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October 6, 2009

Charles Beer, AODA Review
c/o Accessibility Directorate of Ontario
Ministry of Community and Social Services
777 Bay Street, Suite 601A
Toronto Ontario M7A 2J4

Dear Mr. Beer:

RE: Review of the Accessibility for Ontarians with Disabilities Act, 2005 (AODA)

The London Transit Commission (LTC) thanks you for the opportunity to provide feedback to your review of the *Accessibility for Ontarians with Disabilities Act, 2005* ("AODA"). The LTC is on record as supporting the overarching objective of the AODA; that is, a fully accessible Ontario by 2025 as defined by the respective standards, with the caveat that the standards be balanced, measurable and sustainable. The LTC's support is evidenced by the active role LTC Administration has played on two of the standard development committees (transportation and employment) and on respective supporting resource teams as part of the Association of Municipalities of Ontario and the Ontario transit industry.

The comments set out this submission are provided under the following headings, which reflect the key areas of the review, that is:

- the standards development committee process
- the function of the Accessibility Directorate of Ontario, including public education
- the role of Accessibility Advisory Committees
- repealing the Ontarians with Disabilities Act, 2001 (ODA)

Standard Development Committee Process

While the steps envisioned in the development process were reasonable, delivering on same was flawed from a number of perspectives including:

- poor public communication (both initially and ongoing) respecting the AODA i.e. its objectives, process and progress. It has only been through the public consultation process attaching to the review of the respective standards that public awareness has increased.
- there being a clear understanding/appreciation of the significance of the goal and how to best meet the goal. The apparent lack of a clear understanding has impacted:
 - the expectation for standard definition i.e. technical versus objective standard
 - committee make up, relating to capacity to address standard definition, for example if technical in nature it would have been beneficial to have related manufacturing/technical expertise in attendance

- progress, noting only one standard has been established since the AODA came into force, albeit it could readily be argued that the lack of progress underscores the complexity of the issues to be addressed and the impact on a very dynamic Ontario society
- absence of a clearly defined roadmap and capacity to deliver on same. Having a well defined, thought out process is critical given the significance of the undertaking. Simple reliance on a cookie cutter approach to developing standards, that at best was iterative in nature and subject from time to time to both administrative and political change (e.g. mid change to Committee make up) compromised the transparency of the process and supports the belief that a parallel/shadow standard development process was in play.
- the process does not appear to provide a mechanism to reconcile all AODA standards as to definition, competing requirements, compliance time frames and priorities etc. Further there does not appear to be a process for reconciling the standards with other legislation.
- the meeting process i.e. time frame and format were inadequate from a number of perspectives including:
 - timing of release of meeting agenda and material for review was inadequate to allow committee members time to consult with their respective stakeholders in preparation of committee deliberations
 - the time spent on re-visiting issues that had already been decided by the SDC
- the "seed documents" had limited if any value given what appears to be a very arbitrary approach in preparing same, noting there was no consideration of local best practices
- the costing (state of readiness) report as with the seed document was of little value given limited interface with those preparing the report with the Standard Development Committee and that same was prepared in parallel with the development of the respective standard resulting in a costing document being completed prior to the standard being finalized.

On a going forward basis particularly linked to the mandatory five year review many of the identified issues can be corrected by ensuring:

- the terms of reference are clearly defined and maintained throughout the process
- the committee make up is reflective of the terms of reference
- appropriate supportive technical expertise is provided to the committee as a whole
- adequate time is provided for the Committee to meet its mandate

Further, the Ministry should engage an independent consultant to perform a detailed financial analysis with two specific objectives namely:

- to determine the cumulative financial impact of all of the AODA standards; and
- to understand the impact of the AODA on Ontario's competitiveness both from a public and private perspective

The task should be completed in consultation with appropriate representation from the private and public sector. As part of the report the Province should identify a funding source to assist municipalities and others to achieve compliance.

There is a critical need for harmonization of the Standards. The issue of harmonization has been raised throughout the AODA standard development process. The need is predicated on the fact that the four common standards being developed will apply to all sectors of the Ontario economy that is both private and public, impacting all facets of the respective operations, operations that within an organization are linked. As such, it is critical in order to establish an effective and efficient process to deal with AODA requirements, to have all expectations clearly defined, understood and implemented in an effective, efficient and sustainable manner.

While the four common standards each focus on different aspects of a business, they are tied to the common goal of full accessibility by 2025 and therefore can only be viewed/treated as a collective. Had the standards been developed in a manner allowing each subsequent standard development committee (SDC) to build upon and learn from the previous committee's work, a great deal of the required harmonization effort could have been completed by the SDC's during the standard development process. However, given that three of the four common standards as well as the Transportation standard were completed concurrently, with each SDC working independently with no appreciation for what was being addressed and/or considered by the other SDC's, the resulting standards in some cases overlap with one another (i.e. policy requirements) or far more troubling, contradict one another (i.e. compliance timeframes).

The need for harmonization is further underscored by a statement made by Premier McGuinty in response to concerns raised by the Large Urban Mayors Caucus of Ontario (LUMCO) relating to compliance timeframes being too aggressive and unaffordable. In a letter to LUMCO, the Premier stated "2025 was chosen as the target year by which standards are to be phased in, giving businesses and public organizations sufficient time to spread out their accessibility investments as part of their normal business and capital planning cycles". London Transit, on behalf of the Ontario Public Transit Industry, has prepared a paper setting out an approach to harmonization of the remaining AODA Standards which is attached as Enclosure I for your consideration. The approach provides for flexibility at the local level to review the AODA Standard requirements collectively, and establish an implementation schedule for compliance taking into consideration local priorities and resource availability. Further, it provides the opportunity for the Province to utilize the 5 year review periods as checkpoints on progress, all while ensuring all obligated organizations reach the goal of the AODA, a fully accessible province, by 2025.

The Accessibility Advisory Committees

The LTC has and continues to enjoy a very strong relationship with its Accessibility Advisory Committee since it was first established with the introduction of specialized transit in London, long before the Ontarians with Disabilities Act (ODA) took effect. The terms of reference for the Committee have been amended from time to time moving from an advisory committee dealing specifically with "paratransit services" to include "accessible public transit services", covering both conventional and specialized transit services.

The key to having an effective Advisory Committee is:

- establishing a comprehensive terms of reference for the committee
- providing appropriate resources in support of the Committee
- training the Advisory Committee members in respect of the terms of reference and the operating environment (governance)

Supporting an effective Advisory Committee is the requirement to prepare comprehensive Accessibility Plan that reflects short, medium and long term objectives and initiatives. The Accessibility Plan should reflect the requirements of the AODA standards.

The plan should be subject to annual review and public report i.e. actual accomplishments versus target and appropriate recommendations dealing with performance. The plan should not be subject to major re-writes each year, noting simple logistics would be mean time/resources would be spent developing and rewriting plans versus implementing the plan.

Repeal Strategy for the Ontarians with Disabilities Act, 2001 (ODA)

There are a number of elements of the *Ontarians with Disabilities Act, 2001* which are supported and should be incorporated into the AODA and/or its standards. These include:

- development and maintenance and public reporting of Accessibility Plans
- establishment of Accessibility Advisory Committees

With the AODA now in force, the ODA should be repealed to avoid duplication and overlap.

As the AODA applies to both private and public operations it will be critical for private organizations to access/engaged community groups representing and/or supporting identified disabilities and/or the overall issue of accessibility. While it is impractical to suggest all private sector organizations establish advisory committees, they should be required to demonstrate consultation with the disability community, which could be conducted through such groups as the March of Dimes, CNIB, Canadian Hearing Society, Community Living centres etc.

The Functions of the Accessibility Directorate of Ontario

As with any initiative the AODA and its standards have a number of key tasks or steps, namely:

- development
- implementation
- monitoring and assessing compliance

The Accessibility Directorate of Ontario ("ADO") was established by the *Ontarians with Disabilities Act, 2001* under the Ministry of Citizenship and Immigration, and was transferred in 2005 to Ministry of Community and Social Services with additional duties under the *Accessibility for Ontarians with Disabilities Act, 2005*. Those duties include the above reference steps or tasks. The Province's approach is appropriate with respect to the ADO.

Discussion on development has, for the most part been addressed under the heading of the Standard Development Committee Process.

In terms of implementation, the ADO has provided many tools and resources to help organizations meet their obligations under the AODA. The Serve-Ability training module, Talk to Me video, Compliance Assistance Resources CDs and booklets, compliance manual, and numerous posters and videos are excellent tools. The ADO should be encouraged to continue to develop such resources and make them widely available to organizations required to comply under the AODA, noting same should be provided at the same time the new standards are adopted into regulation so as to avoid ineffective use of constrained resources and compliance, which is particularly critical for small organizations.

There are a number of functions of the ADO which we feel could be strengthened.

- Public Communication - the awareness of the AODA in general, and standards under development still seems to be low, particularly in the private sector. Successful implementation requires sufficient planning and preparation, so it is critical that all organizations be made aware of the requirements under AODA standards. This requires the ADO to play a greater role in public education and awareness which by necessity includes building a closer relationship with all sectors (public and private).
- The ADO has to position itself to provide clear and timely interpretation of the standards, noting the role in preparing same including their intended purpose. The clarification should not be left to respective organizations and/or left for the courts to decide (e.g. obligation for training of private sector agents as provided under the Customer Service Standard).
- The ADO needs to develop and release compliance mechanisms at the same time the standard is adopted into regulation. It is imperative that organizations understand the compliance mechanisms relating to the standard in the same timeframe they are contemplating an implementation plan.

Agenda Item # Page #

5	20
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5

Given that a formal monitoring/compliance have yet to be determined commentary regarding same cannot be provided. The first compliance requirements attach to the Customer Service Standard and for public organization the compliance date is January 1, 2010.

Sincerely,



David Winninger
Chair - London Transit Commission

c.c. Chris Bentley, MPP - London West
Deb Matthews, MPP - London North Centre
Khalil Ramal, MPP - London-Fanshawe
Steve Peters, MPP - Elgin-Middlesex-London
Accessibility Directorate of Ontario
Association of Municipalities of Ontario
City of London ✓