



EUROPEAN COMMISSION  
Impact Assessment Board

Brussels,  
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**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 (draft version of 18 April 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: NEGATIVE**

**The report needs to be significantly improved in a number of important respects. First, the problem definition should better explain the degree of fragmentation due to different accessibility requirements and why this is a problem, distinguishing between fragmentation arising from current legislative requirements and that related to potential future obligations such as the 'United Nations Convention on the Rights of Person with Disabilities' (UNCRPD). Second, the report should further justify the choice of the priority sectors considered. It should explain why a horizontal approach is considered necessary in light of already existing accessibility provisions in sectoral legislation. Third, the report should better justify why options of self-regulation by industry and adoption of EU voluntary standards were discarded. It should better explain the content of the options i.e. what is the nature of the measures proposed, how they would work in practice (e.g. timing for implementation, transition periods,**

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

extent to which the measures go beyond the obligations arising from UNCRPD commitments). Fourth, the additional costs of these proposals over and above the costs of the UNCRPD requirements and for public authorities and companies in countries that have already accessibility legislation in place should be assessed. Finally, the report should justify why microenterprises are not excluded from this initiative.

Given the nature of these concerns, the IAB requests DG JUST to submit a revised version of the IA report on which it will issue a new opinion.

### **(C) Main recommendations for improvements**

**(1) Strengthen the problem definition and the baseline scenario.** The report should clarify the nature and scale of the problems, explaining why fragmentation of accessibility requirements across Member States is a problem from either the internal market and/or consumer perspective and then better explain what the extent of the fragmentation is. It should distinguish between existing fragmentation arising from current legislative requirements and that related to potential future obligations such as the UNCRPD. It should clearly explain what the implementation of the UNCRPD implies in terms of commitments that have to be assumed. The extent of fragmentation should be underpinned by evidence, including examples and the views of the relevant industry players and other stakeholders such as groups representing disabled people. The report should further justify the choice of the priority sectors considered, explaining the screening process and why other potential relevant sectors were left out. In terms of the baseline it should explain whether there are already sector specific EU legislative requirements in place covering accessibility and why these need to be complemented by a horizontal initiative such as this. The report should describe the nature of the standards already in place or under development, and explain why these are not sufficient to address the issues identified. In order to strengthen the justification for the initiative the report should also refer to broader objectives going beyond the functioning of the single market.

**(2) Better explain the options.** For the options that are discarded up-front, namely self-regulation by industry and the adoption of EU voluntary standards, a more convincing reasoning as to why these are not feasible, informed by stakeholders' views, should be provided. The content of the options, the differences between them and how they would work in practice should be better explained. For instance, the report should clarify the nature of the requirements for the preferred option, for example: Will detailed common standards be imposed for each sector? What is the timing for implementation? What are the transition periods, if any? To what extent do the measures differ between existing and future accessibility issues and between the obligations arising from UN commitments or the procurement directives? The report should make clear what the measures mean in practice and how they are going to be implemented (e.g. whether comitology measures will be required and whether these will be the subject of specific impact assessments). It should also demonstrate how the proposed proportionality clause will be applied in practice. The report should compare the proposed measures with those applicable in other jurisdictions, such as the United States.

**(3) Better assess impacts and strengthen the methodology.** The report should present the estimates of the cost/benefit analysis with appropriate caution and qualification, proposing a range of estimates rather than precise figures. The analysis should consider the impact that the evolution of technology might have for some of the priority sectors and how (and

if) the proposed accessibility standards can be future-proofed (e.g. for fast-changing sectors like computers). The report should better explain the methodological approach used and the rationale behind the assumptions underlying the expected costs and benefits. It should provide more information on the costs of the measures 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 specifically discuss the costs implied for companies in countries that have already accessibility legislation in place. It should justify why microenterprises are not excluded from this initiative. It should also consider possible international impacts, impacts on consumers (especially those benefitting from accessibility) and assess the administrative burden for public administrations. The report should explain how the measures are coherent and consistent with other relevant policy proposals, for instance on the protection of consumers' rights and with existing accessibility legislation. The choice of a 'directive' as a preferred instrument should be further justified explaining how, given the flexibility inherent in such an instrument and the possibility for Member States to legislate beyond some harmonised standards, such an approach is consistent with the objective of reducing fragmentation. Transposition and compliance issues should be examined, including an assessment of how 'infringements' procedures would be applied.

*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 views of different categories of stakeholders, including Member States and public authorities, should be clarified, presented in a more balanced manner and better presented throughout the text, particularly in the problem definition and the impacts of options sections. 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. The 'executive summary sheet' should be completed in order to contain the most relevant information (e.g. the eleven goods/services considered in the report).

#### **(E) IAB scrutiny process**

Reference number	2012/JUST/025
External expertise used	No
Date of IAB meeting	15 May 2013