



Briefing Note 4: Bill C-81 – *Accessible Canada Act*

Splintering of Powers and Enforcement

How does Bill C-81 currently address this issue?

Bill C-81 splinters the power to make accessibility standards and regulations and the power to enforce the Bill across numerous federal agencies. The Bill does not designate one central agency to oversee compliance with accessibility requirements and adjudicate accessibility complaints. Instead, enforcement will be done by multiple agencies, including the Accessibility Commissioner, Canadian Radio-television and telecommunications Commission (CRTC), Canadian Transportation Agency (CTA), and the Federal Public Sector Labour Relations and Employment Board.

Why is this concerning?

Multiple agencies adjudicating accessibility complaints may result in uneven or unfair enforcement of the *Accessible Canada Act* because different agencies may adopt different or contradictory approaches. The experience of many people with disabilities is that the CRTC and CTA are more likely to treat human rights and accessibility as secondary to the technical concerns of industry. Analysis of CTA decisions in accessible transportation cases shows that the CTA does not use a fulsome human rights analysis. Therefore, allowing the CTA and CRTC to deal with *Accessible Canada Act* complaints may result in weak enforcement of accessibility requirements in transportation and telecommunications.

How should Bill C-81 be changed?

- Bill C-81 must centralize enforcement powers, not splinter them.
- It must designate the Accessibility Commissioner to deal with all *Accessible Canada Act* complaints. The CTA and CRTC should not retain powers to deal with accessibility complaints.
- It must designate one agency to receive all accessibility plans and progress reports.
- The Canadian Accessibility Standards Development Organization (CASDO) is better positioned to develop accessibility standards than other federal agencies.

Additional Advocacy Points:

Members of government have said that it is ok to have multiple agencies dealing with accessibility complaints because the agencies must coordinate their efforts. Members of government have also said they plan to implement the “no wrong door policy”, meaning that if someone files an accessibility complaint at the wrong agency, the agency will send the complaint to the correct place.

Our response is that “no wrong door” may actually be worse for persons with disabilities because it may deprive them of their procedural rights. A person making an accessibility complaint may want the complaint to go to a particular agency because of the agency’s expertise and their record of making decisions that enhance accessibility and human rights principles. “No wrong door” will deprive people from choosing which agency decides their complaint. We are also concerned that “no wrong door”

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may divert human rights and discrimination complaints that are filed at the Canadian Human Rights Commission to other agencies.

Members of government have said that the CTA and CRTC are the best agencies to deal with accessibility complaints in transportation and telecommunications because of their expert knowledge in these areas.

Our response is that when deciding accessibility complaints, it is most important that the decision-maker has expert knowledge in disability, accessibility and human rights principles. Experiences of persons with disabilities and analysis of CTA cases shows that the CTA and CRTC do not have this expertise. It is more likely that the Accessibility Commissioner will have such expertise. If needed, the Accessibility Commissioner can consult with the CTA or CRTC when dealing with complaints that require some technical knowledge.