



Calling Out Stops in the Wake of Lepofsky v. Toronto Transit Commission (TTC)

Ontario Human Rights Commission

**SUBMISSIONS OF
THE AMALGAMATED TRANSIT UNION, CANADIAN COUNCIL**

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INTRODUCTION

These are the submissions of the Amalgamated Transit Union (“ATU”) Canadian Council with respect to the implementation of the Commission’s request that all transit services call out stops on all bus and streetcar routes.

As the representative of thousands of transit workers across the province, such a request has an immediate impact on our members and raises a number of health and safety concerns.

The ATU Canadian Council recognizes the importance of accessible public transit and as such, is not opposed to the implementation of stop announcements. To require a driver to do so manually; however, creates a health and safety risk to both the driver and the general public. The ATU Canadian Council respectfully submits that in light of legitimate health and safety concerns, all stop announcement systems must be automated.

THE AMALGAMATED TRANSIT UNION AND THE CANADIAN COUNCIL

Founded in 1892, the ATU is the largest labour union for transit workers in North America. Today the union has over 180,000 members in over 273 local unions in 46 states and 9 provinces. The ATU membership includes bus, subway, light rail and ferry operators, clerks, baggage handlers, mechanics and others in public transit, inter-city and school bus industries.

The ATU Canadian Council is the highest authority and voice in Canada for the ATU on all issues of Canadian interest including legislation, political, educational, health and safety, cultural and social welfare matters.

CALLING OUT STOPS

The ATU Canadian Council supports the work of the Commission and is committed to the protection and the promotion of human rights within Ontario and across Canada. We are also equally committed to ensuring the safety and welfare of our members. As such, it is necessary to balance human rights issues against the legitimate occupational health and safety concerns of our members.

i. Background

In *Lepofsky v. Toronto Transit Commission (TTC)*, the Human Rights Tribunal found that the TTC's failure to ensure the announcement of all stops on buses and streetcars violated the human rights of persons with disabilities. As a result of this decision, in late October 2007, the Commission sent several letters to transit services providers throughout the province asking them to "remove barriers faced by riders with disabilities" through the use of stop announcements. The implementation of such has raised a number of health and safety concerns for our members.

ii. Health and Safety Concerns: The Example of Mississauga Transit

In purported compliance with the Commission's request, all Mississauga Transit operators will be required to call out all bus stops effective May 1, 2008. Employees of Mississauga Transit are represented by ATU Local 1572. This directive raised health and safety concerns for the operators and a complaint was filed with the Ministry of Labour under s. 25(2) of the *Occupational Health and Safety Act*. Section 25(2) requires an employer to take every reasonable precaution to ensure the protection of its workers.

The Ministry found that by requiring drivers to call out all stops, Mississauga Transit was in violation of the *OHS Act*. Specifically, the Ministry found that:

1. Bus drivers are required to perform a number of tasks during their shift. These tasks include “first and foremost, safely operating the bus on the busy streets of Mississauga, taking fares, giving transfers, answering questions of patrons, being alert to their surroundings, etc.” Calling out stops is yet another task added to this list of responsibilities. The Ministry expressed concern that the increase in tasks could lead to overload.

Overload is a serious concern. It is described by the Ministry as “when the composite driving task exceeds the resources of the driver, no amount of expended effort will keep the performance constant. At the point of overload, performance in driving begins to decline.” The threat of overload is serious and poses a safety risk not only to operators but to the general public as well. As such, few tasks extraneous to the actual driving of the bus should be performed while the bus is in motion.

2. Furthermore, the actual use of the microphone in some buses poses a serious safety risk. The radio/microphone in some buses is handheld and therefore requires the operator to hold the microphone in one hand while driving the bus with the other. It is unsafe for an operator to operate a bus with one hand. An automated system would preclude this problem.
3. Calling out stops also raises a number of ergonomic concerns for transit operators. On some of the buses, drivers are required to lean forward to use the microphone, which is mounted on the lower left front, to make stop announcements. As some bus routes have over sixty stops, transit operators would be required to lean forward repeatedly, potentially hundreds of times, in the course of their shift. This repetitive forward flexion movement can cause the operator injury over time and therefore should be eliminated.

Based on the above, there are clear health and safety concerns related to the manual call out of bus stops.

iii. Accommodation

Section 17(2) of the *Code* recognizes that health and safety considerations are an important factor in determining the extent of accommodation. It is clear from the above referenced decision by the Ministry, that there are serious health and safety concerns with respect to the requirement that operators manually call out bus/streetcar stops.

It is trite law that accommodation is required up to the point of undue hardship. No undue hardship would be incurred by the implementation of an automated system and it would remedy the legitimate health and safety risk posed to our members. As such, until an automated system is in place, the ATU Canadian Council respectfully submits that no operator should be required to manually call out stops.

AUTOMATED STOP ANNOUNCEMENTS

The ATU Canadian Council is not suggesting that it is inappropriate to have stop announcements on bus or streetcar routes. In light of the above illustrated health and safety concerns; however, it is inappropriate to require drivers to manually do so. The ATU Canadian Council submits that any stop announcement system must be automated, particularly in light of the intent of the *Lepofsky* decision.

The introduction of an automated system would address the above mentioned concerns and would ensure the health and safety of both transit operators and the public. Furthermore, the use of an automated system would guarantee greater accessibility for all people with disabilities, not just those with visual impairment.

The underlying premise of the Tribunal's decision in *Lepofsky* is that no person with a disability be precluded from accessing public transit. As highlighted in the Commission's submission to the Accessibility Directorate of Canada and the *Human Rights and Public Transit Services in Ontario Consultation Report*, access "to equal, dignified transportation is fundamental to the achievement of equality of persons with disabilities."¹ The use of an automated system to announce stops would better achieve the Commission's goal of ensuring that public transportation is accessible to all.

For example, some automated systems can provide visual displays of upcoming stops for the benefit of people who are deaf, deafened or hard of hearing. The TTC has been using such an automated system for buses and streetcars since 2007. By implementing an automated stop announcement system, public transit would truly become more accessible for all people with disabilities.

CONCLUSION

As outlined above, the ATU Canadian Council recognizes the importance of accessible public transit for all individuals. As highlighted by the Commission, stop announcements is an important aspect of ensuring such; however, to require a driver to do so manually creates a health and safety risk to the driver and the general public. In light of these legitimate concerns, the ATU Canadian Council respectfully submits that all stop announcement systems must be automated and until such time, transit operators should not be required to manually call out stops. An automated stop announcement system is essential not only to ensure the health and safety of transit operators, but also to ensure that public transit is accessible for all individuals with disabilities.

ENDNOTES

¹ - Ontario Human Rights Commission, *Submission of the Ontario Human Rights Commission to the Transportation Standards Review Committee regarding the Initial Proposed Transportation Accessibility Standard*, August 31, 2007 at p. 2.