PRINT PAGE 1

Brief To: The Standing Committee on Human Resources, Skills and Social Development And the Status of Persons with Disabilities

Brief From:

John Rae E-mail:

thepenguin@rogers.com

Subject: Strengthening Bill C-81, the Proposed Accessible Canada Act October , 2018

# 1 INTRODUCTION:

The disability community welcomed the introduction of Bill C-81 “An Act to Ensure a Barrier-Free Canada.” However, as currently written, it will not achieve its stated goal of creating an accessible Canada. Bill C-81 requires significant amendments and strengthening if it is to achieve its stated objectives!

# 2. BACKGROUND:

My name is John Rae. I am totally blind, and have been involved in Canada’s disability rights movement for the past 43 years. I attended two of the Minister’s consultations, one of the Minister’s round tables, submitted three briefs and participated in several community consultations. Based on the input received since the release of the “Obstacles Report,” the introduction of Bill C-81 is a good start, but it requires substantial amendments to make it an effective law bring about tangible advances in the lives of Canadians with disabilities. This brief identifies several areas for improvements, and makes recommendations for strengthening it.

I am aware of and have drawn from the proposals that have been put forward by the Alliance for Equality of Blind Canadians (AEBC), the Council of Canadians with Disabilities (CCD), the AODA Alliance, ARCH Disability Law Centre, and the [Federal Accessibility Legislation Alliance](https://www.include-me.ca/) (FALA). I am impressed with how the disability community has come together over this proposed Act, and I endorse and support most of their recommendations for strengthening Bill C-81.

Rather than repeating a long list of recommendations, I intend to show how pervasive barriers remain, and why amending this Bill is of such urgent importance to Canadians with disabilities, including Canadians who are blind, deafblind or partially sighted, and to focus on topics that are of greatest importance to me.

PRINT PAGE 2

# 3. THE PERVASIVE PRESENCE OF BARRIERS:

Despite the motto of the International Year of the Disabled Person, way back in 1981, “full participation and equality,” many, many barriers to this “full participation”, remain ubiquitous throughout Canadian society, and surprising to some, in 2018 new barriers continue to appear. Here are merely a few examples:

a) It is still suggested that voting in any election is the most important act any citizen performs in a democracy. I may be able to vote, but I cannot independently and in secret verify that I have cast my vote for the candidate of my choice, yet alternative methods of voting, such as electronic machines, telephone and online voting options are in wide use in other jurisdictions throughout Canada, but Bill C-81 is silent on making federal elections fully accessible.

b) The Canadian Radio-Television and Telecommunications Commission (CRTC) has steadfastly refused to regulate television broadcasting over the internet. Thus, while I am now able to obtain described narration in a growing number of programs over my TV set, that same program normally does not have the described narration included when that program is broadcast over other platforms, and yet, Bill C-81 gives new and additional authority to the CRTC, which continues to fail us so regularly.

c) When I travel, I routinely fly on aircrafts that do not offer me and other passengers who happen to be blind access to their onboard entertainment systems or access to the onboard flight attendant call button, yet I am expected to pay the very same fare as travelers who can access these services. Despite these limitations, Bill C-81 as currently written, proposes to give increased authority to the Canadian Transportation Agency (CTA), which has done little to remove existing barriers to the independent travel of persons with disabilities.

d) Today, it is easier than ever before in human history to produce documents in hard copy braille, yet it has become harder to obtain documents in braille. This includes obtaining reports and letters from Parliament or government departments.

Too often, I still receive reports or letters, including reports released by Parliament in unreadable PDF format, the most problematic format, as too many organizations insist in producing their materials solely in pdf. producing these Reports or letters in a readable manner is easy, and organizations who insist on using PDF should be required to also produce their materials in equivalent, more readable and navigable text or HTML formats.

e) Poverty remains one of the most pervasive barriers that prevent Canadians with disabilities from participating more fully in all aspects of our society. The Act should establish a tax-free Disability Allowance, to cover the extra costs of disability including:

PRINT PAGE 3

- the purchase of adaptive technology such as refreshable Braille displays

- other disability supports and services, including extra costs for accessible transportation, interveners for people who are deafblind, and readers and other personal assistants for people who are blind.

f) Over the past several decades, employment for Canadians with disabilities has improved only marginally and both the Government of Canada and the federal public service have not done nearly enough to become a model employer by breaking down barriers, creating a welcoming place for Canadians with disabilities to work, and increasing the level of representation of persons with disabilities in Canada’s workplaces.

g) Most Canadians who live with any disability will assert that negative public attitudes remain our greatest barrier; thus, while strengthening this Act may help change needed behaviours, to be truly effective, the federal Government must devise new initiatives to help improve the ways in which Canadians with disabilities are viewed by our fellow citizens.

# 4. ADD A DISABILITY LENS:

Amend the Act to add a Disability Lens, which shall be applied prior to the development of any new policy, program and/or legislation. It should also be an integral factor in the awarding of transfer payments, contracts, grants and contributions, such that no new federal funds will be used in any way to create or perpetuate barriers to the full participation of persons with disabilities in Canadian society. A precedent for this approach already exists through the gender-based analysis, and this proposed disability lens should be applied in a similar manner.

Many departments administer legislation and policies that are barriers for blind, deafblind or partially sighted individuals. The current discussions concerning regulations in the field of accessible transportation would have benefited from the application of a disability lens, to ensure they were based on principles of universal design, inclusion and human rights.

If coupled with a vigorous Procurement Program based on universal design principles, the Government of Canada could very positively influence the design and manufacture of more products that are immediately usable by a much greater number of Canadians. This would assist Canadians with disabilities, and it could also assist Canadian businesses to play a leadership position to sell such products abroad as other countries implement their obligations under the UN Convention on the Rights of Persons With Disabilities. This would create a major win/win situation.

PRINT PAGE 4

# 5. GENERAL:

This bill contains some promising features including:

Its title shows the Government of Canada aims to create a fully accessible and barrier-free Canada.

The bill broadly defines the terms "disability" and "barrier."

The bill establishes several new officials and agencies to achieve its goal.

The bill provides for the development of accessibility standards, and allows for the Governor in Council to enact these into enforceable regulations, that are binding on organizations that the Federal Government can regulate.

The bill also provides for federally-related organizations to create multi-year accessibility plans and to update these over a period of years, and the Bill provides for regular reviews.

However, The bill's "purpose clause" only seeks the "progressive realization" of a barrier-free Canada, and needs to remove this phrase and add a deadline for achieving full accessibility.

The bill empowers the Government to create accessibility standards or regulations, but it does not require the Government to ever use this power. The disability community has long advocated that the Lieutenant Governor in Council transform the Voluntary Codes of Practice under the Canadian Transportation Act into regulations, but successive governments have never done so.

The bill requires obligated organizations to establish accessibility plans, but does not require obligated organizations to develop good plans or to implement its plans. It does not provide people with disabilities with a way to lodge complaints against an organization if it makes no plan, or makes a poor plan or doesn't implement its plan. I join in asking that the bill be amended to correct these deficiencies.

Section 5 of the Bill enumerates a number of important areas for priority for developing accessibility standards, however, this Section does not include several other areas covered by Canada’s obligations under the CRPD, including:

- accessible elections

- immigration

- federally-operated courts

- banking and

PRINT PAGE 5

-health

This Section should be expanded to include the development of accessibility standards in these important areas.

# 6. SPLINTERED ENFORCEMENT:

The bill splinters the important power to enact binding and enforceable accessibility regulations among three federal bodies:

the Federal Cabinet,

the Canada Transportation Agency and

the Canada Radio, Television and Telecommunications Commission

This could result in the creation of a patchwork of inconsistent if not contradictory accessibility regulations. The power to enact accessibility standard regulations should be assigned to the Federal Cabinet.

Splintering enforcement over a number of agencies risks us being unfairly shuffled back and forth from one federal enforcement agency to another.

The Bill gives additional ajudicable powers to both the CRTC and CTA, both of which have failed to rigorously use the powers currently available to them. I believe this is at least partly due to the fact that these bodies work too closely with the organizations they regulate. Thus, there is no reason why Canadians with disabilities should suddenly be expected to develop new confidence in these bodies, and the proposed additional authority should not be granted to these organizations.

The bill also gives various bodies sweeping and unwarranted powers to issue exemptions from important accessibility obligations, And no reasons need ever be given for issuing any exemptions. These exemptions can last indefinitely, even if the exempted organization is doing a poor job of implementing accessibility. This power to grant exemptions should be deleted from the bill.

In addition, the word “may” appears over 200 times throughout this Bill, and this permissive approach leaves Canadians with disabilities worried over the extent of the federal government’s will to ensure this Bill makes a tangible different in our lives. The words “shall” or “must” should be substituted in many Sections of the Act to give it greater authority and teeth.

Nothing in the Act, or in its regulations or in any actions taken under it can be allowed to reduce in any way any rights which people with disabilities currently enjoy under law, and that in the

PRINT PAGE 6

case of conflicting legal provisions, the strongest accessibility provisions shall always take precedence and prevail.

# 7. REVIEWING EXISTING STATUTES:

When Canada signed and ratified the CRPD, it was expected the federal government would undertake a comprehensive review of existing statutes with the view of bringing them into line with its commitments under the CRPD. If such a review was ever conducted, the results have not been made public and no substantive amendments to existing statutes have taken place. Such a review should take place, and the results made public and acted upon.

# 8. CONCLUSION:

Passage of Bill C-81, even with significant amendments will be only the first step towards making Canada truly barrier-free.

Achieving the Bill’s intent will require:

an infusion of new resources;

an increased commitment to involving the real experts – persons with disabilities who have lived experience living with their disability – and real government commitment to rigorously enforce the provisions of the Act.

It is now time to move beyond rhetoric and focus directly on actions, outcomes, and concrete changes to our position within Canadian society.

The ongoing inadequate level of representation of persons with disabilities has made it easy for the needs and aspirations of our community to be callously disregarded or simply ignored when important decisions about us are being made, and this chronic and ongoing problem must receive urgent attention. Whether in:

the Ministry offices where decisions about government policies are made the newsrooms where decisions about which stories will be covered the political party offices where platforms are developed,

the boardrooms where decisions about hiring policies are set, or –

the offices where decisions about the manufacture of new products are determined.

PAGE 7

The one seventh of our population who are directly affected - persons with disabilities - have never been adequately involved at any level within these and other organizations, and if we are ever to make significant progress towards achieving the elusive goal of the IYDP, "Full Participation and Equality," this must change!

Redressing our historic chronic level of unemployment and lack of direct involvement in decisions that affect our quality of life would not only bring some of us out of poverty and into the mainstream, it would provide organizations with badly needed in-house expertise on disability that could lead to developing new products, services and programs that could make Canada truly the envy of many other nations that are also grappling with bringing persons with disabilities into the mainstream after their ratification of the CRPD.

A strong business case has been made; the moral imperative has been clearly articulated; and the benefits of bringing more of us into the economic mainstream through meaningful employment is obvious. It's time to work more collaboratively together to ensure a better future for the next generation of Canadians with disabilities.

Bill C-81, if significantly strengthened, could go a long way to making our dreams a reality.

\*\* End of Brief

END OF DOCUMENT.