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Legal Section
Australian Human Rights Commission
GPO Box 5218
Sydney NSW 2001.

Re : Submission into the application by the Australian Railway Association for temporary exemptions from DSAPT.

**Response to Equal Access ARA Temporary exemptions Assessment dated 1st July 2021
Ref: 20421.**

Thank you to Equal Access for preparing the document.

It appears to the lay person, that the ARA are being granted everything they are seeking. I do have to question why this is so, when there is no evidence that prior exemptions sought by the ARA have now been completed or expected to be completed.

Secondly, the justifications for granting these exemptions do not appear to be logical.

I have a number of concerns with the document and its proposed conditions/recommendations. I will now outline my concerns.

Exemption Sought :

- For a period of five years, flange gaps of up to 75mm are permitted where a level crossing forms part of an access path an rail premises or rail infrastructure.

I note on page 17 of the document states. *"...although the conditions recommend granting of the 75mm flange gap width for a further five years, this is to allow the ARA time to present a strategy to the AHRC for improving the crossings..."*

The report further states that the ARA was provided a similar exemption previously. It is my understanding that the exemptions should not be used as a tool to delay implementation or form a strategy. The onus should be on the ARA to demonstrate what they have done to date and what strategies they have. If they do not have a strategy or sufficient research capacity to design and implement then the applicant needs to possibly look at other alternatives. It is not the DSAPT which should be used to delay implementation or strategy.

Prior to the application being lodged by the applicant, I have to ask why there has been no audit conducted against the DSAPT provisions. This in my view is a poor business practise. We should not be enabling business to be granted exemptions if they have not had the forethought or used their initiative to provide a strategy or audit.

Exemption Sought

- For a period of five years, where the relationship between the platform and rail carriage means that an external boarding ramp can only be provided at a gradient than 1 in 8 and less than 1 in 4, ARA members are not required to provide staff assistance to ascend or descend the ramp.

The conclusion reached on page 25 of the document is baffling. Is there a push by the ARA under Health and Safety arguments for staff members to stop assisting people with disability up and down ramps that aren't compliant?

If people do not obtain assistance from staff, there is potential of injury to the individual which has potential legal ramifications, so I am unsure as to why this exemption would be granted.

If the issue is the non compliant ramps, then shouldn't the onus be to have the ramps upgraded? Is there a timeline on when these upgrades are to occur?

Again, enabling a strategy now is illogical. The ARA have known about compliance target dates for a number of years. If the ARA haven't been able to develop a strategy by now, then it is their poor design, and business practices that should be investigated.

People with disability should not have to incur poor service and access due to laziness.

In summary, I contend that it is time that the ARA application is an example of poor design and poor business standards. It is not for this DSAPT exemption to be used as a tool to rectify their poor practices. Maybe the alternative of granting exemptions is to start fining organisations for not satisfying the timelines and standards set out under the Act and openly known about for a considerable period.