



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mrs Giulia Jones MLA (Chair), Ms Bec Cody MLA (Deputy Chair), Mr Deepak-Raj Gupta MLA

The Hon Karen Andrews MP
Minister for Industry, Science and Technology
Parliament House
CANBERRA ACT 2600

Dear Minister

Access to Australian Standards adopted in legislation

Thank you for your response, dated 31 March 2020, to my letter to you, dated 2 December 2019, seeking your assistance in relation to access issues created by the increasing practice of ACT legislation to rely on Australian Standards and Australian Standards/New Zealand Standards.

Thank you for the information provided in your response, including about the work of the Industry and Skills Council Standards Accessibility Working Group of the Council of Australian Governments and the developments since November 2019.

I note your advice in relation to Standards Australia's announcement, on 7 February 2019, that it was "moving beyond the exclusive distribution arrangements that it has had since 2013" and that a new service provider – Techstreet – has been announced. I also note your advice that Standards Australia has also recently announced a new "Distribution and Licensing Policy Framework" which, you advise, will see "improvements to the price relevance and reach of Australian Standards". I note, however, that you advise that these improvements will come "over time". I seek your further advice as to what sort of process is in place, to implement these envisaged improvements, and what sort of timetable is envisaged, as the Committee regards the issue of access to Australian Standards as an issue that has unacceptable implications and ought to be addressed as a matter of urgency.

I also note your advice in relation to the suspension of access to Australian Standards, free of charge, through National, State and Territory libraries. In particular, you advise that Standards Australia is working towards restoring this access, to non-commercial users. Again, I seek your further advice as to what sort of process is in place, to restore this access, and what sort of timetable is envisaged.

In this context, I note your advice that "[i]n the meantime, Standards Australia will consider providing standards to users where there is a legitimate non-commercial need on an individual basis". I seek your further advice on 2 aspects of this issue. First, I seek your further advice as to what sort of process is in place, for resolution of this issue, and as to what sort of timetable is envisaged. Second, I seek your advice as to what consideration has been given to providing access to relevant standards, free of charge,

to potential users whose reliance on particular standards, etc, in earning their income, means that they might have a commercial interest in the relevant information but not a great enough interest, or a great enough capacity, to make it financially viable to purchase the relevant standards.

I note the following paragraph in your response:

It remains Government policy that the relevant regulatory authority should consider funding access to standards where referenced in legislation. This should be done on a case-by-case basis, and is often considered through regulatory impact assessment processes. The new distribution arrangements implemented by Standards Australia should also provide greater opportunities to make these standards more accessible to a range of stakeholders.


I seek your further advice as to what sort of process is in place, to implement these new distribution and access arrangements, and as to what sort of timetable is envisaged.

The Committee is firmly of the view that free, public access, for all users of legislation, to material such as Australian Standards, when referenced and relied upon by legislation, is fundamental.

It is a fundamental principle of Australian law that ignorance of the law is no excuse for a failure to comply with the law. As part of that principle, it should be clear that a person affected by a law has a right to be able to freely ascertain what the law is. It should include a right to be able to freely ascertain the *content* of any particular law. The current approach to the reliance of Australian legislation on Australian Standards, etc operates in apparent disregard of these fundamental principles.

As demonstrated by the 2016 report of the Joint Standing Committee on Delegated Legislation of the Western Australian Parliament, on *Access to Australian Standards adopted in delegated legislation*, the Committee is not alone in this view. However, progress towards addressing access issues seems to be frustratingly slow. It is for that reason that I seek your further advice as to the processes that have been put in place and the timetables that are anticipated, in relation to the various initiatives that you mention in your response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Giulia Jones', with a stylized flourish at the end.

Giulia Jones MLA
Chair
4 June 2020.