



Submission to
to Employment and Social Development Canada (ESDC)
on the proposed ***Accessible Canada Regulations*** under
the Accessible Canada Act as contained in the Canada
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Canada Regulations*

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Introduction

Inclusion Canada is a national federation of 13 provincial-territorial associations comprised of over 40,000 members and over 300 local associations working to advance the full inclusion and human rights of people with an intellectual disability and their families. Inclusion Canada leads the way in building an inclusive Canada by strengthening families, defending rights, and transforming communities into places where everyone belongs.

We welcome the opportunity to provide comment on the proposed *Accessible Canada Regulations*.

At the outset, we applaud the Government of Canada on its commitment to work on creating a barrier-free Canada. The implementation of the Accessible Canada Act is a step along this journey and the proposed regulations would establish a framework for federally regulated entities to incorporate accessibility measures into their operations. These regulations most notably, would require federally regulated organizations to develop and publish accessibility plans, progress reports, establish feedback processes, in order to identify and remove existing barriers to persons with disabilities, as well as prevent future barriers within their organizations. In addition, these proposed regulations also establish a framework for administrative monetary penalties should federally regulated entities fail to comply.

As these are foundational regulations and the first-ever proposed *Accessible Canada Regulations* under the Accessible Canada Act, it is even more important to get this right from the beginning. In this regard, Inclusion Canada will provide some observations and recommendations for consideration.

Summary of Recommendations

- 1. (R.1) Inclusion Canada is recommending that the regulations go further and prescribe other requirements on the content that accessibility plans must include, such as:**
 1. A description of how the plan takes into account each of the principles set out in section 6 of the Act and how they informed the plan
 2. A statement of the organization's commitment to becoming barrier-free and a timeline for achieving this commitment
 3. A description of current barriers
 4. Specific, concrete actions the regulated organization will take to remove barriers;
 5. A person/s at the organization who is responsible for the plan and for making sure that barriers are removed;
 6. Timelines for when barriers will be removed
 7. Indicators on how the organization will measure its progress

- 2. (R.2) Inclusion Canada is recommending specificity be added to the regulations on the parameters of the consultations or report required of each federally regulated entity when it creates its plan. We would recommend organizations be required to make public the following:**
 1. A reporting of how the regulated entity advertised its consultation
 2. The diversity of disability organizations consulted including intersectionality approach used and steps taken to promote accessibility during its consultations

3. The type of information, submissions and feedback received during consultation
 4. The information received that it chose to use in the creation of its plan
- 3. (R.3) Inclusion Canada recommends the following items be added to what would be required content in a progress report:**
 1. Specific, concrete actions the regulated entity toll to remove and prevent barriers
 2. Reporting on performance indicators for measuring whether existing barriers have been successfully removed
 3. Barriers in previous plan that were not removed, setbacks or limitations that explain why, strategies that address these challenges, and timeframes for implementing these strategies
 - 4. (R.4) Inclusion Canada recommends the regulations be amended to include the requirement for the entity to provide a detailed response to the individual or organization on how their feedback will help the entity reduce barriers and improve accessibility in the future.**
 - 5. (R.5) Inclusion Canada recommends amending the wording and requirements in the draft regulations from having products written in “clear, simple and concise language” to plain language requirements.**
 - 6. (R.6) Inclusion Canada recommends the regulations be amended to require formats to be made available in ASL/LSQ upon request with a reasonable deadline.**
 - 7. (R.7) Inclusion Canada would recommend that “day” be defined as a business day for clarity purposes.**
 - 8. (R.8) Inclusion Canada recommends the period of waiting time for documents to be produced into braille be reduced from the 45 days in the draft regulations to no longer that 20 days and 10 days for audio.**
 - 9. (R.9) Inclusion Canada recommends the federal government through consultations with disability organizations to consider appropriate regulatory means to redirect revenue generated from fines and monetary penalties through the ACA to disability organizations to further their mandates of eliminating barriers and advancing equality for people with disabilities.**

Inclusion Canada's Response to the Call for Comments

The *Accessible Canada Act* (ACA) states that federally regulated entities have to create accessibility plans. These **plans** should identify barriers and how the organization will remove, prevent or mitigate these barriers.

The Government of Canada's draft regulation specifies when organizations' initial accessibility **plans should be published**:

- December 31, 2022: Federal government departments, the Canadian Forces, agencies and Crown corporations
- June 1, 2023: Private companies with 100 or more workers
- June 1, 2024: Private companies with between 10 and 99 workers
- Regulated organizations with less than 10 workers are exempt and are not required to publish an accessibility plan.

Following this, organizations will have to publish a progress report each year. In the third year, they will have to publish an updated accessibility plan.

The ACA states that regulated organizations are required to create **feedback processes**. This process is meant for the public to provide feedback about the organization's accessibility. Furthermore, regulated organizations **must publish a description of their feedback process** at the same time as their initial accessibility plan.

Planning and Reporting Requirements

1. Plans

Under the proposed Regulations, accessibility plans require headings which include:

- **General** – information on how the public can communicate with the organization
- **Areas identified in the ACA as required** – different organizations have to report on different barriers (ie. Employment, transportation) and includes how the organization identifies and removes certain barriers
- **Consultations** – how the organization consulted with people with disabilities when it created its accessibility plan.

The ACA outlines in section 6 of the Act, seven principals for accessibility plans, which includes:

- (a) all persons must be treated with dignity regardless of their disability;
- (b) all persons must have the same opportunity to make for themselves the lives that they are able and wish to have regardless of their disability;
- (c) all persons must have barrier-free access to full and equal participation in society, regardless of their disability;
- (d) all persons must have meaningful options and be free to make their own choices, with support if they desire, regardless of their disabilities;
- (e) laws, policies, programs, services and structures must take into account the disability of the person, the different ways that persons interact with their environments and the multiple and intersecting forms of marginalization and discrimination faced by persons;
- (f) persons with disabilities must be involved in the development and design of laws, policies, programs, services and structures; and
- (g) the development and revision of accessibility standards and the making of regulations must be done with the objective of achieving the highest level of accessibility for persons with disabilities.

These are important principles that regulated entities should be considering when they proceed with the process of creating an accessibility plan which are aimed at removing barriers. Unfortunately, the proposed regulations do not require regulated entities to indicate how they will take these seven principles into account when creating their accessibility plans. Without attention to section 6 principles the regulations will undermine the goals of the ACA, as well as the inclusive and meaningful participation of persons with disabilities.

Inclusion Canada is recommending (R.1) that the regulations go further and prescribe other requirements on the content that plans must include, such as:

- A description of how the plan takes into account each of the principles set out in section 6 of the Act and how they informed the plan
- A statement of the organization's commitment to becoming barrier-free and a timeline for achieving this commitment
- A description of current barriers
- Specific, concrete actions the regulated organization will take to remove barriers;
- A person/s at the organization who is responsible for the plan and for making sure that barriers are removed;
- Timelines for when barriers will be removed
- Indicators on how the organization will measure its progress

These requirements would ensure that accessibility plans are implemented and lead to real changes for people with disability. Organizations would be responsible for publicly defining clear, measurable targets to set timelines and to show progress on becoming barrier free.

In addition, Inclusion Canada is recommending **(R.2)** specificity be added to the regulations on the parameters of the consultations or report required of each federally regulated entity when it creates its plan. We would recommend organizations be required to make public the following:

- A reporting of how the regulated entity advertised its consultation
- The diversity of disability organizations consulted including intersectionality approach used and steps taken to promote accessibility during its consultations
- The type of information, submissions and feedback received during consultation
- The information received that it chose to use in the creation of its plan

These measures would ensure a more meaningful consultation process and demonstrate to people with disabilities that their views and feedback are important in the process and fully taken into consideration. The public and the disability community will want to know more than just how the organization consulted, we will want to know who was consulted, how broadly and diverse it was and what did the organization hear and how did it use the feedback.

2. Progress Reports

Under the proposed Regulations, entities would need to publish a progress report on the first and second anniversary of the publication of their initial and updated accessibility plans. As intended, this progress report is meant to describe how well the organization is doing on removing the barriers in its accessibility plan. The Regulations specify that the progress reports would need to include the following headers: **General**; **Areas identified in the ACA as required**; **Consultations**; and **Feedback**. There is no real requirements of what should be included in a progress report.

With respect to the content of the progress reports, we feel it is imperative to place some specific parameters around the content of the reports for clear and open transparency. Inclusion Canada recommends **(R.3)** the following items be added to what would be required content in a progress report:

- Specific, concrete actions the regulated entity toll to remove and prevent barriers
- Reporting on performance indicators for measuring whether existing barriers have been successfully removed
- Barriers in previous plan that were not removed, setbacks or limitations that explain why, strategies that address these challenges, and timeframes for implementing these strategies

The draft regulations specify that anyone can give feedback, it can be anonymous, or person/organization can choose to provide their name or personal information. In addition, the draft regulations provide a requirement that the entities must let the person know they received the feedback. However, for the feedback process, and similar to the consultation process in planning stage above, the draft regulations do not require the entity to provide a detail answer or substantive response to feedback or explain how they will use the feedback to improve accessibility. We feel the draft regulations should require regulated entities to provide a substantive response to feedback that goes further than a simple acknowledgement of receipt.

Inclusion Canada recommends **(R.4)** the regulations be amended to include the requirement for the entity to provide a detailed response to the individual or organization on how their feedback will help the entity reduce barriers and improve accessibility in the future.

3. Plain Language

The draft regulation indicates a requirement that accessibility plans, progress reports and feedback processes have to be written in “clear, simple and concise language”. There is no definition as to what is meant by this terminology. This will unfortunately lead to inconsistency in understanding as to what is meant by clear, simple and concise language. Some may write a plan that will be understood by most but others may not.

Plain language writing is a communication your audience can understand the first time they read or hear it. The wording, structure, and design is clear and the reader can easily find what they need, understand it and be able to use the information. Government documents have a history of being technical and hard to understand especially for people with intellectual disabilities who often have low literacy rates. Moreover, 43% of Canadians have low literacy rates so using plain language is not only good for people with intellectual or developmental disabilities but also for many other Canadians as well.

Inclusion Canada recommends **(R.5)** amending the wording and requirements in the draft regulations from having products written in “clear, simple and concise language” to plain language requirements.

As we understand, Accessibility Standards Canada is working on developing standards on the use of plain language, this may be one avenue to consider if the standards are well done and accepted. It could be used as a guide to provide to the regulated entities to understand how to write in plain language as prescribed in the regulations. Inclusion Canada and our partner People First Canada would be willing to work with the Accessibility Standards Canada in determining the best approach to the use of plain language and prescribing them in the regulations.

Alternate Formats

The draft regulations indicate that each regulated organization must publish their accessibility plan, progress report and feedback process on their website so that it is easily available. However, if an organization doesn't have a website, it has to make these documents available in the main reception of its publicly accessible business locations.

Regulated organizations must provide alternate formats of accessibility plans and progress reports if requested. The only alternate formats that organizations must provide according to the draft regulation are:

- print;
- large print;
- braille;
- audio format; and
- electronic formats compatible with adaptive technology of people with disabilities.

The regulations do not require organizations to provide their accessibility plan, progress report or feedback process in American Sign Language (ASL) or langue des signes québécoise (LSQ) via video format. Inclusion Canada feels this is a major flaw in the regulations and must be addressed to ensure all people with disabilities are treated equally. This decision goes against the very principles set out in the ACA of equality of treatment and that the making of regulations must be done with the objective of achieving the highest level of accessibility for persons with disabilities. It is contrary to the human rights obligations of regulated entities. The lack of a requirement to make things available in ASL/LSQ misses the mark, discriminates and creates a barrier to a particular group of people with disabilities.

Inclusion Canada recommends **(R.6)** the regulations be amended to require formats to be made available in ASL/LSQ upon request with a reasonable deadline.

The draft regulations also address timing on when alternative formats should be made available. The draft regulation also gives some specific deadlines:

- braille or audio formats must be given within 45 days;
- public and larger private organizations must give print, large print and electronic formats within 15 days; and
- smaller organizations must give print, large print and electronic formats within 20 days.

There is no definition of “days”; if it is to refer to calendar or business days. Inclusion Canada would recommend **(R.7)** that “day” be defined as a business day for clarity purposes.

Inclusion Canada is of the opinion that 45 days to wait for a document in braille or audio is way too long. We feel this period should be shortened to no longer than 20 days for braille. In addition, audio formats should be reduced from 45 to 10 days as a more reasonable waiting period for this format. Inclusion Canada recommends **(R.8)** the period of waiting time for documents to be produced into braille be reduced from the 45 days in the draft regulations to no longer than 20 days and 10 days for audio.

4. Fines

Although the government of Canada may not have the regulatory power to define where revenue generated from fines and monetary penalties will go, we feel the government needs to consider how this funding could further address the Act's goals and look at redirecting any monetary fines generated through penalties imposed on federally regulated entities. Instead of having the funding reside in general revenue, Inclusion Canada believes that the payment should be directed to disability organizations. An arrangement that would allow these organizations to further their mandates of removing barriers to their communities and advancing equality for people with disabilities. This funding would be like proceeds of crime legislation and regulations that provide the proceeds to be redirected to community and victims of crime programs in provinces and territories.

We call on the federal government to consider this and, as they work to finalize the regulations, consult the disability community on the best approaches to implement this concept.

Inclusion Canada recommends **(R. 9)** the federal government through consultations with disability organizations to consider appropriate regulatory means to redirect revenue generated from fines and monetary penalties through the ACA to disability organizations (DPOs) to further their mandates of eliminating barriers and advancing equality for people with disabilities.