

Chair
Youth Parliament 2016 Cabinet Strategy Committee

IMPROVING ACCESSIBILITY OF WEBSITES AND APPS FOR PEOPLE WITH DISABILITIES

Proposal

- 1 I propose that the Priority One 'Accessible Web Pages and Apps Bill' (the Bill) is debated at Youth Parliament 2016 for its third reading and as a conscience vote.

Executive summary

- 2 Accessibility of websites and apps for people with disabilities is an issue that governments around the world have attempted to improve by promoting standards for public website design. While there is an existing New Zealand Government Web Accessibility Standard (the Standard), there is the opportunity to build on this by improving uptake and making it applicable to a wider range of agencies. This is as part of a package of activity to improve accessibility to digital technologies, including the internet, social media and applications (apps).
- 3 Through the tabling of a Bill at Youth Parliament 2016 and other actions to improve the compliance and reach of existing standards, we can provide greater access for people with disabilities to publicly available information, services and commercial ventures on an equal basis with others.
- 4 The proposed Bill which this paper discusses will improve the accessibility of New Zealand web pages and apps for people with disabilities by:
 - 4.1 extending the Standard to the wider State sector, local government and all New Zealand non-government web pages where it is reasonable to do so
 - 4.2 enabling a compliance, procurement and implementation regime
 - 4.3 establishing general 'future-proofing' powers within the Bill to make regulations to allow for updating of accessibility standards, if required. This will ensure no changes to legislation will be required for any updating of digital accessibility or to respond to rapidly evolving technology.
- 5 While not a Bill provision, a working group, led by the Department of Internal Affairs, and comprised of government agencies, industry and disability representatives (consumers and sector organisations) will report back to Cabinet by December 2016 on incentives to promote accessibility and encourage compliance with the Standard.
- 6 Passage of this legislation, and the broader package of activity within which the Bill sits, will help contribute to meeting New Zealand's obligations under the United Nations Convention on the Rights of Persons with Disabilities.

Existing New Zealand Standard for digital accessibility

- 7 An e-government approach was first established in 2000, and it was noted at this time that disabilities may limit access by some people to new technologies such as the Internet. In December 2003, Cabinet directed all Public Service and non-Public Service departments to implement the New Zealand Government Web Guidelines according to a prescribed timetable. The wider State sector (excluding State Owned Enterprises and Crown Owned Companies) and local government were encouraged to use the Guidelines (but were not required to do so). The Guidelines were adapted and renamed in 2007 and 2013.
- 8 The now-named 'New Zealand Government Web Accessibility Standard' (the Standard) is based on internationally recognised guidelines and is the current Standard for ensuring digital access for people with disabilities. The Standard specifies that each web page within scope must conform with the five Web Content Accessibility Guidelines (WCAG 2.0) requirements.¹

Opportunities to improve digital accessibility

- 9 The creation and widespread use of websites, social media and applications (apps) has accessibility implications – both challenges and opportunities - for people with disabilities. For instance, assistive technologies, such as screen readers are relatively common, but, for those with certain impairments, it may be difficult to purchase groceries or book flights online through being 'timed out' of websites.
- 10 According to the 2013 *New Zealand Disability Survey*, 24 percent of the New Zealand population identified as having a disability (1.1 million people). Further, as noted in the *New Zealand Disability Action Plan 2014-2018*, being treated as equals - with the same rights of citizenship and participation as other New Zealanders - is what people with disabilities say matters most to them.
- 11 Removing access barriers is an enabling factor that is likely to make positive social and economic gains. Accessibility can benefit the whole community including: older people, people with low literacy skills or not fluent in English, people with low bandwidth connections or using older technologies, new and infrequent users, and mobile phone users. In this sense, improving accessibility of New Zealand web pages and apps for people with disabilities can contribute to improved educational and employment opportunities for most people, not just those with disabilities.
- 12 There are costs of inclusion (such as assessing and removing barriers to digital accessibility) and there are also the costs of exclusion (the impact of not being able to access websites or apps, which contribute to unemployment, low learning, or social isolation for example).
- 13 This paper considers how we can improve New Zealand's digital accessibility, acknowledging that:
 - 13.1 there are social and economic costs of significant numbers of people who have restricted access to social media and the internet
 - 13.2 transactions with Government and commerce are increasingly being conducted online and alternatives are not always available

¹ See <https://www.w3.org/TR/WCAG20/#conformance-regs> for further information on the current Standard and what it requires, of whom, and on what authority. The website: <https://webtoolkit.govt.nz> contains the Web Accessibility Standard (under Standards) and additional guidance. The New Zealand Government Web Accessibility Standard and "WCAG 2.0" are not equivalent. WCAG 2.0 is an existing standard issued and owned by the W3C since 2008. It also became an ISO standard (ISO/IEC 40500:2012 in October 2012). The Standard refers to WCAG 2.0 for its substantive and normative requirements, but it also establishes some exceptions to WCAG 2.0.

13.3 there are significant human rights implications to consider in seeking to improve digital accessibility through standards for public website design.

Aligning New Zealand with international jurisdictions

- 14 Internationally, New Zealand has ratified (2008) the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Article 9:
- 14.1 places an obligation on states to take measures to ensure access, on an equal basis with others, to the physical environment including buildings, roads, transport and access to “information, communications and other services, including electronic services”; and
- 14.2 requires States to take measures to “promote access for persons with disabilities to new information and communications technologies and systems, including the Internet.”
- 15 New Zealand is subject to regular reviews, with access of websites, search engine results, closed captioning of television programmes and voting methods for disabled people noted by the United Nations in its 2014/15 review.² The next review is due in 2017/18 and support for the Bill at Youth Parliament will be a positive action to demonstrate efforts to improve digital accessibility.³
- 16 In the European Union (EU), there is an alliance between umbrella groups representing seniors and persons with disabilities. They are currently calling for, as part of the EU’s Digital Single Market, a universal design approach that ensures accessibility. This reflects initiatives elsewhere, notably Canada. The Accessibility for Ontarians with Disabilities Act 2005, for instance, is a model which the proposed Bill for Youth Parliament 2016 has drawn extensively from.⁴

New Zealand legislation is proposed to improve digital accessibility

- 17 Domestically, the Bill will sit alongside accessibility requirements in the building and land transport legislation for people with disabilities. It also aligns with our existing human rights legislation, with provisions being consistent with the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990.
- 18 There is currently very little substantive New Zealand legislation or regulations relating to accessibility of web pages and apps. The Bill discussed in this paper, proposed for tabling at Youth Parliament 2016, will be a considerable addition to this area, alongside the non-legislative work programme outlined in this paper.

The Accessible Web Pages and Apps Bill

- 19 I propose that the Priority One ‘Accessible Web Pages and Apps Bill’ (the Bill) is debated at Youth Parliament 2016 as a third reading and for a conscience vote. The provisions of the Bill

²http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fNZL%2fCO%2f1&Lang=en

³ For instance, to help demonstrate New Zealand’s commitment to the United Nations Sustainable Development Goals (SDGs), such as those relating to education suitable for children and young people with disabilities. The proposed SDG indicators include the proportion of schools with access to “the Internet for pedagogical purposes...[and] adapted infrastructure and materials for students with disabilities”. See: *Final List of proposed Sustainable Development Goal Indicators* Annex IV (United Nations, E/CN.3/2016/2/Rev.1 – Indicator 4.a.1) <http://unstats.un.org/sdgs/> - SDG indicators at: <http://unstats.un.org/sdgs/iaeg-sdgs/> (metadata link and as an Annex).

⁴ See www.ontario.ca/page/accessibility-laws: The 2005 Ontario legislation sets out the obligation to comply with accessibility standards, which are empowered through regulation and a timetable; as well as compliance and review appeal processes. The 2005 Act was a broad piece of accessibility legislation, applying to transportation, employment and the built environment as well as digital platforms.

(discussed below), as well as a package of non-legislative actions, will improve compliance and coverage of the existing WCAG 2.0 Standard.

Extending the New Zealand Government Web Accessibility Standard

- 20 In 2003, Cabinet recognised the discrimination people with disabilities face in respect of the accessibility of government websites, but there was not equivalent recognition of the need for comparable accessibility standards for non-government web pages. New Zealand developed apps are now widely available from both government and non-government organisations.
- 21 To improve accessibility, the Bill will include provisions to expand coverage of the Standard to the wider State sector and to local government (District Health Boards, Territorial Local Authorities, and schools),⁵ and to the non-government sector where reasonable.
- 22 The expansion of the Standard aims to address the currently limited coverage of the Standard. Many websites and apps do not currently benefit from a direct or supported application of the Standard as a mechanism for ensuring accessibility.
- 23 Non-government websites will only be required to be compliant with the Standard where it is reasonable to do so. The Bill will make it clear that where an organisation can demonstrate that it would be unreasonable due to cost or other considerations to make a web page or app accessible it will not be required to do so.⁶

Enabling a compliance, procurement and implementation regime

- 24 Compliance with the existing Standard is an issue which will need to be addressed. Even with the current limited applicability to core public service agencies, no government agency is fully compliant.⁷ The Department of Internal Affairs notes that the main reasons for lack of compliance by the core public service include:
 - 24.1 variable knowledge and skills in agencies and vendors
 - 24.2 lack of supports and tools to deliver accessible websites
 - 24.3 'legacy' websites that are difficult to produce accessible content within.
- 25 The lack of an enforcement regime with clear accountabilities and reporting requirements has also been a contributing factor to low levels of compliance. The cost mitigation and workforce development provisions discussed below are intended to address these issues.
- 26 The Bill will include provisions to:
 - 26.1 improve compliance through procurement mechanisms, Specifically, this will be to make Rule 58 of the Government Rules of Sourcing mandatory and applicable to all wider State Sector agencies. This Rule, for the outsourcing of websites, includes a requirement to comply with the existing Standard
 - 26.2 allow for a transition period of five years for compliance of all new online content/apps by applicable agencies and providers.

⁵ See definitions at: <http://ssc.govt.nz/what-is-the-public-sector> and http://www.ssc.govt.nz/state_sector_organisations

⁶ Websites that host user-generated content will be required to comply with the Standard, but user-generated content on webpages such as social media (such as Facebook) or trading sites (such as TradeMe) will not be required to comply.

⁷ In 2014, the Department of Internal Affairs conducted a number of Web Standards Self-Assessments. The 2014 report is online at <https://www.ict.govt.nz/guidance-and-resources/standards-compliance/web-standards/2014-web-standards-self-assessments/>

- 27 The Bill will also institute an appropriate compliance and guidance regime to ensure compliance by agencies with the Standard. This role is to be undertaken by an approved agency, to whom complaints about non-compliance with the Standard or requests for assessment or assistance can be made. The Bill will contain a regulation making power that allows Cabinet to appoint an approved agency and to specify the function, arrangements, and processes for the agency, a role is currently undertaken by the Department of Internal Affairs.
- 28 There are potentially significant costs associated with implementing accessibility of websites and apps, including costs of assessments, pursuant to the provisions of the proposed Bill. More work is required to determine detail on costs, including how they might be mitigated. The non-legislative discussion below for an officials working group will provide details and costings where these are currently lacking.
- 29 The issues with this provision also include workforce development. There are few accessibility experts based in New Zealand who have the requisite technical knowledge and skill to perform comprehensive, reliable accessibility assessments. However, there are overseas-based vendors who could undertake this work remotely.
- 30 This will significantly impact on any compliance or enforcement regime for an existing or new Standard. From a digital accessibility standpoint, those few individuals based in New Zealand with the requisite skills are likely to be more in demand by companies or agencies who wish to voluntarily improve their websites or apps than to be available to staff compliance or enforcement activity.
- 31 There are, however, potential economic benefits for those who adopt the Standard, that include:
- 31.1 companies and organisations with accessible websites benefiting from more efficient use of search engines, demonstration of corporate social responsibility, and increased customer loyalty (as argued by the World Wide Web Consortium)⁸
- 31.2 positive opportunities for the New Zealand economy through catering to the growing global market for accessible products and services.

Future-proofing of legislation

- 32 The Bill will include provisions for general 'future-proofing' powers to make regulations to allow for updating of accessibility standards. These powers, if required, can be used to keep pace with changing and evolving technology.⁹
- 33 The evolution of apps, mobile technology, and e-commerce were not contemplated when Cabinet last considered accessibility standards in 2003. As web-based apps are accessed through a browser (either desktop or mobile) the existing Standard can be applied where it is reasonable to do so to provide accessibility for people with disabilities.
- 34 For native apps,¹⁰ a new standard may need to be developed. The development of a new standard should be informed by WCAG 2.0 and other relevant guidelines such as those

⁸ <http://www.w3.org/standards/webdesign/accessibility>

⁹ Mobile technology and apps (see the document: *Notes and prompts on the mock Bill for Youth MPs* which includes a Glossary of Terms) have developed rapidly since 2000.

¹⁰ A 'native app' refers to an application that has been written for a specific mobile operating system or platform, usually iOS (iPhone and/or iPad) or Android. A native application must run on the platform for which it was written, while a web-based app has a wider reach because it can run in any browser.

promoted by Apple and Google. This potential new standard will be applied to all New Zealand native apps, where it is reasonable to do so, to provide accessibility for people with disabilities.

- 35 This potential new standard for native apps requires additional policy development work and it is recommended that this work be deferred until 2017/18 as a cross-agency initiative of the Department of Internal Affairs and the Ministry of Social Development (Office for Disability Issues). The general 'future-proofing' powers within the Bill to make regulations to allow for updating of accessibility standards, if required, will mean no changes to legislation will be required for any possible updating of digital accessibility due to changing and evolving technology.

Establishing an Accessibility Standards Working Group

- 36 As well as the tabling of the Bill at Youth Parliament 2016, there is also an opportunity to increase our knowledge base on digital accessibility. I propose that a working group comprised of government agencies, industry and disability representatives (consumers and sector organisations) investigate and report back on incentives to promote accessibility and encourage compliance with the Standard.
- 37 This group, to be known as the 'Accessibility Standards Working Group' (the Group), and led by the Department of Internal Affairs, will advise Cabinet of fiscal and non-fiscal costs to government and industry, and the process and timeframe to mitigate, remove or implement these costs.
- 38 The issues which the Group will consider as part of its work programme include:
- 38.1 the development of guidance material for the wider State sector and for the private sector on the proposed expansion of the Standards
 - 38.2 investigation of subsidies or tax incentives to organisations to achieve or demonstrate compliance
 - 38.3 which agency might be best placed to undertake increased research and evaluation on the benefits or otherwise of digital accessibility, such as the Department of Internal Affairs or the Office for Disability Issues in the Ministry of Social Development
 - 38.4 how best to conduct publicity campaigns to raise awareness of the Web accessibility and usability needs of disabled people and of the new accessibility obligations
 - 38.5 provision of advice on compliance and implementation support through guidance material, tools, and resources such as user testing guidelines and peer review by accessibility experts
 - 38.6 provision of advice on the preferred agency for enforcement purposes
 - 38.7 ensuring digital accessibility is incorporated into training for web and app designers and developers, aligned with the International Association of Accessibility Professionals certification protocols.¹¹
- 39 This advice will be forwarded to the Minister for Youth by November 2016. The Minister for Youth will supply the Youth Parliament Cabinet Strategy Committee with subsequent advice

¹¹ www.accessibilityassociation.org/certification

on financial implications and implementation, including the preferred agency for enforcement purposes, by December 2016.

Consultation

- 40 The Department of Internal Affairs, the Ministry of Justice, the Ministry of Social Development (Child, Family and Community Policy, Youth Policy and the Office for Disability Issues) and the Treasury were consulted on this paper. The Blind Foundation has been consulted on the Bill.

Financial implications

- 41 The Accessibility Standards Working Group, led by the Department of Internal Affairs, will advise Cabinet of costs to industry, consumers and to Government by November 2016.

Human rights implications

- 42 The Bill provisions are consistent with the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990.

Legislative implications

- 43 A Bill is required to implement these proposals. It is proposed that Youth Parliament, on 20 July 2016, debate, as a conscience vote, the third reading of the Priority One 'Accessible Web Pages and Apps Bill' to improve access and opportunity to people with disabilities.

Regulatory impact and compliance cost statement

- 44 While this paper notes provisions in the Bill for regulatory powers, Cabinet's Regulatory Impact Analysis requirements do not apply to the recommendations in this paper because the Bill is not a government Bill. The paper is therefore not seeking policy approval for the Bill and a Regulatory Impact Statement has not been provided. The 'Accessibility Standards Working Group' described in the paper will provide an analysis of these powers and costs associated with implementation of the Bill, to inform advice on financial implications and implementation by December 2016.

Gender implications

- 45 There are no gender implications arising from this Bill.

Disability perspective

- 46 The proposed Bill will have positive effects for people with disabilities by seeking to remove barriers for their access to New Zealand-hosted websites and apps. This Bill and accompanying papers have been developed with the Office for Disability Issues (Ministry of Social Development). The Bill is a variant of an initial submission by the Blind Foundation.

Publicity

- 47 The proposed Bill will be introduced at Youth Parliament 2016. Youth MPs will receive copies of any submissions on the Bill through the youth networks and website of the Ministry of Youth

Development as well as on the Youth Parliament 2016 Facebook page. Youth MPs will receive the Bill, a copy of this Cabinet paper and a short guidance paper on the Bill, entitled *Notes and Prompts on the mock Bill for Youth MPs* (prepared by the Ministry of Social Development) by 1 June 2016.

Recommendations

48 It is recommended that the Committee:

- 1 **note** that, for human rights and social reasons, including meeting our obligations under the United Nations Convention on the Rights of Persons with Disabilities, there is a role for Government to demonstrate leadership in ensuring that as many New Zealanders as possible can fully access New Zealand web pages and apps;
- 2 **note** that when webpages and apps are designed appropriately they can provide equal access to functionality and information for all users (with or without disabilities);
- 3 **note** the potential benefits of increased digital accessibility to New Zealand business, through more efficient use of search engines, demonstration of corporate social responsibility, and increased customer loyalty;
- 4 **agree** to the third reading, as a conscience vote, of the Priority One 'Accessible Web Pages and Apps Bill' (the Bill) at Youth Parliament on 20 July 2016 with provisions for:
 - 4.1 extending the New Zealand Government Web Accessibility Standard to the wider State sector, local government and all New Zealand non-government web pages where it is reasonable to do so
 - 4.2 enabling a compliance, procurement and implementation regime
 - 4.3 establishing general 'future-proofing' powers within the Bill to make regulations to allow for updating of accessibility standards, if required. This will ensure no changes to legislation will be required for any updating of digital accessibility or responses to rapidly evolving technology;
- 5 **direct** officials to establish an 'Accessibility Standards Working Group', led by the Department of Internal Affairs, comprised of government representatives, industry and disability representatives (consumers and sector organisations), to provide advice on costs associated with implementation of the Bill, to the Minister for Youth by November 2016;
- 6 **agree** that the Minister for Youth supply the Youth Parliament Cabinet Strategy Committee with further advice on financial implications and implementation by December 2016;

- 7 **agree** that a potential new standard for native apps requires additional policy development work and that this work be deferred until 2017/18 as a cross-agency initiative of the Department of Internal Affairs and the Ministry of Social Development (Office for Disability Issues).

Hon Nikki Kaye
Minister for Youth

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