



European Accessibility Act "eCoffee"

**Find out why Europe needs a strong and
ambitious law**

6 June 2017

**We will start at 10h00 until 10h40 CET but we are already on-line so you can
test your connection**

Aim



Provide participants with insights on the proposal for a European Accessibility Act and its context

Your webinar hosts:



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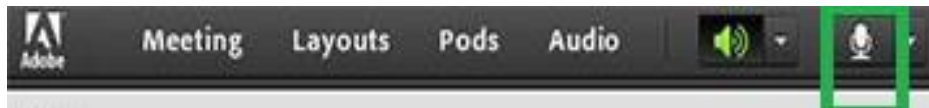
Methodology



You should hear the audio through your headphones **or** phone.

All participants would be muted during the presentation.

To ask Questions, please use the chat window or your microphone/phone.



Audio connection via computer (microphone): To speak into your microphone enable the microphone icon located in the top center part of the meeting room window. Adobe Flash Player Settings will ask for permission to access your Camera and microphone. Select 'Allow'.

When your microphone is active it turns **green**



To **mute** your microphone, click once onto it



Audio connection by phone

Please keep your phone line **muted** during the presentation (Press ***# on your phone**)

- **Chat Window:** Place your cursor in the text box, type a message, and press Enter.
- **Raise hand:** If you have a question, you can use the 'raise hand' function



If you experience any problems during the session, you can contact Kristina Aleksandrova at kal@anec.eu

Content



- **10h00-10h03: Introduction (aims and methodology)**
- **10h03-10h05: Tour de table**
- **10h05-10h10: Free circulation of goods in the EU Single Market and the accessibility**
- **10h10-10h15: Q&As**
- **10h15-10h30: proposal for a Directive on the accessibility of goods and services (European Accessibility Act)**
- **10h30-10h40: Q&As and takeaways of the webinar**
- **10h40: The end!**

Etiquette tips



- **Introduce yourself and write your name** and surname when speaking at least the first few times. Don't assume that your attendees automatically recognize your voice.
- Keep in mind that you should **speak confidently and clearly**, as you would during a face-to-face meeting. There will be **many Q&As sessions to allow time for interventions**.
- **Mute your phone when you are not speaking**. There is nothing worse than hearing the sound of someone typing away letting everyone know that they are only half-listening. Avoid cell phones and speakerphones when possible.
- **Don't plan on just listening in** - Just because the meeting is online, it is no excuse for you to work on something else while only listening in. If you have been invited to the meeting, it's because the organisers value your input.
- **Do not speak out of turn** - If it is someone else's turn to speak/present, let them finish without interruptions. Wait until they are done and then comment or ask questions. Unless the presenter has specified that it is OK for participants to interrupt the presentation, refrain from speaking when it's someone else's turn. Otherwise not only will the meeting be delayed, but it can also go off-topic.

Thank you for your attention!

Please type or ask your questions!



Part 1



Free circulation of goods in the EU Single Market and accessibility

The Internal/Single Market



The New Approach

6 June

The Legislative Environment



- The European legislator sets essential safety requirements through horizontal and sectoral European laws ('directives')
- The European Standards Organisations (CEN, CENELEC, ETSI) are invited (through a 'mandate/request') to develop the European Standards (ENs) that can provide the technical detail to support implementation of the directives
- These 'mandated' ENs are called 'harmonized standards' when their references are published in the Official Journal of the European Union
- Although the use of harmonized standards remains voluntary, a manufacturer can presume that his product complies with the law if he complies with the harmonized standard(s)
- A product in compliance with the law is free to circulate throughout the European Economic Area (or 'Single Market')

EU Single Market



Area without internal frontiers in which free movement of goods, services, persons and capital is ensured (art.26.2 TFEU)

In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (art.10 TFEU)

Harmonisation



Done with measures for the approximation of the provisions laid down by law in Member States which have as their object the establishment and functioning of the internal market (art. 114 TFEU)

Legislative technique of “New Approach to technical harmonization and standardisation” (Lord Cockfield, 1985)

New Legislative Framework (Regulation (EC) 765/2008):

- common legal framework for industrial products**
- market surveillance rules**
- CE marking**
- accreditation and conformity assessment.**

Non-harmonised sectors are not subject to common EU rules and may come under the national rules but still benefit from Treaty provisions governing free movement of goods according ‘mutual recognition’ (ECJ *Cassis de Dijon* jurisprudence 1979)

UN Convention on the Rights of Persons with Disabilities



State Parties shall take appropriate measures to develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public (art.9)

(..) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

As most Member States have already ratified the Convention, they need to undertake action to implement it. The EC expects that the implementation of those parts of the Convention that are related to the accessibility of goods and services, if done by each Member State separately, could lead to divergent legislation. This divergence could affect the internal market and lead to additional costs.

Thank you for your attention!

Please type or ask your questions!



Part 2



Future European Accessibility Act (EAA)

The European Commission adopted on 2 December 2015 a proposal for a Directive on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services.

Aim: contribute to improve the proper functioning of the EU Internal Market and remove and prevent barriers for the free movement of accessible products and services.

We welcome the proposal as for many years, we have been pressing for regulatory action to increase access to everyday products and services for consumers of all ages and abilities.

What it is:

- directive (defines the objectives, Member States to identify the means with national transposition)**
- similar to New Approach/harmonization legislation (standards provide presumption of conformity with legal requirements)**
- covers only certain products and services (mainly digital)**
- relies on manufacturers/service providers compliance and ex-post market surveillance checks.**

What it is not:

- A regulation (directly applicable)**
- An anti-discrimination act (human rights)**
- Covering all products and services**
- Ex-ante controls.**

Scope (art.1)



Products:

- (a) general purpose computer hardware and operating systems;**
- (b) the following self-service terminals:**
 - (i) Automatic Teller Machines;**
 - (ii) ticketing machines;**
 - (iii) check-in machines.**
- (c) consumer terminal equipment with advanced computing capability related to telephony services;**
- (d) consumer terminal equipment with advanced computing capability related to audio-visual media services.**

Scope (art.1)



Services:

- (a) telephony services and related consumer terminal equipment with advanced computing capability;**
- (b) audiovisual media services and related consumer equipment with advanced computing capability;**
- (c) air, bus, rail and waterborne passenger transport services;**
- (d) banking services;**
- (e) e-books;**
- (f) e-commerce.**





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Our asks on the scope



We believe that some additional products and services are the object of divergent and often contradictory national current or potential accessibility requirements and should thus be included in the scope of the Directive:

- **clarify that payment terminals** (also known as Point-of-Sale terminals or POS terminals) are included.
- **household appliances should also be included in the scope** of the Directive because accessible household appliances increase independent daily living for older people and people with disabilities.
- **accessibility of the built environment as** several Member States already have accessibility legislation or standards on the built environment.

Definitions



“accessible products and services” are products and services that are perceptible, operable and understandable for persons with functional limitations, including persons with disabilities, on an equal basis with others;

“persons with functional limitations” means persons who have any physical, mental, intellectual or sensory impairment, age related impairment, or other human body performance related causes, permanent or temporary, which in interaction with various barriers result in their reduced access to products and services, leading to a situation that requires adaptation to their particular needs of those products and services;

Our asks on the definitions



We ask for accessibility to benefit **all consumers with disabilities, irrespective of the temporary or permanent nature of their disabilities.** And against the present demographics trends, it is anachronistic not to mention the needs of older consumers (who might not have a permanent disability).

Accessibility requirements (art.3,4)



Member States shall ensure that the products and services referred to in Article 1(1) and 1(2) comply with the accessibility requirements set out in Annex I in accordance with paragraphs 2 to 9 of this Article.

Member States shall not impede the making available on the market in their territory of products and services that comply with this Directive for reasons related to accessibility requirements.

Annex I: detailed accessibility requirements



Our asks on the requirements



- In general we do not oppose **functional performance requirements (Annexes)** but we note the risk that most of the accessibility obligations on economic operators are just to provide information about accessibility features which might not be enough to create a dynamic market for accessibility.
- We also ask for the clause on the **built environment** (Art. 3.10) to be obligatory. Without this, the Act will remain weak because it does not guarantee physical access to products and services.

Fundamental alteration and disproportionate burden (art.12)



The accessibility requirements apply to the extent that they do not introduce a significant change in an aspect or feature of a product or service that results in the alteration of the basic nature of the product or service.

Accessibility requirements apply to the extent that they do not impose a disproportionate burden on the economic operators concerned.

In order to assess whether compliance with accessibility requirements imposes a disproportionate burden, the economic operators shall take account (self-assessment), of the following:

- the size, resources and nature of the economic operators;**
- the estimated costs and benefits for the economic operators in relation to the estimated benefit for persons with disabilities, taking into account the frequency and duration of use of the specific product or service.**

Economic operators not making products/services accessible shall notify (in declaration of conformity) the relevant market surveillance authority in the market of which the product or service is placed or made available.

Our asks on the exclusion clauses



We think that **all economic operators should be included** in the scope of the proposed Directive. Article 12 already provides for an exemption on a case-by-case basis, which is sufficient. In 2012, of the 22.3 million enterprises in the EU's non-financial business economy, an overwhelming majority (92.7%) were micro-enterprises (with 0 to 9 persons employed) (Eurostat data). While we understand the need not to burden small companies with too many obligations, we also think that accessibility is a niche market for small companies and we suggest alternative support measures for SMEs. Member States shall ensure, in particular by strengthening support networks and structures, that they encourage SMEs and very small firms to adopt an accessibility sound approach as early as at the product design stage and service provision.

In our opinion, where the economic operators have used the safeguard clauses for a specific product or service, they shall **inform consumers that the product or service in question is not supporting any or partially the accessibility requirements** of this Directive and the reasons for the non-compliance or partial compliance. The information has to be provided in a clear, accessible and easily understandable way by consumers.

Standards (art. 13-15)



Products and services which are in conformity with harmonised standards or parts thereof the references of which have been published in the *OJEU*, shall be presumed to be in conformity with the accessibility requirements covered by those standards or parts thereof, referred to in Article 3.

Where no reference to harmonised standards has been published in the *OJEU* and where further detail for the accessibility requirements of certain products and services would be needed for harmonisation of the market, the Commission may adopt implementing acts establishing common technical specifications ('CTS') for the accessibility requirements set out in Annex I to this Directive (implementing acts adopted in accordance with the examination procedure).

CE marking is applicable.

Our asks on standards



Standards are one of the tool which can be used to provide presumption of conformity to legislation. **In the absence of Harmonised Standards, the Commission shall adopt implementing acts establishing technical specifications** that meet the accessibility requirements referred to in Article 3 for helping the businesses in complying with the Directive.

In order to participate in the standardisation procedures in a meaningful way, persons with disabilities should also be fully included as part of the users' representatives.

Market surveillance of products (art. 17-20)



Compliance of services

**Procedure for dealing with products
presenting a risk related to accessibility at
national level**

Union safeguard procedure

Our asks on market surveillance



In addition to the Committee proposed, we suggest, in line with existing practice, **setting up an Expert Group composed of relevant EU stakeholders** (including economic operators and societal stakeholders) to provide input and feedback. Such a group would enable a coherent and regular dialogue between European stakeholders, the Commission, and market surveillance authorities.

Links with other legislations (art.21)



EAA provides common criteria for accessibility and to harmonise the way in which Member States implement already existing accessibility requirements.

Example: Public Procurement Directives

The Accessibility requirements set out in Section IX of Annex I shall apply:

(a) When establishing the technical specifications and award criteria related to all public contracts and concessions the object of which is intended for use by persons, whether general public or staff of the contracting authority or contracting entity, which are subject to Directive 2014/23/EU, Directive 2014/24/EU⁵ and Directive 2014/25/EU

Accessibility requirements referred to in Article 21 apply to the extent that they do not impose a disproportionate burden on the competent authorities for the purposes of that Article.

Our asks on links with other legislations



The **link to other Union legislation has to be maintained** to ensure coherence.

The Public Procurement Directive, the Structural Funds, and the Trans-European Networks Regulation already include the possibility to use accessibility as an award criterion. However, they do not give details about what accessibility is and how the requirements can be met. Therefore, the EAA is needed.

Art. 21 and Art. 1 do not create any new obligations, they complement the other Union legislation mentioned above.

Issues



- Are there problems of fragmentation in all areas concerned?**
- For services, the accessibility requirements and the monitoring measures are inspired by what is proposed for goods: can it work?**
- What are the links between a service provided and the products needed for that provision and, in cases where a service and a product/device or several different service providers are linked, who would be responsible for ensuring compliance with the accessibility requirements?**
- Definitions of "people with functional limitations" and older persons create two additional categories alongside "persons with disabilities," widening the personal scope as compared with that of the UNCRPD.**

- Are accessibility requirements too detailed? Do they stifle innovation?**
- Does the reference to other legislations work out or is it better to amend these legislations?**
- Would the partial fulfilment of accessibility requirements be in line with the EAA (e.g. replacing only some ticketing machines with accessible ones or not providing accessibility in remote parts of the transport network)? What would happen if different economic operators came up with very different results in their assessments on what constituted a disproportionate burden?**
- Should SMEs and microenterprises be exempted?**
- Is the concept of 'availability of other means of accessing the service' going against the spirit of the proposal which is to mainstream accessibility in products and services?**

Thank you for your attention!

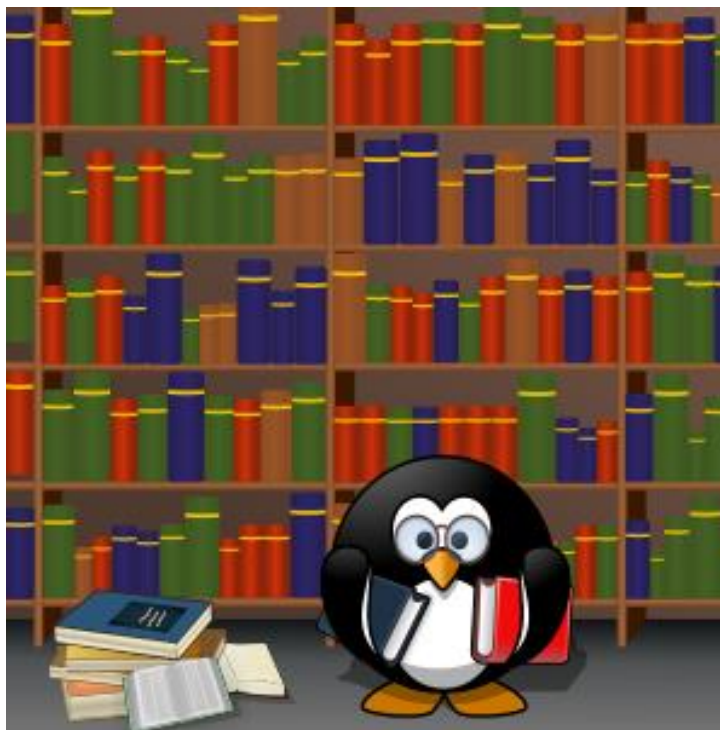
Please type or ask your questions!



Takeaways



Key learning points of today's webinar





EAA proposal



- improve the proper functioning of the EU Internal Market and remove and prevent barriers for the free movement of accessible products and services**
- help Member States to implement UNCRPD in uniform way**
- directive (defines the objectives, Member States to identify the means with national transposition)**
- similar to New Approach/harmonization legislation (standards provide presumption of conformity with legal requirements, CE marking)**
- covers only certain products and services (mainly digital)**
- relies on manufacturers/service providers compliance and ex-post market surveillance checks**
- disproportionate burden and fundamental alteration provisions**
- links with other legislations.**

Our main asks



- **Scope: cover household appliances, built environment, apps and payment terminals (POSs).**
- **Modification of Article 12 on Fundamental alteration and disproportionate burden (SMEs, lack of accessibility).**
- **Keep the link to other Union Acts (public procurement, etc.)**
- **Strong market surveillance and collection of complaints and accidents statistics about the lack of accessibility of products and services.**
- **In addition to the Committee proposed, we suggest setting up a standing Expert Group composed of relevant EU stakeholders (including economic operators and societal stakeholders) to provide input and feedback.**
- **Shorter transposition and reporting period.**

Bibliography



EC proposal for a [European Accessibility Act](#)

EP [IMCO report](#) on the European Accessibility Act

Consolidated version of the [Treaty on the Functioning of the European Union](#)

[UN Convention on the Rights of Persons with Disabilities](#)

New Legislative Framework ([Regulation \(EC\) 765/2008](#))

[ANEC position](#) on EAA

[EDF position](#) on EAA

Thank you for your attention!

Please type or ask your questions!



Thank you!

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#**AccessibilityAct**

