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Accessibility requirements for products and services The European Accessibility Act

Impact Assessment (SWD (2015) 264, SWD (2015) 265 (summary)) of a Commission 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 accessibility requirements for products and services (COM (2015) 615)

Background

This note seeks to provide an initial analysis of the strengths and weaknesses of the European Commission's Impact Assessment (IA) accompanying the above proposal, submitted on 12 December 2015 and referred to Parliament's Committee on Internal Market and Consumer Protection. Following the ratification of the legally binding United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) by 25 Member States (at the time of writing) and, specifically, recalling Article 9 of the UNCRPD which stipulates measures to ensure accessibility, the proposed initiative aims to harmonise the laws of the Member States regarding accessibility requirements for a range of products and services, as well as in the area of public procurement. The initiative was first included in the Commission's 2012 Work Programme (WP), but was then repeatedly postponed.¹ The Commission reiterated its commitment to the issue of accessibility in its 2015 WP Communication.² Throughout this period, the European Parliament has been a strong supporter of a European Accessibility Act, calling the Commission to put forward 'an ambitious proposal'.³

There are currently 80 million disabled persons in the EU, a figure that is expected to rise to 120 million by 2020 due to demographic changes (IA, p.10, footnote 10). The EU has indicated its continued commitment to tackle the issue as it officially became a regional member of the UNCRPD in 2010 (with effect from January 2011). The provisions of the UNCRPD have thus become an integral part of the Union legal order. The EU has since introduced the European Disability Strategy 2010-2020 'as an overall framework to promote the rights of people with disabilities, and to anticipate the Convention's effective implementation'⁴, which underscores accessibility to goods and services as one of its eight priorities (IA, p.10). The EU submitted its first implementation report for the period 2011-2013 to the UN in June 2014. In its response in August 2015, the UNCRPD Committee urged the

¹ For background information on the adoption of the proposal see: Lecerf Marie, *The European Accessibility Act, Plenary At a Glance*, EPRS, 10 December 2015, available at

[http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/572822/EPRS_ATA\(2015\)572822_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/572822/EPRS_ATA(2015)572822_EN.pdf)

² COM(2011) 777 final, Annex to the Commission Work Programme 2012, vol. 2/2, p.19 Brussels, 15/11/2011 and COM(2014) 910 Commission Work Programme 2015 - A New Start, p.9, Strasbourg, 16/12/2014.

³ EP Resolution of 20 May 2015 on the List of Issues adopted by the United Nations Committee on the Rights of Persons with Disabilities in relation to the initial report of the European Union, P8_TA-(2015)0208.

⁴ Anglmayer Irmgard, *EU Implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) - European Implementation Assessment: In-Depth Analysis*, EPRS, February 2016, p.15, available at [http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/536347/EPRS_IDA\(2016\)536347_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/536347/EPRS_IDA(2016)536347_EN.pdf).

EU to adopt a European Accessibility Act that includes 'effective and accessible enforcement and complaint mechanisms, in line with Article 9 of the Convention.'⁵

The proposed directive takes an internal market approach by aiming to encourage competition between economic operators and the free movement of accessible goods and services. The proposed harmonisation of rules would not only address the current legislative fragmentation and thus improve the functioning of the internal market, but also contribute to the inclusion of disabled citizens and consumers in society (IA, p.11). As such, the proposed directive is consistent with the Europe 2020 Strategy, which aims to foster, among other things, social inclusion and which will be aligned with the New Legislative Framework (NFL), a common framework for EU product harmonisation legislation (IA, p.57).

Problem definition

The IA defines the problem to be the current and future fragmentation of accessibility requirement rules for goods and services placed on the market in the EU, as well as in the area of public procurement, among Member States. According to the IA, the current market fragmentation will be amplified by the implementation of the UNCRPD. In the area of public procurement specifically, the revised Public Procurement Directives⁶ render accessibility a compulsory requirement, but they do 'not specify what accessibility means' (IA, p.14). Fragmentation thus harms both companies and consumers, including specifically disabled persons, justifying the need for harmonization. Firstly, the lack of coordination between Member States hinders competition and the free movement of accessible goods and services, since cross-border trade is hampered by legal uncertainty and the lack of consumer information on the accessibility of goods and services which makes consumers reluctant or unable to purchase cross-border. Companies therefore miss market-share opportunities, in terms of both exports and consumers. Secondly, disabled persons are excluded from the 'benefits of the internal market in terms of price, choice and quality' (IA, pp.17-18).

The IA focuses the scope of the initiative on goods and services⁷, including within the area of public procurement, which are 'relevant for accessibility and for which there are problems in the internal market' (IA, p.15). These products and services, mainly relating to the digital sphere are: "Computers and Operating systems; Digital TV services and equipment; Telephony services and related terminal equipment; eBooks; Self-service terminals; eCommerce; Banking services (concerning ATMs, websites and built-environment); Passenger transport services - Air, Rail, Bus and Maritime (concerning ticketing and check-in machine websites and built-environment); Hospitality services (concerning websites and built-environment) (see IA, pp.16-17)".⁸ The problem definition is underpinned by detailed examples of legal fragmentation among these goods and services, and is complemented by Annex 6 of the IA.

While it is positive that the IA is replete with examples, indicating the desired effort to display and justify the Commission's reasoning for the proposal, the presentation is rather repetitive and long. The same examples are given in different sections (see, for example, websites, self-service terminals, built-environment and computers on pp.19-20 and pp.21-42). Since *all* goods and services covered by the proposal are assessed in terms of the 'current situation' and the 'baseline scenario' (IA, pp.21-42), the analysis is very detailed. Perhaps as a consequence of this, the IA does not provide sufficient evidence as to why a fragmented approach will necessarily continue in spite and because of ratification of the UNCRPD. The baseline scenario section appears to

⁵ Anglmayer, Irmgard, *EU Implementation of the UN CRPD*, p.26. Accessibility was one of the 3 areas identified by the UNCRPD Committee as requiring further EU action (*Ibid.*, p.19).

⁶ See footnote 19 (IA, p.14) on the said directives: COM(2011) 895 final and COM(2011) 896 final

⁷ The final list was obtained after an in-depth assessment of the accessibility legislation in 9 Member States (France, Germany, Italy, Ireland, the Netherlands, Portugal, Poland, Spain and the UK) covering about 80% of the EU GDP and 77% of the EU population (IA, pp.15-16).

⁸ 'Private sector websites' and 'Architect services' are omitted from the list on p.16, but are reflected on p.32 and in Annex 5 (p.42) to assess the online and built-environment components of eCommerce, banking, transport, and hospitality services (IA, p.32). Indeed, the IA takes built-environment to mean architect services (IA, p.47).

give overwhelming attention to assessing the current legislative fragmentation instead of analysing the risk of future fragmentation, meaning that the explanation given for the difficulties is always the same (i.e. that there is a lack of coordination). As regards future fragmentation, the IA frequently uses sentences such as 'Based on the current legislative situation described in Annex 6, it is estimated that 24 Member States will have adopted accessibility requirements for audiovisual media services and digital TV equipment in the EU by 2020' (IA, p.25). Ensuring that this estimation and analysis of risk was explained more thoroughly in the body of the main text, instead of in Annex 6, would have strengthened the argument of the problem definition.

In contrast to this high degree of detail, the IA has not complemented its legislative analysis with a sense of scale of the issue. There is no specificity regarding how many and in what ways businesses, consumers and in particular disabled persons (as core end beneficiaries) are affected by the current problem or will be affected in the long run. As such, aside from the given legislative examples, there is little proof that market fragmentation poses a real risk to the functioning of the internal market. Furthermore, the IA lacks an analysis of the causes (section 2.4) to match its detailed and lengthy presentation. In two short paragraphs, the cause merely seems to reiterate the problem definition: that there is uncoordinated Member State action in the area of accessibility and international agreements that impose accessibility related obligations (IA, p.42).

The IA clearly highlights the consistency of the proposal with current European and international developments in the field of accessibility (such as the on-going standardisation requests to European standardisation organisations by the Commission and developments in the USA), which helps situate the proposal.

Objectives of the legislative proposal

The two *general* objectives of the Commission proposal are '(i) to improve the functioning of the internal market for specific accessible goods and services, while serving the needs of industry and consumers; (ii) to contribute to the achievement of the Europe 2020 Strategy with the aim of turning Europe into a "smart, sustainable and inclusive economy delivering high levels of employment, productivity and cohesion" as well as to the implementation of the European Disability Strategy 2010-2020' (IA, p.52).

To meet the general objectives, the IA then states the following three *specific* objectives: '(i) to lower and prevent barriers to cross-border trade in the selected goods and services and in the area of public procurement; (ii) to increase competition among industry in the selected goods and services and in the area of public procurement; (iii) to facilitate access by consumers with disabilities to a wider range of competitively priced accessible goods and services' (IA, p.52). Finally, the IA also identifies two *operational* objectives: '(i) to define common accessibility requirements for selected goods and services and for EU public procurement goods and services; (ii) to improve enforcement accessibility requirements' (IA, p.52).

The objectives as a whole are clear and consistent with the rest of the IA as well as with Union policies.

Range of options considered

Five policy options (a horizontal EU framework applied to all goods and services; accessibility requirements for all private sector websites; self-regulation by industry; voluntary European standardisation alone; and an EU Regulation) were seemingly reasonably discarded at an early stage of the process, mainly because they were disproportionate and unable to meet the aforementioned objectives (IA, pp.52-55). The retained four policy options are:

Option 1: No further action at the EU level (baseline scenario). The baseline is the projected legislative situation on accessibility in the Member States by 2020 (given that this year will mark the end of the action plan of the European Disability Strategy 2010-2020 and the European 2020 Strategy).

Option 2: EU Recommendation defining common accessibility requirements for the selected goods and services, as well as in the area of public procurement. This would have the same scope as the Directive described in option 3, but would not have binding force.

Option 3: EU Directive defining common accessibility requirements for the selected goods and services, as well as in the area of public procurement - applicable to the Member States when they regulate on accessibility.

Option 4: EU Directive defining common accessibility requirements for the selected goods and services, as well as in the area of public procurement - immediately applicable to all Member States. Under this option, all Member States would be required to introduce new legislation regardless of whether they have regulated accessibility or not; conversely, under option 3, only Member States that regulate accessibility or have already done so will be impacted.

The discussion immediately after the presentation of the policy options focuses exclusively on the justification of the choice of a directive as 'being more efficient to tackle the actual and upcoming problems of the functioning of the internal market' (IA, p 56). This appears to reveal the Commission's preferred type of intervention even before the impacts of all viable options have been assessed. Under options 3 and 4, a directive would entail the free movement of goods and services. It would, furthermore, identify the 'essential requirements' of, and provide information on the design and functionality of, the good or service in question to render it accessible (IA, p.57). The IA further indicates that a directive would be accompanied by, among other things: voluntary harmonised standards that would contain more technical specifications and would provide 'presumption of conformity with the essential requirements of the directive covered by the standard'; implementing acts where necessary⁹, the inclusion of common market surveillance rules; and the inclusion of rules on CE marking to certify accessibility (IA, p.58-59). In this respect, the IA could have clarified if and how CE marking will be distinguished from its current use to certify product safety for consumer goods in order to avoid potential confusion on the part of consumers.

Scope of the Impact Assessment

The IA assesses all options mainly in terms of their economic impacts, namely the estimated ranges of savings on compliance with different national accessibility requirements as compared to the baseline scenario. The IA clearly states the basic assumptions for these calculations, mentioning that a sensitivity analysis was carried out and providing a breakdown of the methodology¹⁰. The total savings compared to the baseline scenario are €4 billion (20% of baseline cost), €10 billion (50% of baseline cost), and €9 billion (45% of baseline cost) for options 2, 3, and 4 respectively. Option 4 yields less savings when compared to option 3 because this would impose 'costs on firms in the Member States who are not expected to have accessibility requirements immediately' (IA, p.70). The IA also presents an analysis of the administrative burden, which aims to assess the costs to companies of disclosing accessible information per good and service under the different policy options, assuming an €18 average wage per hour (IA, p. 73). It is unclear why only the two specific figures of €144 and €1 440 per company are mentioned (IA, pp.73-76). Additionally, more could have been said on how much it will cost businesses and Member States to comply with accessibility rules (especially if they are already complying with existing national accessibility rules). As it currently stands, the economic impacts are assessed in terms of savings only.

Social impacts are discussed in terms of fundamental rights and the effects on disabled and elderly consumers. The IA attempts to analyse the complex and mixed way that rights might be affected by noting, for example, that Article 26 of the EU Charter of Fundamental Rights (integration of persons with disabilities) will be positively fostered, while Article 16 (freedom to conduct a business) may be negatively impacted as Member States adopt new rules on accessibility (IA, Annex 9, pp.170-171). Annex 7-B gives a more detailed account of the impacts on

⁹ The IA indicates that 'whenever the implementing acts would be likely to have significant impacts, they would involve the preparation of an Impact Assessment' (IA, p.59).

¹⁰ see IA, pp.60-62 and Annex 7

different groups per good and service, as well as more information on how they would be affected. However, the body of the IA would have been strengthened through an integration of these nuances since the analysis is heavily economic; social impacts remain generic, with the use of phrases such as '[d]isabled and older people will benefit from harmonised accessibility requirements across Member States' (IA, p.70). The environmental impacts - in terms of effects resulting from greater trade and transport - are hardly presented, being assumed to be 'minimal'(IA, p.63). It is unclear what methodology was used to quantify the social and environmental impacts, or the level of efficiency and effectiveness on a scale of 0 to 5 in terms of changes from the baseline (see tables: IA, pp.65-71).

Subsidiarity / proportionality

The IA outlines the impact of the desired option (a directive) in light of the principles of subsidiarity and proportionality (IA, pp.46-7), stating that EU action 'would respect the principle of subsidiarity by focusing only on those goods and services for which there is clear evidence of a significant internal market problem'. The principle of proportionality was invoked in order to discard three policy options (IA, pp.52-55) and to justify the choice of a directive. The proposed legislation would contain safeguard clauses against disproportionate burden: fundamental alterations to the good or service would not need to be made if it were not proportional and compliance would only be required if it did not impose a disproportionate burden on the economic operator in question (IA, Annex 11, p.184). Economic operators themselves are to be the first entity to determine whether the burden is disproportionate as self-declaration is 'the least burdensome' (IA, p.59, footnote 138). It is, however, unclear how economic operators are to define disproportionality (the IA does not outline the 'set of criteria' to be used) as well as how administrative authorities, courts, and market surveillance authorities will be part of the process in order to ensure effective self-declaration (IA, p.59). In comparing policy options 3 and 4, the IA is able to illustrate that the former best supports the principle of proportionality because it would be less intrusive on Member States: it would only affect Member States that have regulated, or once they regulate, on accessibility, so that the decision on when to regulate accessibility as stipulated by the UNCRPD would be left to their discretion (IA, p.77-78).

The IA clearly states the justification for EU action from both a Treaty and value-added perspective (IA, pp.45-51). It highlights Article 114 of the Treaty on the Functioning of the European Union (TFEU), which gives the EU the legal right to act 'to improve the conditions for the establishment and functioning of the internal market concerning accessible goods and services' and allowing for 'harmonisation at the EU level' (IA, p.45). EU action is also supported by the Charter of Fundamental Rights in order to further 'the right to integration of persons with disabilities (Article 26)' (IA, p.46). The necessity and added value of EU action (IA, p.47) would have been better underscored by an assessment of the scale of the problem.

No reasoned opinion was issued by any national parliament by the deadline of 3 February 2016.

Budgetary or public finance implications

The Explanatory Memorandum of the proposal notes that there are very limited budgetary implications relating to operational and administrative costs.¹¹ The Executive Summary of the IA does not foresee any significant impacts on national budgets and on administrations (IA, p.6), although these are not evaluated in the IA itself.

SME test / Competitiveness

The IA found that excluding SMEs from the scope of the initiative would be 'counter-productive' to the aim of increased harmonisation as it is impossible to treat 'differently goods and services [...] depending on which business produces/provides them' (IA, p.76). Thus, the IA conducted an SME test, based on an SME panel survey conducted between April and July 2012, in order to understand the issues from the industry's perspective. The targeted consultation was a result of the consideration that, due to their size, SMEs would be affected

¹¹ Proposal for a Directive, COM(2015) 615 final, p.12

disproportionately by fragmentation and thus would benefit greatly from internal market harmonization. The IA justifies this well and gives a breakdown of the results in both the body of the text (p.9 and p.76) and in Annex 11.

Only 32% of respondents operate in more than one Member State, of which 16% had to deal with different accessibility rules in other Member States (IA, p.9). This shows that, while half of them potentially deal with issues of fragmentation, the pool of respondents that could elaborate on more concrete problems arising from this situation was limited. Furthermore, it does not appear that a quantitative cost-benefit analysis was conducted. This would have strengthened the claim that although 'the costs for SMEs to comply with [...] accessibility requirement [...] may be more burdensome for SMEs', common EU rules 'will facilitate the entering of SMEs in new markets in other Member States' (IA, Annex 11, p.183). The IA envisages mitigating measures to alleviate the burden of harmonisation on SMEs and microenterprises by ensuring that the aforementioned safeguard clauses (see section 'Subsidiarity / proportionality' of this appraisal) would also apply to them (IA, Annex 11, p.184 and Article 12 of the proposal).

Simplification and other regulatory implications

The proposal does not modify existing regulations. It rather aims to simplify accessibility laws for economic operators in order to enable them to sell their products and services more easily across Member States. The proposal harmonises rules in conformity with the EU's framework for product harmonisation legislation, the NFL.

Quality of data, research and analysis

The IA relies on a wide range of studies¹² as well as on external expertise, with particular reference to Deloitte ('The Deloitte Study') and the Academic Network of European Disability experts (ANED).¹³ It largely draws on the external study commissioned from Deloitte, who assessed general and detailed accessibility legislation¹⁴, conducted interviews with economic operators and carried out the economic analysis. The IA presents the data and research in a way that is comprehensive and detailed. However, the level of detail (the IA is over 300 pages long with its annexes) ironically renders the IA not wholly accessible to the reader. It is not readily apparent how the predicted number of Member States that will have introduced accessibility requirements per good and service by 2020 was calculated for the baseline scenario. For example, it is estimated that for computers and operating systems the figure will be six Member States by 2020 (IA, p.23). Annex 6 focuses more on providing a very detailed legislative assessment of each product and service, and reiterating that there will be market fragmentation, than on explaining the methodology, which is only evident for some goods and after some readings.¹⁵ Annex 7-B is more useful for understanding some baseline predictions because it succinctly summarises points raised in Annex 6 in table form. This means that the place to find relevant information in the IA is not always obvious, a fact amplified by page numbering starting at zero for each of the three parts of the IA. This is in contrast to Annex 5, which clearly explains the methodology used to establish the final list of products and services (it includes a preliminary screening of areas covered by the UNCRDP and EU legislation, followed by stakeholder consultations, and qualitative and quantitative analyses) and also admits certain limitations (the Commission sought to counterbalance an automated word count in the quantitative analysis of the public consultation with a qualitative analysis based on contacts with stakeholders: IA, Annex 5, pp.37-38)).

¹² All the consulted studies are listed in Annex 1 of the IA.

¹³ See: ANED report on enforcement of accessibility, 2012 and 'Study on the socio-economic impact of new measures to improve accessibility of goods and services for people with disabilities' led by Deloitte in partnership with Technosite, for the European Commission, DG Justice, Fundamental Rights and Citizenship, Unit D.3 'Rights of persons with disabilities'.

¹⁴ Deloitte provided a 'general analysis of the situation of accessibility in the EU and some other key members, as well as a detailed analysis of the accessibility legislation in nine Member States that represent about 80% of the EU GDP and 77% of the EU population' (IA, p.8) The study explored the nature and scale of the problem in the areas of ICT, the built-environment and transport. The link to the study is not provided in the IA.

¹⁵ Annex 6 states that 'out of a sample of 9 Member States, currently 2 Member States...have accessibility requirements' (IA, p.22) for Computers and Operating Systems. Annex 7-B notes that they assume that between '2 and 27' Member States will adopt accessibility requirements by 2020. Thus, it becomes apparent that (i) the sample size of 9 is multiplied by 3 to yield 27; and, therefore, (ii) 2 is multiplied by 3 to yield 6. However, this is not obvious in the case of - but not exclusive to - e.g. Telephony (IA, Annex 6, p.9).

Perhaps because this proposal was postponed from 2012, the data that is used in the IA appears to be relatively old: the ANED report, the public consultation and the SME Panel Survey all date from 2012 and the extensively used Deloitte study is based on 2011 market data (IA, p.8 and p.21). It would have been useful to know whether the data has since been reviewed, particularly because the products and services covered by the initiative mainly relate to the digital sphere, which is a very fast moving sector.

Pages 77-78 outline a comprehensive analysis of the policy options. Ultimately, a directive (options 3 and 4) is preferred over option 2 (a recommendation) because it would ensure that accessibility requirements would be implemented. The IA does not offer a preferred choice between the two directive scenarios and instead weighs the positive and negative impacts clearly: option 3 is judged to generate (potentially only immediate) greater savings; to have lower administrative costs; and to better respect the principles of subsidiarity and proportionality. Conversely, option 4 is considered to encourage large savings; ensure greater effectiveness; and foster greater social benefits.

Stakeholder consultation

The Commission consulted quite widely on the subject of accessibility, although, as mentioned above, the consultation process is not very recent. In the first place, there was a public consultation held between December 2011 and February 2012: there were 821 valid responses, 648 of which were from citizens and 173 of which were from public and private sector organisations (IA, p.8). In addition, a high level meeting ('Growth and Accessibility') was held on 3 December 2013, convening business CEOs from 'ICT, transport, hospitality services, publishers, and also representatives from European standardisation, disability and "ageing" organisations' (IA, p.9). A Eurobarometer survey on accessibility was carried out between 15 and 17 March 2012 via 25 516 telephone interviews to understand citizens' views on accessibility in their Member States¹⁶ and in the EU (IA, Annex 2, p.7). Finally, the Commission carried out a targeted consultation of SMEs (SME Panel Survey) between April and July 2012 (IA, p.9).

A breakdown of what stakeholders were asked and the results per category of stakeholder are cogently outlined in Annex 2. It is unclear, however, whether stakeholders were consulted specifically on the problem definition, as opposed to generally about the issues of accessibility and priority areas, and on the policy options. Nonetheless, the final list of priority areas largely corresponds to stakeholders' preferences (IA, Annex 2, p.25), with information and communication, built-environment and transport being reflected as major groupings in the list (IA, Annex 5, pp.40-42). The resounding conclusion from these consultations was general support for the proposal to make the goods and services more accessible. The results of the high level meeting would have been welcomed in Annex 2, since it 'provided additional input on possible measures to make goods and services more accessible in Europe' (IA, p.9). The presentation of stakeholders' views throughout the IA is a positive aspect of this document, although they are not always broken down by category (see, for example: IA, p. 58). Linked to this, it is unclear how the views of disabled citizens (as end-beneficiaries of this proposal) were gauged and their voice is not well-represented throughout the IA.

Monitoring and evaluation

The IA identifies indicators and monitoring and assessment procedures. Regarding the latter, the Commission aims, among other things, to hold meetings to monitor implementation, disseminate best practices and provide guidance to Member States and economic operators (IA, p.79). The IA could have elaborated on the role of market surveillance authorities in monitoring the process, ensuring compliance and, specifically, providing sanctions. The IA presents indicators to see if the objectives have been achieved ranging from complaints and court cases to EU legal acts in which reference is made to the European Accessibility Act (IA, p.80). The IA would have benefitted from clarifying some stakeholders' concerns that under-reporting could be an issue, as

¹⁶ The Eurobarometer survey was conducted with nationally representative samples of EU citizens (aged 15 and older) in 27 Member States. The national target sample size was 1000 interviews (IA, annex 2, p.7).

complaints procedures are not standardised across Member States and redress in courts is costly and time-consuming.

The IA mentions a gradual approach to implementation with 'different deadlines' for different aspects of the proposal (IA, p.59), yet the proposal itself sets the application of all measures to six years after its entry into force¹⁷. The IA envisages that the Commission should publish a report on the implementation five years after the entry into application of the directive, and thereafter every five years, an obligation which is also reflected in the proposal¹⁸.

Commission Impact Assessment Board

The Commission Impact Assessment Board (IAB) first issued a negative opinion in May 2013, asking for resubmission. A positive opinion was then issued in July 2013 and the IA seems to have incorporated most of the IAB's recommendations. A clear description of the changes made in response to the IAB's recommendations is provided in the document (IA, p.7). However, as it stands, the IA still does not appropriately address the opinion of the IAB that the problem definition lacks enough evidence of fragmentation being a risk for the internal market. Moreover, as mentioned above, the additional costs potentially incurred for companies and Member States that have already regulated accessibility requirements (and how this affects proportionality) still requires exploration. Both of these issues were noted by the IAB's first negative opinion.

Coherence between the Commission's legislative proposal and IA

In general, the Commission's legislative proposal largely follows the recommendations of the IA. However, there seems to be a discrepancy regarding the built-environment, which, in the IA, appears to be presented as an area that Member States should cover when regulating accessibility (IA, Annex 2, p. 25); yet, the legislative proposal suggests that it is optional for Member States to harmonise this area¹⁹ (Hospitality services (in terms of website and built-environment accessibility (IA, p.38)) are also included in the IA in the list of services to be covered (IA, p.17), but appear to be altogether absent from the proposal (Articles 1 and 3 respectively).

Conclusions

While considerable effort has clearly been put into preparing this report and to providing information in a transparent manner, the length and level of detail do not always support clear analysis of the problem definition and clear explanation of the methodology. Although the Commission consulted widely on the issue of accessibility and made use of external expertise, the data used appears rather old. Moreover, the views of disabled citizens, who are meant to be the major end-beneficiaries of the proposal, are not explicitly apparent and could perhaps have been better reflected throughout the IA. A more detailed exploration of social considerations to counterbalance the largely economic analysis would have been welcome, despite the internal market focus of this proposal.

This note, prepared by the Ex-Ante Impact Assessment Unit for the European Parliament's Committee on Internal Market and Consumer Protection (IMCO), analyses whether the principal criteria laid down in the Commission's own Impact Assessment Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal. It is drafted for informational and background purposes to assist the relevant parliamentary committee(s) and Members more widely in their work.

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¹⁷ Explanatory memorandum, p. 11 and article 27

¹⁸ Article 28

¹⁹ Article 3, para 10