



The voice of blind and partially sighted people in Europe

EBU Response to the European Commission Consultation on the proposal for a European Accessibility Act

February 2016

Introduction

The European Blind Union, EBU, has prepared this response in cooperation with the European Disability Forum (EDF) and the European association for the coordination of consumer representation in standardisation, ANEC.

In our November 2014 “Access Denied” report, the European Blind Union explained that 30 million blind and partially sighted Europeans face unjust and unnecessary barriers in everyday life. We explained that the EU has a vital role in removing these, but that, as yet, it has only partially completed this task.

The fact is 30 million blind and partially sighted people, customers and citizens are still unable to access the everyday goods and services that most people take for granted.

We gave examples of this exclusion. We said that a sighted person would check the train times on their smart phone; buy a ticket to travel to work from a touch-screen ticket machine; see the sign for their train stop for work, and so get off there.

They would use a computer frequently and easily at work, checking emails and the internet for various pieces of information;

and also do this on a smartphone or tablet. They would probably use a range of apps to access various services; read a book on an e-book reader or phone on the way home, or read their favourite newspaper online.

Back at home, they would use the microwave to prepare a meal; put some laundry in the washing machine; then perhaps watch TV.

Then we asked the reader to imagine that they were blindfolded for the day. We said:

“Your smart phone is touch-screen so you can’t see the buttons or information to use it. (You’d be able to use it if it “spoke” the on-screen information to you, but that would mean buying a more expensive model.)

You can’t buy a ticket to travel to work from a touch-screen ticket machine as, despite the technology existing to provide this, it does not have a facility to “speak” the on-screen information.

You don’t see the sign for your train stop for work, and so don’t know when to get off. There are no audio announcements on your train. You may not find out about delays or cancellations.

At work you cannot use the computer because it is not equipped with text-to-speech screen-reading software. If it did have that equipment, you would still find that at least 90% of the websites you need to access are not designed to be used with that software. And yet it is possible to have websites designed so that you can use it; in fact international guidelines on how to do this have been in place for over 15 years.

You cannot read a book on your e-book reader on the way home, because the menus on the reader are not spoken, so you can’t find the book you want to read. You can use this great app that you downloaded earlier because it is not accessible.

You cannot use the microwave to heat up a meal- again: no spoken menu- the old ones used to be fine but the new models are mostly operated by visual digital display. And it’s the same with the washing machine; you find you can’t work out the programmes without sight.

You can't find the TV programme you want to watch because the on-screen electronic programme guide does not "speak" to you either! And if you could find the programme, that is if you were lucky enough to have one of the few accessible digital TVs and remote controls, then the chances of your favourite film including "audio description", which explains what's going on between the dialogue, are extremely small.

All of the above barriers, and many others, are not the unavoidable consequences of visual impairment. Technology which can make almost everything accessible, in ways undreamed of a few decades ago, is readily available now. And yet it is not being built in the design of everyday goods and services that all of us need to access."

In this light, EBU warmly welcomes the proposal of the long-awaited Act. Such legislation is very much needed to help ensure the accessibility of goods, services and transport in the EU.

We will work constructively and assiduously with all parties to help ensure that this new law is fit for purpose for blind, partially sighted and indeed other people with disabilities.

In this response we set out our main thoughts on the proposal, including some questions about areas which are not clear in our opinion. We have taken the proposal in chronological order. We hope in this way that our comments will be easy to relate to the text.

Our comments, article by article

Article 1 Scope

EBU believes that the areas covered by Article 1 are all important and necessary in order to significantly improve the accessibility of the internal EU market to blind and partially sighted people.

Blind and partially sighted people also need EU legislation to fully cover many sectors, products and services that this proposed Directive does not address, or addresses only partially. To this end, this Directive, which has as its objective the harmonisation of the internal market, must be complemented by strong anti-

discrimination legislation. That can best be achieved by the completion of work to agree the Equal Treatment Directive, which was proposed some years ago.¹

Important areas that we believe the present Directive does not cover, or does not cover comprehensively, include the following:

- the **inclusive design of (all) products, including so-called “white goods”**. This Directive only covers selected ones, which is problematic in an increasingly technologically “converged” world.
- a **broad right of access to all services**; especially relevant to EBU are screen-based products that require interaction, or products with only one sensory modality – those calling for visual interaction should also provide for audio interaction and vice versa
- the fast-emerging **“internet of things”**, which most experts agree will have massive societal impact over the coming years
- **broad coverage of digital content**. The Directive appears to not cover “apps”, despite access via apps accounting for a large part of modern internet use
- **consumer products** such as food products and for example technical products (information on packages, leaflets, instructions, including warnings) and **medical health care products** for consumers like blood sugar monitoring devices, blood pressure monitoring devices
- **Accessible databases appear not to be included**, yet these are an integral part of access to information in daily, educational and professional life.

In terms of partial coverage, we note that the Directive has only non-binding requirements on the design of the built environment and lacks a broadly-framed mobility requirement. (By “built environment”, we include buildings and public areas including escalators and lifts).

¹ “Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation; COM/2008/0426 final ”

In terms of the terminology used in Article 1, we would welcome clarification of the meaning of “consumer terminal equipment with advanced computing capability related to audio-visual media services”.

In this context, we take “smart” to mean having additional features enabled by a computer processor. We understand this term to mean items such as smart TVs, smart Set-top boxes, DVD and Blu-ray players (smart ones at least). We also believe it could include an ever-greater range of products such as microwaves, washing machines, cars and house heating systems, which make use of smart phone interfaces for their operating processes (for example, the “smart house solutions offered by Miele).

We would welcome a definition of “advanced computing capability”. EBU believes that basing the definition on functionality, such as the ability to run apps, or display video on demand, interact with other technology, rather than the hard-to-define term “advanced,” may be more effective.

We note also that radios, which do not appear to have “advanced computing capability”, would be excluded, it appears, and yet their accessibility is vital to blind and partially sighted people. (Many modern digital radios are inaccessible or not fully accessible to blind and partially sighted people since their operation requires consumers to use visual digital displays.)

We also believe that this Directive should cover so-called “Point-of-Sale” terminals, as advocated for by the platform “Pay-Able”, in addition to ATMs. As Pay-Able says, payment terminals are widely used self-service terminals and are currently more frequently used by European consumers than ATMs, and carry far more transactions than ATMs.

The concept of having categories in the Directive specifically for products/ services like “ebooks” might be in danger of being unworkable in the converged digital world we now live in. Please see our comments on Annex I, VII, where we elaborate in this concern using the example of ebooks.

Article 2 Definitions

It is very useful- indeed necessary- that the Directive includes a definitions article. EBU welcomes the functional definition of accessibility used. Reference to the need for products and services to be “perceivable” is also helpful for blind and partially sighted people, as is, for our constituency, the inclusion within the definition of the Directive’s beneficiaries (known as “persons with functional limitations”) of those with “sensory impairment”.

Regarding the first point:

(1) ‘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;’

it seems that the Directive replicates the wording 'perceivable, operable and understandable' from WCAG 2.0. However, WCAG 2 also includes another important factor: 'robust'. The relevant WCAG standard text is:

"Perceivable - Information and user interface components must be presentable to users in ways they can perceive.

This means that users must be able to perceive the information being presented (it can't be invisible to all of their senses)

Operable - User interface components and navigation must be operable.

This means that users must be able to operate the interface (the interface cannot require interaction that a user cannot perform)

Understandable - Information and the operation of user interface must be understandable.

This means that users must be able to understand the information as well as the operation of the user interface (the content or operation cannot be beyond their understanding)

Robust - Content must be robust enough that it can be interpreted reliably by a wide variety of user agents, including assistive technologies.'

This means that users must be able to access the content as technologies advance (as technologies and user agents evolve, the content should remain accessible). We would welcome the inclusion of the concept of “robust” in the Directive.

EBU believes that this Article has some clear omissions such as a definition of “website”.

Article 3 Accessibility Requirements

Point 1 says that Member States have to comply with the accessibility requirements in Annex I. In this light, please see our comments on the provisions of Annex 1 at the end of this document.

Point 10 is disappointingly weak; especially the permissive wording which says that Member States “may decide” to require compliance with Annex I section X.

Article 5 Obligations of manufacturers

EBU welcomes the comprehensive provisions in this article.

EBU particularly welcomes the requirement in 5.3, requiring manufacturers to ensure that their products remain “in conformity”. We have too often seen an accessible “version 1” of a product followed by an inaccessible “version 2”.

In this context, EBU is aware that as products become more technologically complex, often only the basic features are still accessible, rather than the enhanced features, yet such a product is still often deemed accessible by its makers.

Just three illustrative examples of this phenomenon:

- 1) A mobile phone used to be used just to make calls and to send text messages. Now, if these functions can be undertaken by a person with a disability using a newer model then some may deem the newer phone accessible - even if all the extra features such as apps, web etc cannot be accessed by that user.

- 2) A TV is used to watch TV and turn on audio description. If a newer model can be used to do this it is deemed accessible, even if the additional features of connected TV and apps cannot be used by a blind or partially sighted person.
- 3) A washing machine can have dials to set a washing cycle as all older style machines have always done, however now they have screens that show how long is left to go in a cycle, a screen to set a delay timer or even confirm the selected cycle, all of which are inaccessible. However because the newer machine still has the basic function of washing socks, it may still be deemed accessible by its makers if a user with disabilities can use this basic function.

Article 6 Authorised representatives, Article 7 Obligations of importers, and Article 8 Obligations of distributors

EBU welcomes the fact that the EAA proposal covers all of these economic operators. It is most important that the proposal places requirements on the whole chain of production, supply and service. One broken link in that chain can render ineffective all efforts to make a product or service accessible.

EBU would welcome clarification from the Commission about whether this Directive would cover retailers.

Article 9 Cases in which obligations of manufacturers apply to importers and distributors

We welcome this stipulation that importers and distributors have the same obligations as manufacturers for the purposes of this Directive.

Article 11 Obligations of service providers

EBU welcomes the inclusion in the proposal of all the above-mentioned parts of the manufacturing and supply chain. Without this, accessibility could not be ensured.

We are pleased that there is an obligation for service providers to ensure that “procedures are in place guaranteeing that the continuous provision of services remains in conformity”. As mentioned in our comments on Article 5, we have seen cases of

“version 1.0” of a product being made accessible, and then version 2 and 3 slip back to not being accessible, and the same risk exists in regard to services.

Article 12 Fundamental alteration and disproportionate burden

This Article is crucial to the proper functioning of this Directive and its wording should reflect the needs of both consumers and economic operators. EBU accepts that there are real potential cases where, to make a product fully accessible to all would require changing it beyond its usual specification, or the changes needed would be so significant that it would place a real “disproportionate burden” on the manufacturer. However, we are concerned that without proper safeguards and enforcement, these exceptions could be misused and become a loophole through which some economic operators escape from their duty to make their goods and services accessible.

EBU has big concerns about the definition of a fundamental alteration (12.1) and the criteria used to gauge whether a burden is disproportionate (12.3). We wonder how a “significant change in an aspect or feature of a product or service” (12.1) would be identified in practice. On the other hand, a number of minor changes in a number of aspects or features might result in “the alteration of the basic nature of the product or service”. We believe the wording would be strengthened by removing the reference to an aspect or feature and defining a fundamental alteration as “a significant change in the basic nature of the product or service”.

The criteria used to gauge whether the burden is disproportionate refer to the size of the economic operator. This suggests that economic operators need only show concern for accessibility requirements when they reach a certain size. EBU would dispute such a position but to some extent that is unnecessary as the Proposal itself states in 3.3 Proportionality Principle of the Explanatory Memorandum that a full exemption for microenterprises was considered but discarded. In other words the size of the enterprise in itself is not sufficient to give rise to an exception, but the presence of the word “size” in 12.3 (a) suggests that it is. We propose the word “size” be eliminated.

The wording of the criteria in 12.3 (b) also causes EBU concern. The economic operators may tend to overestimate the cost to themselves, and/or underestimate the benefit to disabled users of changes the Directive would otherwise require them to make. The latter is especially the case because it is not clear how economic operators could effectively carry out this analysis. EBU would welcome clarification on this matter.

The self-certification referred to in 12.5 will require some careful work so that consumers can feel confident that the product being certified is really accessible and compliant. The documentation showing compliance must be sufficiently detailed so as to meaningfully demonstrate compliance.

EBU has been considering possible solutions to this concern. We are aware that in response to the USA Section 508 law, some businesses comply by listing the areas of accessibility they do and do not meet in the “VPAT” template. Often responses to that law say 'partial'. We believe that a similar system in the EU would need to avoid such ambiguous reporting on compliance.

We should also remember the strides technology has made over the past years. Accessible technology is available in many areas as a result, though not yet widespread. If the economic operators are unaware of the advances in accessible technology, they may erroneously consider that meeting the requirements of the Directive would require them to do expensive research and thus place a disproportionate burden on them. Consequently the market surveillance authorities will have to play an active role in assessing the validity of the economic operators' analyses.

Article 13 Presumption of conformity

EBU believes that disabled people's organisations should be actively involved in the checking of conformity.

Article 14 Common technical specifications

EBU welcomes this article permitting further standardisation (in areas where this is lacking) to meet the Directive's requirements. Often, standardisation processes have been decided or mainly influenced by representatives of industry, which can result in the exclusion of accessibility for people with disabilities. Technical

specifications resulting from/ intended to meet this directive should be devised with the full inclusion of people with disabilities and their organisations.

Article 15 EU declaration of conformity of products

EBU welcomes the requirement to declare conformity, and for the declaration to be kept “continuously updated” as specified in 15.2.

15.2 also states:

“the requirements concerning the technical documentation shall avoid imposing any disproportionate burden for micro, small and medium-sized enterprises”

EBU looks forward to seeing further information regarding the means by which “disproportionate burden” will be decided in this case.

Article 16 General principles of the CE marking of products

For EBU, manufacturer self-assessment is a concern. Ideally an independent body, including experts with disabilities and from disabled people’s organisations, would award the marking demonstrating accessibility. In any case, we believe the new system outlined in this Directive would necessitate consumer awareness-raising work so that the CE mark becomes widely recognised as a mark of accessibility.

We are also concerned that the use of a CE mark to indicate accessibility could confuse consumers. How would the consumer know whether the CE mark indicated that the product met accessibility standards, rather than safety standards?

Further, CE marks are not a way to demonstrate compliance for services.

Since CE-marking can only be used for products, there is currently no way to certify the compliance of services with accessibility requirements. This means that the service provider would not have to draw up a technical file and notify the authorities, so documentation would be less detailed for service providers than for providers of products. Service providers could include information

about the accessibility requirements in the general terms and conditions but that would not be checked by the authorities.

EBU believes that a compliance scheme for services, similar to the CE mark, should be set up.

Finally, but very importantly, EBU wonders to what degree a product would have to conform to the Directive's requirements, in order to achieve the CE mark. Would a product made accessible for some impairment groups only meet the criteria, or for all? EBU believes this matter must be clarified to ensure the proper working of the Directive.

Article 17 Market surveillance of products

EBU believes that clause 3 of this Article is helpful in stating that information on compliance with the Directive be made available to consumers on request, and in accessible formats.

It does have an exception:

“except where that information cannot be provided for reasons of confidentiality as provided for in Article 19(5) of Regulation (EC) No 765/2008.”

EBU fears that this exception could be used almost as a default. We have often heard when working on the area of TV accessibility that information about products cannot be shared as it would be commercially sensitive.

However, products in the development stage are of course not in the public domain, so whilst their development is indeed likely to be commercially sensitive, they will not fall under Article 17 of the Directive, and therefore would not be subject to a possible confidentiality exception under Article 17.

We are less sure that, once the product is on the market, the information about its compliance is likely to still be as commercially sensitive. We believe it would make sense for the Directive to stipulate that products on the market shall not be the subject of the Article 17 exception.

In any case, care will be needed to avoid the “commercially sensitive” exception preventing a reasonable and proper analysis of the extent to which a product complies with the Directive.

EBU believes that statistics and general information about market surveillance activities on accessibility of products and services by the authorities should be made public.

Such information could then be reviewed by disabled people’s organisations.

Further, market surveillance authorities should provide consumers and other interested parties with the opportunity to submit information about potentially non-compliant products and services. Effective complaints-handling procedures, including the foreseen obligation for market surveillance authorities to follow up with economic operators on these complaints, should be introduced as they will lead to more effective market surveillance.

Article 18 Compliance of services

EBU strongly welcomes this requirement for Member States to check compliance, follow up on complaints and ensure corrective action. This will certainly be necessary to ensure conformity with the Directive.

We believe that the Directive should include more than a requirement to 'periodically update'. We feel there needs to be a specifically stated timeline, and also a clear method for testing and noting compliance. We need this legislation to be clearly enforceable and the wording robust enough that non-compliance is not seen as a viable “option”.

Article 19 Procedure for dealing with products presenting a risk related to accessibility at national level and Article 20 Union safeguard procedure

EBU welcomes the presence of these procedures in the Directive. Whilst we understand that these provisions are taken from Regulation 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, we are of the opinion that the wording “products presenting a risk related to accessibility” is not appropriate, unless the issue

concerned entails a safety risk. We think that “products presenting a lack/non-compliance related to accessibility” is more appropriate and would avoid confusion with safety provisions.

Article 21

Applicability of accessibility requirements to other Union acts

EBU believes that clause “a” is helpful in linking this requirement to public contracts and public procurement; both of which have a large and powerful effect on the level of accessibility for disabled people in many areas of life.

We would like to see clarification as to how far other legislation and legislative proposals such as the Web Accessibility Directive, the Audiovisual Media Services Directive, the Universal Service Directive, or existing legislation such as the TSI-PRM are affected. It is important that the relationship is clear so that the provisions for accessibility are not lowered or watered down due to interaction or overlap with another piece of legislation.

Article 22

Disproportionate burden

EBU strongly believes that all competent authorities should be subject to the same legal obligations on accessibility. Surely public authorities should be making their products and services fully accessible.

If there were to be exceptions to this obligation, and the competent authority concluded that compliance with accessibility requirements would result in a disproportionate burden, EBU believes that consumers, as well as the Commission, ought also to be informed of that conclusion.

Article 24 Committee procedure

This Article says the Committee which will assist the Commission shall conform to Regulation (EU) No 182/2011. As the Commission says, that Regulation

“lays down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers. Before adopting implementing acts, the European Commission has to consult a committee

comprising representatives of each of the EU countries on the draft that it is proposing.”

EBU would like to better understand how it is intended that this Committee function. It is vital that it include and represent the views and concerns of disabled people and their organisations. We would like to know more about how this would happen.

Article 25 Enforcement

EBU welcomes the requirement in 2 a) that Member States provide for a consumer to take action re non-compliance with the Directive, and the provision for organisations to likewise do so in 2b).

Since this Article refers to “individual legal action” which consumers can take it is important to point out that this can only be the last resort. The burden of enforcement should not rely on the actions of individual consumers but be carried first and foremost by a comprehensive system. To this end, Member States would have to ensure that the market surveillance authorities have strong powers to monitor and enforce the application of the Directive.

Implementation of the Directive could entail an additional administrative burden for the market surveillance authority, and the effectiveness of the enforcement mechanism will require provision of sufficient resources by the Member State to adequately implement its provisions. EBU notes that the obligation to provide additional resources is not specifically mentioned in the Directive. EBU believes that the Directive should more clearly specify Member States’ obligations to provide the means necessary to ensure that their market surveillance authorities can take on their new responsibilities.

Article 26 Penalties

EBU is pleased that the proposal requires Member States to have rules on penalties. Clause 2 says that they should be “effective, proportionate and dissuasive”.

There would be a significant risk, however, that penalties may have an adverse effect on accessibility if manufacturers believed

that they could merely pay a fine rather than take the trouble to address accessibility requirements. In France, for instance, this problem applies regarding the quota systems for the employment of persons with disabilities. Many companies have opted to pay a fine rather than meet their legal quota for employment of people with disabilities.

However, we understand that this Directive's provisions for penalties would be a sanction for inaction / slow action in meeting accessibility requirements, but **not** an alternative for the economic actor to the fulfilment of its responsibilities to make its products or services accessible.

EBU believes that it is worth addressing how the penalties collected under this Article would be used. They might, for instance, be used to fund the provision of accessible adaptations, but the Directive is silent on this matter.

Article 27 Transposition

Given the likelihood that the negotiation of this Directive might take perhaps two years at the quickest, and adding the proposed 6 year transition phase, it might come into force no sooner than 2024. That timescale, it should be remembered, would be for a Directive the proposal of which is already three years later than promised.

Since most products and services under the proposed Directive are related to ICT- a fast-evolving market with a relatively short lifespan- the suggested transition phase of six years is too long. EBU believes that the implementation period should be significantly shortened.

Article 28 Report and review

The Directive sets out a requirement for the report on its application after five years, and then every five years hence.

EBU believes that this period is too long and should be shortened to three years, given the fast evolution of many of the products and services covered.

Clause 3 states:

“The Commission’s report shall take into account the viewpoints of the economic stakeholders and relevant non-governmental organisations, including organisations of persons with disabilities and those representing older persons.”

EBU notes the order in which the stakeholders are mentioned in clause 3. First the “economic stakeholders”, then the NGOs, and finally mention of disability and older person’s organisations. We believe that the Directive is supposed to be focused on improving accessibility for people with disabilities, hence the term “Accessibility Act”, whilst of course also removing barriers to the single market. We believe this clause should first mention disabled people and older people, as well as *“organisations of persons with disabilities and those representing older persons”*, and then the other stakeholders.

Annex 1

General comments on Annex 1

EBU believes that more work is needed to clarify and improve the wording in Annex 1, to include more detailed specifications on products and services.

It is important to incorporate into these functional requirements the concept of usability, alongside that of accessibility. We recognise that doing so may be more difficult than describing accessibility requirements, as “usability” can be a more subjective concept. However, usability is important, particularly for websites, which can be accessible and comply with WCAG but still be unusable in practice. Please see our comments under Article 2 regarding definitions of accessibility.

The annex does not seem to clearly cover apps when it mentions websites, even when it mentions mobile banking. This is of great concern to EBU. Access to many services and much information is now more often than not achieved through apps. To leave this aspect out would not just be a failure to “future-proof” the Directive- it would be a failure to even “present-proof” this aspect of the Directive.

There are some important omissions in terms of definitions in the Directive itself (Article 2), the result of which is that we have great difficulty in trying to interpret what is covered in the wording of Annex 1.

To name but two examples, there is no definition of “website” in the Directive or indeed in Annex 1. Likewise “online applications” is not defined.

EBU has looked carefully at the concept in Annex 1 whereby a product or service “must be available by more than one sensory channel”.

We support this approach, provided that the expectation is that the product or service in question would have to be **fully** accessible through each channel. For instance, we would not take an ATM to be accessible through the tactile channel, just because it has a keyboard and a raised dot on the number 5. Full interaction by the user (input and output) would be required for the machine to be deemed accessible through that channel. Hence, we cannot stress enough the importance of user testing to determine accessibility.

Flexible magnification and contrast (Under user interface)

EBU believes that there will be cases where it is better to provide options for different font sizes for the interface rather than magnification. This might apply to an ATM machine or kiosk where the user would usually spend only a few moments. (If it takes you 15 minutes to buy your ticket then something is wrong.) This differs from reading or using a computer where the user would expect to often spend considerable amounts of time interacting with the machine.

Relevant standards

It will be important to ensure that this Directive adequately and comprehensively references relevant standards and legislation.

We believe that this Directive should consider the role of national and international standardisation bodies in a more obligatory manner. The Directive is mainly based on the assumption that standardisation bodies will provide specific norms, which support manufacturers in rendering their products and services accessible.

Additionally these standards should act as an evaluation tool for manufacturers to gauge conformity in terms of accessibility requirements of this directive. To create useful and acknowledged standards which comply with the Directive's prerequisites, EBU believes, that standardisation bodies should be urged to consider accessibility requirements in the development or update of standards referring to the scope of this Directive.

In the past we have seen some standards fail to offer sufficient accessibility provisions. Such provisions are vital for all economic actors to manufacture accessible products and render accessible services. Without proper accessibility requirements economic actors will not be able to fulfil the Directive's purpose.

Section-specific comments

SECTION 1

f) EBU would welcome a definition of 'assistive devices'. We need to ensure that software devices and peripheral devices such as switches and braille displays are covered.

SECTION II

As we mention in our comments regarding Article 2, we feel the list which includes "understandable" and "perceivable" should also include "robust".

It should be recognised that self-service terminals, Automatic Teller Machines, ticketing machines and check-in machines not only convey information via screens but also provide an output. That may be printed tickets or boarding cards that may then be used as an input to another system or service. There is a need for these outputs to be made accessible or the information/authorisation they convey to be provided in an alternative, accessible manner. This could be as simple as providing identification as to the correct orientation of the printed output for onward scanning (as is the case for RBS credit cards); to providing the option to deliver information which is usually printed in electronic form for onward scanning by system (optical boarding cards); or providing an alternative interface (API) that can interface assistive devices.

SECTION III

EBU recognises that in the realm of harmonisation, there are current ISO telephony standards that should be assessed for relevance here. It may also be important to review the relevant telephony standards and legislation in the USA such as Section 255 standards. These are being refreshed with Section 508 standards.

1c) refers to websites, but should refer also to WCAG 2.0. Again, whilst referencing the WCAG principles of "perception, operation and understanding", this section misses the WCAG term "robust".

Section III covers websites under telephony services. EBU believes it is most important that this terminology be modernised to read as "Digital Products". Websites must be a term which also covers responsive and mobile sites, rather than just desktop access. It must also include apps.

We believe there is a typographical error in A1 a: "Related terminal equipment with *advance* (our italics) computing capability used by consumers" - "advance" should surely read "advanced".

SECTION IV

"1b(iii) the electronic information, including the related online applications needed in the provision of the service shall be provided in accordance with point (c)."

EBU believes that there is a huge assumption here that the electronic information and online applications will be delivered in HTML as it refers to (c) which is about the web. This is a big concern as the majority of services and online services relating to television and radio are delivered via apps that are not written in HTML but other languages to run on iOS and Android.

The WCAG terms "operable" and "robust" are missing here.

Further, Section IV states that content "shall be available in text formats that can be used to generate alternative formats" but then does not require the device to actually generate these formats. It does however mention "the interfacing of the product with assistive devices." This seems therefore to allude to equipment such as

USB screenreaders that the user plugs into TVs, or scenarios where blind or partially sighted people would need to have a laptop or smartphone connected by Bluetooth that sits beside them and reads the information out to them. This would appear to be a considerably lower requirement than the reality in many EU countries already. In practical terms, the only improvements EBU could foresee this requirement bringing about would be the obligation on audiovisual catchup service websites to ensure that they provide a mechanism for interface with text-to-speech screenreaders.

SECTION V

“1a(iii) the electronic information, including the related online applications needed in the provision of the service shall be provided in accordance with point (b).”

Again, as mentioned above, we detect an assumption that online services for travel will be delivered by web or html delivered when in fact the huge majority these days are delivered by native apps on mobile. EBU feels strongly that apps and mobile technologies cannot be omitted from Annex 1 as they are used to deliver such a large quantity of information and services.

B Specifically mentions websites used for provision of transport services. As above, a reference to 'native mobile apps' is needed here too, or else a separate point for mobile native apps should be added.

C Again although there is some reference to mobile here, native mobile apps need to be specifically referenced to complement the mostly web-related references here.

SECTION VI

A - (d) Some illustrative examples would be very helpful in understanding what is meant by “functions, practices, policies”.

C- Here once more we are missing a specific reference to native mobile apps. This should be specifically covered in all of these Sections

D- Again we believe the terms 'operable' and 'robust' should be included here.

SECTION VII

The Directive does not define what an ebook actually is. EBU seeks clarification as to whether the Directive covers such things as chapters, reports, magazines, and published information on essential services. These may not be books per se, but are electronic publications that have the same threats and opportunities for accessibility. Many of the accessibility 'solutions' would be the same as for “pure” ebooks.

In the context of ebooks, EBU is not sure whether "services" means the ebooks themselves in this section, and "products" means hardware such as, say, a Kindle.

'Services' 'could be the downloadable ebook service which could be delivered on anything, it could be the operating system that delivers the book, or it could be the hardware ebook, or it could be all. EBU would welcome clarification.

If by “product” the proposal is referring to the ebook content and the reading system, then “services” linked to this product might relate to the systems that provide the capability to discover, search, purchase/borrow, acquire and manage 'ownership' of the content. However, we do not find this clear.

Where Annex 1 VII A 1b refers to information about accessibility, we are not sure if this means the reading systems evaluations (what readers/apps can support which features) and metadata about the content (the information that travels with the 'book' and describes what accessibility support is provided for in the file, e.g. described images). We are not sure if it refers to the accessibility features of the operating system in the ebook, hardware accessibility features, e.g. tactile buttons, or something else.

In the case of e-books, it is likely that the inclusion of font size selection rather than magnification would be more effective for readers with low vision. With font size selection the user benefits from a better flow of text, which is a key thing when reading using magnification. There is a need to further define these terms.

SECTION VII and SECTION VIII

Again there is no mention of native mobile apps which do indeed deliver a lot of ebook content not just provided on dedicated devices.

SECTION IX

Once more refers to WCAG web principles here in part, but not 'operable' or 'robust'. EBU would like to see these two terms added.

SECTION X - ACCESSIBILITY REQUIREMENTS FOR THE PURPOSE OF ARTICLE 3(10) CONCERNING THE BUILT ENVIRONMENT WHERE THE SERVICES UNDER THE SCOPE OF THIS DIRECTIVE IS PROVIDED:

As well as the accessibility of the physical environment, stairs, ramps and so on, there is an entire industry growing around the deployment of Location Based Services (LBS). These may be designed from the point of view of providing navigation for an individual that enters the environment, or providing greater situational awareness within the environment, through to triggering information relating to a product or service based on location. LBS are becoming and will become an integral part of the built environment and therefore the accessibility of these systems is paramount. The benefits that holistic solutions that encompass products and services such as 'the connected environment', 'smart cities' and 'IOT' being pushed and funded for the future generation must be inclusive of people with disabilities.

ANNEX III

With reference to the requirement:

"service provider shall include the information assessing how the service meets the accessibility requirements in the general terms and conditions, or equivalent document."

For Section 508 of the USA's Rehabilitation Act, this is done using a template called a VPAT. It appears that the Directive aims at a similar system for Mandate 376. EBU believes that it is sensible to have an agreed document template for this purpose.

About us

The European Blind Union (EBU) is a non-governmental, non profit making European organisation founded in 1984. It is one of the six regional bodies of the World Blind Union, and it promotes the interests of blind people and people with low vision in Europe. It currently operates within a network of 44 national members including organisations from 27 European Union member states, candidate nations and other major countries in geographical Europe.

Our Interest Representative Register ID is 42378755934-87

We are happy for our contribution to be made public

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