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## REPORT

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From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 1)

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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

- *Analysis of the final compromise text with a view to agreement*

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Delegations will find attached the provisional agreement on the above proposal, subject to the agreement by the Committee of Permanent Representatives, with a view to reaching a first-reading agreement with the European Parliament.

The changes in relation to the Commission proposal are marked *in bold italics* or in **bold** (Annexes).

# DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

## On 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>1</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (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 *as regards accessibility requirements for certain products and services, by, in particular, eliminating and preventing barriers arising from divergent accessibility requirements in the Member States* to the free movement of certain accessible products and services. This *would* increase the availability *of* accessible products and services *in* the internal market *and improve the accessibility of relevant information*.
- (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. In this context, it should be kept in mind that the prevalence of disability in the Union is higher among women than among men*.

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<sup>1</sup> Adopted 25 May 2016. OJ C , , p. .

- (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 and which all Member States have ratified. 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, such as elderly persons, pregnant women or persons travelling with luggage, would also benefit from this Directive. The concept of "persons with functional limitations", as referred to in this Directive, includes persons who have any physical, mental, intellectual or sensory impairment, age related impairment, or other human body performance related causes, permanent or temporary, which in interaction with various barriers result in their reduced access to products and services, leading to a situation that requires adaptation to their particular needs of those products and services.*
- (3) The disparities between the laws and administrative measures adopted by Member States in relation to **the** accessibility of products and services for persons with disabilities, create barriers to **their** free movement and distort effective competition in the internal market. **For other products, those disparities are likely to increase in the Union after the entry into force of the Convention.** 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.
- (5) Consumers of accessible products and services *and of assistive technologies and 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 *to cover expenses arising from fragmented legislation*.
- (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>2</sup> and Regulation (EC) No 661/2009 of the European Parliament and of the Council<sup>3</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.

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<sup>2</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>3</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).

- (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 **Articles 21, 25 and 26** of the Charter of Fundamental Rights of the European Union.
- (10) The overall aim of the 'Digital Single Market Strategy', is to deliver sustainable economic and social benefits from a connected digital single market, **facilitating trade and promoting employment within the Union**. 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 **and** are binding upon the institutions of the Union and on its Member States.
- (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.

- (12a)(new) The UN CRPD calls on State Parties to undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities. The Convention also calls for priority to be given to affordable technologies.***
- (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.***
- (13a) Urban authorities are to be encouraged to integrate barrier-free accessibility to urban transport services in their Sustainable Urban Mobility Plans (SUMPs), as well as to regularly publish lists of best practices regarding barrier-free accessibility to urban public transport and mobility.***
- (14) It is therefore necessary to facilitate the implementation ***in the EU*** of the Convention by providing common Union rules. ***This Directive also supports Member States in their efforts to achieve their national commitments as well as their obligations under the UNCRPD regarding accessibility in a harmonised manner.***
- (15) The ***communication of the Commission of 15 November 2010*** “European Disability Strategy 2010-2020 – A Renewed Commitment to a Barrier-Free Europe” – in line with the Convention, establishes accessibility as one of the eight areas of action, ***indicates that it is a basic precondition for participation in society,*** and aims ***to ensure the*** accessibility of products and services.
- (16) ***The determination of the products*** and services falling within the scope of this Directive ***is based on*** 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.***

- (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.***
- (17b)(new) Even if a service, or part of a service, is subcontracted to a third party, the accessibility of that service should not be compromised and the service providers should comply with the obligations set out in this Directive. Service providers should also ensure proper and continuous training of their personnel in order to ensure that they are knowledgeable about how to use accessible products and services. That training should cover issues such as information provision, advice and advertising.***
- (18) Accessibility requirements ***should be introduced*** in the ***manner that is*** least burdensome for the economic operators and the Member States.
- (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, ***as well as leave a certain degree of flexibility in order to allow for innovation.***
- (20a)(new) This Directive contains a number of functional performance criteria related to modes of operations of products and services. They are not meant as a general alternative to the accessibility requirements of this Directive but should be used in very specific circumstances only. These functional performance criteria should apply to specific functions or features of those products or services, to make them accessible, when the accessibility requirements do not address one or more of those specific functions or features of those products or services.***

*In addition, in the eventual case that an accessibility requirement would contain specific technical requirements, and an alternative technical solution for those technical requirements is provided in the product or service, this alternative technical solution, should still comply with the related accessibility requirements and result in equivalent or increased accessibility by applying the relevant functional performance criteria.*

- (20a)(new) This Directive should cover general purpose consumer computer hardware systems. For these systems to perform in an accessible manner, their operating systems should also be accessible. 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 communications services including emergency communications as defined in the EECC. At present, the measures taken by Member States to provide access to disabled persons 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 facilitate the effective access for persons with disabilities in their own Member States and when travelling between Member States. For electronic communications services including emergency communications to be accessible, providers should, in addition to voice, provide real time text and total conversation where video is provided by them, ensuring the synchronisation of all those communication means. Member States in addition to the requirements of this Directive in accordance with the Electronic Communication Code, should be able to determine a relay service provider that could be used by persons with disabilities.*



- (20ba)(new)*** *This Directive harmonises accessibility requirements for electronic communication services and related products, complements the Electronic Communications Code which sets requirements on equivalent access and choice for end-users with disabilities. The European Electronic Communications Code also sets requirements under universal service obligations on the affordability of internet access and voice communications and the affordability and availability of related terminal equipment, specific equipment and services for end-users with disabilities.*
- (20c)(new)*** *This Directive should also cover consumer terminal equipment with interactive computing capability foreseeably to be primarily used to access electronic communication services. For the purpose of this Directive the latter category should be deemed to include equipment used as part of the setup in accessing said services such as a router or a modem.*
- (20d)(new)*** *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 that allow users with disabilities to use their assistive technologies. Services providing access to audiovisual media services could 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. Accessibility of audiovisual media services is regulated in Directive 2010/13/EC. Exceptions are the electronic programming guides (EPGs) and services providing access to audiovisual media services to which this Directive applies.*

**(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. 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. In the context of e-books the concept of a service provider could include publishers and other economic operators involved in their distribution. It is recognised that people with disabilities continue to face barriers to access content because of copyrights and related rights and that certain measures have already been taken to address this situation through Directive 2017/1564 and Regulation 2017/1563, but also that further Union measures could be taken in this respect in the future.*

**(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. Given the increased relevance of e-commerce and its high technological nature, it is important to have harmonised requirements for its accessibility.*

- (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, including where provided through websites and mobile applications, 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 payment terminals both hardware and software and certain interactive self-service terminals including both hardware and software dedicated to be used for the provision of services covered by this Directive, for example Automated Teller Machines, ticketing machines issuing physical tickets granting access to services such as travel ticket dispensers, bank office queuing ticket machines; and interactive self-service terminals providing travel information, including interactive information screens.*
- (20ja)(new)** *However, certain interactive self-service terminals installed as integrated parts of vehicles, aircrafts, ships or rolling stock should be excluded from the scope of this Directive since these form part of those vehicles, aircrafts, ships or rolling stock which are not covered by this Directive.*

- (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.*
- (22c)(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. Where this Directive does not apply to certain types of transport services, Member States should encourage service providers to apply the relevant accessibility requirements provided for in this Directive.*
- (20m)(new)** *Directive 2016/2102 of the European Parliament and of the Council on accessibility of public sector websites already provides for obligations for public sector bodies delivering transport services, including urban transport services, to make their websites accessible.*
- The present Directive moreover contains exemptions for micro-enterprises providing services, including urban transport services. In addition, this Directive includes obligations for e-commerce websites to be accessible. Since this legislation will therefore oblige the large majority of private transport service providers to make their websites accessible, when selling tickets on-line, it is not necessary to introduce further requirements for websites of urban transport service providers in the present Directive.*

***(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>4</sup> Regulation (EU) 181/2011 of the European Parliament and of the Council as regards bus and coach transport;<sup>5</sup> Regulation (EU) 1177/2010 of the European Parliament and of the Council as regards sea and inland waterway transport<sup>6</sup> and Regulation (EC) 1107/2006 as well as Regulation (EC) 261/2004<sup>7</sup> concerning the rights of disabled persons and persons with reduced mobility when travelling by air. This includes also Commission Regulation (EU) 1300/2014<sup>8</sup> and Commission Regulation (EU) 454/2011<sup>9</sup> as regards rail transport adopted on the basis of Directive 2008/57/EC. 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>4</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>5</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>6</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>7</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).

<sup>8</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>9</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).

***(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.***

***(53a)(new) The accessibility requirements under this Directive should apply to products placed on the Union market and services delivered after the date of application of the national measures transposing 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>20</sup>defines accessibility requirements for 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, that Directive contains a specific list of exceptions. Similar exceptions are relevant for this Directive. Some activities that take place via public sector websites and mobile applications, such as for example passenger transport services or e-commerce, which fall within the scope of this Directive, should in addition 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 whether the seller is a public or private economic operator. The accessibility requirements set out in this Directive should be aligned to the requirements of Directive (EU) 2016/2102, despite differences for example in monitoring, reporting and enforcement.*****

- (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.
- (22a)(new) The measures related to the accessibility of the answering of emergency communications should be adopted without prejudice to, and should have no impact on, the organisation of emergency services themselves, which remains in the exclusive competence of Member States.*
- (22b)(new) It is recalled that, in accordance with the European Electronic Communications Code (EECC), Member States should ensure that access for end-users with disabilities to emergency services is available through emergency communications and equivalent to that enjoyed by other end-users in accordance with Union law harmonising accessibility requirements for products and services. The Commission and the national regulatory and/or other competent authorities should take appropriate measures to ensure that end-users with disabilities can access emergency services on an equivalent basis with others, whilst travelling in another Member States, where feasible, without any pre-registration. These measures should seek to ensure interoperability across Member States and should be based to the greatest extent possible on European standards or specifications published in accordance with the provisions of Article 39 (EECC), and they should not prevent Member States from adopting additional requirements in order to pursue the objectives set out in the EECC.*

*As an alternative to fulfilling the accessibility requirements with regard to the answering of emergency communication services for users with disabilities set out by this Directive, Member States should be able to determine a third party relay service provider to be used by persons with disabilities to communicate with the public safety answering point, until those public safety answering points are capable to use electronic communication services through internet protocols for ensuring accessibility of answering the emergency communications.*

*In any case obligations set in this Directive should not be understood to restrict or lower the equivalent access and accessibility obligations for disabled end users as set in the Electronic Communications Code.*

- (23) In some situations, common accessibility requirements of the built environment would facilitate the free movement of the related services and of persons with disabilities. Therefore, this Directive enables Member States to include the built environment used in the provision of the services under the scope of this Directive, ensuring compliance with the accessibility requirements set in *Annex Ib*.



(24) ***The EU Directive 2014/24/EU and Directive 2014/25/EU on public procurement, defining procedures for the procurement of public contracts and design contests for certain supplies (products), services and works establish that, for all procurement which is intended for use by natural persons, whether general public or staff of the contracting authority or entity, the technical specifications shall, except in duly justified cases, be drawn up so as to take into account accessibility criteria for persons with disabilities or design for all users. Furthermore, they require that, where mandatory accessibility requirements are adopted by a legal act of the Union, technical specifications shall, as far as accessibility for persons with disabilities or design for all are concerned, be established by reference thereto. This Directive establishes mandatory accessibility requirements for products and services covered by it. For products and services not falling under the scope of this Directive, the accessibility requirements of this Directive are not binding. However, the use of these requirements to fulfil the relevant obligations set out in Union acts other than this Directive would facilitate the implementation of accessibility and contribute to the legal certainty and to the approximation of accessibility requirements across the Union. Authorities should not be prevented from establishing accessibility requirements going beyond the accessibility requirements laid down in Annex I.***

***(24a)(new) This Directive should not change the compulsory or voluntary nature of the provisions related to accessibility in other Union acts.***

***(24b)(new) This Directive should only apply to procurement procedures for which the call for competition has been sent or, in case where a call for competition is not foreseen, where the contracting authority or contracting entity has commenced the procurement procedure after the date of application of this Directive.***

(25) Accessibility should be achieved by the **systematic** removal and prevention of barriers, preferably through a **universal design or "design for all" approach**, *contributing to ensure to persons with disabilities access on equal basis with others. According to the Convention, that approach "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 specialized design". In line with the Convention, "'Universal design' is not to 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. *Accessibility and universal design should be interpreted in line with General Comment No. 2(2014) on Article 9 of the Convention as written by the Committee on the Rights of Persons with Disabilities.*

*(25a)(new) Products and services falling within the scope of this Directive do not automatically fall within the scope of Council Directive 93/42/EEC. However, some assistive technologies which are medical devices, may fall within the scope of Council Directive 93/42/EEC.*

(26) Most jobs in the Union are provided by SMEs and micro-enterprises. 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 micro-enterprises by harmonising the national provisions on accessibility while maintaining the necessary safeguards.

*(26a) (new) In order for micro-enterprises and SMEs to benefit from the provisions of this Directive they have to genuinely fulfil the requirements, as understood in Commission Recommendation 2003/361/EC and relevant case law, aimed at preventing the circumvention of these rules.*

- (27) This Directive should be based on Decision No 768/2008/EC of the European Parliament and of the Council<sup>10</sup> as it concerns products already subject to other Union acts, ***in order to ensure*** the consistency of Union legislation, ***while recognising the specific features of the accessibility requirements contained in this Directive.***
- (28) All economic operators ***falling within the scope of this Directive and*** 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 from 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. ***While the responsibility for the conformity of products*** rests with the manufacturer, ***market surveillance authorities should play a crucial role in checking whether products made available in the EU are manufactured according to Union law.***
- (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.

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<sup>10</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).

- (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 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 line* with the criteria *specified* in accordance *with this Directive. Control mechanisms nevertheless should be in place in order to verify entitlement to exceptions to the applicability of accessibility requirements.*
- (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 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 the requirements to the extent that they impose a disproportionate burden. In such duly justified cases, it would not be reasonably possible for an economic operator to fully apply one or more of the accessibility requirements identified in Annex I of this Directive. However, the economic operator should make a service or a product under the scope of this Directive as accessible as possible by applying those requirements to the extent that they do not impose a disproportionate burden. Those accessibility requirements which were not considered by the economic operator to impose a disproportionate burden should fully apply. 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 organisational or financial burden on the economic operator, while taking into account the likely resulting benefit for persons with disabilities in line with the criteria set in this Directive. Criteria based on these considerations should be defined in order to enable both economic operators and relevant 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 criteria identified in Annex IV. The assessment of disproportionate burden should be documented by the economic operator taking into account the relevant criteria. Service providers should re-evaluate the assessment of a disproportionate burden at least every five years.*

- (37bb)(new)** *The economic operator should inform the relevant authorities that it has relied on the provisions related to fundamental alteration and/ or disproportionate burden. Only upon a request from the relevant authorities should the economic operator provide the assessment explaining why its product or service is not fully accessible and providing evidence of the disproportionate burden and/or fundamental alteration.*
- (37c)(new)** *If on the basis of the required assessment, a service provider concludes that it would constitute a disproportionate burden to require that all self-service terminals, used in the provision of these services, comply with the accessibility requirements enshrined in this Directive, they still should apply those requirements to the extent that they do not impose such a disproportionate burden on them. Consequently, they should assess the extent to which a limited level of accessibility in all self-service terminals or a limited number of accessible self-service terminals would allow not to impose a disproportionate burden in order to comply to that extent with the accessibility requirements with this Directive.*
- (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. Requirements and obligations in this Directive should therefore not apply to microenterprises providing services within the scope of this Directive.*

- (37e)(new)** *For microenterprises manufacturing, importing and distributing products within the scope of this Directive there should be lighter requirements and obligations in this Directive in order to avoid administrative burden.*
- (37f)(new)** *While some microenterprises are exempted from the obligations of this Directive, all microenterprises should be encouraged to manufacture, import and distribute products and provide services that comply with the accessibility requirements of this Directive, in order to increase the competitiveness as well as the growth potential of these enterprises in the internal market. Therefore, Member States should provide guidelines and tools to microenterprises to facilitate the application of the national measures transposing this Directive.*
- (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>27</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, *such as standardisation mandates 376, 473 and 420*, 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) *European standards should be market-driven, take into account the public interest, as well as the policy objectives clearly stated in the Commission’s request to one or more European standardisation organisations to draft harmonised standards, and be based on consensus.* In the absence of harmonised standards and where needed for market harmonisation purposes, the Commission should be able to adopt *in certain cases* implementing acts establishing technical specifications for the accessibility requirements set in this Directive. *Recourse to technical specifications should therefore be limited to these cases. The Commission should be able to adopt technical specifications for instance when the standardisation process is blocked due to a lack of consensus between stakeholders or there is undue delays in the establishment of a standard, for example because the required quality is not reached. The Commission should leave enough time between the adoption of a request to one or more European standardisation organisations to draft harmonised standards and the adoption of a technical specification related to the same accessibility requirement. The Commission should not be allowed to adopt a technical specification if it has not previously tried to have the accessibility requirements covered through the European standardisation system, except if the Commission can demonstrate that the technical specifications respect the requirements laid down in Annex II of Regulation (EU) No 1025/2012.*

*(40a)(new) With a view to establishing harmonised standards and technical specifications that meet the accessibility requirements set out in this Directive for the products and services in the most efficient way, the Commission should, where this is feasible, involve European umbrella organisations of persons with disabilities and all other relevant stakeholders in the process.*

(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.
- (42a)(new) When carrying out market surveillance of products and checking compliance of services, authorities should also check that the conformity assessments, including when relevant the assessment of Article 12 and Annex IV has been properly done. When carrying out their duties they should also do so in cooperation with persons with disabilities and the organisations that represent them and their interests.***
- (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>28</sup> setting out the requirements for accreditation and market surveillance relating to the marketing of products. ***In addition to the declaration of conformity, the manufacturer should inform consumers in a cost-effective manner about the accessibility of their 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.
- (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 this Directive, the Commission should establish a working group consisting of relevant stakeholders to facilitate exchange of information and of best practices and to receive advice. Cooperation should be fostered between authorities and relevant stakeholders, including persons with disabilities and organisations representing them, inter alia to improve coherence in the implementation of Articles 3 and 12.***

***(47b)(new) Where appropriate the Commission could adopt non-binding guidelines in consultation with stakeholders which will support coordination among market surveillance authorities and authorities for compliance of services. The Commission and Member States may set up initiatives with the purpose of sharing resources and expertise of authorities.***

(48) Member States are expected to ensure that market surveillance authorities ***and authorities responsible for checking compliance of services*** 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 or authorities responsible checking compliance of services 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.***

(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.

***(51a)(new) In order to ensure the proper application of this Directive, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of: further specifying the accessibility requirements that by their very nature, cannot produce their intended effect unless they are further specified in binding legal acts of the Union; changing the period during which economic operators are to be able to identify any other economic operator who has supplied them with a product or to whom they have supplied a product; and further detailing the relevant criteria that are to be taken into account by the economic operator for the assessment of whether compliance with the accessibility requirements would impose a disproportionate burden. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>11</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.***

***(51b)(new) Member States should ensure that adequate and effective means exist to ensure compliance with this Directive and thus establish appropriate control mechanisms, such as a posteriori control by the market surveillance authorities, in order to verify that the exemption from the accessibility requirements application is justified. When dealing with complaints related to accessibility, Member States should comply with the general principle of good administration, and in particular with the obligation of officials to ensure that a decision on each complaint is taken within a reasonable time-limit.***

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<sup>11</sup> OJ L 123, 12.5.2016, p. 1.

(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 technical specifications*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.<sup>12</sup>

*(52a)(new) Given the existing legal framework concerning remedies in the areas covered by Directives 2014/24/EU and 2014/25/EU, the provisions of this Directive relating to enforcement and penalties should not be applicable to the procurement procedures subject to the obligations imposed by this Directive. Such exclusion is without prejudice to the obligations of Member States under the Treaties to take all measures necessary to guarantee the application and effectiveness of Union law.*

*(52aa)(new) Penalties should be adequate in relation to the character of the infringements and to the circumstances so as not to serve as an alternative to the fulfilment by economic operators of their obligation to make their products or services accessible.*

*(52b)(new) Member States should ensure that, in accordance with existing Union law, alternative dispute resolutions mechanisms are in place that allow the resolution of any alleged non-compliance with this Directive prior to an action being brought before courts or competent administrative bodies.*

(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.

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<sup>12</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).

*(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 a transitional period of 5 years after the date of application on which Member States have 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 certain products and services by, in particular, eliminating and preventing barriers arising from divergent accessibility requirements in the Member States to the free movement of products and services covered by this Directive.*

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

- c) consumer terminal equipment with *interactive* computing capability, *used for electronic communication* services;
  - (d) consumer terminal equipment with *interactive* computing capability, *used for accessing* audio-visual media services; *and*
  - (e) *e-readers*.
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 transmission services used for the provision of machine-to-machine services;*
  - (b) *services providing access to* audiovisual media services;
  - (c) *the following elements of* air, bus, rail and waterborne passenger transport services, *except for urban, suburban and regional transport services for which only the elements under point iii apply:*
    - (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 vehicles, aircrafts, ships and rolling stock used in the provision of any part of such passenger transport services.*

- (d) *consumer* banking services;
- (e) e-books *and dedicated software*;
- (f) e-commerce.

**2a(new)** *This Directive applies to answering of emergency communications to the single European emergency number 112.*

**3.** *Deleted*

- (a) *Deleted*
- (b) *Deleted*
- (c) *Deleted*
- (d) *Deleted*

**6.(new)** *With regard to websites and mobile device-based applications, this Directive does not apply to the following content:*

- (a) *pre-recorded time-based media published prior to [the date of application of this Directive];*
- (b) *office file formats published before ... [the date of application of this Directive];*
- (c) *online maps and mapping services, if essential information is provided in an accessible digital manner for maps intended for navigational use;*
- (d) *third-party content that is neither funded nor developed by, nor under the control of, the economic operator concerned;*
- (e) *content of websites and mobile device-based applications qualifying as archives, meaning that they only contain content that is not updated or edited after ... [the date of application of this Directive].*



**4.(new) This Directive shall be without prejudice to the Marrakech-Directive (2017/1564) and Marrakech-Regulation (2017/1563).**

## Article 2

### **Definitions**

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

- (1) **Deleted**
- (2) **Deleted**
- (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;

**(5a)(new) “service” means a service as defined in point 1 of Article 4 of Directive 2006/123/EC of the European Parliament and of the Council<sup>13</sup>;**

**(5b)(new) "service provider" means any natural or legal person who provides a service on the Union market or makes offers to provide such service to consumers in the Union;**

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<sup>13</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).

- (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;
- (6a)(new)*** "services providing access to audiovisual media services" means services transmitted by electronic communication networks which are used to identify, to select, to receive information on, and view audiovisual media services and any provided features, such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation, which result from the implementation of measures to make them accessible as referred to in Article 7 of Directive 2010/13/EU. They shall also include electronic programming guides (EPGs).
- (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;
- (7) "electronic communication service" means ***electronic communication service as defined in point 4 of Article 2 of Directive (EU) 2018/...*** of the European Parliament and of the Council;<sup>14,15</sup>
- (7a-4)(new)*** "emergency communication" means emergency communication as defined in point 38 of Article 2 of Directive (EU) 2018/...;<sup>++</sup>
- (7a-1)(new)*** "total conversation services" means total conversation service as defined in point 35 of Article 2 of Directive (EU) 2018/...<sup>++</sup>;
- (7a-2)(new)*** "PSAP" means PSAP as defined in point 36 of Article 2 of Directive (EU) 2018/...<sup>++</sup>;
- (7a-3)(new)*** "most appropriate PSAP" means most appropriate PSAP as defined in point 37 of Article 2 of Directive (EU) 2018/...<sup>++</sup>;

<sup>14</sup> Directive (EU) 2018/... of the European Parliament and of the Council of ... establishing the European Electronic Communications Code (OJ L , ..., p. ).

<sup>15</sup> OJ: Please insert in the text the number of the Directive contained in document PE-CONS 52/18 (2016/0288(COD)) and insert the number, date, title and OJ reference of that Directive in the footnote.

- (7a-5)(new) “emergency service” means emergency service as defined in point 39 of Article 2 of Directive (EU) 2018/...<sup>++</sup>;*
- (7a-6)(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;*
- (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;
- (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;
- (14) "economic operator" means the manufacturer, the authorised representative, the importer, the distributor, *or* the service provider;
- (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) "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*
- (20) "withdrawal" means any measure aiming at preventing a product in the supply chain from being made available on the market;
- (20a)(new)** *"consumer banking services" means provision to consumers of the following banking and financial services: 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, 2, 4 and 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;*

- (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;*
- (21a)(new) "air passenger transport services" means *commercial passenger air services, as defined in Article 2(l) 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;*
- (21b)(new) "bus passenger transport services" means *services covered by Article 2(1) and (2) of Regulation (EU) No 181/2011;*
- (21c)(new) "rail passenger transport services" means *all rail passenger services as referred to in Article 2(1), of Regulation (EC) No 1371/2007 with the exception of services referred to in Article 2(2) thereof;*
- (21d)(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;*
- (21e)(new) "assistive technology" means *any item, piece of equipment, service or product system including software that is used to increase, maintain, substitute or improve functional capabilities of individuals with disabilities or for, alleviation and compensation of impairments, activity limitations or participation restrictions;*

- (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;*
- (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;*
- (24)(new) *"interactive computing capability" means functionality supporting human-device interaction allowing for processing and transmission of data, voice and/or video;*
- (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;*
- (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.*
- (29)(new) *Urban and suburban transport services means transport services provided by all transport modes whose principal purpose is to meet the transport needs of an urban centre or conurbation, including a cross-border conurbation, together with transport needs between such a centre or conurbation and surrounding areas, as defined in Article 3(6) of Directive 2012/34/EU. In this Directive, it covers only the following mode of transport: rail, bus and coach, metro, tram and trolley bus.*
- (30)(new) *"Regional transport services" means transport services provided by all transport modes whose principal purpose is to meet the transport needs of a region, including a cross-border region, as defined in Article 3(7) of Directive 2012/34/EU. In this Directive, it covers only the following mode of transport: rail, bus and coach, metro, tram and trolley bus.*

## 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 paragraph 4 of this Article, all services, except for urban, suburban and regional transport services, listed in Article 1(2) shall comply with the requirements set out in Section III of Annex I.*

*Without prejudice to paragraph 4 of this Article, all services listed in Article 1(2) shall comply with the relevant requirements set out in Section IV of Annex I.*

- (3a)(new) *Member States shall ensure that answering of emergency communications to the single European emergency number 112 by the most appropriate PSAP, shall comply with the specific accessibility requirements set out in Section V of Annex I in the manner best suited to the national organisation of emergency systems.*

5. *Deleted*

7. *Deleted*

8. *Deleted*

9. *Deleted*

10. Member States may decide, in the light of national conditions, that the built environment used by clients of services covered by this Directive shall comply with the accessibility requirements of *Annex Ib (new)*, in order to maximise their use by persons with disabilities.

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.*

- 4a.(new) *Member States shall provide guidelines and tools to microenterprises to facilitate the application of the national measures transposing this Directive. Member States shall develop these tools in consultation with relevant stakeholders.*



**4b.(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.*

**4c.(new)** *The Commission is empowered to adopt delegated acts in accordance with Article 23a to supplement Annex I by further specifying the accessibility requirements that, by their very nature, cannot produce their intended effect unless they are further specified in binding legal acts of the Union, such as requirements related to interoperability.*

*Article 3a (new)*

*Existing Union law in the field of passenger transport*

*Services complying with the requirements on the provision of accessible information and of information on accessibility laid down in Regulations 261/2004, 1107/2006, 1371/2007, 1177/2010, and 181/2011 and relevant acts adopted on the basis of Directive 2008/57/EC shall be deemed to comply with the corresponding requirements in this Directive. Where this Directive provides for additional requirements to those provided in those Regulations and acts, they shall apply in full.*

*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

### 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 **any** applicable accessibility requirements **as** set out **in 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.

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 years 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. ***Deleted***
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. ***In such cases, manufacturers shall keep a register of products which are non-conforming with applicable accessibility requirements and of the related complaints.***
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 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 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. **Deleted**
- 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. **In such cases, importers shall keep a register of products which are non-conforming with applicable accessibility requirements and of the related complaints.**

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 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 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 to the market surveillance authorities, *the following*:
  - (a) any *other* economic operator who has supplied them with a product;
  - (b) any *other* 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.
- 2a. *The Commission is empowered to adopt delegated acts in accordance with Article 23a, to amend this Directive in order to change the period referred to in paragraph 2 for specific products. That amended period shall be longer than five years and shall be in proportion to the economically useful life of the product concerned.*

## 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

##### ***Fundamental alteration and disproportionate burden***

1. The accessibility requirements referred to in Article 3 ***shall*** apply ***only*** to the extent that:
  - a) they do not introduce a significant change in a product or service that results in the ***fundamental*** alteration of ***its*** basic nature, ***and***
  - b) they do not impose a disproportionate burden on the economic operators concerned.
  
2. ***Economic operators shall carry out an assessment whether compliance with the accessibility requirements referred to in Article 3 would introduce a significant change or, based on the relevant criteria identified in Annex IV, impose a disproportionate burden, as provided for in paragraph 1.***
  - (a) ***Deleted***
  
  - (b) ***Deleted***

3. *Economic operators shall document the assessment referred to in paragraph 2. Upon request from the authorities responsible for compliance of services or from the market surveillance authorities, as applicable, they shall provide the authorities with a copy of the assessment referred to in paragraph 2. Economic operators shall keep all relevant results for a period of five years to be calculated from the last making available of a product on the market or after a service was last provided; as applicable.*
- 3a. *By way of derogation from paragraph 3, microenterprises shall be exempted from the requirement to document their assessment. However, if a market surveillance authority so requests, microenterprises that manufacture, import or distribute products, which have chosen to rely on paragraph 1 shall provide the authority with the facts relevant to the assessment under paragraph 2.*
4. *Service providers relying on point (b) of paragraph 1 shall, with regard to each category or type of service, renew their assessment of whether the burden is disproportionate at least every five years,*
- a) *when the service offered is altered or*
- b) *when requested by the authorities responsible for compliance of services.*
5. *Where economic operators receive funding from other sources than the economic operator's own resources, whether public or private, that is provided for the purpose of improving accessibility, they shall not be entitled to rely on point (b) of paragraph 1.*
- 5a. *The Commission is empowered to adopt delegated acts in accordance with Article 23a to supplement Annex IV by further detailing the relevant criteria that are to be taken into account by the economic operator for the assessment referred to in paragraph 2. When further specifying those criteria, the Commission shall take into account not only the potential benefits for persons with disabilities, but also those for persons with functional limitations.*
- When necessary, the Commission shall adopt the first such delegated act by [one year after the date of entry into force of this Directive]. Such act shall start to apply, at the earliest, on the date of application referred to in Article 27(2).*

6. Where economic operators rely on paragraph 1 for a specific product or service *they shall send information to that effect to the relevant market surveillance or services authority of the Member State of which the specific product is placed on the market or the specific service is provided.*

*The first subparagraph shall not apply to microenterprises.*

## CHAPTER IV

### HARMONISED STANDARDS AND 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 referred to in Article 3 *in so far as* those standards or parts thereof *cover those requirements*.
2. *The Commission shall, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards for the accessibility requirements of products set out in Article 3. The Commission shall submit the first such draft request to the relevant committee by... [two years after the date of entry into force of this Directive].*
3. *The Commission may adopt implementing acts establishing technical specifications that meet the accessibility requirements set out in Annex I where the following conditions have been fulfilled:*
  - (a) *no reference to harmonised standards is published in the Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012; and*

**(b) either:**

**(i) the Commission has requested one or more European standardisation organisations to draft a harmonised standard and there are undue delays in the standardisation procedure or the request has not been accepted by any European standardisation organisations;**

**or**

**(ii) the Commission can demonstrate that a technical specification respects the requirements laid down in Annex II of Regulation (EU) No 1025/2012, except for the requirement that the technical specifications should have been developed by a non-profit making organisation.**

**Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 24(2).**

**4. Products and services which are in conformity with the technical specifications or parts thereof shall be presumed to be in conformity with the accessibility requirements referred to in Article 3 in so far as those technical specifications or parts thereof cover those requirements.**

#### *Article 14*

#### *Common technical specifications*

#### *Deleted*

**1. Deleted**

**2. Deleted**

## 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. The requirements concerning the technical documentation shall avoid imposing any disproportionate burden for micro, small and medium-sized enterprises. 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**

**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 relied on Article 12 of this Directive:**
  - **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 criteria 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 *set out in Article 3* and the assessment 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.

#### *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 *or in the technical specifications* referred to in Article 13 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 **has reasonable evidence to suggest that** a national measure **is** 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 noncompliance 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 technical 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 authorities responsible for the implementation of the procedures referred to in paragraph 1 ***with respect to the compliance of services***.

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

#### **Article 20b**<sup>16</sup>

#### **Working Group**

***The Commission shall establish a working group consisting of representatives of national market surveillance authorities, authorities responsible for compliance of services and relevant stakeholders, including representatives of persons with disabilities organisations.***

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<sup>16</sup> Position of this Article dealing with products and services to be moved (e.g., to Chapter VII).

***The working group shall:***

- ***Facilitate the exchange of information and best practices among the authorities and relevant stakeholders;***
- ***Foster cooperation between authorities and relevant stakeholders on matters relating to the implementation of this Directive to improve coherence in the application of the accessibility requirements set out in Article 3 and to monitor closely the implementation of article 12, and***
- ***Provide advice, in particular to the Commission, notably on the implementation of articles 3 and 12.***

## **CHAPTER VI**

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

#### *Article 21*

#### *Accessibility **under** other Union acts*

1. ***As regards the products and services referred to in Article 1, the accessibility requirements laid down in Annex I shall constitute mandatory accessibility requirements within the meaning of Article 42(1) of Directive 2014/24/EU and Article 60(1) of Directive 2014/25/EU.***
2. ***Any product or service, whose features, elements or functions comply with the accessibility requirements laid down in Annex I of this Directive in accordance with Section IVb (new) of Annex I shall be presumed to fulfil the relevant obligations set out in Union acts other than this Directive, as regards accessibility, for those features, elements or functions unless otherwise provided therein.***
  - (a) ***Deleted***
  - (b) ***Deleted***
  - (c) ***Deleted***
  - (d) ***Deleted***

*Article 22*

*Disproportionate burden*

***Deleted***

1. ***Deleted***
2. ***Deleted***
  - (a) ***Deleted***
  - (b) ***Deleted***
3. ***Deleted***

*Article 23*

**Harmonised standards and** *technical specifications for other Union acts*

***Conformity with harmonised standards and technical specifications or parts thereof which are adopted in accordance with Article 13, shall provide presumption of compliance with Article 21 in so far as those standards and technical specifications or parts thereof meet the requirements of Annex I.***

**CHAPTER VII**

**DELEGATED ACTS, IMPLEMENTING POWERS AND FINAL PROVISIONS**

**Article 23 a (new)**

***Exercise of the delegation***

1. ***The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***

2. *The power to adopt delegated acts referred to in Article 3(4c) shall be conferred on the Commission for an indeterminate period of time from .... [date of entry into force of this Directive].*

*The power to adopt delegated acts referred to in Article 10(2a) and Article 12(5a) shall be conferred on the Commission for a period of 5 years from .... [date of entry into force of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*

3. *The delegation of power referred to in Article 3(4c), Article 10(2a) and Article 12(5a) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
4. *Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*
5. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
6. *A delegated act adopted pursuant to Article 3(4c), Article 10(2a) and Article 12(5a) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.*

## 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 *in* 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.
- 2b. This Article shall not apply to procurement procedures which are subject to Directives 2014/24/EU or 2014/25/EU.**

## 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. ***Those penalties shall also be accompanied by effective remedial action in case of non-compliance of the economic operator.***
  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 ***its seriousness, and*** the number of units of non-complying products or services concerned, as well as the number of people affected.
- 4a. This Article shall not apply to procurement procedures which are subject to Directives 2014/24/EU or 2014/25/EU.***

## Article 27

### Transposition

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*].



**2a(new)** *By derogation from Article 27(2), Member States may decide to apply the measures regarding the obligations set out in Article 3(3a)(new) at the latest from [2 years after the date set out in Article 27(2)].*

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. Member States using the possibility provided for in Article 3(10) shall communicate to the Commission the text of the main provisions of national law which they adopt to that end and shall report to the Commission on the progress made in their implementation.

***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 agreed before the date referred to in Article 27(2) of this Directive may continue unalteredly until they expire, but no longer than 5 years from the date referred to in that provision.***

2. ***Member States may provide that self-service terminals lawfully used by service providers for the provision of services before .... [six years after the date of entry into force of this Directive] may continue to be used in the provision of similar services until the end of their economically useful life, but no longer than 20 years after their entry into use.***

Article 28

Report and review

1. 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.
2. ***The report shall, inter alia, address in the light of social, economic and technological developments the evolution of the accessibility of products and services, possible technology lock in or barriers to innovation and the impact on economic operators and on persons with disabilities. The report shall assess if the application of Article 3(10) has contributed to approximate diverging accessibility requirement of the built environment of passenger services, banking services and customers services centers of shops of telephony operators, where possible, with a view to allowing progressive alignment of the accessibility requirements set in Annex Ib (new).***

***The report shall also assess if the application of this Directive in particular its voluntary provisions has contributed to approximate accessibility requirements of the built environment constituting works falling within the scope of Directive 2014/23/EU, Directive 2014/24/EU, and Directive 2014/25/EU.***

***The report shall also address the effects to the functioning of the internal market of the application of Article 12 of this Directive, including, where available, on the basis of information received in accordance with Article 12(6), as well as the exemption of microenterprises. The report shall conclude whether the Directive achieved its objectives and whether it would be appropriate to include new products and services, or to exclude certain products or services from the scope of this Directive and it shall identify, where possible, areas for burden reduction with a view to a possible revision of this Directive.***

***On this basis, the Commission shall communicate the results of these reports to the Council, the European Parliament, the European Economic and Social Committee and the Committee of Regions. The Commission shall, if necessary, propose appropriate measures which may include legislative measures.***

2. Member States shall communicate to the Commission in due time all the information necessary for the Commission to draw up such *reports*.
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 Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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**ACCESSIBILITY REQUIREMENTS REFERRED TO IN ARTICLE 3  
FOR PRODUCTS AND SERVICES**

**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 where possible in or on the product.**

**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;**
  - (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 be publicly available when the product is placed in the market and shall:**
  - (i) be made available by more than one sensory channel;**
  - (ii) be presented in an understandable way;**
  - (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;
- (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; the description shall indicate for each of the points in section 2 whether the product provides those features;
- (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; the description shall indicate for each of the points in section 2 whether the product provides those features;
- (ix) include a description of the software and hardware interfacing of the product with assistive devices; the description shall include a list of those assistive devices which have been tested together with the product.

## **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 a a) e-book readers:**

- shall provide for text-to-speech technology;**

**(i a) self-service terminals:**

- shall provide for text-to-speech technology;**
- shall allow for the use of personal headsets;**
- where a timed response is required, shall alert the user by more than one sensory channel;**
- shall give the possibility to extend the time permitted;**
- shall have an adequate contrast and tactilely discernible keys and controls when keys and controls are available;**
- shall not require an accessibility feature to be activated in order to enable a user who needs the feature to turn it on;**
- when the product uses audio or audible signals, it shall be compatible with assistive devices and technologies available at Union level, including hearing technologies such as hearing aids, telecoils, cochlear implants and assistive listening devices;**

**(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 and support high fidelity audio;
- 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 with a resolution enabling sign language communication;
- shall ensure effective wireless coupling to hearing technologies;
- 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.

**3.(new) Support services:**

**Where available, support services (help desks, call centres, technical support, relay services and training services) shall provide information on the accessibility of the product and its compatibility with assistive technologies, in accessible modes of communication.**



***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 and provided on the package when feasible;**
- (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 be publicly available when the product is placed in the market and shall comply with the following requirements:**
  - (i) be available by more than one sensory channel;**
  - (ii) be presented in an understandable way;**
  - 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.**

***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;**
  - (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;**

- (c a)(new)** where available, support services (help desks, call centres, technical support, relay services and training services) providing information on the accessibility of the service and its compatibility with assistive technologies, in accessible modes of communication.

***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 and ensure interoperability with Assistive Technologies:**

- (i) Electronic communication services including those emergency communications referred to in Article 109(2) of the EECC:**
- 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) is synchronised and where video is provided is also synchronised as total conversation and is transmitted by the electronic communication service providers to the most appropriate PSAP.**
- (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 components (access services) of the audiovisual media services such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation 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.**

**(ii a)(new) Air, bus, rail and waterborne passenger transport services except for urban, suburban and regional transport services:**

- 1. Ensuring the provision of information on the accessibility of vehicles and surrounding infrastructure and the built environment and assistance for persons with disabilities;**
- 2. Ensuring the provision of information about smart ticketing (electronic reservation, booking of tickets, etc.), real-time passenger information (timetables, information about traffic disruptions, connecting services, onwards travel with other transport modes, etc.), and additional service information (e.g. staffing of stations, lifts that are out of order or services that are temporarily unavailable).**

**(ii b)(new) Urban, suburban and regional transport services:**

- 1. Ensuring the accessibility of Self-Service Terminals used in the provision of the service in accordance with Section I of this Annex.**

**(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;**
- 3a. Allowing alternative renditions of the content and its interoperability with a variety of assistive technologies, in such a way that can be perceivable, understandable, operable and robust.**

4. **Making them discoverable by providing information through metadata 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, security, and payment services which are perceivable, operable, understandable and robust.**
- 1a. **Ensuring that the information is understandable, without exceeding a level of complexity superior to level B2 (upper intermediate) of the Council of Europe's Common European Framework of Reference for Languages.**

**SECTION IVa (new): SPECIFIC ACCESSIBILITY REQUIREMENTS RELATED TO THE ANSWERING OF EMERGENCY COMMUNICATIONS TO THE SINGLE EUROPEAN EMERGENCY NUMBER 112 BY THE MOST APPROPRIATE PSAP:**

**The answering of emergency communications to the single European Emergency number 112 by the most appropriate PSAP, shall, in order to maximise their foreseeable use by persons with disabilities, be achieved by including functions, practices, policies and procedures and alterations targeted to address the needs of persons with disabilities:**

**Emergency communications to the single European Emergency number 112 shall be appropriately answered, in the manner best suited to the national organisation of emergency systems, at the most appropriate PSAP using the same communication means as received, namely by using synchronised voice and text (including real time text), or, where video is provided, voice, text (including real time text) and video synchronised as total conversation.**

**SECTION IVb (new): ACCESSIBILITY REQUIREMENTS FOR FEATURES, ELEMENTS OR FUNCTIONS OF PRODUCTS AND SERVICES IN ACCORDANCE WITH ARTICLE 21(2)**

The presumption to fulfil the relevant obligations set out in other Union acts concerning features, elements or functions of products and services requires the following:

**1. Products**

- a) The accessibility of the information concerning the functioning and accessibility features related to products complies with the corresponding elements in Annex I Section I paragraph 1 of this Directive, namely information on the use of the product provided on the product itself and the products instructions for use, not provided in the product itself but made available through the use of the product or other means such as a website.
- b) The accessibility of features, elements and functions of the user interface and the functionality design of products complies with the corresponding accessibility requirements of such user interface or functionality design set out in Annex I Section I paragraph 2 of this Directive.
- c) The accessibility of the packaging, including the information provided in it and instructions of products for the installation and maintenance, storage and disposal of the product not provided in the product itself but made available through other means such as a website, except for Self Service terminals complies with the corresponding accessibility requirements set out in Annex I Section II of this Directive.

**2. Services**

The accessibility of the features, elements and functions of services complies with the corresponding accessibility requirements for those features, elements and functions set out in the services-related Sections of Annex I of this Directive.

## ***SECTION IVc (new): FUNCTIONAL PERFORMANCE CRITERIA***

**When the accessibility requirements, set in previous sections of this Annex, do not address one or more functions of the design and production of products or the provision of services those functions or means shall be accessible, to maximise the foreseeable use by persons with disabilities, by complying with the related functional performance criteria.**

**Those Functional Performance Criteria maybe only be used as an alternative to one or several specific technical requirements, when these are referred to in the accessibility requirements, if and only if the application of the relevant functional performance criteria complies with the accessibility requirements and it determines that the the design and production of products and the provision of services results in equivalent or increased accessibility for the foreseeable use by persons with disabilities.**

### **(a) Usage without vision**

**Where the product or service provides visual modes of operation, it shall provide at least one mode of operation that does not require vision.**

### **(b) Usage with limited vision**

**Where the product or service provides visual modes of operation, it shall provide at least one mode of operation that enables users to operate the product with limited vision.**

### **(c) Usage without perception of colour**

**Where the product or service provides visual modes of operation, it shall provide at least one mode of operation that does not require user perception of colour.**

### **(d) Usage without hearing**

**Where the product or service provides auditory modes of operation, it shall provide at least one mode of operation that does not require hearing.**



**(e) Usage with limited hearing**

**Where the product or service provides auditory modes of operation, it shall provide at least one mode of operation with enhanced audio features that enables users with limited hearing to operate the product.**

**(f) Usage without vocal capability**

**Where the product or service requires vocal input from users, it shall provide at least one mode of operation that does not require vocal input. Vocal input includes any orally-generated sounds like speech, whistles or clicks.**

**(g) Usage with limited manipulation or strength**

**Where the product or service requires manual actions, it shall provide at least one mode of operation that enables users to make use of the product through alternative actions not requiring fine motor control and manipulation, hand strength or operation of more than one control at the same time.**

**(h) Usage with limited reach**

**The operational elements of products shall be within reach of all users. Where the products or service provides a manual mode of operation, it shall provide at least one mode of operation that is operable with limited reach and limited strength.**

**(i) Minimising the risk of triggering photosensitive seizures**

**Where the product provides visual modes of operation, it shall avoid modes of operation that trigger photosensitive seizures.**

**(j) Usage with limited cognition**

**The product or service shall provide at least one mode of operation incorporating features that make it simpler and easier to use.**

**(k) Privacy**

**Where the product or service incorporates features that are provided for accessibility, it shall provide at least one mode of operation that maintains privacy when using those product features that are provided for accessibility.**

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**INDICATIVE NON-BINDING EXAMPLES OF POSSIBLE SOLUTIONS THAT  
CONTRIBUTE TO MEET THE ACCESSIBILITY REQUIREMENTS IN ANNEX I**

<b>SECTION I: EXAMPLES RELATED TO GENERAL ACCESSIBILITY REQUIREMENTS FOR ALL PRODUCTS COVERED BY THIS DIRECTIVE IN ACCORDANCE WITH ARTICLE 1(1)</b>	
<b>REQUIREMENTS IN SECTION I OF ANNEX I</b>	<b>EXAMPLES</b>
<b>1. The provision of information</b>	
<b>(a)</b>	
<b>(i)</b>	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.
<b>(ii)</b>	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.
<b>(iii)</b>	Providing tactile relief format or sound alongside a text warning so that blind persons can perceive it.
<b>(iv)</b>	Allowing that text can be read by persons who are visually impaired.
<b>(b)</b>	
<b>(i)</b>	Providing electronic files which can be read by a computer using screen readers so that blind persons can use the information.
<b>(ii)</b>	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.
<b>(iii)</b>	Providing subtitles when video instructions are provided.
<b>(iv)</b>	Allowing that the text can be read by persons who are visually impaired.
<b>(v)</b>	Printing in Braille, so that a blind person can use them.
<b>(vi)</b>	Accompanying a diagram with a text description identifying the main elements or describing key actions.
<b>(vii)</b>	<b>No example provided</b>
<b>(viii)</b>	<b>No example provided</b>
<b>(ix)</b>	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.
<b>2. Examples related to user interface and functionality design</b>	
<b>(a)</b>	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)	Offering in a self-service terminal in addition to the spoken instructions, for example, instructions in the form of text or images so that deaf persons can also perform the action required
(c)	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)	In addition of giving a choice to press the green or the red button for selecting an option, providing in written on the buttons what the options are, in order to allow person who are colour blind to make the choice.
(e)	When a computer gives an error signal, providing a written text or an image indicating the error, so as to allow deaf persons to apprehend that an error is occurring.
(f)	Allowing for additional contrast in foreground images so that persons who have low vision can see them.
(g)	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)	Making touch screen buttons bigger and well separated so that persons with tremor can press them.
(i)	Ensuring that buttons to be pressed do not require much force so that persons who have motor impairments can use them.
(j)	Avoiding flickering images so that persons who get seizures are not at risk.
(k)	Allowing the use of headphones when spoken information is provided by an ATM.
(l)	As an alternative to fingerprint recognition, allowing users who cannot use their hands to select a password for locking and unlocking a phone.
(m)	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)	Offering a connection with a refreshable Braille display so that blind persons can use the computer.
(o)	Examples of sector-specific requirements
(i a a)	<b>No example provided</b>
(i a):	<b>No example provided</b>
(i) First indent	Providing that a mobile phone should be able to handle real time text conversations so that persons who are hard of hearing can exchange information in an interactive way.
(i) Fourth indent	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) First indent	Ensuring that subtitles are transmitted through the set top box for their use by deaf persons.
<b>3. Support services</b>	
	<b>No example provided</b>

<b>SECTION II: EXAMPLES RELATED TO ACCESSIBILITY REQUIREMENTS FOR PRODUCTS IN ARTICLE 1(1), WITH THE EXCEPTION OF THE SELF-SERVICE TERMINALS REFERRED TO IN ARTICLE 1(1)(B)</b>	
<b>REQUIREMENTS IN SECTION II OF ANNEX I</b>	<b>EXAMPLES</b>
<b>Packaging and instructions of products</b>	
(a)	Indicating in the packaging that the phone contains accessibility features for persons with disabilities.
(b)	
(i)	Providing electronic files which can be read by a computer using screen readers so that blind persons can use the information.
(ii)	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)	Providing tactile relief format or sound when a text warning is present so that blind persons receive the warning.
(iv)	Providing that the text can be read by persons who are visually impaired.
(v)	Printing in Braille, so that a blind person can read it.
(vi)	Supplementing a diagram with a text description identifying the main elements or describing key actions.
<b>SECTION III: EXAMPLES RELATED TO GENERAL ACCESSIBILITY REQUIREMENTS FOR ALL SERVICES COVERED BY THIS DIRECTIVE IN ACCORDANCE WITH ARTICLE 1(2)</b>	
<b>REQUIREMENTS IN SECTION III OF ANNEX I</b>	<b>EXAMPLES</b>
<b>The provision of services</b>	
(a)	<b>No example provided</b>
(b)	
(i)	Providing electronic files which can be read by a computer using screen readers so that blind persons can use the information.
(ii)	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)	Including subtitles when a video with instructions is provided.
(iv)	Providing that a blind person can use a file by printing it in Braille.
(v)	Providing that the text can be read by persons who are visually impaired.
(vi)	Supplementing a diagram with a text description identifying the main elements or describing key actions.
(vii)	When a service provider offers a USB-key containing information about the service, providing that information is accessible.

(c)	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.
(ca)	<b>No example provided</b>
<b>SECTION IV: EXAMPLES RELATED TO ADDITIONAL ACCESSIBILITY REQUIREMENTS FOR SPECIFIC SERVICES:</b>	
REQUIREMENTS IN SECTION IV OF ANNEX I	EXAMPLES
<b>Specific services</b>	
(i)	
1.	Providing that a hard of hearing person could write and receive text in an interactive manner and in real time.
2.	Providing that deaf persons can use sign language to communicate among themselves.
3.	Providing 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)	
1.	Providing that a blind person can select programmes on the TV.
2.	Supporting the possibility to select, personalise and display access services such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation, by providing means for effective wireless coupling to hearing technologies or by providing the user controls to activate access services for audiovisual services to the user at the same level of prominence as the primary media controls.
(ii a)	
1.	<b>No example provided</b>
2.	<b>No example provided</b>
(ii b)	
1.	<b>No example provided</b>
(iii)	
1.	Providing that a person with dyslexia can read and hear the text at the same time.
2.	Enabling synchronized text and audio output or by enabling a refreshable braille transcript.
3.	Providing that a blind person can access the index or change chapters.
3a.	<b>No example provided</b>
4.	Ensuring that information on their accessibility features is available in the electronic file so that persons with disabilities can be informed.

5.	Ensuring that there is no blocking for the text to be read aloud so that blind users can read the book.
(iv)	
1.	Ensuring that available information on the accessibility features of a product is not deleted.
2.	Making the payment service user interface available by voice so that blind persons can make online purchases independently.
3.	Making the identification dialogues on a screen readable by screen readers so that blind persons can use them.
(v)	
1.	Making the identification dialogues on a screen readable by screen readers so that blind persons can use them.
1a.	<b>No example provided</b>

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**ANNEX Ib (new) - ACCESSIBILITY REQUIREMENTS FOR THE PURPOSE OF  
ARTICLE 3(10) CONCERNING THE BUILT ENVIRONMENT WHERE THE SERVICES  
UNDER THE SCOPE OF THIS DIRECTIVE IS PROVIDED**

The accessibility to persons with disabilities of the built environment where the service is provided *under the responsibility of the service provider*, referred to in Article 3(10) for its foreseeable use in an independent manner, shall include the following aspects of areas intended for public access:

- (a) use of related outdoor areas and facilities;
- (b) approaches to buildings;
- (c) use of entrances;
- (d) use of paths in horizontal circulation;
- (e) use of paths in vertical circulation;
- (f) use of rooms by the public;
- (g) use of equipment and facilities used in the provision of the service;
- (h) use of toilets and sanitary facilities;
- (i) use of exits, evacuation routes and concepts for emergency planning;
- (j) communication and orientation via more than one sensory channel;
- (k) use of facilities and buildings for their foreseeable purpose;
- (l) protection from hazards in the environment indoors and outdoors.



**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 *or technical specifications* have not been applied; in the event of partly applied harmonised standards *or technical specifications*, 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.



**INFORMATION ON SERVICES MEETING ACCESSIBILITY REQUIREMENTS**

1. The service provider shall include the information assessing how the service meets the accessibility requirements *referred to 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 , 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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**THE ASSESSMENT OF DISPROPORTIONATE BURDEN**

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

- 1. Ratio between the net costs of compliance with accessibility requirements in relation to the overall costs (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 costs 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**
- costs related to training human resources and acquiring competences on accessibility**
- costs 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**
- costs incurred in the manufacturing processes**
- costs related to testing the product or service for accessibility**
- costs 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 costs 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**
  - **costs related to training human resources and acquiring competences on accessibility**
  - **costs 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**
  - **costs incurred in the manufacturing processes**
  - **costs related to testing the product or service for accessibility**
  - **costs related to establishing documentation.**