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Disability Discrimination Act Inquiry  
The Productivity Commission  
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## **Submission to the Review of the Disability Discrimination Act**

### **The Disability Discrimination Act and Multiple Chemical Sensitivity (MCS)**

With regard to the terms of reference of the National Competition Policy Review of the Disability *Discrimination Act (DDA)*, individuals with MCS are currently disadvantaged under the Act. If the review thinks the issue of MCS and equitable access under the DDA has been satisfactorily addressed, this is not the case. There are many suffering discrimination related to access to health care facilities, affiliated services e.g. respite, public housing, crisis accommodation, other public services such as transport and schools, and some are disadvantaged in the workplace. The DDA must work for all people with a disability.

Government legislation and policies relating to ecologically sustainable development need to be investigated as there are instances where community concerns about environmental pollution causing disease and disability have been ignored, or dismissed, by Government with an economic agenda that is not ecologically sustainable. The community has no access to redress of grievance if individuals cannot afford litigation costs. Further, an inadequate level of State and Federal Budgets has been allocated to address funding for disability and health services, yet the demand on these has increased as a result of the rapid growth and development favoured by current economic policies. Better legislation to address ecologically sustainable development and a higher level of funding for health and disability services needs to be addressed. This is essential to ensure equity for those suffering disability and disadvantaged as a result of current government policies.

In making assessments to identify the magnitude of the social and environmental or other economic problems that the legislation seeks to address, some attention to the following is essential: 1). The magnitude of social, economic and environmental issues that impact adversely on those disabled by MCS should be investigated and addressed by government. 2). The investigation should ensure that the objectives of the Act in regard to those in the community with MCS are met i.e. equity of access and a more accessible complaints system that does not rely on the affordability of legal representation.

While the Draft Report claims the DDA has been effective in reducing discrimination, access to the complaint process has not been equitable. Making a complaint can be prohibitive because of.

- poor health and disability, the distress of being subject to discrimination and then taking part in the complaint process
- lack of advocacy services to ensure complaints are sufficiently developed prior to conciliation or a hearing, and to take part in these processes.
- income disadvantage and lack of access to legal support,
- fear of court costs if the case is lost as property or money cannot be recouped due to disability.

In the interests of equity, a consumer advocate should be established and funded to ensure complaints are properly developed for conciliations and hearings. The issue of legal support could be dealt with by all complaints being subject to conciliation by an independent conciliator or panel of conciliators. Should a complaint proceed to a hearing, an equitable level of legal support should be provided by legal aid services, which should be adequately funded by government. No costs should be awarded if the complainant loses the case. Some mechanism needs to be developed to ensure that negotiated settlements are observed with penalties for breaches. The complaint process should always act as a quality assurance mechanism of the DDA so their claims of efficacy are evidence based.

Finally, I believe that National Competition Policy is not necessarily in the best interests of the community. In particular, the economic model is not appropriate for people with a disability and disability services. Since the adoption of National Competition Policy, legislation has been systematically weakened then followed by further weakening once an industry co-regulatory approach is adopted. I do not support a co-regulatory approach as industry has already interfered with the efforts of people with MCS to obtain appropriate health care and disability services. The DDA must be exempt from National Competition Policy and human rights under the DDA fully observed. Overall, industry must not be able to claim it is too difficult for them to provide equitable access for people in the community with MCS.

**Signed:**