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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 SYDNEY ON WEDNESDAY, 18 FEBRUARY 2004, AT 9.15 AM

Continued from 11/2/04 in Hobart

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 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 an opportunity for interested parties in Sydney 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 have been held in Canberra and Hobart. Hearings will also be held in Melbourne and Brisbane. When we complete the hearings in March we will redraft the report and submit it to the government by the end of April. It's then up to the government to release and respond to the report.

We like to conduct all our 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 cannot be taken from the floor. If anyone in the audience wants to speak, and there's no audience at the moment, I'll be allowing some time at the end of proceedings today for you to do so.

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 our other submissions. The transcript will be available on the commission's web site and word format following the hearings. Now, I'd like to welcome our first participant today, the Disability Council of New South Wales, and thank you very much for making another submission and taking an interest in this inquiry. As I said to you before we commence today, I've been very impressed with the input that you've made to this inquiry and this last submission has been very very helpful to us in addressing some of our findings and recommendations directly. For the benefit of the transcript, could you each please state your name and the capacity in which you are appearing today in your capacity with the council.

MR HARRISON: I'm Joe Harrison. I'm the research officer with council.

MR SIMPSON: My name is Michael Simpson. I'm a council member.

MR REDMAYNE: My name is Glen Redmayne and I'm a council member.

MRS OWENS: Good, thank you. We have read your submission but I understand you'd like to highlight some of the main points.

MR SIMPSON: Yes, I thank you, Helen. I want to make some opening comments and in doing that I want to commend the commission on the work that has been done right through the initial round of hearings and consultation and production of the report. As you mentioned, you have seen several submissions from the council, particularly referring to our most recent January submission which really picked up on the findings of the commission in its report.

We view the report as a pretty thorough attempt to cover what we believe to be exceedingly complex issues and to cover reasoned arguments to amend, clarify and extend the DDA. As documented, the disparity of views - you've been able to document the disparity of views and draw those views together to come to some conclusion and, while we don't agree on all points put forward by the commission, we believe that it's a well-researched and well-documented contribution to the DDA debate.

You are aware that the Disability Council of New South Wales is an adviser to the New South Wales government and we are a body of individuals drawn from the disability community, people with direct experience of disability as well as those who represent other sectors such as families, carers and service providers, and whilst formally we have a key role in providing advice to the New South Wales state government, we also have a role in providing advice to the federal government and hence have a broader interest in policy and legislation, not only to do with New South Wales activity in government but also the federal arena. You will have noted in our submission that we agree with a number of the recommendations in the report.

We've made comment about some of the areas where the commission were looking for information and feedback from the disability community and the broader community interested in the DDA and we pick up particularly on a couple of elements that we want to have further discussion about, particularly the bits around the social model definition and the issue around consultation around the development of DDA standards. So in making those opening comments I think we're happy now to go through with you the recommendations that we've made and pick up on any particular issues that you want to ask further questions about.

MRS OWENS: Good, thank you, and thank you for your comments. I think we'd be surprised if you agreed with everything that we said, wouldn't we, Cate.

MS McKENZIE: Well, that's right.

MRS OWENS: But what we're trying to do at this stage in the process is really just bring together all the views and we have floated a few ideas. We've made a few draft recommendations and asked for more information in certain areas and we've been getting a lot of very useful feedback. Just before we go through some of the points you've made on the findings and recommendations, you quite clearly correctly pulled us up on a bit of repetition in our report which I thought was useful and, as I think it's clear to you, it's a draft report and this is the time in the process where we try and smooth things over and make it as close to perfect as we can get it. But there was one area where I think we're still trying to check the figures.

You talked about - this was on page 4 of your submissions about the report noting - and I won't go through the whole thing about 26 per cent of complainants whose complaints were not conciliated and stated the cost was the reason - and then you said that we made the same point elsewhere. The other point had exactly the same figures which looks very suspicious but it was actually about the process being complex so it was relating to a different point and at the time we put those figures in I said that looks very strange having exactly the same figures and we did check it but we'll check that again - - -

MS McKENZIE: It still looks strange.

MRS OWENS: - - - because you've picked it up. It still looks strange.

MR SIMPSON: Yes, I think the fact that we've made reference to that and whether we've understood it correctly or not, the fact that we've actually made reference to it indicates that there is some ambiguity and unclarity about the report, so maybe even if the figures are correct that in structuring the report, if things can be even more clearly separated, then it would make the report easier to read.

MRS OWENS: We could have a footnote. We could say these figures are the same and they're just coincidental because somebody else might pick it up at some stage.

MR SIMPSON: Yes.

MRS OWENS: You're the only group that has so far.

MS McKENZIE: We're really happy that you read the report so closely.

MRS OWENS: Yes.

MS McKENZIE: It's really good.

MR HARRISON: One of our members who actually picked up this was a person with an intellectual disability and said, "I don't understand why they're the same," and that was an interesting comment that she picked it up with an intellectual disability and she just also pointed out that it was confusing because it follows one on the other rather than being separated.

MRS OWENS: Yes, well, she was very astute.

MS McKENZIE: You can pass on our thanks to her because it's good.

MRS OWENS: Yes, okay, I think the easiest is just to go through the submission that you've made and just as we get to the relevant pages but the next issue that you raise on page 5 was about - this was in relation to our recommendation 6.2 and the Electoral Act and we've recommended that the government should amend the Electoral Act to ensure the right to vote for people with disabilities.

That's not the recommendation - and you've got a comment there about support people and some preferring to have a support person with them that they know. But we've had others that have come along and said that they'd actually prefer to have an independent support person because of the potential for the support person to influence say their voting behaviour. So there are arguments both ways on that. I don't know whether you'd like to comment on that.

MR SIMPSON: Yes, and there are a couple of elements to this and, whilst we genuinely believe that to the greatest degree people with or without disability should be provided with independent opportunity to vote without intervention or support from any other individual, and behind that comment is particularly the issue of people who are blind or visually impaired not being able to vote independently, there is the need to acknowledge that some people, either by choice or by necessity, need to have some support and that that support could either be independent or somebody that they are comfortable with and that should be a choice of that person.

It shouldn't be mandated that you cannot take somebody that is known to you or vice versa that the system does not provide enough resource to efficiently allow somebody to be at the polling booth to provide that support if a person is looking for somebody who might not be known to them or close to them. But what we were pointing out in particular was that in providing information, particularly to people who might need other processes explained to them more, was that there's a fine balance between influencing a person's thinking and providing enough information for that person to make an independent decision.

MS McKENZIE: You are right in a way. A support person might be able to - someone who knows that person might well be able to provide the information better to them in a way that they know they'll understand.

MR SIMPSON: Yes, in the blind community we are well aware that in South

Africa, for example, when there was a referendum to do with the change of power balance in South Africa, the blind community fought for an independent organisation to actually provide advice to people who are blind and visually impaired because people were fearful that their own families had very mixed feelings about the way things should be and black South Africans were afraid that there might be retribution within a family if they voted a particular way. So the same follows with the thinking of any person with a disability who might be looking for support, so that's why it needs to be a choice of that individual as to whether it's an independent support or somebody known to them.

MS McKENZIE: The problem about that, though, is of course that if the person is really being pressured, they will be pressured about their choice as well as about anything else, so that in other words, they may well be pressured to pick the non-outsider, if I can put it that way, rather than to pick the outsider, dependant person.

MR SIMPSON: Yes.

MS McKENZIE: I mean, perhaps we should moderate our recommendation in a way so that we might be suggesting, perhaps, that the person could come with a support person, if that was their choice, but that there would also be independent assistance available there. So, in other words, you can have a bit of both. The independent person is really to look on to make sure that there's no pressure being applied.

MR SIMPSON: Yes. I think we would generally be happy with that, but not a recommendation around that at the sacrifice of pushing for independent access to the process wherever possible. What I'm trying to say is that we don't want for that to be seen as an adequate substitute to providing independent trading opportunities.

MS McKENZIE: Yes. No, clearly.

MRS OWENS: The other issue with polling places is the issue of physical access, and one of the interesting issues that has at least occupied my mind is whether it's necessary for all polling places to be accessible, or just some. I mean, some have said to us, "Well, people have got other options. They can put in a postal vote, so it's not necessary for them to get physical access to a polling place." I think it's an interesting issue, but there is the other side which is that perhaps everybody should have the same rights to be able to do just-in-time voting, rather than having to vote X number of days before.

MS McKENZIE: Yes. No-one else in the community is forced to make that choice. Everyone else in the community has a choice of whether they're going to vote on the day or vote in some other way.

MR REDMAYNE: I think it would also be fair to say that most of the polling venues are actually fairly public venues as well. They're commonly churches, schools, community halls and public facilities, so the argument of why they wouldn't need to be accessible tends to be a bit weak in my view, because you can easily see a case why they should be accessible, regardless of whether they're a polling venue, if they're chosen to be a polling venue for other reasons that are suitable to the electoral process, then in my mind even more so they should be accessible.

MR HARRISON: The other point I'd make is that quite often the actual building is accessible, but access to it - I'm thinking of one near Bellingen where the building is accessible once you get there, but the only way to get there is to get up a fairly steep hill, a one-in-four kind of hill, and a person in a wheelchair is not actually going to wander up there, and if they can't drive, they can't access it.

MRS OWENS: So you shouldn't use that building, basically, there must be other options.

MR HARRISON: Find another building.

MRS OWENS: We just had an interesting case earlier in this inquiry about polling places. It was in Inverell. The federal elections were held in accessible venues, and the state elections were not. It was just an interesting one, because we couldn't see why they couldn't all be held in accessible venues. If you can manage it for the federal elections, you should be able to manage it for the state elections as well, but the Electoral Commission I think was a bit tardy in changing. I don't know what the outcome was.

MR HARRISON: The Electoral Commission has come and spoken to us about the need for accessible venues, but I don't know what they've done with the advice.

MR SIMPSON: There's a joint standing committee which has been and is still looking at issues around the electoral process, and as far as I'm aware, the disability community are reasonably active in lobbying the joint standing committee, and I would encourage the commission to continue that pressure by pushing forward for this recommendation.

MRS OWENS: So that's a New South Wales committee, is it?

MR SIMPSON: No, federal.

MRS OWENS: Federal.

MR REDMAYNE: A common experience that people with disabilities also have in those environments, particularly when the venue isn't fully accessible, is that it seems to be the practice that most of the - certainly the material on voting when you approach the polling venue and the procedure upon entering the polling venue are structured according to the principal entry point, and if that isn't the accessible entry, it's common for people to find that they (1) miss out on all of that information. For some people, I guess, that's an advantage, but I guess you don't have the option of looking at material if you haven't had a chance to make some decisions prior. Also, there's a tendency to come into the venue from a different angle, and as such you become out of sync with the queue, and the directions become different: where you need to go and how you need to start processing your vote, what table you need to go to, where the information is, and I think that's something that could be easily resolved by having a policy in place that considered that, and considered all the entries leading into the polling venue, and that people should receive the same or similar levels of information and direction.

MS McKENZIE: At each entry.

MR REDMAYNE: Yes.

MS McKENZIE: It seems such a commonsense approach. It's hard to understand why people don't do it already.

MR REDMAYNE: And I guess also be ready for somebody when they do have some specific needs in relation to voting, whether it be some level of assistance or where there might be a lowered section to vote, or whatever the situation might be. I've had feedback that commonly that's an issue for people, that they spend an awful long amount of time trying to get the system right, once they've entered the polling venue itself.

MRS OWENS: That has been very useful. The next issue - Native Migration Act.

MR SIMPSON: Before we get to that one - I'm sorry about this - but I think recommendation 10.1 is before that which is around the unjustifiable hardship.

MRS OWENS: Yes.

MR SIMPSON: Can we talk about that one?

MRS OWENS: Sure.

MR SIMPSON: Because in our original submission we basically said, "Look, get rid of the whole thing." However, your report was a little more considered and reluctant to do that, so we recognise that the commission is of a different view, and we support the widening of the coverage of unjustifiable hardship to all substantive provisions of the DDA, that make provisions that make discrimination on the grounds of disability unlawful, as a means of getting some of that consistency across the DDA, so did you want to talk a bit about that?

MS McKENZIE: We understand what you say, as far as our recommendation is concerned. I suppose we are more concerned really about those areas where clearly you felt that we ought to reconsider some of our recommendations. The way I read this submission is you think that if we take all of our recommendations on this aspect together, you're not unhappy with the recommendations we've made.

MR SIMPSON: No, we're not, but what we were trying I guess particularly to emphasise is to address what we perceive to be the imbalance, and in particular the fact that people with disability not only have to demonstrate that discrimination has occurred, but also demonstrate that the solution is actually reasonable.

MRS OWENS: That's a slightly different issue, but I think what you've balanced your change of mind on justifiable hardship on is the basis that we have said that when that is being interpreted, the community-wide benefits and costs need to be taken into account. My interpretation of your change was that that was something that satisfied your concerns about unjustifiable hardship, if it was looked at in that broader context. Would that be a correct interpretation?

MR HARRISON: I think that - well, I'm personally still opposed to unjustifiable hardship in any form. I think that that would be a reasonable compromise. In fact, putting it back on the individual is one issue, which is a separate issue we've covered in the submission, but putting it back on the individual complainant to prove that they've not been discriminated against rather than the one that you're complaining against to move the burden of proof, but there's also I think the issue that unjustifiable hardship is often taken - if you look on a case-by-case basis - in a very narrow sense. That widening will probably assist in interpretation.

MRS OWENS: So there are two reasons why you can potentially find it slightly more acceptable, and one is because we have got that other recommendation, that change in the burden of proof, and that we're thinking more broadly about community-wide benefits and costs.

MR HARRISON: Yes.

MRS OWENS: I mean, we've stuck with unjustifiable hardship because we think that the act needs to benefit the interests of everybody, and it's particularly important, say, if you’re thinking of a small business that may really have genuine problems if something has to be done, like a major adjustment which could actually tip them over the edge, or a small school or whatever it is. So you need the ability to be able to balance it in some instances, but it needs to be used very carefully.

MR SIMPSON: Yes. That’s essentially where we were coming from. We just don’t want it to be seen as a get-out clause - - -

MRS OWENS: An out.

MR SIMPSON: - - - in the same way that job descriptions have at the bottom "other duties as required".

MRS OWENS: Yes.

MR SIMPSON: You know, just basically a catch-all.

MR REDMAYNE: I guess the feeling of council would be that they support that with a level of hesitation, and you’re correct in that I think with the other provisions that have been recommended in there, we’re more comfortable with that. The issue, I guess, is coming from an experience or a view that in instances where unjustifiable hardship are measured - and I think Joe brought this one up - when you look back at the way cases have moved, or discussions have occurred, there tends to be a sense that the unjustifiable hardship kicks in at the point when a complaint is looked at, and the unjustifiable hardship is primarily going to be experienced by the respondent, which in some cases is true, and in some cases far more than others. The hesitation comes from trying to find an acceptable way to measure the hardship that is experienced by the person or similar people and their associates that cumulatively led to that complaint being raised in the first place, if that’s clear. I think that it’s difficult to measure quantitatively the hardship that people are facing in a systemic way, and when you look at the broad provisions of unjustifiable hardship and how they’re assessed throughout the act, and you acknowledge that yes, you do need to look at the whole picture, and all of the stakeholders in there, in its current form, whether it’s meant to or not, there’s a sense that it often favours the respondent because there’s a view that the status quo is okay and that previous practice has been okay, up until the point when a complaint is looked at. And I don’t know that that’s the reality of the situation. I think that there’s a lot of frustration and angst and disadvantage that occurs before a person actually raises a complaint, and I’d suggest that that could be seen from the small number of complaints that have been submitted over the 10 years of the act’s operation. Am I making that clear? Okay.

MS McKENZIE: So really there’s this balancing act going on about first whether there’s hardship, and second whether it’s unjustifiable. There should be the capacity to look at what are the real detriments of this particular situation to the complainant.

MR REDMAYNE: I think acceptance that there are levels of hardship occurring at that point and that further hardship could be experienced by the respondent if all of the measures were required to be changed. I think the logic within the act that encourages or requires that a hardship needs to be borne up to the point of unjustifiability, then that's fine but I guess it's mapping that out so that that's clear to all parties. The draft recommendation to include community benefits, I think, goes towards that and that's what we are hoping that would occur as a result of it.

MR SIMPSON: I think that's particularly why we sort of reluctantly started to swing around and say, okay, if this issue about broader community benefits is taken into account, then that will go part way toward alleviating the concern that most individuals, I think, with disability have about taking issues up. Let's face it, most people with disability are just out there getting on with life. They're not necessarily networked with all other communities of people with disability, so they think that it is just happening to them and in their own minds they're thinking, "Well, look, it would cost that business a fair bit to provide me with access so I won't force the issue." So they're not actually thinking the way that some of us around the table think about the broader community benefit. They're just thinking about themselves. So I think we can accept that, with that issue of the broader community benefit in there.

MRS OWENS: We have had other submissions that have said that, in practice, it's quite difficult to interpret what that actually means. Do we need to be thinking about some sort of guidelines as to how to interpret that provision: broad community benefit? Can you see the problem?

MR REDMAYNE: Yes, and I think that leads into what I said about there is a level of hesitation - acceptance, in that I think the way you have phrased it allows for a number of things to occur, but it's still dependent on how people process that or how they interpret it. That will improve over time as it's looked at, I would think A level of guidance or direction on what that would mean, I think, would certainly benefit a whole range of people. Certainly those with a disability who would then be able to assess whether their expectation is met by the act's provisions and certainly those that are potentially respondents would be able to assess the level of hardship that they should be expected to endure before it would be unreasonable to expect any alteration.

MR HARRISON: I think it would be really good to give some kind of indication of what you meant by "broader community benefits", but also give some kind of indication to the courts as to what you mean by "unjustifiable hardship". I'm thinking of one case where the largest private bus company in New South Wales was the respondent in a case where somebody complained because they couldn't get on a bus because of access difficulties and they claimed unjustifiable hardship against that individual, but a week later, after the respondent had won the case, they bought a fleet of 50 accessible buses for the Paralympics. Perhaps the court needed some kind of guidance as to what "unjustifiable hardship" actually meant.

MS McKENZIE: It would have been helpful for the court to have known a few things about their future plans as well.

MRS OWENS: Yes. I was going to say that perhaps the court should - you build up case law on these things but that wasn't probably a particularly useful bit of case law.

MS McKENZIE: One of the things that has been considered in other areas is the use of examples. I can see no reason why we might not suggest that there might be some more examples in the legislation; it happens in other pieces of Commonwealth legislation. Once you have put in examples they will be used by the courts to interpret and that's very helpful, whereas, if it's just a guideline by HREOC the courts may or may not say the commission was right in what they put in their guideline and might choose to ignore the guideline, but examples they can't ignore; they have to be used for interpretation.

MR SIMPSON: That's true. I think that would be an appropriate thing to recommend. Our submission doesn't actually touch anywhere on that issue of disclosure of conciliations or, you know, complaints, and that's one of the flaws with the current system, that it is complaints-based. You can have two people, one week after the other, lodging a complaint about exactly the same thing and neither of them never even having the benefit of knowing that it has happened before and this was the result. But that's another issue.

MRS OWENS: One of the associated issues while we're still on unjustifiable hardship is some other groups, like the employer groups, are saying, "If you use community-wide benefits, if you take that into account, we as employers might still have real costs that we have to bear, regardless of the community benefits, and we still might not be able to bear those costs" for whatever reason. That is something else that has been occupying our minds as to who should pay; who should be responsible for making any adjustments? To what extent should it be the role of the community, more broadly, versus employers or other groups depending on which area you're looking at in the act? To what extent should it be an individual responsibility? It's an interesting question. We did discuss that fairly briefly in our draft report. I don't know if you want to make any comments on that.

MR REDMAYNE: I would just make the comment that I think that that is an area that probably hasn't received the attention that it might benefit from in the past and that that's something that probably should be looked at far more seriously. In assessing those sort of issues it is often the case that to correct a barrier after what could potentially be many decades of indirect discrimination, let's say, it would seem unfair that an individual at the end of that chain should be responsible for correcting the whole cumulative effect of several generations in the past. I think most people would see that as being a bit hard. Yet the way things seem to be at the present, if anyone is to correct it, it is often that individual or that company or that employer.

MS McKENZIE: You can imagine the case of, say, someone who bought a small business two months ago and a complaint is then made about something that is clearly a barrier for a particular set of people with disability, and then it's not for the previous owners to sort that problem out, it's only on the person who has just bought the business.

MR HARRISON: Some of the legislation, thinking in terms of the occupational health and safety legislation and I assume the disability discrimination fits into the same bucket in terms of the fact that a small shop owner might have a complaint brought against them because of lack of access, and an OH and S issue might be brought up against that same small business owner and it's up to them to, at the moment, right the wrong, I suppose, and provide the access, but they may be renting the premises from somebody with a bucket of money 50 times the size of their own. I would actually say that things like access to premises should be the responsibility of the building owner rather than the individual with the small shop, because the building owner probably doesn't have the same argument that it's not affordable.

MS McKENZIE: Yes. It's a really interesting question you have raised. That's one area where, if there were to be any duty to make reasonable adjustments, you would have to give thought. At the moment, the way the act works, the discrimination just falls on the person who does the thing, who runs the business, who doesn't provide the access, not on the owner.

MRS OWENS: Will we get onto migration now?

MS McKENZIE: Yes, let's do that. We could talk for several days about this.

MRS OWENS: Well, we have been.

MR SIMPSON: The key issue that we raised here was the issue about, you know, defining what you mean as "directly relevant" and I guess that's the key point that you want to talk about.

MRS OWENS: Yes. Really what you're saying is that automatic assumptions shouldn't be made about, for example, health status because a person has a disability.

MR SIMPSON: Yes. I know that my experience in the blindness area is that often it's seen as a medical condition rather than - and because of that it's maybe the perceived costs to the community, the society, for supporting that person with disability that are used as the grounds for denying a person entry. So that's sort of broadly the issue; in making this recommendation about amending the exemption so that it only refers to those areas that are directly relevant. It's a question in our mind about what is perceived as directly relevant.

MS McKENZIE: What we said about insurance - and I wonder whether you might be suggesting we should be saying something of the same thing - what we said about the insurance exemption, which mentions the word "relevant", is that it should be made clear that that exemption doesn't permit stereotyping because of a disability. It doesn't permit the making of unfounded assumptions; that is, assumptions not based on current evidence. Perhaps we should be saying the same thing. Would that meet the issues you raise?

MR SIMPSON: It could be a similar thing, although with insurance, of course, you can then turn to actuaries and get evidence that way. I don't know where you would actually point to here.

MS McKENZIE: But stereotyping and unfounded assumptions are still really the things you're driving at.

MR SIMPSON: Yes.

MR HARRISON: The stereotyping, particularly with the accepted view, I suppose, from Immigration Department staff that a person with a disability coming into the country may be a burden to the country and a welfare recipient in the long-term just doesn't match with the reality, from my knowledge of people with disabilities who have come into the country. My partner came into the country from China and because of the Tiananmen Square massacre was allowed to stay, but had she applied without that massacre she probably would have been knocked back. In terms of the amount of work she has done for the community, I think it's phenomenal; it is probably more than most people. She is the chair of two voluntary organisations as well as the deputy chair of the council, as well as working a job four days a week. The only problem is I never get to see her.

MS McKENZIE: She obviously needs less sleep. I don't know how she manages.

MR REDMAYNE: A point I would probably make on that is from council's viewpoint it's still not entirely clear, I don't think, why there is an exemption needed, particularly from DDA in that respect. Having looked, certainly in a cursory sense, at the Migration Act it would seem that there are significant provisions in there, or eligibility criteria, that would reduce the likelihood that anybody that was accepted into the country would be a burden in any way regardless of having a disability or not. There are quite stringent criteria and outside of, as we have mentioned here, some health-related issue that could be seen to be particularly damaging to the Australian community, it's still unclear why the act would require exemption over all.

I understand how you phrase this in terms of, "Well, that's more an issue about how the administration is addressed," but I guess the point that I would make is there seems to be significant eligibility criteria that whether a person has a disability or not still has to meet. If you take that into account and you consider that in Australia we have already got these systems that would allow a person to function within the community up to the point of unjustifiable hardship, and we've got several initiatives from the government to ensure that, there doesn't seem to be any situation that I could imagine whereby a person would find their way, accepted into the country and then require the country to commit to something that was unjustifiable beyond that point. It seems to be a contradiction.

MRS OWENS: Although the country probably couldn't claim unjustifiable hardship for anything really. Would that be right, Cate?

MS McKENZIE: I think it would be very difficult and that's really a problem. The other is, I suppose, that some of those criteria, although they may specifically talk about health, could be seen as being just directly disability related. In other words, for those people who have got disabilities which affect their health, those criteria could be seen as some kind of breach of the DDA. Even if they were in other respects perhaps fair, they're related to infectious diseases, for example, really serious ones. I can see the reason why there might be some exemption, but I can see also what you're saying about it: that we need, obviously, to try to explain more what we mean by "directly relevant". I also see your question about policies. You asked whether we should talk about policies rather than just the provisions of the act or whether we should just talk about the provisions of the act.

MR REDMAYNE: The significance, I think, is that obviously the notion of citizenship comes up throughout consideration of the DDA and when you have got an exemption in there broadly without any clear explanation or justification of why a person wouldn't receive the benefits of citizenship or couldn't be accepted as a citizen it becomes a difficult argument. It almost becomes a contradiction that I think needs to be resolved in order to profile the objectives or the aim of the act appropriately across the in Australian community.

MR SIMPSON: I absolutely agree. From my perspective it's really about the philosophy that it promotes, which is one of, again, just reinforcing a stereotype to the broader community that people with disability are a cost to the community.

MR HARRISON: I think, too, that it's not necessarily related to the Immigration Act itself but the fact that a person entering the country with a disability has to spend 10 years before being able to apply for a pension and a person who enters the country and then becomes disabled only has to spend two. There is an exemption from that under the act, whether it's through Social Security or Immigration. That seems really odd to me.

MRS OWENS: The danger is that they'll change it so that everybody is 10 years.

MR SIMPSON: Can I clarify for you, on this side of the table, I packed up because my battery went flat, not because I'm trying to hurry you on.

MRS OWENS: Okay. Are you sure?

MR SIMPSON: Yes. True.

MRS OWENS: You said you have got until - another 10 or so minutes and there is a few more issues that I wouldn't mind raising.

MS McKENZIE: Can I just move really quickly through a couple? I just want to ask you very briefly about your suggestion for the time limit for making applications to the court. You agreed with our suggestion to lengthen it, but you also say that that might not be enough in the case of some people, particularly those who learn more slowly for one reason or another. I agree with what you say that it would be good to have an access development plan for the courts, but from the point of view of our recommendation do you think we should include a power then, perhaps, for the court to extend time if there was a need. Would that resolve that problem.

MR SIMPSON: I think it would be appropriate. Essentially what we're trying to say here is that there are a lot of issues that a person has to weigh up, particularly the potential costs that they may face. People are trying to get information. They try and get to the organisations that can give them relevant information. They might be referred to several different peak bodies or law firms or advisory services before they can actually get to someone who actually says, "Okay. Let's sit down and consider the implications for you on this." It's a pretty tight ask to get all of that done within the 28 days and what we're saying is, for some people even 60 is a bit tight. So maybe allowing 60 but with a provision to extend that would be good.

MS McKENZIE: Yes.

MR REDMAYNE: Yes. I can see instances where that would be of significant assistance to people trying to prepare a case or understand their options, depending on their situation.

MRS OWENS: I suppose the trade-off is by extending it further and further that in some instances it really pushes off a resolution as well which could work the other way for the individual. There is a bit of a trade-off. Others have said that sometimes these things have just dragged on and on and on. By the time it's all finished the issue has gone away because, you know, if it's a schoolchild they have left school or whatever. It can go the other way. So it would have to be used very judiciously on a real needs basis.

MR REDMAYNE: And if you're clear of the reason for the extension then that's - that would be difficult to avoid. I think it could just be used as a delaying tactic, for example. Yes, that wouldn't be an appropriate use of the provision. But if somebody has got a legitimate reason why the data or the information they're seeking will take longer to acquire; or interpreting what that might mean and what their options would require; gaining additional support from another person, a support person, for example; then I think that's where there certainly should be avenues to perhaps extend it. I agree that you don't want to leave that so open-ended that there is just no end point in sight because that's defeat the time frame itself.

MR SIMPSON: It does, but in reality extending the time frame really only impacts on the respondent because it, in effect, really only makes them sweat them a bit longer because now they get to the 28th day and say, "phew". They didn't lodge anything in the Federal Court. It doesn't really impact on the person with disability because if they want a quick resolution they'll do it quickly. It really only affects the respondent.

MRS OWENS: Okay. We might move onto the issue of enforcing conciliated agreements. You made a comment on page 8 of your submission that you are aware of several conciliated agreements that were breached. I don't want you to breach any confidentiality here, but is there any possibility you could give us some background on those sort of cases and what sort of action, if any, the complainant took after those agreements were breached?

MR HARRISON: One I can think of from my days as an advocate was a young girl who wanted to have her birthday party at McDonalds. McDonalds had an accessible area but the accessible area, they thought, should be generally open to the public and the area put aside for children having birthday parties was inaccessible. The mother took a case against McDonalds and the agreement - it was conciliated to say the child's next birthday party would be on McDonalds. At the next birthday party McDonalds decided, "No. Go away." So the mother, whose husband is a draftsman, then went round and took on all the McDonalds stores: the fact that McDonalds had the option of saying, "No. We don't want to know about you."

MS McKENZIE: We recognise that there is a need to do something about this area. That's a good example.

MRS OWENS: Do you think this is common, from where you're sitting?

MR HARRISON: I know of other cases. That one just struck me as - I think McDonalds had the advantage in that 12 months had lapsed from the time of the original discrimination. It was interesting because I would have thought McDonalds, above other places, would want a good public image. One path the mother might have gone is to actually go to the press, but instead she decided that she had the facilities and she would have a one-woman crusade.

MR REDMAYNE: I would say it probably is more common than people realise, simply because of the difficulty of keeping track of the provisions that were agreed to; the level of monitoring required, primarily from the complainant's end; and if the complainant chooses to devote enough time and energy to pursuing that. As you can imagine, a lot of these agreements could span a number of years to allow the respondent adequate time to address the issues that were brought forward. From a complainant's viewpoint I can imagine that they would have to devote a significant amount of time over several years to monitoring this on an ongoing basis. I also think that it's not particularly clear what they should do about it if things are seen to be breaches: whether they go back to the commission and ask for it to be reinvestigated, whether they take it directly to court.

The same series of decisions needs to be made about whether that's a worthwhile cause. The big issue is the lack of, or the loss of goodwill in that instance, because you have already gone through a process of agreeing what should happen and what everybody was happy with. If there's a sense that that hasn't been undertaken or is not likely to be completed, then you have lost a lot of the goodwill that was built up over the conciliation process.

MR SIMPSON: Relationships have soured and people are reluctant to force the issue because the relationship has soured anyway. So just forget it, move on.

MRS OWENS: From the point of view of the complainant they're probably well and truly sick of the whole thing by that point. They would expend a lot of emotional energy and time in the initial case and then to have it continue to run in that way through a breach would be, I think, in some cases quite soul destroying.

MS McKENZIE: Because what it's really telling you is that all that effort that you put in is in vain. You have to, in effect, do it all again. Can I ask about employment? That was what I flagged earlier. As you know, we have floated in our report one suggestion that there could be a positive duty on employers, with limitations, to identify and take reasonable steps to remove barriers to discrimination in their workforce. As Helen said, we have had some submissions from some of the employer groups which really have said that there is not a need for such a duty because there is not - we haven't put forward enough evidence that there is a real problem.

We had some discussion of some figures which we said indicated, with lots of qualifiers, that the act may have been less effective in the area of employment. Have you got anything to say about what the council's experience is, either amongst its members or people who have come to the council about discrimination in employment or in pre-employment?

MR HARRISON: I think I can go through employment with three quick cases. One lady with rickets, a small stature, was actually advised by her employer that she couldn't get the job as the personal secretary to the manager on the grounds that the personal secretary was to sit at the front door and, "We needed a good-looking woman to be at the front door." That might be classified as sex discrimination or disability discrimination, whichever. Another one is a gentleman who is deaf, who is also a Christian Scientist. His friends used to make faces behind his back and clap behind his back.

MRS OWENS: They were friends?

MR HARRISON: They were friends. The employer's come-back as the respondent was, "But it's all in fun. It's not a case of discrimination." Another person with epilepsy who went for a job interview: one of the members of the panel who knew him, warned the other two members of the panel beforehand, "This man has got epilepsy." The follow-up was that he didn't win the job, and his manager consoled him about the fact that they had gone with someone else. While he was the best qualified person for the job, they were still worried about his seizures because he had to talk to members of the public. He took a lot of minor seizures where he perhaps elapsed for 30 seconds or one minute without being able to converse. That was seen as a detriment. It had nothing to do with the job description. So they are three quick ones.

MR SIMPSON: In the blindness sector the experience is similar but it's also sometimes a bit subtle; for example, job ads that require a person to have a driver's licence when, in fact, in reality it doesn't constitute a huge part of the job or would be seen as an inherent requirement of the job. A blind person looking at that ad would automatically exclude themselves because they would think, "Well, I haven't got a driver's licence so there is no way I am going to get through that." I think the experience of many people, who are blind or vision impaired in employment, demonstrates that it isn't easy and people are reluctant to put themselves up for that experience again because computer systems haven't been accessible, job requirements change. In the end they feel that they are, in fact, more trouble to their employer than they're worth. So often people's experiences see them out of the workforce and reluctant to try and re-enter.

MS McKENZIE: Would you describe that as a series of isolated cases or something that you think is more general?

MR SIMPSON: I think it's more general. The reason that I think it's more general is that it's actually quite a strong belief held in the blind community. There are quite clearly a number of blind people who work, and work quite successfully and quite productively, but I think generally amongst the blind community there is a sense that it's pretty tough out there in the employment arena. Debate, as you would well know, Cate, has been around for years about whether you should disclose your disability before you get to the interview or do you just hide it and then have to own up because you turn up to the interview with a guide dog or a white cane and you have got no choice. There have been instances where people have gone through an interview process, where they have been vision impaired, and employed; then once the employer has found out, found reasons for either seeking to dismiss the person or found things that they can't actually do.

My experience as a service provider where I was managing an employment service was that we had a number of employers who actually came to our organisation, the Royal Blind Society, and it was clearly evident to me that some of those employers were wanting the Royal Blind Society to endorse their decision to dismiss this person based on the fact that they were going to be a safety risk, they weren't going to be able to do the job. There were clearly a number of those cases.

MS McKENZIE: Again, you wouldn't describe those as isolated cases either?

MR SIMPSON: No.

MS McKENZIE: Were these only small business employers who came to you?

MR SIMPSON: No.

MS McKENZIE: Were they quite big companies?

MR SIMPSON: Ranging from small community organisations through to BHP and large employers.

MR HARRISON: I have taken on both the state and Commonwealth governments at times, as a person with epilepsy who can't drive a car, because a job I wanted was advertised as requiring a licence and what they meant was requiring the ability to travel. It's interesting that a number of the cases that have been knocked back by the ADB or by HREOC are because I wouldn't really be interested in that job. I might be a person with epilepsy that can't apply because of that criteria within the job description, but I have to also prove that it's a job I would be wanting. In the Commonwealth notices I can find three or four jobs that, while I wouldn't want them and while I may not be qualified for them, they don't require a driver's licence and that is still part of the advertisement. It's only the Commonwealth that's doing it.

MR REDMAYNE: Could I raise a point that's mentioned, Cate, about the employment sector, I guess, saying that, "You haven't given us adequate justification or evidence to suggest the duties needed." I would probably draw some similar parallels to what has occurred over the last decade or so with issues such as transport or education. I can remember in the past similar arguments coming forth about, "Well, there is really no need for fully accessible transport because, simply, we don't see anybody out here using it and we don't get requests for it. Certainly we don't get large-scale requests for it." I am also aware of similar attitudes and comments that have been made continually over the last, probably several decades in regard to education. You know, "Well, you don't need to make all educational institutions accessible and you don't need to make the programs that are offered out of them accessible because there aren't students with disabilities."

I would propose that the same sorts of logic and experience you could apply to employment, in that if you haven't got the infrastructure there to allow employment options it's unlikely that you are going to see the wave of people with disabilities that we are pretty well aware are out there at the moment and are unemployed or certainly on low incomes. You won't see them operating within the employment marketplace. You won't see them applying for jobs regularly, appearing at interviews, and certainly you won't see the sorts of mobility within the workplace that you would expect if you're a person without a disability. You won't see the same range of promotions and people shifting from job to job. I would expect if you did some research on it, you would find that there is quite a large number of people with a disability that have a job and have had it for some time. I think there is real significant barriers as to why that has occurred.

Another point that I would make on that is within the disability community, and I suspect it's similar to other groups that experience a level of marginalisation, they actually look for friendly workplaces to their needs and if people within that community that are looking for employment know of somebody else, that they would trust and see is functioning well in that environment, they would probably see that employer as being a friendly employer or a friendly workplace and they might be more likely to apply for them because they know that the infrastructure and the support needed is there, or is at least worthy of a discussion. If you can clearly see that that workplace doesn't offer any potential at the moment, it's unlikely you would see that it is going to change around overnight, whether you apply for a job or not. So I think if you take all those factors into play, you can see why it's probably a little problematic to accept the argument of employers at the moment that there is simply not enough justification for that.

MR SIMPSON: Can't see the evidence.

MR REDMAYNE: I think this is something where you need to initiate some change and the results will occur probably in a decade's time and we would wonder why we actually asked the question, in similar ways to what I am sure we will in transport in 10 years' time and what we're starting to see with education.

MS McKENZIE: Which is really what happened, to be honest, with the DDA when it was passed in 92.

MR REDMAYNE: Yes.

MRS OWENS: Employers have also been arguing - this is part of the argument about not really being a problem - that there have been very few complaints. We pointed out in our draft report that the relative number of complaints related to employment were greater than in other areas and had consistently been so, but they have come back and said that the absolute numbers of complaints is still quite low and that's indicative that there is not really a major problem. I might not be doing justice to their argument. Would you like to comment on that?

MR REDMAYNE: I think it's very difficult for a person to raise a complaint regarding employment because there are so many other reasons why they might not have got a job, for example. Some of the instances Joe has raised, I think, present a situation where you have almost got to be the prime candidate for a job and then have lost the invitation for that job on the basis of your disability. I can't imagine too many instances where that is very clear-cut. It would only be in those instances where most people with a disability would pursue that in light of putting in a complaint under the DDA. Mostly they would just accept that as part of the experience of having a disability at this point in time.

MR SIMPSON: I think in people's hearts they genuinely feel that the reason they didn't get the job was because of their disability, but don't carry it any further because there are so many other, as Glen said, reasons that they might not have got the job, unless it's absolutely clear to them that - you know, it's either in a letter telling them that they didn't get the job because they couldn't do such-and-such, or it's clearly stated at an interview, or whatever - they would feel that they were on solid enough ground to lodge a complaint.

MRS OWENS: We have gone over the time that you said you were available. You said you needed to finish up by about 10.15, so I apologise for that.

MR SIMPSON: Yes. I particularly need to leave but if there are any other burning issues that you want to ask us?

MRS OWENS: I'll just raise one issue but I won't ask you a question about it. You did raise the whole question about the social model again in this submission. It's one of those difficult areas, I have to say, that has been occupying our minds. There have been a number of other submissions that have gone into this whole issue, including one which you might be interested in, if you haven't already seen it, from the Australian Institute of Health and Welfare, which is submission DR2-72, who have raised the whole issue of definitions and using the new WHOICF classification system which is meant to integrate the medical and social models together. So we're just looking at that whole issue at the moment to see what we can do about bringing this new classification system into our report. In terms of reporting, we're thinking about the definitional issues as well.

We're still a bit puzzled as to why groups like yours don't think the DDA is based on the social model. The actual definitions might not be, but the whole premise of the DDA is about removing barriers in society. So we're still puzzling on that one. Now, that's a big issue to raise right at the end when you're about to go, but maybe we could talk about that further another time.

MR SIMPSON: Maybe Joe can make a comment about the particular issue of social model definition. All I would like to say about any definition - and whilst I don't want to make any direct reference to the Australian Institute of Health and Welfare and the international classification instrument - I genuinely believe that whatever definitions are used, they need to be acceptable to the broad community as well as to the affected community, people with disability, and I don't believe there is evidence to demonstrate that the Institute of Health and Welfare - well, it's not their definition, but the international classification around the issues of participation and activity and so forth are in fact accepted by the disability community, or will ever be accepted by the disability community.

MS McKENZIE: Can I just say, one of the directions I come from about this is, I'm really concerned to ensure that the definition of disability in the DDA is as broad as possible. What I wouldn't want to see happen is for things to be put into the definition that involve complex interpretation, so that a person with a disability who makes a complaint will fall at the very threshold because there will be this question, "Is your disability permanent or temporary? Does it involve limitations in a major life activity?" - whatever that is - "What's the limitation for this purpose?" and so on. The definition needs to be really broad so that everyone can get in the door. That's the really important thing from my point of view.

MR HARRISON: I think the social model has a much broader definition of disability. While it might be different to the medical model or the ICIDH2 model, there may be people who I would consider are disabled or have a disability who don't have an impairment. In other words, there's a line of argument that you must have an impairment to be classified as a person with a disability, but Mandela is quite famous for having said that he was disabled by Apartheid. I would actually support that that's true under my definition of disability. He was, but if he were to raise a complaint, it would be the Race Discrimination Act rather than the Disability Discrimination Act that would be his first port of call.

MS McKENZIE: Because society raised barriers for him.

MR HARRISON: Society raised the barriers. So for me, the Disability Discrimination Act would be saying that this person couldn't function in society to the same extent as others because society had raised the barrier, because it was a structural barrier, and I would widen that structural barrier to include barriers like vilification and the fun of those employers at the expense of my friend with deafness. My definition of social barriers would include that sort of thing. But I think it's a clear argument for the court that if a person presents for the court and can demonstrate that those social barriers exist, then they have a disability. They don't go into the argument as to whether or not that individual has a characteristic.

MS McKENZIE: Yes. Really, in a way you're looking at a - it's a completely different system. You're looking at an act which doesn't look at whether it's racist, sexist, disability - it's whatever; it's just looking at what society does to you. If society raises a barrier for you, then you can complain about it. So it's not a question of what you are. In a way, it doesn't even matter what you are; it matters what society has done to you.

MR HARRISON: Yes. I'd argue that that's - - -

MS McKENZIE: Is that a fair - - -

MR HARRISON: Yes, that's a fairer - - -

MRS OWENS: I suppose to the extent that the legislation has been set up in a different way, which is at the federal level they're stand-alone acts, and at the state level, they're omnibus acts. The question is whether there is really anybody falling through the cracks, because they don't come into one thing rather than another. We'll have an age discrimination act soon, and if we keep the current system, whether there's anybody that faces a barrier that's going to miss out - Mandela wouldn't have missed out, because he probably would have got picked up under the Race Discrimination Act, if he had been in Australia.

MS McKENZIE: I suppose the difference is that if you look at the current model we have, you must start off by showing you've got that particular attribute. Under Joe's model it doesn't really matter what attribute you have. It just matters that society has raised barriers for you. In that sense, attribute based legislation is not as relevant. Am I right Joe?

MR HARRISON: Yes.

MS McKENZIE: You're probably saying that homelessness, poverty would almost fall under that model as well.

MR HARRISON: I think it would be harder to demonstrate that socially imposed barrier, that something that society has done or something the government has done has forced your homelessness or forced your poverty, but clearly the steps at the front door make it inaccessible to you - a structural barrier.

MRS OWENS: I can see Michael sitting there looking quite anxious. He has packed up everything. That has been extremely useful.

MR SIMPSON: Sorry for sending signals out.

MRS OWENS: That's fine, because it's our fault. We've kept you 20 minutes longer than you requested.

MR SIMPSON: It's been a terrific discussion.

MS McKENZIE: You raised too many good issues. If you had raised fewer we wouldn't have kept you for so long. Thank you very much.

MRS OWENS: We'll break for morning tea and we'll resume at 11.30 am.

MRS OWENS: The next participants this morning are two individuals and I have the full name of one of them, Maureen Mastellone, but I haven't got the full name of the other so I'll ask you each to give your name and the capacity in which you're appearing for the transcript.

MS MASTELLONE: I'm Maureen Mastellone from Rose Bay and I'm a dyslexic consultant. SPELD and the Irlen people send me students for testing for the Irlen syndrome and other people who hear and they sort of ask me to test people and then I also work at the university.

MRS OWENS: But you're not representing the university?

MS MASTELLONE: No, I'm not representing the university. That's right.

MRS OWENS: I'll just ask Marina to give her full name for the transcript, too.

MS BRIDLE: All right, my name is Marina Bridle. I was trained as a special education teacher and I specialise in teaching children with learning difficulties. I belong to the Learning Difficulties Coalition of New South Wales, though I'm not representing them here, and I belong to SPELD, and I'm on the committee of HADA which is the Hyperactivity Disability Association.

MRS OWENS: Good, thank you very much and thank you, Marina, for joining Maureen. I might hand it over to you, Maureen. As I said before we started, we have read your submission and we're very pleased to get it because it's a bit different from our others.

MS MASTELLONE: Good.

MRS OWENS: But if you'd like to just run through some of the main points you'd like to raise with us, and then we can open up for some discussion.

MS MASTELLONE: I'm a teacher of English as a second language and so I started work at the university in 1974 and I taught English as a second language to people around the world for about 18 years, and then I was asked to be the access English teacher for the main campus. Before I was at Institute of Languages at the university, then the main campus where I helped anybody with any problem, and then in 95 they gave me students who couldn't read or write and I'd never met anybody who couldn't read or write before and somebody said it could be dyslexia and then I went along to the Dyslexic Association to see if I could get some help for my adult students. There was nothing. It was only for children.

I'm also a teacher of speech and drama and phonetics so I could hear their problems and, you know, she just couldn't read - this first student. She'd just sort of read the "in-ter-rest-ing -fea-ture" and she was first year university, you see, and she came crying and she said, "I've failed every subject in my first semester," but I said, "Why?" She said, "Because I couldn't read." I listened to her reading, and then I said, "I'll try to get some help," and I couldn't. Being a teacher of speech and drama and phonetics I wrote her a course on cassette. I wrote her long lists of words, because as you know we've got five vowels and 20 vowel sounds. I used all those for long words and then I put them into sentences and then I put them on cassette because they need lots of practice.

They have tremendous difficulty with sounds, so she could practise many many times and then I think I also put in here - as I've taught English as a second language for many years, I also did a lot of recording for my students so they could have stress, rhythm and intonation - these are for overseas students. You know, the intonation, the pronunciation, the joining words, the use of the neutral vowel, the "er" because all our vowels we change into the "er" sound where they're not stressed. I had some ECOS scientific magazines and I used to read those, then I asked the CSIRO if I could use them for my students and I used to read phrases for them showing them pronunciation, joining, the neutral vowel, the "er", to make them fluent, and they were wonderful for my dyslexic students because they had the same difficulties. They couldn't do the joining.

English is very difficult to understand because of our rhythm, because of our neutral vowel where we change - we don't say "eggs and bacon", we say "eggs 'n bacon" so they can't hear the "er". You see, they don't know what it is until it's shown to them so then I wrote scripts for them marking the "er" sound and then putting them on cassette so they learnt the rhythm. Then they thought these cassettes were wonderful and they asked for more and more of them but at the same time they couldn't spell and so my cassettes with the lists of words with the "a, e, i" you know - all these words with all the 20 vowel sounds and then some of the consonants, some of the difficult ones, the "ch" - they were all on cassette, and I remember my very first two students, or particularly the very first one. She learnt so quickly with the reading and the spelling and then with the "read after me" she was becoming much more fluent.

MS McKENZIE: So "read after me" is you would say the phrase - - -

MS MASTELLONE: Yes, the phrase.

MS McKENZIE: - - - and she would repeat it.

MS MASTELLONE: And left a space so she repeated it, you see. We did that all the time. I did that with all my English as a second language, so they've really helped each other, both sides, you see, and then with the dyslexic students, even with children. The mothers have said, "Look, isn't that wonderful? You know, they're reading now because they're copying you and if they copy it 10 times they know it, so they are going to learn." That's how it all started and then within three months, my very first student, who failed every subject in her first semester. was reading.

MS McKENZIE: Goodness.

MS MASTELLONE: They're all very bright. You see, she was very very bright and she was saying, "Maureen, I can find things quicker than my peers now. I'm faster than they are," and in the end, after a year, she was reading faster than her peers and I remember she used to come in for these lessons and then I think the last day at uni when she became a systems analyst she came in and said that, "Schools couldn't teach me how to read, but I learnt how to read at university," and she said, "We had a very - the last essay was extremely difficult," and she said, "I was top." "I was top," she said.

MRS OWENS: Maureen, you wonder how these students get to university: why they don't get picked up along the way at school and how they pass.

MS MASTELLONE: These students, the only students who get to university, are the brightest ones who really want to get to university, who are desperate to get there, who've got very good maths and who've got all sorts of ideas of compensating for their problems and they learn everything off by heart and they told me they looked at all the exam questions before to try and guess some of the questions. So they had a strategy for passing their higher school certificate and, of course, they worked on subjects that they could do. Most of them could do maths very well. Some of them couldn't do simple maths. They couldn't do the times table, they didn't know the alphabet and things like that, but they could do higher maths very well. So that was how it started really.

But then I had a student who was much slower than the others - I never grumble at my students and I know they always do their best - and Dallas in the end - he never missed a lesson, we went through the spelling which was so difficult for him. He was guessing his - I gave him the "read after me" as well but he was guessing everything and then suddenly there was a change. He said, "I'm not guessing any more," because with all the practising of the vowel sounds with these cassettes he said, "I'm not guessing." He said, "I'm beginning to read," but then he - no, but this was actually before that. He said, "I'm sorry I'm so slow." I said, "That's all right." He said, "I can only read one hour a day or even less and that's at night and then I have to take Panadol and go to bed."

Then I remembered reading a book called Reading by the Colours by Helen

Irlen and it talked about headaches, so I brought in lots of pieces of cellophane paper and he looked at them all and he put them on his book and he said, "But I can see much clearer with yellow," so I said, "Well, take it home and practise." He came back the next week - I gave them an hour's lesson every week - and he said, "I'm not getting any more headaches," and he couldn't believe it.

MS McKENZIE: So what was the problem?

MS MASTELLONE: It was the glare. It was the Irlen syndrome that Helen Irlen from America picked up, has written this book, and there are Irlen centres now. There are other theories as well. I've mentioned here that an Oxford University professor has found out that students either with yellow or blue, because they are the two spectrums - it's either yellow or blue, isn't it, mainly - that if he gives them to students, they can read much more clearly. Well, I'm sure most of them can but Irlen has got it down to a fine art with a paler yellow, the deeper yellow, the amber yellow, and things like that, but I didn't know. I knew they were at Sydney University so I said to Dallas, "Okay, I'll send you to Sydney University to be tested," because I didn't know anything about it except that I knew he could read better with yellow, and he got yellow glasses and, you know, he couldn't believe it that he could read and then Sydney University at the time, it was Irlen and Sydney University, they asked me to become a screener.

So they ask me to test students now, so actually that's how I met Marina. We did the course together where we were testing children and the children came with their teachers or their assistant teacher and nobody could believe it; how the children were asked to read something and then with a coloured overlay they were reading so much more fluently. The children really couldn't explain why and nobody knew exactly what questions to ask them but then suddenly we were told, "Oh, but the words jump around or they disappear," but that doesn't often come out at school, does it? They're too young - - -

MS McKENZIE: To explain.

MS MASTELLONE: - - - to explain or they think there is something wrong with them. They don't want people to think they're stupid. You know, "We can't tell people they're jumping around." You know, they don't like to tell you that. The adults think, "Better not tell anybody that. They'll think we're mad," but of course that was what was happening to them.

MRS OWENS: With this testing, was it the schools that initiated the testing? Would the schools bring in these children to you for testing or how were the students put in touch with you?

MS MASTELLONE: Well, a few teachers know the system, heard of it, so it's not general. It's some of the teachers have heard of it from others and they've brought the children in, but there are so few of them.

MRS OWENS: Do you know if it's happening in other states as well, or is this just New South Wales?

MS MASTELLONE: No, that's what I don't know really. I was asked to speak in Perth and they were very interested and they wanted all my cassettes and things like that. That was a few years ago, and then they said they'd love you to go to Adelaide, but I wasn't invited to Adelaide. I know the Irlen people are in Perth and I believe they're in Queensland and Melbourne and Canberra. But we think that they don't publicise what they do very well, but you see also it's very expensive. It's in the UK, and just for a bit of interest - just for a bit of a change for a moment - I was in London in July and it was terribly hot. We were sitting in the garden. My sister lives in Putney which is quite close - you know, in the centre of London - where the planes come over every day, and this Sunday afternoon, we were sitting in the garden and there were no planes, which I've never known them not to have any planes.

I said to my sister, "There are no planes today. What's happened?" My five-year-old little great-nephew piped up and said, "Oh, Auntie, as it's so hot the vibration of the planes could crack the windows of the houses and that's why they're not flying today." He was five - no, sorry, six. Can you imagine? I said, "Let me see your school report?" "Can't read, can't write, can't spell." They're dyslexic. They're so bright. All my students are so bright. All my students have got their degrees and they couldn't read or write when they got to university.

MS McKENZIE: It's amazing.

MS MASTELLONE: So I took him to the dyslexic centre and I bought him special books. They hadn't picked it up at school. There was a New Zealand teacher there and she hadn't picked it up, but in England, as I've mentioned, every school in England - Scotland have got their own ideas - - -

MS McKENZIE: They always have. With a name like McKenzie I can perhaps be pardoned for saying that.

MRS OWENS: It's like different states, isn't it?

MS MASTELLONE: That's right. The British Dyslexic Association send to every school, "How can I tell if a primary school child may be dyslexic?" and there are all the handy hints for all the primary schoolteachers. There's a whole lot of things. If they've got a few of those, there's a jolly good chance that they're dyslexic, but then of course they've got much more help there. They've got help through the school, who either do it themselves or send them somewhere else. There's so much more help there, and knowing that there's so much more help there, I thought, "I've got to let people know here what's happening."

I've always been worried about it, and then unfortunately my husband passed away three years ago, so I couldn't do very much, and then I spoke at the library and I was going to do it two or three years ago. I was going to have a talk to the local schools and mothers and anybody interested, which I did at the end of October, and I asked Marina to come and help, because I specialise in adults and Marina looks after children. Then we brought this student who has got his law degree, and he had the most interesting tale to tell of all the trauma he suffered at school because they all thought he was stupid.

All my students at university, they were all considered stupid and daft. They knew they weren't and they pushed their way into university. This science lad, he got through an aberration somehow or another. I'm not quite sure, but it was a very odd way of getting in, and then of course he was failing all his law subjects until he told me that he had these headaches, you see. Now at university, first of all I test them. I've found five in the last few months, which is extraordinary.

MS McKENZIE: Are they adults that can be helped by the coloured glasses or what - - -

MS MASTELLONE: They say 40 per cent of dyslexics have the problem with the Irlen syndrome, with the coloured glass - only 40 per cent. My first student didn't have that problem. There are all different interesting things. There are trigger words which are important. A lot of dyslexics - most dyslexics see pictures for everything. If you can't see a picture, you can't understand the question very much. Words like, the verb "to be", for instance is "am/are". You can't see a picture - "can/come"; "would" and all those sorts of things. I've written a whole great long list of them, and so I tell everybody they've got to be able to understand these words and write words with them, and then they'll be able to understand the question.

My first student, she couldn't understand multiple choice because there were these trigger words that didn't have a picture, and so she wasn't quite sure what the question was. She initially didn't answer the questions properly so we had to practise. So it's different things. All dyslexics are different. I used to work out a program for individuals. I worked out loads of programs, so one did this and one did that - you know, they were all different things, but they're all quite easy. But they learn so quickly because they're all so bright. I was saying, it's a tragedy for Australia that we don't recognise these people, because they could do so much more for the country if only we did something for them.

Actually, I was thinking, "This is ridiculous. I'm not getting any younger. No-one is doing anything about the Department of Education," so I wrote to the Prime Minister recently and I got a lovely reply, actually. He's going to send my letter to Brendan Nelson, and I wrote to Brogden and he wrote a wonderful reply and he's going to send it to someone else, and then I wrote to Latham, because Latham - he has started with, "Reading is so important," and I said, "Okay." That's how I started, and then there was Mr Carr with his Challenge for Reading. The only person I didn't get a reply from was Mr Carr, because he runs the Department of Education, and I'm told that dyslexia is not a disability with the Department of Education.

MRS OWENS: And Mr Carr has had other things to think about lately, like #liquor.

MS MASTELLONE: Yes, that's right, but it's interesting that we've read that it isn't a disability for the Department of Education.

MS McKENZIE: But it is regarded as a disability in general terms. I'm just thinking about the definition of disability in the Disability Discrimination Act. It's very broad. But if what you say is true, that dyslexics are all different, presumably that disability arises from some disorganisation or unusual brain functioning.

MS MASTELLONE: Absolutely, it does. Yes, the brains are wired differently, but even at university there's a query about it. I've managed to get my students extra time for exams and things like that, and they come for lessons, but it was just by fluke, because no-one knew what I was doing. I didn't know what I was doing either. All I knew is they had this problem and I had to solve it, and I thanked them. I said, "Thank you for giving me students who can't read because I've got a new profession." I've learnt something new.

MS McKENZIE: The worrying thing though from your point of view would be that you can deal with the students who come to you, but presumably there must be many in New South Wales who don't come to you, that teachers don't know, and what about other states?

MS MASTELLONE: I know, and that's why I saw the ad and I thought I had better come and talk about it.

MRS OWENS: Maureen, I'd be really interested just in understanding your interaction with the university on this one, because it sounds to me as if the university has been quite supportive of the work you're doing.

MS MASTELLONE: Yes.

MRS OWENS: I know you want the university to stay anonymous, but the university has funded a position for you or a part-time position?

MS MASTELLONE: They did from 74. The Institute of Languages, that was part of the unit, and I was always funded, until about three years ago when they said, "You haven't got any more money." I said, "Look, I'll do it for nothing." I said, "It's so important." Then every year they kept on phoning me up and said, "Maureen, can you come back? We're going to try and get some money from psychology and the learning centre and we'll try and do this," and then they'd phone up at the last minute and say, "Sorry, we haven't got any more money." I said, "I'll do it for nothing." Then on 7 July when I was going to London, I got this telephone call - said, "We must help this student; particularly, we must help this student." I said, "Look, I'm going to London this afternoon but I'll be back in a month."

They said, "Can you send her something?" So I sent her my cassettes with the reading and the spelling, but she had a lot of other things that I had to help her with, and I give them loads of homework and lots of sheets and cassettes and things like that. So I did and then I saw a few students, but I can always remember one of them. I saw her about October. She was from Lebanon, so she spoke Arabic, French and now English. She came because she couldn't finish reading her exam questions for biology, and so they said, "Can you see this student?" We have a learning centre, and I'll tell you: three years ago, the director of equity said, "Look, Maureen, can you write a course for dyslexics and we can put it in the learning centre?" I said, "Not really, because everybody's different."

MRS OWENS: Yes.

MS MASTELLONE: I said, "You just can't do it." So they said, "Look, would you give all your material to the learning centre?" and I said, "Yes," and they said, "But they might not give you any work after three months." I said, "That's all right. I don't want to hide my work. It has got to be used." So they didn't want me. The learning centre didn't want me, and they didn't have any more money anywhere. They used to phone me up and say, "Look, can you help so-and-so?" Different organisations used to ask me for a bit of help and then, as I said, I did the Irlen testing for the Irlen group. Then in July this year they said, "You must come back this time." I knew they didn't have any money, so I said, "Look, don't worry. You don't have to pay me," so they didn't. I don't know whether I'm going to get any money.

MRS OWENS: It's interesting, Maureen, because you might have students that come along to that learning centre who really do require some intervention from you, and that intervention is going to help them deal with their disability. Under our act that we're reviewing, the question arises as to whether the legislation should be requiring that universities or employers, or whoever you're talking about, should be making adjustments for people with disabilities.

MS MASTELLONE: I know.

MRS OWENS: We're thinking about clarifying that in the act, which really would put the onus back on the university to ensure that if somebody like that came through the door and had these sorts of problems, it would be incumbent on the university to do something.

MS MASTELLONE: I agree.

MRS OWENS: I don't know whether then the university could come along to you and say, "We'd like you to do it but we're not going to pay you," because that doesn't seem like a very professional way of going about dealing with their requirement that the universities make adjustments. It sounds like in the case of this university the will has always been there to do it, but the funding has not followed in recent years, but I do wonder about the other universities, and I'd like to talk to Marina in a moment about schools; what's happening at that level.

MS MASTELLONE: Can I mention the other universities? I was asked to speak at the University of Western Sydney, because I was a specialist at the University of New South Wales, I think it was about learning difficulties. I was asked to speak there, and so I did, and they said, "Maureen, you teach differently to everybody else. I'm going to send a lot of students to you." This was the University of Western Sydney.

MRS OWENS: And pay you?

MS MASTELLONE: They didn't send one student in the end. They didn't send one student, and they said, "You teach so differently," because I didn't learn; I did my own thing.

MS McKENZIE: You devised your own method.

MS MASTELLONE: That's right, because being speech and drama and phonetics, I could hear their problems.

MS McKENZIE: Your method is based on your cassettes which are Read After Me and phonetic cassettes, and also on homework - what the students have to - - -

MS MASTELLONE: They have got to have grammar. To date, I used to help them with grammar, but now I get them to buy a grammar book. They don't know their grammar. They don't know any grammar.

MS McKENZIE: Of course, because they haven't been able to read.

MS MASTELLONE: To read properly, you see, so they can't spell. Today at university, instead of spending my time teaching them grammar, I've suggested books that they can learn their own grammar, and the reason why you use the present/perfect and the past tense and things like that, and punctuation. They don't know their punctuation.

I have been asked to speak at something else for Legal Aid, something about the anti-discrimination. They found out - well, even our university. I was asked by the director of equity to speak to the learning centre and see if I could do anything there. I told her, for disability. She said, "No. We don't help anybody with disabilities." That was the learning centre. So they didn't want me there, you see. That's what I was told then.

There was an article in the paper just before Christmas about a young man who was trying to help his nephew who had dyslexia. He had been fighting for years to get help. He couldn't even work for the public service because he was dyslexic. I phoned him and I said, "Look, I can help you." I said, "I'll give you some cassettes and I'll teach you how to read." Then he wanted me to speak to the Legal Aid about the anti-discrimination thing; they're going to court. They have asked me to speak about what I know about it. Then I said, "Have you been in touch with Sydney University?" "Sydney University? No, they don't help people with dyslexia." You see, so that's what I was told. People just don't help people with disabilities.

MRS OWENS: That's the issue we're dealing with.

MS MASTELLONE: Yes, that's the issue. That's right.

MRS OWENS: Marina, have you got anything to add about the younger children that you see?

MS BRIDLE: I very strongly feel that you have got to catch the children early. You shouldn't wait until they have gone to university, but they should be caught really early on, before all these problems become mountainous and before they have built up this terrible feeling that they're stupid. They have been told they're lazy, that they don't pay attention. They are labelled so badly. What does that do to a person's self image when they're so discriminated against? They haven't chosen not to learn. They have just found that our particular system of teaching doesn't fit their way of learning.

MS McKENZIE: In your view, is the way to help children like this more individualised programs and attention?

MS BRIDLE: I think it does help them to have more individualised attention, but I also think we have made a big mistake for many, many years of teaching reading mostly through the visual method. Our language is not a visual language, not like Chinese or some other languages. It is a phonetic language. Each symbol stands for a sound and therefore we should teach the children how to build the words. It's very ad hoc. Most of it is still very ad hoc. Because a lot of children can sort of learn; they see the words and they can work out, say, about 40 per cent of them; 50 per cent of them can work out, "That letter usually always stands for that sound," blah blah.

So with a mixture of visual and working it out, a lot of it themselves, they do it. But an enormous number of children have a terrific problem because nobody has sat down and said, "C stands for 'k', and T stands for 't', and T-H stands for 'th'." It has to be very systematically done. I tend to think that you could do it. Well, I know you could do it in groups and in classes, but they should be taught very systematically. Maureen and I have a very systematic way of teaching reading so that it's logical. These children are very logical. They don't like things that are sort of airy-fairy. If they are told, "This is this and that is that" - most of the children who come to us haven't any idea what the vowel sounds are; what letters stand for what vowel sounds.

That seems to be the biggest problem with the children, that they're not taught - - and vowels are very difficult because all the other words are words which you use your tongue or your lips and it's a "p", "t", "g" sound. But vowels are made with the change of the shape of your mouth. It's like a musical instrument really - an "a", "e", "i", "a", "o". There are very slight differences. If they have got a very slight hearing difficulty they might not be able to tell the difference. Then you have got all the different combinations of spellings - "A-I", "A-Y", "O-I" and "O-A" - that have to be taught.

I really think phonics, with Maureen, is very very important, a very structured phonic approach and also look and say because there are many of our very key words - there are about 100 words that are the basis of half the stuff we read. They are words like "a" - you know "A" - "to, in, out, up, down, the, at, from, to." All those words are not nouns. They're sort of words you've got to use to describe something. Also they need sequencing. They need to sequence, know how to sequence the sounds. That's why their spelling gets so out of the way, so it's got to be very structured.

MS McKENZIE: And if that doesn't happen, then the child's education is lost.

MS BRIDLE: They're lost, they're absolutely lost and they give up. A lot of people today say, "I can't learn the computer. I don't understand anything about it," and when somebody tries to explain it to them they go, "Oh," you know. That's how these kids feel. You know, they go to school and somebody starts rattling on about reading and they've got to pick this book up and work out what it's all about and they don't really know how to go about it.

It's a bit like when my son tries to teach me computer. I can't follow him because he totally understands it and doesn't understand why I don't understand it, whereas I need somebody who can sit down and say, "Now, you start with this and you press this button here." Someone who can take me through logically, I can follow it, but when someone tries to show me who rattles off, I go, "I can't do this," and that's what the kids do and they chill out. And of course, reading is at the back of all our schooling and if they haven't got the reading, they are floundering and they feel terrible - they feel terrible.

MS MASTELLONE: And their mothers do, too.

MS BRIDLE: Well, their parents, yes.

MRS OWENS: Marina, in terms of the school system here in New South Wales and the Education Department, how responsive are they to this mode of teaching and to try and address this issue. Is it in the forefront of their minds that it needs to be addressed?

MS BRIDLE: There are definite movements towards teaching phonics now but I think a lot of our teachers don't know how to teach phonics and they're not - - -

MRS OWENS: So it comes back to teacher training?

MS BRIDLE: Teacher training, yes. There should be a lot more teacher training on phonics. You'd agree?

MS MASTELLONE: Yes.

MS BRIDLE: Look, I don't know because I haven't been into a teacher training college so I don't know what their syllabus is like today. All I know is that they are going more towards phonics. How structured it is and how well the teacher understands how to teach, that's another matter.

MRS OWENS: But meanwhile we've got these children in the system as of now that need to be identified.

MS BRIDLE: Yes, absolutely. They should be identified and they should not be labelled. There are many different kinds of intelligences. There's not just one and our schools tend to teach towards one particular line of intelligence and we have multiple intelligences. We have different ways of remembering and we also have different ways of learning.

Now, some people learn much better with oral stuff, other people are very visual, other people are very hands-on. We all learn with a mixture of these but probably one of those is our best way of learning, so teachers need to be able to do all that with children. It's a very hard job being a teacher. It's not an easy job, especially with 30 kids in the class, it's very hard, and I just think we need more teachers in the schools. I think many of these early classes should have at least two teachers in them to help the children to learn to read and that should be their prime object.

MRS OWENS: What do you think about this measure that Maureen was telling us about in Britain of the Dyslexic Society sending out this form to schools and asking about how to tell if the kid is dyslexic? Is that something we could be doing here?

MS BRIDLE: I think we should. Our organisation SPELD has got a list and HADA has got a list; the LD Coalition has got a list of all these things. They keep sending them out to parents and schools. Perhaps they don't distribute them enough but, you see, they are working on a shoestring. The government gives very little money to these organisations. They have to go with the cap in hand begging for the money and they get a pittance and they have to rely on voluntary contributions from the parents and from the public and by running sales and doing all sorts of activities when really what they should be doing is providing the resources for these children who are having learning difficulties.

MRS OWENS: Do you know if there's been any complaint from a family of a child or from a person with dyslexia because they haven't received services they need?

MS BRIDLE: All the parents: they just feel that there isn't. Look, I'm getting children from public schools and private schools who are not being - they don't hone in on them and help them right from the beginning and there are enormous problems with behavioural difficulties and lack of self-esteem and depression and nervous problems because of the terrible time these kids have at school. They are denigrated so badly, either directly or indirectly, because of their difficulty with learning the way everybody else is learning.

MS McKENZIE: Do you know any of those children or the parents who have gone to some official body like the Human Rights Commission to complain about this?

MS BRIDLE: I don't think the parents have got the energy or the time - - -

MS MASTELLONE: They don't know what to do maybe.

MS BRIDLE: - - - to do it. They can't go through all that rigmarole.

MS McKENZIE: They are just trying to deal with the child.

MS BRIDLE: They are struggling to get by day to day.

MS MASTELLONE: Excuse me. You were asking about the Human Rights. The person I saw in the paper, Jim Boyd. I've got it all at home and he went to the Human Rights about his nephew who wasn't helped at school and they're taking that up with the Human Rights and that's when I was asked to help. So I know that person has and I've got his name and the name of the lawyer from Legal Aid and everything else. I can pass that on to you.

MRS OWENS: Thank you. Are there any other issues?

MS McKENZIE: That's all very good. That's all I wanted to ask.

MS BRIDLE: I would just like to add to the thing with the coloured lenses because they are incredibly useful. I find that the vast majority of the children I've taught benefit from a coloured lens. Their reading, from being halting - because they can't scan across, they can't see enough of the words; it isn't ordinary lack of sight. It's not short-sightedness or long-sightedness or whatever; it's just that the glare from the background white, with the black on the white, they cannot see the words clearly. They jump around and the glare from the white interferes with their vision and a coloured overlay is like wearing sunglasses in bright sunlight. It softens it up so that they don't get that glare and they're able to see the letters much more clearly and can scan across and, instead of reading like, "Children-and-adults-with-dyslexia-have-usually-had-a-very" - you know, they can read.

Once they're taught to read they can read, but then children and adults with dyslexia have usually had a very difficult - because they can scan across the line. It's not that they can't actually read. It's a combination of lots of factors and I really wish that more people or schools and education and our education departments would really hone in on the phonics and would really look at the Irlen coloured lenses. I'm not saying the Irlen lenses are the only way to go. There are other things too, like behavioural optometry and exercising the eyes and all sorts of things but we should look at the whole picture and not put these children in the garbage heap and say, "Oh, well, you know, it's in the too-hard basket." It isn't.

MRS OWENS: So what you'd like is early intervention and to really do Maureen out of a job.

MS BRIDLE: Sorry, Maureen.

MRS OWENS: But that's the ideal.

MS MASTELLONE: I said I'm not going to live forever, and what's happening? Nothing's happening. But Marina picked up this wonderful video, Jolly Phonics, which we looked at, and the puppets show the children how to - because they can't write either. They've got very pure spatial skills, so they have very great difficulty with S's and D's and all that. Well, this Jolly Phonics video does all that.

Then, once they can do all the writing, they begin to read as well - words, and then small sentences - which is just what dyslexic children need, from the age of even three. 50 per cent of the schools in the UK - or in England, I'm not sure; the UK, I think - are using this particular video. So the teacher doesn't have to be a specialist; there's the video for them. I am told that in Queensland, so many schools are using it. If only it was brought to the attention of the Department of Education or the teachers. Teachers could learn from the video. It's a wonderful beginning for them.

Marina also found out about the Phonics books, the Fitzroy program from Victoria. I think the video is really number one and then you can follow on with the Fitzroy program Phonics books. At our library in Woollahra we have got both those now, so we are building up. We had our Poets Picnic yesterday, so the library has been a bit busy, so we haven't got it quite organised yet, but there's dyslexic help at our local library, and from one library it will move to another.

MRS OWENS: Thank you.

MS McKENZIE: Thank you both very much. That's a really good submission, and one of a kind that we haven't had before, so it's very helpful.

MS MASTELLONE: Can I just mention a couple of other things?

MS McKENZIE: Yes.

MS MASTELLONE: I was speaking to the University of Newcastle, because I can send students there to test for the Irlen. I spoke to a Dr Greg Robinson, who is head of the Irlen centre at Newcastle and I said, "Look, teachers are not taught how to help dyslexic students in special ed," and he seemed to think they're going to start with special ed, maybe next year or this year. So Dr Greg Robinson of Newcastle University in the Irlen centre might be able to throw some light on bringing dyslexic teaching into special ed; I don't know.

But I must tell you about a student I had in about November. She couldn't finish her exam because she couldn't read all the questions in time, and so I tested her with all the coloured overlays - she's about 20 - and suddenly she stood up and she went, "Hurray! Hurray! Hurray!" and she started to clap. She said, "The words are not jumping around." She said, "I can read!" She said, "I can read in Arabic, I can read in French and in English. They're not jumping." She was so excited.

MS McKENZIE: That's fantastic.

MRS OWENS: I wish we could get your movements into the transcript.

MS MASTELLONE: I'll never forget this student.

MS McKENZIE: No. It's just fantastic.

MS MASTELLONE: She was wonderful. It's wonderful for us and wonderful for them, and it's so easy. There are ways of doing it. Everybody can learn. As I say, children can. When we talked at Woollahra Council - the library was too small, so we went to Woollahra Council - there were these mothers asking for help. I spoke mainly about adults, and they said, "Please help the children." Marina was with me. That's why we are working out lists of books. They're not quite ready yet, but we'll give them all to you. We'll pass all the information on. We want to help everybody because they are just not being helped, and we can't understand it.

MRS OWENS: Thank you. Your enthusiasm is wonderful.

MS McKENZIE: Thank you very much for a really tremendous submission.

MS MASTELLONE: Thank you very much, and thank you for letting us speak. I can give you, if you're interested, 'How can I tell if a primary school may be dyslexic?' It's all from the British Dyslexia Association on the web site. I brought that.

MRS OWENS: Thank you.

MS MASTELLONE: Instead of having these terrible times at school, they can see there's a problem. They're bright. I've said to the university, "You're crazy. These people are so bright. They could do so much more at university if they were accepted."

MS McKENZIE: That's right. That's tremendous. Thank you very much.

MS MASTELLONE: Thank you.

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

(Luncheon adjournment)

MRS OWENS: The next participant this afternoon is the Media Entertainment and Arts Alliance. Welcome to our hearing and thank you for your earlier submission. I'd like you each to give your name and your position with the alliance for the transcript.

MS GAILEY: I'm Lynn Gailey. I'm the federal policy officer with the Media Entertainment and Arts Alliance.

MR NOTTLE: My name is Dean Nottle and I am a member of the alliance and have been so for 21 years.

MS STAMELL: My name is Kiruna Stamell. I'm also a member with alliance and I'm an actor.

MS WARBURTON: My name is Doreen Warburton. I'm also a member or an honorary member of the alliance and I've been a member of the union since 1948 - in Australia since 1953.

MRS OWENS: Thank you. That's quite a long time. I'm going to hand over now and I think, Lynn, you're going to start off with an introduction?

MS GAILEY: Yes, thank you.

MRS OWENS: So go ahead.

MS GAILEY: And, thank you, we really appreciate this opportunity. As you noted, we've made an earlier submission and I just want to reiterate a couple of the main points made in that and then Dean and Kiruna and Doreen are going to pick up on various aspects to do with the arts and disability, both from the point of view of performers and from the point of view of persons accessing the arts.

We note that in the draft report the community awareness of disability issues has been mentioned as being significant and we think that one of the more effective ways to effect cultural change is through the arts and in particular, given its pervasiveness, through film and television. As we noted in our submission, the alliance for many years has been championing the need for free-to-air broadcasters to honour their obligations to the community and to honour the objects of the Broadcasting Services Act and to broadcast programs that reflect Australia, its cultural diversity and identity, and we are very strongly of the view that there is a long way to go before the broadcasters could be bound to do that adequately.

In recent years there has been some shift towards an improvement in the portrayal of people from a non-English-speaking background. However, their performance in representing indigenous Australians has been very patchy at best. Their portrayal of people over the age of 55 is, by and large, woeful and their portrayal of people with disabilities is similarly woeful. We think it's really important, and would be thrilled if the commission were to recommend, that further research was done in this area with a view to ascertaining what strategies might be implemented to improve that because we're strongly of the view that inclusion is the best way to drive cultural change and, when people are excluded or overlooked, they become increasingly isolated, they become increasingly lonely and they become increasingly disconnected from the community in general.

What they're seeing reflected back to them of their community excludes persons like them. That's only compounding the problem and we don't think it's helpful and we do think that changes in that regard would assist overall in terms of issues surrounding disability, in terms of access, in terms of driving and understanding that these people are part of society and they are like us and they could be any one of us and undoubtedly we all will end up, in some way or another for whatever reason, disabled and for those of us lucky enough not to have been born with a disability or acquire one through injury or illness, we may even live long enough to end up frail ourselves. So it is not an issue that can be seen in isolation and we think this is a particular area where change needs to be driven.

MRS OWENS: Thank you, Lynn.

MS GAILEY: I'll hand over to Dean.

MR NOTTLE: My submission is in two parts: the first, I've got some comments on my life as a performer, and the second is referring to access to venues.

Part 1: I am 51 years of age with a lifetime as a performer; 21 years as a professional. I'm a graduate of NIDA, Australia's pre-eminent actor training school. I've lived the last nine years with an incurable degenerative neuromuscular illness but have managed to continue working until I needed to openly declare my disability to the industry in general and casting agents in particular two years ago. I felt I would not be able to do justice to certain roles because of what is known in the industry as my mobility issue.

From an average of 35 to 40 auditions and screen tests a year I have now gone to zero. In an industry with 95 per cent unemployment actors are considered a dime a dozen by those in the position of control. Why consider a disabled actor who has attendant difficulties when there are 20 others suitable for the same role who have no difficulties? Perhaps if the actor has sufficient public recognition and a high profile, then they may be given special consideration, although I'm hard put to find an example.

But, of course, how can a disabled actor ever get that profile if they're never given the casting opportunities in the first place? It is an industry which is entirely unaccountable for discrimination, and there are so many grounds on which it does discriminate. A casting agent can say they didn't consider a disabled actor for a role because that actor is too tall, too short, too dark, too fair, nose too big, eyes too narrow, hair too short, hair not curly, fingers too short, teeth imperfect, not good-looking enough, looks too good, looks too young - the list is endless. They need never mention the real reason for not casting the actor: disability.

Disabled performers should be able to find acting one of the work opportunities more suited to them. Performance and the arts are about people and ideas, and people with disabilities, although their bodies may be giving them difficulties, are people with ideas as much as any other representative group in our society. And let us not forget that they face discrimination in many industries. It may be illegal, but the disabled unemployed can recount many personal stories. I can't even manage to get CRS Australia, formerly known as Commonwealth Rehabilitation Service, to take me on in helping me search for employment because I'm in the too-hard basket. This is an organisation supposedly committed to helping place people in the workforce who face difficulties associated with disability and rehabilitation.

I was trained with generous assistance from the public purse in a time before HECS when free education was in vogue. Am I now to look forward to the remainder of my life as a financial liability to the Australian taxpayer; unemployable not only in my field of training and expertise, but in the workforce in general? Are the skills I have developed and can still practise, along with my enthusiasm to continue to work in my industry, to be lost to the community?

How can we address this issue of bringing the disabled performer into the mainstream of the performing arts industry? Two most obvious strategies to me are colour-blind casting and affirmative action. Colour-blind casting for people with disabilities means that there is the chance that almost any character may be disabled. Why shouldn't a lawyer in a courtroom scene have cerebral palsy, a sex worker be blind, a sportsman deaf, a taxi driver an amputee, a mother spreading mayonnaise on her children's sandwiches have a speech difficulty, a mobile phone user have Down's syndrome? See below the yuk factor! We'll come to that.

In 20 years of acting, auditioning and reading scripts, I cannot recall seeing a role written specifically for a character with a disability. Those I've played myself that have had a disability such as a limp or a stammer have been the result of the director's idea - that is, they were never written or cast as disabled characters. Furthermore, even if those roles were specifically created as disabled characters, the chances of casting a disabled actor in those roles remains slight.

It may be interesting to look at some of the roles I've played on television whilst fully able, which could have been played by a disabled performer. They include a priest seated in the confessional, a priest delivering a sermon, a patient in a hospital bed, a cleaner - in that role I was required to act as though I had a disability, a withered leg - a police kidnap negotiator, a scientist in a laboratory, a judge at the bench, a chauffeur in a car; in television commercials, seated in an armchair, lying in a bed, seated at a dinner table, an astronaut, my face only; a flowering pot plant, my face only. I doubt if any actor with a disability was ever considered for any of these roles.

Is affirmative action the answer? Is it necessary to have quotas in place for scripting and casting requirements and, if so, how would those quotas work? Do the quotas refer to colour-blind casting or should they apply to roles written and cast specifically for people with a disability and, if that is the case, do TV programs such as SBS TV's House Gang, which featured the majority of actors with intellectual disability, fill that station's entire quota, or must disabled performers be spread over a swathe of programs?

Consider the effectiveness of campaigns to cast actors of ethnically diverse and indigenous appearance over the last decade. Consider the breadth of roles now written for and played by women compared to 20 or 30 years ago. Is 50 per cent female representation of the police and judiciary a realistic reflection of our contemporary society? I don't know, but I'd be inclined to think so because I watch television. Imagine a time in 30 years where a truly representative proportion of TV characters were disabled.

Now for the yuk factor. It is suggested that children find disability difficult to deal with and that exposure to images of disabled people should be minimised to protect children. Apparently kids find these people "yukky". In fact, kids tend to follow parental attitudes which, in turn, were learnt in childhood - that is, that disability is yukky. In my experience, however, disability produces curiosity in children; that is, until they are called away by their parents with an admonition of, "Don't stare" or "Don't bother that person." It is the parent who isn't dealing with the situation, remains ignorant and passes on this pattern of behaviour to the next generation.

Unless children and adults are exposed to people with disability, then they and future generations will continue to treat them as invisible, and as science and medicine improve the lifespan of the disabled, and just about everyone else, then they will continue to increase both in numbers and as a proportion of our society, and at what point and with what weight of numbers will they become visible, if ever?

The second part and shorter section addresses the question of access to venues. Cinema complexes lead the way in compliance, followed by sporting venues. Live theatre venues, however, run a very poor last. Even outdoor event venues do a better job. Nevertheless, great improvements have been made in recent years. Take, for instance, the two newest major theatres in Sydney, NIDA's Parade Theatre and Sydney Theatre at Millers Point. Both have given serious thought to disability access. Each has level street access and egress, entry to the main foyer and a low box office counter adjacent to a higher counter. Each has elevator and/or ramp access to its auditoriums' upper levels, and the news backstage for performers is good, with all facilities either at stage level or supplemented by an elevator.

The Parade Theatre has level access to two rows of the stalls, H and J, with a seat at the end of each row removable for wheelchair placement, the adjacent seat being made available for companion seating. The gallery levels are also accessible with a wheelchair area on Gallery 1. Similarly, Sydney Theatre has a row H at a level entry point from the foyer, with the opportunity to remove the seat at each end for wheelchairs. This theatre also has dedicated the entire back row of the stalls for wheelchairs and companion seating.

Not as much consideration, however, appears to have been given to those with mobility difficulties who are not confined to wheelchairs. At both venues, the rows adjacent to the level entry point do not have wider leg room, so it's difficult for physically disabled patrons to move further into these long rows once other audience members have taken their seats, and at Sydney Theatre arrangement must be made with front-of-house staff to use the centre doors level with the accessible row H, as these doors are not used for general audience admission. The extraordinarily low seating in the Sydney Theatre foyer makes these seats almost impossible to use for those who need them the most, the aged or infirm.

Both venues are to be loudly applauded for their achievements in equal access to mobility, hearing and visually impaired. However, the majority of mobility impaired patrons are not in wheelchairs, and more planning is needed in this area for future ventures. But there is not much to applaud when it comes to other existing major venues. Do the physically disabled have to continue to enter through back doors, loading bays and scenery docks at these venues, such as Sydney Opera House, Sydney Theatre Company, Belvoir Street Theatre, leaving it almost impossible to reach foyers with their toilets, bars and refreshment facilities, as well as the opportunity to mingle informally with other theatregoers and friends? In terms of seating, the disabled are usually required to sit either at the very front, the very back or right on the side - those parts of the auditorium usually considered the least desirable, and the last to be sold.

It is also important that venues provide an undercover and well-lit motor vehicle drop-off point, a basic necessity for those with significant mobility problems, but rarely to be found. No-one wants to see small, innovative and struggling performance spaces closed down because of insufficient disability access when they can't afford to undertake extensive and expensive alterations, such as the Stables Theatre and the Old Fitzroy. There is no lack of goodwill at venues of this sort, where staff go to enormous lengths to assist disabled patrons in every way possible, but why is it that major venues consider to operate with minimal compliance and no apparent philosophical commitment to genuine equal access for all? Thank you for your attention.

MRS OWENS: Thank you.

MS STAMELL: I am an actor and a member of the Media Entertainment and Arts Alliance. I want to focus primarily on the access issues I have had, accessing the arts as a performer as well as accessing training within the arts. My disability is that I'm a person of short stature - that is, a person with a condition known as dwarfism. I'm only about three feet tall - a little over that.

My experiences have been that as a child, at about three years old and a little bit prior to that, I wanted to be a dancer and was bugging my parents, neither of which has a disability, to take me to a dance school. So I started training as a dancer from the age of three. However, it took five years from the age of three to find a dance school that was willing to teach me and who would accept me as a student. Occasionally I would go to a dance school where I would be accepted as a student but I wasn't being taught as one, where I'd either be ignored or it was, "Thank you very much. Thank you for paying for the lesson. I'll politely let Kiruna stand in the corner and out of the way," which was absolutely ridiculous, because there was no reason why I couldn't participate in the class. So that had been some of the experience that I'd had accessing training within the arts.

As I got older, my interests grew and I became interested in acting and a more diverse range of performance, and I experienced similar problems getting access to institutions which provided acting lessons, whether they be tertiary institutions or private institutions. The facility, for example, may not have had disabled access, doorhandles weren't at a standard height, stage doors were incredibly heavy. So I'd run into these sorts of issues, as well as a very tricky area, where you audition for a drama school and it's very difficult to discern whether they haven't taken you because they perceive a lack of talent or whether it's because you don't, quote, "have the look for the ensemble". So that's a very difficult area, where there is a case of discrimination or a perceived case of discrimination. You have no way to address it, and there are very few places where a person with a disability can actually access arts training unless perhaps with private tuition, which of course is incredibly expensive. So that had been my experience with educational institutions.

I’ve gone to the University of New South Wales and I’ve completed by media and communications degree, with a major in theatre and film, so I’ve found that a way of continuing my training and my education, which I don’t perceive as something that I’m going to stop doing. I’d like to keep learning and studying, and I think that it’s very important that that be acknowledged. I don’t know the statistics because they aren’t available to me, about the number of people who do go through drama schools and receive training, who do have a noticeable physical disability. From my own personal observations and having been through the halls of the school, I know that alterations would need to be done if a student in a wheelchair, for example, was accepted into some of the larger educational institutions in the arts here in Sydney, and Australia.

The other issue that I have come across is, partly, casting, which Dean has already touched on so I won’t reiterate that too much. But there is no reason, for example, why a person of short stature or a person with a disability couldn’t play a secretary, a lawyer, any of the characters that are portrayed on television, unless there was a specific trait that excluded the disability - say, for example, the character was an athletic runner; a person in a wheelchair obviously would not be cast in that role. I have found that when I have voiced my interest in auditioning for a role, which is actually all that I’ve ever asked - is that I’ve had access to an audition - in most cases this has been denied; I haven’t been able to audition for the role.

Similarly, I have found difficulty finding representation as a short-statured performer. I did have one agent who was rather rude to my mother on the phone when she phoned, and my mother wouldn’t repeat some of the things this woman said to her, but the end of the conversation was basically, "Oh, well, really there aren’t any roles for midgets, although we could put a photo of her on the board and if somebody wanted to use her for free, I could pass her name around." That’s the level of commentary that I’m getting from the arts.

There are very well-educated people who have been incredibly supportive, and I’ve worked on Moulin Rouge, and Macbeth with the Sydney Theatre Company. I’ve had some wonderful experiences performing as an actor, but in those cases - and it’s very interesting - I’ve actually known the director prior, who had then thought of me and cast me. In the case of Moulin Rouge I actually started off as an extra to pay my way through university, because I’d gone for a secretarial position to fund my university degree, but a friend of mine who already worked with the law firm for whom I was going for the interview, mentioned, "Oh, Kiruna’s great. I can’t believe she’s going to come in for an interview. It’s wonderful. By the way, did you know she’s a little person?" at which point I wasn’t granted an interview. Now, that was for a job in the regular community, so it shows you that the same perceptions are out there: "Kiruna can’t be a secretary in real life. How could she play a secretary on screen?"

I see the answers being incredibly vital, because of course I could play a secretary. It's ridiculous to think that that would be - I mean, I couldn't do a hard labour job. I'm constantly meeting these sorts of perceptions, and it's very frustrating - and I'll be quite frank - because you aren't able to talk about it. It's a taboo, and disability very much feels as if it's a taboo, and it's, "Really, we don't want to know about it. We don't want it to be seen."

Another case was when I was 14. I was cast as the host of a children's television show, a pilot for Win TV. The producer was given this wonderful comment from one of the executives of the organisation, which was, "Oh, Kiruna was great. She was a fabulous performer, but if we were to take the show up we'd have to replace her." The producer said, "Why? If you liked her so much as a performer, why will she need to be replaced?" and the executive's response was, "Oh, well, parents will feel uncomfortable explaining her to their children." That was only in 1994 that that happened.

So I'm meeting these sorts of things, but, at the same time, when I was growing up and doing a lot of dancing and performing - mainly in eisteddfods, actually; doing the eisteddfod round and getting quite a lot of exposure as a dancer and performer - I found quite the reverse. People would see me on stage dancing with, quote, "other able-bodied dancers", people for whom it was acceptable to go on to a professional career, and they would see me dancing with them as part of the troupe, to a level and quality that was quite acceptable, and they would be amazed.

I remember once I walked on stage at the Sydney Opera House during an eisteddfod, and I heard the audience collectively inhale when I came on last. I was the last person to walk on stage, and they collectively inhaled, and it was the moment that I went, "Wow, this is actually a very powerful position to be in." I didn't need to say anything. I didn't need to do anything. My mere presence and doing what the others were doing on stage was enough. By the end of the routine, people had actually gone, "Oh, yeah. Oh, that's a bit normal, isn't it?" and it was absolutely wonderful. That is the power of the arts: you don't even need to be talking about the issues specifically, but give people with a disability, or who even look mildly different, that sort of exposure. You don't need to make a point of it, but just considering it as a possibility completely opens up the minds of people who see it and who are exposed to it.

It's so much not people being vicious consciously. It's just that they have never thought of it, and they have never thought of it because so much of the environment in which we live - and I consider disability to be in relationship to the environment in which one is born. For example, if doorhandles were lower, roofs were lower, chairs were smaller, it would be all of you bumping your heads and finding life very difficult, so it is in direct relationship to one's environment.

When you don't see people on television who have these issues, it's no wonder that people get a complete and utter fantasy of what life should be like and how people should look, and it's not a true reflection of the world that we live in, so I really do think that the arts is an incredibly powerful way of just showing people something different. You don't need to tell them what to think. It's not about spreading disabled propaganda all over the world. It's simply a case of giving it some exposure and being proactive, which brings me to another point.

I've been in a situation where I'm applying for grants because I'd like to create my own art within the industry. I'm interested not so much in disabled issues specifically. My performances wouldn't necessarily be about that, although they are related, in that I'm very interested in the genetics and the genome project at the moment. But one of the things that I have been disappointed to discover is that, given the issues facing people with a disability - not only physically accessing the arts as an audience member but accessing institutions and places where the arts are taught, from a very early age - through the grants system, that isn't acknowledged at all, as well as the fact that disability isn't considered to be part of cultural diversity.

I could talk about ethnicity and that would be considered to be adding to the cultural diversity of the situation for which I am applying for a grant. However, disability isn't considered to contribute to the cultural diversity, which I think is a shame, whereas I know that overseas in similar situations, merely using a person with a disability - and not using them to highlight a disabled-related issue but by merely using the person and employing them and being proactive in that respect - that is considered to add to the cultural diversity, because people then see a person with a disability living the life of an average human being, which is in my opinion the right of every person with a disability.

Networking opportunities for people working with the arts with a disability is also limited, basically because of their access to the facilities that exist, whether they be institutional places of education or whether they be as an audience member. I've been very pleased to see some of the work that's being done - one program in particular, run on Community Television here in Sydney. It's a forum for people with a disability, who get together and discuss disability issues. That's been wonderful, but aside from that I haven't, in my own experience, seen a person with a disability play a role that I deemed particularly appropriate, or in some cases, where the character is a disabled person, they employ an able-bodied performer, which again I think is a shame.

MRS OWENS: Thank you.

MS McKENZIE: Thank you very much.

MS WARBURTON: I'm an actor and director. I started my career in England at the age of 18 in 1948 and came to Australia in 1953. For most of my working life I have known nothing but theatre, radio, film and television. It has been my life's work. Then suddenly I wake up one morning and find my body is falling apart. The voice still works, and hopefully the brain, but physically I can no longer do what I was able to do; yet it was only eight years ago that I was falling and collapsing on stage for eight performances a week for a tour lasting six months.

When you have been physically versatile all your life, this is difficult to cope with. In this youth-orientated society, we are supposed to be healthy and physically fit. If we are not, then that means we've been indulgent and lazy, and God help you if you are also fat, because that means greed and fast food. We don't make allowances for genes and age.

If I go for a commercial and they don't know me, I know that, even if they like my reading, I am not right visually. Forget going for a retirement commercial, because they are using 50-year-olds, such as an ex-NIDA student of mine. If I am sent the script of a good drama and the physical demands are too great, I don't audition, and if they ever do want an older woman, usually they want someone sweet, fragile and vulnerable. So I censor myself and so does my agent.

Looking at it objectively it is ridiculous. Most people over 70 are not perfect. TV drama should represent all people - the disabled, the aged and the young. Many of us have contributed a great deal to the industry and could continue to do so. We are not helpless; we have years of experience. We still have a voice and have great stories to tell. However, our script writers aren't writing them. Why? Are we boring? Are we not pretty or nice enough? Are we frightened by disability and age? Are the script writers given a brief that doesn't include the disabled or older members of our society? Or is it simply money? Do the advertisers want shows with only young people?

When one becomes older or disabled we are aware of the lack of care right throughout society from designers for new buildings and commercial organisations. So many have to tailor their lives to cope with this. Art galleries, shopping centres, department stores, theatre foyers no longer have seats with backs on them. Stores no longer have chairs to rest on. Banks, post offices, Medicare et cetera are not user-friendly. Beautiful swimming pools are built but the steps are not accessible. And so it goes on. Yet our communities rely so much on the older generation. They are a huge volunteer force and it would cost the country a great deal if that force were removed. Where would we be without our Calendar Girls or the grandparents for our young children?

There is a general lack of consideration towards older people, not just from the celluloid industry but from society in general. But we are a tough lot. Most of us have been through the Depression and World War II. Many have experienced war first-hand. We have built our own houses, hand-washed our clothes and managed with fridges. Most of us couldn't afford cars until we were in our 30s so we worked or used public transport. We didn't have fast foods as we have today. It was only in later years that we had microwaves and washing-up machines and computers.

Even so, many older people that I know are getting nervous. They resent it or they feel the resentment because they own their own home. We are constantly being told by the media that we are costing the nation too much. Patients are being killed in hospital to make room for someone younger. In France, 60 older people are committing suicide every week because of neglect from their families. We should not be ashamed of getting old. Age can be so beautiful as great artists and photographers have always known, as seen by the recent exhibition now in Sydney. Why does the celluloid industry ignore this section of the community when it still has so much to offer?

Many older people complain about the mediocrity and constant violence of TV, that shows are largely about young people. It can be boring to look at beautiful people all the time and to see the same sexual gymnastics. They get tired of the undergrad and juvenile sex slant of so many commercials, not because they are narrow-minded but because they are generally more sophisticated and don't need the testosterone stimulus; some of us have too much. Here I would like to tell you a story apropos of this. My friend's mother, who is nearly 80, recently had to go into a hostel. After a few weeks the matron rang her in a panic. Her mother, with a man-friend from the hostel, kept locking herself in her room, placing a notice, Do Not Disturb, outside. The matron - and this is where I think I have lost some pages.

MRS OWENS: Please don't lose them.

MS WARBURTON: Can you just hang on a second?

MRS OWENS: Yes, of course. We can just break for a minute.

MS WARBURTON: The matron just didn't know what to do. My friend laughed and said, "Please, leave her. Let her enjoy herself while she can." The matron was deeply shocked. I mean, old women aren't supposed to have sexual desire, let alone satisfy it. How can TV managements be so blinkered? We're growing in numbers.

We watch more TV than most. We have some powerful organisations developing and we have healthy, disposable incomes. I don't because I'm an actor. It seems to me that the box is becoming our religion and our adviser. It enters and influences our whole lives, sometimes with little sense of responsibility. What does it say to the young people who never see anyone over 55 on television? Even worse, what does it say to the over-55s?

It's wonderful when TV and film open doors and windows, when we can learn about all people, thus giving us a greater understanding of ourselves. Older Australians are of many races and cultures, have wonderful stories to tell; stories of people that honour enduring human values. As an actor, it would be wonderful to be part of that. Thank you.

MRS OWENS: Thank you very much. I think that was the most articulate and powerful presentation from all of you I think I have ever heard and I have been doing this a long time.

MS WARBURTON: Thank you. I was very nervous. I can only speak as I am.

MRS OWENS: We have gone a bit over our half an hour. I hope our next participant doesn't mind if we just have a few minutes of discussion because you raised some, I think, extremely important issues and you are really the first group that we've had that have come along and talked about these particular issues. I think what you said was very clear and I thought all your anecdotes and your own personal experiences - well, it was very powerful. I think, Cate, you would agree.

MS McKENZIE: I agree.

MRS OWENS: But you did raise a number of, I think, important issues for us as you went along. I have just been noting them down, through from just how do you improve community awareness and one important way is through the media, television and so on. We have been finding as we have been doing this inquiry that there are real issues about people's perceptions and stereotypical assumptions about people with disabilities, but also, in the context of the act, people aren't aware of their rights or there is such a thing as the act. So there is a lack of awareness both in the general community to people with disabilities and there is a lack of awareness for people with disabilities as to just where they fit into society. It's a slightly different issue but there are awareness issues at different levels.

I thought the issues that you raised, Dean, about your own experiences as soon as you declare that you have a problem, then you no longer are getting the auditions. I was wondering, you felt obliged to say that there was a problem or was it something you could no longer hide?

MR NOTTLE: Yes. It is something I can no longer hide. I worked as well as I could. I picked and selected my screen tests and I got caught out in something I thought I could do. Then the director had a change of idea and said, "I think, perhaps, we'll do something different," and I had to let her down; I couldn't do it. So I had to stop hiding.

MRS OWENS: But, as you say, there are so many roles that you could do where it's really totally irrelevant.

MR NOTTLE: Exactly.

MS GAILEY: There is an actor in Melbourne who was appearing in a television series, playing the father in a family and it was one of the lead ongoing roles. That actor developed Parkinson's Disease and the series producer was incredibly accommodating in order to enable him to continue working for as long as possible, but what they did was choreograph it so that his affliction wasn't evident. Whereas, in fact, there would have been no particular reason why the father, with bringing up this family, wasn't able to be depicted as a father who had a disability and to allow that disability and the increase in the disability, because it certainly didn't affect his ability to act, to be incorporated within the role.

MRS OWENS: It could have been part of the story.

MS GAILEY: That's exactly right.

MRS OWENS: And it would bring some reality into the story. Maybe he may not have wanted it to be a highlight of the story, but, on the other hand, it could have been done in a subtle way.

MS GAILEY: It was never canvassed, it was never a possibility for him to even reject the idea.

MS WARBURTON: Of course, Katharine Hepburn had been playing for many years with Parkinson's Disease. She was, of course, a famous performer. Dean has the problem that we have in the industry where there are many unemployed, so the competition is very very stiff. He hasn't got the reputation that Katharine Hepburn had so it makes it even more difficult. I mean, he is a well-known actor, but not in that same sphere.

MRS OWENS: I thought the other point you made about some of the stories are about disability. I'm just thinking of the movie Shine, with Geoffrey Rush. There's a story about somebody with a disability played by Geoffrey Rush. He may have some disabilities, I don't know, but he certainly didn't have that one. It's not as if people aren't interested in those sorts of stories because there's an actor who gets an Academy Award and it was an incredibly popular movie and people are interested.

MR NOTTLE: You go back years to the Helen Keller story, whatever. Those stories fascinate people.

MS STAMELL: Even if a person with a disability, for example, wanted to become a writer, so, say, you wanted a person with a disability to develop a career as a writer, it would actually be quite a difficult thing for them to do. One of the problems I have when I'm not working as an actor is that actors, for example, typically work as waiters or waitresses between jobs. Now, I am actually not physically built for that kind of job. I'm very good in an office and with something that is sort of very intellectually based, but those jobs have a tendency to be a little bit more permanent rather than sort of being able to jump behind the retail as - and I think a person with a disability wanting to become a writer or to be able to - it makes it more complex being able to find work that they could be doing while writing as well.

I have noticed, just being a university student going to quite a large university in Sydney, that if you were a person with a physical disability, universities aren't that well equipped. They're okay but I had a lot of issues, for example, accessing knowledge within the library and had to, if I wanted to get a book, make a booking three days prior to when I actually wanted that book off the shelf, which, if you know, working from a catalogue is very difficult; I might have got the book and then realised it had nothing to do with what I actually wanted to be reading up on.

So even for a person with a disability to access higher levels of education it's not an easy thing to do and there is very little support, financially and - I was disappointed, as well, to find a lack of scholarships available for people with a disability to do so, given that having a disability is actually also usually more expensive. My shoes, for example, are $700 each so I'll buy a new pair of shoes once every two years, a nice pair. I could live in sneakers. I can get sneakers, but there are all those additional costs, for example, which aren't taken into account when a student is studying at university or trying to work within the arts, when life itself is a little bit more expensive.

MRS OWENS: That is one of the issues that we are thinking about in terms of these adjustments that need to be made for people: who should pay? It has become really clear to us that people with disabilities end up having to incur a lot of significant costs over the years. There is the question of how much should people have to pay on their own behalf? People, when they get sick, end up paying - if you're unfortunate enough to get ill, you pay a lot of out-of-pocket costs there. There is a potential role for government, there is a potential role for higher education institutions and so on, and what's the balance?

MS STAMELL: Particularly with disability, where I always think education is an absolute key to finding one's freedom and place within society. It is one way to really develop your voice as well as it increases your earning potential, which then actually increases your ability to cope with your disability because you're earning more and you have a higher dispensable income.

MR NOTTLE: You could almost equate it with the poverty trap. It's a disability trap that you want to be able to get out of. It's not easy to do.

MS WARBURTON: The point you made about people being interested, I think, is very important and I think we totally underestimate audiences and where their interests lie. That's why I just think the same kind of story line, the same beautiful people can become unutterably boring, particularly if you watch television a lot, which I seem to have done more lately than I have. I am now going right off it but that's a personal point of view. I don't know who makes these - there is obviously money and a lot of money, but who - they censor and I don't understand what their philosophy is or why.

MS STAMELL: I would agree with that, too. I have actually turned a couple of shows off and walked away in disgust when I felt they were too superficial. It is absolutely saturating and, as a person who physically looks different from other people, alienating. I can handle a fair bit of it, but when that's the only picture of life you're being shown, it does occasionally just get to the point where you're like, "Wow, I'm never going to fit."

MS GAILEY: But it also goes to the broadcasters' responsibilities to fulfil their obligations to the community and, as we said in our submission, we think it's incredibly important that they are held to account to actually deliver on the objectives in the act and show programs that reflect Australia in all of its diversity.

MRS OWENS: Now, are we talking about free-to-air generally or are we talking about the ABC and SBS?

MS GAILEY: The ABC and SBS operate under separate acts. The free-to-air commercial broadcasters operate under the Broadcasting Services Act. They all have specific obligations and all three of them have responsibilities, but with slightly different nuances, to reflect. But the commercial ones have a responsibility to reflect Australia's cultural diversity and Australian cultural identity, which is where I think they are failing in respect of representation of people with disability. The ABC also has an obligation to show programs that cater to the diversity of Australian audiences and what they might be seeking.

MRS OWENS: Have you got examples from other countries of where it's done better?

MS McKENZIE: That was about to be my question as well.

MRS OWENS: Sorry, Cate.

MS McKENZIE: No, that's fine - what the situation is internationally.

MRS OWENS: Is there a good model?

MS GAILEY: There has been almost no work done on the representation of people with disability that I'm aware of, either here or internationally. There has been a lot of work done on the representation of people from non-English-speaking backgrounds or, in America, the representation of - well, the predominantly non-English-speaking background there is Hispanic - but representation of African-Americans on television, and there have been a number of studies on the same issue in the UK, New Zealand and here. But in respect of disability there has been very very little work done.

MS McKENZIE: What is the other work? I mean, is it possible to make any comparisons or points coming from that other work? What is the work done in America and New Zealand about people from - - -

MS GAILEY: It's about ethnicity rather than disability, but the only work that I'm aware that has been done here that is directly relevant is the work that has been done in Victoria on the representation of people over the age of 55 on Australian television. The Office for Older People, I think it's called, in Victoria released a paper last year and the Victorian government is undertaking further work on that right now.

MS STAMELL: I do know that in Europe there is a little bit more being done for people with a disability working in theatre and there is actually a theatre festival, which is for works done by and/or about disability-related issues. I know that there is also a smaller festival being done, I think, in South Australia that has got a similar aim, but it's tiny, tiny, I think also too, due to a lack of funds and the fact that if you were transporting people with mobility issues, you know, the funding needs to be there for carers and additional sorts of equipment. So in terms of the theatre festival size it's quite minuscule.

MS GAILEY: There has been some work done in the States on the issue of representation of older people, and that's basically finding the same as is the case here that since the Golden Girls, which was a colossally successful - I think it was called the Golden Girls - - -

MS McKENZIE: Yes.

MS GAILEY: A colossally successful series - there has been practically nothing with older people and if you're over 55, again, you're pretty well invisible on the screens in America.

MRS OWENS: We've now got As Good As It Gets. They are two actors over 55 and they have made a big thing of that, and it has been enormously popular, as I understand it. I went to see it and I don't think there was anybody in the theatre under 44, and the place was full. So there is a market.

MS WARBURTON: Of course there is.

MS GAILEY: Same with Calendar Girls - - -

MS WARBURTON: That's why they're so silly.

MS STAMELL: I think people underestimate the interest other audiences have in older people, because remember everyone is going to be one. That's the truth. I was saying a little bit earlier on I was completely ignorant as to whether or not, as you got older, pubic hair turned grey. I had no idea. I had no idea what happens to the sexuality of someone as they age and how their body changes. I've read Every Girl, Every Woman, what happens to young women during puberty, what happens to women during childbirth, but who knows what happens after. I wouldn't even know where to go for that information, you know. So as a young woman, who will one day be an old one, I would love to watch - I actually quite liked the Golden Girls. I would have been about 12 when it was on and I used to watch it.

MRS OWENS: I'm just trying to think of other things where there has been a focus in film or television on older characters. The only one I can think of is Julia Blake and Leo McKern in Travelling North.

MS GAILEY: Wasn't Julia Blake in the recent one, Innocence?

MS WARBURTON: Yes.

MR NOTTLE: And the Road to Nhil.

MS WARBURTON: There are quite a few - - -

MR NOTTLE: People love these films.

MRS OWENS: And Crackerjack, with the bowlers and - - -

MR NOTTLE: Yes.

MS WARBURTON: You see a lot of old character actors in Britain, but you don't see that many here.

MS GAILEY: But where you don't see it is on television. You see it on film, but - - -

MRS OWENS: And the reason you remember these things is because it is so infrequent.

MS McKENZIE: It's so rare. That's why you remember them.

MS WARBURTON: It's interesting that Love Actually, which is an over-the-top good feel film, which I enjoyed, doesn't have one person in that who is in love over 45. It has a child, but it doesn't have anyone old.

MS McKENZIE: You're not meant to be in love when you're over 45.

MS STAMELL: It just doesn't get discussed, and it really sort of - I mean, as well as going through uni and my own life experience and things - I've been working in a community centre and the community centre itself doesn't have disability access, which is a shame given that it's in a very affluent area. It's indirect, and I don't think it is conscience, but given the world that we sort of live in, there is an element of, "Look, if you have a disability or you're over a certain age, just stay at home. Don't come out. Do you need to go to the shops, because if you need to go to the shops that means we've got to put a lift in." Basically people are discouraged.

I know a lot of people with a disability, and I've done it myself: you're in a situation where you really want something - for example, you've had a long day at work, you get to the supermarket, you really want something on that shelf that you just can't reach and most often than not, if it's at the end of the day, you just go, "Do I really need it? I'll just go home. I won't have that coffee, because the counter is too high. I don't really feel like walking up those steps, I'll just go home." It really is this sensation that it is, "Just stay at home. Just don't come out."

MS WARBURTON: When you see T-shirts with young men saying, "Kill the old," it makes one slightly nervous.

MRS OWENS: I'm afraid I haven't seen that one. There's only one other issue, and we probably should move on, because our other participant is here, our next participant. There was in your submission a comment about supporting HREOC initiating complaints - that's the Human Rights and Equal Opportunity Commission. We have mentioned that as a draft recommendation in our report. There is a potential in this area, from what you're saying, to take that further through that sort of process. I mean, it is a broad issue that possibly needs greater airing, and it would be very hard for an individual, one of you here today, to do as an individual and fight the good fight, but it might be something where there is enough of you that could say, "This is an issue that needs to be taken further."

MS GAILEY: We think that the Productivity Commission can obviously play a role in this, because, to be brutally frank, in the current climate unions are not often the organisations that have the ear of government.

MRS OWENS: We will certainly raise it in our report. Any other questions?

MS McKENZIE: No, none from me. It is obviously a matter - because really you're talking about systemic matters, not just matters that affect a few individuals.

MS GAILEY: We believe so, yes.

MRS OWENS: Thank you, very much.

MS McKENZIE: Thank you very much for your very helpful submission.

MS GAILEY: Thank you, very much.

MRS OWENS: We will break for a few minutes.

MRS OWENS: Our next participant this afternoon is Ability Technology Ltd. Welcome, and thank you for responding to our invitation to come today. Could you give your name and your position with Ability Technology for the transcript.

DR SMITH: I'm Dr Graeme Smith and I'm the executive director of Ability Technology, which is a charity that adapts computers for people with a disability.

MRS OWENS: Thank you and, as I said, thank you for coming. Can we just ask a bit more about this charity. It adapts computers on a no-charge basis?

DR SMITH: No, we are not government funded. We do a mixture of work, some for free and some - for example, legal work, we charge the appropriate rate in that industry. We do research work. We set up computer systems for people with a disability. That cluster of services is a mixture of, as I say, subsidised and full-paying activities, so it's a bit of a Robin Hood approach.

MRS OWENS: I like that. We'll quickly get onto the submission because we're running behind schedule with you. As I said before, I thought it was an incredibly useful submission that's got to the nub of some of the issues that we're working our way through right at the moment in relation to employment, and I thought it was very insightful in terms of its dealing with these issues, and that's why I asked if you could come in to just talk to us briefly. Maybe we'll just go through a few of the issues that you've raised. I think Cate has probably got - - -

MS McKENZIE: All of them are of interest but some of them are - I don't think there is any question that what you've said is correct. Others I think need perhaps more discussion.

MRS OWENS: You've made the point - and I think this is a similar point to the Australian Chamber of Commerce and Industry; I think they've written the point much the same way - it's not the purpose of the DDA to increase employment of people with a disability and I take that as a realistic interpretation. In some cases that will be a by-product if you reduce or remove barriers, but you've made the point that it really depends on - you might get people into the labour force but it doesn't necessarily guarantee that they'll get a job. We need to consider what's happening on the demand side as well. But it would be nice if an impact of the act was to at least open up job opportunities for people.

DR SMITH: Yes, as long as it doesn't allow governments to assume that this is happening. If a government assumes that the Disability Discrimination Act is intended to increase employment of people with a disability, then it won't be doing other things to meet that objective, so if the true objective of this act as stated is to try and reduce discrimination, then it's quite a tortuous argument to go from there to an actual increase in employment, and even if you get to that end point, the increase in employment may be at the expense of other marginal groups in the labour force.

MRS OWENS: Yes. There could be a displacement, in effect.

DR SMITH: Yes, changing of people on the queue - a change of position on the queue. On reflection, I was thinking of a situation where this may not be the case, and that is we are expecting a labour shortage in certain age groups in the future, and if people with a disability were able to slot in to meet that need, which could also be met by migration or some other activity, then that would certainly have productivity gains and overall benefits. But again, it’s still at the end of it a long argument.

MRS OWENS: Yes.

DR SMITH: Has discrimination been reduced, and even if so, has that had an impact on employment levels?

MS McKENZIE: One of the things we’ve struggled with is how to measure the effectiveness of the DDA in this area, and one of the things we’ve thought about is it might be possible to use as a measure the participation rates of people with disabilities in employment and then using discounting factors to take account of the other factors that will likely have been coming into play in relation to that participation. It’s difficult. I have to say we have struggled with exactly how to measure whether the act is performing effectively in reducing discrimination.

DR SMITH: I don’t envy your task because you could argue that an increased number of claims was just a sign of success or you might argue the reverse.

MS McKENZIE: Exactly.

DR SMITH: A diminished number of claims shows that it’s actually working. People entering the workforce - I mean, I employ people with a disability and have done for a decade or more. They are very acutely aware of financial decisions at the margin. They know what an extra day’s work is going to mean in their pocket. They do the calculations very carefully. They know that if they get an extra day’s pay, it means a loss of pension, a loss of other benefits. It’s a very finely balanced decision, and I would think that it’s those kinds of incentives that would play a big role in first a decision to enter the workforce, or to intensify their involvement in the workforce, more than other factors.

MRS OWENS: With the workplace adjustments, which was the second part of your submission - and you’ve mentioned the government’s Workplace Modification Scheme that said that there’s a whole lot of other costs that are incurred, some of which could be even more troublesome for employers than special equipment, and one of the questions we have been grappling with is who should pay for what, and what is the role of government, and if government has indeed got a role to assist in covering adjustment costs of whatever type, how much is enough? Is what the government is doing now sufficient or are there other programs that could be thought of to supplement what's already in place now?

MS McKENZIE: You see, in that context you've raised the really interesting point that it's ideally best if you can have the equipment before you try to enter the workforce or at least while you're trying to enter the workforce. You wondered about whether there could be some kind of deferred payment mechanism, a bit like HECS, that might operate.

DR SMITH: Yes. It seems that the possibilities of productivity gains for a person with a disability - and I'm looking at my field which is adapting computers, which is quite a large influence on a person's productivity in the modern workforce, yet a person who's thinking of becoming employed may not be aware of the potential gains in their productivity, so their self-definition may be, "I couldn't earn enough money to make it worth my while, to put up with the pain and the transport," and all of that, not knowing that with appropriate technology that may be much more productive than they first thought.

If I can just give an example: when I first got involved in this field, I was a consultant working at the Spastic Centre, and my first vision of this was walking into a room with 200 people with cerebral palsy doing packaging work, and I remember thinking to myself, "Why are they doing packaging work? They have impaired hand function. Why are they doing a job that really leans on their disability rather than something else?"

Now, that set in train for me I guess a vision that runs a bit like this: a person might be 5 per cent as productive as an able-bodied person doing packaging work, but they might be 30, 40, 50 per cent as productive as an able-bodied person doing desktop publishing or bookkeeping with a computer. That's always stuck in my mind; that the productivity of a person with a disability may depend on their capacity to have the tools that can make them more productive. Computers help them speak, write, do calculations, study, access information. It's a revolution that is extraordinary in its consequences. It's one of the best things that's happened to people with disability in decades, and yet in Australia we have no assistive technology policy.

In America they have the Assistive Technology Act, which draws together government initiatives in this area, and I know the commission is looking at collateral policies, and this is a glaring omission. Technology is spread between different government departments, different levels of government, and they haven't really seized the vision. If you just read the first of the preamble to that act - the Assistive Technology Act of 1998, I think it was - you'll be inspired by the vision they have for what technology can do for people with a disability. That hasn't been appropriated here, therefore funding to help people become more productive hasn't really got on the agenda. It's not part of the Commonwealth-state disability agreement, for example. It doesn't have a home anywhere. It's a vagabond activity.

But back to your question: if a person can become enriched by a sense of their own productivity, then they may venture into the workforce, step 1. Step 2: it may widen the target jobs they can go for. That really leans heavily on the job placement sector which, from my reading of the literature, has a patchy performance in terms of quality. When it works well, it works very well: targeting a person to the right jobs and giving them the right encouragement. It's also encouraging for an employer if a person has obvious productivity. When I employed a person with cerebral palsy, one of the factors was he had a certificate in information technology. That reassured me that he wasn't just a good talker but he actually had some publicly recognised credentials in that area, and he's been working with me for seven years.

MRS OWENS: But then he had to get into the training in the first place to get his certificate. Would there have been the adaptive technology when he did the training or has he gone out and got it for himself and said, "I'll go - - -"

DR SMITH: He's an especially resourceful person, but he has relied on computers through his work journey.

MRS OWENS: I'm interested in this Assistive Technology Act and what the US government is doing. The US government is actually putting money into providing technological solutions for people?

DR SMITH: They fund and partner various state schemes but the direction - - -

MS McKENZIE: And is it by way of grant?

DR SMITH: Partly, yes. There's a lot of money behind it. In fact this act is a recasting of an earlier act of 1987. I mean, the Americans have been onto this for quite a long time. We've been asleep at the wheel. The potential there is enormous.

MS McKENZIE: And also it's at the stage at which that assistance comes in. My understanding of the Workplace Modifications Scheme and so on is that they all operate once you've actually got to the employer's door, and really it's before that that I would have thought, as a person with a disability, you need to be able to broaden your horizons, have the technology that will enable you to have a greater breadth of choice for positions.

DR SMITH: Yes. It seems obvious when you think about it. A person without the technology undergoes a productivity test at a workplace where they haven't yet learned the fluency to be productive. The gains from technology for a person with a disability are disproportionately greater than for an able-bodied person. The gains are quite incredible. So if a person could have those skills and enter the workforce with that packaged ability, almost like a prosthetic addition to their life, I guess - the same way they may have a wheelchair, without that they can't get around - if that person comes with ready-made skills that demonstrate their productivity in a modern work setting, then that may be very enticing for an employer. It certainly gives the person a chance to fare better in that productivity test.

MS McKENZIE: And also that's interesting because one of the things employers have said about the defence of unjustifiable hardship under the DDA is that the cost of workplace modifications might, at least theoretically, be quite great, whereas of course under this scenario the costs would have all been sorted - or a lot of it at least would have been sorted - before you ever got to that person's door.

DR SMITH: Yes. Government support schemes like the Workplace Modifications Scheme, apply at the beginning of the process. In an age of company restructuring, revamping, turbulence, people may need to have their needs reviewed periodically through their work life. The studies I've seen suggest that there's money available, which is interesting, but there's not information available; an employer wouldn't know where to go to get an upgrade for a blind person's JAWS program or something and some of the voice recognition technology - I mean, a company might change its network. This is a looming problem.

Networks are designed to keep out extraneous software and hardware: an interesting legal issue of an employer's right to defend the integrity and security of their network but at the same time locking out the possibility of a person with a disability using special equipment. That's an interesting one. It's a time bomb that's started to go off. The question is, there's funding there but not the information for employers - even the job-seeking sector don't have the specialised information that our organisation has, and other groups like us, that specialise in assistive technology. It's a very specialised area, to know what a person with a particular structure of need requires in terms of the right equipment.

MRS OWENS: The other big issue that we're dealing with is this issue of how far we go with a positive duty call, if indeed such a duty is required. You've said in your submission that you strongly support our proposal. Now, as our proposal is written, the implication was that employers would have to start to think about how they would adapt the workplace ex ante, even possibly before somebody came to the door asking for the job. Quite a lot of people said that it's possibly very hard to interpret what that means, and you've just raised the issue of inadequate information for employers in terms of adapting technologies and so on.

DR SMITH: Yes.

MRS OWENS: So we're grappling with, if we don't go down that route, what route do we go down. You've also raised the other issue that we have been trying to work through, and that is, to what extent is the act currently requiring organisations in different areas of the act to make reasonable accommodations? I think we've reached the conclusion that you have, as a result of what's called the Purvis decision, that the act may not be clear on that and it may not be actually requiring an adjustment. So what we've been thinking through is whether that would be sufficient to clarify that responsibility in the act. Cate can probably explain this in a clearer way than I can because Cate is a lawyer.

MS McKENZIE: That doesn't necessarily mean I'm going to explain it more clearly than you have. I think you're right as far as the act is concerned, and the High Court has said you're right as far as the act is concerned - that it doesn't contain a duty to make reasonable adjustments. But I think it's fair to say that in the cases that have looked at discrimination, the thought that somewhere lurking there in the act is this obligation has sort of informed the decisions that have been made to an extent. I also have to say that there have been suggestions in various submissions that if there's not a reasonable adjustments duty, there should be, and we should put one in. Those submissions would tend to go further and just say there should be a general duty to make reasonable adjustments in all the areas which the act covers. Our employers' duty didn't go nearly as far as that; it only related to employment, and that duty was a slightly different duty from just a duty to make reasonable adjustments in whatever area up to a point of unjustifiable hardship - in other words, it's not an unlimited duty.

DR SMITH: Yes.

MS McKENZIE: Our duty looked a little differently and said that basically an employer has first got to identify - up-front it's got to identify barriers, barriers which might, if you like, result in discrimination against people with disability, barriers of access to employment, and then, if a person comes through the door, that employer has got to take reasonable steps to remove those barriers.

Again, it's a difficult area, but can you make comments about first whether you think there should be a general duty to make reasonable adjustments in all the areas of the act and, if not, what do you think should be there? Do you have the same difficulty, for example, with what we've called, for short, the "positive duty" that we suggest some of the employer organisations have, where they say it's difficult to do this identification process for everybody and who knows what you're supposed to be doing and it's very difficult to do it up-front, and in any case, if that part of the duty is taken away, then all you're really left with is something similar to the current prohibitions in the act, so why in fact have a duty of this kind at all.

DR SMITH: I think at the minimum the act needs to be clarified. If cases have been determined on the assumption that there is this provision within it but no-one can find it, then there's a need for clarification. People like myself who look at the plain sense of wording and words like "accommodation" - in America they talk about "reasonable accommodation" and that's where the transition has come, we've sort of tried to assume it's in there.

I think the sad thing though is that when the American act was announced, the fact that there was this up-front requirement to make reasonable accommodation - I mean, it's on the front line: "If you don't make reasonable accommodation, you're discriminating" - set the trade journals buzzing. I know because I was doing research for my thesis at the time, and did a search on the ADA, and every journal in the country was running articles on what is a reasonable accommodation, what do you have to do; but at least put it on the agenda.

I don't recall there being anything similar here in terms of reaction, and I quoted from one of the articles here that it's just a much more sombre introduction, it didn't have the public relations impact perhaps that the ADA did. But look, I was drawn to your idea of the positive duty, and it may be sold on the basis that it is a bit more restricted than perhaps an American style up-front reasonable accommodation or reasonable adjustment provision. It is targeted just for employment. I've forgotten the exact wording that you used in your draft, but it was milder than what could be the case if you change the act and put that reasonable adjustment provision more boldly, which you're sort of going to have to do anyway because it's not clear in the act where that responsibility is.

The way I read it, it's not until the employer wants to fight a discrimination claim against him or her, he or she can then go back to the adjustment that would be required and its cost, and argue hardship. So it doesn't really come to the fore until well down the track in that process, which is not what you really want.

MS McKENZIE: One of the advantages we had seen with the duty worded in those terms is that you could if you wished, if you're an employer, factor into your costs the making of the adjustments and just use it as part of your business plan; you could do it over time.

DR SMITH: The cost is not the issue: the government will fund some of the cost.

Big firms can spread the costs over a wider budget, but the smaller firms - we had to get a ramp built at our workplace and the government helped fund that, to enable two staff to gain access. The real problem is information for employers, knowing what to do, where to get this or that done, where to seek guidance and expertise in an area that's fairly fragmented. That's where I think governments could offer a lot.

MRS OWENS: The employer groups are just thinking it through now and saying, well, it really means employers have got to really be thinking about these things ex ante and it's very difficult, especially for small businesses, to grapple with this.

DR SMITH: In America they've been doing this since 1990 - I mean, they have gone through that process. Surely we can borrow some expertise from that experience.

MRS OWENS: But isn't it under the American act the requirement that they make adjustments once somebody is there, seeking the job or in the job?

DR SMITH: That wasn't the impression I had from the way it was discussed in the trade journals early on. The wording of the act is certainly that you're discriminating if you don't make reasonable accommodation. The impression was that firms were preparing for the eventuality or the expectation that they will be employing people with a disability.

MRS OWENS: Yes. You raised the issue about employers having networks that may not be compatible with using certain equipment. If you put in a new network you might, I suppose, under this arrangement say, "Okay, I must make sure that I put in a network that potentially could be compatible if in future certain equipment is going to be required." I don't know whether you can do that; I'm not a computer expert.

DR SMITH: Well, that's one thing we're actually working on now. Unfortunately the network nerds, if we can call them that, have abysmally poor knowledge of special equipment. They deal in the world of standard computer components and security and firewalls and all the things they've been taught to protect the company from extraneous software and hardware drivers, so even if a person wants to run a little program to switch their left button to the right and their right to the left, it can cause a major problem in a network.

It is a big issue. Wouldn't it be great if there was a research centre somewhere in Australia that tested all these things? That's what we've been pushing the government to create, to test these devices, know what their compatibilities are. This would benefit schools, employment placement agencies, employers, and cost peanuts.

MS McKENZIE: So you could have a resource that you would just go to if you wanted to use one of these, and see - - -

DR SMITH: Such an organisation would produce reports on compatibility issues, testing different equipment and conduct tests, perhaps partly government funded sometimes, to test whether this network can be set up differently to allow employees with a disability to work differently. It would save a lot of mucking around by everybody.

MRS OWENS: Coming back to the US, if the act is interpreted in the way you suggest, some of this testing and these thought processes, I would presume, would have had to have taken place there in any case.

DR SMITH: It's evolving, because the technology is evolving. We didn't have networks a few years ago. It's not a one-off thing. It's a process that needs to be undertaken, and I think that the recent changes to the Rehabilitation Act in the States have looked at technology specifically. So they are certainly aware of the activities there. I just have one other comment to make - I thought amusing - that you might want to take on. It was the fact that when we're born into this society we inherit social and economic capital. I mean, the Harbour Bridge is here, there are wharves, there are railway lines already built by past generations. Part of the income of an economy or society at any point of time is, in part, a reflection of that past wealth. It could be argued that every person born into society is entitled to a return from that accumulated investment. So from an economic point of view perhaps that's a rent payment, a rent transfer, rather than social welfare. Speculative thought.

MRS OWENS: Thank you, very much.

MS McKENZIE: Thanks very much.

MRS OWENS: I'm sorry to have kept you so long.

DR SMITH: That's fine. Thanks for the opportunity.

MS McKENZIE: It was a most helpful submission and really is just directly relevant to issues we're looking at now. So it's very helpful.

MRS OWENS: We might just break now for a very quick afternoon tea for five minutes, because our next participants are here.

MRS OWENS: The next participant this afternoon is the Hurstville City Council. Welcome to our hearing and sorry for the short delay. Could you each give your name and your position with the council for the transcript.

MS FIELD: I am Virginia Field, the community worker for aged and disability services.

MR LINDEN: I am David Linden. I'm the manager of community services.

MRS OWENS: Thank you. We have got your little submission here. You're happy for us to just go through each of those issues one by one.

MR LINDEN: Yes.

MRS OWENS: You say you've consulted the Hurstville Access Committee and service providers in the region, and you said before we started that you might have some examples that you can provide for us. So how about we go to the first issue here and your concerns about the act being a complaints-driven act. You say that the impact of reactive-type policy directs the responsibility for the creation of an environment and community that is supportive and accommodating into the lap of individuals. As you probably know we have made a draft recommendation that representative complaints - the potential for those could be expanded or made clearer, and also that the Human Rights and Equal Opportunity Commission perhaps be given a role in initiating complaints, apart from its current inquiry function. I don't know whether you want to comment on those draft recommendations.

MS FIELD: I think it's really important that HREOC takes on perhaps a better identified role in that. My experience from communicating with people, either service providers or individuals in the community, is that there is a real reluctance to step up to make a complaint. A lot of people don't know what the process is in the first instance. They can be a bit daunted by having to represent themselves or to challenge an organisation or a business, even though they feel they may have been treated unfairly. I guess from my point of view as a council worker, when we're trying to create an inclusive community where people do feel that they can function like every other individual, when they're sort of finding brick walls, if you like, and barriers that make that difficult or impossible, and then the process to change that is quite daunting, that's what I think we were trying to say by it being a reactive process.

MRS OWENS: People have got to know that that act is there in the first place.

MS FIELD: That's right.

MRS OWENS: Do you get a sense in your area that people would not have a clue about the Disability Discrimination Act, or their rights under that act?

MR LINDEN: Certainly one aspect of Hurstville is the multicultural nature of the community and certainly we would feel that would apply, to a large extent, in that community. The largest population group in Hurstville is Chinese-speaking, the largest multicultural community and, yes, certainly we would feel that would be the case there. Just on that aspect of promotion and education awareness, we feel there's probably something that - maybe the opportunity could be taken with this process now to re-establish the intent and purpose of the act, you know 10 years down the track, the review and the like; it's a good opportunity to remind people through some sort of promotional campaign that it's there, what it's trying to achieve and, as Virginia has said, in an inclusive situation more so than a reactive type of environment promoting the positive aspects of what the act is trying to achieve - not just the benefits to disabled people, but the benefits to the wider community from implementing those provisions.

MRS OWENS: Yes, I think we're thinking this issue through now, because if we put in a final report that makes certain recommendations to change aspects of the act, and if those recommendations are accepted by government, it's important to get information out there about those changes. So it could be used as an opportunity to not just focus on any changes that might arise as a result of this inquiry but just to remind people that that act is there.

MR LINDEN: Exactly.

MRS OWENS: As you say, it needs to be targeted not just to people with disabilities, but to the rest of the community, so people - employers or - - -

MS FIELD: Builders.

MRS OWENS: - - - builders, clubs - recognise that they have a responsibility to comply with the act.

MS FIELD: Yes.

MRS OWENS: I think there are a lot of people out there that just don't understand - - -

MR LINDEN: It can be to their advantage to do that in the longer run, as we say, by involving the rest of the community as well, or making facilities more accessible for the rest of the community and not just the disabled.

MS FIELD: See, I know that AQA, which is now Spine Court Australia I think, have been running a project about encouraging builders and real estate agents to promote the advantages of having accessible and adaptable housing in their industry. I think that's sort of a retail market more. But as a council, when we're looking at trying to recommend that the standards are imposed in a building application, then there's this issue of minimum standards versus enhanced standards, and very often ideally what we really want are those enhanced standards. If there is this real resistance to having any kind of framework imposed at all, people are going to do the bare minimum. So I think that sort of promotion to look at the long-term and expanded advantage of having those modifications if you like, or that baseline, established, makes it so much easier in the long run.

I think in terms of new buildings having the access established, the physical access established, it's easier to deal with. But we've had experiences where the modification of an existing building, that's always much more difficult to justify and then that unjustifiable hardship situation becomes a battleground, if you like. We've had an experience recently where an application was overturned. The recommendations of our access committee were overturned on those grounds; I don't think it's a single one. It's just one example that we've got perhaps in the last few months.

MS McKENZIE: Hang on - your access committee. Can you just explain a bit more? Not in specifics, but - - -

MRS OWENS: What sort of building was it?

MS FIELD: It was a two-storey building and it was the application by a school, a maths tutoring school, to establish rooms in the first floor of this building to tutor children. We just thought it was quite an inappropriate venue. There was no access other than a narrow staircase. I think they may have done stuff about lighting and parking and so on - - -

MR LINDEN: There were some complied with, yes.

MS FIELD: Just the physical access. I think that in that instance it's not just looking at people with a disability. Families with children would have found that difficult, and that's what I'm saying about the baseline. If people can recognise that what people are asking for in terms of physical access is going to benefit the whole community - - -

MRS OWENS: What was the basis of the unjustifiable hardship defence in that case?

MR LINDEN: Just costs, as I understand it.

MRS OWENS: But couldn't they have found another venue, or had they already signed a lease?

MR LINDEN: To be honest, I don't know the exact details, because we weren't part of that part of the process. Is it all right if I call you Cate?

MS McKENZIE: Yes, of course. We're Cate and Helen. If you're happy we will call you by your names, too.

MR LINDEN: Absolutely. To answer your question about the access committee, we feel that we've got a very active and - well, a very proactive access committee too, and a very lively committee. You were asking the question about an input into the application process.

MS McKENZIE: Yes.

MR LINDEN: Is that what you're aiming at? We have a number of applications referred to the committee from our approvals section for comment about access issues. While we don't necessarily have the whole committee, which has something like about 10 or so members on it, to deal with each application, we have a small subcommittee of about any three members that we can sort of muster together, because the committee meets every two months, so we can have an application come in the week after we've had a meeting, sort of thing. So we have a small subcommittee who are available on call - any of the three members - and they come in and they certainly do devote quite a bit of time in examining the plans and making recommendations, and they then go forward as part of the approval process.

MS McKENZIE: And what happens after you've made those recommendations? They can then be accepted or rejected?

MR LINDEN: Absolutely, by the council through its approval process, yes. In fact, it's interesting that you should raise that point. It's one of the issues that we've just been recently discussing at the committee again, about what process maybe we should be looking at to have the committee informed of whether its recommendations are accepted wholly or whether they're rejected completely, or whether they're modified, because that has been a bit of a shortfall, I guess, in the process. Because there's a time lapse with the processing of the applications, we as a committee and even as staff members sometimes don't know exactly what's happened to those applications unless we go and chase them up ourselves. So we've just recently been discussing to develop a process to ensure that we do get - - -

MS McKENZIE: So you're actually informed about what is - - -

MR LINDEN: Yes, and we know the value of our input - - -

MS McKENZIE: That's really important, I agree.

MS FIELD: I think, too, we give the committee's recommendations to the engineers but then it's in the engineers' hands to deal with the council, so we don't have a voice beyond that first stage, so we can't sort of - - -

MR LINDEN: Provide an explanation or a back-up to the recommendations.

MS FIELD: Yes - support a written recommendation, whereas the engineers may be less inclined to really strongly advocate for a recommendation, so there's not that process in our organisation.

MR LINDEN: And I guess having said all that, it's probably partly incumbent on us to maybe try to change that, but that's just the way our council operates and, as I say, it's probably our responsibility to try to improve that.

MS McKENZIE: Yes. Obviously there might be some scope for improvement there.

MS FIELD: Yes, but the access committee itself is strong, as David said, and perhaps we've got a better system than a lot of other councils might have in that regard. I know that one of our fellow St George councils doesn't even have an access committee at all, so how are these processes being dealt with in an organisation like that?

MRS OWENS: How long has the council had this access committee? Has it been there a long time?

MS FIELD: 10 years, since the original legislation.

MR LINDEN: 10 years. I guess the other thing we should say is that both Virginia and myself have only been with council for a couple of years, so we don't go back very far with that.

MS FIELD: But there are members on the access committee who've been there since it was put together.

MRS OWENS: Yes. We'll be seeing them tomorrow. It's a pity they weren't here today.

MR LINDEN: Yes.

MS McKENZIE: We were just talking about unjustifiable hardship, and you mentioned builders. Is it your experience that really builders or developers are reluctant and bothered about making modifications to buildings to make them accessible?

MR LINDEN: To a certain extent. To be fair, I guess in the case that we just cited, it probably obviously relates more there to the owner, like the operator of that school, but in the case of a cinema complex that we had before us in the last 12 months or so - and again we didn't get a lot of feedback on that, either, did we? No. The nursing home one was probably a better one. We had a nursing home where there was quite a deal of input by the committee and in that case there were quite a few of those recommendations that were objected against and ultimately not applied. Maybe you can speak from your experience, too, Virginia, but I think there is a reluctance there to follow through on all the recommendations and in the case of the nursing home the recommendations weren't excessive in terms of their need. Obviously there was a cost impost attached to those - I think one was an elevator, was it - a ramp, wasn't it, or something?

MS FIELD: Yes.

MR LINDEN: I just forget the actual details, but they were considered necessary.

MS FIELD: One of the things we've thought about is some kind of guidelines for councils. Our council has requested an exemption from step 5 which is the New South Wales legislation about multiple dwellings, and it's taken five months for - with the exemption we have to define our own - - -

MR LINDEN: Development control plans.

MS FIELD: - - - development control plans, and there's been this five-month lapse now while the council is waiting to get approval for the new DCPs that we've proposed, and I guess there's a feeling that there's not much support or guidance in that respect about how an organisation like local government can put in place what the act is wanting to achieve. I don't know where that needs to come from - to have, as David mentioned before, the intent of the act sort of filter across other government departments and in the way that legislation is put together. Maybe that's a dream, but it's part of the stuck place that we sometimes feel that we're in, because there aren't very good guidelines or examples or ways that people can refer to or - - -

MRS OWENS: Who would be responsible for these guidelines? Are we talking about state-level guidelines or Commonwealth - - -

MS FIELD: Well, each council is doing things independently, but all local government is subject to state government legislation, so probably a lot of it would be state. Planning is at a state level.

MRS OWENS: But we are going to have this access to premises standard I presume fairly soon, and perhaps that's somewhere where the responsibility is - it could be at the Commonwealth level or the state level. I haven't really thought that through.

MR LINDEN: I guess, as we were saying there, too, the standards are always the minimum standards. The most you'll get is perhaps the full compliance of those - probably the best you can hope for in those cases - whereas they probably really need to be a bit better than that, but that's - - -

MRS OWENS: You've got to trade that off against the need for some certainty out there. That's why they're trying to develop the standards.

MR LINDEN: Yes, that's probably being a bit extreme. Talking about guidelines, and we were talking about the undue hardship and the like, I guess this is probably a difficult one, too, but we feel we need to make the point that because of the uncertainty I guess about that principle - and I know that in the report you talk about not obviously moving to a definition, because I think that would be a minefield anyway, but we would like to suggest that, if possible, again some guidelines or some criteria or something to help clarify that aspect of undue hardship.

Again, that might be a minefield, it might also almost be impossible too, but because of the fact that at the moment the current situation is so unclear, I guess it is a time bomb in a sense - a potential time bomb sitting out there because getting back to the complaints-driven nature of the act, there's probably not as many people complaining as may otherwise have done so, and therefore these issues are perhaps remaining silent and situations like the one we've cited may never ever come to light and therefore it never gets tested and therefore you never really have much to go on. So unless and until some body or some group takes up an issue, like has been done on one or two occasions, you don't really get a precedent or something to act on.

I guess that's a sort of long-winded statement but if it was possible to produce something which would help to clarify this aspect of undue hardship for everybody, not just for the people who may feel they're discriminated against, but also in the case for us, for councils, so that they would have a bit better guidelines in terms of dealing with this also, to think, well, okay, we can maybe accept that in a sense, and if we do get a complaint then we've got a reasonable sort of case to present, if it ends up getting to court, whereas at the moment it's probably a bit vague and I guess it's a sort of a fingers-crossed situation and hope that we put the money on the right horse.

MS McKENZIE: It is difficult.

MR LINDEN: I think you get a cycle in council of the councillors being afraid if they refuse a development application that it's going to be taken to the Land and Environment Court and that's going to cost them money, so if they think that there's any remote possibility that it's going to be challenged - and undue hardship has kind of been another anchor that developers or builders have had to fall back on or to use in that way - it's meant councils have been a little bit more - probably less assertive or less proactive in promoting or wanting to have full compliance. So the scales have tipped in a way that is less advantageous I think to the community, or certainly to the people we're trying to advocate for - or I am in my position.

MRS OWENS: You raised an interesting idea in your submission when you were talking about what you've called undue hardship. In the act it's called unjustifiable hardship. You've said a preferred system might be to provide some kind of pecuniary incentive to organisations prepared to make premises fully accessible. Are you talking there about some form of government compensation or some sort of government scheme in some instances? Is that what you're after?

MS FIELD: Like a reward, perhaps, a grant or a - - -

MR LINDEN: It could be tax relief for a business in the case of a business, because the report does talk about shared costs, doesn't it, of implementing the provisions?

MRS OWENS: That's right.

MR LINDEN: And I think that's a reasonable approach. Again, it's how you develop a formula that is acceptable to everybody, but I think as a community as a whole, including government and business and the rest of the community, well, then, there's got to be a shared, or there should be a shared cost situation there; so, yes, the government, whether it's by way of capital funding, tax relief, some other sort of incentive.

MS FIELD: I can imagine that could happen on a local government level, too. We're getting a lot of high-rise buildings in our suburb, or I think all over Sydney urban consolidation is quite visible, so obviously there are certain things that are going to be required to make those buildings appropriately accessible, and maybe there's some way of getting council support with the tactile indicators or whatever has to go with - you know, the associated things to make a place fully accessible;

support or advice - I don't know. I think there could be some way of making that process easier.

MR LINDEN: It's a bit difficult to really sort of nail that down.

MS FIELD: Yes. What has come to my mind is, I have worked out in the Penrith area and it was compulsory for developers in big sort of new developments to put a neighbourhood centre - you know, if you're going to build this many houses you had to put in a neighbourhood centre. Again, with new buildings it's different; they have to have physical access there. But then maybe there's some way of backing that up with support from the streetscape or, as I said, the tactile indicators that go beyond the building, and promoting that as a fully accessible building.

MS McKENZIE: Yes, it's sort of seamless - that the pavements are accessible, to get into it is accessible.

MS FIELD: That's right. So maybe even the reward can be easier working with council and other associated service providers to make sure that what you're trying to create there is going to be a sort of "you beaut" project, and I think that's what we were trying to promote with the cinema complex that we've just had. There are a lot of things that our access committee saw were real problems; even the seating in the individual cinemas was inappropriate. So we were trying to suggest to them if they do this, you know, we can actually see this cinema complex being very family friendly for every kind of family unit in the whole - - -

MRS OWENS: What was inappropriate about the way they were going to set the seating up? There were just not enough spaces for wheelchairs?

MR LINDEN: I think it was the location.

MS FIELD: The location of the - - -

MR LINDEN: And to their credit they took on board the comments there and sort of moved the seating which, with the final design they came back with, was really great - you know, the seating was right there as you came into the cinema and was easily accessible by disabled people and, as Virginia said, by families and the like. I guess in that case it was something they probably hadn't really given a lot of thought to and it took the access committee to provide the answer, and they took it on board.

MRS OWENS: Were the cinema owners or the building owners, whoever is responsible, reluctant to do it?

MR LINDEN: Not with those sorts of things. I'm just trying to think with that one, because that one was modified. It didn't go ahead in the form that was originally submitted, because there were community objections to the whole development. A cinema is a fairly high residential commercial-type structure as well. But I don't think there were too many things there that - - -

MS FIELD: Well, the toilets, and there was one elevator; I think we recommended a second elevator, because if they were going to have the number of people that they envisaged using this complex, between 1500 and 2000 people - one elevator.

MR LINDEN: The ramps weren't sufficient.

MS FIELD: The ramps weren't sufficient - I don't think there were ramps, just one elevator in the original development.

MS McKENZIE: And so they were fixed up?

MS FIELD: Yes, I think they were.

MR LINDEN: To be honest, I can't - - -

MS FIELD: I know certainly a ramp - - -

MR LINDEN: They put a ramp in, didn't they? That I was thinking, there was a ramp in there, but that was after we - - -

MS FIELD: After we had suggested it.

MR LINDEN: Right, yes, because I knew I had a ramp in my mind, that's why I asked the question. So, yes, by and large they were fairly compliant.

MS McKENZIE: And they could then advertise the cinema as accessible.

MR LINDEN: Exactly, yes. That's what the committee was saying.

MS FIELD: That's right. I guess what we're trying to say, the educative role that we take sort of comes from behind, and it would be really nice for that to have greater awareness in the community in the first instance, without always having to sort of come after the event and have to correct - to have the consciousness there in the first instance would be really nice.

MR LINDEN: Getting back to that positive, proactive aspect of the provisions.

MS McKENZIE: Has anyone ever come to you actually before the event, so in other words before they actually get the plans for whatever it is they want to do, they come to you and discuss the issues?

MS FIELD: No, not in our case. We always get them to comment on. That's actually one thing we've thought about doing, trying to include some information about access in information that the engineers distribute, so that people do start thinking about it more ahead of time. I think at an industry level that could be approached better. Like, we experience what we experience in where we're working, but I think just to see how other parts of our community - I don't know how far I can go in my role to sort of take on that responsibility. Who could be doing it, I'm not sure. As I said, AQA I think have been doing something with real estate agents, which is fantastic, but yes, there's probably a lot more that could be done.

MRS OWENS: Do you get a sense that your counterparts in other councils are in a similar situation to you, or are there other models that are being applied successfully?

MS FIELD: Well, as I said, I think it depends. Not every council has got an access committee to start with. Have they got one? How is their role seen within the organisation that they're working in?

MR LINDEN: And even in some cases, there's not a dedicated community worker - the person might have two or three areas of responsibility; portfolios as well - so the amount they could dedicate to that aspect is limited too. But in the Southern Sydney Regional Organisation of Councils, the SSROC, there is an access forum where Virginia and her counterparts do meet every quarter, so there is a bit of an overview from - - -

MS FIELD: From the region.

MR LINDEN: - - - from the region, that could take in quite a number of councils, from St George area right to the eastern suburbs. So there is a broader focus than just beyond our region - St George region.

MS McKENZIE: That's it from me.

MRS OWENS: I think I've covered it, too. We'll be seeing your access committee tomorrow. We'll run over some of the same issues there, and see if they've got a different perspective.

MR LINDEN: Yes - hopefully not too different.

MS McKENZIE: They may be able to add some more perhaps information.

MR LINDEN: I'm sure they'd be able to add some more.

MS McKENZIE: Yes. Thank you very much. That was a very helpful submission.

MR LINDEN: Thank you very much.

MRS OWENS: Thank you. That concludes today's proceedings, but I was just wondering if our member of the audience would like to come up here, because I always make this offer at this time each day, if you have anything you'd like to say on the transcript.

MS ....: I don't particularly today, but I might tomorrow.

MRS OWENS: Okay. We'll invite you again tomorrow.

MS McKENZIE: We'll invite you every day.

MRS OWENS: Thank you. I'll now adjourn and we resume tomorrow morning at 9 am.

AT 3.58 PM THE INQUIRY WAS ADJOURNED UNTIL
THURSDAY, 19 FEBRUARY 2004

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