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PART 1/3

**COMMISSION STAFF WORKING DOCUMENT**

**IMPACT ASSESSMENT**

*Accompanying the document*

**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**

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**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**

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## Executive Summary Sheet

Impact assessment on Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to accessibility requirements of goods and services

### A. Need for action

#### Why? What is the problem being addressed?

There is a divergence of national accessibility requirements related to goods and services placed and provided in the EU market and related to public procurement specifications, which leads to a fragmentation of the internal market. This divergence is increasing, due notably to the commitments assumed in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), to which the EU and almost all its Member States are parties. The general nature of the UNCRPD's accessibility obligations leads both to diverging national implementation and further legal divergence, in the EU market especially for 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 machines, websites and built-environment); Hospitality services (concerning websites and built-environment).

The legal divergence and related internal market problems in the area of public procurement and other EU law setting a general accessibility obligation are also expected to increase now that the current optional accessibility requirements have become compulsory with the entering into force of the revised Public Procurement Directives. Those laws do not specify accessibility and what it entails, leaving this aspect to sector-specific rules and consequently increase the risk of further fragmentation at national and even lower levels.

#### What is this initiative expected to achieve?

The general objectives of this initiative are to improve the functioning of the internal market of specific accessible goods and services, while facilitating the work for industry and serving the needs of consumers, as well as to contribute to the goals of the Europe 2020 Strategy and the European Disability Strategy 2010-2020. The specific objectives are to lower barriers to cross-border trade and increase competition in the selected goods and services and in the area of public procurement, as well as to facilitate access by consumers with disabilities to a wider range of competitively priced accessible goods and services.

This will be achieved by (operational objectives) defining common EU accessibility requirements for selected goods and services and using the same requirements for public procurement, and by improving enforcement of accessibility requirements.

#### What is the value added of action at the EU level?

Member States' action alone is not suitable to remove obstacles to the proper functioning of the internal market both as regards already existing barriers to trade and preventing new ones. Only action at the EU level can create a harmonised and coherent legal framework that will allow the free circulation of accessible goods and services in the internal market.

This initiative will contribute to a coherent and effective implementation of the UN Convention across the EU facilitating Member States' compliance with the above mentioned international commitments benefiting industry and consumers. This action at EU level would respect the principle of proportionality by leaving to Member States the freedom to define 'how to achieve common objectives', taking into account national circumstances with flexibility for 'when to do it'.

### B. Solutions

#### What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

An EU regulatory intervention leaving a certain margin of discretion to the Member States as to its implementation appears to be efficient to tackle the actual and upcoming problems of the functioning of the internal market. A Directive would be in line with the approach taken in previous Commission Communications and instruments and will ensure the free movement of the identified accessible goods and services without going beyond what is necessary in order to achieve that objective.

Discarded policy options were: (1) Horizontal framework at EU level applying to all goods and services by defining/imposing their accessibility requirements. (2) Accessibility requirements for all private sector websites. (3) Self-regulation by industry. (4) Voluntary European standardisation alone. (5) An EU Regulation setting common accessibility requirements for selected goods and services and in the area of public procurement.

**The 4 following options have been retained for consideration:**

- **Option 1: No further action at EU level (baseline scenario).**
- **Option 2: EU Recommendation defining common accessibility requirements for the selected goods and services, as well as in the area of public procurement.**
- **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.**

### **Who supports which option?**

In a Eurobarometer survey on accessibility carried out in 2011, 97% of citizens agreed that people with disabilities should be able to participate fully in society and that the existing internal barriers make it very hard. In a public consultation, industry representatives strongly supported EU public procurement rules on accessibility. 60% of organisations declared that adoption of European accessibility standards in line with international standards would facilitate the supply of accessible goods and services. Legislation was considered the most relevant possible future measure (23%), followed by standards (22%), enforcement (13%), best practices (7%), certification schemes (7%), cooperation between public bodies (5%) and awareness raising campaigns (4%).

## **C. Impacts of the preferred option**

### **What are the benefits of the preferred option?**

Options 3 and 4 will best address the main drivers of the problem and consequently would improve the functioning of the internal market. The differences in the impacts of those two policy options mainly relate to the degree of effectiveness, the related costs savings, and their justification in line with the principle of proportionality. Option 3 appears to be the less costly and to be more proportional to the objectives. Option 4 would have the biggest impact for the harmonisation of the internal market and would have greater social impacts but it would also be more expensive. Both legal options would benefit from standards for their implementation.

The administrative burden will be higher for option 4 than for option 3 because it would cover Member States without current additional legislation on accessibility.

### **What are the costs of the preferred option?**

Overall, both options 3 and 4 are expected to reduce costs for industry by eliminating and preventing the fragmentation of the internal market when Member States regulate accessibility. The costs for industry related to making/providing accessible goods and services, will be reduced because instead of following several different national sets of requirements they will be replaced by one EU set. Option 3 would bring savings of up to 50% of the cost estimated for the baseline scenario while option 4 would bring savings of up to 45%. The requirement to provide information about accessibility of the selected goods and services will however have additional administrative costs. In any case cost savings compared with the baseline scenario are much more important for both options. There are anticipated social and economic benefits resulting from improvements in the functioning of the internal market while environmental impacts are very small.

### **How will businesses, SMEs and micro-enterprises be affected?**

The impacts on SMEs and micro-enterprises have been assessed through a specific consultation (“SME test”). The positive impact of the envisaged options on all economic operators is comparable irrespective of their size. With respect to micro and SMEs, these effects may even be more accentuated since the cost savings resulting from the enhanced legal clarity and common EU accessibility rules would make it much easier for them to follow and respect all accessibility requirements in the EU. As regards possible negative impacts, it did not appear in the impact assessment that the overall impact of this policy action would bring about significant costs increases for SMEs as well as other economic operators. Safeguard clauses will be used to ensure proportionality of the requirements for the companies, in particular SMEs and micro enterprises.

### **Will there be significant impacts on national budgets and administrations?**

None expected.

### **Will there be other significant impacts?**

By improving the functioning of the internal market of specific accessible goods and services, the integration into society of people with disabilities and older people will be facilitated increasing their active participation for example in terms of education and employment consequently reducing their risk of poverty. The proposal is expected to strengthen fundamental rights, including the right to human dignity, the rights of the elderly and the right to integration of persons with disabilities. By replacing several national accessibility requirements with a single set of EU requirements, the overall legislative landscape should be simplified. This will moreover reduce costs to industry in comparison with the baseline and therefore be beneficial for competitiveness.

## **D. Follow up**

### **When will the policy be reviewed?**

A review is to be performed five years after the entry into application of the Directive.

## 1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

### 1.1. Identification, Organisation and Timing

Directorate-General for Justice, Fundamental Rights and Citizenship (DG JUST) is the lead DG that prepared this Impact Assessment (IA). An Inter-Service Steering Group (ISSG) led by DG JUST was established in May 2011 with the following services of the Commission: DG ENTR, DG CNECT, DG EMPL, DG MARKT, DG MOVE, DG REGIO, DG SANCO, the Legal Service and the Secretariat-General. This Group met five times (May and July 2011; February and July 2012; 11 March 2013). In addition, DG JUST circulated a draft and later a complete version of the draft IA to the ISSG for comments before it was sent to the Impact Assessment Board (IAB). DG JUST also met bilaterally with various DGs to discuss the IA. The Impact Assessment Board (IAB) meeting took place on 15 May 2013.

The European Commission's Impact Assessment Board (IAB) examined this report and issued an opinion on 17 May 2013. After resubmission on 4 June 2013, a positive opinion was issued on 9 July 2013. The revised report takes on board the recommendations of the IAB and introduces the following **main modifications and clarifications**:

(1) **Improved problem definition**, which better explains the degree of market fragmentation and its potential to increase due to different accessibility requirements across Member States and their effect on consumers, in particular those with disabilities and elderly. Additional examples were provided adding evidence to substantiate the internal market problems deriving from the fragmentation. Additional information is provided on the Member States' obligations on accessibility under the UN Convention and its implications for the fragmentation of the internal market. Recent clarification from the UN Committee on the Rights of Persons with Disabilities in relation to those obligations has been included.

(2) A **clearer** description of the **choice of the priority goods and services** considered has been included, together with a **justification for a coherent horizontal approach** complementing existent accessibility-related provisions in sector-specific and horizontal level EU legislation.

(3) The **reasons to discard certain policy options** have been strengthened and the design of the **retained policy options** has been complemented by providing **additional details of their content and practical implementation**. In particular, clarification on the voluntary role of European standards and their limited effect to prevent the divergence of national legislation. Further explanations have been provided to clarify the relation and the scope of the intended measures in comparison with the obligations arising from the UN Convention.

(4) The **assessment of costs and benefits** of the policy options for the Member States and for economic operators in the market has been revised and improved to better consider accessibility costs. The methodology used for the calculations has been further explained. Ranges have been used to better qualify the impacts. The justification for the **inclusion of micro-enterprises** in this initiative has been included. Finally, **stakeholders' views** have been more extensively referred to throughout the report.

(5) A better description of the measures to be taken and their respect for the proportionality principle has been included.



## 1.2. Consultation and expertise

A wide range of studies were used to prepare this IA. A full list of the consulted studies is provided in Annex 1. In particular this impact assessment made extensive use of the study carried out by Deloitte under contract JUST/2011/DISC/PR/0087 (“the Deloitte study”). This “study on the socio-economic impact of new measures to improve accessibility of goods<sup>1</sup> and services for people with disabilities” provided a general analysis of the situation of accessibility in the EU and some other key countries, as well as a detailed analysis of the accessibility legislation in nine Member States<sup>2</sup> that represent about 80% of the EU GDP and 77% of the EU population. The contractor carried out a significant number of interviews with economic operators in order to get data in particular about the costs of making their products accessible but they were not able to provide systematic costs information hence the need for the contractor to make estimations and approximations for the economic analysis. The IA also used work carried out by the Academic Network of European Disability experts (ANED)<sup>3</sup> on accessibility legislation and enforcement in the EU. ANED carried out a survey on accessibility legislation in the (then) 27 Member States. Both studies together provide a comprehensive overview of the situation across the EU.

Consultations and meetings have been carried out during 2011 and 2012 with a wide range of stakeholders, including representatives from Member States (the High Level Group on Disability<sup>4</sup>), industry, accessibility experts and European civil society organisations.

A **Eurobarometer** on accessibility was carried out in March 2012 and collected the views of 25 516 Europeans. 94% of respondents considered that more money should be spent on eliminating physical barriers for people with disabilities, in line with the results of a 2006 Eurobarometer<sup>5</sup>. Almost all respondents (97%) agree that people with disabilities should be able to participate fully in society and that the existing internal market barriers make it very hard for them to do so. Two-thirds of respondents say that they would buy, or pay more for goods and services if they were more accessible and better designed for all. Four out of five respondents agreed that having common rules on accessibility at EU-level would make it easier for companies to operate in another EU country, therefore boosting cross-border trade and enhancing competition.

A **public consultation** was held from 12.12.2011 to 29.02.2012. It was addressed to individuals (including people with disabilities and older people), as well as to public and private sector organisations in Member States, EFTA/EEA countries and candidate countries. There were 821 responses (648 citizens and 173 representatives of public and private sector organisations). When organisations were asked to explain to what extent they were confronted with different accessibility rules in different Member States, 54% stated that different Member States’ rules create barriers, whereas 28% stated that no barriers were found. The remaining 18% pointed out to different regional rules as a source of barriers. The built environment, Information and Communication Technologies (ICT), and transport were identified as the most problematic areas focusing on their use in some key services. Industry representatives indicated that EU action in this area should include a link to EU public

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<sup>1</sup> Please note that in this document the term 'good' is used indistinctively with the term 'product' meaning that it has gone through a manufacturing process, not including food, feed, living plants and animals.

<sup>2</sup> France, Germany, Italy, Ireland, the Netherlands, Portugal, Poland, Spain and United Kingdom.

<sup>3</sup> [www.disability-europe.net/](http://www.disability-europe.net/)

<sup>4</sup> Register of Commission Expert Groups:

[http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail\\_groupDetail&groupID=1259&NewSearch=1&NewSearch=1](http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail_groupDetail&groupID=1259&NewSearch=1&NewSearch=1)

<sup>5</sup> [http://ec.europa.eu/public\\_opinion/flash/fl\\_345\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_345_en.pdf)

procurement rules, because different accessibility requirements and legislation at different administration and sector levels hinders the functioning of the internal market. Legislation was considered the most relevant measure to address this (23%), followed by standards (22%), enforcement (13%), best practices (7%), certification schemes (7%), cooperation between public bodies (5%) and awareness raising campaigns (4%). 60% of organisations declared that adoption of European accessibility standards in line with international standards would facilitate industry supply of accessible goods and services. Between April and July 2012, an **SME Panel** survey was conducted through the Enterprise Europe Network, to identify problematic issues from industry's perspective due to legal fragmentation concerning the regulation of accessibility of goods and services and market issues. The companies were asked to provide information about how accessibility is considered when providing goods and services, and estimates of the costs and benefits of accessible goods and services. The great majority of respondents were micro, small and medium enterprises. 180 companies responded. The respondents generally regarded the extra costs of accessibility to be relatively low, at less than 5% of production costs. 55% of companies that provide accessible goods and services have increased their clientele as a result of improving the accessibility of their goods and services, and 39% have experienced increases in their financial benefits for this reason. Around 16% of the companies had to deal with accessibility rules in another Member State which were different from the ones from their own country. Although it should be noted that only 32% of them reported to operate in more than one Member State. Around 50% of the responding companies agree that they could more easily benefit from the internal market if accessibility requirements were harmonised at the EU level. They also identified a general lack of knowledge/information of the subject. 65% would favour EU rules containing general obligations to manufactures and service providers to provide accessible goods and services. 74% would find the adoption of European standards useful, setting out accessibility requirements. These measures are not seen as alternatives but as complementary, as they both contribute to improving the ability of SMEs to provide accessible goods and services.

Further details and findings from these consultations can be found in Annex 2<sup>6</sup>.

Finally, on 3 December 2013, on the occasion of the European Day of Persons with Disabilities, a **High Level meeting "Growth and Accessibility"** was organised by Vice-Presidents Reding and Tajani bringing together business CEOs representing key sectors relevant for the European Accessibility Act, namely ICT, transport, hospitality services, publishers and also representatives from European standardisation, disability and "ageing" organisations. The meeting provided additional input on possible measures to make goods and services more accessible in Europe. All participants supported the Commission's goal of improving accessibility of goods and services in the EU by applying an Internal Market logic and in line with the UN Convention of the Rights of Persons with Disabilities. There was general understanding of the market potential for innovation of harmonising accessibility for the different sectors but also a wish to avoid overregulation. It was also suggested to consider the experiences of other countries in this area, including the US and Japan.

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<sup>6</sup> Furthermore an SME angle has been address in the relevant sections.

## 2. PROBLEM DEFINITION

### 2.1. Scene-setter

#### 2.1.1. Accessibility in the European Disability Strategy

In line with Article 9 of the UN Convention on the Rights of Person with Disabilities (the **UN Convention**), the European Disability Strategy 2010-2020 (the **Strategy**) refers to ‘accessibility’ as meaning that people with disabilities<sup>7</sup> have access, on an equal basis with others, to the physical environment, transportation, information and communications technologies and systems (ICT), and other facilities and services open or provided to the public.<sup>8</sup> Detailed statistical information on persons with disabilities can be found in annex 3.

“Accessibility” is defined as the prevention or removal of barriers to the use of mainstream goods and services. It makes the design and functioning of mainstream goods and services “more usable” by most people including persons with disabilities and by others regardless of their ability or age. It is mostly preventive and proactive. The preferred approach to implement accessibility is the "Design for All" or Universal Design approach that aims at designing products, services and environments that are readily usable by most users without any modification. It builds on the flexibility of the user interface of products and their adaptability allowing for personal choices. It does not exclude the link with Assistive technologies

For example, EU bus legislation defines design characteristics of low platform buses to ensure their accessibility. The intention is that buses can be easily used by all passengers including persons using wheelchairs, travellers carrying suitcases or parents with children in prams using the same entrance facilitated by a ramp instead of having a separate lift only for disabled persons. It benefits industry as there is a wider EU level playing field and quicker boarding provides for time savings.

Accessibility following the "Design for all" approach is also an issue of public interest as it concerns the welfare of the general public while focusing on a growing part of the EU population namely disabled and older persons.

The Strategy also aims to facilitate the implementation of the UN Convention to which the EU became a Party on 22 January 2011 and which is the first legally binding international human rights instrument to which the EU and its Member States are Parties. The UN Convention has been ratified by 25 Member States while the remaining three Member States are finalising the ratification process. Member States have already some accessibility rules but need to adopt additional provisions on accessibility to fulfil the obligations under the Convention on accessibility to the physical environment, transportation, information and communication technologies and systems, and other facilities and services open or provided to the public. The European Policy Centre pointed out that "*the Act has the potential to*

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<sup>7</sup> 1 in 6 people in the EU has a disability that ranges from mild to severe, making around 80 million people who are often prevented from taking part fully in society and the economy because of barriers they face (Eurostat-SILC). It is expected that by 2020, there will be 120 million people with disabilities in the EU.

<sup>8</sup> The international standard ISO 9241-171:2008 defines accessibility as “usability of a product, service, environment or facility by people with the widest range of capabilities”.

*become an important additional tool in implementing the UNCRPD. The EU must not miss this opportunity*<sup>9</sup>.

By enabling disabled citizens to take up their place in society and fully exercise their rights, accessibility would also contribute to the **Europe 2020** aims of improving education and employment as well as combating poverty and social exclusion. The public consultation confirmed this observation, as respondents extensively indicated that by improving access to goods and services, disabled people would automatically have a stronger involvement in society, taking part more actively of the public sphere. Stakeholders from both the industry side and the disabled people organisations side highlighted the strong impact that making Europe fully accessible would have on the ageing European population, namely on the cost of ageing falling over the national social security systems. The gap between persons with disabilities and the rest of the population on employment education and poverty risk must be closed to reach the headline targets. Persons with disabilities (aged 20 to 64) have an employment rate of 48 % versus those without disabilities that have an employment rate of 72%, only 26% of persons with disabilities (aged 30 to 39) are in tertiary education versus 38 % of those without disabilities and the poverty risk of person with disabilities (over 16 years old) is estimated around 30% versus 22% for those without disabilities.<sup>10</sup>

The Charter of Fundamental Rights of the European Union ('the Charter') includes a number of provisions which are relevant for persons with functional limitations, including persons with disabilities, in particular: the right to human dignity (Article 1 of the Charter), the right to integrity of the person (Article 3), the right to education (Article 14), the right to choose an occupation and the right to engage in work (Article 15), the rights of the elderly (Article 25), the right to integration of persons with disabilities (Article 26), and the freedom of movement and residence (Article 45).

In the Strategy, the Commission has proposed to use legislative and other instruments, such as standardisation, to foster accessibility. It states that the Commission will consider proposing a '**European Accessibility Act**', which could include the development of specific standards<sup>11</sup> for particular sectors. The objective of such initiative would be to facilitate for companies operating in the internal market the development of accessible products and services by reducing costs related to fragmentation and barriers in the market.

### *2.1.2. The issues of fragmentation and barriers in the internal market*

Currently, there is a divergence in national accessibility requirements related to goods and services placed on the market/provided in EU.<sup>12</sup> The national accessibility requirements that Member States have put in place differ both as regards coverage (in terms of to what and to whom they apply) and level of detail. Difference in coverage also means that for some goods or services, some Member States may have established detailed technical rules whereas in other Member States there are no such rules in place. As acknowledged by industry stakeholders, these differences among Member States have a negative impact, namely for

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<sup>9</sup> European Policy Centre (EPC), Policy Brief, March 2013:  
[http://www.epc.eu/documents/uploads/pub\\_3393\\_the\\_accessibility\\_act.pdf](http://www.epc.eu/documents/uploads/pub_3393_the_accessibility_act.pdf).

<sup>10</sup> Source: EU-SILC 2012.

<sup>11</sup> The current Commission requested standardisation work on accessibility is based on functional requirements avoiding technical details that could hinder innovation.

<sup>12</sup> It should be noted that for the purpose of this impact assessment, focus is placed on mainstream goods and services provided on the internal market in general (i.e. not assistive goods and services that are developed specifically for disabled or older persons) and the extent to which there are sufficiently accessible for people with different abilities and needs.

those companies operating cross-border. Additional efforts are needed to comply with the different accessibility requirements.

Divergent accessibility requirements at national, or even at regional or local level, may require from manufacturers and services providers adaptation of goods and services on a case by case basis. These industry players have to learn several sets of rules if they want to trade cross-border within the EU, which constitutes a barrier to the smooth functioning of the internal market. Due to the related **costs of learning the rules and adapting their goods and services to different national markets**, these industry players lose competitiveness, leading sometimes to fewer ventures on exploring other markets. The Belgium (Flanders) SME Panel report states that "*the area of accessibility is characterised by fragmentation*" and that "(...) *the (major) differences with regard to regulations make it difficult for SMEs to act in an export-oriented manner*". They even mentioned that "*There is even a suspicion that countries are creating specific legislation based on protectionist considerations.*"

To illustrate fragmentation at regional level reference can be made to the UN Committee on the Rights of Persons with Disabilities that in its Concluding observations on the initial report of Austria<sup>13</sup>, adopted by the Committee at its tenth session (2–13 September 2013), noted that "*Austria has a federal system of government and is concerned that this has led to undue fragmentation of policy. This fragmentation can be seen (inter alia) in different accessibility standards (...) across the various Länder.*"

Cross-border trade is hampered in some cases by divergent legislation as some industry goods and services would not comply with national rules and would need to be adapted, thus increasing their prices (*e.g.* accessible ATMs<sup>14</sup>), in other cases industry will not be able to sell its goods and services to public authorities (*e.g.* accessible computers), in other cases the goods and services will not work across borders (*e.g.* DTT receivers for audio description). Finally, customers will not be able to compare goods and services with transparent criteria (*e.g.* disabled people choosing the most accessible telecommunications service provider) hence leading to unfair competition.

**In the future, the divergence in national accessibility requirements in the EU is expected to increase.** The UN Convention obliges Member States to take measures to ensure accessibility. At this moment, not all areas covered by the UN Convention have been covered by national accessibility requirements or EU law. It is left to the Member States to further implement those obligations. Sometimes these are implemented at regional or local level. In any case, Member States have not been coordinating among themselves the implementation of the accessibility obligations in the UN Convention.

Accessibility is one of the General Principles of the Convention and is to be seen in conjunction with all the rights stated in the Convention. For example, when the Convention refers in Article 30 to the right to take part on an equal basis with others in cultural life, the principle of accessibility in Article 3 applies, since accessibility of cultural material and audiovisual programmes is a precondition to be able to enjoy that right.

Furthermore, specific obligations are described in the Convention. To ensure equal access to persons with disabilities, Article 9 of the Convention requires States Parties to take appropriate measures including the identification and elimination of obstacles and barriers to accessibility regarding, inter alia, buildings, roads, transportation and other indoor and

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<sup>13</sup> CRPD/C/AUT/CO/1

<sup>14</sup> For further information on the examples, see section 2.3 organised *per* good and service.

outdoor facilities, including schools, housing, medical facilities and workplaces as well as information, communications and other services, including electronic services and emergency services.

For the European Union, in accordance with Article 216(2) of the Treaty on the Functioning of the European Union (TFEU), agreements concluded by the Union are binding upon the institutions of the Union and on its Member States. Thus, pursuant to the conclusion by the European Union of the Convention, its provisions have become part of the EU legal order and EU secondary legislation is subject to the obligations deriving from the Convention. The European Court of Justice, when interpreting EU law, has already made use of the provisions of the Convention to define the concept of disability.<sup>15</sup>

From the point of view of individual Member States, the entry into force of the Convention in their legal orders entails the need to ensure that national provisions on accessibility of goods and services are fully in line with the obligations of the Convention.

The UN Committee on the Rights of Persons with Disabilities in a Communication on their "views"<sup>16</sup> on accessibility of banking card services provided by ATMs in Hungary ruled that, in order to comply with the UN Convention, it is necessary "*to create a legislative framework with concrete, enforceable and time-bound benchmarks for monitoring (...)*" the gradual implementation of accessibility. These "views" create "jurisprudence" in the implementation of the UN Convention. It clarifies that the obligations for implementation of Article 9 of the UN Convention on accessibility as well as the general principles concerning accessibility in Article 3, are of a binding legal nature and need to be properly enforced.

These "views" are confirmed in the recent General Comment on Article 9 of the UN Convention - Accessibility<sup>17</sup> adopted by the Committee in April 2014 that states that "*State parties are obliged to adopt, promulgate and monitor national accessibility standards. State parties should undertake a comprehensive review of the laws on accessibility in order to identify, monitor and address gaps in legislation and its implementation*". It further confirms the previous statements made in the Hungarian "views" mentioned above by indicating that "*State parties should establish a legislative framework with specific, enforceable, time-bound benchmarks for monitoring and assessing the gradual modification and adjustment by private entities of their previously inaccessible services into accessible ones. State parties should also ensure that all newly procured goods and other services are fully accessible for persons with disabilities*." These clarifications are needed to clarify the legal character of the obligations on accessibility under the Convention. Those obligations are on the results but do not really describe the way to achieve them. Hence this does not guarantee a uniform implementation of the accessibility obligations.

This line is continued by the UN Committee who in their "concluding observations" for Germany in May 2015<sup>18</sup> stated that "*The Committee is concerned about the lack of binding obligations for private entities, particularly private media and websites, to avoid creating new barriers and to eliminate existing barriers relating to accessibility and about the inadequate implementation of regulations governing accessibility and universal design*." And recommended that the State party: "*Introduce targeted and effective measures, such as*

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<sup>15</sup> Joint cases on disability discrimination C-335/11 Ring and C-337/11 Skouboe Werge, judgment 11 April 2013, not yet reported, paragraphs 37 and 38. It also stated clearly that the provisions of the Convention are an integral part of the EU legal order, *idem*, paragraphs 28 to 30.

<sup>16</sup> <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Jurisprudence.aspx>

<sup>17</sup> <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>

<sup>18</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/096/31/PDF/G1509631.pdf?OpenElement>

*obligations, monitoring mechanisms and effective penalties for infringement, to extend accessibility for persons with disabilities in all sectors and areas of life, including the private sector;” and “Encourage public and private broadcasting bodies to evaluate their work comprehensively regarding the implementation of the right to accessibility, especially with respect to the use of sign language.”*

Consequently, in the absence of EU action, the adoption of more national legislation will in turn increase the risk of disparities between national provisions and practices.

**The legal fragmentation and related internal market problems in the area of public procurement related to accessibility are also expected to exacerbate.** Whereas accessibility was not obligatory in public procurement, following the adoption of the revised Public Procurement Directives it has become compulsory.<sup>19</sup> The revised Directives do however not specify what accessibility means, leaving this aspect to sector-specific rules<sup>20</sup>. When the new Directives enter into force, lack of accessibility requirements at the EU level will result in further fragmentation at national or local level.

Preventing the market fragmentation and eliminating all barriers to the movement of accessible goods and services as well as encouraging innovation and creativity in this area would also contribute to achievement of the EU long-term visions of a highly competitive social market economy, as presented in **the Single Market Act I and II**.

In addition, the **European citizenship report 2010**<sup>21</sup> highlighted the remaining obstacles that EU citizens with disabilities face when they move within their countries or to other Member States, regarding access, among others, to the built environment, to transportation, information and a range of goods and services. The legislative divergence and consequent market fragmentation brings a lot of uncertainty with regard to accessibility for the consumers.

All the EU institutions have repeatedly called for action to be undertaken in this regard. With more than 19 declarations issued by the European Parliament, the Council and the European Economic and Social Committee, the Commission has been urged to speed up the ratification and implementation of the UN Convention including the accessibility articles, whilst ensuring the active inclusion of disabled people in order to enhance the functioning of the internal market and to attain the Europe 2020 targets<sup>22</sup>. The contribution to the Europe 2020 goals is based on the fact that accessible goods and services contribute to: further participation in society of disabled persons, further mobility (travelling), daily activities (banking, shopping), access online information (computers, TV) and communications (telephones, access to education (eBooks, and computers), access to employment (travelling, computers, and telephones), leading to less risk of poverty.

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<sup>19</sup> Proposal for a Directive on procurement by entities operating in the water, energy, transport and postal services sectors – replacing the “Utilities Directive” COM (2011) 895 final and Proposal for a Directive on public procurement replacing the “Classical Directive” COM (2011) 896 final. The provisions related to accessibility requirements received the support of the European Parliament and the Council and remained in the final version.

<sup>20</sup> Article 54 and recitals 45 to 47 of the proposed Directive on procurement by entities operating in the water, energy, transport and postal services sectors – replacing the “Utilities Directive”.

<sup>21</sup> COM (2010) 603.

<sup>22</sup> An overview of the gap between persons and disabilities and the rest of the population for the EU 2020 headline targets is provided in Annex 4.

The Commission reiterated its commitment to accessibility in its 2015 work programme<sup>23</sup> that stated: *“The European Commission is committed to equality of opportunity for people with disabilities, in full respect of the UN Convention on the Rights of Person with Disabilities. This includes accessibility to the physical environment, transportation, information and communications technologies and systems (ICT) and other facilities/services.”*

## 2.2. Nature and scale of the problem

In order to focus the scope of this initiative it was necessary to identify those goods and services that were relevant for accessibility and for which there are problems in the internal market. Having a concrete list of goods and services would allow for the identification of the various options to remove the problems and for the calculations of the impacts of those options. Covering all goods and services which are relevant for accessibility would be unnecessary as for some of them no evidence of internal market problems was established. **Divergent national accessibility requirements** exist for many goods and services, but especially in the areas of the **built environment**, **transport** and **information and communication** technologies as well as in **public procurement**<sup>24</sup> as, they also play a role as key enablers for the accessibility of services. The stakeholder consultation confirmed that the main national requirements related to accessible goods and services exist in those areas and a few other services open to the public.

To design an objective list, a step by step approach<sup>25</sup> has been undertaken. Firstly, a vast **identification of possible relevant areas** covered by the UN Convention and by EU legislation has been initiated. A list of 87 goods and services relevant for persons with disabilities and other persons with functional limitations was established mainly related to the 3 key enablers.

- Information and communications, including information and communications technologies and systems (31 goods and services);
- Built (physical) environment (24 goods and services);
- Transportation (14 goods and services); and
- Other areas (18 goods and services).

In addition, respondents to the public consultation were asked which goods and services should be given priority in relation to accessibility for persons with disabilities and elderly. The respondents, both organisations<sup>26</sup> and citizens<sup>27</sup> (respective percentages indicated in brackets respectively), indicated the following areas/sectors as most important:

- Information and communication (39% and 16%),
- Transport and mobility (36% and 33%),
- Built environment (27% and 20%),
- Health (17% and 14%),
- Public services (16% and 9%),
- Education (14% and 12%),
- Other goods and services (12% and 11%),

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<sup>23</sup> COM(2014) 910 Commission Work Programme 2015 - A New Start.

<sup>24</sup> DOTCOM tool accessibility section at <http://www.disability-europe.net/dotcom>

<sup>25</sup> See annex 5 for a detailed description of the process.

<sup>26</sup> Note that the questionnaire categorised as “organisations” the following stakeholders: industry, NGOs and public bodies.

<sup>27</sup> As mentioned in section 1.2., out of the 821 responses, 648 were from citizens and 173 from organisations).



- Culture and/or leisure (8% and 6%),
- Employment (5% and 6%),
- Integration in society (4% and 3%),
- Tourism (3% and 3%).

Other respondents declared that all sectors mentioned should be a priority (14% and 8% respectively), and that none of them should be given a priority (1% and 1%). The “other” category includes support services (5% and 2%), and other individual products.

Then, the next step of **prioritisation and selection of goods and services** entailed a quantitative and qualitative screening based respectively on:

- the result of the EC public consultation to identify the goods and services deemed as most relevant by the public,
- the review of existing national legislations to identify divergent requirements; and
- interviews with accessibility experts and stakeholders to clarify priorities.

In this step, the list of 87 relevant goods and services was reduced to 23 (the list is provided in Annex 5) by keeping only those for which the analysis showed that the coverage of national legislation could lead to obstacles to the well-functioning of the internal market and after due consideration of EU competences.

This preliminary prioritisation was refined based on **an in-depth analysis** of the accessibility legislation in 9 EU Member States that cover about 80% of the EU GDP and 77% of the EU population. From the remaining 23 goods and services, the final list was extracted after:

- the in-depth analysis and comparison of the divergent approaches of national accessibility legislation
- considering the existence of technical accessibility requirements that would lead to problems in the internal market, and
- clarifying the EU competences.

The final list of goods and services reflects the outcome of the criteria applied and the evidence that was gathered. The absence of evidence of problems for other relevant goods and services does not necessarily prove that no problem exists in relation to accessibility but they were retained from further consideration in this Impact Assessment, and priority was given to include those where gathered evidence justified immediately their selection.

A more detailed description of this screening process is provided in Annex 5. The following list shows the final **priority goods and services** that are considered in this impact assessment.

- **Computers and Operating Systems;**
- **Digital TV services and equipment;**
- **Telephony services and related terminal equipment;**
- **eBooks;**
- **Self-service terminals** including ATMs, ticketing and check-in machines;
- **eCommerce;**
- **Banking services** (concerning ATMs, built-environment and websites);
- **Passenger transport services** - Air, Rail, Bus and Maritime (concerning ticketing and check-in machines, built-environment<sup>28</sup> and websites);

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<sup>28</sup> Built-environment is assessed in this report for all transport modes, with the exception of rail as an assessment justifying accessibility has already been carried out for the PRM TSI. For further information and considerations on the accessibility of the rail built environment, please consult the most

- **Hospitality services** (concerning built-environment and websites).

Drawing on the various consultations and surveys carried out with interested parties, it emerges that the current patchwork of fragmented accessibility requirements for the priority goods and services across Member States results in **barriers to the proper functioning of the internal market** for accessible goods and services. In addition, the clarification of Member States' legal obligations under the UN Convention related to accessibility supports the forecast for additional barriers, as Member States will further develop their accessibility legislation.

A comprehensive overview of the legislation on accessibility in Member States is available online under the DOTCOM tool.<sup>29</sup> The information is structured around sectors like built-environment, transport and ICT.

The legal divergence of accessibility requirements has its consequences for the internal market and for the economic operators:

Firstly, the divergence of accessibility requirements already or potentially hinders the free movement of accessible goods and services. The economic operators who trade or envisage cross-border trading of products fulfilling the accessibility requirements of one Member State are at a disadvantage selling their products in other Member States. They need to find out about the accessibility requirements in other Member States and if they do not fulfil differing mandatory accessibility requirements they need to adapt their products<sup>30</sup>, or miss export opportunities.

The lack of legal certainty as to what requirements are practised in other Member States (including how the accessibility obligation is interpreted) also hinders free movement in the sense that the economic operator will often rather focus on the better known national markets instead of investing time and money to trade cross-border.

Secondly, the current fragmented accessibility requirements across Member States<sup>31</sup> is resulting in limited competition among EU industry on the market of accessible goods and services, which thereby tend to become national markets of more limited size<sup>32</sup>. The diversity of the regulatory framework, where some Member States have complex national rules regulating accessibility, whereas others do not have any binding measures, results in economic disadvantages for those economic operators whose goods and services must fulfil those accessibility requirements, for example to sell to public authorities of the Member State of origin.<sup>33</sup>

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recent Impact Assessment Report of the PRM TSI, conducted at the time of its revision and scope extension - ERA-REP-101-EEV, 05.08.2013.

<sup>29</sup> <http://www.disability-europe.net/dotcom>

<sup>30</sup> For example this was pointed out in the ATMIA (ATM industry association) answer to the public consultation.

<sup>31</sup> See report of standardisation request M/420 from the European commission to CEN, CENELEC in support of European accessibility requirements for public procurement in the built environment, section 3.3.4 Inventory findings and related tables.

<sup>32</sup> <ftp://ftp.cen.eu/CEN/Sectors/Accessibility/ReportAccessibilityBuiltEnvironment%20Final.pdf>

<sup>33</sup> Accessibility legislation exists in the US at Federal level providing their industry with a competitive advantage.

<sup>33</sup> Even non-binding technical specifications at national level can hinder the proper functioning of the internal market in case the nature of a product and/or a structure of the market require interoperability between certain goods and services. This is a common scenario in the area of accessibility, where goods and services operate in “chains” (for example, in order to benefit from accessible broadcasting services,

Thirdly, barriers to trade may also arise because of a lack of information concerning the goods and services which are potentially available, or the accessibility requirements to which goods or services must conform. If industry does not inform consumers of what they are able to purchase, or how they can purchase it, this makes it harder for providers of the relevant goods and services to enter the market in question. In practice, a lack of consumer information causes consumers to stick to what they know and to be reluctant to consider new products. This typically results in national markets remaining national, and established national suppliers of goods and services being protected from new entry by competitors from other countries. Consumer information is therefore a necessary part of opening markets and removing barriers to trade resulting from consumers' reluctance or inability to purchase new or cross-border products or services.

The internal market problems/barriers for businesses would increase given the limited cross-border trade/sales of the accessible goods/services (which may also result in limited economies of scale), the costs related to adaptation of the relevant good/service, the lack of investment in accessibility of the goods/services, the difficulties to compete in the market and the difficulties in particular for SMEs to enter new markets<sup>34</sup>. A similar effect is expected on barriers for consumers related to limited cross-border consumption of the relevant good/service, i.e. disabled consumers may face higher costs. They will not be able to benefit as other consumers from the benefits of the internal market in terms of price, choice and quality.

#### *2.2.1. Some concrete examples of legislative divergence leading to market fragmentation*

The Deloitte study's report contains a detailed picture of the risk of market fragmentation for each of the sectors considered as Member States strengthen their accessibility rules to address the obligations enshrined in the UN Convention. In particular, legislation seems to be needed to ensure that private facilities and services opened to the public are accessible.

The examples provided in the report, based on evidence gathered from the industry and structured around the following three clusters, illustrate some of the problems that are faced by businesses:

- Fragmentation of accessibility requirements in the areas of:
  - o Self-service terminals;
  - o Audiovisual media services; and
  - o Built environment.
- Cross-border trade in the areas of:
  - o Ticketing machines;
  - o Digital terrestrial television equipment;
  - o Web-accessibility.
- Lack of economies of scale in the areas of:
  - o Ticketing machines;
  - o ATMs.

Some of those concrete examples are further described below.

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relevant accessible TV sets are required or accessible web sites require accessible computer hardware and software and interoperability with assistive technology). If the technical specifications ensuring interoperability are set at the national or local levels, the economic operators from other Member States may in practice have difficulties entering such markets.

<sup>34</sup> According to the replies to the SME Panel, the most important obstacles to the provision of goods and services accessible by European SMEs are lack of information and guidelines on accessibility, lack of knowledge of accessibility, and complexity of legislation.

- Websites

Whether in the transport, hospitality, banking or retail service, offering accessible services online to individuals with disabilities requires web-accessibility, i.e. websites have to be accessible to all people, no matter whether they have disabilities or not. Different approaches to web-accessibility of public sector websites have been taken in 13 EU Member States<sup>35</sup>. Some Member States have already extended their accessibility requirements for public sector websites to private sector websites.<sup>36</sup> If the rest of the Member States were also to do so, this would lead to a strongly fragmented regulatory landscape for private sector websites.

- Self-Service Terminals (SSTs)

There are significant differences between the accessibility requirements for Self-Service Terminals (SSTs) (including ATMs) specified by legislation, standards and technical guidance documents across Europe. For instance, an SST with a height of operation of 1250 mm would be considered as accessible in France and Ireland, while it would be considered as inaccessible in Austria, Germany, Denmark, Spain, Norway and the UK. Similarly, an SST with a height of operation of 750 mm would be considered as accessible in the UK, while it would be assessed as inaccessible in Austria, Germany, Denmark, France, Ireland and Spain. With regard to knee space provided below the SST in order to make the operating devices reachable (i.e. accessible) for wheelchair users, (diverging) technical requirements exist in Germany, France and the UK, while no requirements have been defined in the other countries within the scope of our analysis. Similar problems can be observed with regard to the minimum requirements for the access area in front of the SSTs as well as the degree of coverage of ICT-related accessibility issues. Leading SST manufacturers have reported that such regulatory differences in technical requirements lead to obstacles in the internal market and additional costs for accessibility because they have to familiarise with the diverging national accessibility requirements and adapt their products in order to be able to sell them in the different sub-markets within the internal market<sup>37</sup>.

- Built environment

All EU Member States require some built environment elements, including those where some services are offered to the public, to be designed to be accessible for persons with disabilities. Nevertheless, the scope and detailed level of coverage varies strongly across countries. While some Member States have implemented specific accessibility requirements for transport facilities for example<sup>38</sup>, other Member States cover the accessibility of facilities with general requirements for buildings open to the public and for the external built environment (e.g. general rules for ramps, signage, manoeuvring spaces, etc.). Furthermore, the detailed technical specifications for the accessibility requirements vary across Member States. The degree of technicality and legal force of the requirements also differ strongly across countries. As a result, architectural designs that are exported to other countries have to be adapted to meet national codes and regulations, and consequently no single, standard design can be put

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<sup>35</sup> Technosite, NOVA and CNIPA (2010) Study on Monitoring eAccessibility –MeAC2. Report on implementation and interpretation of WCAG 2.0. Available at [http://www.eaccessibility-monitoring.eu/descargas/MeAC2\\_Report\\_on\\_implementation\\_and\\_interpretation\\_of\\_WCAG\\_2\\_0.docx](http://www.eaccessibility-monitoring.eu/descargas/MeAC2_Report_on_implementation_and_interpretation_of_WCAG_2_0.docx)

<sup>36</sup> Study on Assessing and Promoting E-Accessibility: <http://ec.europa.eu/digital-agenda/en/news/study-assessing-and-promoting-e-accessibility>.

<sup>37</sup> Interview with accessibility experts of a leading ATM manufacturer; See also ATMIA contribution to the European Commission's public consultation in view of a European Accessibility Act

<sup>38</sup> These countries include, according to the M/420 report, AT, BE, CY, DK, FI, GR, IE, LU, ES, SE, and the UK.

to use across Europe. Due to Member States' obligations under the UN Convention, it is likely that all EU Member States will maintain and further develop their technical accessibility requirements for the built environment by 2020, including those requirements that are relevant for the provision of accessible services (e.g. provisions for buildings open to the public, for the external built environment and specifically for transport). Convergence will potentially be fostered by currently on-going standardisation work at European level, under the Commission's standardisation request M/420 to European standardisation organisations, but this cannot be considered as sufficient. Indeed, the results of the first phase of M/420 identified a set of divergent standards on accessibility (in terms of scope and level of detail) along with various methods to assess conformity with those standards for the built environment.<sup>39</sup> In the absence of EU legislation, the standardisation work at European level is not binding on Member States, therefore there is no guarantee that European standards would be used in a harmonised manner all over the EU instead of national rules. Knowing that national accessibility requirements already exist in all Member States and considering that, as an annual average, 5% of the existing built environment is refurbished<sup>40</sup>, we can assume that in 10 years, half of the existing buildings will already be renewed according to the criteria of the related national legislation.

- Computers

As regards computers, binding technical accessibility requirements can be identified in two EU Member States: Italy and Spain. Guidelines are in place in Ireland. As concerns the content of the technical accessibility requirements, the Italian and Spanish technical standards are different: while one is heavily inspired by the mandatory "Section 508 Standards"<sup>41</sup> of the US Rehabilitation Act, which is products-oriented, the other is more based on ISO standards, focusing on the functionality of the several hardware and software components. Section 508 contains technical requirements with regard to the accessibility of, among other things, operating systems<sup>42</sup>, desktop and portable computers<sup>43</sup>. The number of EU Member States that are likely to produce their own national requirements is expected to increase in the future given national action plans and commitments to accessibility, particularly in light of the signing and ratification of the UN Convention by Member States. Probably Member States will produce their own rules based on variations of these documents.

Since becoming compulsory in the US, Section 508 standards were adopted by the computer industry as the global *de facto* accessibility standards. Section 508 standards are in the process of being substantially reviewed and modernised ('refreshed') by the US Access Board<sup>44</sup> with references to various international technical standards. A draft version of the new "Section 508 Information and Communication Technology (ICT) Standards and Guidelines"<sup>45</sup> was first published in December 2011, with an additional revised draft version in 2015, and it is expected that the final rules will be published in 2016. There is no mechanism in the Spanish standard or the Italian legislation for these national requirements to be updated to keep pace with the new guidelines, setting the scene for fragmentation to occur between these national requirements and those in the reviewed Section 508.

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<sup>39</sup> CEN, CENELEC and AENOR (2011): *Final Joint Report - CEN/BT WG 207 (PT A and PT B) – Phase I: Inventory, analysis and feasibility of European and International accessibility standards in the built environment*,

<ftp://ftp.cen.eu/CEN/Sectors/Accessibility/ReportAccessibilityBuiltEnvironment%20Final.pdf>

<sup>40</sup> Taking the conservative estimate provided in the Deloitte study.

<sup>41</sup> <http://www.section508.gov/docs/Section%20508%20Standards%20Guide.pdf>

<sup>42</sup> subpart B – section 1194.21, see <http://www.access-board.gov/sec508/guide/1194.26.htm>

<sup>43</sup> subpart B – section 1194.26, see <http://www.access-board.gov/sec508/guide/1194.26.htm>

<sup>44</sup> <http://www.access-board.gov/sec508/update-index.htm>

<sup>45</sup> <http://www.access-board.gov/sec508/refresh/draft-rule.htm>

The new Section 508 standards are a significant departure from the current standards. They are not structured according to types of ICT but around “characteristics” that are found in many different types of technology. This is due to the converging nature of technologies such as computers, smart phones and games consoles. The newer requirements differ greatly in content as well. New Section 508’s requirements will be more explicit.

European standards are being developed in line with the revised Section 508 standards. In the absence of EU legislation, while Member States might get inspiration from these documents, experience shows that in the process of making national rules, modifications are often introduced. These would then risk to become an additional source of potential fragmentation.

### **2.3. Current situation and evolution of the problem in the baseline scenario**

This section assesses for **each priority good and service** and for **public procurement** the current situation of regulatory fragmentation, its likely development by 2020 if no EU action is taken (baseline) and related problems in the internal market. It is important to note that EU funding from programmes like the European Structural and Investment Funds or the Connecting Europe Facility are often spent through public procurement.<sup>46</sup>

The estimation of future regulatory fragmentation, of the market size at risk of fragmentation<sup>47</sup>, and of the costs for businesses to comply with the different national accessibility requirements in the baseline scenario are based on the results of the Deloitte study. The proportion of fragmented legislation found in the 9 Member States examined in detail in the study is used to extrapolate the situation in the EU. The results of the information collected by ANED in the (then) 27 Member States are used to validate these data.

The calculation of the costs in the baseline scenario are based on a set of basic assumptions, including market volume, proportion of cross-border trade and the additional costs of developing accessible goods and services. An assessment of the current market situation (2011) in monetary terms has been calculated applying either a “top-down” or a “bottom-up” approach. In the top-down approach, estimates of the costs of accessibility are derived from overall market turnover figures by assuming that the costs of accessibility account for a share of overall market turnover, while the bottom-up approach starts from data on the cost of making an individual good or service accessible. The assessment of the baseline scenario, i.e. cost related to no EU action by 2020, takes the same approach. It builds on the accessibility costs for 2011 multiplied by the share of cross-border trade and the larger number of Member States expected to legislate for accessibility as well as their GDP taking into account projected market growth. Account is also taken of the costs that firms will incur in adapting their products to meet different national accessibility requirements, and the costs of understanding these different requirements.

Detailed descriptions of the problems for each good and service can be found in Annex 6. For more details regarding the methodology, data sources and assumptions made please refer to Annex 7, based on the Deloitte study, which also includes a sensitivity analysis showing how varying the different assumptions influences the cost estimates.

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<sup>46</sup> The related Regulations also require accessibility to be observed when spending the funds, a measure to support further accessibility.

<sup>47</sup> The market at risk of fragmentation for each good and service and for public procurement is calculated by multiplying the market turnover in 2020 by the share of GDP (%) of the Member States concerned.

## Computers and Operating Systems

### *Current situation*

Computers<sup>48</sup> and their operating systems are a “platform” that enables the use of application software, peripheral devices and access to the Internet. They have a close relationship with other categories of goods such as peripheral equipment e.g. mice, keyboards, printers, photocopiers, assistive devices and application software such as word processors and spread sheets.

Computer accessibility refers to the use of a computer system by as many people as possible, regardless of their abilities or age. Software, hardware, or a combination of hardware and software are used to enable use of a computer by persons with a disability or impairments. Alternatives to visual input and provision of visual feedback, for example, in terms of voice and flexibility, and personalisation of interfaces like alternatives to keyboards, or the use of large fonts, high resolution displays, high-contrast themes and icons, supplemented with auditory feedback and screen magnifying software, allow not only disabled persons to use computers but benefit the large majority of working age population in terms of comfort of use, thereby having an impact on productivity<sup>49</sup>.

Available evidence suggests that the use of computers by persons with disabilities is 50% less than that of persons without disabilities.<sup>50</sup> In addition, information about the accessibility of computers and operating systems is not systematically provided: for instance, only 33% of the main computer manufacturers provide accessibility information.<sup>51</sup>

Out of the sample of 9 Member States, currently 2 Member States, Italy and Spain, representing 21% of GDP of the EU-27, have accessibility requirements in place related to computer hardware and software. In addition, voluntary accessibility guidelines have been introduced for public procurers in Ireland. ANED identified existing requirements in 5 other EU Member States. Developments to adopt new legislation or accessibility requirements have been identified in two further Member States, Sweden and the Czech Republic.

The market for computers and operating systems is a global market. The legislation in Italy, while initially based on the “Section 508 Standards” of the US Rehabilitation Act, introduces some changes; in Spain it is based on ISO 9241-171 and EMC- 29136 standards, but contains additional elements or addresses some issues in a different way<sup>52</sup>.

### *Baseline*

For the baseline scenario, the potential for additional fragmentation to occur in 2020 appears to be high. In light of the ratification of the UN Convention by Member States and the obligations of Article 9, the number of Member States likely to establish accessibility requirements for computers and operating systems is expected to increase. Member States

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<sup>48</sup> Computers are electronic devices that process information, designed for a broad range of home and office applications like web browsing, email, word processing, gaming, etc. Computer hardware is split up into desktop-PCs and portable PCs, which can in turn be split up into laptops and tablets. Computers are electronic devices that process information, designed for a broad range of home and office applications like web browsing, email, word processing, gaming, etc. Computer hardware is split up into desktop-PCs and portable PCs, which can in turn be split up into laptops and tablets.

<sup>49</sup> See Microsoft Forrester report: <http://www.microsoft.com/enable/research/phase2.aspx>

<sup>50</sup> Eurobarometer(2002), Flash Eurobarometer 135 – Internet and the public at large available at [http://europa.eu.int/public\\_opinion/flash/fl135\\_en.pdf](http://europa.eu.int/public_opinion/flash/fl135_en.pdf)

<sup>51</sup> Measuring progress of eAccessibility in Europe (MeAC) study (2011).

<sup>52</sup> Differences relate to user interface elements, icons, menus, connections ports, keyboard requirements and alternatives to link with assistive devices.

introducing new accessibility requirements are likely to base them on the forthcoming revised US compulsory standards.<sup>53</sup> As in the case of Italy and Spain, it is expected that Member States will modify those requirements in the process of adapting them to become national rules, thereby increasing the fragmentation.

Based on the current legislative situation described in Annex 6, it is conservatively estimated that 6 Member States will have adopted divergent accessibility requirements for computers and operating systems in the EU by 2020. The part of the total market size that is at risk of fragmentation is estimated at €84 500m.

Those requirements could be different with respect to the type of information on accessibility that needs to be made available and functionality requirements, such as requirements for connectors and ports configurations, commands and functionalities of the user interfaces, key board configurations, etc. are also expected to be different.

Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at €82m.

Industry representatives<sup>54</sup> have confirmed the risks of this future regulatory fragmentation. They called the market for accessibility of computers “uncertain”. This relates specifically to the uncertainty for industry of having different countries developing their own sets of accessibility requirements. They stated a “huge cost” would be incurred as a result of “the time lawyers have to take looking at the situation, new coordination with providers design testing, development etc.”; this cost would be passed onto the consumer.

### **Audiovisual media services<sup>55</sup> and Digital TV equipment<sup>56</sup>**

#### *Current situation*

There are two aspects of audiovisual media where accessibility considerations arise for viewers with disabilities – the equipment and the services. Television is moving in the EU from analogue to digital and access services also move to second-screens. Due to convergence of technology, accessibility requirements can be now addressed more easily due to new possibilities offered by the connectivity of the devices to the Internet. Digital terrestrial television (DTT) equipment includes digital decoders such as set-top boxes and iDTV (integrated digital TVs) and the remote control needed to use these. Their user interface and circuitry to support access services is affected by divergent rules. The services concern the audio-visual content provided in broadcasting and on-demand services and navigation menus, notably technical aspects of access services such as font size and other aspects of how subtitles and menus presented to the user are rendered on-screen, and coding of audio description. It also concerns user interfaces on connected devices displaying web-based audiovisual media services.

Accessibility of DTT equipment concerns the configuration and usability of the hardware (screens, buttons, etc.) and software (menus, programme guides, pause/rewind/record

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<sup>53</sup> Under revision by the US Access Board and expected by the end 2013 <http://www.access-board.gov/sec508/update-index.htm> <http://www.access-board.gov/sec508/update-index.htm>

<sup>54</sup> Deloitte study.

<sup>55</sup> Audiovisual media services as defined in Article 1(1)(a) of the Audiovisual Media Services Directive referred to in Annex III Section I.

<sup>56</sup> Digital TV equipment is part of the audiovisual media equipment next to other devices used to assess audiovisual media services, such as mobile and smart devices, computers, laptops and tablets. Smart and mobile devices are covered by Telephony equipment and computers (PCs, laptops, notebooks and tablets) are covered by computer hardware dealt with in other parts of this Impact Assessment.



functions, etc.). This equipment can sometimes be very difficult to use for people with sensory and physical disabilities. For example, people with vision impairments often find it difficult or impossible to see the labels on a remote control or to read on-screen text. They may require a remote control with clearly labelled buttons that can be distinguished by touch.

Accessibility of the service concerns mainly the availability of audiovisual content via alternative sensory channels, for example, using text or sign language, or audio description. Sign language is meant for people who are deaf and audio description for people who are vision impaired or blind. Captions and subtitles provide a written transcript of the dialogue and other important sounds contained in the programme. Audio description (sometimes referred to as video description) provides a spoken narration during pauses in the dialogue, describing important visual content such as moving objects, actions and facial expressions. Accessibility problems also concern the limited accessibility of EPGs (electronic programme guides) and navigation menus, and the availability of accessible information to facilitate complementarities with assistive services.

The main accessibility problems of DTT equipment are linked to the information provided about their accessibility, for example in the packaging, the lack of information about the instructions for use (of set-top boxes and remote controls), installation and maintenance, storage and disposal, limitations about the functionality of the good by providing functions aimed to address the needs of persons with functional limitations, limited accessibility of the remote controls, and the limited interfacing with assistive devices. According to studies, the current level of accessibility of DTT equipment is only 33%<sup>57</sup>.

Out of the sample of 9 Member States, for DTT equipment 8 Member States were found to have accessibility requirements representing 77% of the EU's GDP for DTT equipment<sup>58</sup>. These requirements differ in scope and technical rules, those technical differences might limit the correct use of accessibility features when broadcasting the service outside the Member State. Annex 6 provides an overview of obligations, technical requirements, standards and guidelines with regard to the accessibility of **DTT equipment** in the selected 9 Member States.

While most national rules for DTT equipment relates to the Digital Video Broadcasting (DVB) family of standards, fragmentation relates to the selected components of the specifications of that family, the compression rules used, the technical rules for the support of subtitles and audio description sometimes using the circuitry of the receiver to mix the signals. Fragmentation also concerns, for example, the design of remote controls, sometimes requiring specific buttons for subtitles and audio and audio description.

As regards **audiovisual media services**, all 9 Member States in the sample have introduced some kind of accessibility requirements, representing 80% of the EU's GDP,<sup>59</sup> with the nature, legal force and coverage of these varying considerably across the countries. These requirements typically take the form of target percentages of the broadcast programmes which need to be covered by accessibility services such as subtitling, audio description and sign language interpretation. Only two Member States have adopted specific rules for non-linear audiovisual media service providers.

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<sup>57</sup> MeAC study – Measuring progress of eAccessibility in Europe (2011).

<sup>58</sup> France, Germany, Ireland, Italy, Poland, Portugal, Spain and UK.

<sup>59</sup> France, Germany, Ireland, Italy, Netherlands, Poland, Portugal Spain and UK.

While most countries have set legal targets for accessibility rates for both public and private broadcasters, Italy and Germany have only established contractual target agreements with public broadcasters. Target levels of broadcasting accessibility services vary between countries in both the quantities and types of broadcasting accessibility services to be provided. While required levels for subtitling are strong for most public broadcasters (from 80% upwards in most cases) these fall significantly for commercial broadcasters. Levels for the provision of audio description tend to be much lower. Coupled with this, the mechanisms for calculating a broadcaster's achievement of these targets vary, with some broadcasters counting shows that have been imported from other networks and shows that are repeated after midnight with subtitles towards their targets. Other broadcasters such as the BBC in the UK have made significant efforts to subtitle most of their live broadcasting. With TV broadcasting being delivered in real time across the EU adaptation to the accessibility services would need to be made in order to comply with different national rules.

### *Baseline*

Given Member States' commitment under Article 30 of the UN Convention to "take all appropriate measure[s] to ensure (...) access to television programmes in accessible formats" and the requirements in EU legislation<sup>60</sup> that oblige Member States to encourage media service providers to make their services gradually accessible to people with visual or hearing disabilities, it is likely that Member States will continue to increase accessibility obligations both on the DTT equipment and audiovisual media services.

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. The part of the total market size that is at risk of fragmentation is estimated at €2 400m (equipment) and €112 700m (services).

Those requirements could be different with respect to the type of information on accessibility that needs to be made available. Functionality requirements, such as the subtitles, signing and audio description, and the standards used for codifying and broadcasting those signals, as well as the remote control designs could also be expected to be different.

Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at about €7m (equipment) and €2 300m (services).

## **Telephony services and related terminal equipment**

### *Current situation*

Telephony services are those that can support communications between two or more people over a distance by electronic means. The communication normally happens by voice but for some disabled persons the equivalent communication happens through the use of sign language via video and real time text or the combination of the three of them. To make those services accessible Member States have taken a number of measures including (i) the provision of accessible information, (ii) the accessibility of the directory enquiry service, (iii) the accessibility of the bills, (iv) the accessibility of public pay phones, (v) the provision of relay services, (vi) the availability of special tariffs for disabled persons, (vii) the provision of special terminal equipment, (viii) the adaptation of public pay phones to be accessible and (ix)

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<sup>60</sup> AVMSD – Audiovisual Media Services Directive - Directive COM/2010/13.

the accessibility of emergency services<sup>61</sup>. The internal market issues related to these accessibility services as the equivalent of voice telephony also concerns the use of real time text and video separately or in combination with voice across Member States, whether directly on personal communications, via relay services, or, for example, when calling the European emergency number 112 from another Member State than the one where the telephony service was contracted. A person using real time text or SMS in one country for that purpose is not guaranteed the use of that technical solution in another country.

#### Examples of accessibility of telephony services

Accessible “voice” telephony for deaf persons has been achieved in some cases by the provision of video telephones that permit persons using sign language to communicate among themselves. In other cases this has been achieved by the provision of Real Time Text (RTT) permitting in addition those deaf and hard of hearing persons that are not sign language users to communicate directly among themselves, and also with persons without hearing difficulties. Usually RTT is provided as a separate service not connected to general voice telephony. The introduction of SMS (Short Message Service) has allowed some mainstreaming of written communication but cannot be considered equivalent to voice conversation. New messages systems provide new opportunities but their interoperability and their use in 112 calls remains an issue. Recent efforts, for example, related to the provision of 112 emergency services provide for the combination of coordinated video and RTT in solutions called “Total Conversation”. The term Total Conversation is defined by the ITU-T recommendation F.703 as “An audiovisual conversation service providing bidirectional symmetric real-time transfer of motion video, text and voice between users in two or more locations”. ITU-T does not refer to interoperability with relay services.

**Terminal equipment** is necessary in order to be able to effectively communicate using a telephony service<sup>62</sup>. Terminal equipment can be subdivided into fixed and mobile phones.

#### Examples of accessible terminals

Accessible terminals include both hardware and software aspects and relate to the provision of information about the accessibility features of the terminals, the accessibility of the design of their user interface, addressing issues related to the input, the output, the control functions, and the display. Other issues relate to interoperability with assistive devices in terms of connectivity and compatibility for example avoidance of interference for hearing aids. The accessibility features of terminals concerning text and video communication depends on the hardware configuration and the software available.

Unlike for voice communication, for real time text and video interoperability problems remain across Member States. This is the case for example in relation to specialist terminal equipment and related relay services. Furthermore, national rules on measures to be taken by

<sup>61</sup> Concerning the provision of accessibility to the 112 emergency number some Member States have put the obligations to provide accessibility using alternative numbers, use of faxes, use of SMS or video and/or the use of Real Time Text services and devices. Some Member States require a combination of those.

<sup>62</sup> In Spain the take-up rate by people with disabilities is in line with or even higher than the take-up rate for the general population. More specifically, the take-up rates were as high as 98.4% for hearing impaired people, 91.6% for visually impaired people and 89.4% for people with a physical impairment (compared to a mobile telephone uptake of 89.0% for the general population in Spain). However, senior people with disabilities had a low uptake of 24.7% compared to the 58.0% reported by Eurostat for the general population aged 65-74. DG INFSO - Study on the Internal Market for assistive ICT - Final report, 2008.

operators differ on the scope, and technical solutions, for example, in relation to adapted public pay phones and access to emergency services. Operators need to develop different national solutions in the Member States and users of these services have difficulties to access them from another Member State.

The accessibility problems of the terminals (telephones) are linked to the packaging, including the accessibility information provided in it, the limited accessibility information about the instructions for use, installation and maintenance, limitations about the accessibility of their user interface and the functionality aimed to provide total conversation and the interfacing with assistive devices.

Following the revision of the EU regulatory framework for electronic communications in 2011,<sup>63</sup> Member States are obliged to take special measures to ensure that disabled persons have affordable access to fixed telephony services, including emergency services, directory enquiry services and directories. In addition, several Member States like Spain and the UK are considering making mobile telephony and Internet access accessible for disabled people and some are taking measures to ensure that disabled users can benefit from a choice between providers of services.

Out of the sample of 9 Member States all have developed different legislation, technical rules, programmes and practices putting direct obligations on services providers that affect telephony services and equipment in a different way. A report of the Body of European Regulators for Electronic Communications (BEREC)<sup>64</sup> concludes inter alia that “most significant differences exist with regard to telecommunications-related services to be provided by the operators in different Member States”<sup>65</sup>.

The differences in national accessibility requirements make it particularly difficult for SMEs, for examples those that want to provide solutions for hearing-impaired and speech-impaired persons or relay services, to be able to enter the market or compete with large established industry, for example, for the provision of total conversation solutions.

Out of the sample of 9 Member States there were no direct obligations placed on **terminal manufacturers**. The obligations on the provision of accessible terminals are **imposed indirectly through obligations placed on telecommunication service providers**. These obligations also differ in content and scope. Member States have very detailed and diverse technical requirements for public pay phones concerning their user interface and some design features. Several Member States require connection and access to the fixed network and services for users of relay services. In relation to access to emergency service Portugal requires accessibility of handsets for fixed telephony. Furthermore, Polish legislation contains a provision allowing “...to specify additional requirements for the adaptation and use by disabled persons” for terminal equipment placed on the market, while according to the MEAC Study the following Member States have some standards and guidelines concerning telephone devices: Germany Sweden, United Kingdom and Ireland, that has in addition some legal obligations<sup>66</sup>.

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<sup>63</sup> <http://ec.europa.eu/digital-agenda/en/telecoms-rules>

<sup>64</sup> The Body of European Regulators for Electronic Communications (BEREC) - Ensuring equivalence in access and choice for disabled end-users BEREC Report.

<sup>65</sup> Please note that BEREC adopted further work on this for the work programme for 2014.

<sup>66</sup> In addition, Spain has introduced provisions about accessible telephone directorates via the internet. Royal Decree 424/2005: specifies “specify the range of universal service, imposing obligations on the designated operator with regard to accessibility, such as those that guarantee the existence of an

The recent proposal for a Regulation<sup>67</sup> laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent recognises the general fragmentation in the telecommunications market in the EU. It provides for a number of measures related to the single market for electronic communications like inter alia a single authorisation for operating in all 28 Member States (instead of 28 authorisations) and enhanced end-user protection and empowerment measures in the electronic communications sector. These provisions refer to inter alia transparency and publication of information and information requirements for contract, under which specific references to information for disabled end-users are contained. However, the proposal does not harmonise the existing specific provisions for persons with disabilities under the EU regulatory framework which would remain subject to national transposition and implementation measures, such as the relevant provisions focusing on the provision of information about measures taken to ensure equivalence in access and choice for disabled end-users and about more specific details of goods and services designed for disabled persons. The provision of accessible services and terminals will continue to depend on the accessibility requirements stemming from national rules.

### *Baseline*

In the baseline scenario, the divergence in accessibility requirements for both telephony services and terminals is expected to increase by 2020. First, the UN Convention requires Member States to make communication technologies and systems accessible including electronic services and emergency services. Second, following the trend in the US, where regulations exist for services, networks and equipment placing obligations on operators and manufacturers and technical standards are being updated, national legislations are expected to address new technological developments and have implications for technical accessibility standards that would be divergent. As in the case of computers, in Europe efforts on standardisation in this area have happened within the request M/376 to develop a voluntary standard taking into account the foreseen changes in US legislation section 508. A standard is already published but being voluntary this cannot prevent Member States of taking divergent legislative measures. Third, the BEREC 2011 report notes that seven Member States have put in place obligations with respect to terminal equipment under Universal Service and that Article 23a of the 2009 Universal Service Directive is not specific regarding the measures that can or cannot be mandated by National Regulatory Authorities under it. National legislation is needed to comply with the accessibility requirements in the Universal Service Directive. In spite of certain enhancements proposed in the draft Regulation laying down measures concerning the European single market for electronic communications and to achieve a Connected Continent<sup>68</sup> and further BEREC work on implementation for these rules, specific measures on disabled end-users at national level would continue to differ across Member States subject to national transposition and implementation measures. The rules related to emergency services (Emergency services and the single European emergency call number 112

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adequate supply of special terminals, technologically up to date, adapted to the different types of disabilities and giving them adequate public exposure;

In the UK, the 2003 Communications Act further stipulates that OFCOM has the power to take steps towards the development of domestic electronic communications apparatus capable of being used with ease and without modification by the widest possible range of individuals (including those with disabilities). The 'General Conditions of Entitlement' published by Oftel on 22 July 2003 requires that all providers of publicly available telephone services or public telephone networks implement special measures for end users with disabilities, such as "to provide particular groups of disabled customers with inter alia (ii) access to text relay services which include particular facilities". In doing so, providers will have to support the technical solutions used in the UK.

<sup>67</sup> COM(2013) 627 final

<sup>68</sup> COM(2013) 627 final

under Article 26 USD) are likely to be strengthened by Member States to provide direct access to emergency services, as required by the same Directive, via text telephony, and video phone service with implications for divergent technical accessibility requirements for terminals. Fixed phones and public pay phones are becoming obsolete and are being replaced by mobile phones. Consequently, the implementation of the existing obligations of equal access to 112 cannot be conceived without ensuring the accessibility of mobile phone terminals. Hence it is expected that current accessibility obligations in Member State for fixed and public pay phones will evolve to cover more and more mobile phones.

Based on the current legislative situation described in Annex 6, it is assumed that, in 2020, 20 Member States will have adopted additional accessibility requirements related to the above-mentioned telephony services. The part of the total market size that is at risk of fragmentation is estimated at €10 000m.

Regarding terminals it was estimated that 6 Member States will have adopted legislative accessibility requirements<sup>69</sup>. The part of the total market size that is at risk of fragmentation is estimated at €75 200m.

The differences of those requirements could increase with respect to their content and scope for example, those related to the technical standards used for 'total conversation' affecting mobile devices and the relay services specific terminal equipment<sup>70</sup> as well as the technical solutions to be provided not solving interoperability problems and requiring the redesign /retrofitting of the accessibility solutions across Member States.

Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at about €60.5m (equipment) and about €1 000m (services).

## **eBooks**

### *Current situation*

Electronic books, generally referred to “eBooks”, are books that are provided in digital form, consisting of text and/or images and which are readable on computers, mobile telephones or other electronic devices, such as dedicated eBook readers.

Making eBooks accessible includes mark-up of eBook as per its semantics (headings, pages, footnotes etc.) and then converting it for example to DAISY XML and DAISY text-only book. The work can start from unformatted electronic files using Word, TXT, HTML etc. The DAISY XML file can be used to create other accessible formats such as Braille and audio while the DAISY text-only book can be directly used for reading purposes.

In some cases problems also occur when copyright protection limits the end-user’s access rights to convert the eBook from text to speech and/or when the software/reader does not support this facility. Other accessibility problems include the limited accessible information about the functioning of the service and the accessibility characteristics of the publications themselves, including interoperability with assistive devices, and the limited accessible online related applications, including electronic information needed in the provision of the service.

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<sup>69</sup> Spain, Ireland, UK, France, Poland, Portugal.

<sup>70</sup> It is important to note that in the US the current standard for real time text is based on the obsolete TTY protocol and that new technical standards are being selected to update the legislation. Interoperability is required with TTYs but not with solutions used in Europe.

Industry players interviewed for this impact assessment have pointed out the following challenges when operating in the EU internal market: technical problems related to the accessibility formats; a narrow and fragmented market; a costly, overly complicated and time-consuming process of acquiring information and knowledge on accessibility for SMEs; no specific guidance on accessibility; and rapidly changing requirements and technologies. Furthermore, several accessibility features would need to be considered to take into account consumers' different abilities. For these reasons, many eBook industry players consider that the incentives are very limited to invest in accessible products, leading to fewer than one in three eBooks being accessible<sup>71</sup>.

Out of the 9 Member States from the Deloitte study, currently only Italy has adopted legal technical accessibility requirements for eBooks. These cover the structure, navigation features, use of images, graphs and tables, magnification features, content export and interoperability with reading devices and assistive technology<sup>72</sup>. In addition, 6 Member States have adopted copyright exemptions for disabled persons. While these do not impose direct accessibility obligations, they are likely to lead to the use of particular accessibility formats in practice that will probably differ among countries. ANED identified accessibility requirements on eBooks in five EU Member States in addition to Italy.

### *Baseline*

Considering these issues for the development of the baseline scenario by 2020 it is expected that more Member States will have adopted technical accessibility requirements for eBooks. This assumption is also based on Member States' commitments under the UN Convention as well as the strong growth of the eBook market.

Based on the current legislative situation described in Annex 6, it is assumed that new accessibility requirements will have emerged in 7 EU Member States by 2020. Those requirements are likely to differ from Member State to Member State, in terms of accessibility formats and the features to be covered. The part of the total market size that is at risk of fragmentation is estimated at €1 500m.

The divergent accessibility requirements would increase costs for businesses and consumers. Divergent accessibility requirements across countries would lead to obstacles in cross-border trade, notably a need for product adaptations for the different submarkets, thus leading to additional costs for businesses, which are estimated at €96m.

## **Self-service terminals**

### *Current situation*

Self-service terminals (SSTs) are computerised telecommunications devices or electronic outlets that provide users with access to various operations in public spaces without assistance from personnel of the provider of the good/service. SSTs are commonly used in sectors such as banking (automatic teller machines - ATMs), and transport services (check-in machines and ticketing machines).

It is important that both the SSTs hardware and software are accessible. The main limitations in accessibility of SSTs are linked to limited accessibility of the user interface and limited

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<sup>71</sup> MeAC (2011).

<sup>72</sup> See annex 6 on problem definition for further detail.

interoperability with assistive devices, which even when existent, is very seldom consistent across the EU<sup>73</sup>.

The following accessibility problems have been highlighted both in the public consultation and by the other sources of information consulted: the height of the machine relative to users in a wheelchair; the lack of similarity of the display from one machine to another (inconsistent layout of keypads, number orientation, size and style of the keys, colour and contrast); the lack of audio output; the small print of the receipts issued by SSTs which makes them difficult to read, and poor general functionality. In addition, according to the public consultation, there needs to be a requirement for SSTs to use the already existing speech technology, as speech technology is seen as adding significant value to usability<sup>74</sup>.

Out of the sample of 9 Member States, 5 (Austria, Denmark, France, Germany and UK) were found to have binding technical accessibility requirements for ATMs and 6 (Austria, Spain, France, Denmark, Germany, UK) for ticketing machines and for check-in machines. ANED identified at least six other Member States with legislative accessibility requirements in this area.

There are significant differences between the accessibility requirements for SSTs specified by legislation, standards and technical guidance documents across Europe.<sup>75</sup> These include issues such as the height of operation, the knee space or the access area in front of the SSTs. As a result, adaptations for the different national markets within the internal market are necessary. Interviewed SST manufacturers reported that the fragmentation and inconsistency of accessibility requirements across the EU prevent them from exploiting potential economies of scale of Europe-wide or worldwide standardised products. These differences also lead to additional costs because they have to familiarise themselves with the diverging national accessibility requirements and adapt their products in order to be able to sell them in the different national markets within the internal market.

### *Baseline*

In the baseline scenario these differences, both related to the physical setting, and the user interface, hardware and software are expected to increase by 2020 as Member States implement the UN Convention and introduce additional accessibility requirements for SSTs.

Based on the current legislative situation described in Annex 6, it is estimated that in 2020, 15 Member States will have adopted legislative accessibility requirements for ATMs, and 18 Member States will have adopted legislative accessibility requirements for ticketing machines and check-in machines. The part of the total market size that is at risk of fragmentation is estimated at €71m for ATMs, at €6m for checking machines and €37m for ticketing machines.

Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at about €300 000 for ATMs, €30 000 for checking machines and €185 000 for ticketing machines.

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<sup>73</sup> In the US a standard connector exists in ATMs so that a blind person can plug a headset and use the ATM to make transactions.

<sup>74</sup> Technosite. Accessible personalised Services in PDTs for All (work in progress). 2012

<sup>75</sup> Annex 6 provides an overview of identified obligations in legislation, related technical accessibility requirements and standards/guidelines of a mandatory or voluntary nature in both selected EU and non-EU countries.



## Services' key enablers

The calculation of the impacts on the services below (namely eCommerce, banking, transport and hospitality services) for the online and the built environment components is based on a common assessment for private sector websites and architect services. This section contains a description of the current situation and baseline for these areas.

### *Current situation private sector websites*

Web accessibility means making websites usable by people regardless of their abilities. When websites are correctly designed, developed and edited, all users can have equal access to information and functionality either directly or by interoperable assistive solutions. Websites are nowadays an essential component of service delivery in several economic sectors. It is essential that several different components of web development and interaction work together in order for the web to be accessible to people with disabilities. These components<sup>76</sup> include: contents (information in a web page or web application), web browsers, media players and other “user agents”, assistive technology (e.g. screen readers, alternative keyboards, switches, scanning software, etc.), authoring tools and evaluation tools. This section concerns private sector websites from the perspective of businesses, meaning web developers.

The accessibility of private sector websites is low. The MEAC 2 study<sup>77</sup> found that 18% of websites were accessible. Current problems with accessibility of websites relate to the navigation and their structure, content presentation, text alternatives for graphics, and the user interface, for example, functionality available from the keyboard and compatibility with assistive devices.

In the sample of 9 Member States, currently only Spain, representing 9% of GDP, has mandatory accessibility requirements related to private sector websites that impose a national technical standard. In other countries like the UK service providers are required to make their websites accessible but without obliging a particular accessibility standard. Voluntary standards to promote web-accessibility among private businesses have also been identified in Italy and the United Kingdom. The ANED study identified requirements for private sector websites in five additional Member States (Belgium, Cyprus, Malta, Netherlands and Slovenia).

### *Baseline for private sector websites*

When developing the baseline scenario, it is important to consider that the Commission has proposed to make public sector websites accessible<sup>78</sup>. Stakeholders in this area as well as users organisations consider the latter proposal an important step and suggest that similar requirements could be foreseen for companies offering services to the public (e.g. e-commerce websites). In the future, it is assumed that Member States will extend the accessibility requirements for public sector websites to private sector websites. In addition, it is expected that more Member States will adopt accessibility requirements for private sector services websites based on their obligations under the UN Convention.

Based on the current legislative situation described in Annex 6, it is assumed that in 2020, 12 Member States will have adopted divergent accessibility requirements for private sector websites. The part of the total market size that is at risk of fragmentation is estimated at €214 500m.

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<sup>76</sup> <http://www.w3.org/WAI/intro/components.php>

<sup>77</sup> MeAC (2011).

<sup>78</sup> COM (2021) 721. The information and calculations in Annex 7 have been as much as possible aligned to the impact assessment accompanying this proposal.

It is expected that those requirements will be different with respect to the type of technical rules they follow given that national rules for public sector websites already differ in Member States.

Based on the methodology described in Annex 7, the cost for businesses, in the sectors considered under this exercise, to comply with those divergent national accessibility requirements is estimated at about €2 000m.

This information is used to calculate the costs related to website accessibility in the various services below and the related impacts in the various options.

#### *Current situation for architect services*

Large architectural design companies regularly work across borders when a company wins a competition or is awarded a public procurement contract to design buildings in another Member State. Removing internal market barriers for architect services in relation to accessibility means that cross-border architect services are not impeded by divergent accessibility requirements related to the built environment. The built environments where the services are provided are an essential component of their accessibility. Consequently the legislative fragmentation concerning the design of accessible buildings has to be considered when assessing the problems of the accessibility of services. Currently, all Member States require built environment elements to be designed to be accessible for persons with disabilities but the detailed technical specifications for the accessibility requirements vary across Member States. There is no available statistical data in the EU regarding the percentage of the built environment that is accessible, however a Swiss study<sup>79</sup> assumes 30% of buildings to be generally accessible. Annex 6 provides examples of divergent technical accessibility requirements in the built environment with regard to ramps, doors, toilet room free space and staircases in 6 Member States.

#### *Baseline for architect services*

Due to Member States' obligations under the UN Convention, it is estimated that all EU Member States will maintain and further develop their technical accessibility requirements for the built environment by 2020. The part of the total market size that is at risk of fragmentation is estimated at about €14 500m.

The differences in legislation and detailed technical accessibility requirements for the built environment lead to barriers for architectural design companies providing services across borders within the internal market<sup>80</sup>. Stakeholders pointed out that even for public buildings the divergence is quite significant and in some cases national legislation is inadequate. Businesses face extra costs every time they work on projects in other countries because they have to understand and comply with differing local regulations on accessibility and other technical areas. Accessibility requirements concerning issues such as entrances, corridors, stairways, placement of lifts, toilets and manoeuvring areas roughly affect 25% or more of the net space of buildings. The national requirements concerning these accessibility features diverge among Member States, sometimes, even at regional level<sup>81</sup>. Compliance with local requirements may require the hiring of local designers in order to operate swiftly enough

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<sup>79</sup> By the Eidgenössische Technische Hochschule Zürich: [http://www.hindernisfreibauen.ch/kosten\\_d.php](http://www.hindernisfreibauen.ch/kosten_d.php)  
<sup>80</sup> CEN/CENELEC/AENOR final report under standardisation request M/420 states that “The existence of the large number of national, regional and even local current standards analysed by the project team implies both fragmentation in the internal market as well as barriers to the professionals willing to work in the different member states.”

<sup>81</sup> See M/420 final report and further information on the national divergence of accessibility requirements regarding placement of lifts in annex 6.

during the design process, and to minimise the likelihood of expensive mistakes. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at €13m.

As noted above, the fragmentation of the legislative situation in the EU27 architect service market leads to additional costs for architect firms. Evidence from Germany suggests that architect fees are in the range of 10% to 13% of the total (monetary) building sum for new buildings and 15% to 18% for existing buildings<sup>82</sup>. Consequently, even if we only look to the architect fees, retrofitting to conform to accessibility rules appears to be more costly than building accessible from scratch. Nevertheless, it should be noted that the difference of costs of retrofitting according to criteria set out in a European Accessibility Act, instead of retrofitting according to national criteria, would reduce these costs.

## **eCommerce**

### *Current situation*

eCommerce refers to retail services which are available online (independently of the existence or not of physical facilities).

Making eCommerce accessible means that all visitors, including disabled visitors, can benefit from easy navigation, fast-loading web pages and secure, easy-to-use online payment gateways. Website visitors should have the opportunity to browse a catalogue, search for goods and services, add items in their shopping carts, manage the shopping cart and then proceed to check-out in order to end their order. It is also important that the user is able to communicate with the e-shop management. Some retailers have developed their websites to fulfil accessibility guidelines and standards providing access to disabled consumers and are reporting an increase in revenues<sup>83</sup>.

Current problems with eCommerce accessibility mainly relates to the limited accessibility of the on-line related applications and information about the accessibility of the service. The current level of accessibility of eCommerce is estimated to be low using as a proxy the level of accessibility of private sector websites that concluded that only 3.9 % of the private sector websites tested complied with basic accessibility level.<sup>84</sup>

Currently, from the 9 Member States in the Deloitte study only 1 Member State has adopted technical accessibility requirements for websites. The ANED study found that 2 additional Member States have legislation in place.

### *Baseline*

When developing the baseline scenario considering the coverage of accessibility of services including retail under national legislation and the shift toward online retail, the obligations Member States have under the UN Convention and the future mandatory accessibility obligations for public sector websites, which are likely to be extended to private sector websites, it is expected that the regulatory fragmentation will increase by 2020.

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<sup>82</sup> <http://www.aknw.de/bauherren/planen-und-bauen/architektenhonorar/>

<sup>83</sup> See One Voice report Accessible ICT Benefit to Business and Consumers references to web accessibility investments and revenues increase in page 34  
<http://www.onevoiceict.org/sites/default/files/Accessible%20ICT%20-%20Benefits%20to%20Business%20and%20Society.pdf>

<sup>84</sup> Assessment of the Status of eAccessibility in Europe - Meac 2007.

Based on the current legislative situation described in Annex 6, it is assumed that in 2020, 12 Member States will have adopted divergent accessibility requirements related to eCommerce. Those requirements could be different with respect accessibility standards used for the related websites. The part of the total market size that is at risk of fragmentation is estimated at about €4 500m.

The divergence in national accessibility requirements will lead to costs for business and for consumers who will not be able to benefit from lower prices and a larger offer of goods on-line. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at about €4 600m.

## **Banking services**

### *Current situation*

Making banking services accessible means that three elements need to be accessible: (i) ATMs, (ii) on-line banking websites and (iii) the banking-related built environment. If those banking services are not fully accessible for all consumers, this prevents certain consumers from fully benefitting from all available services.

The current accessibility problems related to these elements are described above in the sections related to private sector websites, Self-service terminals and architect services. In summary regarding ATMs divergent rules exist for their design and usability as well as for the physical setting and surroundings.

Accessible online banking has implications for banks' websites, information pages, and whether customers can manage their finances on-line. Divergent rules related to web accessibility requirements are reflected here.

The accessibility of the physical facilities (agencies /branches) is regulated through diverging building regulations and in some cases specific rules for banks are applied.

Currently, 11 Member States have adopted specific accessibility requirements for the built environment of banks.<sup>85</sup> ANED confirmed general obligations for the built environment of banks in 10 EU Member States.

### *Baseline*

The baseline in 2020 should be seen in light of the obligations of Member States under the UN Convention. Given the requirement in the UN Convention of "the equal right of persons with a disability to control their own financial affairs" it is likely that additional Member States will introduce additional technical accessibility requirements that will affect the provision of banking services in the EU.

Based on the current legislative situation described in Annex 6, it is estimated that by 2020, 15 Member States are likely to have introduced technical accessibility requirements regarding ATMs. These countries are likely to develop requirements that may not be fully aligned with already existing requirements and create further differences regarding the user interface, design and physical characteristics. The part of the total market size that is at risk of fragmentation is estimated at €71m. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at €300 000.

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<sup>85</sup> CEN/CENELEC/AENOR final report under standardisation request M/420.

Based on the current legislative situation described in Annex 6, it is estimated that by 2020, 12 Member States may have introduced technical requirements for private sector websites and extend those to websites of businesses in the banking sector, as is already the case in Spain. This would lead to a fragmented regulatory landscape for online banking websites having to apply different technical accessibility standards. The part of the total market size that is at risk of fragmentation is estimated at €57m. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at €58m.

Based on the current legislative situation described in Annex 6, it is estimated that by 2020, all Member States will have adopted technical accessibility requirements for the banking-related built environment by 2020. The part of the total market size that is at risk of fragmentation for the built environment including bank facilities is estimated at €2 200m. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at €17m.

## **Passenger transport services**

### *Current situation*

EU legislation already regulates the right to assistance for person with disability in the various transport modes and accessibility to vehicles in the case of rail and busses. Beyond the vehicles, making transport (by air, railway, bus or maritime and inland waterways) services accessible means that three elements need to be accessible: (i) on-line transport websites, and (ii) the self-service terminals used for checking-in and selling of tickets and (iii) the transport-related built environment. If those transport services are not fully accessible for all consumers, certain consumers cannot fully benefit from all available services.

The current accessibility problems related to these three elements are described in the sections above on architect services, private sector websites, and self-service terminals.

### *Baseline*

It is expected that regulatory fragmentation for these 3 elements is likely to continue or increase by 2020, in particular because of the obligations of Member States under the UN Convention that requires State Parties to ensure accessibility to transportation.

Technical accessibility requirements for ticketing machines and check-in machines have been identified in 8 out of 9 Member States examined. Based on the current legislative situation described in Annex 6, it is estimated that by 2020, 18 Member States are likely to have introduced technical accessibility requirements regarding ticketing machines and check-in machines. These countries are likely to develop requirements that may not be fully aligned with already existing requirements and create further differences in line with previous sections related to their user interface, design and physical characteristics. The part of the total market size that is at risk of fragmentation is estimated at €43m for ticketing machines in the case of rail, bus and maritime transport and checking machines in the case of air transport. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated for ticketing machines at about €83 000 for each of rail and bus, €19 000 in the case of maritime transport, and €30 000 for check-in machines in the case of air transport.

Of the 9 Member States in the Deloitte study, 1 Member State has introduced accessibility requirements for private sector websites, which also cover transport services. Based on the current legislative situation described in Annex 6, it is estimated that by 2020, 12 Member

States may have introduced technical requirements for private sector websites and extend those to websites of businesses in the transport sector, as is already the case in Spain. This could lead to a fragmented regulatory landscape for online transport services' websites. Websites operating across the EU would need to conform to different requirements related for example to the navigation and structure of pages. Under this scenario, the part of the total market size that is at risk of fragmentation for online transport services is about €580m for all the modes of transport together. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at €7.5m for air, €5m for rail, €556m for bus and €21m for maritime transport.

Currently, all Member States have specific accessibility requirements for the built environment of transport services, except for rail transport where EU rules are in place. In 2013 the Commission adopted a Directive (2013/9/EU) which amends Annex III to the Interoperability Directive (2008/57) by adding accessibility as an essential requirement. This means that various subsystems, among them the 'infrastructure' subsystem (including stations), must be accessible to persons with disabilities and persons with reduced mobility. Interoperability, in turn, can only be achieved at EU level; the Interoperability Directive states that "interoperability within the rail system in Community-wide scale, cannot be sufficiently achieved by the Member States since no individual Member State is in a position to take the action needed in order to achieve such interoperability and can therefore be better achieved at Community level". The technical specification of interoperability relating to persons with reduced mobility (PRM TSI)<sup>86</sup> serves the purpose of harmonising provisions and permitting interoperability. The related positive assessment of the costs and benefits of having accessibility requirements in the built environment of the rail transport services is included in the Impact Assessment Report of the PRM TSI, conducted at the time of its revision and scope extension.<sup>87</sup> The assessed benefits of harmonisation point to a similar direction than the assessment done for other modes of transport under this report.

Based on the current legislative situation described in Annex 6, it is estimated that all Member States will maintain diverging technical accessibility requirements for the transport-related built environment by 2020. This could lead to a strongly fragmented regulatory landscape. Differences would concern signaging and wayfinding, rest areas, sanitary facilities, gradients of ramps, counters design, alarm systems.

Under this scenario, the part of the total market size that is at risk of fragmentation is €2 200m for the built environment, including transport facilities in all modes of transport except rail. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at about €38 000 for air, €6.5m for bus and €26 000 for maritime transport.

## **Hospitality services**

### *Current situation*

Hospitality services focuses on accommodation services that refer to the provision, for a fee, of sheltered overnight accommodation and may include the provision of food services, fitness and leisure activities and/or green areas. It contains a series of elements which, when accessible, allow for a fully user-friendly hospitality service for all consumers. This section only covers two elements of hospitality services: websites and the built environment.

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<sup>86</sup> Decision 2008/164/EC.

<sup>87</sup> ERA-REP-101-EEV, 05.08.2013.

Accessibility problems for those two elements of hospitality services relate e.g. to the insufficient availability of (comparable and reliable) information concerning the accessibility of hospitality services, as well as problems in relation to the actual accessibility of the built environment and websites where hospitality services can be booked.<sup>88</sup>

The market for accessible hospitality services is short in supply, i.e. many disabled persons and older persons in Europe who want to use accessible hospitality services (and have sufficient means to do so) face insufficient and inadequate market offerings and thus do not consume as much of these services as they would wish.

Small and medium-sized enterprises (SMEs) represent 90% of the tourism sector in Europe. Accessibility is a vastly misunderstood concept for the tourism sector and especially for SMEs, who have not taken full advantage of the business opportunity. Accessibility is often perceived as a physical issue and therefore as an obligation to carry out costly alterations to the built environment: taking down walls, installing lifts, ramps - mainly for wheelchairs users, despite the fact that wheelchairs users are a small percentage of people with disabilities and reduced mobility.

Research and stakeholders confirm that the main barrier for tourism accessibility is lack of information (inaccessible websites, unreliable information on accessibility features) and attitudinal barriers (e.g. lack of staff training), followed by inaccessible facilities and premises.

#### Examples of accessibility problems in hospitality services

An empirical study from Germany shows that almost half (47%) of disabled customers with activity limitations travelling have experienced difficulties in terms of accommodation. According to customers with disabilities, the greatest barrier is the accessibility of the facilities. Furthermore, it is reported that there is also a lack of (online) information about the accessibility of accommodation establishments. The lack of standardised assessment and recording criteria means that even the existing range of accessible facilities is unclear and cannot be reliably assessed.<sup>89</sup> The same study shows that 37% of persons with activity limitations have in the past decided not to undertake a trip due to the lack of accessible facilities, equipment or services. According to the same survey, 48% of persons with disabilities would travel more frequently if more accessible facilities were available.

It appears that only 5.6% of the total known stock of accommodation units in Europe was accessible for wheelchair use in 2005. In the large majority of countries, the provision of accessible websites for information and booking of hospitality services mainly depends on voluntary action by service providers.<sup>90</sup> Research indicates that hospitality services' SMEs that improved their information on accessible facilities had an average increase of 30% in their occupancy rates.<sup>91</sup>

<sup>88</sup> With regard to barriers faced by disabled consumers when using websites, please see the private sector websites section.

<sup>89</sup> BMWi (2004), p. 25. <http://www.bmwi.de/English/Redaktion/Pdf/economic-impulses-of-accessible-tourism-for-all-526,property=pdf,bereich=bmwi,sprache=en,rwb=true.pdf>

<sup>90</sup> OSSATE accessibility market and stakeholder analysis.

<sup>91</sup> Study on the mapping and performance check of the supply of accessible tourism services in the European Union (2015); [http://ec.europa.eu/growth/sectors/tourism/offer/accessible/index\\_en.htm](http://ec.europa.eu/growth/sectors/tourism/offer/accessible/index_en.htm)

With regard to the actual implementation of accessible websites by hospitality service providers, a recent study<sup>92</sup> reports relatively low degrees of progress across Europe. As a result, online information and booking services for (accessible) hospitality services across Europe remain mostly inaccessible, despite the fact that there is some legislation and voluntary standards in some Member States.

Concerning the built environment, of the sample of 9 Member States, all have adopted general technical accessibility requirements for **hospitality services** and facilities. 16 additional EU Member States have been identified by ANED as having some legislation in this area. 14 Member States<sup>93</sup> have specific requirements for hotels. In 3 countries those requirements are mandated at regional level. The divergence in accessibility requirements concerns for example, the number of rooms that need to be accessible, and technical accessibility requirements that vary largely across the EU. A hospitality service with a total capacity of 50 guest rooms would need to have 3 accessible guest rooms in Austria and none in the Netherlands, Portugal and Spain. A hospitality service with a total capacity of 120 guest rooms would need to have 6 accessible guest rooms in UK and Ireland, 2 in Austria and France and none in the Netherlands, Portugal and Spain. Accessibility labels and certification schemes while intended to foster market development are creating confusion as their requirements, criteria and process for obtaining the related certificates are different and there is no mutual recognition across Member States.

#### *Baseline*

Currently only 1 Member State has adopted mandatory **web-accessibility** requirements for private hospitality undertakings. Due to their obligations under the UN Convention and the future mandatory rules on public sector websites accessibility which may be extended to private sector websites, based on the current legislative situation described in Annex 6, it is assumed that 12 Member States will have introduced technical accessibility requirements for private sector websites providing hospitality services by 2020. The part of the total market size that is at risk of fragmentation for online information provision and booking of hospitality services is about €2 180m.

Concerning the built environment, given the already high level of existing technical accessibility requirements for hospitality facilities, and UN Convention requirements that State Parties shall take appropriate measures to ensure equal access of disabled persons to facilities and services open or provided to the public both in urban and rural areas, it is likely that all EU Member States may adopt new or develop existing technical accessibility requirements for the built environment in hospitality services by 2020. The part of the total market size that is at risk of fragmentation for the built environment including hospitality services is €2 200m.

The regulatory fragmentation with regard to accessibility requirements for hospitality services and websites across the EU is not only an obstacle for disabled citizens intending to travel across borders, but also for businesses that intend to provide accessible hospitality services in different Member States. Understanding different sets of regulations and ensuring compliance with differing accessibility requirements comes with substantial additional costs. For instance, large hospitality undertakings that operate cross-border have to comply with different national accessibility requirements in building regulations when building/adapting their facilities for the provision of accessible hospitality services and when developing their websites to be used

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<sup>92</sup> ENAT (2012): *Reaching All Customers: How do European NTOs Compare on Online Accessibility?*, [http://www.accessibletourism.org/resources/enter2012-helsingborg\\_enat\\_final.pdf](http://www.accessibletourism.org/resources/enter2012-helsingborg_enat_final.pdf)

<sup>93</sup> Standardisation request M/420 final report phase 1 describes the coverage.



from other Member States. The regulatory fragmentation, for instance with regard to the minimum number of accessible rooms in a facility, impedes the use of standardised building plans and thus the realisation of economies of scale.<sup>94</sup>

Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at about €2 226m for websites and €22m for the built environment.

## **Public procurement**

### *Current situation*

The previous EU rules on public procurement<sup>95</sup> required that whenever possible the technical specifications should be defined so as to take into account accessibility criteria for people with disabilities or be designed for all users. Studies<sup>96</sup> show that 20% of contracting authorities refer to the promotion of accessibility and design for all as their socially relevant public procurement criterion. It is important also to note that EU funding from programmes like the Structural Funds or the Connecting Europe Facility are often spend through public procurement<sup>97</sup>.

The most relevant goods and services which are covered by the EU rules on public procurement would, similarly to all other goods and services, be those which are most relevant for the socio-economic integration of persons with disabilities into societies, i.e. the areas of built environment, ICT and transport (without however being limited to those areas). Accordingly, accessible goods and services covered by the EU rules on public procurement will include for instance contracts for construction of public buildings and the built environment in general, all transport-relevant contracts including means of transportation, the relevant built environment (stations), as well as accessible methods of purchasing tickets (websites and ticketing machines). In the area of ICT, the rules will cover public purchases of computers (software and hardware), other devices or services enabling accessible transfer of information (services enabling contact with public authorities' emergency services and the relevant equipment, public on-line publications), as well as telephones or mobile phones. Annex 8 provides a list of goods and services which are subject to public procurement contracts and for which accessibility is most relevant.

Application of those accessibility rules in practice requires a certain level of knowledge about accessibility, including often complicated technical specifications, from the public sector bodies preparing the bids. In order to facilitate the task, some Member States have adopted specific accessibility requirements, or prepared toolkits, standards, or guidelines on the

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<sup>94</sup> Another consequence of the regulatory fragmentation with regard to the built environment of hospitality facilities is that architects cannot easily provide their services across borders because they need to familiarise with different national (accessibility) requirements. This issue is further discussed in the section on services' key enablers.

<sup>95</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 on coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors – the “Classical Directive” - Article 34; Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts – the “Utilities Directive” – Article 23.

<sup>96</sup> Strategic Use of Public Procurement in Europe – Final Report to the European Commission MARKT/2010/02/C by Adelphi – pages IX- X off executive summary.

<sup>97</sup> The related Regulations also require accessibility to be observed when spending of the funds making public funding to support to accessibility.

inclusion of accessibility into public procurement.<sup>98</sup> These national rules and toolkits vary considerably from one Member State to another, both in terms of scope and requirements. In some Member States (for instance, the Czech Republic, France and Portugal) there are no national rules or general practice which would specify technical accessibility requirements. Specification of the technical accessibility requirements is left to the individual contracting entities<sup>99</sup> which makes it even more difficult for potential bidders from other Member States to participate in cross-border public procurement. Annex 6 identifies different national approaches regarding accessibility in the area of public procurement.

### *Baseline*

In the future, this divergence is likely to increase. Firstly, there is a noticeable trend to include social aspects, including accessibility requirements, in national plans on strategic use of public procurement.<sup>100</sup> Secondly, the revised Public Procurement Directives make the inclusion of accessibility compulsory in calls for tenders.<sup>101</sup>

The Directives do not, however, specify what accessibility means, leaving this aspect to sector-specific rules<sup>102</sup>. When the new rules enter into force, by 18 April 2016, lack of accessibility requirements at the EU level will result in further fragmentation at national or local level. Member States, in order to fulfil the EU level obligation will further develop national rules defining accessibility in detailed for the use of public authorities. Similarly the new Structural Fund Regulations do not specify what accessibility means. The reinforcing of these obligations is also expected to lead to further divergent rules defining accessibility.

The number of contracting authorities who refer to the promotion of accessibility and design for all as their socially relevant public procurement criterion is expected to grow from 20% to 100% of national contracting authorities referring to accessibility. The share of public authorities that include accessibility/design-for-all requirements in their award criteria is expected to increase from 6.4% to 20% by 2020 due to Member States' efforts within the aforementioned regulatory framework. Finally, the obligations of Member States under the UN Convention are also likely to further increase regulatory divergence in the area of accessibility requirements in public procurement.

Based on the current legislative situation described in Annex 6, it is assumed that all Member States will have developed cross-sector technical accessibility requirements and/or guidelines for public procurement by 2020. This will lead for example in divergent accessibility requirements related to computers, telephones, built environment, transport facilities. The part of the total market size that is at risk of fragmentation is estimated at about €2 400 000m<sup>103</sup>.

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<sup>98</sup> Italy, Spain and the Netherlands have specific accessibility rules for the procurement of accessible computer hardware and software, whereas Ireland, the UK and Denmark have developed toolkits and guidelines for procurers containing technical accessibility rules.

<sup>99</sup> See Adelphi Study - Use of Public Procurement in Europe – Final Report to the European Commission MARKT/2010/02/C.

<sup>100</sup> *Adelphi Study on Strategic Use of Public Procurement in Europe* (2010) for DG MARKT.

<sup>101</sup> Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC (the “Classical Directive”); Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (the “Utilities Directive”); and Directive 2014/23/EU on the award of concession contracts.

<sup>102</sup> Article 60 and recitals 100 to 104 of the Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors

<sup>103</sup> This figure includes all public procurement in the EU as it is assumed that Member States will not introduce different accessibility rules for national public procurement below the threshold of the EU Public Procurement Directives.

Different national accessibility requirements in public procurement result in practical obstacles for economic operators to participate in public procurement bids throughout the EU. They need to find out what accessibility in relation to particular public procurement calls means and possibly adapt their goods and services to those requirements. This may lead to numerous businesses focussing on regional markets only, e.g. the national public procurement market or markets in which the requirements are found to be rather similar, instead of increasing the market scope to the whole EU. The divergence in the existence of national toolkits or guidelines on public procurements adds to legal uncertainty about accessibility requirements and discourages cross-border participation in public procurement. Based on the methodology described in Annex 7, the cost for business to comply with those divergent national accessibility requirements is estimated at about €10 000m.

In the responses to the public consultation businesses referred to additional costs for the adaptation of products, as well as for the time needed to understand the different legislative requirements in the Member States. Different technical accessibility requirements not only lead to barriers for businesses that are already involved in public procurement processes, but market entrance by new businesses is deterred since the initial costs of understanding different requirements in a fragmented EU public procurement market might be too high, especially for SMEs.<sup>104</sup>

A lack of cross-border competition through the introduction of differing accessibility standards for public procurement processes is also expected to put pressure on public budgets as less competition may take place.

#### **2.4. Problem driver: uncoordinated Member State action**

Divergence of national accessibility requirements across the EU impedes European industry from enjoying the full potential of the internal market. This divergence is driven either by lack of EU coordination of which goods and services should be accessible or, when EU law or International agreements prescribes at a general level that certain goods or services need to be accessible (for instance the UN Convention or the EU public procurement rules), it does not provide detailed rules on which accessibility requirements would actually apply. Currently, this is left mainly to the discretion of national authorities, which has resulted in the current patchwork of divergent accessibility requirements.

The few cases where EU legislation does harmonise accessibility rules, for example, in the area of lifts, low platform busses and rail, it has enlarged economies of scale and remove fragmentation in the market. Industry feedback has been supportive, for example in the cases of the lifts and the rail sectors, in their response to the European Accessibility Act as to the effect of enlarging and opening EU wide markets and providing a competitive edge<sup>105</sup>.

#### **2.5. Effects of the problem - Who is affected?**

There are two main types of effects of the internal market fragmentation problem: (i) firstly, financial impacts on economic operators and public sector bodies, which are assessed in details in the impact analysis section; (ii) secondly, social and quality of life impacts on consumers. As the core objective of this initiative relates to market issues, the impacts on the

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<sup>104</sup> This argument was made by an industry player from Sweden responding to the public consultation.

<sup>105</sup> Joint statement of CER (European Voice of Railway) on the European Accessibility Act and European Lift association presentations and input to the consultations of the European Accessibility Act as sent to the EC.

rights of disabled consumers are assessed in a broad qualitative manner. Those impacts serve as a basis for the social impacts assessment of the policy options.

### *2.5.1. Financial impacts on economic operators and public sector bodies*

Economic operators acting on the EU market are directly affected by the problems. These are both producers and providers of the priority goods and services and the economic operators who participate or would like to participate in cross-border public procurement. Both categories overlap and will include inter alia manufacturers and distributors of ICT goods and services, websites designers, architects, banks, hotel owners, on-line retailers, transport providers.

The current situation, described in details above (§2.3), identifies internal market barriers preventing economies of scale and hindering the emergence of new and innovative accessible goods and services. These issues are expected to become more severe in future as Member States implement their obligations under the UN Convention.

Economic operators who would like to sell their products or provide their services in other Member States face additional costs related to possible adaptation of their product/service to the requirements of a particular national market. Some ICT industry representatives explained that adapting products to divergent accessibility requirements across all EU Member States would be prohibitively expensive and could lead to a decision of not complying with some sets of national legislation. Therefore, limiting the national markets they supply for or leaving it to enforcement bodies to question the compliance of their products. While economic operators face legal uncertainty regarding accessibility requirements, consumers face legal uncertainty regarding what accessible products they could find in the market. In addition, eventual costs of litigation for non-compliance with the national obligations<sup>106</sup> remain an issue. Such costs are time consuming and more burdensome for SMEs. The detailed effect of the impacts is assessed in the various policy options. The problems experienced by economic operators today as a result of legislative fragmentation also relate to lack of legal certainty at the level of the accessibility requirements. For example, websites from public transport or accommodation providers that want to offer their services in various EU Member States are subject to different requirements and consequently they would either to have different versions of the websites or take the risk to receive complaints on non-compliance with accessibility rules. They also relate to lack of economies of scale, for example accessibility requirements placed on economic operators are so different that those that operate in various Member States could not install the same accessible ATMs.

Furthermore, in the area of ICT the presence of European companies in trade fairs for new accessible products is very limited<sup>107</sup> (lack of innovation). In comparison to the US for instance, where economic operators benefit from a large economy of scale ensured by common accessibility rules at the federal level, the EU seems to be lagging behind in terms of competitiveness and innovation of accessible products. Indeed, the European markets currently suffer from a limited delivery of high quality and reasonably priced accessible goods and services despite the growing demand for such products.

In contrast, the European Lift Association<sup>108</sup> refers to the positive effect that common rules on accessibility have had in Europe to dismantle market barriers: "The lift, escalator & moving

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<sup>106</sup> See response to public consultation in annex 2.

<sup>107</sup> See for example list of exhibitors at CSUN conferences  
<https://www.csun.edu/cod/conference/2013/rebooking/index.php/public/exhibitors/>

<sup>108</sup> European Lift Association (ELA) – Letter to the Commission - 2013

walk industry is very pleased with the specific European legislation covering our sector. (...) Not only has this double legislation harmonised the equipments themselves throughout Europe, but it has boosted the competitiveness of manufacturers & installers, large and small companies, by organising a level playing field, while favouring innovation. The linkage of the directives with a clear set of CEN standards is an excellent tool for making it possible for any manufacturer or component manufacturer in Europe to certify its products once and sell or install anywhere in the European Union and EEA."

Economic operators, and public authorities in the area of public procurement, suffer from a lack of legal certainty, as to how exactly to cover accessibility requirements and cannot fully benefit from the size of the internal market (lack of economies of scale). Indeed, due to divergence of national accessibility requirements, meeting accessibility features of one Member State may result in a limitation of the product to the market of that State<sup>109</sup> for example as those accessibility features may not work correctly with the services. The products produced for a limited number of consumers are more expensive since the operators cannot benefit from larger markets which would allow them to absorb the fixed costs of accessibility features.

#### 2.5.2. *Social and quality of life impacts on consumers (i.e. disabled and elderly consumers)*

According to feedback from consumers, there seem to be insufficient accessible mainstream goods and services on the EU market<sup>110</sup>.

Disabled and elderly consumers and citizens at large are all<sup>111</sup> affected as they cannot benefit from innovative, good quality accessible products offered at competitive prices.

Policy responses to address the internal market fragmentation for specific goods and services and in the area of public procurement would positively affect consumers. It will indeed increase the everyday life autonomy for disabled and older people and as a consequence, would improve their social and quality of life.

For instance, disabled consumers cannot currently benefit for a genuine Internal Market for accessible mobile telecommunication devices and services. This initiative will allow them to call cross border with friends, family, and for work, either directly or using relay services.

Moreover, considering that one main barrier that people with disabilities and older people experience is the ability to move outside of their homes, the potential benefit of accessible transport, hospitality or the built environment has a direct impact on the possibility for their participation in society and being included in common activities that all citizens do. There are growing numbers of websites including online information and online booking and sometimes they are essential even to be able to access the service, given the lack of person-managed stations.

Detailed impacts on consumers per good and service are considered in Annex 7.

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<sup>109</sup> For example accessibility requirements for TV set-top boxes in annex 6.

<sup>110</sup> See examples in the EDF Freedom guide.  
<http://cms.horus.be/files/99909/MediaArchive/library/Freedom%20Guide.pdf>

<sup>111</sup> For example subtitles benefit not only deaf persons but also those that are learning foreign languages and help children to learn spelling. Accessible websites are easy to access in mobile devices, Ramps and lifts in buildings benefit travellers with luggage and parents with children.

### **3. THE EU'S RIGHT TO ACT AND EU ADDED-VALUE**

#### **3.1. Legal right to act**

The Union's right to act in this field is mostly set out in Article 114 of the Treaty on the Functioning of the European Union (TFEU). Its first paragraph empowers the European Parliament and the Council to adopt measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market. Article 114, paragraph 3 TFEU stipulates that the Commission shall aim at ensuring a high level of health, safety, environmental and consumer protection in its proposals envisaged in paragraph 1 of Article 114. Article 169(2) b) also provides that measures adopted pursuant to Article 114 are one instrument for the Union to "contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests." More generally, Article 12 TFEU provides that "consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities."

According to Declaration n° 22 annexed to the Treaty of Amsterdam, the Conference of the Representatives of the Member States "agrees that, in drawing up measures under [Article 114 TFEU], the institutions of the Community shall take account of the needs of persons with a disability". On the basis of Article 114 TFEU, the European Union has a right to act to improve the conditions for the establishment and functioning of the internal market concerning accessible goods and services. As explained above, the divergence of national legislation that exists now, and that will likely develop in the future, creates barriers to trade in the internal market. Article 114 of the Treaty allows for a harmonisation at the EU level of accessibility requirements, the differences in which have been identified as a key driver of the problem.

Article 114 TFEU allows the EU to take measures, not only to eliminate current obstacles to the establishment and functioning of the internal market but also to address barriers that dissuade economic operators from taking full advantage of the benefits of that market. The divergence of national and sometimes regional<sup>112</sup> and local legislation on accessibility of goods and services creates legal uncertainty and higher transactions costs. These dissuade businesses from venturing outside their domestic market and investing in new and more innovative accessible goods and services, and thus from taking full advantage of economies of scale of the internal market.

Moreover, according to Article 90 TFEU, which concerns transport by rail, road and inland waterway, the objectives of the Treaties shall "be pursued within the framework of a common transport policy." Article 91 provides that, for the purpose of implementing Article 90, the European Union may adopt appropriate provisions. Likewise, Article 100 TFEU provides that the European Union may "lay down appropriate provisions for sea and air transport".

#### **3.2. Impact on Fundamental Rights**

An EU initiative which would facilitate the functioning of the internal market for accessible goods and services would have a positive impact on several rights recognised in the Charter. An EU initiative would directly or indirectly facilitate the exercise of the following rights: the

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<sup>112</sup> This particularly applies to the built environment in Federal States. See M/420 final report: <ftp://ftp.cen.eu/CEN/Sectors/Accessibility/ReportAccessibilityBuiltEnvironment%20Final.pdf>

right to human dignity (Article 1), the right to integrity of the person (Article 3), the right to education (Article 14), the right to choose an occupation and the right to engage in work (Article 15), the rights of the elderly (Article 25), the right to integration of persons with disabilities (Article 26), and the right to freedom of movement and residence (Article 45).

Regarding economic operators, an EU initiative would have a mixed impact on rights such as the freedom to conduct a business (Article 16) and the right to property (Article 17). First and foremost, by increasing the potential of the internal market through the elimination of obstacles to trade, the initiative would be beneficial for the exercise of those two rights. In some cases the initiative could also entail a limited restriction to the exercise of those rights with the adoption of new rules in some Member States. However, the restrictions resulting from these new rules would be justified and proportional and would result in an increase of the potential for intra-EU trade, from which the economic operators themselves would benefit. The new rules would also be justified with a view to promoting other fundamental rights, such as those mentioned above.

A detailed analysis of the impact of the different policy options on the concerned fundamental rights recognised by the Charter is carried out in the assessment of the impact of the policy options and in more detail in Annex 9.

### **3.3. Compliance with the principle of subsidiarity**

Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of scale or effects of the proposed action, be better achieved at Union level. According to Article 4(2) a) and g) of the TFEU, respectively, the areas of internal market and transport are areas of shared competence between the Union and the Member States.

#### (a) Necessity

There is a need for EU action, since Member States alone cannot tackle the problem. The problem does not concern only one or a few Member States. There are obstacles to the normal functioning of the internal market – both in the sense of present barriers to trade and in the sense of barriers to the development of the full potential of the internal market.

This problem is caused by the divergence of national legislations on accessibility requirements. The baseline scenario shows that this regulatory divergence will most likely increase. This is due notably to the entry into force of the UN Convention, as well as the general character of its provisions, which are open to different interpretations when they are implemented at national level. Therefore, the problem will not be solved if it is dealt with only at Member State level. Furthermore new EU legislation requiring accessibility in general terms without providing a definition like in the case of the Public Procurement Directives will have a similar effect.

By their very nature and origin, the obstacles to the functioning of the internal market, which are caused by divergence of national legislation, can only be tackled effectively through a common approach at EU level. Only a coherent legal framework will allow the free flow of accessible goods and services in the internal market.

Less evidence was found to illustrate internal market barriers in the area of the built environment, particularly when it comes to immovable goods. Construction products, as goods circulating freely in the market, are already regulated by EU law.<sup>113</sup> This impact assessment looked at the built environment from the perspective of cross-border architect services. The assessment of the impact for the built environment is restricted to those services where this element is an essential part of the service and only to the part of the built environment which is open to the public.

Action at EU level 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 – either because different national requirements create obstacles to trade, or because they fall under the remit of EU public procurement directives which, as described above, do not define accessibility in detail.

#### (b) EU added value

Action at the EU level is the most efficient way of addressing the main problem: obstacles to the proper functioning of the internal market. EU action will add value to national accessibility legislation by creating rules that will ensure the free movement of accessible goods and services in the internal market. This could not be done by the Member States acting alone.

Ensuring free movement of accessible goods and services will have positive economic effects. The proposed rules, by creating a level playing field for economic operators and preventing fragmentation of the internal market, will create legal certainty and offer economic operators an expanded market in which to sell their goods and services. As a further benefit, persons with functional limitations, including persons with disabilities, will benefit from more choice of accessible goods and services and from lower prices.

### **3.4. Compliance with the principle of proportionality**

Under the principle of proportionality, the content and form of EU action shall not exceed what is necessary to achieve the objectives provided for in the Treaties, and alternative options would not be capable of achieving the intended aim. All policy options will therefore be assessed on their compliance with the proportionality principle and options that would not be in line with this principle will be discarded.

Any future EU initiative will be designed to respect fully the principle of proportionality and, in line with the approach of minimum harmonisation, the means it uses will be tailored to achieve the objective of ensuring the proper functioning of the internal market, but no more than that. A future EU instrument should set common objectives and general rules, while leaving freedom to Member States to define how to achieve those objectives, taking into account national circumstances. Member States should accept goods and services exported from another Member State, therefore ensuring the free movement of those goods and services.

In this line of thinking, the EU initiative would also establish a proportionate implementation schedule, with a gradual approach. This would ensure the attainment of the objectives of the initiative without going beyond what is necessary for that purpose. Finally, rules for

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<sup>113</sup> Council Directive 89/106/EEC on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products; and Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products.



monitoring compliance with future EU accessibility requirements should be the least burdensome and be based on those normally used in internal market harmonisation legislation.<sup>114</sup>

### 3.5. Consistency with other EU policies

A future EU initiative on improving the internal market in the area of accessible goods and services would apply without prejudice to existing and future EU legislation on accessibility. By defining requirements for accessibility, it would rather complement the general accessibility obligation in EU legislation, such as in the fields of public procurement or the European Structural and Investment funds.

There are several EU legislative acts which include rules aimed at increasing access to goods and services by persons with disabilities or persons with functional limitations (see annex 10 for a full list). Usually, these acts are not providing rules on accessibility as such and neither are they meant to address exclusively the situation of these persons, but within a general legal framework dealing with a certain technical area, they include specific rules which have a positive impact for these persons. Many of these legislative acts have an internal legal market basis<sup>115</sup>. The EU initiative would not apply within the remit of these acts where they provide more detailed requirements.

In other cases, EU legislation addresses only the situation of persons with disabilities with a focus on a specific area focusing on an assistive approach. This is the case of the Passenger Rights Regulations on the rights of persons with reduced mobility in various modes of transport that focus on the provision of assistance<sup>116</sup>. Their scope of application will not be affected by this proposal. The rules of this EU initiative would only complement that legislation.

For example: this EU accessibility proposal would require websites selling passenger transport services to be accessible. Regulation 1107/2006 on the rights of disabled persons and persons with reduced mobility when travelling by air<sup>117</sup> establishes the duty of airports and air carriers to provide assistance to those persons when they travel by air. The two Directives would not overlap, since their remit of application is different, but they would complement each other.

Other legal acts require accessibility but they do not define its meaning and content. The EU legislation on public procurement, with an Internal Market legal base, contained non-compulsory provisions to take accessibility into account in calls for tenders. The Commission revised this legislation and made this provision mandatory, making accessibility compulsory in technical specifications<sup>118</sup>. According to the adopted revised Directives, when contracting authorities decide to award contracts based on the most economically advantageous tender,

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<sup>114</sup> See Annex II of Decision 768/2008 on the marketing of products, OJ L 218 of 13.8.2008.

<sup>115</sup> See for instance, Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts, OJ L 213, 7.9.1995, p. 1, as amended.

<sup>116</sup> See for instance, Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, OJ L 204, 26.7.2006, p. 1. Similar Regulations have recently entered into force for rail, bus and coach and maritime.

<sup>117</sup> *Idem*.

<sup>118</sup> Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC (the “Classical Directive”); Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (the “Utilities Directive”); and Directive 2014/23/EU on the award of concession contracts.

the latter could be identified based upon criteria which include accessibility and design for all users. The current European Structural and Investment Funds Regulation requires accessibility to be taken into account as regards the content of each operational programme, the activities of the monitoring committee, and the annual implementation reports to be submitted by Member States to the Commission<sup>119</sup>. Its Annex XI also establishes that there should be a mechanism ensuring effective implementation of the UN Convention. These mentioned EU legislation provisions on public procurement and on the structural and investment funds are among the current horizontal regulation at EU-level addressing issues relating to accessibility. This EU initiative would define what accessibility is and, as a consequence, would give normative content to the accessibility requirements of these instruments.

The 2008 proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation<sup>120</sup> which would extend the protection from discrimination beyond employment, applying to social protection, education and access to goods and services, refers to accessibility of goods and services for disabled persons, without however specifying or imposing any detailed accessibility requirements in relation to such goods and services. As this proposal aims to eliminate discrimination, it is based on Article 19 TFEU. It is currently still under discussion in the Council.

This EU accessibility initiative will have a different objective, that of improving the functioning of the internal market. It will therefore apply without prejudice to this legislative proposal based on Article 19 TFEU.

The proposal for a Directive on the accessibility of public sector bodies' websites<sup>121</sup> lays down accessibility requirements for a set of websites offering essential services to citizens. It is currently under discussion by the co-legislators. This intended EU proposal on improving the functioning of the internal market, by requiring private sector websites in some sectors to be accessible would have a different scope which will not overlap with that of the current proposal. However, to avoid contracting authorities having to implement different accessibility specifications depending on the type of website, the accessibility requirements for websites would be identical. This would be done by aligning the accessibility requirements of this EU initiative to those laid down in the proposal for a Directive on the accessibility of public sector bodies' websites.

This future EU initiative, subject of this impact assessment, would also be consistent with the existing *acquis* on protection of consumer rights. Its provisions would be carefully tailored not to overlap with rules of the existing consumer rights legislation and to take them into account.

Finally the sectors covered by this impact assessment may be subject to other existing EU legislation dealing with other issues like protection of health, environmental protection or energy consumption since essential requirements of different directives need to be applied

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<sup>119</sup> Regulation (EU) No 1303/2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund.

<sup>120</sup> COM (2008) 426.

<sup>121</sup> COM(2012) 721 final.

simultaneously in order to cover all relevant public interests<sup>122</sup>. The advantage of covering areas of public interest, like accessibility, in horizontal legislation relates to the coherence across sectors and consistency across legal instruments. From an accessibility policy perspective, the benefits of ensuring consistency between the obligations placed on the supply and the demand side (obligations to buy accessible enshrined in the public procurement directives and obligations to manufacturers and service providers to place in the market accessible goods and services) and across legal instruments (for example those related to sectoral legislation referring to characteristics of the web) will bring consistency in the internal market and will facilitate the establishment of a level playing field. Furthermore it brings clarity to stakeholders about the way to implement the related policy objective.

### *3.5.1. Consistency with the on-going standardisation processes*

A number of accessibility standards are under development following standardisation requests to the European standardisation organisations by the Commission. In the requests it is required to align the development of standards to global developments and to ensure participation of relevant stakeholders from the industry as well as the consumer side. The standards under the requests relevant to accessibility are at different stages: M/376 (2005) on ICT resulted in the publication of the European standard EN 301549 (2014); M/420 (2007) on built environment and M/473 (2010) on mainstreaming accessibility following a "Design for all" approach in European standards are still under execution and it will still take three to six years before standards are available. The standards develop to respond to those requests will be based as much as possible on functional requirements and will avoid prescribing details on technical solutions in order to be future-proof. This is particularly relevant for fast changing technological areas as in the case of M/376. In this case, in line with developments in the US, the standard is organised around functional components or features of products to address the fast evolution in this sector. For example, contrary to previous standards, including the old US ones, instead of having sections for computers, telephones, or ATMs, it is organised in sections concerning for example elements of hardware input and output, elements of software such as user interface and controls, and others like two way voice communications.

However, the availability of international accessibility standards and the development of European standards based on those have not prevented Member States from drafting different national standards or adopting national legislation divergent from those international rules.

So the European standards to be developed to respond to these Commission requests could be used in this initiative as a basis to set harmonised standards which could provide presumption of conformity with accessibility requirements. This is the case in the adopted Proposal for a Directive on 'the accessibility of public sector bodies' websites'.<sup>123</sup>

## **3.6. Consistency with international developments, in particular focusing on the US**

At international level, the attention paid to disability and particularly to accessibility has got an important boost due to the UN Convention. By July 2015, it has been ratified by 157 countries while 159 have signed it.

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<sup>122</sup> See European Commission Guide to the implementation of Directives based in the new Approach and the Global Approach. [http://ec.europa.eu/enterprise/policies/single-market-goods/files/blue-guide/guidepublic\\_en.pdf](http://ec.europa.eu/enterprise/policies/single-market-goods/files/blue-guide/guidepublic_en.pdf)

<sup>123</sup> COM (2012) 721 final

At a global level it is the US accessibility legislation that has had a larger impact on goods and services. This is widely recognised by policy makers, industry and consumers<sup>124</sup>. The US has probably the widest framework of accessibility legislation in the world, often with detailed compulsory standards and rules<sup>125</sup>. Beyond the built environment, transport, hospitality and accommodation services, banking and ATMs, the US has comprehensive rules on ICT focusing on telecommunication and broadcasting services including terminals. Recently adopted legislation covers new technological developments like IP based communications, including for emergency services, and video.

Furthermore the US continues to develop and adopt new accessibility legislation following the technological developments. The US Office of Regulatory Affairs<sup>126</sup> under the General services administrations has announced the publication by the Department of Justice of a Notice of Proposed Rule Making for June 2015 covering Accessibility of Web Information and Services of Public Accommodations with a focus on private entities of all types that are providing goods and services to the public through websites that operate as places of public accommodation including ecommerce.<sup>127</sup>

On the type of measures related to accessibility, the US has a combination of direct obligations for manufactures and services providers, obligations to public authorities to purchase accessible and a clear antidiscrimination framework with an explicit link to certain accessibility obligations.

In the public consultation and in various public events, the ICT industry in particular has expressed its interest in harmonised accessibility standards, given the global character of some products and services. This interest is also seen in the work under standardisation request M/376<sup>128</sup> where an effort is made to ensure coherence between US rules and European standards. This future EU initiative on accessibility, subject of this IA, could set a framework where accessibility standards developed with a global view could help to create a transatlantic market.

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<sup>124</sup> [http://www.epc.eu/documents/uploads/pub\\_3393\\_the\\_accessibility\\_act.pdf](http://www.epc.eu/documents/uploads/pub_3393_the_accessibility_act.pdf) "The US has done a lot of work on accessibility and already has a large market for accessible products and services. The EU and the US should work to ensure that a future free-trade agreement helps to remove trade barriers to accessible goods and services. There are great possibilities for cooperation especially with regard to eAccessibility."

RNIB – reply to the Public Consultation "There is robust and unquestionable evidence from the United States which demonstrates that public procurement can be a very effective lever to increase accessibility. Section 508 of the Rehabilitation Act created a level playing field and triggered major improvements in accessibility features in a wide range of ICT products. The European Union should follow suit and use public procurement as a powerful lever for change."

<sup>125</sup> Section 255 of Telecoms Act, Communications and Video Accessibility Act, Section 508 of Rehabilitation act, Air carriers act, ADA, Vote Act.

<sup>126</sup> <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201210&RIN=1190-AA61>

<sup>127</sup> The referred Notice of Proposed Rule Making (NPRM) has not yet been published. <https://www.federalregister.gov/regulations/1190-AA61/nondiscrimination-on-the-basis-of-disability-accessibility-of-web-information-and-services-of-public>

<sup>128</sup> <http://www.mandate376.eu/>

#### 4. POLICY OBJECTIVES

The policy response to address the internal market fragmentation for specific goods and services and in the area of public procurement needs to meet the following general objectives:

- 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.

In order to meet those general objectives, the following specific objectives have been identified:

- III. To lower and prevent barriers to cross-border trade in the selected goods and services and in the area of public procurement.
- IV. To increase competition among industry in the selected goods and services and in the area of public procurement.
- V. To facilitate access by consumers with disabilities to a wider range of competitively priced accessible goods and services

The operational objectives would be:

- To define common accessibility requirements for selected goods and services and for EU public procurement goods and services.
- To improve enforcement of accessibility requirements.

##### 4.1. Policy options

This section gives an overview of the policy options which have been discarded and those which have been retained to address the problem and meet the objectives set out above.

##### 4.2. Discarded policy options

Several policy options have been discarded at an early stage of the impact assessment process, as being either unrealistic, unable to meet the objectives or disproportionate.

1. *Horizontal framework at EU level applying to all relevant goods and services by defining/imposing their accessibility requirements*

Such an EU level framework would meet the objective of improving the functioning of the internal market of accessible goods and services and improve competition on the market. It would however go beyond what is necessary. As was shown in the problem definition, internal market problems exist in particular in relation to the goods and services that emerged from the screening process. Covering all relevant accessible goods and services by EU requirements would therefore not be proportionate. Furthermore, in terms of Fundamental Rights such a general rule on accessibility for all goods and services might have a disproportionate impact on businesses in light of Article 16 & 17 of the Charter on freedom to

conduct a business and property rights, without having a sufficient positive impact on disabled persons in light of Article 26 of the Charter.

## 2. *Setting accessibility requirements for all private sector websites*

This option was considered to complement the recent Commission proposal regulating accessibility of public sector bodies' websites. Defining accessibility requirements for all private sector websites would help to improve the functioning of the internal market. It would, however, go beyond what is necessary to meet these objectives, as it would cover not only those websites which are the most relevant from the accessibility viewpoint and give rise to obstacles in the internal market, but all websites, including those which are less relevant. Furthermore, it would not address other goods and services for which internal market problems have been identified and it would not be sufficient to address other essential components of services identified in the problem definition.

## 3. *Self-regulation by industry*

Setting common accessibility requirements for particular goods and services through self-regulation by the industry is the least interventionist and least onerous option for economic operators. However, current practice shows that self-regulation by the industry is not capable of solving internal market problems because it lacks EU-wide scope and dimension. Furthermore voluntary procurement accessibility practices have been unable to remove differences and create healthy competition among economic operators across the EU<sup>129</sup>. The European Commission has fostered industry voluntary steps to improve accessibility for example by supporting dialogues including with representative organisations of persons with disabilities and through policy developments. While some positive initiatives have been undertaken by industry, these efforts have been insufficient to tackle the problems identified particularly in terms of market fragmentation and responses. In particular in the area of ICT the Commission already indicated in 2005 that *"It will include an evaluation of the outcome of the approaches proposed, following the principles of Better Regulation and, subject to full impact assessment, the Commission may consider additional measures, including new legislation if deemed necessary"*. After trying for some time, there is no indication that progress based only on industry self-regulation will achieve the general objectives or the specific objectives of lowering and preventing barriers and increasing competition in this area and in particular the operational objective of improving enforcement of accessibility requirements<sup>130</sup>. The on-going work for developing European wide voluntary accessibility standards has been the result of the Commission's standardisation requests to the European standardisation organisations,<sup>131</sup> they have not been initiated by the industry, even if afterwards their development is led by it. Stakeholders from the consumers' side (namely disabled people organisations) support this view that industry alone has not progressed in this field at a rhythm that would meet consumers' needs, self-regulation has failed. Therefore, they claim that only legislative options would be viable to address the issue. EU legislative action is needed and would ensure a functioning market of accessible goods and services.

## 4. *Voluntary European standardisation alone*

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<sup>129</sup> See information on national procurement toolkits and their differences in terms of accessibility requirements.

<sup>130</sup> This conclusion is reinforced by the recent introduction by the US of additional accessibility legislation in this area i.e. VCAA. Despite the already existing comprehensive framework the US continues increasing the laws in this field.

<sup>131</sup> M/376, M/420, M/473 and COM (2005) 425.

Voluntary European standardisation is already on-going and – once sufficient amount of accessibility standards are available - could support some approximation of national rules and standards and contribute to meeting the objectives of better functioning of the internal market. This option as a self-standing option was however discarded at an early stage because of its non-binding nature. As proven by on-going activities it is unrealistic to consider that it could overcome the internal market barriers that have been identified in relation to the selected goods and services and in the area of public procurement. Current standardisation work under standardisation requests M/420 and M/376<sup>132</sup> could not tackle on their own those challenges. The voluntary European standards under development in those requests will not remove current legislative divergences in the Member States. In addition, their development is a fairly lengthy process, which is taking on average 10 years between the Commission standardisation request and the publication of the European standard. Standardisation is mainly an industry driven exercise, meaning that societal and public needs are considered in standardisation mainly upon request to support public policy or legislation and usually when they support short-term market needs. Market needs for common European standards are rather weak as long as accessibility legislation remains under national competence. Voluntary standards alone are not enforceable and their possibility to bring consistency in a sector is often overruled by national legislation. Furthermore, accessibility standards at international level already exist for some time and could have been used by governments and industry as unique reference points to remove fragmentation. For example, despite the Commission's efforts to "informally" harmonise web accessibility around the W3C guidelines, Member States have modified and adopted divergent versions under national rules.<sup>133</sup> There is no indication showing that this pattern is changing hence it is considered that voluntary European standards alone are not sufficient or adequate to tackle the problems at stake. In addition, the US had "voluntary standards" in procurement for some years but it was the reinforcing of the related legislation in that area, making the accessibility standards compulsory, what significantly shifted the attention of industry towards accessibility.

European standards are "voluntary" by nature. The Member States have encoded their accessibility obligations in legislation and sometimes use national standards even when some international and European standards were available. Increasing the availability of European standards will only have an effect on the harmonisation of national competing standards (which also often are voluntary) but it will not affect existing compulsory provisions in law.

This option is not considered effective to remove legislative fragmentation and the resulting internal market barriers. When Member States legislate on accessibility to fulfil their obligations under the UN Convention, there is no certainty that they will do so using voluntary European standards, most probably increasing divergence of accessibility legislation with a negative impact in the internal market. Furthermore Member States will not be obliged to ensure free circulation of accessible goods and services. This will increase legal uncertainty for industry. In summary, this option was considered clearly insufficient to guarantee the functioning of the internal market. In addition, this option is likely to be rejected by consumers as it will not represent a significant advance from the current situation and it will be insufficient to fulfil the legal obligations under the UN Convention. The "voluntary" nature of the option might be welcome by industry but it might also be criticised as it will not be able to remove or prevent fragmentation introduced by national rules that are indicated to be a problem in the various consultations.

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<sup>132</sup> These two standardisation requests are issued by the Commission to the European standardisation organisations CEN, CENELEC and ETSI inviting the development of European standards for accessibility of ICT and the built environment.

<sup>133</sup> COM (2003)650 final, COM (2007) 738

5. *An EU Regulation setting common accessibility requirements for selected goods and services and in the area of public procurement*

A Regulation would impose uniform accessibility requirements in all Member States. It was discarded because it was considered disproportionate and less aligned with the principle of subsidiarity. It would create unnecessary burden for those Member States who already have accessibility requirements in line with what would be imposed at EU level but yet having different form or method. A Regulation would also require including detailed technical requirements and that would be too rigid to cater for the flexibility needed for innovation purposes. The referred flexibility was also advised by some industry stakeholders who highlighted that it would be important that any regulatory approach drives innovation, supports interaction both horizontally and vertically across the supply chain and allows widening accessibility by improving the accessibility of specific products but also allows niche products and specialisation to occur to meet specific, complex needs.

#### 4.3. Retained policy options

Four policy options have been retained for further analysis. All these options have some common elements which are described in detail below. Here the essence of their difference is summarised:

**Option 1:** No further action at EU level (baseline scenario). The baseline has been described in detail for each good and service in the problem definition above, setting out the projected accessibility legislative situation in the Member States by 2020 (given that it will be the end of the action plan of the European Disability Strategy 2010-2020 and a major turning point for the achievement of European policy goals set in the Europe 2020 Strategy).

This projected development of divergent accessibility legislation until 2020 in the Member States is based on existing indications in the EU and the commitments under the UN Convention.

**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.

Under this option, Member States are not obliged to regulate accessibility but when they do or have already done so, they have to follow EU rules in order to ensure coherence in the internal market and avoid the risks that different national standards would impose unnecessary costs on business. All Member States have to ensure the free circulation of accessible goods and services even when they do not regulate accessibility.

The Directive would identify essential accessibility requirements applicable to a specific list of goods and services. These requirements could be further specified by voluntary European harmonised standards and implementing measures. The same accessibility requirements would also apply to EU legislation that requires the accessibility of goods and services, without defining how it is achieved. This is for instance the case in public procurement, where there is a general obligation in the revised public procurement Directives to buy accessible goods and services. The scope of the accessibility obligations under the section



related to public procurement is defined by the scope of the public procurement Directives and they only apply above the thresholds identified therein. Nevertheless, some of the goods and services identified for obligations to manufacturers and services providers are in the scope of these Directives. Similarly, these accessibility requirements would also apply under the use of European Structural and Investment Funds.

**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.

The difference between option 4 and 3 is that option 4 requires those Member States that have not yet regulated on accessibility to introduce new legislation on accessibility in accordance with the EU rules proposed, without allowing for a gradual implementation. It simultaneously harmonises accessibility rules across all Member States.

#### **4.4. Common elements of the legislative policy options**

It results from the preliminary screening that the scope of an EU initiative should focus on the selected priority areas, where obstacles to the functioning of the internal market were evidenced and where an effective prevention of new barriers would be maximised. Industry stakeholders agree that a coherent and clear initiative bringing together what has already been developed on accessibility in the Member States and in EU wide standards would be well advised.

Concerning the form of the EU intervention, a regulatory intervention leaving a certain margin of discretion to the Member States as to its implementation appears to be more efficient to tackle the actual and upcoming problems of the functioning of the internal market. A directive, in particular, would ensure an unobstructed movement of accessible goods and services without going beyond what is necessary in order to achieve that objective. The choice of a 'directive is consistent with the objective of reducing market fragmentation. A directive is a legal instrument which has an inherent flexibility. However, the Directive would not only oblige Member State to regulate on accessibility requirements to their own economic operators. It would also contain a free movement clause. Under the Directive, Member States would have to ensure that they don't obstruct the free circulation of accessible goods and services coming from other Member States in case they comply with the accessibility requirements of the Directive. Therefore, the free movement of goods and services can be attained with an instrument that is flexible and respects the principle of subsidiarity and proportionality. A directive would also ensure the respect of the freedom to conduct a business and property rights enshrined in the Charter while having a positive impact on the rights of persons with disabilities as mentioned in its Article 26.

In line with the Commission Communication "Towards a Single Market Act"<sup>134</sup> and the Communication "A strategic vision for European standards: Moving forward to enhance and accelerate the sustainable growth of the European economy by 2020"<sup>135</sup>, legally binding measures aiming to improve the proper functioning of the internal market of specific accessible goods and services (also in the area of public procurement) will follow the "New

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<sup>134</sup> COM(2010) 608.

<sup>135</sup> COM(2011) 311 final of 1.6.2011.

Approach” to legislation, designed to prevent the creation of technical barriers to trade. They will also make use of the "Global Approach" using light models for conformity assessment.<sup>136</sup>

Industry stakeholders see the advantages of harmonising accessibility requirements in public procurement as it will drive market provision of suitable solutions.

A legally binding measure should also follow the new regulatory Framework (more often called New Legislative Framework – NLF),<sup>137</sup> which is a general measure of the internal market in order to reinforce its application and enforcement. By following the NLF, a legally binding measure would:

- Define mandatory essential accessibility requirements;
- presume conformity with voluntary harmonised standards that are adopted in accordance with Regulation (EU) No 1025/2015 by the European standardisation organisations and that will contain the more detailed technical specifications;
- establish common conformity assessment of goods and services covered by the legally binding measure;
- include common rules on market surveillance; and
- include rules on CE marking.

In line with these approaches, legislative harmonisation is limited to “essential requirements” that goods and services in the market must meet if they are to benefit from free movement within the EU.

This means that the general accessibility requirements (“essential requirements”) will be defined at EU level aiming to be in line with the provisions of the UN Convention. Those essential requirements will be composed of two elements: (i) requirements to make the specific good or service accessible and (ii) requirements to provide accessible information related to the functionality or use of the specific good or service.

Regarding the accessibility of the goods, the essential requirements would concern certain general aspects of their design, as well as some general aspects of their functionality.

As far as design of goods are concerned, the requirements would potentially relate to the information on the use of the good provided in the good itself; the packaging of the good including the information provided in it; or the good’s instructions for use. As far as the functionality of goods is concerned, the requirements could potentially include aspects related to the user interface of the good; the functionality of the good itself and the interfacing of the good with assistive devices.

Regarding the accessibility of services, the essential requirements would concern the information provided about the functioning of the service and about its accessibility characteristics and facilities; the on-line related applications; the information to facilitate complementarities with assistive services; specific aspects of the built environment where the service is provided; and the products used to provide a service.

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<sup>136</sup> See page 8 of Guide to the implementation of directives based on the New approach and the Global approach.

<sup>137</sup> Regulation 7565/2008 and Decision 768/2008 on a common framework for the marketing of products.

Moreover, it should be noted that not all of the abovementioned aspects would concern all goods and services covered by the directive, but the essential requirements would apply to them only when relevant for their accessibility and when EU action would be most appropriate.

The requirements of the directive would aim to facilitate the implementation of the UN Convention by Member States and the EU.

The Convention focuses on establishing the general objective to be attained: accessibility. In addition, it sets out in a very general manner the material scope of the application of such objective. The scope of the accessibility obligations of the Convention is defined in its Article 9(1) as including “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”.

The directive provides a way to attain such an objective. The directive, having a more limited scope, can detail easier the accessibility requirements to be respected.

The directive would affect existing laws, regulations and administrative provisions in Member States in a two-fold manner. First, Member States that do not yet have legislation on accessibility would have to comply with the requirements set out in the directive when they would adopt their legislation – according to the transposition schedule. Secondly, Member States that have already adopted legislation on accessibility would – again according to the transposition schedule provided in the directive – have to verify that their existing legislation complies with the directive. They would have to change it only if necessary. In addition all Member States will have to ensure the free movement of goods and services that conform to those accessibility requirements.

Compliance with a “harmonised standard”, the reference of which has been published in the *Official Journal*, provides presumption of conformity with essential requirements of the Directive covered by the standard. However, use of harmonised standards is still voluntary and industry may use any other technical solution to demonstrate that its good or service meets the essential requirements. Harmonised standards are a kind of benchmark but other solutions that fulfil the essential requirements are acceptable. Member States that currently have legislation in line with the UN Convention that would cover issues under the scope of the legal act are allowed to maintain it as long as it fulfils the essential accessibility requirements of the directive and does not contradict them.

Different stakeholders support the combination of these instruments, meaning the adoption of common European standards and legislation on accessibility as this combination would allow for more competitiveness in a broader market and a greater efficiency in resource use. Stakeholders have advised that legal requirements and voluntary standards should be developed with the involvement of experts, practitioners and people with disabilities themselves. Regulation (EU) No 1025/2012 guarantees directly that European standardisation process is inclusive and covers also participation of societal stakeholders.

A proportionality clause would be provided in order to avoid that economic operators are subject to fundamentally altering their good or service or to a disproportionate burden. The EU initiative would establish that the compliance with accessibility requirements could not impose a disproportionate burden for the economic operators concerned. A set of criteria would be established to determine in practice the meaning of the concept of disproportionate

burden. The first entity to examine whether or not there is a disproportionate burden according to the rules transposing the directive will be the economic operator concerned. The latter will make such an examination notably when performing its “internal production control”, which is the type of conformity assessment procedure to be used in the directive (see below footnote 113) and the lightest administrative requirement. Such assessment will be then potentially subject to the control of administrative authorities and of the courts, as in other cases of application of internal market legislation.

Regarding the timing for the implementation of the EU initiative, a gradual approach would be adopted. There would be different deadlines for the implementation of the different aspects or set of rules of the legal instrument. Shorter deadlines could be provided for certain aspects of the instrument, such as rules on public procurement, where there is more experience with the related procedures and the relevant rules are already in force, in any case. As far as the obligations of economic operators are concerned, the deadlines could depend on the life cycle of the relevant goods and services. For example, there would be longer transition periods regarding the built environment which is necessary for the provision of a service and shorter ones for goods with a short life cycle.

The implementation of the legally binding instrument would also rely on the use of implementing acts, which would be adopted when necessary to ensure uniform conditions for implementation of certain provisions of the instrument, for example in the absence of harmonised standards. These implementing acts would be adopted in accordance with the so-called “examination procedure” referred to in Article 5 of Regulation 182/2011. For these purposes, the Commission would be assisted by a committee within the meaning of that Regulation. Whenever the implementing acts would be likely to have significant impacts, they would involve the preparation of an Impact Assessment.

Conformity assessment procedures will be established in line with existing practices<sup>138</sup>. Proportionality considerations point out to the selection for economic operators of the "self-declaration" that the products satisfy the legal requirements as most suitable conformity assessment procedure for the type of essential requirements that relate to accessibility. In fact this module also represents a practical approach for the use of the "proportionality clause" included in the legal act, since the economic operators would also declare whether the good or service concerned satisfies the essential accessibility requirements, after taking into account that clause.

As mentioned above, in line with internal market legislation, a legally binding instrument will contain a clause guaranteeing that all goods and services fulfilling essential accessibility requirements set up by the legally binding instrument will be accepted on the market of other Member States, independently of whether the host Member States imposes its own accessibility requirements or not. Industry Stakeholders also highlighted the importance of respecting the principle of free movement of goods inside the EU.

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<sup>138</sup> Decision 768/ 2008 on a common framework for the marketing of products. Idem, Annex II, which envisages also, as alternatives, other more demanding procedures such as “Internal production control plus supervised product testing”, “EC-type examination”, “Conformity to type based on internal production control”, “Conformity to type based on quality assurance of the production process”, or “Conformity to type based on product quality assurance”. The procedure that would be used in the EU initiative on accessibility (“internal production control”) would be the least burdensome among them all.

As shown by the Impact assessment accompanying the Commission proposal for a Regulation on European standardisation,<sup>139</sup> the mere existence of standards is trade-enhancing because of their cost-decreasing effect and the reduction of information asymmetries between the supply and the demand sides, especially in the case of cross-border transactions. Several econometric studies<sup>140</sup> have established a clear connection at a macroeconomic level between standardisation in the economy, productivity growth, trade and overall economic growth. Standards have an important role to play in supporting the competitiveness of European businesses in the global market. Referencing of standards in public procurement can be an important means of fostering innovation while providing public authorities with the tools needed to fulfil their tasks.

Finally, it may be noted that the EU legally binding instrument would be in line with legislation of the most advanced countries and EU trade partners, including the United States. US legislation, as mentioned above in section 3.6, covers a wide range of goods and services and includes obligations for manufactures and services providers and for public authorities to purchase accessible. Other countries outside the EU with relevant accessibility legislation are Canada and Australia. In Canada, the province of Ontario has recently developed very comprehensive accessibility legislation in terms of scope and requirements.

## 5. IMPACT ANALYSIS

### 5.1. Overall approach of the economic analysis

Based on a set of **basic assumptions**, including market volume, proportion of cross-border trade and shares of development costs an **assessment of the current market situation (2011)** in monetary terms has been calculated. “Top-down” and “bottom-up” approaches have been applied. In the **top-down approach** (applied to the cases of Computers and operating systems, Terminal manufacturing, DTT equipment, Broadcasting services, Self-service terminals as well as Public procurement), estimates of the costs of accessibility are derived from high-level market turnover figures and the shares of accessibility costs, while the **bottom-up approach** (applied in the cases of websites, architect services, eBooks, and Telecom services) starts from data on the cost of accessibility for an individual good or service. It varies slightly from case to case depending on the detail of the data available for that case.

A **three step-logic** lies behind the top-down approach:

*Step 1: Estimate the total cost of accessibility assuming that one set of requirements is applied to the EU*

**"One-off" development costs** (= capital expenditure (CAPEX)) and current **ongoing costs** (operational expenses (OPEX)) are **summed up in order to arrive at the current total cost of accessibility** (based on one set of requirements in the EU). For each good and service, these are calculated by assuming that they are a share of overall market turnover multiplied by an estimated fraction of development costs and an assumed share of accessibility costs.

*Step 2: Estimate the costs to ensure accessibility of goods/services sold across borders*

<sup>139</sup> SEC(2011) 671final of 1.6.2011.

<sup>140</sup> [http://ec.europa.eu/enterprise/policies/european-standards/standardisation-policy/policy-review/index\\_en.htm](http://ec.europa.eu/enterprise/policies/european-standards/standardisation-policy/policy-review/index_en.htm)

Now, in order to calculate costs to ensure the accessibility of a good or service when sold across borders the [total costs of accessibility] is multiplied by

- the [(assumed) proportion of turnover stemming from cross-border trade] (different requirements are only relevant for goods/services that are traded across borders)
- the [number of countries that are expected to have legislation in place by 2020] (in order to take account of the fact that EU Member States' legislation may impose different requirements on goods and services and, hence, costs are incurred several times by manufacturers and providers)
- the [respective share of EU GDP these countries account for] ( to value the cost figures for the size of the market at risk of fragmentation)
- a [correction factor], to account for the degree of similarity or difference between national accessibility requirements, ranging from 0% for identical requirements, to 100% for totally different national accessibility requirements

The costs of accessibility for Member States which already have some requirements in place, will only constitute a share of the costs, linked to the correction factor, which have to be incurred by those states which will not have put respective legislation in place at all or only to a lesser extent. This is the case since it is unlikely that the accessibility requirements already put in place in a Member State would be totally different from the ones required by this EU initiative.

In the same vein, especially for Member States which already have some legislation in place containing accessibility requirements, the costs of making their goods and services accessible according to one common set of rules, is considerably less also in comparison to the initial one-off and on-going costs of making the good accessible, since the correction factor numerically depicts the fact that the added accessibility costs will almost always constitute only a fraction of these initial costs.

As the correction factor is a key variable both in determining the costs of fragmentation in the baseline scenario, and of the relative benefits of reducing or eliminating fragmentation in the different policy options, a **sensitivity analysis** has been performed to assess how changing the correction factor affects the relative reduction in costs of fragmentation that is expected to result from each of the policy options. The table below shows the values of the correction factor for each good and service determined according to expert judgment, and the values used for the sensitivity analysis.

<b>Correction factor: Share of costs incurred additionally for providing accessibility across borders due to different accessibility requirements</b>			
		expert estimate	value for sensitivity analysis
Computers and Operating Systems		25	30
Digital TV equipment		15	20
Audiovisual media services		20	25
Telephony	services	100	80
	terminal equipment	25	30
eBooks		30	25
SSTs (ATMs, check-in and ticketing machines)		100	85
eCommerce		30	20
Banking services	Built environment	100	80
	Websites	30	20
	ATMS	100	85
Passenger transport services (Air; Rail; Bus and Maritime)	Built environment	100	80
	websites	30	20
	check-in and ticketing machines	100	85
Hospitality services	Built environment	100	80
	websites	30	20
Public procurement		100	80

Step 3: Estimate of the costs for understanding different accessibility requirements across borders

The costs that are estimated as part of Step 2 reflect a product-related cost element, i.e. costs for the physical adaptation of the product or various production processes in order to comply with national requirements. An additional assumed share of [Cost to ensure accessibility of good/service sold across borders] is added in this step 3: extra costs take into account the organisational costs for identifying, reading and analysing national accessibility requirements in other countries.

For the differences in methodology concerning the **cases** where the **bottom-up approach** is applied please refer to the detailed methodology in Annex 7.

Finally, **the expected impacts (costs and benefits) of the three mentioned policy options have been assessed compared to the Baseline Scenario in monetary terms in each of the tables below.**

As with all projections, the results of these calculations depend on the assumptions on which they are based. Accordingly, the estimates presented below for each policy option should be understood as indications of the possible scale of the effects that could be expected to be

observed under each of the policy options, rather than as precise forecasts. The relative ranking of the options that emerges from these calculations is consistent with the ranking based on a qualitative assessment.

Each of the retained policy options has been assessed for its effectiveness and efficiency in meeting the policy objectives, as well as in relation to its economic, social and environmental impacts. The assessment of **effectiveness** and **efficiency** takes account of how the option would affect cross-border trade and competition among industry in the area of selected goods and services as well as in the area of public procurement. **Economic impacts** are reported in terms of the costs to businesses of meeting different national accessibility requirements in the baseline scenario, and of the changes to those costs under each of the policy options. **Social impacts** mostly relate to effects on disabled and elderly consumers. Impacts on fundamental rights are assessed as part of all assessment criteria. **Environmental impacts**, other than those related to greater trade and transport of goods across borders, are assessed as being minimal.

Other than the economic impacts, impacts are rated on a scale from 0 to 5 in terms of the expected changes compared to the baseline. Thus, Policy option 1 (Baseline scenario) has been rated 0. A rating of 0 for the other policy options implies that they would not result in any major change compared to the status quo. For economic impacts the figures represent savings from the baseline scenario. A scale that allows also negative values has been used to reflect those cases of the policy options where instead of savings, additional costs are foreseen<sup>141</sup>.

For details regarding the methodology, data sources and assumptions made please refer to annex 7 and the Deloitte study, which also includes a series of calculations showing how varying the different assumptions influences the cost estimates.

## **5.2. Option 1: No new action at EU level (baseline scenario)**

Figures in this baseline scenario represent the associated costs for business of producing accessible products in a fragmented internal market in 2020 in the Member States. These costs provide also a rough estimate of the implementation of the obligations under the Convention by Member States in an uncoordinated manner. The total annual costs are estimated to be about €20 billion. The cost of the baseline scenario is the sum of the cost to ensure accessibility of the relevant goods/services sold across borders in 2020 and the costs of understanding different accessibility requirements across borders in 2020. In this option, the overall costs to business for each good or service are influenced by the additional production costs incurred in making the good or service accessible; the number of Member States that are assumed to have legislated for accessibility of the selected good or service by 2020; the extent to which these national requirements differ from one another, and the costs that firms incur in understanding these differences; the overall size of the market affected by these different requirements; and the share of intra-EU trade in the good or service (if firms produce only for their “home” market, the existence of differing national standards does not give rise to additional costs for them). These elements are specific to each good and service and costs are therefore estimated separately for each one. Because of the uncertainty inherent in projecting not only market developments, but also Member States’ legislative intentions these estimates should be regarded as indicators of the likely scale of costs that businesses will incur, rather than precise forecasts.

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<sup>141</sup> In those cases figures appear with a negative sign.



As explained above, the calculations of costs are based on a conservative estimate of the number of Member States expected to have regulated by 2020. In the absence of EU action, these costs will continue to increase every year as Member States will develop accessibility legislation to implement the UN Convention. It is estimated that, the hypothetical case of waiting until all Member States would have developed divergent legislation for the goods and services covered would raise significantly the cost figure to more than €30 billion annually. Industry will be confronted with an even more fragmented market as time passes. Industry representatives have expressed their concerns about the increase of national legislation and indicated their preference for substituting them by EU rules.

As explained above in point 3.5 there are already several instruments of secondary EU law which either (a) include specific rules to facilitate the access to goods and services by these persons within a general legal framework dealing with a certain technical area, or (b) address the situation of persons with disabilities on a specific area but focusing on an assistive approach, or require accessibility without defining its meaning and content. As mentioned above, the advantage of having a horizontal EU legal instrument on accessibility is that it ensures the coherence and consistency across different sectors and legal instruments – notably in the obligations placed on the supply and the demand side (to buy accessible according to the public procurement directives and produce and provide accessible goods and services).

The percentages behind the cost figures indicate the maximum or minimum range of costs for the respective good/service when the sensitivity analysis as explained above is applied<sup>142</sup>, *i.e.* when the value of the correction factor is changed.

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<sup>142</sup> The figures are always presented from low to high

<b>Impacts</b>		Range of expected <b>compliance costs</b> for businesses		
<b>Goods and Services (scenario)</b>				
Computers and Operating Systems (6 MS having legislation by 2020)		82 000 k€	to 89 000 k€	
Digital TV equipment (24 MS having legislation by 2020)		7 000 k€	to 8 500 k€	
Audiovisual media services (24 MS having legislation by 2020)		2 300 000 k€	to 2 600 000 k€	
Telephony services	Services (20 MS having legislation by 2020)	852 000 k€	to 1 000 500 k€	
	Equipment (6 MS having legislation by 2020)	60 500 k€	to 66 000 k€	
eBooks (7 MS having legislation by 2020)		93 200 k€	to 96 000 k€	
Self-service terminals [1]	ATMs (15 MS having legislation by 2020)	265 k€	to 300 k€	
	Check-in machines (18 MS having legislation by 2020)	26 k€	to 30 k€	
	Ticketing machines (18 MS having legislation by 2020)	160 k€	to 185 k€	
eCommerce (12 MS having legislation by 2020)		4 150 500 k€	to 4 600 000 k€	
Banking services	Built environment (27 MS having legislation by 2020)	16 000 k€	to 17 000 k€	
	Websites (12 MS having legislation by 2020)	53 100 k€	to 58 450 k€	
	ATMs (15 MS having legislation by 2020)	265 k€	to 300 k€	
Passenger transport services	Air	Built environment (27 MS having legislation by 2020)	36 k€	to 38 k€
		Websites (12 MS having legislation by 2020)	6 800 k€	to 7 500 k€
		Check-in machines (18 MS having legislation by 2020)	26 k€	to 30 k€
	Rail	Websites (12 MS having legislation by 2020)	4 200 k€	to 4 600 k€
		Ticketing machines (18 MS having legislation by 2020)	72 k€	to 83 k€
	Bus	Built environment (27 MS having legislation by 2020)	6 100 k€	to 6 500 k€
		Websites (12 MS having legislation by 2020)	505 600 k€	to 556 500 k€
		Ticketing machines (18 MS having legislation by 2020)	72 k€	to 83 k€
	Maritime	Built environment (27 MS having legislation by 2020)	25 k€	to 26 k€
		Websites (12 MS having legislation by 2020)	19 400 k€	to 21 400 k€
		Ticketing machines (18 MS having legislation by 2020)	16 k€	to 19 k€
	Hospitality services	Built environment (27 MS having legislation by 2020)	21 000 k€	to 22 000 k€
Websites (12 MS having legislation by 2020)		2 022 000 k€	to 2 226 000 k€	
Public procurement (27 MS having legislation by 2020)		8 500 000 k€	to 10 000 000 k€	

[1] Self-services terminals are included on their own as goods and also broken down in relation to their respective services (banking and passenger transport), meaning that the amounts are repeated in the table.

### **5.3. Option 2: EU Recommendation defining common accessibility requirements for the selected goods and services**

Figures under this option represent savings compared to the baseline scenario resulting from the introduction of an EU Recommendation that will remove some of the divergent legislation in the Member States.

In this case, some fragmentation remains as the Recommendation would not be binding. The size of the market covered by accessibility requirements is unchanged, but firms have to meet fewer differing standards. The number of differing national requirements, specific for each case, is replaced by a single EU requirement in those Member States applying the Recommendation. Thus the number of different requirements is now the number of Member States that are assumed to have accessibility requirements in place minus the number of these that adopt the EU recommendation +1 (to account for the fact that you have to make the good accessible in your own state as well). Note that this adjustment will also have the effect of lowering the calculated costs of understanding the different national rules. Therefore, the savings are equal to the costs of making goods and services accessible on the markets covered by requirements times the reduction in the number of different requirements, adjusted by a correction factor to take into account the overlap among the requirements.

The total **savings** estimated are about €4 billion, or 20 % of the cost of the baseline scenario. Under option 2, it is likely that only some Member States would implement the Recommendation. In this situation, firms would face the costs of understanding and meeting different accessibility requirements for each of the Member States with national legislation in place that did not implement the Recommendation, plus the cost of understanding and meeting the requirements of the Recommendation in the Member States that did implement it.

The percentages behind the savings figure indicate the maximum or minimum range of savings<sup>143</sup> for the respective good/service when the sensitivity analysis as explained above is applied, i.e. when the value of the correction factor is changed. The figures in the last column depict the amount of savings of policy option 2 compared to the baseline scenario per good or service.

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<sup>143</sup> The figures are always presented from low to high.

Impacts		Effectiveness	Efficiency	Social Impacts	Environmental Impacts	Range of expected <b>savings</b> on compliance costs for businesses in comparison to baseline			%	%	
Goods and Services (scenario)											
Computers and Operating Systems (2 MS adopt the Recommendation)		1.5	1	0.5	0		7 300 k€	to	8 800 k€	9%	10%
Digital TV equipment (8 MS adopt the Recommendation)		1.5	1	1	0		1 200 k€	to	1 600 k€	17%	19%
Audiovisual media services (8 MS adopt the Recommendation)		2.5	2.5	0.5	0		312 000 k€	to	390 000 k€	14%	15%
Telephony services		0.5	0.5	0.5	0	Services (15 MS adopt the Recommendation)	396 900 k€	to	496 100 k€	47%	48%
						Equipment (3 MS adopt the Recommendation)	7 000 k€	to	8 500 k€	12%	13%
eBooks (3 MS adopt the Recommendation)		1.5	1	0	0		900 k€	to	1 000 k€	1%	1%
Self-service terminals [1]		1	1	0.5	0	ATMs (10 MS adopt the Recommendation)	150 k€	to	180 k€	56%	58%
						Check-in machines (9 MS adopt the Recommendation)	10 k€	to	12 k€	37%	37%
						Ticketing machines (9 MS adopt the Recommendation)	58 k€	to	69 k€	37%	37%
eCommerce (3 MS adopt the Recommendation)		3.5	3.5	0	0		38 000 k€	to	57 000 k€	1%	1%
Banking services		1.5	1	0.5	0	Built environment (14 MS adopt the Recommendation)	2 000 k€	to	2 500 k€	12%	14%
						Websites (3 MS adopt the Recommendation)	500 k€	to	700 k€	1%	1%
						ATMs (10 MS adopt the Recommendation)	150 k€	to	180 k€	56%	58%
Passenger transport services	Air	1	1	0.5	0	Built environment (14 MS adopt the Recommendation)	4 k€	to	5 k€	12%	14%
						Websites (3 MS adopt the Recommendation)	62 k€	to	93 k€	1%	1%
						Check-in machines (9 MS adopt the Recommendation)	10 k€	to	12 k€	37%	37%
	Rail	1	1	0.5	0	Websites (3 MS adopt the Recommendation)	38 k€	to	57 k€	1%	1%
						Ticketing machines (9 MS adopt the Recommendation)	26 k€	to	31 k€	37%	37%
	Bus	1	1	0.5	0	Built environment (14 MS adopt the Recommendation)	740 k€	to	930 k€	12%	14%
						Websites (3 MS adopt the Recommendation)	4 600 k€	to	7 000 k€	1%	1%
						Ticketing machines (9 MS adopt the Recommendation)	26 k€	to	31 k€	37%	37%
	Maritime	1	1	0.5	0	Built environment (14 MS adopt the Recommendation)	3 k€	to	4 k€	12%	14%
						Websites (3 MS adopt the Recommendation)	180 k€	to	270 k€	1%	1%
						Ticketing machines (9 MS adopt the Recommendation)	6 k€	to	7 k€	37%	37%
	Hospitality services		3.5	3.5	0.5	0	Built environment (14 MS adopt the Recommendation)	2 500 k€	to	3 100 k€	12%
Websites (3 MS adopt the Recommendation)							18 500 k€	to	27 800 k€	1%	1%
Public procurement (14 MS adopt the Recommendation)		1	1	1	0		2 800 800 k€	to	3 500 800 k€	32%	35%
Average Score		1	1	0.5	0						

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[1] Self-services terminals are included on their own as goods and also broken down in relation to their respective services (banking and passenger transport), meaning that the amounts are repeated in the table.

In general, the score of this option shows that in terms of effectiveness and efficiency it has limitations on the capacity to achieve the policy objectives as not all Member States will adopt and follow the Recommendation. Consequently, only some fragmentation of the market would be removed and societal groups would only reap the benefits of the market to some extent. In this scenario, the possibility for disabled citizens to take up their place in society and fully exercise their rights is not satisfactorily and extensively guaranteed. Disabled and older people will benefit from improved access to goods and services in the limited number of countries that would adopt the recommendation. The slight variations of the scores provided to the different goods and services are linked to the current existent of divergent legislation and the likelihood that Member States will follow one set of rules. This option would not oblige Member States and public authorities to enter into any costs given the nature of the initiative. Environmental impacts are very small. In conclusion, this policy option is unlikely to have any major social and environmental impacts. A detailed analysis of these impacts per good and service is included in Annex 7.

#### **5.4. Option 3: EU Directive defining common accessibility requirements for the selected goods and services - applicable to the Member States when they regulate on accessibility**

Under option 3, Member States that have regulated or once they regulate on accessibility for one or more of the selected goods and services would be required to adopt common European common requirements. Firms would have to meet only a single set of accessibility requirements in those Member States and they would no longer incur costs researching and understanding different national laws. Compliant goods and services would circulate freely in all Member States. The decision on when to regulate on accessibility is left to the discretion of Member States. It is assumed that Member States would gradually do so to comply with their obligations under the UN Convention.

Compared to the baseline, the costs of fragmentation due to different national requirements are eliminated completely in those Member States that regulate on accessibility. Firms would face costs of making goods and services accessible in those Member States. Therefore the figures below show what are the expected savings from the cost calculated for the baseline scenario<sup>144</sup>.

The percentages behind the savings figure indicate the maximum or minimum range of savings for the respective good/service when the sensitivity analysis as explained above is applied, i.e. when the value of the correction factor is changed. The figures in the last column depict the amount of savings of policy option 3 compared to the baseline scenario per good or service.

The total savings are estimated at about €10 billion, or 50% of the cost of the baseline scenario.

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<sup>144</sup> The figures are always presented from low to high.

Impacts		Effectiveness	Efficiency	Social Impacts	Environmental Impacts	Range of expected <b>savings</b> on compliance costs for businesses in comparison to baseline	%	%	
									Goods and Services (scenario)
Computers and Operating Systems (6 MS having legislation by 2020)		3	3	1	0	35 000 k€ to 42 000 k€	43%	48%	
Digital TV equipment (24 MS having legislation by 2020)		3	3	2	0	4 500 k€ to 6 000 k€	65%	71%	
Audiovisual media services (24 MS having legislation by 2020)		3	3	2	0	1 132 000 k€ to 1 415 000 k€	49%	55%	
Telephony services		1.5	1.5	2	0	Services (20 MS having legislation by 2020)	706 000 k€ to 882 000 k€	83%	86%
		3	3	1	0	Equipment (6 MS having legislation by 2020)	26 000 k€ to 31 000 k€	43%	48%
eBooks (7 MS having legislation by 2020)		3	3	1.5	0		14 000 k€ to 16 800 k€	15%	18%
Self-service terminals [1]		2.5	2.5	2	0	ATMs (15 MS having legislation by 2020)	230 k€ to 270 k€	87%	89%
						Check-in machines (18 MS having legislation by 2020)	24 k€ to 28 k€	90%	92%
						Ticketing machines (18 MS having legislation by 2020)	143 k€ to 169 k€	90%	92%
eCommerce (12 MS having legislation by 2020)		4	4	1.5	0		835 150 k€ to 1 250 700 k€	20%	27%
Banking services		3	3	1.5	0	Built environment (27 MS having legislation by 2020)	3 860 k€ to 4 800 k€	24%	29%
						Websites (12 MS having legislation by 2020)	10 700 k€ to 16 000 k€	20%	27%
						ATMs (15 MS having legislation by 2020)	230 k€ to 270 k€	87%	89%
Passenger transport services	Air	1.5	1.5	1.5	0	Built environment (27 MS having legislation by 2020)	9 k€ to 11 k€	24%	29%
						Websites (12 MS having legislation by 2020)	1 400 k€ to 2 000 k€	20%	27%
						Check-in machines (18 MS having legislation by 2020)	24 k€ to 28 k€	90%	92%
	Rail	1.5	1.5	1.5	0	Websites (12 MS having legislation by 2020)	840 k€ to 1 260 k€	20%	27%
						Ticketing machines (18 MS having legislation by 2020)	64 k€ to 76 k€	90%	92%
	Bus	1.5	1.5	1.5	0	Built environment (27 MS having legislation by 2020)	1 480 k€ to 1 850 k€	24%	29%
						Websites (12 MS having legislation by 2020)	102 000 k€ to 152 700 k€	20%	27%
						Ticketing machines (18 MS having legislation by 2020)	64 k€ to 76 k€	90%	92%
	Maritime	1.5	1.5	1.5	0	Built environment (27 MS having legislation by 2020)	6 k€ to 8 k€	24%	29%
						Websites (12 MS having legislation by 2020)	4 000 k€ to 5 900 k€	20%	27%
						Ticketing machines (18 MS having legislation by 2020)	14 k€ to 17 k€	90%	92%
	Hospitality services		4	4	1.5	0	Built environment (27 MS having legislation by 2020)	5 000 k€ to 6 300 k€	24%
Websites (12 MS having legislation by 2020)							407 200 k€ to 610 700 k€	20%	27%
Public procurement (27 MS having legislation by 2020)		2	2	3	0		5 500 600 k€ to 6 900 500 k€	65%	70%
Average Score		3	3	2	0				

[1] Self-services terminals are included on their own as goods and also broken down in relation to their

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respective services (banking and passenger transport), meaning that the amounts are repeated in the table.

The levels of effectiveness and efficiency in this option will be higher than in the previous option as Member States that have current legislation will have to follow EU rules removing the market fragmentation created by those existing rules and ensuring the free circulation of accessible goods and services in the EU. This will be reflected in a simplification of the obligations for industry. Member States and public authorities are not expected to experience significant additional costs other than those already deriving from the implementation of the accessibility provisions in the UN Convention, given the intended coherence between those and the essential accessibility requirements in this initiative. However, some minor costs might be incurred in relation to reporting obligations and market surveillance. Disabled and older people will benefit from harmonised accessibility requirements across the Member States which should lead to greater availability and choice of accessible allowing for example to compare goods and services. Nevertheless, given that those benefits would be limited to those countries where accessibility requirements are in place, it would not result in a total elimination of barriers for disabled and older consumers. The social positive impact is significant but limited. The environmental impact will also be similar as for policy option 2, but the scale of the impacts is likely to be larger in line with the expected increased number of countries concerned. A detailed analysis of these impacts per good and service is included in Annex 7.

#### **5.5. Option 4: EU Directive defining common accessibility requirements for the selected goods and services - immediately applicable to all Member States**

Under this option, uniform accessibility requirements would be introduced for each of the selected goods and services across the entire single market. As under option 3, removing divergent legislation in those Member States that regulate on accessibility would reduce business costs, as firms would have to meet only a single set of accessibility requirements and they would no longer incur costs researching and understanding different national laws. However, all Member States would now have to regulate the accessibility of the selected goods and services, and this would impose costs on firms in the Member States who are not expected to have accessibility requirements immediately. Nevertheless, under option 4 the total savings are estimated at about €9 billion, representing 45% of the cost of the baseline scenario. Under this option Member States and public authorities who have regulated on accessibility, similarly to option 3, are also not expected to experience significant additional costs. However, those Member States that have not regulated on accessibility would have to incur the costs of doing so following the time schedule of this initiative. Like in the previous option, some minor costs might be incurred in relation to reporting obligations and market surveillance.

The percentages behind the savings figure indicate the maximum or minimum range of savings for the respective good/service when the sensitivity analysis as explained above is applied,<sup>145</sup> i.e. when the value of the correction factor is changed. The figures in the last column depict the amount of savings of policy option 4 compared to the baseline scenario per good or service.

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<sup>145</sup> The figures are always presented from low to high.

Impacts		Effectiveness	Efficiency	Social Impacts	Environmental Impacts	Range of expected <b>savings</b> on compliance costs for businesses in comparison to baseline		%	%	
										Goods and Services (scenario)
Computers and Operating Systems (6 MS having legislation by 2020)		4	2	2	0	-56 600 k€ to -49 600 k€			no savings	
Digital TV equipment (24 MS having legislation by 2020)		4	2	2.5	0	4 400 k€ to 5 950 k€		63%	70%	
Audiovisual media services (24 MS having legislation by 2020)		4	1	2.5	0	1 100 000 k€ to 1 400 000 k€		48%	53%	
Telephony services		2	1.5	3	0	Services (20 MS having legislation by 2020)	655 000 k€ to 831 000 k€	77%	81%	
		3	2	2	0	Equipment (6 MS having legislation by 2020)	-18 500 k€ to -13 200 k€		no savings	
eBooks (7 MS having legislation by 2020)		4	2	2.5	0.5	6 900 k€ to 9 700 k€		7%	10%	
Self-service terminals [1]		3.5	2.5	3	0	ATMs (15 MS having legislation by 2020)	220 k€ to 260 k€	82%	85%	
						Check-in machines (18 MS having legislation by 2020)	23 k€ to 27 k€	88%	90%	
						Ticketing machines (18 MS having legislation by 2020)	140 k€ to 164 k€	88%	90%	
eCommerce (12 MS having legislation by 2020)		5	2	3	0	265 000 k€ to 682 500 k€		6%	15%	
Banking services		4	2	3	0.5	Built environment (27 MS having legislation by 2020)	3 860 k€ to 4 821 k€	24%	29%	
						Websites (12 MS having legislation by 2020)	3 400 k€ to 8 700 k€	6%	15%	
						ATMs (15 MS having legislation by 2020)	220 k€ to 260 k€	82%	85%	
Passenger transport services		3	2.5	3	0	Built environment (27 MS having legislation by 2020)	9 k€ to 11 k€	24%	29%	
						Websites (12 MS having legislation by 2020)	430 k€ to 1 120 k€	6%	15%	
						Check-in machines (18 MS having legislation by 2020)	23 k€ to 27 k€	88%	90%	
		Rail	3	2.5	3	0	Websites (12 MS having legislation by 2020)	270 k€ to 690 k€	6%	15%
							Ticketing machines (18 MS having legislation by 2020)	63 k€ to 74 k€	88%	90%
		Bus	3	2.5	3	0	Built environment (27 MS having legislation by 2020)	1 480 k€ to 1 850 k€	24%	29%
							Websites (12 MS having legislation by 2020)	32 290 k€ to 83 185 k€	6%	15%
							Ticketing machines (18 MS having legislation by 2020)	63 k€ to 74 k€	88%	90%
		Maritime	3	2.5	3	0	Built environment (27 MS having legislation by 2020)	6 k€ to 8 k€	24%	29%
							Websites (12 MS having legislation by 2020)	1 240 k€ to 3 200 k€	6%	15%
							Ticketing machines (18 MS having legislation by 2020)	14 k€ to 16 k€	88%	90%
		Hospitality services		5	2	3	0	Built environment (27 MS having legislation by 2020)	5 015 k€ to 6 270 k€	24%
Websites (12 MS having legislation by 2020)	129 200 k€ to 332 700 k€							6%	15%	
Public procurement (27 MS having legislation by 2020)		2	2	4	0	5 300 600 k€ to 6 900 500 k€		65%	70%	
Average Score		4	2	3	0					

[1] Self-services terminals are included on their own as goods and also broken down in relation to their respective services (banking and passenger transport), meaning that the amounts are repeated in the table.



This option scores the highest for effectiveness as it harmonises the accessibility requirements across the EU, but is also less efficient than the previous one. Effectiveness is high as Member States that currently do not regulate accessibility will have to do so after adoption. This, in turn, makes the option less efficient as it relies on additional efforts in Member States that currently do not legislate on accessibility. However, the impact on social groups is expected to be the highest as also Member States currently without accessibility obligations will have to introduce them. Guaranteeing access to goods and services for disabled people in the whole EU would allow them to have a strong involvement in society, to take part more actively in the public sphere and to fully exercise their rights. Enabling accessibility to disabled citizens would directly contribute to the Europe 2020 aim of improving education and employment as well as combating poverty and social exclusion. Environmental impacts remain limited. A detailed analysis of these impacts per good and service is included in Annex 7.

Table: Comparison of the policy options by sector in terms of economic impacts:

		Policy option 2	Policy option 3	Policy option 4
<b>Computers and Operating Systems</b>		1	3	-2
<b>Digital Television equipment</b>		2	3	3
<b>Audiovisual media services</b>		2	4	4
<b>Telephony service</b>		2	4	4
<b>Related terminal mobile equipment</b>		1	3	-2
<b>eBooks</b>		1	3	2
<b>Self-Service Terminals</b>		1	5	4
<b>eCommerce</b>		0	3	1
<b>Banking services</b>	Websites	0	3	1
	ATMs	2	5	4
	Built-environment	1	3	3
<b>Air Transport Services</b>	Websites	0	3	1
	SSTs	1	5	4
	Built-environment	1	3	3
<b>Railway Transport Services</b>	Websites	0	3	1
	SSTs	2	5	4
<b>Bus Transport Services</b>	Websites	0	3	1
	SSTs	1	5	4
	Built-environment	1	3	3
<b>Maritime and Inland Waterway Transport Services</b>	Websites	0	3	1
	SSTs	1	5	4
	Built-environment	1	3	3

<b>Hospitality Services</b>	Websites	0	3	1
	Built-environment	1	3	3
<b>Public Procurement</b>		2	4	4
<b>Average for ALL goods and services</b>		1	4	2

## 5.6. Administrative burden

Under policy options 2, 3 and 4, firms will be obliged to provide information about the accessibility of the relevant goods and services. It is assumed that this is a task that firms will only have to perform once. This burden related to the cost of providing information on accessibility either to the customer or to the surveillance authorities. The drafting of information concerning the accessibility of the good / service is assumed to take one eight-hour working day. At an average wage per hour of €18 this gives an administrative burden of €144 per company and good and service. As shown in the table, for some particular goods and services, is estimated at €1 440. Depending on the likely burden, this corresponds to between one and ten working days.

Under option 4, all companies producing the relevant good or service on the EU market would have to provide this information. This gives an upper bound for the cost of the administrative burden that would result from this proposal; under options 2 and 3 firms would only incur this cost if they wished to sell in those Member States that regulated the accessibility of the different goods and services (and under option 2, on the condition that those Member States implemented the Recommendation). The figures in the table below contain estimates for each of the policy options. It is important to note that for options 2 and 3 the number of companies are an approximation as the calculations assume that the share of the companies that would have to meet the information requirements equals the share of EU GDP of the Member States that implement the recommendation or directive, respectively. Based on these assumptions, the administrative burden is highest in option 4 followed by option 3 and then by option 2.

	<b>Administrative burden: Costs per policy option for the provision of accessible information</b>	<b>Cost per business</b>	<b>No. of businesses</b>	<b>% of businesses covered by the obligation</b> <small>146</small>	<b>Total admin burden per option</b>	<b>Rating Admin burden (Higher score = less burden)</b>
<b>Computers and Operating Systems</b>	<i>PO2: Recommendation</i>	1 440 EUR / company	39 companies	21.0%	11 800 EUR	4
	<i>PO3: Directive (partial coverage)</i>			33.6%	18 900 EUR	3
	<i>PO4: Directive (full coverage)</i>			100%	56 200 EUR	1
<b>Digital Television</b>	<i>PO2:</i>	144 EUR /	4 companies	76.6%	441 EUR	4

<sup>146</sup> These percentages represent the GDP of the Member States that implement the recommendation/have legislation in place.

	<i>Recommendation</i>	company				
	<i>PO3: Directive (partial coverage)</i>			96.3%	555 EUR	3
	<i>PO4: Directive (full coverage)</i>			100%	576 EUR	2
<b>Audiovisual media services</b>	<i>PO2: Recommendation</i>	144 EUR / company	1. 7 200 stations 2. 12 main European commercial TV groups	80.0%	1. 829 440 EUR 2. 1 382 EUR	4
	<i>PO3: Directive (partial coverage)</i>			96.8%	1. 1 003 622 EUR 2. 1 673 EUR	3
	<i>PO4: Directive (full coverage)</i>			100%	1. 1 036 800 EUR 2. 1 728 EUR	2
<b>Telephony services</b>	<i>PO2: Recommendation</i>	1 440 EUR / company	Approx. 81 companies, assuming at least three operators per EU Member State	23.5%	27 410 EUR	4
	<i>PO3: Directive (partial coverage)</i>			43.6%	50 855 EUR	3
	<i>PO4: Directive (full coverage)</i>			100%	116 640 EUR	1
<b>Related terminal mobile equipment</b>	<i>PO2: Recommendation</i>	1 440 EUR / company	Approx. 40 companies of which 6 are global key market players and 34 operate in specific regional markets only	23.5%	13 536 EUR	4
	<i>PO3: Directive (partial coverage)</i>			43.6%	25 114 EUR	3
	<i>PO4: Directive (full coverage)</i>			100%	57 600 EUR	1
<b>eBooks</b>	<i>PO2: Recommendation</i>	144 EUR / company	70 companies	11%	1 119 EUR	4
	<i>PO3: Directive (partial coverage)</i>			77%	7 762 EUR	3
	<i>PO4: Directive (full coverage)</i>			100%	10 080 EUR	2
<b>Self-Service Terminals</b>	These goods are traded on a B2B basis, meaning that there are no direct obligations to the manufacturer related to the information provision to the public. Therefore, the policy options are not expected to result in any administrative burden.					
<b>eCommerce</b>	<i>PO2:</i>	144 EUR /	533 310	15%	1 1865 100 EUR	4

	<i>Recommendation</i>	company	companies			
	<i>PO3: Directive (partial coverage)</i>			85%	65 522 900 EUR	3
	<i>PO4: Directive (full coverage)</i>			100%	76 796 600 EUR	2
<b>Banking services</b>	<i>PO2: Recommendation</i>	144 EUR / company	6 825 companies	15%	152 334 EUR	4
	<i>PO3: Directive (partial coverage)</i>			85%	838 328 EUR	2
	<i>PO4: Directive (full coverage)</i>			100%	982 800 EUR	1
<b>Air Transport Services</b>	<i>PO2: Recommendation</i>	144	872 companies	15%	19 463 EUR	5
	<i>PO3: Directive (partial coverage)</i>			85%	107 110 EUR	2
	<i>PO4: Directive (full coverage)</i>			100%	125 568 EUR	1
<b>Railway Transport Services</b>	<i>PO2: Recommendation</i>	144	536 companies	15%	11 964 EUR	5
	<i>PO3: Directive (partial coverage)</i>			85%	65 838 EUR	2
	<i>PO4: Directive (full coverage)</i>			100%	77 184 EUR	1
<b>Bus Transport Services</b>	<i>PO2: Recommendation</i>	144	65 000 companies	15%	1 446 100 EUR	5
	<i>PO3: Directive (partial coverage)</i>			85%	7 986 000 EUR	2
	<i>PO4: Directive (full coverage)</i>			100%	9 360 000 EUR	1
<b>Maritime and Inland Waterway Transport Services</b>	<i>PO2: Recommendation</i>	144	2 498 companies	15%	55 755 EUR	5
	<i>PO3: Directive (partial coverage)</i>			85%	306 834 EUR	2

	<i>PO4: Directive (full coverage)</i>			100%	359 712 EUR	1
<b>Hospitality Services</b>	<i>PO2: Recommendation</i>	144	260 000 companies	15%	5 616 000 EUR	5
	<i>PO3: Directive (partial coverage)</i>			85%	31 824 000 EUR	2
	<i>PO4: Directive (full coverage)</i>			100%	37 440 000 EUR	1

### 5.7. The case of SMEs and micro-enterprises

Annex 11 contains a specific assessment of the impacts on SMEs and micro-enterprises (“SME test”). Because of their size and limited resources, differences in national accessibility requirements are expected to cause disproportionate problems for SMEs. Thus, SMEs in particular would be expected to benefit from the elimination of this fragmentation through the creation of a single set of requirements, even more than larger economic operators. Therefore SMEs are included in the scope of application of the policy action under consideration. Potential benefits (cost savings) are expected to be higher than potential accessibility-related costs for all economic operators (noting that more than 90% of enterprises in the EU are in fact micros). Also, they would have their possibilities of cross-border trade facilitated.

According to the results of the SME Panel<sup>147</sup>, the extra costs related to accessibility are not significant for the majority of SMEs, there is confidence on the positive effects that would result from having common rules, and no differentiated treatment was requested. Their exclusion would have a counter-productive effect and would further contribute to maintaining the problem. This is also due to the impossibility of treating differently goods and services that should circulate freely in the single market, depending on which business produces/provides them. In any case, safeguard clauses, considering proportionality and avoiding fundamental alteration of the good or service, would be foreseen for all companies and lighter requirements for specific provisions, namely with regard to administrative requirements, will be considered for SMEs and more specifically for micro-enterprises whenever possible. When taking implementing measures, the effect on SMEs and micro-enterprises will be taken into account to ensure that they will not be negatively affected.

<sup>147</sup> See annex 11 for more detailed information.

## 6. COMPARISON OF POLICY OPTIONS

**Table: Overview of the impact of policy options**

	Effectiveness	Efficiency	Economic Impacts	Environmental Impacts	Social Impacts	Admin. burden	Objectives	Average for all impacts
PO 1	0	0	0	0	0	0	---	---
PO 2	1	1	1	0	1	4	II	1
PO 3	3	3	4	0	2	3	I; II; III; IV, V	2.5
PO 4	4	2	2	0	3	1	I; II; III; IV, V	2

The impacts of the different policy options compared above lead to the assessment of the suitability of these options to achieve the general and the specific objectives indicated in the related section, as shown also in the table.

Out of the policy options considered, policy option 2 would insufficiently address the objectives; in particular, it would not eliminate fragmentation in the single market.

Policy options 3 and 4 will best address the main drivers of the problem and consequently would improve the functioning of the internal market for accessible goods and services. Both options will have positive impacts on fundamental rights. While policy option 2 would achieve the same impacts as policy option 3 if all the Member States that regulate accessibility were to implement the Recommendation, this outcome seems unlikely to occur in practice.

A comparison of the consequences of policy options 3 and 4 points out differences mainly on the degree of effectiveness, the related costs savings and their consistency with the principle of proportionality. By preventing the emergence of different national requirements for accessibility of the priority goods and services, policy option 3 generates greater savings for business compared to the baseline and is more proportionate regarding the objectives. It would remove existing fragmentation in the internal market and facilitate Member States' implementation of their obligations under the UN Convention, by providing a common set of accessibility requirements. This common set of requirements would moreover prevent possible future fragmentation. At the same time, it would not affect the timing plans of Member States to implement the UN Convention and would not affect the way in which they choose to implement its provisions in relation to goods and services that are not covered by the proposal. It would give rise to a certain amount of additional administrative burden, but this is relatively minor compared to the costs that the options would help to avoid.

Policy option 4 gives rise to fewer savings than policy option 3, as it would require all Member States to take action once the proposal becomes applicable. It would therefore be more intrusive on national intentions to implement the requirements of the UN Convention as it leaves limited margin for a gradual implementation. However, by harmonising legal provisions on accessibility for the selected goods and services it would be most effective in guaranteeing the smooth functioning of the internal market. By ensuring the availability of accessible goods and services throughout the EU, it would also have greater social benefits concerning the integration and participation of disabled and older people in society.

The administrative burden is also expected to be higher for policy option 4 than for policy option 3, as it will cover all Member States and therefore all firms in the relevant sectors, regardless of whether they wish to sell across borders.

In conclusion, both options will address the policy objectives in terms of removing and preventing the emergence of new barriers to the smooth functioning of the internal market. However, policy option 3 respects better the principles of subsidiarity and proportionality, while the choice of policy option 4 will depend on whether the increased cost would be justified by its wider social benefits and greater degree of effectiveness. Policy option 3 would give Member States a framework to facilitate their action, without unduly interfering in the national timetable for implementing the provisions of the UN Convention.

It is important to note that calculations, both for cost and for savings at EU level, are highly dependent on the number of Member States that are assumed to have legislated in 2020. For both options 3 and 4 the higher the number of Member States that have national rules on accessibility, the higher the costs of fragmentation and the higher the savings made by removing that fragmentation. In other words, the costs savings in options 3 and 4 tend to converge when the number of Member States regulating on accessibility is high. In reverse, under option 4, if many Member States have not introduced legislation, the costs for making accessibility compulsory in those countries would be higher.

However, it is plausible to assume that, after 2020, more Member States than those assumed in the baseline scenario (2020) would have voluntarily introduced accessibility legislation to comply with the UN Convention. Meaning, that there will be a future point in time when the costs foreseen for the option 4 would become savings. The increase in Member States' accessibility rules will completely change the cost benefit balance. For example if it is assumed that every year one additional Member State will adopt accessibility legislation, the above mentioned negative figures become savings respectively approximately four and five years after 2020.

Computers → + 6 m€ in the year 2024 (savings)

Telephones → + 3 m€ in the year 2025 (savings) [*telephony services equipment*]

In any case, as indicated in the section explaining the impact of the correction factor, for an individual Member State it will in general be less costly to adapt existing national legislation to EU rules than to introduce those rules from scratch. Similarly, for industry already producing goods or delivering services according to a particular national rule, it would be cheaper to make their newly produced or delivered goods and services in conformity with EU accessibility requirements than it would be for those industries that deliver non-accessible goods and services to have their new products in conformity with those accessibility EU rules.

## **7. MONITORING AND EVALUATION ARRANGEMENTS**

In case of any policy option based on a legally binding measure at EU level (options 3 & 4), in addition to the reporting on the transposition, Member States shall monitor the conformity of goods and services concerned with the accessibility requirements regularly via market surveillance mechanisms. Member States are free to design their methodologies but exchange of information is expected.

Concerning the transposition of an EU Directive, in order to ensure that it would be transposed and implemented in an appropriate manner, the Commission would put in place a series of actions.

First, as soon as possible after the adoption of the proposal, in order to guide Member States, it would (a) provide a contact point for Member States to facilitate the dissemination of information regarding the proposed legislation (e.g. a functional mailbox) and (b) update DG Employment's website with relevant information on the new Directive.

Secondly, in order to ensure the smooth transposition of the Directive in all Member States within the deadline provided, the Commission will consider actions such as (a) holding meetings with Member States to monitor the implementation process; (b) focusing on problems emerging during the preparation of the national measures; (c) spreading best practices amongst all Member States.

In particular, in order to ensure smooth implementation of the duties imposed on economic operators, and to address potential risks linked to this element of the proposed Directive, the Commission will consider the following actions: (a) organise meetings with businesses representatives in order to promote the benefits that the new accessibility requirements could have on business reputation and turnover; (b) provide guidance on the implementation of the relevant rules on duties of economic operators; and (c) promote mutual learning and exchange of best practices between Member States on the implementation of the relevant provisions by exchanging information in the meetings with Member States on the implementation process.

Thirdly, once the deadline for the transposition has expired, the Commission would analyse how Member States have transposed the Directive into their national legal orders and consider whether infringement procedures against them are necessary.

Regarding infringement procedures, it should be noted that while the Recommendation of option 2 will only have to be transposed by those Member States that decide to apply it, all Member States would have to transpose the Directive. This is the case both in options 3 and 4. In option 3, the Directive would apply to all Member States regarding the rules on accessibility in public procurement and the free movement clause providing that all goods and services that fulfil the accessibility requirements laid down in the Directive have to be accepted in the market of other Member States. In option 4, the Directive would also apply to all Member States regarding the obligations of economic operators to ensure the accessibility of goods and services.

Given the flexibility inherent in this form of EU legal instrument, in order to avoid the risk that the initiative results in little harmonisation, in the infringement procedures the Commission would concentrate on verifying that the main objective of the Directive, the free movement of goods and services in the internal market, is ensured.

Therefore, priority would be given to the control of national transposition of the accessibility requirements provided for by the Directive, as well as to the clear and explicit inclusion in the national law of rules transposing the free movement clause of the Directive. While this exercise would necessarily cover all Member States equally, the infringement analysis should be particularly careful regarding Member States with less experience in accessibility matters.

## **8. INDICATORS**

A number of key indicators to monitor the impacts of this proposal have been identified aiming at addressing the general and specific objectives of this action. The availability of sources of data to populate the indicators has been considered also as one of the criteria for selection of indicators:

- Number of goods for which a technical file for CE marking is prepared that includes accessibility;



- Number of public calls for tender with reference to accessibility and EU level accessibility requirements;
- Number of complaints on goods and services because they do not comply with accessibility requirements;
- Number of court cases on accessibility problems for the concerned goods and services;
- Availability of EU level accessibility standards providing presumption of conformity;
- Number of new EU legal Acts that make reference to the European Accessibility Act to define accessibility.

Potential sources for these indicators include:

- Files in the national market surveillance authorities;
- TED database;
- Market surveillance authorities' complaints files;
- Disability, ageing and other consumer organisations;
- Equality bodies reports;
- European Ombudsman;
- ANED reports;
- European standardisation organisations;
- Eur-Lex;
- Indicators on disability gap on Europe 2020 targets based on Eurostat data (both LFS and SILC);
- Eurostat EHSIS (European Health and Social Integration Survey);
- Feedback from the Member States via the Disability High level group.

## **9. EVALUATION**

Concerning the monitoring of the implementation of the Directive and of the background situation, the Commission will consider the following actions: (a) address issues relating to different aspects of the Directive (including changes in the market structure; changes in the relevance of the goods and services for accessibility and the availability of accessible goods and services in the market) in meetings with Member States; (b) meet with a group of experts for mutual learning and exchange of best practices on the implementation process; (c) cooperate with industry umbrella organisations; and (d) consult consumer's and disabled people's organisations.

Five years after the entry into application of the Directive, and thereafter every five years, the Commission will publish a report on its implementation. This report would be partly based on the information gathered by the Commission from Member States, as well as economic stakeholders, social partners and relevant non-governmental organisations, including organisations of persons with disabilities.

This report on the implementation of the Directive would also carry out an evaluation of its impact. This evaluation would include an assessment of:

- Actual effects and coherence – effectiveness of the administrative apparatus (costs);

- Potential improvements & lessons learnt, including regarding the scope of the proposal; and sustainability;
- Use of Commission requested harmonised standards adopted by European standardisation organisations to provide presumption of conformity;
- Use of the European Accessibility Act to support other legal acts where accessibility is used but not defined.