



**The key role of Translators and Interpreters
in ensuring the responsiveness of Australian
Government services to Australia's culturally and
linguistically diverse population**

Submission by
the Association of Professional Engineers, Scientists and Managers, Australia (APESMA)
on behalf of the Victorian Translators and Interpreters Group

March 2012

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in ensuring the responsiveness of Australian
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Inquiry into the responsiveness of Australian Government services to Australia's culturally and
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Introduction

According to 2006 Australian Census figures, 3,153,195 Australians spoke a language other than English at home representing more than 15.8 per cent of the nation's population. 443,203 spoke English "not well" or "not at all". This represents over 2.2 per cent of the total population who potentially face language barriers to full participation in the community.

Translating and interpreting services are central to access and equity for these individuals, a significant and increasing number of whom are likely to use community interpreting and translating services to effectively access Government health, education, legal and social welfare services.

Translators and Interpreters help maintain the integrity of our courts and justice system, ensure access to health care and medical information and provide assistance in a broad range of settings which involve delivering Government services either directly through Government agencies or through Government-funded organisations.

The Australian Government's Access and Equity Policy sits alongside the Social Inclusion Agenda which assists with obtaining positive outcomes for disadvantaged Australians who may also be culturally and linguistically diverse.

The importance of protecting these fundamental rights was highlighted recently by the World Justice Project which suggested that access to Translators particularly for disadvantaged groups was limited. "In this area", the report says, "Australia scores lower than almost all high-income countries." "Another area of concern" the report notes, "is discrimination. While the country ranks among the best in the world in protecting most fundamental rights, it lags behind in guaranteeing equal treatment and non-discrimination, especially for immigrants and ethnic minorities. In this area, Australia ranks last among all high-income countries and ranks 40th globally."¹

In a very real sense, ensuring that the values of full access to Government services, equal treatment, equitable outcomes and protection from disadvantage and discrimination are upheld fundamentally relies on ensuring a viable and responsive Translating and Interpreting Industry which can meet not only the needs of the community but those of the Translators and Interpreters themselves.

APESMA thanks you for the opportunity to highlight the key role Translators and Interpreters play in the responsiveness of Australian Government services to Australia's culturally and linguistically diverse population. We hope our submission will encourage a focus on the issues for the profession and industry as part of the broader analysis of, and feedback on, access and equity in relation to Government services.



Chris Walton
APESMA CEO



¹ Agrast, M., Botero, J., Ponce, A., *WJP Rule of Law Index 2011*. Washington, D.C.: The World Justice Project, Downloaded at http://worldjusticeproject.org/sites/default/files/wjproli2011_0.pdf December 2011

The key role of Translators and Interpreters in ensuring the responsiveness of Australian Government services to Australia's culturally and linguistically diverse population

Submission

The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) is an organisation registered under the Fair Work Act 2009 representing over 25,000 professionals including professional engineers, scientists, veterinarians, surveyors, architects, pharmacists, information technology professionals, managers, transport industry professionals and translators and interpreters throughout Australia.

A number of critical questions currently face the Australian Government in their procurement of Translating and Interpreting services. How fundamental are Translators and Interpreters to the effective delivery of services to Australia's culturally and linguistically diverse population? What kind of workplace structures and practices will be necessary to ensure the Access and Equity Framework is effectively delivered and the responsiveness of Government services is maximised? What can be done to ensure that quality takes a primary place in the procurement of Translating and Interpreting services? To what extent have quality and professionalism been lost since Translating and Interpreting services were largely outsourced in the late 1980s and can the loss be justified in terms of savings and efficiencies? Are Government agencies and Government-funded organisations complying with their access and equity obligation to ensure effective communication with stakeholders and clients? And how have globalisation and developments in technology affected Government service delivery in relation to Translating and Interpreting services?

This Submission will briefly consider each of these questions, and concludes with a set of six recommendations.

1. How fundamental are Translators and Interpreters to the effective delivery of services to Australia's culturally and linguistically diverse population?

Translators and Interpreters are engaged across the full range of federal Government agencies and Government-funded organisations. The major departments and agencies using Translators and Interpreters include Centrelink, Refugee Review Tribunals, Education Institutions, the Courts, a number of Immigration settings, Federal Police and a range of Healthcare and medical providers. In terms of the Access and Equity Framework (included as "Attachment C" of the Discussion Paper²), Interpreters feature under the Communications "Principle or performance indicator" at Item 2 - they are acknowledged as fundamental to open and effective channels of communication with all stakeholders.

² Access and Equity Inquiry into the responsiveness of Australian Government services to Australia's culturally and linguistically diverse population Discussion Paper, December 2011.

2. What kind of workplace structures and practices will be necessary to ensure the Access and Equity Framework is delivered effectively and service responsiveness maximised?

Since the late 1980s when many of the services were contracted out by public sector agencies, Translators and Interpreters have largely been engaged by Government as independent contractors either via a labour hire agency or the Translating and Interpreting Service (TIS).

In that time, they have experienced a reduction in their pay and conditions in real terms. The industry is characterised by insecure work and low rates of pay and there are serious concerns emerging about a decline in the quality of services (see questions 3 and 4)

A sustainable Translating and Interpreting Industry which is responsive to the needs of Australia's culturally and linguistically diverse population must also meet the needs of the Translators and Interpreters themselves.

There is evidence that income insecurity and incomes not keeping pace with inflation are key work concerns for Translating and Interpreting professionals. There is also a significant level of concern about covering costs such as communications tools and vehicle/travel expenses, insufficient minimum terms of engagement, insufficient notice of cancellation and cancellation fees, and the lack of time allowed for briefing prior to engagement including access to background documents etc. Lack of amenities (such as access to table and chair, breakout room, access to water, etc.) is also a concern. Many Translators and Interpreters also struggle to maintain decent levels of retirement earnings due to irregular employment and low rates of pay.

APESMA has only recently become a presence in the Translating and Interpreting Industry and we are at the initial stages of working with key stakeholders to bring about positive change in these critical areas.

This Inquiry is timely in that it provides an opportunity for Government to reiterate and clarify with Government agencies, Government-funded organisations and Government contractors the need to ensure fair and reasonable workplace practices in relation to Translators and Interpreters. More specifically there is a need to comply with Procurement Principles and the Fair Work Principles which state that:

- (a) the Federal Government does not support contracting arrangements which undermine the entitlements of employees whether as direct employees of a Commonwealth agency or as employees of a contractor to the Commonwealth³; and
- (b) the Federal Government expects that in conducting their businesses, government contractors [including labour hire agencies] meet public expectations of fair and reasonable workplace practices⁴,

In APESMA's view, fair and reasonable workplace practices for Translators and Interpreters are fundamental to effective delivery of the Access and Equity Framework and maximising the responsiveness of Government services to Australia's culturally and linguistically diverse population.

See Recommendation 1

³ Australian Government Procurement Statement, p.9

⁴ Australian Government Department of Education, Employment and Workplace Relations Fair Work Principles, p.1

3. What can be done to ensure that quality takes a primary place in the procurement of Translating and Interpreting services?

It would be timely to reiterate and clarify with Government agencies and Government-funded organisations the need to ensure:

- (a) that service quality should be a primary consideration when procuring Translating and Interpreting services; and
- (b) that adequate Budget provision should be made for Translating and Interpreting services to ensure the effective delivery of services.

The need to take quality into account in procurement is clearly stated in the Procurement Principles⁵. Ensuring value for taxpayer dollars in the long-term and avoiding the purchase of inferior quality services are part of the "whole of life" definition of value for money and are of critical importance in the procurement of Translating and/or Interpreting services.

Government agencies and Government-funded organisations should understand the importance of not choosing lowest-cost suppliers when that choice would in the long-run mean the purchase of inferior quality Translating and Interpreting services.

See Recommendations 2 and 3

4. To what extent have quality and professionalism been lost since the services were largely outsourced in the 1980s and can the loss be justified in terms of savings and efficiencies?

The following examples have been written up from reports received from practising Translators and Interpreters. While not all of the examples are in the context of Federal Government services, they are indicative of the types of problems and issues Translators and Interpreters face in their day-to-day work. They highlight the complex ethical issues qualified experienced Translators and Interpreters routinely deal with, and show some of the serious consequences when the quality of the Translating or Interpreting service is compromised.

Health sector

- The Transport Accident Commission uses a husband to interpret for the wife. The husband and wife have a serious relationship problem and end up fighting for custody of their children. The husband deliberately misinterprets what she is saying and the wife does not dispute or complain.
- Inside a Victorian public hospital, the doctor explains to the patient the risks of laparoscopy. This is the first time the female patient has heard of the procedure and she asks the Interpreter directly what she should do. The Interpreter replies that she can't give any advice and then the Interpreter tells the doctor what their brief exchange was about (which is what Interpreters are meant to do i.e. report all exchanges that may occur during an interpreting session). The doctor replies "What do you mean you can't give her advice? Surely you have an opinion about it? There's nothing wrong with telling her what you think." Throughout the rest of the consultation the doctor tries to get the Interpreter to convince the patient she should have a laparoscopy.
- At the end of a medical appointment with an Italian patient (who was courteous and as helpful as he could be, but obviously had limited English), the doctor was writing up his notes and muttered to the Interpreter that "you might as well be working with animals". The Interpreter was so stunned all she could say was "I beg your pardon?" but told the agency employing her about the incident and said she would not work again with that doctor and thought he should be reported.

WorkCover

- The doctor says to the client: "How long have you been living in Australia?" She says that she's been here 15 years, to which the doctor replies: "I don't think you need an Interpreter. Your English

⁵ Australian Government Procurement Statement, July 2009, p.2

seems perfect to me". He nevertheless allows the Interpreter to do her work. Half-way through the appointment the patient is asked to go to another room and change. The Interpreter is asked to go with her to "help her get undressed and stay there in case she needs any help".

Family Court

- "I once did a job involving an Indonesian woman who was having a dispute with her ex-husband over visitation rights with their child. I had done several jobs previously involving this woman, with sympathetic agencies who took the time to see that everything was interpreted fully. However, when I did the job at the Family Court, the whole thing was so rushed that I had grave concerns, which I expressed to the judge, as to the client's opportunity to have the proceedings fully interpreted and to understand what was happening. The judge rambled on and on and did not allow sufficient opportunity for her ramblings to be interpreted, although she did allow the husband to dominate the proceedings. I decided then that I would no longer be a party to such flawed and unjust proceedings. I no longer take jobs at the Family Court."

Magistrates Court

- "I was talking to a Chinese lawyer the other day in court. He told me that he has always translated all his clients' Chinese documents although he is not an accredited translator. He would then ask his clients to sign a document stating they were accurate translations of the original. Bi-lingual lawyers who are not accredited Interpreters interpret for their clients in courts and magistrates allow this to happen."

Supreme Court

- In the Supreme Court a judge tells the defence lawyer: "Your client doesn't need a professional Interpreter. He can get a friend or a family member to help him next time."

District Court

- A dispute about an alleged mistaken translation of the Indonesian word "push" caused a criminal trial to be aborted costing taxpayers tens of thousands of dollars. The problem occurred as an accused Indonesian people smuggler gave evidence in the District Court in October 2011. The problems with translation were raised by a juror who spoke Indonesian and alerted the Judge to "discrepancies in the translation" of questions put to the accused. The trial will be run again in 2012.

These examples show:

- how common a lack of understanding by clients/end-users of Translating and Interpreting services is;
- the importance of professional detachment, impartiality, an understanding of privacy and confidentiality, and respect for clients on the part of the Translator/Interpreter;
- the potential waste of taxpayer dollars and the miscarriages of justice which can arise when service quality or ethics are compromised; and
- how the public interest can be negatively impacted when Translating and Interpreting services are poor quality.

See Recommendations 2 and 3

5. **Are Government agencies and Government-funded organisations complying with their obligations to observe their access and equity obligation to ensure effective communication with stakeholders and clients?**

Offshoring and potential loss of quality

Advances in technology and the internet have provided the opportunity for the use of overseas-based Translators by Government agencies and Government-funded organisations.

There is evidence to suggest that inexperienced overseas-based Translators are being used to perform work previously undertaken by experienced Translators in Australia. This is an issue for two reasons - firstly because offshoring limits employment opportunities for Australian Translators and Interpreters and may artificially distort the balance of supply and demand in the local market, and secondly the quality of the services available is in question with overseas practitioners not necessarily meeting Australian standards.

It is not uncommon for purchasers of Translating and Interpreting services to have a limited understanding of the tradeoff between quality, price and turnaround time. If practitioners are selected on the basis of the cheapest quote, it is possible that a document will be poorly translated. By way of example, in the case of a translation agency asked to turn around large documents within a short space of time, the result can be the agency having to employ many Translators to complete the job - with the lack of co-ordination of terminology resulting in an incoherent and confusing document.

Tourism Australia

Tourism Australia is Australia's national tourism marketing body and is funded by the Australian Government to increase international and domestic demand for Australian tourism experiences. This organisation offshores some of its Translation requirements to overseas-based Translators. While there is no evidence that the translations are poor quality, the fact that they are using overseas-based Translators raises the issue of the procurement criteria adopted to purchase Translating services, and the question of whether quality of the services provided was adequately weighted in their procurement decision is raised. The issues of denying employment opportunities to Australian-based Translators and the distortion of supply and demand in the local market are also raised.

See Recommendations 3, 4 and 6

6. How have globalisation and developments in technology affected Government service delivery in relation to Translating and Interpreting services?

Machine translations

Advances in technology and the internet have provided the opportunity for the use of machine translations. There is evidence to suggest that these translation are often of a poor standard. APESMA holds the view that until the technology can be shown to ensure translations of high quality, machine translations should not become part of accepted practice.

See Recommendations 3, 5 and 6

Interpreting via video-conference on Internet

APESMA is concerned that the opportunities and efficiencies that video-conferencing provides may be compromised by the use of overseas-based Interpreters who may not meet Australian standards thus impacting the quality of the service provided. While there is no direct evidence that the interpreting services are of a poor quality, the fact that overseas-based Interpreters are being used raises the issue of the procurement criteria adopted to purchase the Interpreting services, and the question of whether the criterion of quality was adequately weighted in the procurement process.

See Recommendation 3

Recommendations

Recommendation 1 - Structures and practices to support fair and reasonable workplace practices for Translators and Interpreters

On the basis that a sustainable Translating and Interpreting Industry must meet the needs of Translators and Interpreters as well as the needs of the community:

APESMA recommends that

the Department of Immigration and Citizenship and the Procurement Consultative Committee issue a joint directive stating that when engaging Translators and Interpreters, Government agencies, Government-funded organisations and Government contractors must comply with Procurement Principles and the Fair Work Principles which state that:

- (a) the Federal Government does not support contracting arrangements which undermine the entitlements of employees whether as direct employees of a Commonwealth agency or as employees of a contractor to the Commonwealth⁶; and
- (b) the Federal Government expects that in conducting their businesses, government contractors [including labour hire agencies] meet public expectations of fair and reasonable workplace practices⁷,

Recommendation 2 - Budget provision for Translating and Interpreting services

In recognition of the primary importance of creating a Translating and Interpreting industry which:

- addresses language barriers to provide full access to Government services and participation in the community;
- maximises the social and economic benefits of Australia's diversity;
- facilitates equal treatment and protection from disadvantage and discrimination;
- provides value for money in relation to taxpayer dollars; and
- plays a vital role in ensuring the responsiveness of Australian Government services to Australia's culturally and linguistically diverse population,

APESMA recommends that

the Department of Immigration and Citizenship and the Australian Government's Procurement Consultative Committee issue a joint directive to Government agencies and Government-funded organisations to make adequate Budget provision to meet the costs of providing interpreting and translating services to ensure effective service delivery to those who face language barriers.

⁶ Australian Government Procurement Statement, p.9

⁷ Australian Government Department of Education, Employment and Workplace Relations Fair Work Principles, p.1

Recommendation 3 - Ensuring quality of service with reference to Procurement Principles

To ensure value for taxpayer dollars in the long-term and prevent the purchase of inferior quality services:

APESMA recommends that

the Department of Immigration and Citizenship and the Procurement Consultative Committee issue a joint directive to Government agencies and Government-funded organisations that they comply with the "whole of life" definition of value for money set out in the Procurement Principles⁸ which requires that the issue of quality must be taken into account when considering the procurement of Translating and Interpreting services. The directive should state that Government agencies or Government-funded organisations should not choose lowest-cost suppliers when that choice would in the long-run mean the purchase of inferior quality services.

Recommendation 4 - Offshoring of Translation and Interpreting services

In recognition of the evidence that offshoring is compromising the quality of Translating and Interpreting services and distorting prices and work opportunities in the local market:

APESMA recommends that

the Department of Immigration and Citizenship and the Procurement Consultative Committee issue a joint directive to Government agencies and Government-funded organisations that they comply with the "whole of life" definition of value for money set out in the Procurement Principles⁹ which requires that the issue of the public interest must be taken into account when considering whether to procure an Australian or overseas-based Translator and/or Interpreter. The directive should state that Government agencies or Government-funded organisations should not choose lowest-cost suppliers when that choice would in the long-run not be in the public interest.

Recommendation 5 - Machine or computer-based translations

In recognition of the fact that the technology around machine translation is still in its early stages and does not necessarily deliver a quality translation:

APESMA recommends that

until the technology can be shown to deliver high-quality translations, machine translations should not become part of accepted practice by Government agencies and Government-funded organisations unless checked by a Translator.

⁸ Australian Government Procurement Statement, July 2009, p.2

⁹ Australian Government Procurement Statement, July 2009, p.2

Recommendation 6 - Purchase of quality interpreting and translating services

In recognition of the importance of quality service as part of the accepted definition of "value for money" set out in the Procurement Principles:

APESMA recommends that

Item 2 of the Communication "Principle or performance indicator" of the Access and Equity Framework be amended to insert the word "quality" before the words "interpreting services" and include a reference to Translators. Item 2 as amended would read as follows:

"2. Recruiting and training staff who have appropriate linguistic and cultural skills or using quality interpreting and translating services to ensure effective communication with clients, as necessary."

Conclusion

Adopting these recommendations would better position Government agencies and Government-funded organisations to meet the policy challenge of ensuring access and equity across Government services for Australia's culturally and linguistically diverse population.

The proposed directives would clarify the responsibility of all Government agencies and Government-funded organisations to provide for effective communication with stakeholders and ensure their programmes and services are responsive to the needs of all Australians by providing access to quality Translating and Interpreting services.

They would also reiterate the need to comply with the Fair Work Principles and Procurement Principles in purchasing Translating and Interpreting services.

Adopting these recommendations would help support the development of a sustainable local Translating and Interpreting industry which meets the needs of Translators and Interpreters as well as the the community, would demonstrate the Australian Government's commitment to equal treatment and the rights of the individual, would acknowledge the key role of Translators and Interpreters in the implementation of the Australian Government's Access and Equity Policy, and, in turn, maximise the social and economic benefits of Australia's cultural diversity.