**Barrier-Free Canada/Canada Sans Barrière**

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A Non-Partisan Campaign for a Barrier-Free Canada for All Persons with Disabilities

Canadians with Disabilities Act Consultation Tip Sheet: Detailed Points to Present to the Federal Government's Public Consultation on What To Include in the Promised Federal Accessibility Law

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## 1. Introduction

In the 2015 federal election, Justin Trudeau promised to pass a Canadians with Disabilities Act. The Federal Government is consulting Canadians on what to include in this new national disability accessibility law. Here are points you might make when giving the Federal Government feedback on its [online questionnaire](https://hrsdc-rhdcc.sondages-surveys.ca/s/Accessibility_accessibilite_TXT/?l=en), or at [the Federal Government's public forums](http://www.esdc.gc.ca/en/consultations/disability/legislation/index.page#h2.3) taking place across Canada.

Tell your own stories about barriers you face that the Federal Government can address. The Federal Government has authority over federal programs, banking, air travel, radio, TV, telephone, cell phone and cable TV, Crown corporations and the post office. Use your own words if you wish. Borrow our ideas and our words if you want!

This Tip Sheet's ideas use questions asked in the [Federal Government's Discussion Guide](http://www.esdc.gc.ca/assets/portfolio/docs/en/consultations/disability/No.653-Layout%20Discussion%20Guide-EN.PDF?_ga=1.90300442.1063040162.1469453550). These ideas come from feedback we have received from our supporters across Canada. Much more detail on these ideas are in the 33-page [Discussion Paper on the promised Canadians with Disabilities Act](http://www.aodaalliance.org/strong-effective-aoda/august-19-2016-discussion-paper-on-a-Canadians-with-Disabilities-Act-by-David-Lepofsky.docx), written by Barrier-Free Canada co-chair David Lepofsky.

At the end of this Tip Sheet, we give you links to more information and background.

We welcome your feedback on this Tip Sheet. Is it helpful? Tell us how to improve it. Email suggestions to us at info@barrierfreecanada.org For those who want something shorter, watch out for Barrier-Free Canada's leaflet, entitled: What A Strong Federal Accessibility Law Needs to Do – At a Glance."

## 2. How can the Federal Government raise awareness of and change attitudes towards accessibility for people with disabilities? How can the Federal Government change the way government officials and private companies handle accessibility issues?

The best way to raise awareness and change attitudes is to pass and effectively enforce a strong, clear federal accessibility law.

## 3. What is the goal of a federal accessibility law?

The federal accessibility law's purpose should be to ensure that the Federal Government will lead Canada to become fully accessible to people with disabilities by a deadline the law sets, as far as the Federal Government can.

The law should ensure that all federally-reachable organizations, including all organizations that get federal funds, have accessible goods, services and jobs. The Charter of Rights and Canada Human Rights Act guarantee those rights. People with disabilities should not have to fight one barrier at a time, one organization at a time, in legal proceedings under the Charter of Rights and the Canada Human Rights Act.

In 2005, the Ontario legislature set 2025 as the deadline for Ontario to reach full accessibility. The fact that Ontario is behind schedule has helped press for more action on accessibility.

The federal accessibility law's purpose should also be to help ensure that Canada fully meets its duties under the United Nations' Convention on the Rights of Persons with Disabilities. This law should adopt that Convention's Optional Protocol. That would give the UN some oversight over Canada if Canada falls short on disability accessibility.

The law shouldn't just seek to "improve accessibility." That is too weak. If just one ramp is installed somewhere in Canada, accessibility is "improved," and the law has done all it needs to do. We need this law to do much more.

It is insufficient for the new law to aim just to make Canada the most accessible country in the world. That only requires Canada to be slightly better than other countries, no matter how inaccessible they are. Canada’s Charter and human rights laws require much more.

## 4. Who should have to obey the federal accessibility law?

The federal accessibility law should extend to every organization that the Federal Government can reach. This includes organizations like banks and airlines that the Federal Government normally regulates. It also includes any organization that gets grants, loans or other payments from the Federal Government.

## 5. How should the federal accessibility law define "disability," "accessibility," and "barrier"?

The federal accessibility law should define "accessibility," barrier," and "disability" in a clear, broad, inclusive way. If they are too narrow, the law will be weak.

The law should protect all disabilities whether they are visible or invisible, and whether they are permanent or they come and go. It should include physical disabilities, mental disabilities, sensory disabilities, learning disabilities, mental health conditions, communication disabilities, intellectual disabilities, autism, environmental sensitivities and all other kinds of disabilities.

"Accessibility" means "barrier-free." An accessible workplace or goods or services are ones in which people with disabilities can fully participate to the extent of their individual abilities.

The law should address *all* kinds of accessibility barriers, such as physical barriers in the built environment inside and outside buildings, communication barriers, technology barriers, information barriers, attitude barriers, legal barriers, and policy or bureaucratic barriers. “Barrier” should mean anything that prevents a person with a disability from fully participating in all aspects of society because of a disability.

## 6. How should the law get organizations to remove and prevent barriers?

The Federal Government's [Discussion Guide](http://www.esdc.gc.ca/assets/portfolio/docs/en/consultations/disability/No.653-Layout%20Discussion%20Guide-EN.PDF?_ga=1.90300442.1063040162.1469453550) asks about two different ways the law could get organizations to tear down disability barriers. That Discussion Guide says the federal accessibility law could include either or both of them. the Federal Government asks whether this law should include one or both of these options.

The first option: The federal accessibility law could let the Federal Government create regulations, called accessibility standards. These standards tell organizations exactly what they must do to get rid of barriers, and to avoid creating new ones. They would spell out the specifics and set deadlines for action. Different accessibility standards could be created for different parts of the economy. There could be a Transportation Accessibility Standard, a Banking Accessibility Standard etc. An accessibility standard can also address an entire kind of activity in all organizations, like an Employment Accessibility Standard.

If Canada creates good accessibility standards, people with disabilities won't have to battle accessibility barriers one at a time, one organization at a time. Good accessibility standards can save obligated organizations time and money. Each organization won't have to reinvent the accessibility wheel, having to hire accessibility consultants to tell each organization the same thing. Instead, a good accessibility standard shows organizations exactly what to do to become accessible.

The second option: The law could set goals of how accessible organizations must become, and then require each organization to write plans on how to get there. The Government would then review these plans to see if they are good enough.

Here's a good answer about what the new federal accessibility law should include: The federal accessibility law should put the Federal Government in charge of leading Canada to full accessibility. This doesn’t mean that the Federal Government must fix every barrier in Canada.

The law should create a new independent federal office, the Canada Accessibility Commissioner. The Commissioner should lead the law's implementation and enforcement. The Commissioner should be Canada's national accessibility champion and independent watchdog.

The federal accessibility law should not just *let* the Federal Government create accessibility standards. It should require the Government to create all the accessibility standards needed to lead Canada to full accessibility by the law's accessibility deadline. Government organizations and private companies must be told in clear, specific terms what to do, and when, to tear down barriers and to avoid creating new ones. Any federal accessibility standards should at least rise to the level of accessibility that the Charter of Rights and the Canada Human Rights Act set.

Without strong, enforceable accessibility standards, the law will fail. It would be wrong to have no accessibility standards, and instead to have each organization come up with its own plans for action on accessibility. That won't work. It would be wasteful. Each organization would have to re-invent the same wheel.

Organizations need accessibility standards. They want to know what they have to do. People with disabilities also need accessibility standards to tell them what barriers will be removed, and when.

## 7. How should the Government create accessibility standards?

The federal accessibility law should create a prompt, fair, effective, open process for creating accessibility standards. People with disabilities should be guaranteed an equal say in what these accessibility standards include, with an equal seat at the table.

First, the new Canada Accessibility Commissioner should get input from people with disabilities and from obligated organizations on the barriers that need to be fixed, and how to fix them. Then the Canada Accessibility Commissioner should recommend to the Government what standards are needed. It should recommend what specific rules and deadlines an accessibility standard should include, e.g. in an area like transportation or banking. After this, the Federal Government can create an accessibility standard, just as the Accessibility Commissioner recommended, or with changes.

## 8. What else could a federal accessibility law include to get organizations to remove barriers and avoid creating new ones?

\* The federal accessibility law should set mandatory timelines for the Federal Government to take steps to implement the law, like appointing the Canada Accessibility Commissioner, and creating accessibility standards. It should give the public a good, fast way to get the Federal Government to meet those time lines for action, if the Government does not meet them.

\* The federal accessibility law should require the Federal Government to make sure that no one uses public money to create or perpetuate disability barriers. The federal accessibility law should require the Federal Government and federal agencies to attach and enforce clear, strong accessibility strings to all federal spending. For example, the Federal Government should make sure that any time it gives money for capital or infrastructure projects to anyone such as provincial governments, municipalities, hospitals, universities or private businesses, these projects must be fully accessible to people with disabilities.

a) The Federal Government should ensure that any goods or services it buys are fully accessible to people with disabilities.

b) the Federal Government should set accessibility conditions when it gives out business development grants and loans, and research grants for universities and other organizations.

c) When the federal Government makes transfer payments to provinces or territories for provincial programs like health care, that provincial program must be required to fulfil new federal disability accessibility requirements, just like it must meet other federal requirements.

\* The federal accessibility law should require the Federal Government to ensure that all federal laws are barrier-free and include measures that ensure the accessibility for people with disabilities of the programs, policies, rights and opportunities these laws provide. The Federal Government should review all its laws for accessibility barriers, with a priority on the Criminal Code and Canada's immigration laws. Where barriers are found, these laws must be amended to ensure they are barrier-free. The Federal Government must also ensure that any new laws are barrier-free.

\* The federal accessibility law should require the Federal Government to ensure that federal elections are barrier-free for voters and candidates with disabilities. Polling stations must be accessible. Voters with limited or no vision, or with other print disabilities or motor limitations, must be able to mark their own ballot independently and in private, and be sure that their ballot was properly marked. Election campaign information, including materials from parties or candidates, must be accessible to people with vision loss, dyslexia or hearing loss.

\* Large governments lag behind other organizations on accessibility. The federal accessibility law should include six additional measures, to ensure that the Federal Government becomes a fully accessible workplace and service-provider:

a) One minister and full time deputy minister should be responsible for ensuring that the Federal Public Service becomes fully accessible.

b) The Federal Government should be periodically audited for accessibility. This includes its workplaces and services. The Government should make the audit results public.

c) Federal public servants should be accountable for their accessibility duties. Each federal department should have an accessibility champion, to ensure from the top, that accessibility is embedded throughout that organization.

d) The Federal Government should make public a multi-year plan for accessibility action. It should report each year on its progress.

e) The Federal Government should maintain a central fund to pay for workplace accommodations for federal public servants with disabilities.

f) The Federal Government should develop and implement a plan to ensure that all federally controlled courts (e.g. the Supreme Court of Canada and Federal Courts) become fully accessible to court participants with disabilities.

\* The federal accessibility law should require the Federal Government to promote the removal and prevention of barriers that fall within provincial responsibility, while respecting provincial authority.

a) The Federal Government should encourage all provinces to pass accessibility laws.

b) The federal government should create model national accessibility standards for areas like education, health, employment, transportation, residential housing, information and communications, customer service, and the built environment. These should at least fulfil accessibility requirements in human rights legislation and the Charter of Rights. They should meet or exceed any provincial accessibility standards. A provincial or territorial government would be free to adopt, as law, a model national standard, if it wishes, or to modify it for that province or territory.

Model national accessibility standards would help provinces that have no disabilities act, or that haven't created accessibility standards in all these areas.

Model national accessibility standards would help organizations operating in different parts of Canada. They now face a patchwork of provincial accessibility requirements. They prefer to meet one national accessibility standard that ensures that they fulfil all provincial requirements.

\* One billion people with disabilities around the world need accessible products and services. The federal accessibility law should require the Federal Government to create a strategy to expand Canadian businesses' efforts to sell to worldwide markets for accessible goods, services and facilities.

Canadian businesses will make more money and Canadian employment will increase if Canadian businesses produce accessible products to sell internationally. This also helps Canadians with disabilities who will buy these products.

## 9. Should the federal accessibility law set different rules or deadlines for different organizations?

The federal accessibility law can set different time lines for action for big organizations than it sets for smaller organizations. However, this law should not let the private sector sit back and wait until the Federal Government removes its own disability barriers. All organizations should have to get to work right away. Sometimes it is easier for smaller organizations to make progress *more quickly* than bigger organizations. In those situations, it is wrong to give those smaller organizations more, longer deadlines.

## 10. What accessibility issues and barriers should the federal accessibility law address?

The federal accessibility law should not limit the accessibility issues it covers. It should cover accessibility of *all* goods, services, facilities, accommodation, employment and buildings, that the Federal Government can reach.

This law should not be limited to the list of areas in the Government's [Discussion Guide](http://www.esdc.gc.ca/assets/portfolio/docs/en/consultations/disability/No.653-Layout%20Discussion%20Guide-EN.PDF?_ga=1.90300442.1063040162.1469453550). It lists the built environment, program and service delivery, the Government's procurement of goods and services, employment, transportation and information and communications.

These are important areas for this law to address. However, they are not the only areas it needs to cover. If the federal accessibility law lists every area it covers, it can leave out something important. For example, the Federal Government's [Discussion Guide](http://www.esdc.gc.ca/assets/portfolio/docs/en/consultations/disability/No.653-Layout%20Discussion%20Guide-EN.PDF?_ga=1.90300442.1063040162.1469453550) doesn't mention an important federal responsibility that is now full of barriers, namely telecommunication (like TV, radio, cell phones, land line phones, etc.) As well, when Ontario passed its disabilities Act in 2005, smart phones or tablet computers hadn't yet been invented. Fortunately, the Ontario accessibility law included no such list, so it didn't risk leaving these out.

The Federal Government's [Discussion Guide](http://www.esdc.gc.ca/assets/portfolio/docs/en/consultations/disability/No.653-Layout%20Discussion%20Guide-EN.PDF?_ga=1.90300442.1063040162.1469453550) asks which of those six areas that it lists are most important. *All* are very important. It is wrong to create a priority list among them. That unfairly pits one disability group against another. For some, the built environment is more important. For others, it's information and communication. People with disabilities stand together. All barriers any of us face must be addressed.

## 11. How should the new federal accessibility law work with the disability accessibility rights in Charter of Rights and the Canada Human Rights Act?

The new federal accessibility law should make it clear that whatever law guarantees the most accessibility to people with disabilities always prevails. Nothing in this new law or anything done under it should be able to cut back on the rights people with disabilities enjoy under the Charter of rights, the Canada Human Rights Act, or any other law.

## 12. How should the federal accessibility law be enforced?

The federal accessibility law must be effectively enforced. The Federal Government should not be responsible to enforce the law against itself. That won't work.

The Government's [Discussion Guide](http://www.esdc.gc.ca/assets/portfolio/docs/en/consultations/disability/No.653-Layout%20Discussion%20Guide-EN.PDF?_ga=1.90300442.1063040162.1469453550) says it may carve up accessibility. Different federal agencies may be responsible for different parts. That would be bad.

Transportation accessibility shouldn't be left to the Canada Transportation Agency. The CRTC (Canada Radio Television and Telecommunications Commission) should not have final say on accessibility in TV, cable, cell phone and telephone services. Those agencies had years to do much better.

There should be one federal agency for all federal accessibility standards and enforcement, the new Canada Accessibility Commissioner. People with disabilities shouldn't have to chase around the Federal Government, to find out which agency or agencies will enforce accessibility. Now if people with disabilities file a human rights complaint with the Canadian Human Rights Commission, they can find that all or part of it gets punted to another regulatory agency, like the CRTC or the Canada Transportation Agency. This unfairly drags out cases and wears down people with disabilities.

It is not good enough for the federal accessibility law to just give someone the *power* to enforce it. They must have a *strong duty* to effectively enforce it, and to report to the public every three months on what they did to enforce it. They should have the power and duty to audit and inspect organizations, to issue orders to obey, to impose monetary penalties, and to order stronger remedies for organizations that fall far behind.

A few token monetary penalties won't spur organizations to obey. An audit or inspection should look at how accessible an organization really is, and not just at an organization's accessibility forms and files.

The law should require organizations to submit and make public accessibility compliance reports. These should include details on what the organization has done and plans to do on accessibility. Ontario's accessibility reports are less effective, to the extent that an organization just ticks boxes on a form.

These reports should be posted on line. The Government should have them available in an online database that the public can search for free.

The Canada Accessibility Commissioner should be able to receive an investigate complaints from the public, that can lead to enforcement action. Ontario's and Manitoba's Disabilities Acts lack this. The Ontario Government has used this as a weak excuse for not encouraging complaints and following up with enforcement.

The Federal Government should not simply tell members of the public that if they run into an accessibility barrier, they must privately launch a human rights or Charter complaint. The federal accessibility law aims to dramatically reduce the need for individuals to endure that hardship. However, nothing in the federal accessibility law should reduce their rights to do so if they wish.

## 13. How should organizations be supported to improve accessibility?

The Federal Government should set up a centre and a hotline to give organizations free advice on what exactly to do to remove and prevent accessibility barriers. It should send out periodic guidelines giving more details on how to remove and prevent accessibility barriers. This makes it easier for organizations to comply and reduces their cost.

This should include something like the U.S. [Job Accommodation Network](http://askjan.org/). It gives employers free advice on how to accommodate employees with disabilities. Provinces and territories should be invited to opt into such a new federal service.

Federal efforts to educate organizations on accessibility must not become an excuse for delaying federal implementation/enforcement action. The Federal Government shouldn't proceed on the wrong-headed basis that until an obligated organization is federally educated on its accessibility obligations, it need not comply and won't face enforcement. These are not new accessibility duties. They have been required under the Charter of Rights and Human Rights laws for over three decades.

The Federal Government's [Discussion Guide](http://www.esdc.gc.ca/assets/portfolio/docs/en/consultations/disability/No.653-Layout%20Discussion%20Guide-EN.PDF?_ga=1.90300442.1063040162.1469453550) addresses goals of "raising awareness" and "changing attitudes" on accessibility. "Raising awareness" and "changing attitudes" should not be the federal accessibility law's goals. That would delay and side-track action. The federal accessibility law's goal instead should be to change *action* on accessibility. When people take action on accessibility, they eventually increase their own awareness about accessibility. Many find that raising awareness on accessibility doesn't change action on accessibility. Instead, as mentioned above, a strong, effectively enforced accessibility law is the most effective way to change action on accessibility, and thus, to change attitudes towards accessibility.

## 14 How will we know if the law is working well at creating real accessibility?

It can be helpful for the Government to have to report each year on what specifically it will do in the next years to implement the federal accessibility law, and to remove and prevent accessibility barriers. The Auditor General should audit these reports, to make sure that what the Government announces as promised new action is not action it has earlier completed or promised.

The new Canada Accessibility Commissioner should report to the public annually on what progress has been made, and where more progress is needed.

The Federal Government should appoint an independent person to report four years after the law is passed and after that, every three years. They would report on how effectively the new federal accessibility law is implemented and enforced, and on whether Canada is on schedule for full accessibility by the law's deadline.

The Independent Review should consult with Canadians including people with disabilities. Both Ontario and Manitoba accessibility laws require such Independent Reviews. These Independent Reviews have been important in Ontario, pointing out where there has been progress and where things fall short. Manitoba's first review begins in 2017.

## 15. Links to More Background Information

For more background on the **efforts of Barrier-Free Canada**, visit [www.barrierfreecanada.org](http://www.barrierfreecanada.org)

For more on **the Federal Government's work on the promised Canadians with Disabilities Act**, including the schedule for the Federal Government's public forums and its Discussion Guide, visit [www.Canada.ca/Accessible-Canada](http://www.canada.ca/AccessibleCanada)

To download in an accessible MS Word document the **Discussion Paper on what the promised Canadians with Disabilities Act could include**, by Barrier-Free Canada co-chair David Lepofsky, visit <http://www.aodaalliance.org/strong-effective-aoda/august-19-2016-discussion-paper-on-a-Canadians-with-Disabilities-Act-by-David-Lepofsky.docx>