



EUROPEAN COMMISSION
Impact Assessment Board

Brussels, **09 JUL. 2013**
D(2013)

Opinion

Title

DG JUST - Impact Assessment on an initiative on harmonisation of the laws of the Member States relating to accessibility requirements of goods and services

(Resubmitted draft version of 4 June 2013) *

(A) Context

The European Disability Strategy 2010-2020 refers to 'accessibility' as meaning that people with disabilities have access, on an equal basis with others, to the physical environment, transportation, information and communications technologies and systems (ICT), and other facilities and services open or provided to the public. The Strategy mentions that "following further consultations with Member States and other stakeholders, the Commission will consider whether to propose a 'European Accessibility Act' (EAA) by 2012. This could include developing specific standards for particular sectors to substantially improve the proper functioning of the internal market for accessible products and services". The implementation of the provisions of the 'United Nations Convention on the Rights of Person with Disabilities' (UNCRPD) and the adoption of the revised Public Procurement Directives imply that Member States will have to adopt additional provisions on accessibility which may lead to further divergence of national accessibility requirements. This initiative analyses how to define common accessibility requirements for goods and services considered as most relevant for accessibility and for which the biggest divergent legislation and market fragmentation exists, or where there is a strong likelihood that it would occur.

(B) Overall opinion: POSITIVE

While the report has been improved to some extent along the lines of the recommendations in the Board's first opinion it requires further work in a number of respects. In particular it should provide more convincing evidence that there is a real risk of a fragmented approach to accessibility and that this represents a genuine problem for the internal market requiring EU legislation. In this context, for the sectors concerned, the report should substantiate the statement that existing international and EU standards have not prevented Member States from adopting divergent national legislation. The report should also further clarify what the UNCRPD implies in terms of concrete commitments that have to be assumed by the

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

Member States and should also describe in more detail the precise measures that would be imposed, indicating whether these would go beyond UNCRPD requirements. Moreover, the report should assess the additional costs that could arise as a result of these measures, specifically for companies and authorities in Member States that already have accessibility legislation in place. The proportionality of these measures should be better justified in light of the possible need for companies to adapt existing requirements. In addition, the report should detail the extent to which other existing EU-level horizontal regulation addresses issues related to accessibility. Finally, the views of different categories of stakeholders (as opposed to quotes from individual stakeholders) including Member States, groups representing the disabled and industry players should be better presented throughout the report.

(C) Main recommendations for improvements

(1) Strengthen the problem definition. The report should further clarify the nature and scale of the problem by distinguishing between fragmentation of approaches to accessibility arising from current legislative requirements and that related to potential future obligations such as the UNCRPD. It should explain more concretely what the UNCRPD implies in terms of commitments that have to be assumed and why, given that such commitments are legally binding, not all Member States will have complied with them by 2020. It should provide more evidence, for example stakeholders' and Member States views to demonstrate that there is a real risk of a fragmented approach to accessibility and that this represents a genuine problem for the internal market. While the report is more informative on the process of identification of the priority sectors it should better explain how the input of stakeholders, in particular of groups representing disabled people and industry players, was used to identify these priority sectors. The standards already in place or under development are better described however the report should more convincingly explain why they are not sufficient to address the issues identified, given that common approaches are in the interests of most stakeholders. In this context, for the sectors concerned, the report should substantiate the statement that existing international and EU standards have not prevented Member States from adopting divergent national legislation.

(2) Better explain the options. The report should provide a more concrete description of the measures that would be imposed such as the specific requirements for hospitality, banking, passenger and transport services etc. It should discuss in more depth how these requirements would differ from those that arise under the UNCRPD. It should still better explain why the choice of a 'directive' is consistent with the objective of reducing fragmentation as a preferred instrument given the flexibility inherent in such an instrument. The report should give more detail on the timing for implementation and transition periods. While the report indicates that these measures would only apply where Member States decide to introduce national accessibility legislation it should clarify how the proposals would affect existing standards and practices in Member States. The report should better explain how the proportionality clause would be applied in practice.

(3) Better assess impacts and strengthen the methodology. While the report has improved the presentation of the cost/benefit analysis by providing range of estimates, there is scope for further improvement for example by estimating any difference between what the obligations under the UNCRPD imply and the actual costs of adapting to the harmonised approach under these measures. The report should assess implementation costs, including those related to additional obligations on public administrations (e.g. inspections). It should specifically discuss the costs implied for companies in countries

that already have accessibility legislation in place (given that they may have to adapt existing requirements in order to minimise fragmentation). It should better explain how the possible safeguard clauses for companies and the lighter administrative requirements for SMEs will work in practice. The impact of the evolution of technology should be discussed in greater depth. Finally, the robustness of the methodology presented in Annexes 6 and 7, and of the results and the effectiveness of the model, should be strengthened by including all sources and assumptions used.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation

The report should further strengthen the problem definition, options (including the justification for the up-front discarding of options for self-regulation and EU voluntary standardisation) and the impacts sections by better presenting, in a balanced manner, the views of different categories of stakeholders (as opposed to quotes from individual stakeholders) including Member States, groups representing the disabled and industry players. The public consultation's feedback statement and replies should be made available in the relevant webpage, and a link should be provided in the report. Drafting guidance should be removed from the 'executive summary sheet'.

(E) IAB scrutiny process

Reference number	2012/JUST/025
External expertise used	No
Date of IAB meeting	Written procedure An earlier version of this report was submitted to the IAB in April 2013, for which the Board issued an opinion on 17 May 2013