

Consultation Document European Accessibility Act

1. Background

In the Communication of November 2010 on the **European Disability Strategy 2010-2020**, the European Commission proposed to use legislative and other instruments, such as standardisation (including developing specific standards for particular sectors), to optimise accessibility for persons with disabilities and the elderly. It committed to explore the merits of adopting regulatory measures to ensure accessibility of goods and services, including measures to step up the use of public procurement, through a **'European Accessibility Act' – a business-friendly proposal** that will substantially improve the proper functioning of the internal market for accessible goods and services.

The Communication **defines** 'accessibility' as meaning that people with disabilities have access, on an equal basis with others, to the physical environment, transportation, information and communications including technologies and systems (ICT), and other facilities and services in line with Art. 9 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), to which the EU is a party.

Persons with disabilities and older persons constitute a substantial and strongly growing part of the EU population. Older persons often have chronic illnesses that have associated impairments. Furthermore, even with good health, mobility and dexterity are reduced and the functional performance of the senses diminishes. This leads to activity limitations. Over 32 % of those between 55 and 65 years of age report a disability. That figure increases to over 40 %, 60 % and 70 % for each additional ten years.

While the ageing of the population can raise the visibility of the market potential of products with good accessibility features in the most commercial areas, particularly health care, there are other areas where the economic potential is often overlooked by industry. Industry's response is limited and disabled persons do not benefit from the opportunities created by the single market as much as other citizens do. But also the myriad of national, regional and local accessibility rules and regulations does not make things easier for industry. These can *de facto* act as obstacles to the free movement of goods, persons and services in the EU and to potential economies of scale: there is no common playing field. Certain accessible goods marketed by European companies on non-EU markets, such as the US, are sometimes not available with the same accessibility features on the EU market due to the multitude of national regulations with which such goods should comply. Another consequence of the lack of accessible goods and services is the creation of barriers to disabled people's economic, social and political participation in society.

The European Citizenship Report 2010¹ highlighted the additional obstacles that EU citizens with disabilities face when they move within their countries or to other Member States, regarding access, among others, to the built environment, to transportation, information, ICT and a range of goods and services.

¹ *EU Citizenship Report 2010. Dismantling the obstacles to EU citizens' rights*, COM (2010) 603final.

Nevertheless, in Europe two important developments are currently coinciding. The first one is the ageing of the population, which implies an increase in the demand of accessible goods and services. The second one is the ratification of the UNCRPD by the EU and its Member States, implying clear obligations to improve accessibility. A coherent European response to both can foster an attractive market size for industry.

Not all goods and services are equally important for accessibility. Therefore, there is a need to identify those goods and services that should be covered by a European initiative. They are likely to include those goods that are often bought by public authorities or service providers and that are for common use by the public (such as ATM's), and that are important for inclusion and participation in society. Services provided by administrations or service providers, such as access to health and emergency services, as well as online services to buy public transport services, reserve tickets for cultural or sport events, are also relevant to eliminate barriers to participation in society. With regard to goods and services bought by individuals, the initiative should prioritise such goods and services that are critical for the citizen to participate in society and where EU markets can be improved by EU intervention.

The European Accessibility Act envisages improving at EU level, both from the demand and supply side, the markets for goods and services that are accessible for persons with disabilities and older persons. In summary, this initiative aims to respond to two main problems regarding the accessibility of goods and services in the EU²:

1 - *Insufficient supply of accessible goods and services.*

2 - *Fragmentation of the EU market for accessible good and services.*

The European Accessibility Act aims to be a business friendly initiative responding to the Europe 2020 Strategy's goals of promoting an industrial policy for the globalisation era, implementing the Digital Agenda, striving for smart regulation and proactively identifying solutions to reduce social exclusion of disabled persons, elderly and all those benefitting from accessible goods and services.

Based on a design-for-all approach, the Act will further the EU's Single Market and offer an additional opportunity to economic operators and public authorities to cope with the current economic situation, while rendering accessible goods and services more affordable to consumers. Dismantling existing obstacles to the free movement of accessible goods and to the free provision of accessible services should offer to manufacturers and service providers a wider range of market opportunities and the benefits of economies of scale under a single set of rules. In a not distant run, consumers should feel the positive consequences in terms of a wider choice of more accessible goods and services at lower prices.

Harmonising accessibility requirements through European standards would reduce the costs of compliance for the industry stemming from fragmented standards and regulations currently in place, and contribute to the simplification of legislation throughout Europe. This would provide an additional advantage to those Member States which have not yet developed standards and legislation but are required to do so in order to comply with the obligations under article 9 of the UNCRPD. Introducing accessibility requirements in public procurement

² See reference to EU Member States in the accessibility section of the 2011 WHO World report on disability http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf See also for a comprehensive list of national accessibility legislation reports of phase 1 of Standardisation Mandates 376 and 420 as well as MEAC study and first DHLG report on the implementation of the UN Convention on the Rights of person with disabilities.

would stimulate the industry to provide goods and services that comply with these requirements, thereby encouraging innovation and competition in the design of accessible goods and services.

Harmonisation of accessibility would furthermore facilitate the social integration of persons with disabilities and elderly and their mobility across Member States, thereby also fostering the free movement principle.

Finally, the proportionality of the measures included in the Act will be carefully addressed by avoiding any burden for SMEs.

2. Current situation

National level regulations

Most Member States have some kind of accessibility legislation addressing the built environment, transport and ICT. The scope and the requirements are different, as well as the enforcement rules. However, based on complaints from persons with disabilities, a low application and compliance rate seems to be a common feature of national accessibility legislation.

It is expected that in the process of implementing the UN Convention on the Rights of Persons with Disabilities, Member States will continue to further develop their accessibility legislation including the development of technical requirements. This risks to further increase market fragmentation and hinders the development of an internal market in accessible goods and services.

EU legislation

At EU level there are various legislative acts that contain certain accessibility provisions regulating some goods and services. The detailed list of EU legal acts addressing accessibility is contained in the Declaration of Competences annexed to the Council Decision on the conclusion by the EU of the UN Convention on the Rights of Persons with Disabilities (UNCRPD)³. In general, accessibility is not the main purpose of these legal instruments, but one of the many issues addressed:

- There are some legal instruments that contain general accessibility provisions like the Structural Funds Regulation⁴ or the Public Procurement Directives⁵. Some legal instruments, like the Copyright Directive, are of enabling nature and permit the Member States to develop exceptions in national legislation that aim to improve accessibility for persons with disabilities but do not impose obligations⁶.
- There are some acts that **require specific products to be accessible**. This is the case of lifts⁷ and vehicles with more than eight seats⁸ or even for some specific groups of persons with disabilities, like the Braille requirement for packaging of medicines⁹.

³ See Annex II in the document available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:023:0035:0061:EN:PDF>

⁴ Regulation (EC) No 1083/2006 and COM(2011) 615 final

⁵ Directives 2004/17/EC and 2004/18/EC.

⁶ Directive 2001/29/EC.

⁷ Directive 95/16/EC

⁸ Directive 2001/85/EC

⁹ [Directive 2004/27/EC](#)

- There are some sector regulations that have some general provisions for persons with disabilities **addressing accessibility to some extent or indirectly**, like the eCommunication package in the area of Information and Communication Technologies¹⁰ and the various Regulations on the rights of persons with reduced mobility¹¹ in the area of transport.

The European Accessibility Act will not aim to change or amend existing EU legislation that refers to general compliance with accessibility requirements without defining accessibility, but will complement it by providing **details** on what accessibility means for the goods and services addressed by the Act. It will also play the role of legal framework on accessibility for existing EU legislation regulating in detail particular goods or services (including their accessibility).

EU policy framework

The European Disability Strategy 2010-2020 provides the key elements of accessibility policies in the EU. At EU level, accessibility has been addressed mainly in three thematic policy areas: ICT, transport and built environment.

With regard to ICT, in addition to the eCommunication package, the EU has invested significantly in RTD work. Furthermore, the eAccessibility policy has focused on the web and the promotion of Design for All. Accessibility to ICT is also dealt with in the Digital Agenda.

In the transport sector significant attention at EU level has been given to provide assistance to passengers with reduced mobility, while limited work has been done on the accessibility side (accessibility of vehicles and transport infrastructures such as stations, bus stops). The recent White Paper on transport refers to accessibility of the transport infrastructures beyond the service provision to persons with reduced mobility.

In the area of the built environment, some RTD projects and studies have been undertaken and accessibility has emerged in the policy discussions in the context of the lead market initiative for sustainable construction. Information on accessibility is gathered as part of social sustainability that includes some regulatory and standardisation aspects.

EU standardisation process

Since a number of years the Commission has been investing in the development of common voluntary standards on accessibility in specific areas.

Currently, standardisation organisations are working on preparing standards under three mandates given by the European Commission:

- Mandate 376 focuses on accessibility standards for ICT goods and services, and the standards are intended to be used in public procurement proceedings.
- Mandate 420 aims at developing accessibility standards for the built environment.
- Mandate 473 aims at including accessibility following "Design for all" in relevant mainstream standards and to develop process standards for manufactures and services providers on how to include accessibility in their product development cycle and service provision.

¹⁰ http://ec.europa.eu/information_society/policy/ecommu/eu-rules/index_en.htm

¹¹ http://europa.eu/legislation_summaries/transport/mobility_and_passenger_rights/l24132_en.htm

In line with the European Disability Strategy 2010-2020, the European Accessibility Act will rely on the use of accessibility standards to bring coherence in the European market and to improve the freedom of movement of citizens. It thus understands to give a concrete follow-up to action (11) defined by the Citizenship Report 2010 and bring a material proof of how the EU responds to the needs of ordinary people.

This approach is confirmed in the Commission Work Programme 2012¹² that refers to the European Accessibility Act as a proposal for a Directive to improve the market of goods and services that are accessible for persons with disabilities and elderly persons, based on a “design for all” approach. This business friendly initiative will include binding measures to promote procurement and harmonisation of accessibility standards.

¹² COM(2011) 777 final VOL. 2/2