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An Approach to the Harmonization of AODA Standards

*Prepared by London Transit
on behalf of the Ontario Transit Industry*

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Virtually all stakeholders who have been involved in the AODA standard development process have indicated the need for the standards to be harmonized. This need is predicated on the fact that the four common standards being developed will apply to all sectors of the Ontario economy, that is both private and public, impacting all facets of the respective operations, operations that within an organization are linked. As such, it is critical in order to establish an effective and efficient process to deal with AODA requirements, to have all expectations clearly defined, understood and implemented in an effective, efficient and sustainable manner.

The impact on organizations, both private and public, of the respective standards under the AODA is expected to vary significantly given such factors as the nature and size of the organization, the business(es) they are in, their current state of development and/or compliance with respect to the various standard provisions and the impacts of compliance with respect to similar and/or competing legislation. What is evident is that given the number, nature and state of readiness associated with the various core services provided by municipalities across the Province, the AODA will have a significant impact on the municipal sector. Adding to the impact are the requirements of the sector specific Transportation Standard.

The Purpose of the AODA

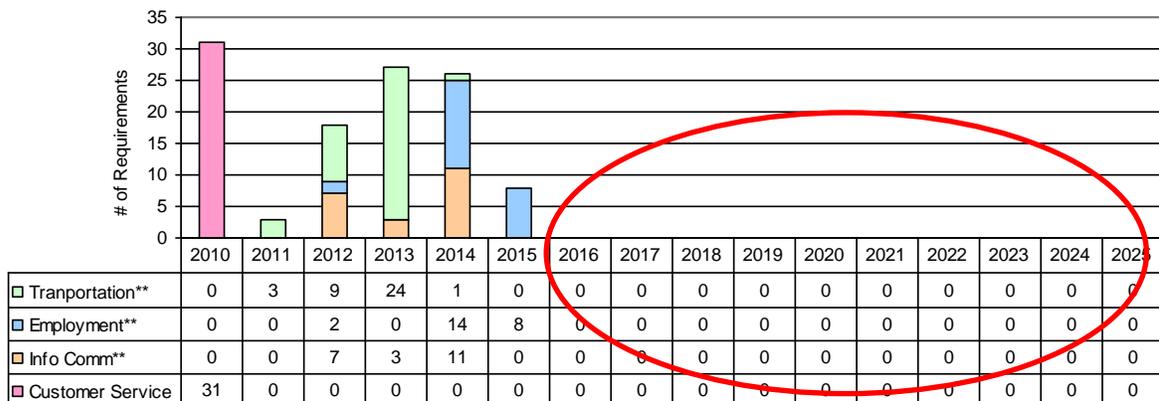
As stated in the *Act* itself:

Recognizing the history of discrimination against persons with disabilities in Ontario, the purpose of this Act is to benefit all Ontarians by,

- a) *developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises on or before January 1, 2025*

As the graph below illustrates, the timelines for standards that have been developed to date call for the goal set out in item (a) above to be met by 2016 by the public sector, essentially compressing the mammoth task of achieving full accessibility into 8 years, when the *Act* clearly envisioned a much greater timeframe.

Compliance Dates of AODA Standards to Date



Year of Compliance - **assumes 2011 effective date

The Need for Harmonization of AODA Standards

The provision in the *Act* for the establishment of four common standards, as well as the opportunity for sector-specific standards recognizes that there are many aspects and elements of business in the province that would have to be addressed in order to meet the goal of full accessibility by 2025. While the four common standards each focus on different aspects of a business, they are tied to the common goal of full accessibility by 2025 and therefore can only be viewed/treated as a collective. Given that three of the four common standards as well as the Transportation standard were completed concurrently, with each SDC working independently with no appreciation for what was being addressed and/or considered by the other SDC's, the resulting standards in some cases overlap with one another (ie policy requirements) or far more troubling, contradict one another (ie compliance timeframes). Further underscoring the need for harmonization are such factors including:

- current/proposed compliance timeframes for the respective standards are compressed, with compliance for the most part occurring within the first five years after adoption of the related regulation. The current/proposed timeframes create an expectation far beyond what can be reasonably accomplished.
- requirements in one standard may be dependant, or impacted by those in another, and as such, will need to be addressed concurrently
- certain requirements in the standards as drafted conflict with, or are impacted by other regulations, and as such, compliance with one may result in non-compliance with the other
- the lack of available financial resources to support compliance

The process followed to date has left the task of harmonization to the Ministry of Community and Social Services as the overseeing body, a task which must ensure the potential impacts on all organizations in all sectors of the economy will be given due consideration.

Inputs to be Considered with Respect to Harmonization

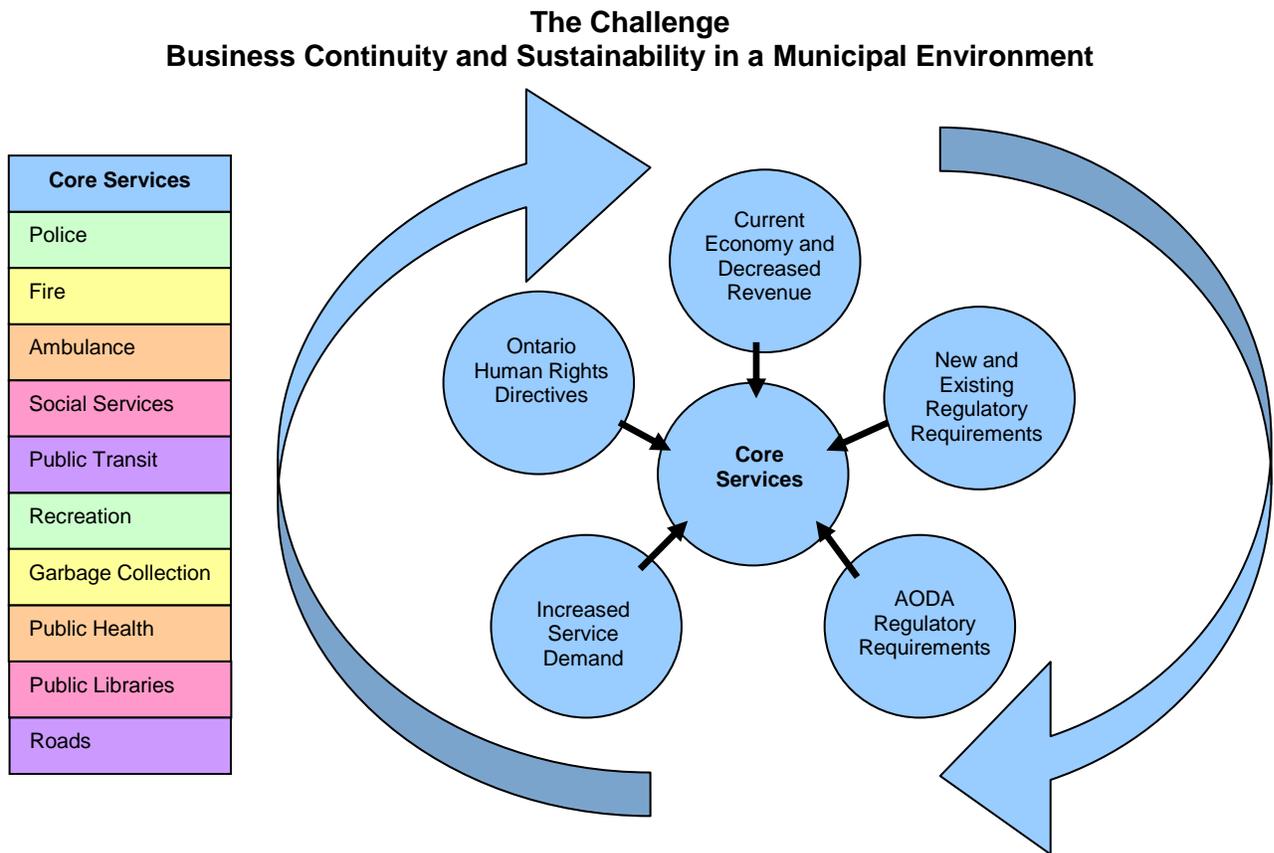
When assessing options and opportunities for harmonization of the standards, there are a number of issues/inputs that need to be considered, including:

- the Ontario Government's stated "Open for Business" mandate
- Premier McGuinty's statement that "2025 was chosen as the target year by which standards are to be phased in, giving businesses and public organizations sufficient time to spread out their accessibility investments as part of their normal business and capital planning cycles"
- organizations across the province have varying and limited resources and/or capacity to address compliance within the timelines as drafted
- organizations across the province are at various stages of compliance with the standard requirements as currently drafted
- needs and expectations relating to accessibility vary across the province, and as such, local priorities will differ significantly
- both the services offered and the levels of service vary significantly in jurisdictions across the province, and as such, the impacts of compliance will also vary significantly
- compliance with the requirements in the core standards and the transportation standard within the timelines as currently drafted, when viewed as a collective are neither practical nor achievable
- the difference in perspectives, that is the disability community tends to look for compliance timeframes in the near term, noting their desire is to see demonstrated progress toward full accessibility, while organizations advocate for extended time frames noting the complexities involved with compliance as well as the 2025 deadline and the requirement for 5 year reviews
- the standards including compliance timeframes are intended to be minimums, noting organizations have the opportunity to address requirements prior to established deadlines
- the potential to implement "quick wins" in order to demonstrate progress toward the end goal

- recognizing that communities may have different priorities associated with dealing with disability issues
- compliance mechanisms need to be consistent for all standards and communicated at the time the regulation is adopted
- competing demand for resources and competing expectations of other legislative requirements

A Potential Option

Harmonization of all AODA standards is imperative, however, given the issues set out above, accomplishing the task in a manner that achieves reasonable and sustainable standards for all organizations in the province presents a significant challenge. From a Municipal perspective, there are a number of competing objectives that will impact the progress toward compliance. The diagram below provides an overview of the municipal environment.



As depicted in the diagram, each of the core businesses provided by a municipality are subject to a number of sometimes competing objectives, all of which must be balanced in order to ensure business continuity and sustainability. Further complications arise when each of the municipality’s core businesses are forced to compete with one another for support.

Given that the AODA standards will, to varying degrees, impact all areas of the municipality, the most effective and efficient manner in which to address compliance with the AODA requirements is from a holistic perspective that supports:

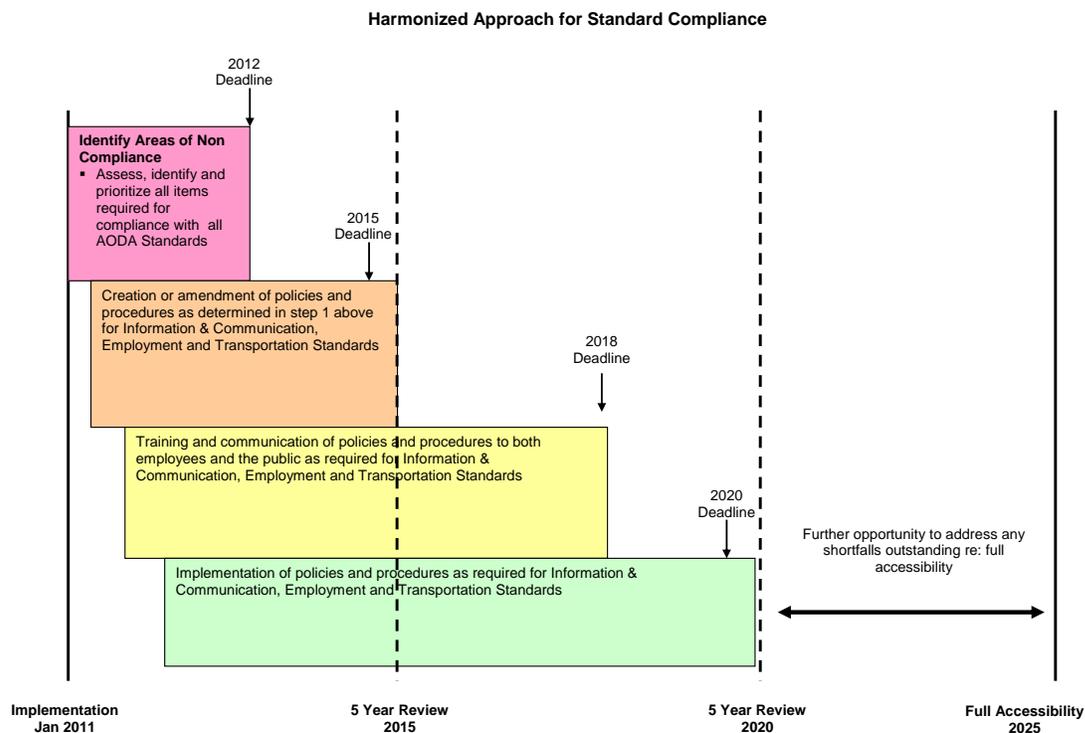
- understanding the current environment as it relates to all aspects of the organization
- considering/assessing all requirements collectively

- developing a logical, supportive, prioritized implementation strategy that is reflective of local priorities and maximizes the use of the 5 year review periods as set out in the AODA legislation
- implementing the strategy consistent with fiscal and operational capacity consistent with Premier McGuinty’s statement to the Large Urban Mayors Caucus of Ontario (LUMCO) that “2025 was chosen as the target year by which standards are to be phased in, giving businesses and public organizations sufficient time to spread out their accessibility investments as part of their normal business and capital planning cycles”
- follow up and monitoring, including reporting of results

The attachment labeled Enclosure I provides an overview of the steps an organization would take, in assessing AODA standard requirements and taking the necessary steps to achieve compliance. The approach focuses on process, a process designed to deal with the AODA requirements holistically, recognizing the complexities of organizations as well as one that supports balanced, measured and sustainable progress toward the end goal. This includes identifying resource requirements and arranging for same as part of the business development/planning cycle as intended by the AODA. The process is intended to move from an approach of reacting to a requirement to one of planning for and delivering on the requirement. This process will need to be repeated for each requirement in each of the AODA standards.

Given the wide spectrum of obligated organizations in the province, and the many facets of each that must be examined in order to assess potential impacts, it will be extremely difficult, if not impossible for the Province to complete the harmonization task with resulting standards that will be achievable and sustainable for all obligated organizations. This task is further complicated with the approach of assessing the potential impacts of each of the standards in isolation versus viewing all requirements collectively.

A potential approach has been developed which addresses the issues raised in this paper by revising the approach to compliance timeframes in a manner that will leave an element of the harmonization exercise to the obligated organizations. The illustration below sets out a phased compliance framework which provides the much needed flexibility for organizations to assess the standard requirements, and then prioritize and implement the changes necessary to achieve compliance in a manner that is specific to their business and local priorities and at the same time will be sustainable.



As depicted in the diagram, while there are end dates by which each of the phases need to be completed, the phases overlap, thus allowing for continued progress toward the end goal of full accessibility. This approach will ensure that progress is demonstrated in all organizations, noting the requirement to assess and identify all requirements, and provide a prioritized plan for implementation will provide the opportunity for the local disability community to participate in prioritizing. The process envisions an annual reporting process, similar to that already required under the ODA, which the province can use to monitor progress. Should the Province decide to prioritize specific items in the standards for early implementation, the process could be modified to provide further guidance to organizations when setting the implementation plans associated with compliance. However, caution should be exercised with this approach noting that local priorities vary significantly across the province and common compliance dates for regulated requirements may result in progress on other local priorities being deferred or cancelled completely.

The process also underscores the importance of the 5 year review requirements as set out in the AODA legislation, providing the opportunity for the Province to review progress and work with stakeholders to add or make any necessary adjustments to requirements and/or compliance timelines.

Finally, the process will meet the goal of the AODA, a fully accessible province by 2025, in a manner that is achievable and sustainable for all obligated organizations, while at the same time providing for local priorities to be considered in the implementation plan.

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An Approach to Compliance

Identify Areas of Non-Compliance

- once the standard is adopted, organizations must identify the areas of non-compliance
 - consultation with staff in all affected areas of the business must take place to accurate assessment
 - create a matrix identifying all areas of non-compliance requiring attention
 - prioritize items giving consideration to establishing a mechanism to identify what standard is to be given priority, how the established priority reconciles with other obligations including legal requirements, resource capacity availability (staff and funding)
 - assign staff accordingly

Common Standards

Customer Service

31 requirements
2 years to comply

Information & Communications

24 requirements
1-15 years to comply

Employment

19 requirements
1-4 years to comply

Built Environment

? requirements
? years to comply

Transportation

45 requirements
1-6 years to comply

Establish New / Amend Existing Policies & Procedures

- each standard requires the creation and adoption of new policies and procedures
 - consult with staff in all affected areas for input with respect to both content and implementation options
 - consult with customers for input with respect to both content and implementation options
 - development of policies and procedures
 - adoption of policies and procedures by senior level staff
 - establish implementation strategy recognizing competing programs and resource/investment requirements

Implement New / Amended Policies and Procedures

- communicate new policies and procedures with staff (training)
 - the magnitude of the change will impact the level of training required
- communicate new policies and procedures with public (various formats as required)
 - the magnitude of the change will influence the nature of communications required and the advance notice period (ie mailout, public meetings etc.)
- implement new policies and procedures

Assess Effectiveness of New Policies and Procedures

- consultation with affected staff regarding effectiveness of new policies and procedures
- consultation with customers regarding effectiveness of new policies and procedures

