceedings are not on foot.

MS McKENZIE: When the award simplification happened - do you remember when the awards were permitted - - -

MS SALVANESCHI: Yes.

MS McKENZIE: - - - to deal with far less matters than had been previously the case.

MS SALVANESCHI: Yes.

MS McKENZIE: Was that the time - and I have to say I just don't know about this. Was there inserted into the awards that were looked at that time a model anti-discrimination clause? I simply don't know, frankly.

MS SALVANESCHI: My understanding is that that is not the case because I did go looking.

MS McKENZIE: Right.

MS SALVANESCHI: Now, Cate, I will stand corrected on that by someone who knows far more about labour employment law than I do but I think there is an enormous amount of evidence, some of which is adduced in the Productivity Commission's report about the disparity in wages and in the amount of work that is received by women with disabilities as opposed to men. The Productivity Commission refers to a decomposition technique that it has used in order to arrive at women with disabilities earning 7 per cent less per hour than women without disabilities. The report also says:

> The commission's analysis suggests that different characteristics cannot explain approximately 44 per cent in the difference in the wages of women with disabilities and women without disabilities. These gaps could be interpreted as discrimination on the grounds of disability.

Now, I understand that differences in wages and differences in the amount of hours that women with disabilities are employed could be down to a number of factors, clearly, but I do think there needs to be some thinking about it. Can a generalist tribunal that has often been criticised for not taking into account the disparate adverse impacts that some of its award decisions are going to have on particular minorities - if it has a history of doing that, I think that the president of the commission being able to appeal decisions and initiate actions of the commission is a very, very useful one. Now, that's not to say that I've properly evidenced in a submission that couldn't be too long, couldn't be a thesis, that this needs to happen; but I do think there needs to be some thought about it.

MRS OWENS: Unfortunately we haven't had a lot of evidence on this particular issue and we will have to give it some more thought.

MS SALVANESCHI: Yes. We will give it some thought. We might ask Kerry. They may have some knowledge about these matters as well that might be helpful to us.

MRS OWENS: They may say, "We've already got so much to do. This is going to really stretch us."

MS SALVANESCHI: Go away.

MRS OWENS: We don't want to be out there auditing awards but we will bring this up with them when they appear at the hearings and we'll bring this to their attention. Is there anything else you wanted to raise with us, because we'll have to wind up in a minute.

MS McKENZIE: I think I've gone through all the questions that I wanted to ask.

MS SALVANESCHI: Yes, just that - and this goes to a number of things that I've said - in draft finding 5.7 there is reference to certain minorities that may have difficulties using the complaints process. I'm sorry, it's not draft finding 5.7.

MS McKENZIE: This is where we talk about multiple disadvantages, things like remoteness.

MS SALVANESCHI: Yes. I'm sorry. When you look at the commentary on draft finding 5.7 there doesn't seem to be any mention of women suffering any disadvantage in terms of that complaints process, that individual complaints process, and I think that several remarks I have made today, for example, those with respect to violence perpetrated by the people who are discriminating against them who are the same people that they depend upon, go to the difficulties of women in particular, and women with disabilities in particular using that complaints process. I think that that needs to be acknowledged in the final report - - -

MRS OWENS: Okay. Thank you.

MS SALVANESCHI: - - - amongst all the other things, in all your spare time you'll be putting in there. Thank you for that.

MRS OWENS: Thank you very much for that.

MS McKENZIE: That's a really helpful submission.

MRS OWENS: I'm afraid we will have to wind up.

MS SALVANESCHI: Yes. Thank you very much for your time.

MRS OWENS: We've probably kept you longer than we told you we were going to keep you.

MS McKENZIE: Yes, we have.

MRS OWENS: I apologise to you for that. It was very worthwhile. That concludes today's proceedings. I would like to thank you for attending today. I now adjourn the proceedings, and the commission will resume the hearings in Sydney at 9.30 am on Wednesday, 18 February at the Radisson Hotel. More details about the hearings in Sydney and other locations are available on the commission's web site. I now close the proceedings. Thank you.

AT 5 PM THE INQUIRY WAS ADJOURNED UNTIL
WEDNESDAY, 18 FEBRUARY 2004

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