Opinion of the European Economic and Social Committee on ‘Future eAccessibility legislation’

(2007/C 175/22)

On 26 February 2007, the European Commission asked the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on Future eAccessibility legislation.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for the Committee’s work on the subject, adopted its opinion on 7 May 2007. The rapporteur was Mr Hernández Bataller.

At its 436th plenary session, held on 30 and 31 May 2007 (meeting of 30 May 2007), the European Economic and Social Committee adopted the following opinion by 136 votes in favour with three abstentions.

1. Conclusions and recommendations

1.1 The EESC supports the Commission’s initiative on eAccessibility, and urges it to further its work in the field. Given the strong interest raised by this topic, the Committee reserves the right to issue an additional opinion.

1.2 The EESC believes that the Commission should adopt a series of initiatives at EU level, as follows:

— strengthening existing legislation, making it consistent and binding, so as to avoid the disparities and discrepancies that currently exist between Member States, especially in the fields of electronic communications (particularly universal service) and public procurement; and boosting the corpus of legislation by adopting new supranational measures based on Articles 13 and 95 TEC, in order to protect accessibility requirements as public service obligations;

— extending eAccessibility, horizontally, to other EU policy areas;

— adopting non-binding measures on eAccessibility which would improve quality of life for people with disabilities and older people.

1.3 The involvement of civil society organisations is a key factor in the implementation of a proper eAccessibility policy, through the promotion of support measures, for example, with regard to codes of conduct or co-regulation.

1.4 Support measures should focus on areas which make it easier for people with disabilities and older people to access the information society, and introduce them to new technologies as an ideal means to become socially integrated, prevent exclusion from the digital world and improve their quality of life.

1.5 The public authorities in Member States should, in line with supranational guidelines, adopt various support measures to make it financially possible for disabled or elderly people’s organisations to be involved in the digital world, and to facilitate their access to it.

2. Introduction

2.1 The EESC has received a letter from the Commission requesting that it draw up an opinion on the future legislative framework for eAccessibility, with particular focus on older people.

‘eAccessibility’ refers to the ability to overcome the technical barriers and difficulties that people with disabilities and other groups face when trying to access the information society under equal conditions. This concept falls within the broader issue of ‘inclusion’, which also covers other, economic, geographical or educational barriers.

2.2 The overall aim is to identify the type of secondary legislation that will form the basis for the EU to achieve its objective of a fully inclusive society, within today’s context of rapid economic and social change.

2.3 It is clear that this draft legislation is firmly rooted in the fundamental legal texts which express the values and principles of the EU, such as Article 13 TEC, and the specific references to the participation of ‘all its inhabitants’ in democratic life and social progress in paragraphs 2 and 4 of the Treaty establishing a Constitution for Europe and, inter alia, in Articles I-3(3), II-81 and II-86 thereof.

2.4 Moreover, the EU institutions and bodies have already built up a significant corpus of positions and decisions which, although disparate, are helping to establish EU policies proactively committed to combating discrimination, and to eAccessibility. For instance:

— the Council Resolution of 2.12.2002 on eAccessibility — improving the access of people with disabilities to the knowledge-based society called upon the Commission to tap the Information Society’s potential for people with disabilities and, in particular, tackle the removal of all types of barriers;
— meanwhile, the Telecommunications Council expressed the need to improve eAccessibility in Europe (1), and the Social Policy Council, in its Resolution on eAccessibility of 2003 (2), called on Member States to take all necessary actions towards an open, inclusive knowledge-based society accessible to all citizens.

2.4.1 In 2005, the Commission issued its i-2010 Communication (3) with the aim of establishing a new strategic framework for a European information society. This was followed by its Communication on eAccessibility (4), which proposed a series of political initiatives in order to promote the issue.

2.4.2 Specifically, the Communication on eAccessibility set out three different approaches for tackling the problem:

— promoting the establishment of accessibility requirements in public procurement;

— guaranteeing accessibility certification;

— making better use of existing legislation.

The Commission Communication was to be followed up two years after its publication in order to consider whether additional measures should be adopted.

2.4.3 The Committee adopted an opinion on the Communication (5), covering aspects relating to harmonised standards and interoperability, public procurement, certification and third party testing versus self-declaration, use of legislation, integration, Web accessibility, legislation and the new strategic framework for the European Information Society.

2.5 More recently, point 6 of the Council Resolution of 22 March 2007 on A Strategy for a Secure Information Society in Europe states that ‘particular consideration should be given to [ICT] users that have special needs or have low awareness of network and information security issues’, and this includes older people and people with disabilities.

3. General comments

3.1 The EESC welcomes the Commission’s invitation to draw up this exploratory opinion and points out that, while Community initiatives to promote inclusion in the information society should generally apply to all, there are some groups, such as older people or people with disabilities, who require particular attention in order to be included effectively within the information society (6).

Moreover, given the particular interest of the topic in question, the Committee reserves the right to issue a supplementary or additional opinion.

3.1.1 This is also in line with point 8 of the Riga Ministerial Declaration (7), which states that: ‘To convincingly address inclusion, the differences in Internet usage between current average use by the EU population and use by older people, people with disabilities, women, lower education groups, unemployed and “less-developed” regions should be reduced to a half from 2005 to 2010.’

The EESC believes that, owing to the major political and social changes which have occurred in recent years, Community action on eAccessibility must become a priority and access to ICT must be confirmed as a civil right within public services.

This Community action should combine a legal instrument that would reinforce current legislation with other non-binding measures in various policy areas, given the added value that EU action can have.

The EESC supports this Community action, given that:

— in social terms, it improves citizens’ rights; in economic terms, it improves economies of scale, the operation of the internal market, competitiveness in a key sector and innovation;

— the diversity and fragmentation of Member States’ approaches cause certain problems, particularly due to their differing transposition of existing directives. These need to be clarified, particularly as regards public procurement and universal service;

— none of the above should prevent any support measures adopted from being effectively applied.

(2) Council Resolution 14892/02.
(6) At the same time it is fair to say that the main impairment groups facing accessibility difficulties in ICT are: persons with cognitive and learning disabilities, persons with sensory disabilities (deaf and hard of hearing, blind and visually impaired persons, deaf blind persons, persons with speech disabilities) and persons with physical disabilities.’ OJ C 110 of 9.5.2006.
3.2 With regard to the legal basis of the legislation governing eAccessibility issues, it is recommended that the following be applied:

— firstly, Article 13 TEC, which gives the Council the general power to adopt any type of Community act which combats discrimination;

— secondly, Article 95 TEC, which deals with aspects relating to the establishment and operation of the internal market, so that proposals are ensured a high level of protection.

This should not hinder the horizontal effect that eAccessibility issues should have.

3.2.1 Unfortunately, because the Constitutional Treaty is not in force, such acts cannot be adopted under Article III-124(1), which states that the Council is to act unanimously ‘after obtaining the consent of the European Parliament’. As Article 13 TEC only provides for the Council to adopt such acts unanimously ‘after consulting the European Parliament’, they will be denied the possibility of a full democratic debate and the greater legitimacy enjoyed by EU acts adopted via the co-decision procedure.

3.2.2 Nonetheless, the express provision for unanimous adoption by the Council does prove particularly useful, given that all the legislative acts in question must respect the principle of subsidiarity. Logically, unanimous support from the EU governments will ensure that national administrations are more effectively involved in their domestic implementation and development. This will also mean that the measures to be applied will not be restricted to removing obstacles that exist in this field, but will actively help to promote inclusion, thus displaying the pro-activeness required of Community actions under Articles 13 and 95 TEC.

3.2.3 The appropriate type of legislative act would therefore be a directive, given the ample room for discretion that it generally allows Member States in choosing how to accomplish the objectives set at supra-national level.

3.3 As regards the specific content of the future Community legislative framework, it is essential that the following objectives be included, distinguishing between those with a general scope and those which are more specific.

3.4 The following should be considered as general objectives:

a) promoting the interoperability of ICT services via common standards and specifications, to ensure that the European standardisation bodies take accessibility into account when adopting and implementing the standards concerned;

— strengthening provisions on eAccessibility in the directives on electronic communications, in line with the recommendations of INCOM (Inclusive Communications group) (8), while promoting eAccessibility in areas such as the reform of the Directive on audiovisual services (TV without frontiers), as already stated by the Committee (9), or the Directive on Copyright in the Information Society;

b) simplifying access to ICT networks by providing hardware infrastructure and equipment in areas and regions of Europe where the digital divide is felt. The Structural Funds, Rural Development Fund and recently created R&D Fund should earmark specific amounts for inclusion, in order to ensure that 90 % of the EU has access to ICT by 2010;

c) ensuring that ICT products and services benefit all members of society, and that their design and operation cater for the most underprivileged sectors of society, particularly disabled and older people. To this end, there should be two levels of responsibility, shared by both public authorities and the private sector.

3.4.1 Firstly, depending on their respective powers, the EU’s and Member States’ authorities should set criteria for action aimed at businesses working in the ICT sector within the single market, particularly in fields such as standardisation, and should ensure that these criteria are properly met.

3.4.2 Wherever possible, these requirements should apply to the Common Commercial Policy so that the benefits of accessibility can be felt not just in Europe, but universally. Secondly, codes of conduct should be promoted in accordance with the needs of each underprivileged group, in order to create a culture of corporate social responsibility in this field.

3.4.3 The relevant civil society players should also be involved in technological innovation and the sharing of good practices for ICT access and use, by creating transnational networks which link up university research centres and the research centres of companies in the sector. Inter alia, the EU and national administrations should set up annual co-financed projects with this aim, and a culture of excellence in research should be promoted, including the creation of a European prize for high-quality new technologies which facilitate eInclusion.

(8) The Inclusive Communications group (INCOM) was set up in 2003, and consists of representatives of the Member States, telecoms operators, user associations and standardisation bodies.

3.5 The following should be considered as specific objectives:

a) extending the scope of the Universal Service Directive (which covers access to public pay telephones, emergency and subscriber information services) to include broadband technology and mobile telephones, as called for by the EESC on several occasions;

b) ensuring that public administrations are prohibited from using ICT products and services which do not comply with the accessibility rules in force, and that future EU legislation on public procurement includes mandatory provisions on accessibility;

c) harmonising accessibility requirements for the use of IP networks which include emergency services and the use of interactive digital television;

d) ensuring, as already urged by the Committee (10), that Member States fully adopt version 2 of the Web Content Accessibility Guidelines and incorporate these into public websites;

e) encouraging the use of ‘authoring tools’, provided that they comply with version 2 of the abovementioned Web Content Accessibility Guidelines.

4. Specific comments

4.1 The over-65 age group is growing in relation to the rest of the population, mainly as a result of low birth rates and greater quality of life and life expectancy. For this reason, the Council presidencies have included population ageing as a topic for discussion in the joint presidency programme.

4.2 In the new society in which older people live, there are various factors which can lead to solitude, such as the disappearance of the extended family and the emergence of the single-parent family. The information society provides new opportunities for older people to break free from social isolation, promoting actions that reduce the existing digital divide.

This is particularly evident when it comes to eAccessibility. As stated in the Ministerial Declaration adopted unanimously in Riga, only 10 % of European residents over the age of 65 use the Internet.

4.3 Along with universal Internet access, cross-sectoral social policies should be proposed (in accordance with the subsidiarity principle) in order to encourage the inclusion of older people and people with disabilities in the information society, with the aim of ensuring equality and improving their quality of life, optimising services and promoting their involvement in the information society, and removing obstacles to digital training and free software.

By making it easier for people with disabilities and older people to access the information society, intellectual activity can be stimulated, and life can be made easier through the provision of services such as:

— free advice,

— provision of documentation at home,

— legal advice for individuals or at centres for the retired or disabled,

— recreational and leisure activities,

— special services for older people and contact with regional social services,

— training via virtual classrooms,

— holiday programmes, and

— optional telemedical services.

The EESC stresses the importance of ICT in fostering the economic and social involvement of older people and people with disabilities, through their representative organisations, in order to improve the situation in the EU. The involvement of organised civil society could be useful in areas such as co-regulation, drafting of codes of conduct and corporate social responsibility.

4.4 The EESC believes that support measures for projects and initiatives should be adopted, facilitating the access of disabled and older people to the information society, and introducing them to new technologies as an ideal means to become socially integrated, prevent exclusion from the digital world and improve their quality of life. In particular, these measures would include:

— the creation and promotion of digital networks to help make the management systems of the various bodies and associations more professional and effective. These networks should be properly equipped and able to cater to the needs of the various populations of older and disabled people;

— pilot schemes based on applications and tools to help people with disabilities and older people live an active and independent life through their involvement in the information society.

4.5 Economic, social and territorial cohesion can be strengthened by applying the UN Principles for Older Persons in policies implemented by the EU, and promoting adequate access to education and training programmes.

4.6 In the context of the review of the ‘new approach’ to be carried out by the Commission, legislation being drawn up should take account of the needs of older people, in order to simplify the services provided through products being developed. Meanwhile, standardisation bodies and the industry should take these circumstances into consideration in their own areas of activity.

4.7 In terms of environmental protection, there is potential for increasing the use of digital technology in order to cut down on travel, by receiving certain services ‘in situ’. The Commission should explore this possibility in order to propose more ambitious supranational eAccessibility measures.


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of the European Economic and Social Committee
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