



EDF analysis of the European Accessibility Act

June 2019

35 square de Meeûs
1000 Brussels - Belgium

tel +32 2 282 46 00
fax +32 2 282 46 09

info@edf-fehp.org
www.edf-fehp.org



Contents

Summary.....	3
Introduction	3
Analysis.....	6
Legislative Form	6
Scope (Article 2).....	6
Definitions (Article 3)	8
Accessibility requirements (Article 4)	9
Existing Union law in the field of passenger transport (Article 5)	10
Chapter III: Obligations of economic operators dealing with products	10
Chapter IV: Obligations of service providers	10
Chapter V: Fundamental alterations of products or services and disproportionate burden to economic operators.....	11
Chapter VI: Harmonised standards and technical specifications of products and services	12
Chapter VII: Conformity of products and CE Marking	12
Chapter VIII: Market surveillance of products and Union safeguard procedure.....	12
Chapter IX: Compliance of services.....	13
Chapter X: Accessibility requirements in other Union acts	13
Chapter XI: Delegated acts, implementing powers, and final provisions	14
Annexes:	16
Conclusion:	17
Related documents	18
Acknowledgments.....	18
Contact persons at the EDF secretariat:.....	18

The European Disability Forum is an independent NGO that represents the interests of 80 million Europeans with disabilities. EDF is a unique platform which brings together representative organisations of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.



EDF analysis of the European Accessibility Act

Summary

The **European Accessibility Act** is a landmark agreement reached after decade-long campaigning by the European disability movement. The Act will set new EU-wide minimum accessibility requirements for a limited range of products and services.

The Act is a significant step in the journey of making the EU fully accessible for persons with disabilities. However, the Directive has shortcomings and fails to properly address the accessibility of transport and the built environment, in particular.

The text covers the following products and services:

Products

- Computers and their operating systems (tablets included)
- Payment terminals
- Self-service terminals related to the services covered by the legislation
- Consumer terminal equipment used for electronic communication services (e.g. smartphones)
- Consumer terminal equipment used for accessing audiovisual media services (e.g. smart TVs)
- E-readers

Services

- Electronic communication services (i.e. telephony services)
- Services providing access to audiovisual media services
- The following elements of passenger transport services (except urban, suburban and regional services for which only the elements under point 5 apply):
 1. Websites
 2. Mobile apps
 3. Electronic ticketing
 4. Real-time travel information
 5. Interactive self-services terminals except those installed as integrated parts of vehicles



- Consumer banking services
- E-books
- E-commerce
- European emergency number 112.

The Act has a number of strengths, for example:

- A great achievement of the Act is also that the accessibility requirements for the abovementioned products and services are also mandatory for public procurement.
- For other products and services not included in the Act, the Directive provides a list of accessibility requirements that can help to demonstrate compliance with accessibility provisions laid down in present and future EU laws (e.g. EU funds regulations).
- Economic operators are obliged to take immediate corrective measures if a product doesn't meet the accessibility requirements of the Act or even withdraw it from the market.
- If one Member State withdraws an inaccessible product from the market the others must follow suit. This is of course a strong measure against non-compliance with the Act.
- Market Surveillance Authorities are given a prominent role and NGOs, national authorities or other bodies can represent individuals in court under national law.
- The European Commission can adopt additional measures complementing the accessibility requirements and provisions of the Act.
- Finally, it is highly welcome that Disabled Persons' Organisations will work with national authorities, other stakeholders, and the European Commission to advise them during the implementation of the Act. They will also be involved in future reviews of the Act.

However, **there are ways in which the Act fell short of our expectations**:

- The scope of services and products it covers is very limited: health care services, education, transport, housing, and household appliances were left out of the Act.
- A number of exemptions are made even in case of products and services covered by the Act. For example, when the service is related to urban, suburban and regional transport or is provided by a microenterprise, it is exempt from the requirements of the Act.
- Requirements concerning the built environment related to the services covered by the Act are left to the decision of Member States.
- There are provisions that allows further exemptions based on a fundamental alteration of the product or service, or because of a disproportionate burden for the economic operator.
- It is also unfortunate that the robust enforcement mechanism of litigation, i.e. going to court on behalf of an individual under national law, does not apply to infringement cases made by public authorities.
- The period of transposition by Member States is lengthy and for some of the products and services implementation is disproportionately long.



This EDF report is a first assessment of the agreed text, highlighting the major achievements and shortcomings of the Act, and providing preliminary conclusions for next steps in view of the Directive. We hope it will help EDF members to ensure a higher degree of ambition by national legislators.

Introduction

After over ten years of campaigning EDF welcomes the adoption of the European Accessibility Act, a new law that will improve accessibility of certain products and services for persons with disabilities and will underpin the obligation of public administrations to procure accessible products, services and facilities when using national or European funds.

The main purpose of the Accessibility Act is to align and harmonize the Member States' legislation concerning accessibility. Incorporating accessibility in national legislation is already a legal obligation for the Member States that have ratified the [United Nations Convention on the Rights of Persons with Disabilities](#) (CRPD). According to Article 9 CRPD "States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communication, including information and communication technologies systems, and to other facilities and services open or provided to the public". The Convention further stipulates that "State Parties shall also take appropriate measures (b) to ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities". So, in essence the Accessibility Act does not create new requirements for the Member States as they are already obliged to implement the UNCRPD which considers accessibility as a pre-requisite to enjoy all the rights enshrined in the Convention.

While the newly adopted Accessibility Act is a monumental step forward in the right direction, it does not fulfil the expectations and demands of the disability movement. It improves the status quo of accessibility for many digital products and services, but it fails to significantly change the situation for accessibility in other areas of life, especially of buildings and of public transport, leaving up to the Member States the possibility to improve accessibility in those areas.

In the following analysis EDF will explain the content of the new Accessibility Act and describe the progress that has been made, as well as where the text does not go far enough to really make a difference in the lives of persons with disabilities all over the EU. EDF will tackle all these positive and negative aspects in a toolkit for EDF members that will include recommendations on how to ensure an ambitious transposition of the EU legal text at national level.



Analysis

Legislative Form

The text takes the form of a Directive, which is very positive because it is a legally binding piece of legislation and it is the second strongest type of legal instrument that the EU can adopt. Only Regulations are stronger because they are directly applicable. The Accessibility Act, as a Directive, will have to be “translated” into national law to become part of the national body of legislation. During that “translation” process, known as transposition, Member States have a certain amount of freedom on how to interpret the legislation. **The national laws resulting from this transposition process can be even more ambitious than the EU text, but never softer or contradicting.** EDF recommends of course that the Member States take full advantage of this room for manoeuvre and go beyond the obligations of the EU text, covering the aspects and domains that the EU text did not cover, or left up to the Member States to decide.

Scope (Article 2)

The scope of the Accessibility Act is one of its weakest points. While EDF campaigned for all products and services to be covered, the list of products and services mentioned in the final text is very restricted. It focuses mainly on digital products and services and does not cover other important ones such as accessibility of health care services, education, transport, housing, or products such as washing machines, blenders, dish washers, or other household goods.

The list of products and services that have to become accessible according to the Accessibility Act includes the following:

Products

- Consumer general purpose computer hardware systems and operating systems for those hardware systems (i.e. computers, tablets, laptops, and their operating systems e.g. Windows or MacOS)
- Payment terminals
- Self-service terminals related to the services covered by the legislation (ATMs, ticketing machines, check-in machines, and interactive self-service terminals providing information, excluding terminals installed as integrated parts of transport vehicles, aircrafts, ships or rolling stock)
- Consumer terminal equipment with interactive computing capability, used for electronic communication services (i.e. Smartphones, tablets capable of calling)
- Consumer terminal equipment with interactive computing capability, used for accessing audiovisual media services (i.e. smart TVs)



- E-readers (e.g. Amazon Kindle or Tolino e-reader)

Services

- Electronic communication services (i.e. telephony services)
- Services providing access to audio-visual media services (e.g. websites or apps of TV channels like BBC and video on demand platforms like Netflix)
- The following elements of passenger transport services (except urban, suburban and regional services for which only the elements under point 5 apply):
 1. Websites
 2. Mobile apps
 3. Electronic ticketing
 4. Real-time travel information
 5. Interactive self-services terminals except those installed as integrated parts of vehicles
- Consumer banking services
- E-books
- E-commerce (i.e. websites or mobile applications in which companies sell their products or services online)
- Emergency communication with the single European emergency number 112.

Apart from the fact that this list is far too short, **there are some problems with the limitations set for specific points. The services for urban, suburban and regional transport are excluded, for example.** A passenger on the metro or the local bus should have the same right to know what the next stop is or if there is a disruption on the network as a passenger on an international train. And it is surely not much use to know that the next train is coming in 10 Minutes if you cannot board that train because it is inaccessible. These important flaws will have to be addressed at national and local level.

Furthermore, EDF criticizes that the **buildings related to those services are not included in the scope.** According to the new law, the ATM should be accessible. But what if the building of the bank has a flight of stairs to enter? It seems like the consumer or passenger is now enabled to pay for a service by accessing the relevant terminals and machines, but persons with disabilities are still often prevented from actually using the services because they remain inaccessible in practice.

It is also regrettable that the access services to make audiovisual media services accessible were also left out. Therefore, the EU misses the possibility to have a common approach to subtitles for the deaf and hard of hearing, audio description, sign language interpretation and spoken subtitles.



Finally, even though the Directive covers the single European emergency number, it is worth highlighting that it does not cover the national emergency numbers. The accessibility of those national numbers will need to be tackled by national governments.

Definitions (Article 3)

EDF welcomes specific references to persons with disabilities in all their diversity and the acknowledgement that persons with disabilities face a whole range of barriers to accessibility, which hinders their participation in society on equal basis with others. The Accessibility Act reflects this diversity well.

Many new definitions have been added that help clarify the text. It is, for example, positive that the Act includes a new definition regarding services providing access to audiovisual media services. This definition mentions the accessibility features (known as access services) that the audiovisual content may include, such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation, as well as the Electronic Programming Guides (i.e. the menus outlining the list and schedule of programs).

We also welcome the new definition of real-time text and the reference to total conversation services. The latter is defined in the new European Electronic Communication Code, another Directive setting out the legislation for telecommunications in the EU.

A clear definition of assistive technologies is also a positive aspect.

However, some of those definitions also narrow the scope of the Accessibility Act even further, for example the definitions of “passenger transport services” (Definitions 31 – 36). By using the definitions as they are written for example in Regulation 181/2011 on passengers’ rights when travelling by bus and coach, the application of the Act is automatically limited to long-distance coach travel. This means only trips of a distance of 250 km and more. The same is true for restricting the definition of “rail passenger transport services” to those mentioned in Regulation 1371/2007 and which currently excludes regional and suburban rail services. According to EDF, a broader definition should have been chosen in order to allow the accessibility requirements to apply to all transport modes.

In the same line, the definition of “consumer” banking services limits the type of banking services that will need to be accessible for persons with disabilities. This definition covers credit agreements, reception and transmission of orders in relation to one or more financial instruments; execution of orders on behalf of clients; dealing on own account, investment advice, and other ancillary services, payment services, services linked to the payment account and electronic



money. EDF disagrees with this limitation which excludes persons with disabilities from working in the financial sector, and will make the uptake of accessibility more difficult for banking services, instead of requiring all banking services to be accessible.

Accessibility requirements (Article 4)

We welcome that Member States are obliged to make sure that **only** products and services respecting the accessibility requirements of the Directive are placed in the EU market. The accessibility requirements of the Accessibility Act are laid down in the Annexes of the Directive as follows:

Scope	Accessibility requirements
All products	Annex I – Section I (General accessibility requirements + specific for each product)
All products, except for self-service terminals terminals and payment terminals	Annex I – Section II (General requirements for products of individual use)
All services, except for urban, suburban and regional transport services	Annex I – Section III (General requirements)
All services	Annex I – Section IV (Specific requirements for each service)
Centres receiving and handling 112 emerging calls	Annex I – Section V
Examples on how to fulfil the accessibility requirements	Annex II

EDF deeply regrets that the requirements for built environment (Annex III) are not compulsory within the provision of the products and services covered by the Directive. According to Article 4.4, Member States “may decide, in light of national conditions” to use these requirements. EDF campaigned for a binding clause, asking that at least the built environment related to the provision of the service or product covered by the Act **must** be accessible, but this was unfortunately not included in the final text.

Another drawback which EDF was not happy with, is that microenterprises (those that employ less than 10 employees or have an annual turnover not exceeding 2 million euros) are also excluded from the scope of the Act. According to the [European Commission’s Annual Report on European SMEs 2016/2017](#), micro SMEs are by far the most common type of SME, accounting for 93.0 % of all enterprises and 93.2 % of all SMEs in the non-financial business sector. So, excluding



microenterprises is a huge missed opportunity, as it will allow majority of service providers to keep on excluding millions of potential customers from their services due to a lack of accessibility.

Finally, we appreciate the possibility for the Commission to adopt further decisions (known as delegated acts) to complement the accessibility requirements of Annex I when necessary, such as related to interoperability aspects (e.g. interoperability with assistive technologies or interoperability of the accessible telephony services (i.e. possibility to call any number if the EU, or the 112 number, using real-time text)).

Existing Union law in the field of passenger transport (Article 5)

It is important that this Article specifies that where the Act provides more requirements than what is already mentioned in existing passengers' rights regulations, the additional requirements of the Act fully apply.

Chapter III: Obligations of economic operators dealing with products

EDF welcomes the fact that the Accessibility Act covers the following economic operators: manufacturers, representatives, importers and distributors. It is important that all economic operators are covered without exception. This will make sure that the whole product chain is included and there are multiple points of control, so none of the products covered by the Act can be imported, distributed or sold across the EU if they are inaccessible.

From the point of view of persons with disabilities as consumers, EDF also welcomes the use of the CE-marking (Article 7.2) to demonstrate to market surveillance authorities the product is respecting the accessibility requirements outlined in the Annexes to the Accessibility Act. From the point of view of the consumers, the CE marking will not serve to distinguish an accessible product, but it will be crucial for monitoring reasons.

There are also some important provisions that EDF would like to highlight, which guarantee a strong enforcement mechanism: economic operators have to take immediate corrective measures if a product infringes on the accessibility requirements or it has to be withdrawn from the market. Manufacturers also have to keep a register of products which do not comply with the Directive (Art. 7.8) and provide all the technical information to the national authority that requests it, and cooperate with the authority to bring the product into compliance.

Chapter IV: Obligations of service providers

It is positive that Article 13 mentions both the service provision but also the design of the service, which should take accessibility into account from the very beginning. We also welcome the



requirement for service providers to prepare the information about the accessibility of their services and make it available in accessible formats, written and orally, and keep that information as long as the services are provided.

Similar comments regarding the corrective measures, as mentioned above, also apply to the service providers.

Chapter V: Fundamental alterations of products or services and disproportionate burden to economic operators

While it is understandable that there may be exceptions based on a fundamental alteration of the product or service, and on disproportionate burden for the economic operator, these exemptions have to be scrutinized carefully. It has to be ensured that they are not used as a loophole to avoid compliance. EDF already pointed this out in its initial reaction to the Commission proposal and our comments remain valid.

EDF fears that this provision might jeopardize the implementation of the Directive as the wording allows economic operators to still place an inaccessible product on the market with the excuse that making it accessible would either require an alteration of the product that changes its basic nature or that it would be too expensive to make it accessible.

Furthermore, microenterprises dealing with products are also exempt from documenting their assessment on whether the requirements of the Act impose a “disproportionate burden”. As with the blanket exemptions for microenterprises providing services, EDF does not agree with this loophole, which will make it difficult to check on those economic operators and enforce the law.

The UN Committee in its [Committee’s general comment No. 2 \(2014\) on accessibility](#) absolutely disagrees with the notion of disproportionate burden related to accessibility. It states that the “obligation to implement accessibility is *unconditional*, i.e. the obliged entity may not excuse the omission referring to the burdens of provision the access for persons with disabilities”.

In other EU Internal Market legislation such an exemption is not commonplace either. Therefore, Member States should take a more ambitious stance: they should either completely delete this article or define very carefully and narrowly the grounds under which exemptions can be granted.

On the positive side, Chapter V also mentions that receiving external funding destined to improve accessibility does not allow economic enterprises to invoke the “disproportionate burden” clause (Article 14.6). Furthermore, the Commission can also adopt delegated acts in this case and further specify the assessment criteria for the exemption. EDF strongly welcomes this as safeguard against misuse of the exemption by economic operators.



Finally, EDF appreciates that the Commission shall take into account the potential benefits for persons with functional limitations in addition to persons with disabilities, which is a much larger group and more accurately reflects those that benefit from better accessibility, such as older people (Article 14.7).

Chapter VI: Harmonised standards and technical specifications of products and services

European harmonised standards, meaning those referred to in the Official Journal of the EU for the purpose of proving compliance with EU harmonised legislation such as this Directive, will be a way for economic operators to meet the accessibility requirements in Annexes of the Act.

It is generally positive that the European Commission can adopt implementing acts¹ establishing technical specifications under certain conditions. Those conditions are, for example, related to unnecessary delays with developing the relevant harmonised standards or if there is a technical specification that already fulfils the requirements of the Accessibility Act (Article 15.2 – 15.3). These conditions are very important because in practice, Disabled Persons' Organisations are often excluded from the standardisation processes, which are dominated by industry.

Chapter VII: Conformity of products and CE Marking

This chapter follows the same model as for other EU legislation regarding conformity of products with EU legislation to which the CE marking can be affixed and related information must be provided. This puts accessibility of the covered products at the same level as other EU requirements related to safety or health aspects. By marking a product with CE ("Conformité Européene" which literally means "European Conformity"), the manufacturer declares that the product is in conformity with all applicable accessibility requirements and that the manufacturer takes full responsibility for it.

Chapter VIII: Market surveillance of products and Union safeguard procedure

In general, EDF approves of this chapter and of the role that is given to Market Surveillance Authorities. It is positive that they have such a prominent role to help implement and enforce the Directive. However, EDF would have liked to see a clearer reference to how the Market Surveillance Authorities are funded, staffed, and trained to ensure that they can do their work well.

¹ Implementing acts are established via the [Comitology procedure](#). Stakeholders can give feedback but are not actively involved.



EDF also criticizes that the information about compliance of economic operators with this Directive does not have to be made public by default. It is only provided upon request and economic operators can refuse giving this information “for reasons of confidentiality” (Article 19.3). EDF would have preferred a public database such as [RAPEX](#), which was developed in the context of consumer safety, that would give an overview of non-compliant products. It is important that persons with disabilities and their representative organizations are involved in the market surveillance process as they will be the end users of the products and services.

Regarding the Union safeguard procedure (Art. 21), EDF welcomes that national measures have an effect on circulation of that product on the entire internal market. I.e. if one Member States demands the withdrawal of a product from the EU market for lack of accessibility, other Member States have to do the same. Market withdrawal is an effective deterring measure that will help enforce the rules in this Directive.

Chapter IX: Compliance of services

According to the text, Member States are obliged to inform the public about the work of the Market Surveillance Authorities, which is good and improves transparency.

But EDF believes that the Directive should have included more than a requirement to “periodically update adequate procedures” and there should have been a more clearly defined timeline and method for checking the compliance of services. The compliance of services with the accessibility requirements outlined in the proposed text should have also be assessed in cooperation with persons with disabilities and their representative organisations.

Information should also be made available in accessible formats on a routine basis and not just upon request (Art. 23.2).

Chapter X: Accessibility requirements in other Union acts

This Chapter is of crucial importance to the text of the Accessibility Act because it covers the use of tax-payers’ money, both national and European funds, on accessible products and services. In short, the Accessibility Act requires that when a public administration purchases a product or a service covered by this Directive, for example a computer, the accessibility requirements are mandatory.

When it comes to the use of EU funds or any other EU legislation (present or future) that requires accessibility, the Directive establishes that the accessibility requirements laid down in Section VI of Annex I can give presumption of conformity for the “features, elements or functions” of any product or service. For example, if there is a new EU legislation on household appliances, and it includes



an accessibility provision, the accessibility requirements of the elements already covered by the Accessibility Act will be valid to demonstrate compliance with the new household appliances legislation. The elements that, for example, would be already covered by the Accessibility Act could be the instructions about how to use it, any website or mobile applications to control the machine, or the user interface of the household appliance, among others.

Another example could be related to a public authority that is creating a new communication system using EU funds, which require that accessibility is respected. In this case, the public authority can make use of the Accessibility Act requirements of the electronic communication services to ensure compliance with the accessibility obligation of the EU funds regulations.

The Accessibility Act is thus a crucial tool to ensure that accessibility will not remain a vague term, but that there will be specific accessibility requirements, standards and technical specifications, which will ensure at least a minimum level of accessibility for persons with disabilities.

Nevertheless, EDF would have liked to see the accessibility requirements to be mandatory in all cases, not only for national public procurement of the products and services covered by the Act.

Furthermore, the main downside of this section is that same approach is not applied to the built environment, despite a list of accessibility requirements included in Annex III of the Directive. This means that when public authorities build, for example, a foot bridge, a school or a hospital using national or European funds, the specific accessibility requirements will need to be set up by the national governments, and as we have seen in different cases of using EU funds, too many times the technical specifications with regards to accessibility are too vague or not followed at all by the bidders of a public tender.

Chapter XI: Delegated acts, implementing powers, and final provisions

EDF is glad that organisations representing persons with disabilities will be invited to join the Working Group, along with market surveillance authorities and other stakeholders. This Working Group, in which EDF expects to be a member, will exchange information, facilitate the cooperation of national authorities and provide advice to the Commission, particularly on future guidelines with regards to the exemption based on disproportionate burden and fundamental alteration. EDF expects the Working Group to be a driving force of the success of the Accessibility Act at national level and a gateway for organisations of persons with disabilities to contact the national authorities responsible for this accessibility legislation (Article 28).

EDF also welcomes that the enforcement mechanism of the Act is relatively detailed and well-elaborated. For example, it allows for NGOs, the responsible national authority or other bodies to



go to court on behalf of an individual under national law. This is important because it lifts the sole burden of litigation off the individual consumer (Art. 29.2). Individual legal action is also important, but this should only be the last resort considering that many persons with disabilities have difficulties accessing the justice system and court proceedings are costly and time-consuming.

Unfortunately, this robust enforcement mechanism is not applicable to infringement made by public authorities when procuring products and services. Therefore, consumers with disabilities will have different methods to enforce the Accessibility Act when it comes to private companies, however if their municipality purchases new inaccessible ticketing machines, taking the city hall to Court will be the only mechanism. EDF would like to remind that the original enforcement proposal did cover public procurement, but Member States totally removed it and even made a clear reference about it (Article 29.3).

It is nevertheless positive that the Directive allows for the imposition of penalties which shall be “effective, proportionate, and dissuasive” (Article 30.2), albeit excluding the public sector again (Article 30.5). EDF also underlines that paying a penalty will not exempt the economic operator from fixing the problem. Remedial action is also required at the same time as paying the penalty. However, a small negative point here: the “extent of non-compliance” (Article 30.4) should not be relevant according to EDF, as it is difficult to quantify this extent and put a value on it.

The provisions on the transposition period for the Member States to adopt and publish the Directive are very complicated and for some of the products and services disproportionately long. As an example: according to the text, ticketing machines could remain inaccessible until 2039! Such delays greatly reduce the meaningful impact the Act will have for many persons with disabilities.

Here is an overview of the different deadlines:

- Entry into force of the Directive: 2019 (as soon as published in the Official Journal of the EU, probably in May 2019)
- Deadline for transposition by Member States: 2022 (3 years after entry into force)
- Application of measures: 2025 (6 years after entry into force)
- Transitional measures:
 - 112 emergency number: 2027 (8 years after entry into force)
 - Services can use inaccessible products: 2030 (11 years after entry into force)
 - Self-service terminals: maximum 2039 (20 years after entry into force or end of economic life); new terminals by 2025 (6 years after entry into force).

As a final note, the Commission will review whether the objectives of this Directive were achieved 11 years after its entry into force. The review will also look at those parts which are voluntary –



such as the requirements for the built environment, and whether new products and services need to be included in the legislation. For this report organisations of persons with disabilities will also be consulted.

Annexes:

The Annexes of the Accessibility Act are of utmost importance for the practical implementation of the Directive. In total, there are 6 annexes:

- Annex I: Accessibility requirements.
- Annex II: Non-obligatory examples of how to fulfil the accessibility requirements of Annex I.
- Annex III: Non-obligatory requirements for the built environment.
- Annex IV: Procedure for product manufacturers to assess and declare if they comply with the Accessibility Act.
- Annex V: Information service providers must gather to prove they comply with the Accessibility Act.
- Annex VI: Criteria to assess the exemption based on disproportionate burden.

EDF particularly welcomes the good technical work undertaken with regards to the accessibility requirements set out in Annex I, which, as mentioned above, is divided into different sections:

- Section I – General accessibility requirements for all products + specific for each product.
- Section II – General requirements for products of individual use, with the exception of self-service terminals or payment terminals.
- Section III – General requirements for all services (except urban, suburban and regional transport services).
- Section IV – Specific requirements for each service.
- Section V – Specific requirements for the call centres responding and handling emergency calls to the 112 number.
- Section VI – General accessibility requirements for products and services in public procurement or to prove compliance with another EU legislation.
- Section VII – Functional Performance Criteria (see explanation below).

The accessibility requirements are presented in a functional way, meaning that they do not provide the specific solution to fulfil them, but the result they must achieve. For example, the information must be “made available via more than one sensory channel”, in this case, if the information is provided visually, an alternative way must be provided, such as by audio or tactile.



EDF welcomes the fact that the different aspects and elements of the products are tackled separately: information on the product, information about the product, packaging, the user interface (where the device is controlled by the user), support services, etc.

EDF strongly campaigned for having sector-specific accessibility requirements for each of the products and services, shedding light on how to make them accessibility and taking into account their main purpose. For instance, concerning telephony services (i.e. electronic communications) we pushed for having a specific requirement pointing at real-time text and total conversation services (the combination of audio, video and real-time text in the same call).

We are satisfied with the approach taken with regards to the Functional Performance Criteria set out in Section VII. These criteria must be used when the accessibility requirements of the previous sections of Annex I do not address one or more functions of the products and services, or when the criteria result in equivalent or increased accessibility for persons with disabilities. This is particularly relevant for innovative products or services that may have not been included in the scope of the Accessibility Act (e.g. home virtual assistants that can perform tasks of a computer or a telephone).

Based on the requirements of Annex I, the European Commission will request European standards and will adopt technical specifications that will provide further technical details on how to meet these requirements. EDF and organisations representing persons with disabilities should be engaged in those discussions on equal basis with other stakeholders.

Annexes II, IV and V are also good for the implementation of the Directive and its monitoring and enforcement mechanisms. It is regrettable that Annex III, laying down functional accessibility requirements for the built environment, is voluntary, so it is up to Member States to take it into consideration for their national laws or not.

EDF welcomes the further criteria specified in Annex VI with regards to the exemption based on disproportionate burden. However, we want to remind that efforts by economic operators and public administration should always lay on doing their best to incorporate accessibility, instead of calculating why it constitutes a disproportionate burden. The whole society benefit from accessibility on many different levels and at many different moments and environments.

Conclusion:

EDF welcomes the publication of the Accessibility Act. It reflects one of the many steps which the EU should take to ensure that persons with disabilities have equal rights in Europe. This position paper is a first response from EDF. Further materials, including toolkits focused on the



transposition, and webinars will be provided to EDF members to ensure success at national level. In the coming weeks and months, EDF will go into deeper analysis and work together with its members and partners to support the next steps in transposing and implementing the Accessibility Act.

Related documents

- [Final text of the European Accessibility Act \(March 2019\)](#)
- [EDF Position on the European Accessibility Act \(2013\)](#)

Acknowledgments

EDF would like to thank all members and partner organisations that have contributed to the EDF campaign on the European Accessibility Act and given input to various position papers which are reflected in our final analysis of the text.

Contact persons at the EDF secretariat:

Mher Hakobyan, EDF Accessibility Officer

Tel: +32 (0) 2 282 46 00, Email: mher.hakobyan@edf-feph.org

Marie Denninghaus, EDF Policy Coordinator

Tel: +32 (0) 2 282 46 07, Email: marie.denninghaus@edf-feph.org

Alejandro Moledo, EDF Policy Coordinator

Tel: +32 (0) 2 282 46 05, Email: alejandro.moledo@edf-feph.org

Should you have any problems in accessing the documentation, please contact the EDF Secretariat. (Tel: +32 (0) 2 282 46 00, Email: info@edf-feph.org).



Funded by
the European Union