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From:	Permanent Representatives Committee (Part 1)
To:	Council
No. prev. doc.:	14363/17
No. Cion doc.:	14799/15 + ADD 1 - ADD 3 - COM(2015) 615 final
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services - General approach

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**I. INTRODUCTION**

In December 2015, the Commission published the proposal for a European Accessibility Act (EAA) that, once adopted, would make various products and services in the European Union (EU) more accessible for persons with disabilities.

The EAA proposal was identified in the 'Interinstitutional Declaration on the EU's legislative priorities' as one of the files on which the European Parliament, the Council and the European Commission should make swift legislative progress and, where possible, complete the work before the end of 2017. Delegations have expressed their support for the proposal, at both technical and political levels.

On 14 September, the European Parliament adopted its first reading negotiation mandate.<sup>1</sup>  
The European Economic and Social Committee adopted its Opinion on 25 May 2016.

## **II. STATE OF PLAY**

Based on discussions during the Estonian Presidency and building on the work during the previous Presidencies, the text has been reorganised and redrafted. The progress achieved during the recent period was to a great extent due to the valuable input by delegations and their active participation in finalising the technical work.

The scope of the EAA as currently drafted has been accepted by the majority of the Member States. The question on possible overlaps with existing EU legislation has also been solved. Furthermore, Annex I has been significantly redrafted and the new Annex VI has been added to clarify the accessibility requirements in the light of the amendments to Article 12 on Fundamental alteration and disproportionate burden.

In its text, the Presidency aimed at a balance between the following elements:

- following as closely as possible the *New Legislative Framework (NLF) for products*, so that the economic operators dealing with products as well as market surveillance authorities can follow the NLF approach;
- for *services*, the Presidency has followed the Commission's proposal that is "inspired" by the NLF but with a degree of flexibility for the organisation of the market surveillance system for services;

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<sup>1</sup> The Rapporteur for the lead Committee (IMCO) is Morten LØKKEGAARD (DK/ALDE).  
The Rapporteur for the EMPL Committee is Adám KÓSA (HU/EPP).

- keeping the *accessibility requirements* for products and services at the *functional level* (Annex I). A new Annex Ia is provided that gives clear examples on how the accessibility requirements in Annex I could be achieved or what the aimed result could be;
- Article 12 on *Fundamental alteration and disproportionate burden* has been amended according to the wishes of delegations in order to clarify the procedure and to provide clear guidance to economic operators and market surveillance authorities. A new Annex IV with benchmarks for assessing the disproportionate burden has been added into the text;
- *microenterprises providing services*, which often are new enterprises and lack resources, are fully exempted from the requirements of the EAA;
- the text has been reorganised to improve legal clarity (e.g. by separating the parts of the Directive dealing with products, services or both of these).

The Committee of Permanent Representatives discussed the Presidency compromise text on 24 November. One last substantial issue (Emergency services) related to the scope remained to be solved in the Committee.

*Emergency services* were included in the Commission proposal, as well as emergency communications, as a part of electronic communications.<sup>2</sup> As a number of delegations stressed that an internal market directive based on Article 114 TFEU should not deal with Member States' organisation of emergency services, including the answering and handling of emergency communications, the Committee concluded that accessibility requirements related to Public Safety Answering Points and in particular answering of calls to the single European emergency number 112 should not be included in the Council's general approach; the text has been amended accordingly.

However, some delegations were of the opinion that the accessibility requirements related to answering calls to the single European emergency number 112 should be harmonised in the EU and regretted this exclusion. A number of delegations indicated a flexible approach to this issue.

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<sup>2</sup> As regards the accessibility of emergency services and communications, several components have been identified:

- accessibility features in *consumer equipment* (e.g. in smart phones) are included in the scope of the EAA; these are not controversial as such;
- accessibility of *emergency communications* (as provided by the electronic communication service operators); also included in the EAA and are not controversial as such;
- accessibility requirements related to Public Safety Answering Points ensuring the link between emergency communication and emergency services, in particular, *answering of calls to the single European emergency number 112* (see Article 3(3a)(new) and Annex I, Section V). This was the controversial part of the emergency communications.

### **Remaining reservations**

At this stage, all delegations are considered to have general scrutiny reservations on the amended text.

In addition, the Commission has a reservation on exempting from the Directive *microenterprises* providing services. It also has reservation on the removal of Article 1(3) related to public procurement, European Investment and Structural Funds and Trans-European Networks.

UK has maintained a parliamentary scrutiny reservation.

### **III. CONCLUSION**

The Council (EPSCO) on 7 December 2017 is invited to examine the compromise text as set out in the Annex to this note with a view to reaching a general approach.

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Proposal for a<sup>3</sup>

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on [...] <sup>4</sup> the accessibility requirements for products and services**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>5</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>3</sup> Changes in relation to the previous document (doc 14363/17 ) are set out as follows: new text is in **bold underlined**, and deletions are marked by **[...]**. All changes to the original proposal are indicated as follows: new text is in **bold** and deletions are marked by **[...]**.

<sup>4</sup> A part of the title removed as superfluous (legal linguistic suggestion).

<sup>5</sup> Adopted 25 May 2016. OJ C , , p. .

- (1) The purpose of this Directive is to contribute to the proper functioning of the internal market by approximating laws, regulations and administrative provisions of the Member States, by eliminating barriers to the free movement of certain accessible products and services. This **would** increase the **availability** of accessible products and services on the internal market.
- (2) The demand for accessible products and services is high and the number of citizens with disabilities [...] **is projected** to increase significantly. [...] An environment where products and services are more accessible allows for a more inclusive society and facilitates independent living **for persons with disabilities**.
- (2a)(new) This Directive defines persons with disabilities in line with the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), to which the European Union is a party as of 21 January 2011. The UN CRPD states that persons with disabilities "include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others". This Directive promotes full and effective equal participation by improving access to mainstream products and services that through their initial design or subsequent adaptation address the particular needs of persons with disabilities.**
- (2b)(new) Other persons who experience functional limitations, stemming from other physical, mental, intellectual or sensory impairments, older age, or other human body performance related causes, permanent or temporary, which in interaction with various barriers may likewise hinder their full and effective participation in society on an equal basis with others, would also benefit from this Directive.**

- (3) The disparities between the laws, **regulations** and administrative measures adopted by the Member States in relation to accessibility of products and services for [...] persons with disabilities create barriers to the free movement of such products and services and distort effective competition in the internal market. Economic operators, in particular small and medium-sized enterprises (SMEs), are particularly affected by those barriers.
- (4) Due to the differences in national accessibility requirements, individual professionals, SMEs and microenterprises in particular are discouraged from entering into business ventures outside their own domestic markets. The national, or even regional or local, accessibility requirements that Member States have put in place currently differ as regards both coverage and level of detail. Those differences negatively affect competitiveness and growth, due to the additional costs incurred in the development and marketing of accessible products and services for each national market.
- (26) Most jobs in the Union are provided by SMEs and microenterprises. They have a crucial importance for future growth, but very often face hurdles and obstacles in developing their products or services, notably in the cross-border context. It is therefore necessary to facilitate the work of the SMEs and microenterprises by harmonising the national provisions on accessibility while maintaining the necessary safeguards.
- (5) Consumers of accessible products and recipients of accessible services are faced with high prices due to limited competition among suppliers. Fragmentation among national regulations reduces potential benefits from sharing experiences with national and international peers in responding to societal and technological developments.



- (6) The approximation of national measures at Union level is therefore necessary for the proper functioning of the internal market in order to put an end to fragmentation in the market of accessible products and services, to create economies of scale, to facilitate cross-border trade and mobility, as well as to help economic operators to concentrate resources on innovation instead of using those resources for complying with fragmented legal requirements across the Union.
- (7) The benefits of harmonising accessibility requirements for the internal market have been demonstrated by the application of Directive 2014/33/EU of the European Parliament and of the Council regarding lifts<sup>6</sup> and Regulation (EC) No 661/2009 of the European Parliament and of the Council<sup>7</sup> in the area of transport.
- (8) In Declaration No 22 annexed to the Treaty of Amsterdam, the Conference of the Representatives of the Member States agreed that, in drawing up measures under Article 114 of the Treaty, the institutions of the Union are to take account of the needs of persons with disabilities.

*[recital 9 on the Charter moved to the end of the recitals, after recital 51]*

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<sup>6</sup> Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (OJ L 96, 29.3.2014, p.251).

<sup>7</sup> Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor (OJ L 200, 31.7.2009, p.1).

- (10) The overall aim of the 'Digital Single Market Strategy', is to deliver sustainable economic and social benefits from a connected digital single market. Union consumers still do not enjoy the full benefits of prices and choice that the single market can offer, because cross-border online transactions are still very limited. Fragmentation also limits demand for cross-border e-commerce transactions. There is also a need for concerted action to ensure that [...] electronic content **such as electronic communication and access to audiovisual media services** is fully available to persons with disabilities. It is therefore necessary to harmonise accessibility requirements across the digital single market and to ensure that all Union citizens regardless of their abilities can enjoy its benefits.
- (11) [...] After [...] the Union **became a Party to the UN CRPD**, its provisions have become an integral part of the Union legal order.
- (12) [...] **The UN CRPD** requires [...] Parties to the Convention to take appropriate measures to ensure that persons with disabilities have access to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas, on an equal basis with others. The United Nations Committee on the Rights of Persons with Disabilities has **identified** the need to create a legislative framework with concrete, enforceable and time-bound benchmarks for monitoring the gradual implementation of accessibility.
- (13) The entry into force of the **UN CRPD** in the Member States' legal orders entails the need to adopt additional national provisions on accessibility of products and services, **and** without Union action, **those provisions** would further increase disparities between **the laws, regulations and administrative provisions of the Member States**.

- (14) **This Directive supports Member States to achieve their national commitments as well as their obligations under the UNCRPD regarding accessibility in a harmonised manner.**
- (15) The European Disability Strategy 2010-2020 – A Renewed Commitment to a Barrier-Free Europe<sup>8</sup> – in line with the **UN CRPD**, establishes accessibility as one of the eight areas of action, and aims at ensuring accessibility of products and services.
- (18) [...] Accessibility requirements **should be introduced** in the **manner that is** least burdensome [...] for the economic operators and the Member States. [...]
- (16) **The determination of the products** and services falling within the scope of this Directive **is** the result of a screening exercise, carried out during the preparation of the Impact Assessment that identified relevant products and services [...] for persons with disabilities, and [...] for which Member States have adopted or are likely to adopt diverging national accessibility requirements **disruptive to the functioning of the internal market.**
- (17) Each product and service **falling within the scope of this Directive placed on the market or provided after the date of on which Member States has to apply the national law implementing this Directive should** comply with the **applicable** accessibility requirements identified in **this Directive, so as** to be accessible for persons with disabilities.[...]
- (17a)(new) In order to ensure the accessibility of the services falling within the scope of this Directive, products used in the provision of those services with which the consumer interacts should also be required to comply with the applicable accessibility requirements of this Directive.**

*[recital 18, see after recital 15]*

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<sup>8</sup> COM(2010) 636.

- (19) It is [...] necessary to specify accessibility requirements for the placing on the market of products and services which fall within the scope of this Directive in order to ensure their free circulation in the internal market.
- (20) This Directive should make compulsory the use of functional accessibility requirements in terms of general objectives. These should be precise enough to create legally binding obligations and sufficiently detailed so as to make it possible to assess conformity in order to ensure the good functioning of the internal market for the products and services covered. **However, they should leave a degree of flexibility for innovation, for example, by allowing the economic operator to choose which additional sensory channel to provide in addition to the one available so as to ensure that at least two sensory channels are available.**
- (25) Accessibility **is the systematic** removal and prevention of barriers, **to ensure to persons with disabilities access on equal basis with others. This should be achieved** preferably through a universal design or "design for all" approach, **which means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design. Universal design should not exclude assistive devices for particular groups of persons with disabilities where this is needed. Furthermore,** accessibility should not exclude the provision of reasonable accommodation when **required** by national or Union law.

*[Recitals 20a to 20p follow the order of Article 1: general computer hardware and operating systems, electronic communications, access to audiovisual services, e-books, e-commerce, consumer banking, passenger transport.]*

- (20a)(new)** This Directive should cover general purpose consumer computer hardware systems. Such computer hardware systems are characterised by their multipurpose nature and their ability to perform, with the appropriate software, the most common computing tasks requested by consumers and are intended to be operated by consumers. Personal computers, including desktops, notebooks, smartphones and tablets are examples of such computer hardware systems. Specialised computers embedded in consumer electronics products do not constitute general purpose consumer computer hardware systems. This Directive should not cover, on individual basis, single components with specific functions, such as a mainboard or a memory chip, that are used or may be used in such a system.
- (20b)(new)** This Directive should further cover electronic communication services as defined in Directive 2002/21/EC of the European Parliament and of the Council,<sup>9</sup> including such communication services used for emergency communications, which are an integral part of electronic communications services. At present, the measures taken by Member States are divergent and are not harmonised throughout the internal market. Ensuring that the same accessibility requirements apply throughout the Union will lead to economies of scale for operators active in more than one Member State and will facilitate the effective access for persons with disabilities in their own Member States and when travelling between Member States. For emergency communications to be accessible, service providers should, in addition to voice, provide real time text and total conversation where video is provided, ensuring the synchronisation of all those communication means. Member States could, while respecting this Directive, determine a third party relay service provider which could be used by persons with disabilities to communicate with the PSAP.

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<sup>9</sup> Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (OJ L 108, 24.4.2002, p. 33).

**This Directive should also cover consumer terminal equipment with interactive computing capability foreseeably to be primarily used to access such electronic communication services. The latter category includes equipment used as part of the setup in accessing said services such as a router or a modem. The rapid technological evolution and innovative character of electronic communication services is likely to be reflected in forthcoming sectorial legislation that also might have an impact on accessibility. Therefore this Directive should be without prejudice to Directive 2002/21<sup>10</sup>. In case of a conflict between Directive 2002/21<sup>11</sup> and this Directive, the former should prevail.**

**(20c)        [...]**

**(20d)(new)<sup>12</sup> For the purposes of this Directive, access to audiovisual media services means that the access to audiovisual content, has to be accessible, as well as mechanisms to allow users with disabilities to use their assistive technologies. The access may be provided for example via devices such as set-top boxes or connected TV services that enable to receive audiovisual content. [The Directive should also cover features or services providing access to audiovisual media services, and the accessibility features of Electronic Programme Guides (EPGs) as their accessibility is not covered in the AVMSD].**

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<sup>10</sup> Will be replaced by a reference to the eCode when the European Electronic Communications Code is adopted.

<sup>11</sup> Will be replaced by a reference to the eCode when the European Electronic Communications Code is adopted.

<sup>12</sup> Text amended for accuracy.

**(20e)(new) E-books files are based on a electronic computer coding that enables the circulation and consultation of a mostly textual and graphical intellectual work. The degree of precision of this coding determines the accessibility of e-book files, in particular regarding the qualification of the different constitutive elements of the work and the standardised description of its structure. The interoperability in terms of accessibility should optimise the compatibility of these files with the user agents and with current and future assistive technologies. By contrast, e-book accessibility requirements shall not infringe the integrity of the intellectual work whose digital files enable the consultation and the circulation. Specific features of special volumes like comics, children's books and art books should be considered regarding all applicable accessibility requirements. Different accessibility requirements in Member States would make it difficult for publishers and other economic operators to benefit from the advantages of the internal market, could create interoperability problems with e-readers and would limit the access for disabled customers.**

- (20f)(new)** This Directive defines e-commerce as a service provided at a distance, by electronic means and at the individual request of a consumer, with a view to concluding a consumer contract. For the purposes of this definition “at a distance” means that the service is provided without the parties being simultaneously present; ”by electronic means” means that the service is initially sent and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and transmitted, conveyed and received in its entirety by wire, by radio, by optical means or by other electromagnetic means; “at the individual request of a consumer” means that the service is provided on individual request; “with a view to conclude a consumer contract” intends to limit the scope of e-commerce services only to business to consumer transactions and specifies, in the context of this Directive, the economic operators concerned, by elaborating the exact intention of providing such services.
- (20g)(new)** The e-commerce accessibility obligations contained in this Directive should apply to the online sale of any product or service and should therefore also apply to the sale of a product or service covered in its own right under this Directive.
- (20h)(new)** European Union legislation on banking and financial services aims to protect and provide information to consumers of those services across the EU but does not include accessibility requirements. With a view to enabling people with disabilities to use these services throughout the Union, make well-informed decisions, and feel confident that they are adequately protected on an equal basis with other consumers as well as ensure a level playing field for service providers, this Directive should establish common accessibility requirements for certain banking and financial services provided to consumers.



- (20i)(new)** The appropriate accessibility requirements should also apply to identification methods, electronic signature and payment services as these are necessary for concluding consumer banking transactions.
- (20j)(new)** This Directive should also cover within its scope interactive self-service terminals including both hardware and software dedicated to be used for the provision of the services being covered by this Directive, excluding machines installed as integrated parts of vehicles, aircrafts, ships or rolling stock. This includes for example Automated Teller Machines, payment terminals and other Self-Service Terminals used for consumer banking services; any ticketing machines issuing physical tickets granting access to services covered by this Directive such as travel ticket dispensers, bank office queuing ticket machines; check-in machines used to check passengers in for passenger transport services; and interactive self-service terminals providing travel information, including interactive information screens.
- (20k)(new)** In the context of air, bus, rail and waterborne passenger transport services this Directive should also cover the delivery of transport service information provided through websites, mobile applications, interactive self-service terminals and interactive information screens required by passengers with disabilities in order to travel, including real-time travel information. This could, for example, include pre-journey information, information during the journey and information provided when a service is cancelled or delayed in departure. Other elements of information may also include for example information on prices and promotions.

- (20l)(new)** This Directive should also cover mobile device-based services including mobile applications developed or made available by operators of passenger transport services within the scope of this Directive or on their behalf, such as electronic ticketing services, electronic tickets, and the delivery of information about the service provider's passenger transport products and services, including the delivery of real-time travel information.
- (20m)(new)** The determination of the scope of this Directive with regard to air, bus, rail and waterborne passenger transport services should be based on the existing sectorial legislation relating to passenger rights.

**(20n)(new) Certain elements of the accessibility requirements, particularly in relation to the provision of information as set out in this Directive, are already covered by existing Union law in the area of transport. This includes elements of Regulation (EC) No 1371/2007 of the European Parliament and of the Council,<sup>13</sup> Commission Regulation (EU) 1300/2014<sup>14</sup> and Commission Regulation (EU) 454/2011<sup>15</sup> as regards rail transport; Regulation (EU) 181/2011 of the European Parliament and of the Council as regards bus and coach transport;<sup>16</sup> Regulation (EU) 1177/2010 of the European Parliament and of the Council as regards sea and inland waterway transport<sup>17</sup> and Regulation (EC) 1107/2006 as well as Regulation (EC) 261/2004<sup>18</sup> concerning the rights of disabled persons and persons with reduced mobility when travelling by air. To ensure regulatory consistency, the accessibility requirements set out in these Regulations, should continue to apply as before. However, additional requirements provided for in this Directive in its scope of application would supplement the existing requirements, improving the functioning of the internal market in the area of transport and benefiting persons with disabilities.**

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<sup>13</sup> Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations, (OJ L 315, 3.12.2007, p.14).

<sup>14</sup> Commission Regulation (EU) No 1300/2014 of 18 November 2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility (OJ L 356, 12.12.2014, p. 110).

<sup>15</sup> Commission Regulation (EU) No 454/2011 of 5 May 2011 on the technical specification for interoperability relating to the subsystem 'telematics applications for passenger services' of the trans-European rail system (OJ L 123, 12.5.2011, p. 11).

<sup>16</sup> Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1).

<sup>17</sup> Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, p. 1).

<sup>18</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1).

- (20o)(new)** Certain elements of transport services should not be covered by this Directive when provided outside the territory of the Member States even where the service has been directed towards the Union market. With regard to those elements a passenger transport service operator should only be obliged to ensure that the requirements of this Directive are met with regard to the part of the service offered within the territory of the Union. However, in the case of air transport, EU air carriers are obliged to ensure that the applicable requirements of this Directive are also satisfied on flights departing from an airport situated in a third country and flying to an airport situated within the territory of a Member States. Furthermore, all air carriers, including those which are not licenced in the Union, are obliged to ensure that the applicable requirements of this Directive are satisfied in cases where the flights depart from a Union territory to a third country territory.
- (20p)(new)** The accessibility requirements set out in this Directive should apply to products placed on the Union market after the date on which Member States has to apply the national law implementing this Directive, including used and second-hand products imported from a third country and placed on the Union market after that date.

(21) [...] Directive (EU) 2016/2102 of the European Parliament and of the Council [...] <sup>19</sup> defines accessibility requirements for a specific set of public sector bodies' websites [...], **mobile applications and other related aspects, in particular requirements relating to the compliance of the relevant websites [...] and mobile applications. However, some activities that [...] take place via public sector [...] websites [...] and mobile applications, such as for example passenger transport services or e-commerce or websites of audiovisual media services, which** fall within the scope of this **Directive, should comply with the applicable accessibility requirements set out in this directive** in order to ensure that the online sale of products and services is accessible for persons with disabilities [...] irrespective of their public or private sale.

(21a)(new) **The four principles of web accessibility are: perceivability, meaning that information and user interface components must be presentable to users in ways they can perceive; operability, meaning that user interface components and navigation must be operable; understandability, meaning that information and the operation of the user interface must be understandable; and robustness, meaning that content must be robust enough to be interpreted reliably by a wide variety of user agents, including assistive technologies. These principles are also used in Directive (EU) 2016/2102.**

(22) Member States should take all appropriate measures to ensure that, where the products and services covered by this Directive comply with **applicable** accessibility requirements, their free movement within the Union is not impeded due to reasons of accessibility.

(23) **deleted**

(24) **deleted**

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<sup>19</sup> Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

*[recital 25 moved to after recital 20 and recital 26 moved to after recital 4]*

- (27) This Directive should be based on Decision No 768/2008/EC of the European Parliament and of the Council<sup>20</sup> as it concerns products already subject to other Union acts, **in order to ensure** the consistency of Union legislation, **while recognizing the specific features of the accessibility requirements contained in this Directive.**
- (28) All economic operators intervening in the supply and distribution chain should ensure that they make available on the market only products which are in conformity with [...] this Directive. **The same should apply to economic operators providing services.** It is necessary to provide for a clear and proportionate distribution of obligations which correspond to the role of each operator in the supply and distribution process.
- (29) Economic operators should be responsible for the compliance of products and services, **in accordance with** their respective roles in the supply chain, so as to ensure a high level of protection of accessibility and to guarantee fair competition on the Union market.
- (29a)(new) The obligations set out in this Directive, should apply equally to economic operators in the public and private sectors.**
- (30) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the complete conformity assessment procedure. The obligations for conformity assessment should rest with the manufacturer.

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<sup>20</sup> Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products (OJ L 218, 13/08/2008, p. 82).

- (31) Distributors and importers should be involved in market surveillance tasks carried out by national authorities, and should participate actively, providing the competent authorities with all necessary information relating to the product concerned.
- (32) Importers should ensure that products from third countries entering the Union market comply with [...] this Directive and in particular that appropriate conformity assessment procedures have been carried out by manufacturers with regard to those products.
- (33) When placing a product on the market, every importer should indicate, on the product, its name and the address at which the company can be contacted.
- (34) Distributors should ensure that their handling of the product does not adversely affect the compliance of the product with the accessibility requirements of this Directive.
- (35) Any economic operator that either places a product on the market under his own name or trademark or modifies a product in such a way that compliance with applicable **accessibility** requirements may be affected should be considered to be the manufacturer and should assume the obligations of the manufacturer.
- (36) For reasons of proportionality, accessibility requirements should only apply to the extent that they do not impose a disproportionate burden on the economic operator concerned, or require a change in the products and services which would result in their fundamental alteration in accordance with the [...] criteria **specified in this Directive**.

(37) This Directive should follow the principle of 'think small first' and should take account of the administrative burdens that SMEs are faced with. It should set light rules in terms of conformity assessment and should establish safeguard clauses for economic operators, rather than providing for general exceptions and derogations for those enterprises. Consequently, when setting up the rules for the selection and implementation of the most appropriate conformity assessment procedures, the situation of SMEs should be taken into account and the obligations to assess conformity of accessibility requirements should be limited to the extent that they do not pose a disproportionate burden on SMEs. In addition, market surveillance authorities should operate in a proportionate manner in relation to the size of undertakings and to the small serial or non-serial nature of the production concerned, without creating unnecessary obstacles for SMEs and without compromising the protection of **the public interest**.



**(37a)(new) In exceptional cases, where the accessibility requirements set out in this Directive would constitute a disproportionate burden on economic operators, they should not be required to comply with them. In such duly justified cases, it would not be reasonably possible for an economic operator to apply one or more of the accessibility requirements identified in Annex 1 of this Directive. However, the economic operator should make a service or a product under the scope of this Directive accessible with respect to those accessibility requirements which were not considered by the economic operator to impose a disproportionate burden. Exceptions to compliance with one or more accessibility requirements due to the disproportionate burden that they impose should not go beyond what is strictly necessary in order to limit that burden with respect to the particular product or service concerned in each individual case. Measures that would impose a disproportionate burden should be understood as measures that would impose an additional excessive organizational or financial burden on the economic operator, while taking into account the likely resulting benefit for persons with disabilities. Benchmarks based on these considerations should be defined in order to enable both economic operators and market surveillance authorities to compare different situations and to assess the possible presence of a disproportionate burden in a systematic way. Only legitimate elements should be taken into account in any assessment of the extent to which the accessibility requirements cannot be met because they would impose a disproportionate burden. Lack of priority, time or knowledge should not be considered as legitimate reasons.**

- (37b)(new)** The overall assessment of a disproportionate burden should be done using the benchmarks identified in Annex IV . The assessment of disproportionate burden should be documented by the economic operator taking into account the relevant benchmarks. Service providers should re-evaluate the assessment of a disproportionate burden after every five years. Only upon a request from the competent national authority should the economic operators provide the assessment explaining why their product or service is not fully accessible and providing evidence of the disproportionate burden.
- (37c)(new)** If on the basis of the required assessment it is concluded that it would constitute a disproportionate burden on the economic operator to require that all self-service terminals that are available for the provision of the same service comply with the accessibility requirements enshrined in this Directive it is appropriate to also assess how many such machines are sufficient to secure the accessibility of the services provided by the service provider in question. In its assessment the service provider should take into account inter alia the estimated benefit for persons with disabilities.

**(37d)(new)** Microenterprises are distinguished from all other undertakings by their limited human resources and annual turnover and/or annual balance sheet. The burden of complying with the accessibility requirements for microenterprises will therefore, in general, take a greater share of their financial and human resources than for other undertakings and is more likely to represent a disproportionate share of the costs. A significant proportion of cost for microenterprises comes from completing or keeping paperwork and records to demonstrate compliance with the different requirements set down in Union legislation. While all economic operators covered by this directive should be able to assess the proportionality of complying with the requirements set out in this Directive and only comply with them to the extent they are not disproportionate, demanding such an assessment from microenterprises providing services would therefore in itself constitute a disproportionate burden compared with the likely benefits to persons with disabilities. Requirements and obligations in this Directive should therefore not apply to microenterprises providing services within the scope of this Directive.

**(37e)(new)** The same exemption to microenterprises should not apply to the products covered by this Directive. With regard to products the obligations of this Directive fall on several economic operators along the manufacturing and distribution chain. Generally excluding all microenterprises without an overall assessment, taking into account their role in the particular chain, would lead to inconsistencies and distortions of the internal market resulting in difficulties for effective enforcement by market surveillance authorities. Persons with disabilities would have difficulties to know whether any of the economic operators involved in a particular product chain is a microenterprise and consequently whether or not the accessibility requirements applies or not. Persons with disabilities would, on the other hand, be able to identify which services are delivered by microenterprises and be able to choose those services which are accessible to them.

- (38) All economic operators should act responsibly and in full accordance with the legal requirements applicable when placing or making products available on the market or providing services on the market.
- (39) In order to facilitate **the assessment of conformity** with **the applicable accessibility** requirements it is necessary to provide for a presumption of conformity for products and services which are in conformity with voluntary harmonised standards that are adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council<sup>21</sup> for the purpose of **drawing up** detailed technical specifications of those requirements. The Commission has already issued a number of standardisation requests to the European standardisation organisations on accessibility which would be relevant for the preparation of harmonised standards.
- (39a)(new) Regulation (EU) No 1025/2012 provides for a procedure for formal objections to harmonised standards that are considered not to comply with the requirements of this Directive.**
- (40) In the absence of harmonised standards and where needed for market harmonisation purposes, the Commission should be able **to** adopt implementing acts establishing common technical specifications for the accessibility requirements set in this Directive.

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<sup>21</sup> Regulation (EU) No 1025/2012 of 25 October 2012 of the European Parliament and of the Council on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12)

- (41) To ensure effective access to information for market surveillance purposes, the information required to declare compliance with all applicable Union acts should be **made** available in a single EU declaration of conformity. In order to reduce the administrative burden on economic operators, they should be able to include in the single EU declaration of conformity **all** relevant individual declarations of conformity.
- (42) For conformity assessment of products, this Directive should use the Internal Production Control of "Module A", described in Annex II to Decision No 768/2008/EC, as it enables economic operators to demonstrate, and the competent authorities to ensure, that products made available in the market conform to the accessibility requirements while not imposing a disproportionate burden.
- (43) For services, the information necessary to assess [...] conformity with the accessibility requirements should be provided in the general terms and conditions, or equivalent document **without prejudice to Directive EU 2011/83**.
- (44) The CE marking, indicating the conformity of a product with the accessibility requirements of this Directive, is the visible consequence of a whole process comprising conformity assessment in a broad sense. This Directive should follow the general principles governing the CE marking of Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>22</sup> setting out the requirements for accreditation and market surveillance relating to the marketing of products.
- (45) In accordance with Regulation (EC) No 765/2008 by affixing the CE marking to a product, the manufacturer declares that the product is in conformity with all applicable accessibility requirements and that he takes full responsibility therefor.

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<sup>22</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13/08/2008, p. 30).

- (46) In accordance with Decision No 768/2008/EC, Member States are responsible for ensuring strong and efficient market surveillance of products in their territories and should allocate sufficient powers and resources to their market surveillance authorities.
- (47) Member States should check the compliance of services with the obligations of this Directive and should follow up complaints or reports related to non-compliance in order to ensure that corrective action has been taken.
- (47a)(new) In order to facilitate the uniform implementation of Article 18 of this Directive, the Commission may, where appropriate, adopt non-binding guidelines in consultation with stakeholders which will support coordination among compliance of services authorities. The Commission and Member States may set up initiatives with the purpose of sharing resources and expertise of compliance of services authorities. The Commission should coordinate those initiatives.**
- (48) Member States are expected to ensure that market surveillance authorities check the compliance of the economic operators with the criteria referred to in **Annex IV** in accordance with Chapter V. **Member States may designate a specialised body for carrying out the obligations of market surveillance authorities under this Directive. Member States may decide that the competences of such a specialised body should be limited to the scope of this Directive or certain parts thereof and that, without prejudice to the Member States' obligations under Regulation (EC) No 765/2008, it should perform only the tasks provided for in Regulation (EC) No 765/2008 necessary for ensuring the effective market surveillance pursuant to that Regulation and this Directive.**
- (49) **deleted**

- (50) A safeguard procedure should be set up to **apply** in the event of disagreement between Member States over measures taken by a Member State under which interested parties are informed of measures intended to be taken with regard to products not complying with the accessibility requirements of this Directive. It should allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such products.
- (51) Where the Member States and the Commission agree as to the justification of a measure taken by a Member State, no further involvement of the Commission should be required, except where non-compliance can be attributed to shortcomings of a harmonised standard.
- (9) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for the rights of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community and to promote the application of Article 26 of the Charter of Fundamental Rights of the European Union.
- (52) In order to ensure uniform conditions for the implementation of [...] this Directive, implementing powers should be conferred on the Commission **with regard to the establishment of common technical specifications**. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.<sup>23</sup>

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<sup>23</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.02.2011, p. 13).

- (53) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to **ensure**, in justified cases, **that** the notification of their transposition measures **is accompanied** with one or more documents explaining the relationship between the components of a Directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (53c)(new) In order to allow service providers sufficient time to adapt to the requirements laid down by this Directive, it is necessary to provide for transitional period of [5] years after the date of on which Member States has to apply the national law implementing this Directive, during which products used for the provision of a service which were placed on the Union market before that date do not need to comply with the accessibility requirements pursuant to this Directive unless they are replaced by the service providers during the transitional period. Given the cost and long life-cycle of self-service terminals, it is appropriate to provide that, when such terminals are used in the provision of services, they may continue to be used until the end of their economic life, as long as they are not replaced during that period, but not for longer than 20 years.**



(54) Since the objective of this Directive, namely, the elimination of barriers to the free movement of certain accessible products and services, **in order** to contribute to the proper functioning of the internal market, cannot be sufficiently achieved by the Member States because it requires the harmonisation of different rules currently existing in their respective legal systems, but can rather, by [...] defining common accessibility requirements and rules for the functioning of the single market, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

**CHAPTER I**  
**GENERAL PROVISIONS**

*Article -1 (new)*

*Subject matter*

**The purpose of this Directive is to contribute to the proper functioning of the internal market by approximating the laws, regulations and administrative provisions of the Member States as regards accessibility requirements for products and services by eliminating and preventing barriers arising from divergent accessibility requirements to the free movement of products and services covered by this Directive in accordance with Article 1.**

*Article 1*

*Scope*

1. **This Directive applies to the following products placed on the Union market after the date referred to in Article 27(2):**
  - (a) **consumer** general purpose computer hardware **systems and** operating systems;
  - (c) consumer terminal equipment with **interactive** computing capability, **foreseeably to be primarily used for electronic communication** services;
  - (d) consumer terminal equipment with **interactive** computing capability, **used for accessing** audio-visual media services;
  - (e) **e-readers; and**

- (b) the following self-service terminals **dedicated to the provision of services covered by this Directive in accordance with Article 1(2)**:
  - (i) Automated Teller Machines;
  - (ia) payment terminals;**
  - (ii) ticketing machines;
  - (iii) check-in machines **used to check passengers in for passenger transport services;**
  - (iv) interactive self-service terminals providing information, excluding machines installed as integrated parts of vehicles, aircrafts, ships or rolling stock.**

2. **This Directive applies to the following services provided to consumers after the date referred to in Article 27(2), without prejudice to Article 27a of this Directive:**

- (a) **electronic communications services with the exception of services used for the provision of machine-to-machine services;**
- (b) **services providing access to audiovisual media services [...];**
- (e) **e-books and dedicated software;**
- (f) e-commerce;
- (d) **consumer banking services.**

- (c) **the following elements of air, bus, rail and waterborne passenger transport services:**
- (i) websites;**
  - (ia) mobile device based services including applications;**
  - (iaa) electronic tickets and electronic ticketing services;**
  - (ii) delivery of transport service information, including real-time travel information; this shall, with regard to information screens, be limited to interactive screens located within the territory of the Union; and**
  - (iii) interactive self-service terminals located within the territory of the Union, except those installed as integrated parts of<sup>24</sup> vehicles, aircrafts, ships and rolling stock used in the provision of any part of such passenger transport services.**

**[...]**

**2b.(new) This Directive shall be without prejudice to Directive 2002/21<sup>25</sup>.**

**6.(new) With regard to websites, this Directive shall not apply to the following content:**

- (i) pre-recorded time-based media published prior to [entry-into-force of the Directive];**
- (ii) online maps and map services,**
- (iii) third-party content that has neither been financed nor developed by the service provider in question and that is not subject to the providers' control.**

**3. deleted**

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<sup>24</sup> Text amended for consistency.

<sup>25</sup> Will be replaced by a reference to the eCode when the European Electronic Communications Code is adopted.

**4.(new) This Directive shall be without prejudice to Union and national legislation on copyright and related rights, including Directive 2001/29/EC, [Marrakech-Directive (2016/0278 (COD)) and Marrakech-Regulation (2016/0279 (COD))] <sup>26</sup>, Rental and Lending Directive 2006/115/EC, Software Directive 2009/24/EC.**

**5.(new) This Directive is without prejudice to the following Union legislation, including provisions related to accessibility:**

- **Regulation (EC) 1371/2007<sup>27</sup>;**
- **Regulation (EU) 1300/2014<sup>28</sup>;**
- **Regulation (EU) 454/2011<sup>29</sup>;**
- **Regulation (EU) 181/2011<sup>30</sup>;**
- **Regulation (EU) 1177/2010<sup>31</sup>;**
- **Regulation (EU) 1107/2006<sup>32</sup> and**
- **Regulation (EU) 261/2004<sup>33</sup>.**

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<sup>26</sup> It is the intention to include the "Marrakech acts" if adopted prior to the EAA. If not, it can be noted that the list is not comprehensive as seen in the word "including".

<sup>27</sup> <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32007R1371>

<sup>28</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R1300>

<sup>29</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2011.123.01.0011.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2011.123.01.0011.01.ENG)

<sup>30</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011R0181>

<sup>31</sup> <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32010R1177>

<sup>32</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006R1107>

<sup>33</sup> Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1).

*Article 2*  
*Definitions*<sup>34</sup>

For the purposes of this Directive, the following definitions shall apply:

- (1) **deleted**<sup>35</sup>
- (2) **deleted**
- (2a) **"applicable accessibility requirements" means the accessibility requirements referred to in Article 3 to the extent they apply to the economic operator concerned in accordance with paragraph 1 and 2 of Article 12.**
- (3) **deleted**
- (4) "persons with disabilities" **means persons** who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;
- (5) "product" means a substance, preparation or, good produced through a manufacturing process other than food, feed, living plants and animals, products of human origin and products of plants and animals relating directly to their future reproduction;
- (8) "making available on the market" means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (9) "placing on the market" means the first making available of a product on the Union market;

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<sup>34</sup> In the following order: general definitions, products in general, services in general, general definitions related to products and services, individual products/services, cf. Article 1

<sup>35</sup> The term "*accessible products and services*" are not used in the operative part of the text.

- (20) "withdrawal" means any measure aiming at preventing a product in the supply chain from being made available on the market;
- (10) "manufacturer" means any natural or legal person who manufactures a product or has a product designed or manufactured, and markets that product under his name or trademark;
- (11) "authorised representative" means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;
- (12) "importer" means any natural or legal person established within the Union who places a product from a third country on the Union market;
- (13) "distributor" means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;
- (5a)(new) "service" means a service within the meaning of Article 4(1) of Directive 2006/123/EC;<sup>36</sup>**
- (5b)(new) "service provider" means any natural or legal person who offers or provides a service which is directed towards the Union market. In the context of e-books the concept of a service provider may include publishers and other economic operators involved in their distribution;**
- (14) "economic operator" means the manufacturer, the authorised representative, the importer, the distributor, **or** the service provider;

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<sup>36</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

- (15) "consumer" means any natural person who purchases the relevant product or is a recipient of the relevant service for purposes which are outside his trade, business, craft or profession;
- (15a)(new) "small and medium-sized enterprises" (SMEs) mean that category of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million, but which exclude microenterprises;**
- (16) "microenterprise" means an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million;
- (17) "harmonised standard" means a harmonised standard as defined in point 1(c) of Article 2 of Regulation (EU) No 1025/2012;
- (18) "common technical specifications" means a technical specification as defined in Article 2(4) of Regulation (EU) No 1025/2012 that provides a means to comply with the accessibility requirements applicable to a product or service;
- (19) **deleted**
- (23b)(new) "consumer general purpose computer hardware system" means the combination of hardware which forms a complete computer, characterised by its multipurpose nature, its ability to perform, with the appropriate software, most common computing tasks requested by consumers and intended to be operated by consumers; this shall include personal computers, in particular desktops, notebooks, smartphones and tablets;**



**(23)(new) "operating system" means software, which, inter alia, handles the interface to peripheral hardware, schedules tasks, allocates storage, and presents a default interface to the user when no application program is running including a graphical user interface, whether such software is an integral part of consumer general purpose computer hardware, or else free-standing software intended to be run on consumer general purpose computer hardware; however it shall not mean an operating system loader, basic input/output system, or other firmware required at boot time or when installing the operating system;**

**(23a)(new) "consumer terminal equipment" means a product which is intended to be connected to the network termination point by a consumer and which may be used to access or to provide the services covered by this Directive;**

**(24)(new) "interactive computing capability" means functionality supporting human-device interaction allowing for processing and transmission of data, voice and/or video;**

**(7) "electronic communication services" means services within the meaning of Article 2(c) of Directive 2002/21/EC of the European Parliament and of the Council<sup>37</sup>;**

**(7a-1)(new) "emergency communication" means communications by means of interpersonal communication services between an end-user and the PSAP with the goal to request and receive emergency relief from emergency services<sup>38</sup>;**

**(7a-2)(new) "public safety answering point" (PSAP) means a physical location where an emergency communication is first received, under the responsibility of a public authority or a private organisation recognised by the Member State<sup>39</sup>;**

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<sup>37</sup> Will be replaced by a reference to the eCode after the European Electronic Communication Code has been adopted.

<sup>38</sup> The PRES suggest to replace this with a reference to the eCode if that act is adopted before the EAA.

<sup>39</sup> The PRES suggest to replace this with a reference to the eCode if that act is adopted before the EAA

**(7a-3)(new)**“emergency service” means a service, recognised as such by the Member State, that provides immediate and rapid assistance in situations where there is, in particular, a direct risk to life or limb, to individual or public health or safety, to private or public property, or to the environment, in accordance with national legislation<sup>40</sup>;

**(7a-4)(new)**“real time text” means a form of text conversation in point to point situations or in multipoint conferencing where the text being entered is sent in such a way that the communication is perceived by the user as being continuous on a character-by-character basis;

(6) "audiovisual media services" means services **defined in** Article 1(1)(a) of Directive 2010/13/EU of the European Parliament and of the Council;<sup>41</sup>

**(6a)(new)** ["services providing access to audiovisual media services" means services transmitted by electronic communication networks which are used to identify, to receive information on, and to select and view audiovisual media services and any related measures to make them accessible as referred to in Article 7 of Directive 2010/13/EU. Those services providing access to audiovisual media services may include websites, online applications, set-top boxes based applications, downloadable applications, mobile device-based services including mobile applications and related media players as well as connected TV services. They shall also include electronic programming guides (EPGs). These services are part of audiovisual media services that are not regulated for accessibility in Directive 201X/XXX revising Directive 2010/13/EC. They shall not include audiovisual media services regulated for accessibility under Directive 2010/13/EU] <sup>42</sup>;

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<sup>40</sup> The PRES suggest to replace this with a reference to the eCode if that act is adopted before the EAA

<sup>41</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (OJ L 95, 15.04.2010, p. 1)

<sup>42</sup> References to be checked in due course.

- (6b)(new)** "consumer terminal equipment with interactive computing capability, used for accessing audiovisual media services" means any equipment whose main purpose is providing access to services within the meaning of Article 1(1)(a) of Directive 2010/13/EU, television broadcasts as defined in Article 1(e) of said Directive, on-demand audiovisual media services as defined in Article 1(g) of said Directive and audiovisual commercial communication as defined in Article 1(h) of said Directive;
- (25)(new)** "e-book and dedicated software" means a service, consisting of the provision of digital files that convey an electronic version of a book, that can be accessed, navigated, read and used and the software including mobile applications dedicated to the accessing, navigation, reading and use of those digital files. It shall not include software covered under definition 25a(new);
- (25a)(new)** "e-reader" means dedicated equipment, including both hardware and software, used to access, navigate, read and use e-book files;
- (21)** "e-commerce services" means a service provided at a distance, through websites and mobile applications, by electronic means and at the individual request of a consumer with a view to conclude a consumer contract;
- (20a)(new)** "consumer banking services" means provision to consumers of the following banking and financial services, including where provided through websites and mobile applications: credit agreements covered by the Consumer Credit Directive (Directive (2008/48/EC) or the Mortgage Credit Directive (2014/17/EU); services defined in paragraphs 1-5 in Section A and paragraphs 1, 2, 4 and 5 in Section B in Annex I of the Markets in financial instruments directive (MiFIDII - 2014/65/EC); payment services as defined in Article 4(3) of the Payment Service Directive (2015/2366/EU); and services linked to the payment account as defined in the Payment Account Directive (2014/92/EU) and electronic money as defined in Directive 2009/110/EC;

- (20b)(new) "payment terminal" means a device whose main purpose is to allow to make payments by using payment instruments as defined in Article 4 (14) of the Payment Service Directive 2015/2366/EU at a physical point of sale but not in a virtual environment;**
- (7a)(new) "air passenger transport services" means commercial passenger air services, as defined in Article 2(1) of Regulation (EC) No 1107/2006, on departure from, on transit through, or on arrival at an airport, when the airport is situated in the territory of a Member State. It shall include flights departing from an airport situated in a third country to an airport situated in the territory of a Member State where the services are operated by EU carriers;**
- (7b)(new) "bus passenger transport services" means services covered by Article 2(1) of Regulation (EC) No 181/2011;**
- (7c)(new) "rail passenger transport services" means all rail passenger services as defined in Article 2(1), of Regulation (EC) No 1371/2007 with the exception of services defined in Article 2(2) thereof. It shall not include "urban and suburban services" as defined in Article 3(6) of Directive 2012/34 or "regional services" as defined in Article 3(7) of that Directive;**
- (7d)(new) "waterborne passenger transport services" means passenger services covered by Article 2(1) of Regulation (EC) No 1177/2010. It shall not include services covered by Article 2(2) of that Regulation;**
- (27)(new) "electronic tickets" means any system in which an entitlement to travel, in the form of single or multiple travel tickets, travel subscriptions or travel credit, is stored electronically on a physical transport pass or other device, instead of being printed on a paper ticket;**

**(28)(new) "electronic ticketing services" means any system in which passenger transport tickets are purchased including online using a device with interactive computing capability, and delivered to the purchaser in electronic form, in order that they might be printed in paper form or else displayed using a mobile device with interactive computing capability when travelling.**

## **CHAPTER II**

### **ACCESSIBILITY REQUIREMENTS AND FREE MOVEMENT**

#### *Article 3*

#### *Accessibility requirements*

1. Member States shall ensure that **economic operators only place on the market** products referred to in Article 1(1) **and only provide** services [...] referred to in Article [...] **1(2) that** comply with the accessibility requirements set out in Annex I in accordance with paragraphs **2, 3 and 4** of this Article, **without prejudice to Article 12 of this Directive.**

2. **All products listed in Article 1(1) shall comply with the applicable requirements set out in Section I of Annex I.**

**All products referred to in Article 1(1), with the exception of the self-service terminals referred to in point (b), shall comply with the requirements set out in Section II of Annex I.**

3. **Without prejudice to the second subparagraph of this paragraph all services listed in Article 1(2) shall comply with the requirements set out in Section III and IV of Annex I.**

The elements of air, bus, rail and waterborne passenger transport services referred to in Article 1(2)(c) shall comply only with the requirements set out in Section III of Annex 1.

[...]

4. **Microenterprises offering services under Article 1(2) shall be exempted from complying with the requirements referred to in paragraph 3 of this Article and any obligation relating to the compliance with those requirements.**
- 5-10. **deleted**
- 11.(new) **Member States may inform economic operators of the indicative examples of how to comply with the accessibility requirements in Annex I or of the expected result of applying them contained in Annex Ia.**

*Article 3a (new)*

*Existing Union law in the field of passenger transport*

1. **Compliance with existing Union law in the field of transport with respect to the provision of accessible information and to the provision of information about accessibility shall be deemed compliance with the corresponding requirements in this Directive. The existing Union law in question comprises Regulation (EU) 1371/2007, Regulation (EU) 1300/2014, Regulation (EU) 181/2011, Regulation (EU) 1177/2010, Regulation (EC) 261/2004 and Regulation (EC) 1107/2006. Where this Directive in its scope of application provides for additional requirements, they shall apply in full.**

2. **Where a railway undertaking complies with the accessibility requirements related to its official website as set out in Regulation (EU) 454/2011, this shall be deemed compliance with the corresponding provisions in this Directive. Other websites of the rail service providers used by consumers shall comply with this Directive.**
3. **The requirements of this Directive shall also apply where a Union law makes explicit reference to this Directive.**

*Article 4*

*Free movement*

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

**CHAPTER III<sup>43</sup>**

**OBLIGATIONS OF ECONOMIC OPERATORS DEALING WITH PRODUCTS**

*Article 5*

*Obligations of manufacturers*

1. When placing their products on the market, manufacturers shall ensure that the products have been designed and manufactured in accordance with the applicable accessibility requirements **set out in accordance with this Directive.**
2. Manufacturers shall draw up the technical documentation in accordance with Annex II and carry out the conformity assessment procedure set out in that Annex or have it carried out.

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<sup>43</sup> The Chapter has been divided in three in order to indicate clearly which articles deal with products (5-10), services (11) and both products and services (12).

Where compliance of a product with the applicable accessibility requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity and affix the CE marking.

**2a.(new) Manufacturers shall keep the technical documentation and the EC declaration of conformity for 5 year after the product has been placed on the market.**

3. Manufacturers shall ensure that procedures are in place for series production to remain in conformity. Changes in product design or characteristics and changes in the harmonised standards or in technical specifications by reference to which conformity of a product is declared shall be adequately taken into account.
4. [...]
5. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging or in a document accompanying the product.
6. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. The address must indicate a single point at which the manufacturer can be contacted. **The contact details shall be in a language easily understood by end-users and market surveillance authorities.**
7. Manufacturers shall ensure that the product is accompanied by instructions and safety information in a language which can be easily understood by consumers and **other** end-users, as determined by the Member State concerned. **Such instructions and information, as well as any labelling, shall be clear, understandable and intelligible.**



8. Manufacturers who consider or have reason to believe that a product which they have placed on the market is not in conformity with this Directive shall immediately take the necessary corrective measures to bring that product into conformity, **or if appropriate** to withdraw it [...]. Furthermore, where the product [...] **does not comply with the applicable accessibility requirements**, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
  
9. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the product, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any **necessary** action taken to eliminate **the non-compliance with the applicable accessibility requirements of products**, which they have placed on the market, [...] **in particular bringing the products into compliance with the applicable accessibility requirements** [...].

*Article 6*

*Authorised representatives*

1. A manufacturer may, by a written mandate, appoint an authorised representative. The obligations laid down in Article 5(1) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.
  
2. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:
  - (aa)(new) **keep the EC declaration of conformity and the technical documentation at the disposal of national surveillance authorities for 5 years;**

- (a) further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a product;
- (b) co-operate with the competent national authorities, at their request, on any **necessary** action taken to eliminate the **non-compliance with the applicable accessibility requirements [...]** of products covered by their mandate.

#### *Article 7*

#### *Obligations of importers*

1. Importers shall place only compliant products on the market.
2. Before placing a product on the market importers shall ensure that the conformity assessment procedure set out in Annex II has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation required by that Annex, that the product bears the CE marking and is accompanied by the required documents and that the manufacturer has complied with the requirements set out in Article 5(5) and (6).
3. Where an importer considers or has reason to believe that a product is not in conformity with the **applicable** accessibility requirements [...], he shall not place the product on the market until it has been brought into conformity. Furthermore, where the product **does not comply with the applicable accessibility requirements**; the importer shall inform the manufacturer and the market surveillance authorities to that effect.

4. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. **The contact details shall be in a language easily understood by end-users and market surveillance authorities.**
5. Importers shall ensure that the product is accompanied by instructions and **safety** information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.
6. Importers shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the **applicable** accessibility requirements **set in accordance with this Directive.**
7. [...]
- 7a.(new) Importers shall, for a period of 5 years keep a copy of the EU Declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities upon request.**
8. Importers who consider or have reason to believe that a product which they have placed on the market is not in conformity with **this Directive** [...] shall immediately take the necessary corrective measures to bring that product into conformity, **or** [...] to withdraw it [...]. Furthermore, where the product [...] **does not comply with the applicable accessibility requirements**, importers shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the **non-compliance** and of any corrective measures taken.

9. Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any **necessary** action taken to eliminate **the non-compliance with the applicable accessibility requirements** posed by products which they have placed on the market.

#### *Article 8*

#### *Obligations of distributors*

1. When making a product available on the market distributors shall act with due care in relation to the requirements of this Directive.
2. Before making a product available on the market distributors shall verify that the product bears the CE marking, that it is accompanied by the required documents and by instructions and safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the product is to be made available on the market and that the manufacturer and the importer have complied with the requirements set out in Article 5(5) and (6) and Article 7(4).
3. Where a distributor considers or has reason to believe that a product is not in conformity with [...] **this Directive**, they shall not make the product available on the market until it has been brought into conformity. Furthermore, where the product [...] **does not comply with the applicable accessibility requirements**, the distributor shall inform the manufacturer and the market surveillance authorities to that effect.
4. Distributors shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the **applicable accessibility requirements** [...].

5. Distributors who consider or have reason to believe that a product which they have made available on the market is not in conformity with this Directive shall make sure that the necessary corrective measures are taken to bring that product into conformity, **or if appropriate** to withdraw it [...]. Furthermore, where the product, **does not comply with the applicable accessibility requirements**, distributors shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
  
6. Distributors shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product. They shall cooperate with that authority, at its request, on any **necessary** action taken to eliminate **the non-compliance with the applicable accessibility requirements** posed by products, which they have made available on the market.

#### *Article 9*

##### *Cases in which obligations of manufacturers apply to importers and distributors*

An importer or distributor shall be considered a manufacturer for the purposes of this Directive and he shall be subject to the obligations of the manufacturer under Article 5, where they place a product on the market under his name or trademark or modifies a product already placed on the market in such a way that compliance with the requirements of this Directive may be affected.

#### *Article 10*

##### *Identification of economic operators **dealing with products***

1. Economic operators **referred to in Articles 5 to 8** shall, on request, identify the following to the market surveillance authorities:

- (a) any economic operator who has supplied them with a product;
  - (b) any economic operator to whom they have supplied a product.
2. Economic operators **referred to in Articles 5 to 8** shall be able to present the information referred to in paragraph 1 for a period of **5** years after they have been supplied with the product and for a period of **5** years after they have supplied the product.

### CHAPTER IIIA

#### OBLIGATIONS OF ECONOMIC OPERATORS PROVIDING SERVICES

##### *Article 11*

##### *Obligations of service providers*

1. Service providers shall ensure that they design and provide services in accordance with Article 3.
2. Service providers shall prepare the necessary information in accordance with Annex III explaining how the services meet the **applicable** accessibility requirements [...]. The information shall be made available to the public in written and oral format, including in a manner which is accessible to [...] persons with disabilities. Service providers shall keep the information as long as the service is in operation.

3. **Without prejudice to Article 27a(new)** service providers shall ensure that procedures are in place [...] so that the [...] provision of services remains in conformity with the **applicable** accessibility requirements [...]. Changes in the characteristics of the provision of the service [...], changes in **applicable** accessibility requirements [...] **and changes in the harmonised standards or in technical specifications by reference to which service is declared to meet the accessibility requirements** shall be adequately taken into account by the service providers. In case of non-conformity, service providers shall take the necessary corrective measures to bring the service **into** conformity with the **applicable** accessibility requirements [...].
  
4. Service providers shall, further to a reasoned request from a competent authority, provide it with all information necessary to demonstrate the conformity of the service with the **applicable** accessibility requirements [...]. They shall cooperate with those authorities, at their request, on any action taken to bring the service in conformity with those requirements. **Furthermore, where the service is not compliant with applicable accessibility requirements, service providers shall immediately inform the competent national authorities of the Member States, in which they service is provided, to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.**

**CHAPTER III B**  
**FUNDAMENTAL ALTERATION OF PRODUCTS OR SERVICES AND**  
**DISPROPORTIONATE BURDEN TO ECONOMIC OPERATORS**

*Article 12<sup>44</sup>*

*Fundamental alteration and disproportionate burden*

1. The accessibility requirements referred to in Article 3 apply to the extent that they do not introduce a significant change in [...] a product or service that results in the alteration of the basic nature of the product or service.
2. Accessibility requirements referred to in Article 3 apply to the extent that they do not impose a disproportionate burden on the economic operators concerned.
5. The assessment of whether compliance with accessibility requirements regarding products or services imposes a fundamental alteration or disproportionate burden shall be performed **and documented** by the economic operator. **Member States shall require economic operators to carry out that assessment before they make use of the exception provided for in paragraphs 1 and 2 for a specific product or service.**
4. **Economic operators whose burden related to accessibility** is compensated by funding **specifically assigned for ensuring accessibility** from sources other than the economic operator's own resources, whether public or private, **cannot claim that applying the accessibility requirements referred to in Article 3 would impose a disproportionate burden on the economic operators concerned.**

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<sup>44</sup> The numbering of the paragraphs has been maintained although the order of the paragraphs has been changed.



3. In order to assess whether compliance with one or more accessibility requirements regarding a **product or service** [...] imposes a disproportionate burden, the economic operators shall take account **the benchmarks set out in Annex IV. When performing and documenting the assessment as to whether the accessibility requirements impose a disproportionate burden, the economic operator shall make an overall assessment using the relevant benchmarks identified in Annex IV.**
- 3c.(new) Service providers relying on paragraph 2 of this Article shall with regard to each category or type of service renew their assessment of the disproportionate burden at least every five years, or when the service offered is altered or when requested by a national surveillance authority.**
6. Where economic operators have used the exception provided for in paragraphs 1 **and 2** for a specific product or service they shall [...], **upon the request from a competent national authority, provide the assessment referred to in paragraph 5. To this end, they shall keep all relevant documentation for a period of 5 years after last making available of a product on the Union market or for a period of 5 years after a service was provided.**

**As a derogation from the first subparagraph, where microenterprises use the exception provided for in paragraphs 1 and 2 for a specific product, they do not need to establish written evidence of the assessment referred to in paragraph 3 unless so requested by a competent national authority. Upon such a request within the time period referred to in the first subparagraph, they shall provide the competent authority with the facts on the basis of which it was decided that compliance with accessibility requirements regarding certain products would entail a fundamental alteration or impose a disproportionate burden.**

- 7.(new) **Where, following the assessment referred to in paragraph 3, it is concluded that it would constitute a disproportionate burden on the service provider using self-service terminals to ensure that all such terminals fulfil the requirements referred to in Article 3, it shall also be assessed whether accessibility of the service can be ensured in a manner that is not disproportionate by making available a more limited number of accessible self-service terminals.**

## CHAPTER IV

### HARMONISED STANDARDS AND COMMON TECHNICAL SPECIFICATIONS OF PRODUCTS AND SERVICES

#### *Article 13*

#### *Presumption of conformity*

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

#### *Article 14*

#### *Common technical specifications*

1. Where no reference to harmonised standards has been published in the *Official Journal of the European Union* in accordance with Regulation (EU) No 1025/2012, and where further detail for the accessibility requirements of certain products and services would be needed for harmonisation of the market, the Commission may adopt implementing acts establishing common technical specifications ('CTS') for the accessibility requirements set out in Annex I to this Directive. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 24(2) of this Directive.

2. Products and services which are in conformity with the CTS referred to in paragraph 1 or parts thereof shall be deemed to be in conformity with the accessibility requirements referred to in Article 3, covered by those CTS or parts thereof.

## CHAPTER IVA CONFORMITY OF PRODUCTS AND CE MARKING

### *Article 15*

#### *EU declaration of conformity of products*

1. The EU declaration of conformity shall state that the fulfilment of the relevant accessibility requirements referred to in Article 3 has been demonstrated. Where the exception provided for in Article 12 has been used, the EU declaration of conformity shall state which accessibility requirements are subject to that exception.
2. The EU declaration of conformity shall have the model structure set out in Annex III to Decision No 768/2008/EC. It shall contain the elements specified in Annex II to this Directive and shall be continuously updated. [...] It shall be translated into the language or languages required by the Member State in the market of which the product is placed or made available.
3. Where a product is subject to more than one Union act requiring an EU declaration of conformity, a single EU declaration of conformity shall be drawn up in respect of all such Union acts. That declaration shall contain the identification of the acts concerned including the publication references.
4. By drawing up the EU declaration of conformity, the manufacturer shall assume responsibility for the compliance of the product **with the requirements laid down in this Directive**.

*Article 16*

*General principles of the CE marking of products*

The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

*Article 16a (new)*

*Rules and conditions for affixing the CE marking*

- 1. The CE marking shall be affixed visibly, legibly and indelibly to the product or to its data plate. Where that is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging and to the accompanying documents.**
- 2. The CE marking shall be affixed before the product is placed on the market.**
- 3. Member States shall build upon existing mechanisms to ensure correct application of the regime governing the CE marking and shall take appropriate action in the event of improper use of that marking.**

## CHAPTER V<sup>45</sup>

### MARKET SURVEILLANCE OF PRODUCTS AND UNION SAFEGUARD PROCEDURE

#### *Article 17*

##### *Market surveillance of products*

1. **Articles 15(3) and 16 to 19, 21, 23 to 28 and 29 (2) and (3)** of Regulation (EC) No 765/2008 shall apply to products.
2. When carrying out market surveillance of products **the relevant** market surveillance authorities shall, **when the economic operator has used the exception provided for in Article 12 of this Directive and where necessary and appropriate, check that the assessment referred to in Article 12 has been conducted by the economic operator, review that assessment and its results, including the correct use of the benchmarks set out in Annex IV, and control compliance with the applicable accessibility requirements.**
3. Member States shall ensure that information held by market surveillance authorities concerning the compliance of economic operators with the applicable accessibility requirements [...] and the assessment of the exceptions provided for in Article 12, is made available to consumers upon request and in an accessible format, except where that information cannot be provided for reasons of confidentiality as provided for in Article 19(5) of Regulation (EC) No 765/2008.

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<sup>45</sup> The Chapter has been divided in two to separate the surveillance of products and services.

*Article 19*

*Procedure at national level for dealing with products **not complying with the applicable accessibility requirements***

1. Where the market surveillance authorities of one Member State [...] have sufficient reason to believe that a product covered by this Directive **does not comply with the applicable accessibility requirements [...]**, they shall carry out an evaluation in relation to the product concerned covering all the **applicable accessibility** requirements laid down in this Directive. The relevant economic operators shall fully cooperate with the market surveillance authorities **for that purpose**.

Where, in the course of that evaluation, the market surveillance authorities find that the product does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator to take all appropriate corrective action to bring the product into compliance with those requirements [...] within a reasonable period [...], commensurate with the nature of the **non-compliance**, as they may prescribe.

**Market surveillance authorities shall require the relevant economic operator to withdraw the product from the market, within an additional reasonable period, only if the relevant economic operator has failed to take adequate corrective action within the period referred to in the second subparagraph.**

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second **and third subparagraphs**.

2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the economic operator to take.

3. The economic operator shall ensure that all appropriate corrective action is taken in respect of all the products concerned that it has made available on the market throughout the Union.
4. Where the relevant economic operator does not take adequate corrective action within the period referred to in the **third** subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict products being made available on their national markets **or** to withdraw the product from that market [...]. The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.
5. The information referred to in paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant product, the origin of the product, the nature of the alleged non-compliance and the [...] **accessibility requirements which the product does not comply with**, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to any of the following:
  - (a) the failure of the product to meet **the applicable accessibility** requirements [...],  
or
  - (b) the shortcomings in the harmonised standards referred to in Article 13 **or the shortcomings in the common technical specifications referred to in Article 14** conferring a presumption of conformity.

6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the product concerned, and, in the event of disagreement with the notified national measure, of their objections.
7. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.
8. Member States shall ensure that appropriate restrictive measures are taken in respect of the product concerned, such as withdrawal of the product from their market, without delay.

#### *Article 20*

#### *Union safeguard procedure*

1. Where on completion of the procedure set out in Article 19(3) and (4), objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not.

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.



2. If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant product is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.
3. Where the national measure is considered justified and the non-compliance of the product is attributed to shortcomings in the harmonised standards referred to in Article 19(5)(b), the Commission shall apply the procedure provided for in Article 11 of Regulation (EU) No 1025/2012.
- 4.(new) **Where the national measure is considered justified and the non-compliance of the product is attributed to shortcomings in the common specifications referred to in article 19 paragraph 5 point b, the Commission shall, without delay, adopt an implementing act amending or repealing the common specification concerned. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 24(2).**

*Article 20A new*

*Formal non-compliance*

1. **Without prejudice to Article 19, where a Member State makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:**
  - (a) **the CE marking has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 or of Article 16a(new) of this Directive;**
  - (b) **the CE marking has not been affixed;**
  - (c) **the EU declaration of conformity has not been drawn up;**
  - (d) **the EU declaration of conformity has not been drawn up correctly;**

- (e) **technical documentation is either not available or not complete.**
- (f) **the information referred to in Article 5(6) or Article 7(4) is absent, false or incomplete;**
- (g) **any other administrative requirement provided for in Article 5 or Article 7 is not fulfilled.**

2. **Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the product being made available on the market or ensure that it is withdrawn from the market.**

## **CHAPTER V A COMPLIANCE OF SERVICES**

### *Article 18*

#### *Compliance of services*

1. Member States shall establish, implement and periodically update adequate procedures in order to:
- (a) check the compliance of services listed in Article 1(2) with the requirements set out in this Directive, **including** the assessment of the exceptions provided for in Article 12 **for which Article 17(2) shall apply mutatis mutandis;**
  - (b) follow up complaints or reports on issues relating to non-compliance of services referred to in Article 1(2) with the accessibility requirements set out in Article 3;
  - (c) verify that the economic operator has taken the necessary corrective action.

2. Member States shall designate the **compliance of services** authorities responsible for the implementation of the procedures referred to in paragraph 1.

Member States shall ensure that the public is informed of the existence, responsibilities and identity of the authorities referred to in the first subparagraph. Those authorities shall make this information available in accessible formats upon request.

## **CHAPTER VI**

### **ACCESSIBILITY REQUIREMENTS IN OTHER UNION LEGISLATION**

#### *Article 21*

*Applicability of accessibility requirements to other Union acts*

**deleted**

#### *Article 22*

*Disproportionate burden*

**deleted**

#### *Article 23*

*Common technical specifications for other Union acts*

**deleted**

**CHAPTER VII**  
**[...] <sup>46</sup> FINAL PROVISIONS**

*Article 24*  
*Committee procedure*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 25*  
*Enforcement*

1. Member States shall ensure that adequate and effective means exist to ensure compliance with this Directive.
2. The means referred to paragraph 1 shall include:
  - (a) provisions whereby a consumer may take action under national law before the courts or before the competent administrative bodies to ensure that the national provisions transposing this Directive are complied with;
  - (b) provisions whereby public bodies or private associations, organisations or other legal entities which have a legitimate interest, in ensuring that the provisions of this Directive are complied with, may **engage [...]** under national law before the courts or before the competent administrative bodies **either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive [...]**.

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<sup>46</sup> Legal linguist modification

## Article 26

### Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented.
2. The penalties provided for shall be effective, proportionate and dissuasive. **They shall be adequate in relation to the character of the infringements and to the circumstances.**
3. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.
4. Penalties shall take into account the extent of the non-compliance, including the number of units of non-complying products or services concerned, as well as the number of people affected.

## Article 27

### Transposition<sup>47</sup>

1. Member States shall adopt and publish, by [... *insert date - **three** years after the entry into force of this Directive*] [...], the laws, regulations and administrative provisions necessary to comply with this Directive. They shall **immediately** communicate **the text of those measures** to the Commission [...].
2. They shall apply those **measures** from [... *insert date - six years after the entry into force of this Directive*].

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<sup>47</sup> Changes to this Article follow the standard wording in the Joint Handbook.

3. When Member States adopt those **measures**, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
4. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
5. **deleted**

*Article 27a (new)*

*Transitional measures*

1. **Without prejudice to paragraph 2 of this Article, Member States shall provide a transitional period of [5] years after the date referred to in Article 27(2) of this Directive during which service providers may continue to provide their services using products which were lawfully used by it to provide similar services before that date. Service contracts closed before the date referred to in Article 27(2) of this Directive may continue unalteredly until they expire.**
2. **Member States shall provide that self-service terminals lawfully used by service providers in the provision of services before the date referred to in Article 27(2) of this Directive may be used in the provision of that service as long as they are not replaced or until the end of their economic life, but no longer than 20 years.**

*Article 28*

*Report and review*

By [...insert date - five years after the application of this Directive], and every five years thereafter, the Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on the application of this Directive.

1. The report shall, inter alia, address in the light of social, economic and technological developments the evolution of the accessibility of products and services, **technology lock in, barriers to innovation** and the impact on economic operators, and **on** persons with disabilities, identifying where possible, areas for burden reduction, with a view to assessing the need to review this Directive. **The report shall also assess the effects to the functioning of the internal market of the application of Article 12 of this Directive and the exemption of microenterprises providing services.**
2. Member States shall communicate to the Commission in due time all the information necessary for the Commission to draw up such a report.
3. 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 [...].

*Article 29*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 30*

This Directive is addressed to the Member States.

Done at [...],

*For the European Parliament*

The President

*For the Council*

The President

**ACCESSIBILITY REQUIREMENTS REFERRED TO IN ARTICLE 3 FOR  
PRODUCTS AND SERVICES<sup>48</sup>**

**SECTION I: GENERAL ACCESSIBILITY REQUIREMENTS RELATED TO ALL  
PRODUCTS COVERED BY THIS DIRECTIVE IN ACCORDANCE WITH ARTICLE 1(1)**

**Products have to be designed and produced in such a way as to maximise their foreseeable use by persons with disabilities and shall be accompanied by accessible information on their functioning and on their accessibility features.**

**1. Requirements on information provision**

- (a) the information on the use of the product provided on the product itself (labelling, instructions, warning) shall be:**
  - (i) made available by more than one sensory channel;**
  - (ii) presented in an understandable way<sup>49</sup>;**
  - (iii) presented to users in ways they can perceive;**
  - (iv) presented in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use, and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs;**
- (b) the product instructions for use not provided on the product itself but made available through the use of the product or through other means such as a website, including the accessibility functions of the product, their activation and their interoperability with assistive solutions shall:**
  - (i) be made available by more than one sensory channel;**
  - (ii) be presented in an understandable way<sup>50</sup>;**
  - (iii) be presented to users in ways they can perceive;**
  - (iv) be presented in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs;**

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<sup>48</sup> Annex I and Annex Ia numbering has been made consecutive.

<sup>49</sup> *(Note for information, to be deleted from the final text: As defined in WCAG 2.0, to which the European standard EN 301 549 V1.1.2 (2015-04) 'Accessibility requirements suitable for public procurement of ICT products and services in Europe' also refers.)*

<sup>50</sup> Ibid.



- (v) with regard to content, be made available in text formats that can be used for generating alternative assistive formats to be presented in different ways and via more than one sensory channel, and
- (vi) be accompanied by an alternative presentation of any non-textual content;
- (vii) include a description of the user interface of the product (handling, control and feedback, input and output) which is provided in accordance with sub-section 2;
- (viii) include a description of the functionality of the product which is provided by functions aiming to address the needs of persons with disabilities in accordance with sub-section 2;
- (ix) include a description of the software and hardware interfacing of the product with assistive devices.

**2. User interface and functionality design:**

**The product, including its user interface, shall contain features, elements and functions, that allow persons with disabilities to access, perceive, operate, understand and control the product by ensuring that:**

- (a) when the product provides for communication, including interpersonal communication, operation, information, control and orientation it shall do so via more than one sensory channel; this shall include providing alternatives to vision, auditory, speech and tactile elements;
- (b) when the product uses speech it shall provide alternatives to speech and vocal input for communication, operation control and orientation;
- (c) when the product uses visual elements it shall provide for flexible magnification, brightness and contrast for communication, information and operation, as well as ensure interoperability with programmes and assistive devices to navigate the interface;
- (d) when the product uses colour to convey information, indicate an action, require a response or identify elements, it shall provide an alternative to colour;
- (e) when the product uses audible signals to convey information, indicate an action, require a response or identify elements, it shall provide an alternative to audible signals;

- (f) when the product uses visual elements it shall provide for flexible ways of improving vision clarity;**
- (g) when the product uses audio it shall provide for user control of volume and speed, and enhanced audio features including the reduction of interfering audio signals from surrounding products and audio clarity;**
- (h) when the product requires manual operation and control, it shall provide for sequential control and alternatives to fine motor control, avoiding the need for simultaneous controls for manipulation, and shall use tactile discernible parts;**
- (i) the product shall avoid modes of operation requiring extensive reach and great strength;**
- (j) the product shall avoid triggering photosensitive seizures;**
- (k) the product shall protect the user's privacy when he or she uses the accessibility features;**
- (l) the product shall provide an alternative to biometrics identification and control;**
- (m) the product shall ensure consistency of the functionality and provide enough and flexible time for interaction;**
- (n) the product shall provide software and hardware for interfacing with the assistive technologies;**
- (o) the product complies with the following sector-specific requirements:**
  - (i) consumer terminal equipment with interactive computing capability used for the provision of electronic communication services:**
    - shall, when such products have text capability in addition to voice, provide for the handling of real time text;**
    - shall, when they have video capabilities in addition or in combination with text and voice, provide for the handling of total conversation including synchronised voice, real time text, and video**
    - shall avoid interferences with assistive devices.**
  - (ii) consumer terminal equipment with interactive computing capability used for accessing audio-visual media services:**
    - shall make available to persons with disabilities the accessibility components provided by the audio-visual media service provider, for user access, selection, control, and personalisation and for transmission to assistive devices.**

**SECTION II: ACCESSIBILITY REQUIREMENTS RELATED TO PRODUCTS  
IN ARTICLE 1(1), WITH THE EXCEPTION OF THE SELF-SERVICE TERMINALS  
REFERRED TO IN ARTICLE 1(1)(B)**

In addition to Section I the packaging and instructions of products covered by this Section shall, in order to maximise their foreseeable use by persons with disabilities, be made accessible. This shall mean that:

- (a) the packaging of the product including the information provided in it (e.g. about opening, closing, use, disposal) including, when provided, information about the accessibility characteristics of the product shall be made accessible;**
- (b) the product instructions for the installation and maintenance, storage and disposal of the product not provided on the product itself but made available through other means such as a website shall comply with the following requirements:**
  - (i) be available by more than one sensory channel;**
  - (ii) be presented in an understandable way<sup>51</sup> ;**
  - (iii) be presented to users in ways they can perceive;**
  - (iv) use fonts of adequate size and suitable shape, taking into account foreseeable conditions of use, and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs;**
  - (v) content of instruction shall be made available in text formats that can be used for generating alternative assistive formats to be presented in different ways and via more than one sensory channel, and**
  - (vi) instructions containing any non-textual content shall be accompanied by an alternative presentation of that content.**

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<sup>51</sup> *(Note for information, to be deleted from the final text: As defined in WCAG 2.0, to which the European standard EN 301 549 V1.1.2 (2015-04) 'Accessibility requirements suitable for public procurement of ICT products and services in Europe' also refers.)*

**SECTION III: GENERAL ACCESSIBILITY REQUIREMENTS RELATED TO ALL SERVICES COVERED BY THIS DIRECTIVE IN ACCORDANCE WITH ARTICLE 1(2)**

The provision of services in order to maximise their foreseeable use by persons with disabilities, shall be achieved by:

- (a) ensuring the accessibility of the products used in the provisions of the service, in accordance with Section I of this Annex and, where applicable, Section II thereof.**
- (b) providing information about the functioning of the service, and where products are used in the provision of the service, its link to these products as well as information about their accessibility characteristics and interoperability with assistive devices and facilities:**
  - (i) making the information available by more than one sensory channel;**
  - (ii) presenting the information in an understandable way<sup>52</sup>;**
  - (iii) presenting the information to users in ways they can perceive;**
  - (iv) making the information content available in text formats that can be used to generate alternative assistive formats to be presented in different ways by the users and via more than one sensory channel;**
  - (v) using fonts of adequate size and suitable shape, taking into account foreseeable conditions of use and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs;**
  - (vi) supplementing any non-textual content with an alternative presentation of that content and;**
  - (vii) providing electronic information needed in the provision of the service in a consistent and adequate way by making it perceivable, operable, understandable and robust.**
- (c) making websites, including the related online applications and mobile device based services including mobile applications accessible in a consistent and adequate way by making them perceivable, operable, understandable and robust.**

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<sup>52</sup> (Note for information, to be deleted from the final text: A s defined in WCAG 2.0, to which the European standard EN 301 549 V1.1.2 (2015-04) 'Accessibility requirements suitable for public procurement of ICT products and services in Europe' also refers.)

#### ***SECTION IV: ADDITIONAL ACCESSIBILITY REQUIREMENTS RELATED TO SPECIFIC SERVICES:***

The provision of services in order to maximise their foreseeable use by persons with disabilities, shall be achieved by including functions, practices, policies and procedures and alterations in the operation of the service targeted to address the needs of persons with disabilities:

**(i) Electronic communication and emergency communication:**

- 1. Providing real time text in addition to voice communication;**
- 2. Providing total conversation where video is provided in addition to voice communication;**
- 3. Ensuring that emergency communication using voice, text (including real time text) and video, where provided, is synchronised as total conversation and transmitted by the electronic communication service providers to the PSAP designated to answer those communication means.**

**(ii) Services providing access to Audiovisual Media Services:**

- 1. [Providing Electronic Programme Guides which are perceivable, operable, understandable and robust and provide information about the availability of accessibility,];**
- 2. Ensuring that the accessibility features of the audiovisual media services as referred in Article 7 of Directive 2010/13/EU are fully transmitted with adequate quality for accurate display, and synchronised with sound and video, while allowing for user control of their display and use.**

**(iii) E-books by:**

- 1. Ensuring that, when an e-book contains audio in addition to text, it then provides synchronised text and audio;**
- 2. Ensuring that e-book digital files do not prevent assistive technology from operating properly;**
- 3. Ensuring access to the content, the navigation of the file content and layout including dynamic layout, the provision of the structure, flexibility and choice in the presentation of the content;**

4. Making them discoverable by providing information through metadatas about their accessibility features;
5. Ensuring that Digital Rights Management measures do not block accessibility features.

**(iv) E-Commerce by:**

1. Providing the information concerning accessibility of the products and services being sold when this information is provided by the responsible economic operator;
2. Ensuring the accessibility of the functionality for identification, security and payment when delivered as part of a service instead of a product by making it perceivable, operable, understandable and robust;
3. Providing identification methods, electronic signatures, and payment services which are perceivable, operable, understandable and robust.

**(v) Banking services by:**

1. Providing identification methods, electronic signatures, and payment services which are perceivable, operable, understandable and robust.

***SECTION V: SPECIFIC ACCESSIBILITY REQUIREMENTS RELATED TO THE ANSWERING OF CALLS TO THE SINGLE EUROPEAN EMERGENCY NUMBER 112:***

**[...]**

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**INDICATIVE EXAMPLES OF HOW THE ACCESSIBILITY REQUIREMENTS IN ANNEX I COULD BE COMPLIED WITH, EXAMPLES OF RESULTS THAT SHOULD BE ACHIEVED; OR EXAMPLES OF ELEMENTS OF THESE**

**SECTION I: GENERAL ACCESSIBILITY REQUIREMENTS RELATED TO ALL PRODUCTS COVERED BY THIS DIRECTIVE IN ACCORDANCE WITH ARTICLE 1(1)**

**Products have to be designed and produced in such a way as to maximise their foreseeable use by persons with disabilities and shall be accompanied by accessible information on their functioning and on their accessibility features.**

**1. Examples of how to comply with accessibility requirements related to the provision of information**

- (a) the information on the use of the product provided on the product itself (labelling, instructions, warnings) shall be:**
  - (i) made available by more than one sensory channel (for example, by providing visual and tactile information or visual and auditory information indicating the place where to introduce a card in a Self Service Terminal so that blind and deaf persons can use it);**
  - (ii) presented in an understandable way<sup>53</sup> (for example using the same words in a consistent manner, or in a clear and logical structure, so that persons with intellectual disabilities can better understand it);**
  - (iii) presented to users in ways they can perceive (for example providing tactile relief format or sound alongside a text warning so that blind persons can perceive it);**

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<sup>53</sup> *(Note for information, to be deleted from the final text: As defined in WCAG 2.0, to which the European standard EN 301 549 V1.1.2 (2015-04) 'Accessibility requirements suitable for public procurement of ICT products and services in EEurope' also refers.)*

- (iv) **presented in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use, and using sufficient contrast as well as adjustable spacing between letters, lines and paragraphs (for example, so that the text can be read by persons who are visually impaired);**
  
- (b) the product instructions for use not provided on the product itself but made available through the use of the product or through other means such as a website, including the accessibility functions of the product, their activation and their interoperability with assistive solutions shall:**
  - (i) be made available by more than one sensory channel (for example providing electronic files which can be read by a computer using screen readers so that blind persons can use the information);**
  - (ii) be presented in an understandable way<sup>54</sup> (for example using the same words in a consistent manner, or in a clear and logical structure, so that persons with intellectual disabilities can better understand them);**
  - (iii) be presented to users in ways they can perceive (for example in the form of subtitles when video instructions are provided);**
  - (iv) be presented in fonts of adequate size and suitable shape, taking into account foreseeable conditions of use, and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs (for example, so that the text can be read by persons who are visually impaired);**
  - (v) with regard to content, be made available in text formats that can be used for generating alternative assistive formats to be presented in different ways and via more than one sensory channel (for example, printed in Braille, so that a blind person can use them,), and**
  - (vi) be accompanied by an alternative presentation of any non-textual content (for example, a diagram would be accompanied by a text description identifying the main elements or describing key actions).**

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<sup>54</sup> Ibid.



- (vii) include a description of the user interface of the product (handling, control and feedback, input and output) which is provided in accordance with sub-section 2.**
- (viii) include a description of the functionality of the product which is provided by functions aiming to address the needs of persons with disabilities in accordance with sub-section 2.**
- (ix) include a description of the software and hardware interfacing of the product with assistive devices (for example including a socket and software in an ATM which will allow the plugging of a headphone which will receive the text on the screen in the form of sound).**

**2. Examples of how to comply with accessibility requirements related to a user interface and functionality design:**

**The product, including its user interface shall contain features, elements and functions, that allow persons with disabilities to access, perceive, operate, understand and control the product.**

- (a) when the product provides for communication, including interpersonal communication, operation, information, control and orientation, it shall do so via more than one sensory channel; this shall include providing alternatives to vision, auditory, speech and tactile elements (for example, by providing instructions in the form of voice and text, or by incorporating tactile signs in a keypad, so that persons who are blind or hard of hearing can interact with the product);**
- (b) when the product uses speech it shall provide alternatives to speech and vocal input for communication, operation control and orientation (for example a self-service terminal that offers spoken instructions shall also offer them, for example, in the form of text or images so that deaf persons can also perform the action required);**

- (c) when the product uses visual elements it shall provide for flexible magnification, brightness and contrast for communication, information and operation, as well as ensure interoperability with programmes and assistive devices to navigate the interface (for example, by allowing users to enlarge a text, to zoom in on a particular pictogram or to increase the contrast, so that persons who are visually impaired can perceive the information);**
- (d) when the product uses colour to convey information, indicate an action, require a response or identify elements, it shall provide an alternative to colour (for example, in addition of giving a choice to press the green or the red button for selecting an option, it could also be written on the buttons what the options are, in order to allow person who are colour blind to make the choice);**
- (e) when the product uses audible signals to convey information, indicate an action, require a response or identify elements, it shall provide an alternative to audible signals (for example, when a computer gives an error signal, it could also provide a written text or an image indicating the error, so as to allow deaf persons to apprehend that an error is occurring);**
- (f) when the product uses visual elements or audio it shall provide for flexible ways of improving vision and audio clarity (for example, it can allow for additional contrast in foreground images so that persons who have low vision can see them);**
- (g) when the product uses audio it shall provide for user control of volume and speed, and enhanced audio features including the reduction of interfering audio signals from surrounding products (for example, by allowing the user of a telephone to select the volume of the sound and reduce the interference with hearing aids so that hard of hearing persons can use the phone);**

- (h) when the product requires manual operation and control, it shall provide for sequential control and alternatives to fine motor control, avoiding the need for simultaneous controls for manipulation, and shall use tactile discernible parts (for example, by making touch screen buttons bigger and well separated so that persons with tremor can press them);**
- (i) the product shall avoid modes of operation requiring extensive reach and great strength (for example, by ensuring that buttons to be pressed do not require much force so that persons who have motor impairments can use them);**
- (j) the product shall avoid triggering photosensitive seizures (for example, by avoiding flickering images so that persons who get seizures are not at risk);**
- (k) the product shall protect the user's privacy when he or she uses the accessibility features (for example, by allowing the use of headphones when spoken information is provided by an ATM);**
- (l) the product shall provide an alternative to biometric identification and control (for example, as an alternative to fingerprint recognition, allowing users who cannot use their hands to select a password for locking and unlocking a phone);**
- (m) the product shall ensure consistency of the functionality and provide enough and flexible time for interaction (for example, by ensuring that the software reacts in a predictable way when a particular action is performed and providing enough time to enter a password so that is easy to use for persons with intellectual disabilities);**
- (n) the product shall provide software and hardware for interfacing with assistive technologies (for example, by offering a connection with a refreshable Braille display so that blind persons can use the computer);**

- (o) the product complies with the following sector-specific requirements:**
- (i) consumer terminal equipment with interactive computing capability used for the provision of electronic communication services:**
- shall, when such products have text capability in addition to voice, provide for the handling of real time text (for example, a mobile phone shall be able to handle real time conversations so that persons who are hard of hearing can exchange information in an interactive way);
  - shall, when they have video capabilities in addition or in combination with text and voice, provide for the handling of total conversation including synchronised voice, real time text, and video;
  - shall avoid interference with assistive devices (for example, by allowing the simultaneous use of video to display sign language and text to write a message, so that two deaf persons can communicate with each other or with a hearing person).
- (ii) consumer terminal equipment with interactive computing capability used for accessing audio-visual media services:**
- shall make available to persons with disabilities the accessibility components provided by the audio-visual media service provider for user access, selection, control, and personalisation and for transmission to assistive devices (for example, by ensuring that subtitles are transmitted through the set top box for their use by deaf persons).

***SECTION II: ACCESSIBILITY REQUIREMENTS RELATED TO PRODUCTS IN ARTICLE 1(1), WITH THE EXCEPTION OF THE SELF-SERVICE TERMINALS REFERRED TO IN ARTICLE 1(1)(B)***

**Examples of how to comply with accessibility requirements related to packaging and instructions:**

- (a) the packaging of the product, including the information provided in it (e.g. about opening, closing, use, disposal) including, when provided, information about the accessibility characteristics of the product shall be made accessible (for example, by indicating in the packaging that the phone contains accessibility features for persons with disabilities);**
  
- (b) the product instructions for the installation and maintenance, storage and disposal of the product not provided on the product itself but made available through other means such as a website shall comply with the following requirements, which could be met as illustrated by the examples listed for each point below:**
  - (i) be available by more than one sensory channel (for example, by providing electronic files which can be read by a computer using screen readers so that blind persons can use the information);**
  - (ii) be presented in an understandable way<sup>55</sup> (for example, by using the same words in a consistent manner, or in a clear and logical structure, so that persons with intellectual disabilities can better understand it);**

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<sup>55</sup> *(Note for information, to be deleted from the final text: As defined in WCAG 2.0, to which the European standard EN 301 549 V1.1.2 (2015-04) 'Accessibility requirements suitable for public procurement of ICT products and services in Europe' also refers.)*

- (iii) be presented to users in ways they can perceive (for example, by providing tactile relief format or sound when a text warning is present so that blind persons receive the warning);**
- (iv) use adequate size and suitable shape, taking into account foreseeable conditions of use, and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs (for example, so that the text can be read by persons who are visually impaired);**
- (v) content of instruction shall be made available in text formats that can be used for generating alternative assistive formats to be presented in different ways and via more than one sensory channel (for example, printed in Braille, so that a blind person can read it), and**
- (vi) instructions containing any non-textual content shall be accompanied by an alternative presentation of that content (for example, by supplementing a diagram with a text description identifying the main elements or describing key actions).**

**SECTION III: GENERAL ACCESSIBILITY REQUIREMENTS RELATED TO ALL SERVICES COVERED BY THIS DIRECTIVE IN ACCORDANCE WITH ARTICLE 1(2)**

**Examples of how to comply with the accessibility requirements applicable to the provision of services in order to maximise their foreseeable use by persons with disabilities:**

- (a) Ensuring the accessibility of the products used in the provision of the service, in accordance with Section I of this Annex and, where applicable, Section II thereof.**
- (b) Providing information about the functioning of the service, and where products are used in the provision of the service, its link to these products as well as information about their accessibility characteristics and interoperability with assistive devices and facilities:**
  - (i) Making the information available by more than one sensory channel (for example, by providing electronic files which can be read by a computer using screen readers so that blind persons can use the information);**
  - (ii) Presenting the information in an understandable way<sup>56</sup> (for example, by using the same words in a consistent manner or in a clear and logical structure so that persons with intellectual disabilities can better understand it);**
  - (iii) Presenting the information to users in ways they can perceive (for example, by including subtitles when a video with instructions is provided);**
  - (iv) Making the information content available in text formats that can be used to generate alternative assistive formats to be presented in different ways by the users and via more than one sensory channel (for example, so that a blind person can use a file by printing it in Braille);**

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<sup>56</sup> *(Note for information, to be deleted from the final text: A s defined in WCAG 2.0, to which the European standard EN 301 549 V1.1.2 (2015-04) 'Accessibility requirements suitable for public procurement of ICT products and services in Europe' also refers.)*

- (v) Using fonts of adequate size and suitable shape, taking into account foreseeable conditions of use and using sufficient contrast, as well as adjustable spacing between letters, lines and paragraphs (for example, so that the text can be read by persons who are visually impaired);**
  - (vi) Supplementing any non-textual content with an alternative presentation of that content (for example, by supplementing a diagram with a text description identifying the main elements or describing key actions) and;**
  - (vii) Providing electronic information, needed in the provision of the service in a consistent and adequate way by making it perceivable, operable, understandable and robust (for example, when a service provider offers a USB-key containing information about the service, that information needs to be accessible).**
- (c) Making websites and mobile device based services including mobile applications accessible in a consistent and adequate way by making them perceivable, operable, understandable and robust (for example, by providing text description of pictures, making all functionality available from a keyboard, giving users enough time to read, making content appear and operate in a predictable way, and providing compatibility with assistive technologies, so that persons with diverse disabilities can read and interact with a website).**



**SECTION IV: ADDITIONAL ACCESSIBILITY REQUIREMENTS RELATED TO SPECIFIC SERVICES:**

**Examples of how to comply with accessibility requirements related to specific services:**

**(i) Electronic communication and emergency communication:**

- 1. Providing real time text in addition to voice communication (for example, so that a hard of hearing person could write and receive text in an interactive manner and in real time);**
- 2. Providing total conversation where video is provided in addition to voice communication (for example, so that deaf persons can use sign language to communicate among themselves);**
- 3. Ensuring that emergency communication using voice, text (including real time text) and video, where provided, is synchronised as total conversation and transmitted by the electronic communication service providers to the PSAP designated to answer those communication means (for example so that a person who has speech and hearing impairments and chooses to use a combination of text, voice and video, knows that the communication is transmitted through the network to an emergency service)**

**(ii) Services providing access to Audiovisual Media Services:**

- 1. [Providing Electronic Programme Guides which are perceivable, operable, understandable and robust and provide information about the availability of accessibility,] (for example, so that a blind person can select programmes on the TV);**

2. **Ensuring that the accessibility features of the audiovisual media services as referred in Article 7 of Directive 2010/13/EU are fully transmitted with adequate quality for accurate display, and synchronised with sound and video, while allowing for user control of their display and use (for example, by ensuring that subtitles or audio-description are transmitted with audiovisual media content).**

**(iii) E-books:**

1. **Ensuring that, when an e-book contains audio in addition to text, it then provides synchronised text and audio (for example, so that a person with dyslexia can read and hear the text at the same time);**
2. **Ensuring that e-book digital files do not prevent assistive technology from operating properly (for example by enabling synchronized text and audio output or by enabling a refreshable braille transcript);**
3. **Ensuring access to the content, the navigation of the file content and layout (including dynamic layout), the provision of the structure, flexibility and choice in the presentation of the content (for example, so that a blind person can access the index or change chapters);**
4. **Making them discoverable by providing information through metadata about their accessibility features (for example, by ensuring that information on their accessibility features is available in the electronic file so that persons with disabilities can be informed);**
5. **Ensuring that Digital Rights Management measures do not block accessibility features (for example, by ensuring that there is no blocking for the text to be read aloud so that blind users can read the book).**

**(iv) E-Commerce by:**

- 1. Providing the information concerning accessibility of the products and services being sold when this information is provided by the responsible economic operator (for example, by ensuring that available information on the accessibility features of a product is not deleted);**
- 2. Ensuring the accessibility of the functionality for identification, security and payment when delivered as part of a service (instead of a product) by making it perceivable, operable, understandable and robust (for example, by making the payment service user interface available by voice so that blind persons can make online purchases independently);**
- 3. Providing identification methods, electronic signatures and payment services which are perceivable, operable, understandable and robust (for example, by making the identification dialogues on a screen readable by screen readers so that blind persons can use them).**

**(v) Banking services:**

- 1. Providing identification methods, electronic signatures and payment services which are perceivable, operable, understandable and robust (for example making the identification dialogues on a screen readable by screen readers so that blind persons can use them).**

***SECTION V: SPECIFIC ACCESSIBILITY REQUIREMENTS RELATED TO THE ANSWERING OF CALLS TO THE SINGLE EUROPEAN EMERGENCY NUMBER 112:***

**[...]**

**CONFORMITY ASSESSMENT PROCEDURE – PRODUCTS****1. Internal production control**

[...] Internal production control is the conformity assessment procedure whereby the manufacturer fulfils the obligations laid down in points 2, 3 and 4, and ensures and declares on his sole responsibility that the products [...] concerned satisfy the appropriate requirements of this Directive.

**2. Technical documentation**

The manufacturer shall establish the technical documentation. The documentation shall make it possible to assess the conformity of the product to the relevant accessibility requirements referred to in Article 3 and, in case manufacturer used the exception provided for in Article 12, to demonstrate that relevant accessibility requirements would impose a fundamental alteration or a disproportionate burden. The technical documentation shall specify only the applicable requirements and cover, as far as relevant for the assessment, the design, manufacture and operation of the product.

The technical documentation shall, wherever applicable, contain at least the following elements:

- (a) a general description of the product.
- (b) a list of the harmonised standards and/or other relevant technical specifications the references of which have been published in the *Official Journal of the European Union*, applied in full or in part, and descriptions of the solutions adopted to meet the relevant accessibility requirements referred to in Article 3 where those harmonised standards have not been applied; in the event of partly applied harmonised standards, the technical documentation shall specify the parts which have been applied.

### 3. **Manufacturing**

The manufacturer shall take all measures necessary so that the manufacturing process and its monitoring ensure compliance of the products with the technical documentation referred to in point 2 and with the accessibility requirements of this Directive.

### 4. **Conformity marking and declaration of conformity**

4.1. The manufacturer shall affix the CE marking referred to in this Directive to each individual product that satisfies the applicable requirements of this Directive.

4.2 The manufacturer shall draw up a written declaration of conformity for a product model. The declaration of conformity shall identify the product for which it has been drawn up.

A copy of the declaration of conformity shall be made available to the relevant authorities upon request.

### 5. **Authorised representative**

The **manufacturer's** obligations set out in point 4 may be fulfilled by his authorised representative, on his behalf and under his responsibility, provided that they are specified in the mandate.

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**INFORMATION ON SERVICES MEETING ACCESSIBILITY REQUIREMENTS**

1. The service provider shall include the information assessing how the service meets the accessibility requirements **in Article 3** in the general terms and conditions, or equivalent document. The information shall describe the applicable requirements and cover, as far as relevant for the assessment the design and the operation of the service. In addition to the consumer information requirements of Directive 2011/83/EU of the European Parliament and of the Council<sup>57</sup>, the information shall, wherever applicable, contain the following elements:
  - (a) a general description of the service in accessible formats;
  - (b) descriptions and explanations necessary for the understanding of the operation of the service;
  - (c) a description of how the relevant accessibility requirements set out in Annex I are met by the service.
2. To comply with point 1 the service provider may apply in full or in part the harmonised standards and/or other relevant technical specifications, for which references have been published in the *Official Journal of the European Union*.
3. The service provider shall provide information demonstrating that the service delivery process and its monitoring ensure compliance of the service with point 1 and with the applicable requirements of this Directive.

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<sup>57</sup> Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p.64).

**THE ASSESSMENT OF DISPROPORTIONATE BURDEN**

**Benchmarks to perform and document the assessment:**

- 1. Ratio between the net cost of compliance with accessibility requirements in relation to the overall cost (operating and capital expenditures) of manufacturing, distributing or importing the product or offering the service for the economic operators;**

**Elements to use to assess the net cost of compliance with accessibility requirements:**

- a) criteria related to one-off organisational costs to take into account in the assessment:**
  - costs related to additional human resources with accessibility expertise
  - cost related to training human resources and acquiring competences on accessibility
  - cost of development of new process for including accessibility in the product development or service provision.
  - costs related to development of guidance material on accessibility
  - one-off costs of mastering the legislation on accessibility
- b) criteria related to on-going production and development costs to take into account in the assessment:**
  - costs related to the design of the accessibility features of the product or service
  - cost incurred in the manufacturing processes
  - costs related to testing the product or service for accessibility
  - cost related to establishing documentation.

2. **The estimated costs and benefits for the economic operators, including production processes and investments, in relation to the estimated benefit for persons with disabilities, taking into account the number and frequency of use of the specific product or service.**
  
3. **Ratio between accessibility net cost related to the net turnover of the economic operator.**

**Elements to use to assess the accessibility net cost:**

- a) **criteria related to one-off organisational costs to take into account in the assessment:**
  - **costs related to additional human resources with accessibility expertise**
  - **cost related to training human resources and acquiring competences on accessibility**
  - **cost of development of new process for including accessibility in the product development or service provision.**
  - **costs related to development of guidance material on accessibility**
  - **one off costs of mastering the legislation on accessibility**
  
- b) **criteria related to on-going production and development costs to take into account in the assessment:**
  - **costs related to the design of the accessibility features of the product or service**
  - **cost incurred in the manufacturing processes**
  - **costs related to testing the product or service for accessibility**
  - **cost related to establishing documentation.**