Ontario
Human Rights Commission
Commission ontarienne des
droits de la personne

Ontario Human Rights Commission
Submission Regarding

Ministry of Community and Social Services

Proposed Integrated Accessibility Regulation under the Accessibility for Ontarians with Disabilities Act, 2005

Ontario Regulatory Registry Proposal Number: 10-CSS002

October 15, 2010

Executive Summary

The OHRC is again raising a number of concerns about the proposed Integrated Accessibility Regulation, echoing those we've highlighted in past AODA submissions.

Specifically, the proposed IAR fails to identify interpretive human rights principles upfront and apply them to many of its provisions. These essential principles include the obligations to:

- Design inclusively and avoid creating new barriers, a relatively immediate duty
- Take steps to address existing systemic or individual barriers, and achieve results, in stages, if needed, to avoid undue hardship
- Apply the best current technology and practices, or next best interim measures to avoid undue hardship.

The AODA standards development process has, for the most part, done a comprehensive job at identifying technical requirements. However, the proposed IAR generally limits their application to what is new, on a go-forward basis, and sometimes then only on a phased-in timeline. Other requirements are weak or vague, such as accessible taxis, or are only fulfilled "upon request."

These provisions add nothing and some actually take away from what is already required by the Code, tribunals and courts. For example, any organization need only "consider" accessibility for kiosks, as opposed to procure or design kiosks to the highest level of accessibility available. Smaller organizations do not even have to "consider" anything until 2015. Smaller producers of educational print material are not required to prepare accessible formats until 2020. Large organizations are not required to engage in the process to accommodate employees until 2016, though the Code and human rights law would require them to do so immediately.

Some of the proposed standards would even permit new barriers outright. For example, the proposed IAR requires just one accessible car per train for new light, commuter or inter-city rail procurement. This is not in keeping with the Supreme Court decision in CCD v. Via Rail.[1]

Other standards provide complete exemption for certain barriers and sectors: unpaid work, private educational institutions, volunteer and faith based organizations providing transit, and accessible books and movies plus, smaller organizations do not have to provide accessible websites and only government must have accessible intranets. Tribunal and courts have, in some cases already set the bar much higher. For example, Human Rights Tribunal settlements now require two California-based movie studios to distribute their films with captioning in Ontario. The proposed IAR would exempt them.

Section 9 (2) of the AODA requires the standards development process to first "determine the long-term accessibility objectives…". Stopping the creation of new barriers is an immediate legal duty and therefore a short-term objective. Dealing with existing barriers is a longer-term objective that the proposed IAR mostly fails to address.

Many standards, such as the technical requirements for transit vehicles, apply only on a go-forward basis, so that accessibility comes about only when organizations choose to replace existing equipment or provide new materials or services.

Yet, tribunals and courts have said that organizations must take steps to address existing barriers now, not later, recognizing that phasing-in solutions might be necessary in the circumstances. Without requiring at least some steps for identifying, planning and removing existing barriers, the proposed IAR will put these types of sectors at risk of facing further human rights litigation.

AODA standards must prohibit the creation of any new barriers immediately. If we are ever to meet its goal of a barrier-free society by 2025, the standards must also require organizations to begin taking steps to remove existing ones,[2] always in a manner and pace that avoids undue hardship.

Without these fundamental changes, the OHRC believes the disharmony between a number of the proposed provisions, the Ontario Human Rights Code and legal jurisprudence will lead to confusion and frustration for obligated sectors, rights left unfulfilled, and the potential of litigation before the Human Rights Tribunal of Ontario or higher courts.

IAR Part A: General Requirements

The Human Rights Code has primacy

The proposed IAR recognizes organizations have **existing legal duties under the Code** and other laws with respect to non-discrimination and accommodation of persons with disabilities and that the IAR does not diminish these obligations. Yet, a number of the proposed provisions would actually diminish Code rights.

The proposed IAR fails to **identify basic human rights principles to guide its overall interpretation**.[3] These should include:

- designing inclusively
- refraining from creating new barriers
- identifying and removing existing ones
- implementing ideal solutions, or phasing in if necessary by providing interim or next best measures
- favouring integration over segregation
- considering and accommodating individual requests short of undue hardship
- involving persons with disabilities in exploring solutions through a cooperative process that maximizes confidentiality, dignity and respect.

Without recognition and application of these principles, AODA standards may be developed and implemented in a manner inconsistent with the Code and human rights jurisprudence.

Sections 3 and 38 of the AODA outline the basic parameters of the relationship between the Code and the AODA: if there is any conflict with an AODA standard and another piece of legislation, the provision with the highest level of accessibility shall prevail. To successfully implement the AODA and avoid unnecessary reliance on Ontario's human rights system, a **deeper understanding of the relationship between the AODA, the Code and other relevant law must be recognized and applied by** all involved, regardless of whether that understanding is outlined in regulation, or detailed in a policy guide.

The Code has primacy over all other legislation in Ontario unless expressly stated elsewhere. The interpretation of the Code is informed by OHRC policy, legal jurisprudence and international instruments. Development and interpretation of AODA standards should be similarly informed, including having regard for the **UN Convention on the Rights of Persons with Disabilities** which was ratified by Canada after consultation with the provinces and territories earlier this year.

AODA must work in concert with the Code

As the ARCH Disability Law Centre has said, there is a **commonality** between the AODA and the Code – both promote equality and accessibility but **through different means**.[4] The AODA must work with and not diminish Code obligations. Compliance with an AODA standard does not guarantee compliance with the Code. Individuals may always file an application before the Human Rights Tribunal of Ontario.

The **Code**, interpreted through OHRC policy and legal jurisprudence, **bestows a procedural and positive duty to take steps to address existing barriers and avoid creating new ones**, whether systemic or individual, with as much substantive result as possible, short of undue hardship.

The **AODA** and its standards provide a complementary means to help organizations carry out their procedural duty and achieve substantive results by setting **prescriptive technical requirements based on current and best known domestic and international practices**, confirmed by consumers and experts alike.

Coupled with the interpretive human rights principles above, this relationship means a number of things for the development and implementation of AODA standards.

Limitations of "upon request"

First, it is important that organizations are made aware of both their AODA and Code obligations, such as the immediate duty to accommodate individual need. While this type of obligation may be integrated into standards and guides, standards need to **offer more** if barrier free access is to advance.

A number of requirements throughout the proposed IAR are limited to "**upon request**." This will generally be insufficient, given the AODA's systemic purpose of preventing and removing barriers by 2025. There is a difference, for example, between a document that was created in "conversion ready" electronic format in advance, easily adaptable to

individual need, and one that is not and is only made ready "upon request" with delay after the fact. Other examples are set out under the relevant standards below.

"Upon request" provisions that defer implementation along timelines interfere with Code rights. Individual accommodation and barrier removal upon request is already an immediate legal requirement short of undue hardship under the Code.

"Upon request" is reactive not proactive. **Human rights law also places a positive duty on organizations to prevent and address systemic discrimination**. A positive duty is triggered once organizations become aware or ought reasonably to be aware of existing barriers either within their own institution or within their sector that have been documented by others. Positive duty includes taking steps to look for and address existing barriers and prevent new ones.

While "upon request" may be appropriate in some circumstances – the principle of individualized accommodation means some will have a need not contemplated by AODA standards – it is inadequate as a broader strategy for preventing and addressing common barriers. AODA standards should be all about putting positive obligations on organizations to act for systemic change.

No new barriers

The standards should follow the key human rights principle of **not permitting organizations to create new barriers**. For example, all newly acquired rail cars or other transit vehicles should be accessible, not just one in a train.[5] As the September 27, 2010 issue of the Law Times has said, it is "more expensive to fix accessibility issues after the fact."[6]

While the proposed IAR's "go forward" requirements are generally in keeping with this principle, they should apply immediately or within relatively short timelines so that no new barriers are created the next time an organization makes new acquisitions or begins to develop and implement new or substantial changes to goods, facilities, systems and services.

Longer timelines for phasing in standards may be appropriate when requiring organizations to remove existing barriers. For example, Part B of the proposed IAR gives organizations more time to make current websites accessible. Timelines can also be set relative to organizational size and resources. A provision might also be added to give organizations a temporary exemption from timelines or an extension to address existing barriers if they can show undue hardship would otherwise occur.

Best standards should apply

Whether the AODA requirements are immediate or phased in, are on a "go forward" basis to prevent new barriers, or also require retrofit to address existing barriers, the **current and best known standards for inclusive design should always apply**. Next best standards or practices might only be acceptable on an interim basis while still maintaining a requirement for the eventual ideal solution.[7] This can be done under

Section 9 (9) of the AODA and ensure at least every five years, if not sooner, that standards are re-examined for their currency to best known technology and practices.

The proposed IAR should have a provision similar to the Building Code that would permit adapting a prescribed standard to unique circumstances in order to achieve the same objective with an **alternative solution**.[8] This would be particularly helpful where advances have been made in technology or practice since the initial standard went into place. Such a provision might also be helpful where the implementation of a standard is otherwise unfeasible or would result in undue hardship.

How far, how fast?

The difficult question for AODA standards will always be, how far how fast? While the courts have generally given deference to government for prioritizing limited resources, they have also set a high threshold for undue hardship where discrimination is at issue. Individuals with disabilities always have the option to go before the Human Rights Tribunal of Ontario and claim that not enough is being done to address the barriers they face. While organizations might be able to show they are meeting technical and timeline requirements to address systemic barriers under AODA standards, they may still have to objectively demonstrate everything is being done within their means to remedy a particular situation short of undue hardship under the Code.

Organizations are well placed to defend themselves against a complaint if they are taking serious steps to meet their procedural obligations under both laws such as:

- consulting persons with disabilities
- looking for barriers
- preparing plans
- developing policies and procedures
- allocating budgets
- taking action and achieving results in preventing new barriers and removing existing ones, including immediate steps such as barrier free acquisition and interim measures while more ideal ones are phased in over reasonable time when immediate implementation is not possible.[9]

Whether a barrier is newly created or longstanding, the undue hardship standard applies. Organizations that fail to take any steps to address known systemic barriers that exist within their facilities, technology, practices, goods or services, especially long standing ones, will leave themselves vulnerable to human rights litigation. It is on this point where the relationship between AODA standards and the Code is failing.

Existing barriers must be addressed now, not later

While the proposed IAR requires organizations to avoid creating new barriers on a “go forward” basis, **it is disappointing that there are few requirements for addressing existing barriers**, even minimal ones. This is despite the fact that Section 9 (2) of the AODA requires a standard development committee to first “determine the long-term accessibility objectives for the industry, sector of the economy or class of persons or

organizations… by identifying the measures, policies, practices and requirements that it believes should be implemented… on or before January 1, 2025."

OHRC policy and human rights case law are clear: avoidance of new barriers is already an "immediate" obligation. AODA technical and procedural standards can help support this obligation but should not defer it out many years into the future. Removing pre-existing barriers through retrofit and other requirements is typically and more appropriately a longer term objective. It is ideally suited for AODA type standards including phased in timelines, interim measures, and progress reporting.

The IAR should require some immediate steps be taken towards "progressive implementation", as Section 9 (3) of the AODA recognizes, to deal with pre-existing barriers. For example: larger private sector organizations could be required to identify barriers, develop removal plans and report on any progress within a timeline, regardless of whether standards require their removal at this time. **Planning to deal with existing barriers** should be incorporated into the already proposed requirement for government and larger organizations to develop **plans for achieving IAR standards and timelines**. As well, these plans should be made available to the public in accessible format by posting them to a website or other means, rather than only upon request.

Ideally the IAR would require plans that set timelines for removing existing barriers. Certainly, that is something a human rights tribunal or higher court would give serious consideration to when determining appropriate remedies in a finding of discrimination. Organizations might do so through interim measures while working towards implementing the highest level of a standard.

Priority for some elements

Another approach to addressing existing barriers, proposed by the Built Environment Standards Committee, would be to **prioritize select technical elements** of a standard for implementation over successive five year periods. The Committee also proposed another creative compliance solution that would have the IAR require organizations to submit plans with timelines on what immediate and phased in measures they could take to implement a standard to address existing barriers. The organization would be expected to **comply to the highest possible level of the standard** that can reasonably be achieved without causing undue hardship within the prescribed timeline. Organizations would not be permanently absolved of the potential for reaching full compliance at some future date and their plans would still maintain steps for this objective.

The courts have recognized that "not all can be in done in a day" and that it can be appropriate to set requirements that **prioritize and phase in standards** relative to the circumstances, particularly situations of pre-existing barriers. Many of the proposed standards do this by giving larger organizations more rigorous technical requirements and timelines, but this should be applied to existing barriers and not just avoidance of new ones. Another way would be to prioritize implementation and resources for **vital public or private sector services** such as education, health care, police, correctional and legal services, social assistance and housing, that are important to us all, especially

historically disadvantaged groups such as persons with disabilities. The proposed IAR already prioritizes transit as a key service.

Some exemptions may contravene the Code
The proposed IAR puts greater responsibility on government and other larger public, private and non-profit organizations. At the same time, **organizations with 1-49 employees** are exempt from preparing plans for implementing standards, policy documentation, training and compliance reporting. However, the complete exemption of smaller organizations, as well as **organizations with no employees**, from some technical requirements such as having an accessible website, is not in keeping with the Code. As small business increasingly relies on the internet as their primary retail space, for example, persons will disabilities will continue to face more and more of these types of barriers.

IAR Part B: Information and Communication

Materials should be "conversion ready"
The IAR should require all new documents not available on websites, including emergency and public safety information, information on educational program requirements, course descriptions and schedules, educational, training other materials, produced "in house" always be made "conversion ready" in advance rather than "upon request."

Educational institutions, libraries, book stores and other providers and retailers of books and other documents and materials should be required to develop and implement a policy for at least attempting to procure and make available conversion ready versions of the materials they offer.

Exempting commercial products may lower current standards
The complete **exemption of commercial products such as books, magazines, films and DVDs** is not in keeping, for example, with the settlements reached at the Human Rights Tribunal of Ontario in complaints against film distributors Universal and Paramount. These California-based companies agreed to provide their films in caption format in Ontario. Producers of these types of products should at least be required to take some steps to consult and develop plans for phasing in the availability of accessible material. Additionally, the proposed IAR or other relevant regulation should identify related standards for the current best available technology or practice for these types of products. Given the fast changing pace of technology, such standards should be re-examined and updated at least every five years.

Kiosk and website requirements are weak
The proposed IAR only requires organizations to "consider" accessibility for **self-service kiosks**. This provision is weak and should be strengthened to require the highest level of accessible technology available when procuring or designing new kiosk machines.

Private and non-profit organizations with less than 50 employees should not be completely exempt from any **website accessibility** requirements. Organizations should only be permitted to implement lower levels of website standards as an interim measure while phasing in the highest level of the standard. The broader issue of website accessibility is currently being litigated before the courts in the case of Jodhan v Canada.

Intranet requirements should not only apply to government but at least to other larger public, private and non-profit organizations as well, so their internal systems eventually become accessible for employees with disabilities.

The IAR should require large public and private sector organizations to develop a mandatory procedure for accessibility assessment prior to procurement sign off on new information and communication technology, similar to the government's current requirement under Section 5 of the ODA 2001.

Elections and accessibility
The final Information and Communication Standard proposed by the Standards Development Committee contained provisions addressing the accessibility of elections for persons with disabilities. The Ministry's proposed IAR contains no such provisions though the government's recent Bill 231 did amend the Elections Act to require, among other things, that polling stations be located in accessible facilities. However, there is still a need for provisions to address information and communication barriers for voters and candidates with disabilities, including private and independent ballot marking and verification, internet and telephone voting, accessible candidate meetings for both provincial and municipal elections, and fair rules for election-related accommodation expenses.

IAR Part C: Employment

The proposed IAR's exemption for **unpaid work** is inconsistent with the Code and should be removed.[10]

While the proposed standard recognizes accommodation of "accessible formats and communication supports," it is silent on other barriers and forms of accommodation that should also be included, such as workstation modifications, ergonomic equipment, modified duties and procedures, hours of work, etc.

As well, return to work provisions apply to non-workplace "injury and illness" but appear to exclude other congenital conditions that may have been present from birth and still require accommodation.

Individual accessibility requests need immediate consideration
The proposed IAR improperly sets implementation timelines, including up to 2017, for a number of provisions for which employers already have immediate responsibility under the Code. Timelines for different size organizations can be appropriate when "notifying" or "informing" all applicants and employees in advance that accommodations can be made

available, or for “documenting” general procedures or individual accommodation plans. However, the standard should be clear that once an individual makes a request, the employer has an immediate Code duty to engage in the accommodation process and deliver solutions short of undue hardship. This holds true for recruitment, employee accommodation including return to work, performance management, career development and redeployment.

IAR Part D: Transportation

The stated purpose of this section is to “prevent and remove” barriers. However, the technical standards appear to apply only on a “go forward” basis whenever transit providers decide to purchase new or used vehicles. The proposed IAR should clarify that the technical standards would also apply whenever a transit provider decides to **retrofit** one of its current vehicles. Moreover, the proposed IAR does not appear to require providers to replace vehicles with accessible ones on a phased in basis so **fleets** become progressively accessible by 2025 or sooner, as the Standards Committee had recommended.

Accessibility for **volunteer and faith based organizations** as well as **emergency vehicles** and **amusement park rides** should at least be a “phased in” requirement over time rather than completely exempt as the IAR proposes.

The proposed standards only apply to larger public sector organizations with 50-plus employees. The IAR should also apply to **small public providers as well as any size private provider** should they begin to operate transit systems as well.

The proposed IAR’s requirement for **calling of all transit stops** at least verbally to begin immediately is in keeping with the Lepofsky v TTC decision.

While a related proposal to amend **Highway Traffic Act Regulation 629 would mean** that the proposed technical standards would apply to all buses, transit buses, motor coaches, taxis, physically-disabled passenger vehicles and school buses traveling on Ontario roads and highways, this too would only be on a go forward basis with no phased in requirements for existing vehicles.

The proposed IAR requirement to have only one mobility aid accessible car per light, commuter or inner-city train is not in keeping with the 2007 decision of the Supreme Court in Via Rail. It found that the transportation service **must take a universal rather than a segregated approach to accessibility**, and not perpetuate or create new barriers when it purchases vehicles. The IAR’s technical standards should apply as soon as possible to the purchase of all new or used rail cars and other transit vehicles, while one accessible car per train may be an appropriate interim measure.

As well, the proposed IAR requirement for coordination of specialized transit across **municipal borders** should also apply to facilitating accessibility between conventional systems.

While the proposed IAR requires **fare parity** between conventional and specialized transit, it should apply immediately in accordance with past human rights case settlements rather than phased in between 2014 to 2017. Fare parity should immediately apply within multi-tier municipalities, at least on par with the highest conventional fare.

The proposed IAR should also clarify that **fare options** such as ticket books, passes and related reader devices should be on par and accessible for both conventional and specialized transit systems. New technology may need to be phased in, periodically re-examined and updated, but that should not prevent standards being developed now for the best technology currently available.

The IAR's proposed **"family of services" concept fails to recognize the human rights principle of inclusive design** that requires favouring integrated transit systems over segregated ones. Rather, the integration principle already set out under the public school transit provision should apply to all public transit throughout the IAR.[11]

The proposed IAR requirements for publicly funded elementary and secondary education providers should also apply to **private educational institutions**.

The proposed IAR only has a very general requirement for determining the **proportion of accessible taxis** through a municipal led stakeholder process. While this type of consultation is important and necessary, a more objective standard is needed to ultimately require service parity for taxi passengers with disabilities in terms of hours of service and average wait times.

Moreover, in light of the recent Via Rail decision, serious consideration should be given to **requiring all new taxi vehicles to be accessible**, particularly for larger organizations, so that differential wait times would no longer be an issue and broader benefit would be gained by other passengers such as families with small children and strollers.

The proposed IAR would only require specialized transit applications and decisions be available in accessible format upon request. While this may be appropriate for an individual's own decision, the IAR should require all **information available to passengers** generally be made available in conversion ready accessible format in advance rather than upon request.

Finally, it is anticipated that standards for **accessible transit stations** would be covered under the forthcoming AODA built environment regulation, to be integrated with the Building Code. These provisions should account for other relevant regulations as well such as the Fire Code. They should also ensure coordinated planning happens between accessible transit stations and fleets, in keeping with the principle of inclusive rather than segregated design, and conventional systems that are fully accessible as much as possible. For example, construction of new emergency exits must account for accessibility.

IAR Part E: Administrative Monetary Penalties

Under the proposed IAR, the Director or tribunal can order an individual or unincorporated organization to pay penalties up to a maximum of $2,000 and up to $15,000 for corporations. Compliance history and impact of violations would be aligned with escalating risk factors to determine the amount of a penalty, along with the potential to reduce the amount or rescind an order on a case by case basis. If they fail to comply with a standard or an order of the Director or tribunal, they risk facing court prosecution for an offence under the AODA which can include significant fines of up to $50,000 per day per individual and $100,000 per day per corporation.

As it deals with many regulation and enforcement mechanisms, the Government of Ontario is in the best position to determine how effective this approach will be for enforcing AODA standards.

IAR Part F: Designation of a Tribunal to Hear Appeals

The designated tribunal should have sufficient resources and expertise to address accessibility issues and ensure fulfillment of legal obligations towards persons with disabilities under the AODA, the Human Rights Code, other relevant legislation such as the Building Code, the Canadian Charter of Rights and Freedoms, and legal jurisprudence, as well as relevant international law. This is particularly important given that:

- only those subject to a Director's order have recourse to appeal decisions and orders under the proposed IAR while individuals impacted by barriers do not
- the Supreme Court of Canada has ruled all tribunals must apply the Human Rights Code on relevant matters[12] and
- the AODA was put in place to address accessibility barriers and avoid case by case litigation so individuals with disabilities need only face the onus of bringing a matter before the Ontario Human Rights Tribunal as a last resort.

Ministry Compliance Assurance Framework

The Ministry's Compliance Assurance Framework announced in September 2010 sets out four elements:

- education and awareness;
- self-certification reporting strategy including electronic filing of reports;
- compliance improvement strategy including a Ministry help-desk, compliance staff and automated compliance notifications; and,
- inspection and enforcement staff, desk audits and field inspections resulting from contraventions.[13]

In regard to the first element, **significantly more public communication and education, delivered by those at the highest level**, is needed if obligated sectors and the general public are to fully embrace the AODA and make it succeed.

[1] Council of Canadians with Disabilities v. VIA Rail Canada Inc., 2007 SCC 15, [2007] 1 S.C.R. 650
[2] See Letter of transmittal dated July 5, 2010 from the Chair, Accessible Built Environment Standards Development Committee to the Minister of Community and Social Services / http://www.mcss.gov.on.ca/en/mcss/programs/accessibility/Built_Standard/transmittal_letter.aspx
[3] See OHRC Submission Regarding the Accessibility for Ontarians with Disabilities Act (AODA) Legislative Review, October 2009 and all earlier OHRC submissions on AODA standards / http://www.ohrc.on.ca/en/resources/news/beer/view
[4] ARCH Disability Law Centre, Submission on the Initial Proposed Information and Communication Standard under the Accessibility for Ontarians with Disabilities Act, February 2009.
[5] CCD v. Via Rail SCC 2007
[6] Law Times, "Editorial: Government should heed call for better web accessibility", September 27, 2010 / http://www.lawtimesnews.com/201009277602/Commentary/Editorial-Government-should-heed-call-for-better-web-accessibility
[7] A substantive outcome of "full" accessibility should always be the "ideal" goal limited only by current best known practices and technology, feasible implementation, as well as undue hardship in terms of cost, health and safety, having regard for "factors relevant to the circumstances and legislation governing each case" (CCD v Via Rail SCC 2007 at para.123 re SCC in Eldridge & Meiorin).
[8] See, Ontario Human Rights Commission Submission to the Accessible Built Environment Standards Development Committee Regarding The Initial Proposed Accessible Built Environment Standard, October 2009 / http://www.ohrc.on.ca/en/resources/submissions/builtenviro
[9] Wozenilek v. Guelph (City) 2010 HRTO 1652,

> Para.30: In cases like this one dealing with accessibility of infrastructure, the Tribunal must balance both the importance of ensuring accessibility and the reality that necessary changes may take time and significant resources to implement, particularly given the scale of changes that must be implemented by a large organization providing a variety of services to the public. The possibility of phased-in accommodation in some circumstances is recognized in the Ontario Human Rights Commission's *Policy and Guidelines on Disability and the Duty to Accommodate*, at para. 5.4.9
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> Para.31: In my view, in interpreting the statutory criteria, relevant considerations in circumstances like these in determining whether the respondent has accommodated the applicant to the point of undue hardship include the following, although there may be others that will apply in particular cases:
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> - Whether the respondent has recognized and appropriately prioritized the importance of equal access for persons with disabilities;
> - The steps taken and plans developed to eliminate barriers in the relevant categories;
> - The extent of the changes necessary across the respondent's operations;
> - The life of existing infrastructure and the cost of making the changes necessary to ensure accessibility; and
> - The measures taken to accommodate persons with disabilities using existing infrastructure.
>
> Para.36: …The elimination of those barriers, however, is a process that sometimes reasonably requires time and significant expenditure, meaning that full accessibility will not be possible right away.

[10] See OHRC Submission to the Employment Accessibility Standards Development Committee Regarding the Initial Proposed Employment Accessibility Standard, May 2009 / http://www.ohrc.on.ca/en/resources/submissions/employaccess/view
[11] See OHRC Submission to the Ministry of Community and Social Services Regarding The Final Proposed Accessible Transportation Standard, April 2009 / http://www.ohrc.on.ca/en/resources/submissions/soserv
[12] Tranchemontagne v. Ontario (Director, Disability Support Program), [2006] 1 S.C.R. 513, 2006 SCC 14
[13] In accordance with the AODA, the appointed Director or designate can order: industry or class categorization; filing of standard or ad hoc reports; compliance with standards set out in regulations; compliance with incentive agreements; and, monetary penalties in accordance with the integrated regulation.