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# Response to the Aviation Green Paper

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## 1. Introduction

### 1.1 About Blind Citizens Australia

Blind Citizens Australia (BCA) is the peak national representative organisation of and for the over 500,000 people in Australia who are blind or vision impaired. For nearly 50 years, BCA has built a strong reputation for empowering Australians who are blind or vision impaired to lead full and active lives and to make meaningful contributions to our communities.

BCA provides peer support and individual advocacy to people who are blind or vision impaired across Australia. Through our campaign work, we address systemic barriers by promoting the full and equal participation in society of people who are blind or vision impaired. Through our policy work, we provide advice to community and governments on issues of importance to people who are blind or vision impaired. As a disability-led organisation, our work is directly informed by lived experience. All directors are full members of BCA and the majority of our volunteers and staff are blind or vision impaired. They are of diverse backgrounds and identities.

### 1.2 About people who are blind or vision impaired

There are currently more than 500,000 people who are blind or vision impaired in Australia with estimates that this will rise to 564,000 by 2030. According to Vision Initiative, around 80 per cent of vision loss in Australia is caused by conditions that become more common as people age.[[1]](#endnote-1)

Australians who are blind or vision impaired can live rich and active lives and make meaningful contributions to their communities: working, volunteering, raising families and engaging in sports and other recreational activities. The extent to which people can actively and independently participate in community life does, however, rely on facilities, services and systems that are available to the public being designed in a way that makes them inclusive of the needs of all citizens – including those who are blind or vision impaired.

## 2. Submission context

BCA welcomes the opportunity to respond to the Aviation Green Paper. This submission focuses on the ‘Disability access’ section of the Green Paper (section 3.3). It builds on BCA’s submission earlier this year to the 2022 Review of the Disability Standard for Accessible Public Transport.[[2]](#endnote-2)

BCA’s submission is based on the following legislation and frameworks, noting gaps in the fulfilment of requirements laid out in existing arrangements:

* Disability Standards for Accessible Public Transport 2002 (Transport Standards).
* Disability Discrimination Act 1992 (Cth) (DDA).
* Australian Human Rights Commission Act 1986 (Cth).
* Australia’s Disability Strategy 2021–2031.
* Universal Declaration of Human Rights (UDHR), particularly Article 13.
* United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

BCA’s submission is also based on extensive consultations with members and other people who are blind or vision impaired, and our ongoing advocacy work in the disability sector. BCA’s submission echoes a number of the recommendations articulated by the Public Interest Advocacy Centre (PIAC).

## 3. Blind Citizens Australia’s submission

### 3.1 The inaccessibility of intermodal passenger transport

#### The enduring inaccessibility of public transport

People with disability require access to reliable and inclusive transportation when travelling to and from the airport. Lamentably, public transport operators and providers have failed to meet the full accessibility target set out in the Transport Standards 20 years ago.

All of Australia’s train and tram stations should have been fully compliant with accessibility standards by the end of 2022, but disability experts believe at best only half of the nation’s public transport infrastructure is accessible today.[[3]](#endnote-3)

People who are blind or vision impaired often travel to and from the airport via a taxi or rideshare. Doing so poses a risk of missing their flight, however, as drivers continue to frequently deny access to taxis and rideshares for people travelling with their dog guide – even when informed that they are in breach of the DDA.

The Commonwealth government must work with its state and territory counterparts to actually enforce the DDA and the Transport Standards. The Commonwealth must also legislate stronger penalties for any public transport operators and providers, including taxi and rideshare providers, that continue to flout the DDA and the Transport Standards.

**Recommendation:**

1. Collaborate with state and territory governments to enforce the Disability Discrimination Act 1992 (Cth) (DDA) and the existing Transport Standards more strictly.
2. Legislate stronger penalties for public transport operators and providers, including taxi and rideshare providers, that continue to breach the DDA and the existing Transport Standards.

#### The transport disadvantage in regional and remote areas

People experience ‘transport disadvantage’ when they ‘feel they cannot or often cannot get to the places they need to visit.’[[4]](#endnote-4) The widespread accessibility problems noted above often lead to transport disadvantage for people with disability.

Transport disadvantage is even more pronounced for people with disability living in regional and remote areas. Researchers and policymakers have often overlooked this problem because of the high levels of car ownership in these areas.[[5]](#endnote-5)

One BCA member who lives in a rural area, for example, has to book an on-demand bus service the day before he travels to be guaranteed access for a particular time. Service delays and cancellations can instantly curtail, if not eliminate, his ability to travel independently, including to and from the airport.

### 3.2 The inaccessibility of air travel

#### Air travel and freedom of movement

In recent times, one of Australia’s leading disability advocates received an unnecessary ‘pat down’ by security staff at Adelaide Airport and was physically pushed by security staff at an unnamed Australian airport.[[6]](#endnote-6) In October 2023, another prominent disability advocate was tipped from his wheelchair by airline ground crew at Brisbane Airport.[[7]](#endnote-7)

Many other people with disability have had similarly unpleasant or traumatising experiences when travelling by air. It is not uncommon for wheelchairs to be lost or irreparably damaged during air travel.[[8]](#endnote-8) Understandably, people with disability often try to avoid this form of transportation wherever possible. In the words of a BCA member, ‘I feel sick in the stomach every time I go to an airport.’

As an island continent and the world’s sixth-largest country by area, air travel is essential for freedom of movement in modern Australia. Article 13 of the Universal Declaration of Human Rights (UDHR), which Australia helped to draft, asserts that:

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.

This freedom is curtailed whenever people with disability experience discrimination or mistreatment during air travel. As the regulator of air travel in Australia, the Commonwealth government must ensure this freedom is upheld for all Australians.

The Commonwealth should do so by creating a new set of enforceable Disability Transport Standards for Air Travel (Air Travel Standards). The Air Travel Standards would explicitly recognise the importance of air travel for freedom of movement in Australia. The components of the Air Travel Standards are outlined in the recommendations below and in Section 3.3 of this submission.

**Recommendation:**

1. Create a new set of enforceable Disability Transport Standards for Air Travel (Air Travel Standards) that explicitly recognise the importance of air travel for freedom of movement in Australia.

#### Prior to boarding

The inaccessibility of air travel is apparent for people who are blind or vision impaired even before they attempt to travel to the airport. Airline websites are often not designed with screen readers in mind – making for an arduous, if not impossible, process when booking tickets. Subsequent changes to flights and bookings are often not communicated by airlines in an accessible way.

Airport facilities, including carparking and pick-up/drop-off areas, are often inaccessible for people who are blind or vision impaired, especially when they are travelling with a dog guide. Travellers at Brisbane Airport, for example, have to navigate three roads to move from the pick-up/drop-off area to the terminal.

Construction work in and around airport terminals can be dangerous even for fully sighted road and footpath users. Recent upgrades to the carpark at Perth Airport’s domestic terminal, for example, necessitated the erection of temporary fences and a jumble of orange safety cones. Many drivers were confused as to where they should park and in which direction they should travel. Some frustrated drivers responded by weaving erratically around stationary vehicles in the short-term parking and drop-off zones.

Once inside the terminal building, a lack of accessibility and guidance for people who are blind or vision impaired causes problems at self-check-in kiosks, automated bag drops, customer service check-in counters, security screening areas, and when moving through the terminal and collecting baggage at the destination airport.

Security screeners have been known to separate people who are blind or vision impaired from their dog guide and/or perform additional pat downs on the dog guide. Some people who are blind or vision impaired have even been physically pushed backwards by security staff.

Airlines have designated assistance programs to help passengers with disability navigate their way from the check-in area to the aircraft. BCA members have noticed a marked decline in the availability of assistance staff in recent years, even when they have paid extra for access to airport lounges. Several members have nearly missed their flight after waiting more than 30 minutes for the arrival of airline assistance staff.

#### During the flight

Airlines typically require people who are blind or vision impaired to board first and deplane last. People who are blind or vision impaired often have difficulties when seeking to move around the cabin, such as to use the bathroom.

An increasing number of planes no longer have physical call buttons, making it exceptionally difficult for people who are blind or vision impaired to request assistance from the flight crew.

Inaccessible in-flight information (such as due to touchscreen devices and/or a lack of audio description) may prevent a person who is blind or vision impaired from accessing boarding or deplaning information, vital safety information, or in-flight entertainment.

The COVID-19 pandemic led to the removal of in-flight safety cards printed in braille. These braille cards had been required by the existing Transport Standards. With the COVID state of emergency now over, these cards should be restored so that braille readers (particularly people who are deafblind) can once again access in-flight safety information.

The possibility of pets being allowed to travel in aircraft cabins is another area of concern for people who are blind or vision impaired, particularly those who rely on a dog guide. In December 2021, the Civil Aviation Safety Authority changed its regulations for the carriage of animals on aircraft, giving Australian airlines the option of carrying animals in cabins.[[9]](#endnote-9)

Qantas, Jetstar and Virgin Australia allow service dogs – i.e., dog guides, hearing dogs and assistance dogs – in the cabins of their planes. Qantas and Jetstar have indicated that they are not willing to accept other animals on board. Virgin Australia has allowed emotional support animals in its cabins, but only on flights to and from the United States (when they were permitted on planes).[[10]](#endnote-10)

Australia should learn from the experience of the United States when it comes to emotional support animals on planes. In December 2020, the US Department of Transport issued a new ‘Rule’ that only dogs would be allowed in cabins as service animals.[[11]](#endnote-11) This followed years of passenger requests (with varying degrees of success) for cats, hamsters, hedgehogs, turtles, frogs, pigs, turkeys, peacocks and miniature horses to be allowed onboard as emotional support animals.[[12]](#endnote-12)

The Air Travel Standards should stipulate that only accredited service dogs – i.e., dog guides, hearing dogs and assistance dogs – can be allowed in the aircraft cabin during flights. This would protect passengers with disability and their highly trained dogs from other animals’ potential aggression or unruliness during flights.

**Recommendation:**

1. Require airlines to restore in-flight safety cards printed in braille.
2. Stipulate in the Air Travel Standards that only accredited service dogs – i.e., dog guides, hearing dogs and assistance dogs – can be allowed in the aircraft cabin during flights.

#### The need for substantial additional and ongoing investments

The Aviation Green Paper rightly recognises that the aviation sector needs to ‘make substantial additional and ongoing investments to make services accessible and legally compliant with human rights obligations, including in relation to staff training, carriage of assistance animals and mobility aids, complaints processes, and provision of more accessible formats of communication and information dissemination.’

As evidenced by some of the anecdotes in this submission, disability awareness training for staff in the aviation sector is still sorely lacking. Improved training for airport and airline workers would hopefully improve the experiences of people who are blind or vision impaired during all stages of air travel.

Security staff often have problems when inspecting people with disability and service dogs, and so the Air Travel Standards should mandate compulsory annual disability awareness training for those staff. Indeed, any airport or airline workers in customer-facing roles should receive such training.

Improvements to the complaints process and the provision of more accessible formats of communication and information dissemination are much needed. The Air Travel Standards should require all airport and airline websites to conform with the most recent version of the Web Content Accessibility Guidelines (WCAG), currently WCAG 2.1.

**Recommendations:**

1. Include in the Air Travel Standards a requirement for compulsory disability awareness training each year for any customer-facing airport or airline workers, including security staff.
2. Include in the Air Travel Standards a requirement that all airport and airline websites conform with the most recent version of the Web Content Accessibility Guidelines (WCAG).

### 3.3 Other aspects of the Air Travel Standards

#### Co-designed and inspired by the American regulatory framework

In addition to the aspects of the Air Travel Standards already mentioned, it is imperative that the new Standards be co-designed with people with disability and disability representative organisations.

Once drafted, the Air Travel Standards should be implemented in a timely manner. The existing Transport Standards have been hampered by lengthy transition and rollout periods.

As noted in Section 3.2 of this submission, Australian policymakers would be wise to draw from the experiences of the American aviation industry. The United States is known for having some of the world’s strongest disability rights for air travellers.

The American regulatory framework provides airlines with detailed requirements for preventing discrimination. This has facilitated consistent improvements in access to transportation facilities and services for American air travellers with disability. Since March 1990, the US Department of Transport has amended its regulatory ‘Rule’ on the implementation of the Air Carrier Access Act of 1986 on 15 occasions.[[13]](#endnote-13)

**Recommendations:**

1. Ensure that the Air Travel Standards are co-designed with people with disability and disability representative organisations.
2. Implement the Air Travel Standards in a timely manner.
3. Draw inspiration from the American aviation regulatory model when developing the Air Travel Standards.

#### Empowering the Australian Human Rights Commission

BCA’s previous submission on the existing Transport Standards identified the need for a nationally consistent reporting framework to record every instance of discrimination by public transport operators and providers. At present, complaints to the Australian Human Rights Commission (AHRC) are siloed from complaints made directly to state- and territory-based public transport operators and providers.

The AHRC can serve as a one-stop shop, but it must be empowered and funded to proactively monitor compliance, conducts reviews and audits, investigate potential breaches, issue fines and compliance notices to public transport operators and providers, and apply to the federal courts for orders to direct compliance with the compliance notices.

The risk of receiving an adverse costs order is a significant deterrent when people with disability consider enforcing the existing Transport Standards in court. To encourage people with disability to make a complaint to the AHRC, the Australian Human Rights Commission Act 1986 (Cth) must be amended to introduce an ‘equal access’ costs model for all discrimination and harassment matters.

Under this model, applicants will not be liable for adverse costs unless their claim is found to be vexatious, or they have acted unreasonably during proceedings and so caused the other party to incur costs.

Unlike other forms of public transport in Australia, air travel is regulated at the Commonwealth level. A suitably funded and empowered AHRC would also have the capacity to actively enforce the new Air Travel Standards.

Rather than replicating the current complaints-based regime – where the burden of enforcement is on individual people with disability – a beefed up AHRC could proactively gather and publish compliance data from airports and airlines, regularly inspect airports and airlines to ensure they are meeting the Air Travel Standards, and take enforcement action (such as issuing fines or entering into enforceable undertakings) where non-compliance is found.

Volume 4 of the Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability recommends the establishment of a Disability Rights Act and an associated National Disability Commission. Accepting these recommendations would shift the burden of enforcement away from individual people with disability to an even greater extent, allowing people with disability to realise their human rights.

**Recommendations:**

1. Develop a nationally consistent reporting framework to record every instance of discrimination by public transport operators and providers.
2. Suitably empower and fund the Australian Human Rights Commission (AHRC) to act as a one-stop shop for enforcing the existing Transport Standards and the new Air Travel Standards.
3. Amend the Australian Human Rights Commission Act 1986 (Cth) to introduce an ‘equal access’ costs model for all discrimination and harassment matters.
4. Accept the recommendations in Volume 4 of the Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability regarding the establishment of a Disability Rights Act and an associated National Disability Commission.

## 4. Summary of Recommendations

In response to the Aviation Green Paper, BCA makes the following recommendations to the Commonwealth government:

1. Collaborate with state and territory governments to enforce the Disability Discrimination Act 1992 (Cth) (DDA) and the existing Transport Standards more strictly.
2. Legislate stronger penalties for public transport operators and providers, including taxi and rideshare providers, that continue to breach the DDA and the existing Transport Standards.
3. Create a new set of Disability Transport Standards for Air Travel (Air Travel Standards) that explicitly recognise the importance of air travel for freedom of movement in Australia.
4. Require airlines to restore in-flight safety cards printed in braille.
5. Stipulate in the Air Travel Standards that only accredited service dogs – i.e., dog guides, hearing dogs and assistance dogs – can be allowed in the aircraft cabin during flights.
6. Include in the Air Travel Standards a requirement for compulsory disability awareness training each year for any customer-facing airport or airline workers, including security staff.
7. Include in the Air Travel Standards a requirement that all airport and airline websites conform with the most recent version of the Web Content Accessibility Guidelines (WCAG).
8. Ensure that the Air Travel Standards are co-designed with people with disability and disability representative organisations.
9. Implement the Air Travel Standards in a timely manner.
10. Draw inspiration from the American aviation regulatory model when developing the Air Travel Standards.
11. Develop a nationally consistent reporting framework to record every instance of discrimination by public transport operators and providers.
12. Suitably empower and fund the Australian Human Rights Commission (AHRC) to act as a one-stop shop for enforcing the existing Transport Standards and the new Air Travel Standards.
13. Amend the Australian Human Rights Commission Act 1986 (Cth) to introduce an ‘equal access’ costs model for all discrimination and harassment matters.
14. Accept the recommendations in Volume 4 of the Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability regarding the establishment of a Disability Rights Act and an associated National Disability Commission.
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12. BBC News, “How Are Emotional Support Animals Allowed on Flights?” 3 September 2019, <https://www.bbc.com/news/newsbeat-49564227>
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