

TARGETED CONSULTATION ON THE AVAILABILITY OF WORKS OTHER THAN PRINTED WORKS IN FORMATS ACCESSIBLE FOR PERSONS WITH DISABILITIES WITHIN THE INTERNAL MARKET

Summary Report on the targeted consultation on the availability of works other than printed works in formats accessible for persons with disabilities within the internal market

Disclaimer: the views presented in this factual summary report are not the views of the European Commission but of the stakeholders that participated in this targeted consultation. It cannot in any circumstances be regarded as the official position of the Commission or its services.

TEASER: The targeted consultation ran from 11 February until 30 April 2021 and was addressed to a variety of stakeholders. The input they provided will feed into the report on the availability of copyright protected works and on disabilities not covered by the ‘Marrakesh’ Directive¹ that the Commission is required to publish under Article 9 of that Directive.

Objectives of the consultation

The ‘Marrakesh Directive’ provides for a mandatory exception to copyright for “print disabled” persons as regards their access to printed works (e.g. books, newspapers, magazines, etc.) in accessible formats (e.g. Braille, large print, adapted e-books, etc.) and aims at improving the circulation of ‘accessible format copies’ within the internal market.

Under Article 9 of the Marrakesh Directive, the Commission is required to issue a report on the availability of copyright protected works and on disabilities not covered by the Directive. The report should also contain an assessment of the appropriateness of extending the Directive’s scope to include works and disabilities currently not covered, taking into account the technological developments in this field.

As part of the preparation for the report, the Commission services launched a targeted consultation to gather information, in particular on the following issues not covered by the Directive: i) the availability of works other than printed works (e.g. films, video games, paintings) to persons with print disabilities (visual impairments and others impairments limiting the possibility to read), and ii) the availability of any type of work to persons with disabilities other than print disabilities (e.g. hearing disabilities).

Who replied to the consultation?

A total of 34 replies to the consultation were received through the EU Survey tool, as detailed in the chart below. The respondents were established in Belgium (9), Czechia (2), Denmark (1), Finland (3), France (4), Germany (2), Ireland (1), Italy (3), the Netherlands (4), Poland (1), Romania (2) and Spain (2).

¹ Directive (EU) 2017/1564 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society

The largest number of respondents were ‘audiovisual content producers, distributors or sales agents or their representative organisations’ (38%) followed by ‘organisations acting on behalf of / representing the interests of persons with disabilities’ (26%), ‘cultural heritage and educational institutions’ (9%), ‘holders of copyright and / or related rights’ (9%), ‘commercial entities providing accessible format features and/or services or technical solutions for the benefit of persons with disabilities’ (6%), ‘providers of audiovisual content or their representative organisations’ (6%) or ‘other type of stakeholders’ (6%)

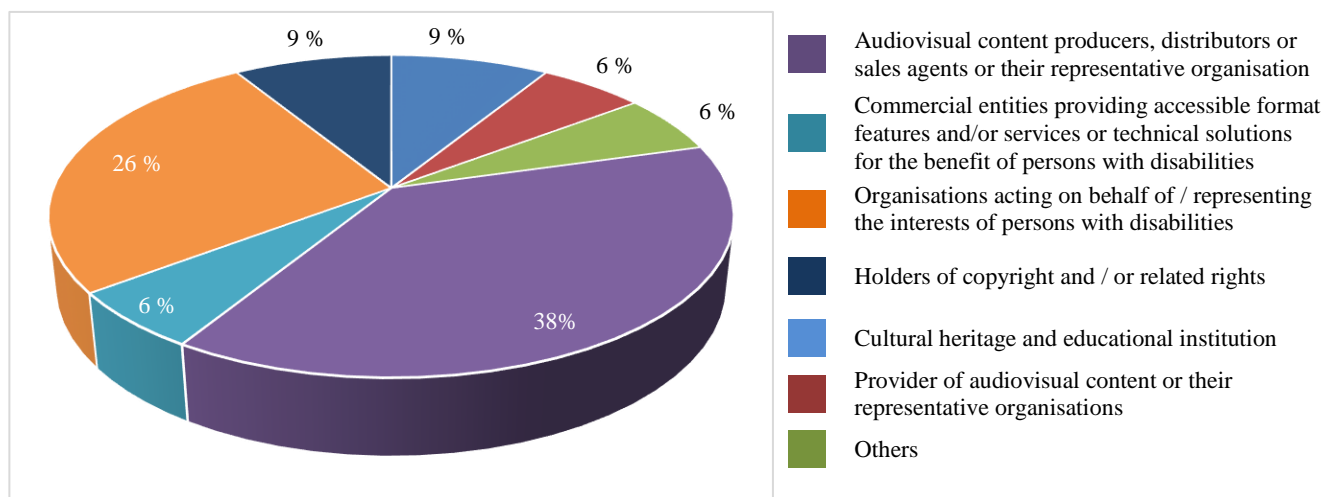


Figure 1: Participation across stakeholder types

Preliminary findings observed in the replies

The targeted consultation inquired about the availability within the European Union of works in accessible formats and for disabilities not covered by the ‘Marrakesh’ Directive. The term “**works in accessible formats**” refers to works (e.g. printed, visual or any other material) presented in such a way that persons with disabilities can access them. Accessible formats can be either ‘**born accessible**’ (i.e. a work initially created/produced in a way that allows persons with disabilities to access it) or ‘**accessible format copies**’ (copy of a work made subsequently in an alternative manner to give persons with disabilities access as feasibly and comfortably as a person without impairment or disability).

The first section of the consultation aimed to gather information on how persons with disabilities have access to works in accessible formats that are currently available. The second section inquired about the production of ‘born accessible’ works and the making of ‘accessible format copies’. Finally, the last section aimed to obtain information on the need of persons with disabilities notably as regards accessible formats which may currently not be available.

Without prejudice to the in-depth analysis of the replies, which will be taken into account in the report prepared by the Commission, the following overall trends can be summarised *:

Accessible formats currently available within the EU

A first set of questions asked whether works covered by the consultation were available in accessible formats. Respondents generally considered that accessible formats were available or available with some limitations.

When asked in more detail about how easy or difficult it is to obtain works in the different accessible formats, respondents indicated that subtitles/closed captions of audiovisual works are mostly easy or very easy to obtain. On the other hand, other accessible formats, such as (movie) audio descriptions, easy-to-read text, tactile paintings, pictures, maps images and photo description were considered rather difficult or very difficult to obtain.

Most of the replies indicated that subtitles/closed captions and (movie) audio description are available to persons with disabilities both commercially ('born accessible') and as 'accessible format copies'. On the other hand, formats such as tactile paintings, pictures, maps, easy-to-read text and image and photo description are available as accessible formats copies rather than 'born accessible'.

Respondents indicated that works in accessible formats are in general provided to end users for free or at no additional cost compared to the copies distributed to the general public.

Answers to the question on the impact of the COVID-19 pandemic on the availability of works in accessible formats varied from no-impact to either positive or negative impact depending on respondents and formats.

Production of 'born accessible' works

In replying to the question asking about the production of 'born accessible' works, stakeholders mostly referred to audiovisual works and audiobooks (for persons with disabilities other than print disabilities). Most replies indicated that 50% or more of these two types of works are being produced as 'born accessible'. Stakeholders producing 'born accessible' works indicated that in most cases they incur additional costs for such production.

Respondents generally replied that making 'accessible format copies' is more expensive than producing 'born accessible' works. However several stakeholders did not express an opinion on this subject.

A third of respondents mentioned that their works circulate in other Member States, while a similar proportion indicated that their works do not.

The replies on the question on the possible impact of the COVID-19 pandemic on the production of 'born accessible' works reported mostly no or negative impact.

Making of 'accessible format copies'

Stakeholders representing cultural heritage or educational institutions and those representing the interests of persons with disabilities mostly expressed their preference for producing 'accessible format copies' themselves rather than acquiring already commercially available accessible formats.

The majority of stakeholders who replied indicated that up to 10% of works are subsequently made accessible to disabled persons through 'accessible format copies'.

Stakeholders expressed different opinions on the affordability of the costs incurred for the making of different 'accessible format copies'. For example, in most cases, the cost of making subtitles/closed captions was considered rather reasonable, whereas for (movie) audio description or tactile paintings, picture, maps, such cost was considered to be high.

Respondents reported that in their experience the making of 'accessible format copies' is financed, in most cases, by organisations representing disabled persons. Most replies

mentioned that ‘accessible format copies’ originate from other Member States and are exchanged cross-border with persons with disabilities or organisations.

Most respondents reported ‘no impact’ of the COVID-19 pandemic on the availability of ‘accessible format copies’, some considered that the impact was ‘negative’, while a few considered it was ‘positive’.

Possible additional needs for works in accessible formats

Half of the respondents, including all the organisations representing persons with disabilities, considered that there is a need to have additional accessible formats available. In particular, this applies to subtitles/closed captions, (movie) audio description, tactile painting, pictures, maps, image and audio description, easy to read text, sign language.

Most stakeholders seeking access to accessible formats (i.e. organisations representing persons with disabilities and cultural heritage and educational institutions) reported difficulties in having such access. The obstacles mentioned by the largest number of respondents were the cost of making accessible formats, followed by the lack of funding or government incentives.

Respondents also pointed to copyright related issues, including ‘costs or difficulties related to the clearance of rights’ and ‘absent or ambiguous legal framework’

Finally, approximately a third of respondents indicated that they are planning to invest in developing additional and/or better accessible formats, while some respondents indicated that they do not plan to develop any additional formats.

Next steps

The [replies \(.xls\) to the targeted consultation](#) will feed into the Commission's report under Article 9 of the ‘Marrakesh’ Directive.