



The voice of blind and partially sighted people in Europe

# **European Accessibility Act**

**EBU proposed amendments  
for EP Plenary**

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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 the accessibility requirements for products and services 2015/0278 (COD)**

## **Position Paper**

**July 2017**

The **European Blind Union (EBU)** is a non-governmental, non-profit making European organisation founded in 1984. It is one of the six regional bodies of the World Blind Union, and it promotes the interests of blind people and people with low vision in Europe. It currently operates within a network of 42 national members, including organisations from 27 European Union member states, candidate nations and other major countries in geographical Europe.

Most people take access to products and services for granted. For the **30 million Europeans who are blind or partially sighted**, access to products and services is a constant battle.

## **Introduction**

This position paper includes EBU's recommendations to legislators following the publication of [Morten Løkkegaard's report](#) on the above-mentioned proposed Directive.

EBU welcomed the publication of the legislative proposal for a European Accessibility Act in 2015. In this paper, we express our deep concerns about the effectiveness of the Act in certain areas and the fact that its potential will not be fulfilled by the proposal

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as it currently stands. We want to make sure that the proposed Directive will significantly improve the life of blind and partially sighted people in Europe, if adopted, and will guarantee the fulfilment and protection of the human rights deriving from the UN-CRPD, which the EU and most EU member states have ratified.

In your capacity as member of the European parliament, **we kindly request you to support our proposed amendments and to table them during the plenary session of the European Parliament on 13<sup>th</sup> September 2017**. This session intends to adopt the IMCO final report as the position of the European parliament. If this report is adopted as it currently stands, it will greatly undermine former efforts of the European Parliament to improve the life, independence and equal participation of disabled Europeans. Please support our amendments to increase the potential of the European Accessibility Act for the society at large and to foster a significant impact for the access to goods and services for European disabled citizens.

## EBU's top priorities

For EBU, a position of the European Parliament is not acceptable if it does not contain:

- A binding clause on the built environment (Article 3 (10))
- A clear reference to the applicability of the accessibility requirements to other Union acts, such as transport and its infrastructure as well as public procurement and all forms of investments (Article 1 (3))
- Obligations for all businesses, including microenterprises and SMEs (Article 12)
- Clear and binding functional accessibility requirements, especially for the sections referring to audiovisual media content and the provision of related access services, the public transport section, its services and related infrastructure, self-service terminals and their provided services and the provision of e-books and related services

For more details and justifications, please read our proposals for amendments, which we would like the plenary of the European Parliament to consider to effectively strengthen the Commission's legislative draft towards an ambitious and innovative legislative piece. This will allow a more accessible European Union for all and for disabled persons in particular.

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## Recitals

### Recital 9a (new) - Amendment 10

IMCO final report	EBU amendments
<p>(9a) Better accessibility of products and services will improve the lives not only of persons with disabilities but also of persons with other permanent or temporary functional limitations, such as elderly persons, pregnant women and persons travelling with luggage. However, it is important to limit the scope of this Directive solely to persons with disabilities and not to extend it to persons with temporary and permanent functional limitations in general, in order to align this Directive to the Convention and to ensure legal certainty for economic operators.</p>	<p>(9a) Better accessibility of products and services will improve the lives not only of persons with disabilities but also of persons with other permanent or temporary functional limitations, such as elderly persons, pregnant women and persons travelling with luggage. <b>Therefore, it is essential that this Directive comprises persons with disabilities as well as persons with temporary or permanent functional limitations, to acknowledge the benefit of the Directive for the society at large and value accessibility as an essential prerequisite of an independent life for all individuals.</b></p>

#### Justification:

EBU agrees with the Commission's proposal, which comprises persons with functional limitations. This term should be retained throughout the Directive and should not be removed from the definitions section in article 2. The term illustrates the benefit of accessibility for a wide audience, which reflects the demographic change within society and considers former legal approaches in passenger rights legislation, which are referring to the equally broad term persons with reduced mobility. Removing persons with functional limitations would greatly decline social realities and consequently leave out a broad social audience.

### Recital 16 – Amendment 17

IMCO final report	EBU amendments
<p>(16) Products and services falling within the scope of this Directive are the result of a screening exercise, carried out during the preparation of the Impact</p>	<p>(16) Products and services falling within the scope of this Directive are the result of a screening exercise, carried out during the preparation of the Impact</p>



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<p>Assessment that identified those relevant products and services for persons with disabilities for which Member States have adopted or are likely to adopt diverging national accessibility requirements.</p>	<p>Assessment that identified those relevant products and services for <b>persons with functional limitations, including persons with disabilities and older persons</b>, for which Member States have adopted or are likely to adopt diverging national accessibility requirements.</p>
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Justification:

EBU sticks to the Commission’s proposal to illustrate and verify the need of accessible goods and services for the society at large.

**Recital 16 a (new) - Amendment 18**

IMCO final report	EBU amendments
<p>(16a) Directive 2010/13/EU of the European Parliament and of the Council<sup>1a</sup> imposes a number of obligations on providers of audiovisual media services. It is therefore more appropriate to include accessibility requirements in that Directive. However, as regards websites and mobile-based services, Directive 2010/13/EU only covers audiovisual media content. It is therefore appropriate to include the architecture of the websites and mobile-based services and all content not falling within the scope of Directive 2010/13/EU within the scope of this Directive. This Directive should cover accessibility requirements for telephony services equipment and websites. This Directive should also cover accessibility requirements for telephony services unless they are addressed in another Union act. In the latter case, the Union act concerned should prevail over this Directive.</p>	<p>(16b) <b>Revised</b> Directive 2010/13/EU of the European Parliament and of the Council<sup>1a</sup> <b>sets</b> a number of obligations to providers of audiovisual media content. <b>However that Directive only covers audiovisual media content. It is therefore appropriate to include the architecture of the websites and mobile-based services and all content not falling in the scope of Directive 2010/13/EU within the scope of this Directive. Accessibility requirements for the provision of access services like subtitling, Audio description, sign language interpretation as well as accessibility of electronic program guides, shall be covered by this Directive to improve a better development of harmonized EU minimum standards in these areas.</b> This Directive should cover accessibility requirement for telephony equipment and websites. This Directive should cover accessibility requirement for telephony services unless they are</p>



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	addressed in another Union act. In the latter case, the relevant Union Act should prevail over this Directive.
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<sup>1a</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

Justification:

The proposed amendments of article 7 of the EU parliament with regards to the revision of [Directive 2010/13/EU](#) are listing very concrete and effective measures to ensure the effective provision of access services for audiovisual content. However, EBU believes that it is essential to fill these obligations with functional accessibility requirements as they enable EU member states and standardization bodies to draft harmonized and effective standards, which will consider the needs of disabled persons. Since article 7 does not list functional requirements, we believe that the European Accessibility Act can bridge this gap and facilitate the development of EU standards for the provision of access services.

**Recital 18 - Amendment 21**

IMCO final report	EBU amendments
(18) On the one hand, it is necessary to introduce the accessibility requirements in the most effective and least burdensome manner for the economic operators and the Member States, notably by only including in the scope the products and services which have been thoroughly selected and which are placed on the market after the date of application of this Directive. On the other hand, it is necessary to enable economic operators to implement the accessibility requirements set out in this Directive efficiently, in particular by taking into account the lifetime of self-service terminals, ticketing machines and check-in machines. In addition, the special position of SMEs in the European internal market should also be taken into account. Additionally,	(18) It is necessary to introduce the accessibility requirements <b>which enable all people to fully use the products and services and infrastructure covered by this Directive</b> in the least burdensome manner for the economic operators and the Member States. <b>On the other hand, it is necessary to enable economic operators to implement the accessibility requirements set out in this Directive efficiently, in particular by establishing advisory technical expert groups which can support micro, small and medium sized enterprises to manufacture goods and render services tailored to the needs of disabled persons. In addition, the special position of SMEs and micro-enterprises in the European internal</b>





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<p>microenterprises, due to their size, resources and nature, should not be required to comply with the accessibility requirements or to be obliged to use the procedure of article 12 in order to be exempted from the obligation of this Directive.</p>	<p><b>market should also be taken into account. EU Member States should be encouraged to launch financial schemes to support in particular small enterprises and startups to comply with the requirements of this Directive.</b></p>
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Justification:

For EBU, it is not comprehensible why the life cycle of a self-service-terminal needs to be considered while applying the requirements of this Directive. Buying a bunch of accessible self-service terminals is by far more cost effective than maintaining the operation of accessible and inaccessible self-service-terminals. An additional exemption than the one provided in article 12 of this Directive, allowing enterprises to maintain inaccessible self-service terminals until they are fully depreciated without the requirement to provide accessible ones after the application of the Directive would delay the effective enforcement of this Directive for decades and does not reflect the needs of disabled persons and the legal principles of the UN-CRPD. Should there be a need for an extended transition period, economic operators can make use of article 12 to argue for a “disproportionate burden”. EBU rejects the exclusion of microenterprises from the scope of the act. Article 12 of this Directive already establishes the legal fundament to declare a disproportionate burden for all enterprises. Excluding a whole group of economic operators would have an adverse effect on the practical benefits of the act. Many service providers in the range of e-commerce and the publishing and provision of e-books are microenterprises. Consequently, a broad range of e-books and commercial websites will remain inaccessible depriving blind and partially sighted persons of their right to an equal cultural participation. They will remain at status quo without the enjoyment of accessible e-book reading and independent online purchase of needed goods and services - a great loss for all involved stakeholders in view of strides that digital technology has made in the recent years.

**Recital 23 - Amendment 27**

IMCO final report	EBU amendments
<p>(23) In some situations, accessibility of the built environment is a precondition for the proper enjoyment of the related services by persons with disabilities. Therefore, this Directive should oblige Member States to include the built</p>	<p><b>(23) Without common accessibility requirements of the built environment connected to products and services, any accessibility standards of goods and services cannot be effective in ensuring accessibility for persons</b></p>





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environment used in the provision of the services under the scope of this Directive, ensuring compliance with the accessibility requirements set out in Annex X. However, Member States should not be required to amend or introduce in their national law provisions on accessibility of the built environment, if they have already adopted national law covering adequately the built environment of the related services. Also, accessibility requirements should only be applicable when constructing new infrastructure or undertaking significant renovations.

**with disabilities and persons with functional limitations.** Therefore, this Directive **obliges the** Member States to include the built environment used in the provision of the **products and** services under the scope of this Directive, ensuring compliance with the accessibility requirements set in Annex X.

Justification:

In its impact assessment, the European Commission has identified the built environment as one of the aspects, which is likely to be addressed by diverging national legislation, embarking the risk of fragmentation in the EU internal market. There is a clear benefit of harmonizing minimum accessibility requirements for buildings, which will also be beneficial for architects working in different EU member states. Removing the built environment from the scope of the Act will make all requirements on product accessibility and rendering accessible services ineffective, if our constituency is not able to use these services due to an inaccessible built environment. An inaccessible built environment will harm consumers and providers/manufacturers of goods and services likewise, since the access to these goods/services will be greatly restricted, resulting in unprofitable investments and a violation of consumers rights (disabled persons and persons with functional limitations). Without a mandate for service providers to ensure that the built environment is constructed in an accessible way, the Act will fail its purpose and potential.

EBU does not agree to consider the life cycle of a product as a legitimate reason to claim a disproportionate burden. This argument can be easily used as a loophole by enterprises to avoid investing in accessibility of their products or services. The option of substituting the accessibility of products and services by free of charge alternatives or provision of assistance is not an acceptable option for EBU. Disabled persons have the right to choose from different available alternatives adapted to their needs, as sighted persons can do and take this prerequisite for granted. The provision of assistance as a replacement for accessibility of the products/services and the



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connected built environment cannot be an alternative to excuse the noncompliance of accessibility requirements.

## Recital 53 c (new) – Amendment 58

IMCO final report	EBU amendments
(53c) In order to give service providers sufficient time to adapt to the requirements laid down in this Directive, it is necessary to provide for a transitional period, during which products used for the provision of a service do not need to comply with the accessibility requirements laid down in this Directive. Given the cost and long life cycle of automatic teller machines, ticketing machines and check-in machines, it is appropriate to provide that, when such machines are used in the provision of services, they may continue to be used until the end of their economically useful life.	<b>Deletion</b>

### Justification:

EBU states that this recital needs to be deleted because economic operators already have the possibility to argue for a disproportionate burden. Establishing further exemptions for all kinds of self-service terminals will delay the implementation of this Directive for decades and strongly violates the principles of the UN-CRPD, which establishes the fundament for an independent and accessible use of all products and services by disabled persons. Allowing an extended use of inaccessible self-service terminals will leave disabled persons and those with functional limitations at status quo without any access to independent opportunities of withdrawing cash, buying tickets independently or doing daily bank related activities which sighted persons take for granted.



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## Articles

### Article 1 (Scope) - Amendments 62 – 79

IMCO final report	EBU amendments
<p>1. Chapters I, II to V, and VII apply to the following products placed on the Union market after the date of application:</p> <p>(a) general purpose computer hardware and its related operating systems intended for use by consumers</p> <p>(b) the following self-service terminals:</p> <p>(i) Automatic Teller Machines;</p> <p>(ii) ticketing machines;</p> <p>(iii) check-in machines.</p> <p>(iiia) payment terminals.</p> <p>(c) consumer terminal equipment related to telephony services;</p> <p>(d) consumer terminal equipment related to audiovisual media services;</p> <p>(da) e-book readers.</p> <p>2. Chapters I, II to V, and VII, apply to the following services provided after the date of application of this Directive without prejudice to Article 27:</p> <p>(-a) operating systems when they are not embedded in the computer hardware and they are provided as intangible property to consumer.</p> <p>(a) telephony services and related consumer terminal equipment;</p> <p>(b) websites and mobile device-based services of audiovisual media services;</p> <p>(c) air, bus, rail and waterborne passenger transport services;</p>	<p>1. Chapters I, II to V, and VII apply to the following products:</p> <p>(a) general purpose computer hardware and operating systems;</p> <p>(b) the following self-service terminals:</p> <p>(i) Automatic Teller Machines;</p> <p>(ii) ticketing machines;</p> <p>(iii) check-in machines.</p> <p>(c) consumer terminal equipment <b>with advanced computing capability</b> related to telephony services;</p> <p>(d) consumer terminal equipment <b>with advanced computing capability</b> related to audiovisual media services.</p> <p><b>(e) household appliances operated by a user interface</b></p> <p>2. Chapters I, II to V, and VII, apply to the following services:</p> <p>(a) telephony services and related consumer terminal equipment with advanced computing capability;</p> <p><b>(b) audiovisual media services and related consumer equipment with advanced computing capability;</b></p>



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<p>(d) consumer banking services; (e) e-books and related equipment used in the provision of those services provided by the service provider and access to it; (f) e-commerce.</p> <p>3. Chapters I, VI and VII of this Directive apply to the following:</p> <p>(a) public contracts and concessions which are subject to Directive 2014/23/EU, Directive 2014/24/EU and Directive 2014/25/EU, conceived or granted after ... [the date of application of this Directive];</p> <p>(b) the preparation and implementation of programmes under Regulation (EU) No 1303/2013 of the European</p>	<p><b>(c) air, bus, rail and waterborne passenger transport, mobility and their intermodal connection services, including public urban transport such as underground, rail, tramway, trolleybus and bus related to:</b></p> <p><b>(i) self-service terminals, located within the territory of the Union, including ticketing machines, payment terminals and check-in machines;</b></p> <p><b>(ii) websites, mobile device-based services, smart ticketing and real-time information;</b></p> <p><b>(iii) vehicles, the related infrastructure and the built environment, including step-free access on all public stations;</b></p> <p><b>(iv) Member States shall ensure that, within their territory, fleets of taxis and hire cars include an adequate proportion of adapted vehicles.</b></p> <p>(d) banking services; (e) e-books; <b>(ea) e-book readers;</b> (f) e-commerce, <b>websites of products and services providers, media and news websites, online platforms and social media;</b></p> <p>3. Chapters I, VI and VII of this Directive apply to the following:</p> <p>(a) public contracts and concessions which are subject to Directive 2014/23/EU Directive 2014/24/EU and Directive 2014/25/EU.</p> <p>(b) the preparation and implementation of programmes under Regulation (EU) No 1303/2013 of the European</p>
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<p>Parliament and of the Council<sup>43</sup> and Regulation (EU) No 1304/2013 of the European Parliament and of the Council<sup>44</sup>, adopted or implemented after ... [the date of application of this Directive];</p> <p>(c) public service contracts which, after ... [the date of application of this Directive], are awarded either through competitive tendering procedures or directly for public passenger transport services by rail and by road under Regulation (EC) No 1370/2007 of the European Parliament and of the Council<sup>45</sup></p> <p>(d) transport infrastructure in accordance with Regulation (EU) No 1315/2013, designed or constructed after ... [the date of application of this Directive].</p>	<p>Parliament and of the Council <b>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</b>; and Regulation (EU) No 1304/2013 of the European Parliament and of the Council.</p> <p>(c) <b>tender procedures</b> for public passenger transport services by rail and by road under Regulation (EC) No 1370/2007 of the European Parliament and of the Council.</p> <p>(d) transport infrastructure in accordance with Regulation (EU) No 1315/2013 of the European Parliament and of the Council.</p>
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<sup>43</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 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 and repealing Council Regulation (EC) No 1083/2006 ( OJ L 347, 20.12.2013, p. 320).

<sup>44</sup> Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006.

<sup>45</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) 1191/69 and 1107/70 (OJ L 315 of 3.12.2007, p.1).

#### Justification:

EBU sticks to the initial Commission's proposal with some additions, since we believe that the proposed amendments by IMCO rather restrict and limit the scope of the directive to such an extent that stipulations referring to public transport legislation and public procurement as well as award criteria in both sectors would not be covered by the EAA anymore. All existing and enforced legislation contain already obligations to manufacture accessible products and render effective services, however existing legislation greatly lacks of specific functional accessibility requirements. The



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requirements of the EAA would fill the term accessibility with concrete meaning and facilitate implementation and enforcement on national level. The requirements should apply to ALL products and services and not just to those limited under the scope of the Act. This approach has also been backed up by the industry and is reflected in a joint agreement reached by the European Disability Forum and Digital Europe.

In many surveys among persons with disabilities, one of the mostly mentioned inaccessible products in their everyday lives is household appliances. As digital technology rapidly evolves enabling the user to manage household appliances through smartphone or via internet, we believe this would be the right moment to establish mandatory accessibility criteria for user interfaces to bridge the gap between an inaccessible touch screen to a facilitation of handling and communication via smartphone between a user and a household appliance. Besides ATMs, mandatory accessibility of payment terminals needs to be established. Payment terminals are widely used as a means of cashless payment and are likely to replace the usage of ATMs. Accessibility of these devices is indispensable to ensure that blind and partially sighted persons can pay for goods and services with ease and confidence.

IMCO AM 70 on AVSMD should be deleted and replaced by the EBU proposal, since the latter pursues a much broader scope and includes functional accessibility requirements for electronic program guides and accessibility requirements for accessibility features for the creation of web and audiovisual access features. For further clarifications, see our justification for recital 16a.

TRAN opinion AM 32 on transport services should be proposed instead of IMCO AM.

IMCO AM 77 on transport should be deleted.

## Article 1 a (Scope) - Amendment 80

IMCO final report	EBU amendments
Exclusion of microenterprises  This Directive does not apply to microenterprises that manufacture, import or distribute products and services that fall within its scope.	<b>Deletion</b>

### Justification:

AM 80 of the IMCO report should be deleted. As described in the justification for

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amendment 21, microenterprises are forming an essential part of service providers, which provide meaningful e-commerce services and e-books. Excluding them would deprive blind and partially sighted persons from their right to independent online shopping and the enjoyment of recreation and culture provided through the means of accessible e-books.

## Article 2 (Definitions) - Amendments 71 – 92

IMCO final report	EBU amendments
<p>(1) “accessible products and services” means products and services that are capable of being perceived, operated and understood by persons with disabilities and are sufficiently robust for them to use;</p> <p>Deletion of point 2 about “universal design”</p>	<p>(1) “accessible products and services” <b>are</b> products and services that <b>are perceptible, operable and understandable for persons with functional limitations and</b> persons with disabilities, <b>on an equal basis with others</b>;</p> <p>(2) “universal design” referred to also as “design for all” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design; “universal design” does not exclude assistive devices for particular groups of persons with functional limitations, and persons with disabilities where this is needed;</p> <p>(3) “persons with functional limitations” means persons who have any physical, mental, intellectual or sensory impairment, reduced mobility (PRMs), age related impairment, or other human body performance related causes, permanent or temporary, which in interaction with various barriers result in their reduced access to products and services, leading to a situation that requires adaptation to</p>





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<p>(21) “e-commerce” means the online sale of products and services from business to consumers falling within the scope of Directive 2000/31/EC of the European Parliament and of the Council<sup>1a</sup></p> <p>(21a) "air passenger transport services" means services provided by air carriers, tour operators and the managing bodies of airports as defined in points (b) to (f) of Article 2 of Regulation (EC) No 1107/2006 of the European Parliament and of the Council<sup>1a</sup>;</p> <p>(21b) "bus passenger transport services" means services covered by Article 2(1) and (2) of Regulation (EU) No 181/2011;</p> <p>(21c) "rail passenger transport services" means all rail passenger services covered by Article 2(1) and (2) of Regulation (EC) No 1371/2007;</p> <p>(21d) "waterborne passenger transport services" means passenger services covered by Article 2(1) of Regulation (EU) No 1177/2010.</p>	<p><b>their particular needs of those products and services;</b></p> <p>(21) “e-commerce” means the online sale of products and services, <b>including any third party elements needed for the provision of the online sale.</b></p> <p>(21a) <b>Deletion</b></p> <p>(21b) <b>Deletion</b></p> <p>(21c) <b>Deletion</b></p> <p>(21d) <b>Deletion</b></p> <p><b>(22) “service provider” means any national or legal person in the EU, as referred to in Article 48 of the Treaty and established in a Member State, who offers or provides a service falling under the scope of this Directive.</b></p> <p><b>(23) “Assistive technology” means any item, piece of equipment, or</b></p>
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	<p><b>product system that is used to increase, maintain, or improve functional capabilities of individuals with functional limitations, and persons with disabilities and older people;</b></p> <p><b>(24) “Access service” means a service such as audio description, subtitles for the deaf and hard of hearing, and signing that improves the accessibility of audiovisual content for persons with disabilities;</b></p> <p><b>(25) “Subtitles for the deaf and hard of hearing (SDH)” means synchronized visual text alternatives for both speech and non-speech audio information needed to understand the media content.</b></p> <p><b>(26) “Audio description” means additional audible narrative, interleaved with the dialogue, which describes the significant aspects of the visual content of audiovisual media that cannot be understood from the main soundtrack alone</b></p> <p><b>(27) “Spoken subtitles or audio subtitles” means read aloud of subtitles in the national language when the audio speech is in a different language.</b></p> <p><b>(28) “Relay services” means phone services operated by interpreters that enable people who are deaf or hard of hearing or who have a speech impairment, to communicate by phone through an interpreter with a person who can hear in a manner that is "functionally equivalent" to</b></p>
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	<p><b>the ability of an individual without a disability</b></p> <p><b>(29) “Real time text” means communication using the transmission of text where characters are transmitted by a terminal as they are typed in such a way that the communication is perceived by the user as being continuous</b></p> <p><b>(30) “Authoring tool” means any software or collection of software components that can be used by authors, alone or collaboratively, to create or modify content for use by others including other authors</b></p>
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<sup>1a</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).

Justification:

EBU agrees with the Commission’s proposal to use the broader term “persons with functional limitations” in addition to the term “persons with disabilities” to illustrate that accessibility benefits a much wider part of the population. See justification for Amendment 10 for further explanation.

The proposed text is taken from AM 40 of the adopted TRAN opinion of 9 May 2017. The definitions of transport services that were added in the IMCO report in AMs 89 – 92 should be deleted. They significantly narrow the scope of the Act and refer to the definition of passengers’ rights legislation which is not at all related to accessibility and therefore in this context not sufficient.

Banking services should not just be reduced to using payment accounts with “basic features” within the meaning of Directive 2014/92/EU of the European Parliament and of the Council as proposed in the IMCO report (AMs 71 and 87). Banking services do by far cover more than those basic features and should be accessible for consumers, employers and employees with functional limitations and disabilities likewise. The definition of “universal design” was deleted in the IMCO report (AM 82) and it should be re-established, since it is an essential part for the establishment of a



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comprehensive accessibility and a reflection of the principles of article 9 of the UN-CRPD. The latter declares universal design as a main principle, while devising and implementing accessibility criteria in the daily environments of disabled persons and those with functional limitations.

## Article 3 (Accessibility Requirements) - Amendments 95 - 99

IMCO final report	EBU amendments
<p>5. Websites and mobile device-based services of audiovisual media services and the related consumer equipment shall comply with the requirements set out in Section IV of Annex I.</p> <p>10. Member States shall ensure that the built environment used by clients of passenger transport services including the environment that is managed by service providers and by infrastructure operators as well as the built environment used by clients of consumer banking services, and customer services centres and shops under the scope of telephony operators shall as regards to the construction of new infrastructure, or renovations resulting in a substantial change to the structure of the existing building, comply with the accessibility requirements set out in Section X of Annex I, in order to maximise their use by persons with disabilities. This shall be without prejudice to Union legal acts and national legislation for the protection of national treasures possessing artistic, historic and archaeological value. Member States that already have</p>	<p>5. Audiovisual media services <b>in pursuant to the measures taken by Member States derived from article 7 of Directive XX/YYYY/EU</b>, and the related consumer equipment with advanced computing capability shall comply with the requirements set out in Section IV of Annex I.</p> <p>10. Member States shall ensure, in the light of national conditions, that the built environment used by clients of passenger transport services including the environment that is managed by service providers and by infrastructure operators as well as the built environment used by clients of banking services, and customer services centres and shops under the scope of telephony operators <b>as well as any other service or place for the purchase of any of the products covered by this Directive shall comply</b> with the accessibility requirements of Annex I, section X, in order to maximise their use by persons with functional limitations <b>and</b> persons with disabilities</p>



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<p>national legislation in place on accessibility requirements as regards the built environment on their territory shall fulfil the requirements on built environment laid down in this Directive only to the extent that the services referred to in the first subparagraph are not covered by such legislation.</p>	
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Justification:

The built environment has been identified by the Commission’s own Impact Assessment (p. 5) as one of the aspects that is likely to be addressed by diverging national legislation and this Directive should therefore contain mandatory provisions covering the built environment. This will also ensure that only parts of a service (e.g. the ATM) but not the built environment or infrastructure that surrounds it (e.g. stairs leading into the building where the ATM is located) will be accessible. Not making accessibility of the built environment binding will weaken the stance of the entire Act and fails to fulfil Article 9 of the UN-CRPD. The proposed text is taken from AM 54 of the adopted TRAN opinion of 9 May 2017.

IMCO AM 95 on AVMSD should be deleted and replaced by the text proposed here. See further justification in Amendment 18 for recital 16a.

### Article 5 (Obligations of Manufacturers) - Amendment 106

IMCO report	EBU amendments
<p>9. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the product, in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to ensure compliance with this Directive.</p>	<p>9. Manufacturers shall <b>be in the position to</b> provide all the information and documentation necessary to demonstrate the conformity of the product <b>at any given moment</b>, in a language, which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken <b>to eliminate the risks posed by products, which they have placed on the market and to ensure compliance with the requirements referred to in Article 3.</b></p>



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Justification:

EBU welcomes the fact that the Accessibility Act covers a wide range of economic operators (manufacturers, representatives, importers, and distributors). The Directive should cover all economic operators, both public and private, without exception. It is also important that manufacturers can give information about the conformity of a product at any moment and not just upon request of the authorities, so that consumers can verify the conformity with the accessibility requirements at their own initiative.

**Article 12 (Fundamental alterations and disproportionate burden) - Amendments 123 - 126, 128, 129**

IMCO final report	EBU amendments
<p>4. The burden shall not be deemed disproportionate where it is compensated by funding from other</p>	<p>1. The accessibility requirements referred to in Article 3 apply to the extent that they do not introduce a significant change in an aspect or feature of a product or service that results in the alteration of the basic nature of the product or service.</p> <p>2. Accessibility requirements referred to in Article 3 apply to the extent that they do not impose a disproportionate burden on the economic operators concerned.</p> <p>3. In order to assess whether compliance with accessibility requirements regarding products or services imposes a disproportionate burden, the economic operators shall take account, of the following:</p> <p>(a) the size, resources and nature of the economic operators;</p> <p>(b) the estimated costs and benefits for the economic operators in relation to the estimated benefit for <b>persons with functional limitations and</b> persons with disabilities.</p> <p>4. The burden shall not be deemed disproportionate where it is compensated by funding from other</p>



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sources than the economic operator's own resources, made available for the purpose of improving accessibility, whether public or private.

5. The initial assessment of whether compliance with accessibility requirements regarding products or services imposes a fundamental alteration or disproportionate burden shall be performed by the economic operator.

5a. The Commission shall adopt delegated acts in accordance with Article 23a to supplement paragraph 3 of this Article by further specifying the specific criteria that are to be taken into account for all products and services covered by this Directive when assessing whether the burden is to be considered disproportionate without modifying those criteria.

The Commission shall adopt the first such delegated act covering all products and services falling within the scope of this Directive by ... [one year after the date of entry into force of this Directive].

6. Where the economic operators have used the exception provided for in paragraphs 1 to 5 for a specific product or service they shall notify the relevant market surveillance authority of the Member State in the market of which the product or service is placed or made available. The assessment referred to in paragraph 3 shall be submitted to the market surveillance authority upon its request. SMEs shall be exempted from

sources than the economic operator's own resources, whether public or private. **Lack of priority, time or knowledge shall not be considered as legitimate reasons to claim the disproportionate burden.**

5. The initial assessment of whether compliance with accessibility requirements regarding products or services imposes a fundamental alteration or disproportionate burden shall be performed by the economic operator.

6. Where the economic operators have used the exception provided for in paragraphs 1 to 5 for a specific product or service they shall notify the market surveillance authority of the Member State in the market of which the product or service is placed or made available. **Notification shall include the assessment referred to in paragraph 3. The market surveillance authority shall systematically verify the**





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<p>this notification requirement but shall be able to supply the relevant documentation upon request from a relevant market surveillance authority.</p> <p>6b. A structured dialogue shall be established between relevant stakeholders, including persons with disabilities and their representative organisations, and the market surveillance authorities to ensure that adequate principles for the assessment of the exceptions are established in order to ensure that they are coherent.</p> <p>6c. Member States are encouraged to provide incentives and guidelines to microenterprises to facilitate the implementation of this Directive. The procedures and guidelines shall be developed in consultation with relevant stakeholders, including persons with disabilities and their representative organisations.</p>	<p><b>assessment for such an exemption to be granted unless the economic operator has provided an independent third party assessment.</b></p> <p>7. A structured dialogue shall be established between relevant stakeholders, including persons with disabilities and their representative organisations and the Market Surveillance Authorities to ensure that adequate principles for the assessment of the exemptions are established to make sure they are coherent.</p> <p>8. Member States are encouraged to provide incentives and guidelines to Microenterprises to facilitate the implementation of this Directive. The procedures and guidelines shall be developed in consultation with relevant stakeholders, including persons with disabilities and their representative organisations.</p> <p><b>9. EU member states shall ensure, that Market surveillance authorities are equipped with adequate resources,</b> staff and knowledge to efficiently verify the assessment of the manufacturer.</p>
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Justification:

According to the UN Committee's General Comment No. 2 (2014) on accessibility, any notion of "disproportionate burden" is unacceptable as a principle. It states that the "obligation to implement accessibility is *unconditional*, i.e. the obliged entity may not excuse the omission referring to the burdens of provision the access for persons with disabilities."

EBU is concerned that, without proper safeguards and enforcement, the given

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exceptions of this article could be misused and become a loophole through which some economic operators escape from their duty to make their goods and services accessible. The economic operators may tend to overestimate the cost to themselves, and/or underestimate the benefit to disabled users of changes the Directive would otherwise require them to make. Therefore, we are suggesting to strengthen the Commission's proposal since it lacks clarity how economic operators can effectively assess whether the product imposes a disproportionate burden. It is not clear how enterprises can assess the benefit for disabled persons in relation to the accruing production costs. This article should be complemented by a clause, which considers the expertise of disability stakeholders to guarantee that assessment principles, used guidelines and benchmarks are coherent, adequate and do reflect the reality of disabled consumers. A binding clause should provide the obligation to establish a structured dialogue between relevant stakeholders, including persons with disabilities and their representative organisations and the Market Surveillance Authorities to ensure that adequate principles for the assessment of the exemptions are established. Further, enterprises should be encouraged to include accessibility experts and disability organizations in their assessment allowing verification of the use of the exemption by technical experts on accessibility issues. Finally, it is important that the Market Surveillance Authorities have adequate resources, staff and knowledge to efficiently verify the assessment of the manufacturer.

AM 126 of the IMCO report exempted SMEs from notification. This should be removed, since this requirement would exclude a wide range of economic operators, which in consequence could offer and render inaccessible products and services, unnoticed by any market surveillance authority. This exemption would greatly harm disabled consumers, who would be in the position to verify that a product was inaccessible and the burden to file legal complaints against the concerned economic operator without the possibility to resort to available information from national market surveillance authorities would rest with them.

## Article 13 (Harmonised Standards, technical specifications and conformity of products and services) - Amendments 131 - 134

IMCO final report	EBU amendments
1. Products and services that meet the harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the accessibility	1. Products and services that meet the harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the accessibility

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<p>requirements, referred to in Article 3, that are covered by those standards or parts thereof,</p> <p>1a. The Commission shall, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards for each of the accessibility requirements of products set out in Article 3. The Commission shall adopt those requests by ... [two years after the date of entry into force of this Directive].</p> <p>1b. The Commission may adopt implementing acts establishing technical specifications that meet the accessibility requirements set out in Article 3. However, it shall only do so if the following conditions are met:</p> <p>(a) no reference to harmonised standards has been published in the Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012;</p> <p>(b) the Commission has adopted a request referred to in paragraph 2 of this Article; and</p> <p>(c) the Commission observes undue delays in the standardisation procedure. Before adopting implementing acts referred to in paragraph 3, the Commission shall consult the relevant stakeholders, including organisations</p>	<p>requirements referred to in Article 3, that are covered by those standards or parts thereof,</p> <p>1a. The Commission shall, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more European standardisation organisations to draft harmonised standards for each of the accessibility requirements of products set out in Article 3. <b>Standardisation bodies shall consult disabled persons and their representative organizations, in each stage of the standardization process, while drafting harmonized standards to accomplish and specify the accessibility requirements of this directive.</b></p> <p>1b. The Commission may adopt implementing acts establishing technical specifications that meet the accessibility requirements set out in Article 3. However, it shall only do so if the following conditions are met:</p> <p>(a) no reference to harmonised standards has been published in the Official Journal of the European Union in accordance with Regulation (EU) No 1025/2012;</p> <p>(b) the Commission has adopted a request referred to in paragraph 2 of this Article; and</p> <p>(c) the Commission observes undue delays in the standardisation procedure.</p>
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<p>representing persons with disabilities. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 24(2) of this Directive.</p> <p>1c. Where no references to the harmonised standards referred to in paragraph 1 of this Article have been published in the Official Journal of the European Union, products and services that meet the technical specifications referred to in paragraph 3 of this Article or parts thereof shall be deemed to be in conformity with the accessibility requirements set out in Article 3 that are covered by those technical specifications or parts thereof.</p>	<p><b>2. Relevant stakeholders, including persons with disabilities and their representative organisations shall be consulted systematically as part of the procedure for the adoption of implementing acts.</b></p> <p>1c. Where no references to the harmonised standards referred to in paragraph 1 of this Article have been published in the Official Journal of the European Union, products and services that meet the technical specifications referred to in paragraph 3 of this Article or parts thereof shall be deemed to be in conformity with the accessibility requirements set out in Article 3 that are covered by those technical specifications or parts thereof.</p>
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Justification:

EBU supports the possibility for the European Commission to publish Common Technical Specifications (CTS). However, this procedure can be a lengthy and complicated one and disabled persons' organisations and other relevant stakeholders should be able to provide their views systematically in order to ensure a good quality outcome. This principle also applies to the drafting of harmonized standards by standardization bodies.

Parts of the proposed text are taken from AM 68 of the adopted TRAN opinion of 9 May 2017.



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## Article 15 (EU declaration of conformity of products) - Amendment 138

IMCO final report	EBU amendments
4a. In addition to the EU declaration of conformity, the manufacturer shall include a notice on the packaging informing consumers in a cost-effective, simple and precise way that the product incorporates accessibility features.	<b>EBU agrees.</b>

Justification:

See Article 16, amendment 139.

## Article 16 (General principles of the CE marking of products) - Amendment 139

IMCO final report	EBU amendments
Deletion of: “General principles of the CE marking of products The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.”	<b>No deletion.</b> The Commission’s proposal needs to remain in the directive: “The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.”

Justification:

For EBU, it is not clear why IMCO wants to take this approach. Conformity assessment for products establishes the obligation to affix a CE-Marking, if the product complies with all related quality and safety requirements, including accessibility. Therefore, the Commission’s proposal for this article should remain in the directive. EBU endorses the use of CE-marking in general, especially the fact that it obliges the economic operators to adhere to the rules of drawing up the EU declaration of conformity and the related technical file. Even though it is very useful to indicate compliance to the Market Surveillance Authorities, it has some shortcomings especially related to the recognition of accessibility by consumers. Since consumers are used to the fact that CE-marking is already used for the certification of other aspects of a product, such as conformity

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with the product safety rules, we support IMCO amendment 138 to separately indicate to a consumer that the product is also accessible. Indicating accessibility on the packaging is a good solution to create the possibility for every consumer to check easily which products are accessible without looking at the small print.

## Article 17 – Market surveillance of products (NEW)

The IMCO report does not include this aspect. EBU therefore refers to the Commission's proposal.

Commission proposal	EBU amendments
3. Member States shall ensure that information held by market surveillance authorities concerning the compliance of economic operators with the applicable accessibility requirements set out in Article 3 and the assessment of the exceptions provided for in Article 12, is made available to consumers <b>upon request</b> and in an accessible format, <b>except where that information cannot be provided for reasons of confidentiality as provided for in Article 19(5) of Regulation (EC) No 765/2008.</b>	3. Member States shall ensure that information held by market surveillance authorities concerning the compliance of economic operators with the applicable accessibility requirements set out in Article 3 and the assessment of the exceptions provided for in Article 12, is made available to consumers and in an accessible format.

### Justification:

Information about non-compliance with the accessibility requirements that is held by the authorities should be made publicly available systematically and not just upon request. Exceptions from this obligation for “reasons of confidentiality” could be misused as information about products can be too easily justified as being commercially sensitive, at least in the development stages of the product.



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## Article 18 (Compliance of services) - Amendment 141

IMCO final report	EBU amendments
<p>Article 18 – paragraph 2 – subparagraph 2</p> <p>Member States shall ensure that the public is informed of the existence, responsibilities and identity of the authorities referred to in the first subparagraph. Those authorities shall make available the information on their own work and on the decisions they have taken in accessible formats upon request from the members of the public concerned.</p>	<p>Article 18 – paragraph 2 – subparagraph 2</p> <p>Member States shall ensure that the public is informed of the existence, responsibilities and identity of the authorities referred to in the first subparagraph. Those authorities shall make available the information on their own work, <b>on complaint and enforcement procedures</b> and on the decisions they have taken in accessible formats.</p> <p><b>Member states shall ensure that the concerned authorities are staffed with experts on accessibility and disabled persons, to guarantee a fair monitoring and implementation, which reflects the perspective of those concerned by this directive.</b></p>

### Justification:

Besides the suggested IMCO amendment 149 – Article 20 a (new) about working groups, it is crucial that the national services of the EU Member States which are tasked to monitor and to verify accessibility are staffed with persons who best understand the implementation of accessibility in practice and of related indicators for lack of accessibility. Including experts on accessibility preferably affected by a disability themselves ensures that the designated services are best equipped to fulfill these tasks and are able to consider the end user perspective.

## Article 21 (Applicability of accessibility requirements to other Union Acts)

The IMCO report does not include this aspect. EBU therefore refers to the Commission's proposal.





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<b>Commission proposal</b>	<b>EBU amendments</b>
(d) To transport infrastructure in accordance with Article 37 of Regulation (EU) No 1315/2013.	<p>(d) To transport infrastructure in accordance with Article 37 of Regulation (EU) No 1315/2013.</p> <p><b>(e) Where applicable, all relevant EU legislation or to the provisions in EU legislation referring to accessibility for persons with disabilities.</b></p> <p><b>(f) When Union co-financing barrier-free accessible transport and telecommunication infrastructure projects, CEF, cohesion and regional structural funds as well as EFSI should put stronger focus on financial support for these projects.</b></p>

The paragraph on applicability to all Union acts is taken from the EMPL opinion AM 61.

Paragraph (f) on Union co-financing is taken from TRAN opinion AM 71.

## Article 22 (Disproportionate burden) - Amendments 152 – 156

<b>IMCO final report</b>	<b>EBU amendments</b>
<p>1. Accessibility requirements referred to in Article 21 apply to the extent that they do not impose a disproportionate burden on the competent authorities or the operators contracted by them for the purposes of that Article.</p> <p>2. In order to assess whether compliance with accessibility requirements referred to in Article 21 imposes a disproportionate burden, the competent authorities concerned shall take account, of the following:</p>	<p>1. Accessibility requirements referred to in Article 21 apply to the extent that they do not impose a disproportionate burden on the competent authorities for the purposes of that Article.</p> <p>2. In order to assess whether compliance with accessibility requirements referred to in Article 21 imposes a disproportionate burden, the competent authorities concerned shall take account, of the following:</p>



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<p>(a) the size, resources and nature of the competent authorities concerned;</p> <p>(b) the estimated costs and benefits for the competent authorities concerned in relation to the estimated benefit for persons with disabilities, taking into account the frequency and duration of use of the specific product or service;</p> <p>3. The initial assessment of whether compliance with accessibility requirements referred to in Article 21 imposes a disproportionate burden shall be performed by the competent authorities concerned.</p> <p>3a. The Commission shall adopt delegated acts in accordance with Article 23a to supplement paragraph 2 of this Article by further specifying the specific criteria are to be taken into account for all products and services covered by this Directive when assessing whether the burden is to be considered disproportionate without modifying those criteria.</p> <p>The Commission shall adopt the first such delegated act covering all products and services falling within the scope of this Directive by [one year after the date of entry into force of this Directive].</p> <p>4. Where a competent authority has used the exception provided for in paragraphs 1, 2 and 3 for a specific product or service, it shall notify the Commission thereof. The assessment referred to in paragraph 2 shall be submitted to the Commission upon its request.</p> <p>4a. If the Commission has reason to doubt the decision of the competent</p>	<p>(a) the size, resources and nature of the competent authorities concerned;</p> <p>(b) the estimated costs and benefits for the competent authorities concerned in relation to the estimated benefit for <b>persons with functional limitations and</b> persons with disabilities;</p> <p>3. The assessment of whether compliance with accessibility requirements referred to in Article 21 imposes a disproportionate burden shall be performed by the competent authorities concerned. <b>Lack of priority, time or knowledge should not be considered as legitimate reasons to claim a disproportionate burden.</b></p> <p>4. Where a competent authority has used the exception provided for in paragraphs 1, 2 and 3 for a specific product or service it shall notify the Commission thereof. The notification shall include the assessment referred to in paragraph 2 <b>and it shall be made available to the public in accessible formats.</b></p> <p>5. If the Commission has reasons to doubt the decision of the competent</p>
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authority concerned, the Commission may request the working group referred to in Article 19a to verify the assessment referred to in paragraph 2 of this Article and issue an opinion.	authority concerned, the Commission may request the working group referred to in Article 19.9 to verify the assessment referred to in paragraph 2 and issue an opinion.
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Paragraph 2(b) is taken from the TRAN opinion AM 73: It is important to use a wider definition than just “persons with disabilities” because also more people benefit from accessibility features.

Paragraph 3 is taken from the EMPL opinion AM 63.

Paragraph 4 is taken from the TRAN opinion AM 75

## Article 25 (Enforcement) - Amendments 161 – 166

IMCO final report	EBU amendments
<p>2. The means referred to in paragraph 1 shall include:</p> <p>(a) the possibility, for the consumer directly affected by the non-conformity of a product or service, to take action under national law before the courts or before the competent administrative bodies to ensure that the national provisions transposing this Directive are complied with;</p> <p>(b) the possibility, for the public bodies or private associations, organisations or other legal entities which have a legitimate interest, in ensuring that the provisions of this Directive are complied with, to take action under national law before the courts or before the competent administrative bodies on behalf of consumers to ensure that the national provisions transposing this Directive are complied with. That legitimate interest could be the representation of consumers that are</p>	<p>2. The means referred to in paragraph 1 shall include:</p> <p>(a) <b>provisions whereby a consumer may take action under national law</b> before the courts or before the competent administrative bodies to ensure that the national provisions transposing this Directive are complied with;</p> <p>(b) <b>provisions whereby</b> public bodies or private associations, organisations or other legal entities which have a legitimate interest, in ensuring that the provisions of this Directive are complied with, <b>may</b> take action under national law before the courts or before the competent administrative bodies on behalf of consumers to ensure that the national provisions transposing this Directive are complied with.</p>



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<p>directly affected by the non-conformity of a product or service;</p> <p>(ba) the possibility, for the consumer directly affected by the non-conformity of a product or service, to use a complaint mechanism. That mechanism could be handled by an existing body such as a national ombudsman.</p> <p>2a (new). Member States shall ensure that, prior to an action being brought before the courts or before the competent administrative bodies, as referred to in points (a) and (b) of paragraph 1, alternative dispute resolution mechanisms are in place to resolve any alleged non-compliance with this Directive which has been reported by means of a complaint mechanism referred to in point (ba) of paragraph 1.</p> <p>2b (new). This Article shall not apply to contracts which are subject to Directives 2014/24/EU or 2014/25/EU.</p>	<p><b>(c) provisions whereby a comprehensive and adequately resourced complaints mechanism for consumers is established to complement a system of implementation and monitoring.</b></p> <p>2b (new). <b>Deletion.</b></p>
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Justification:

It is positive that the consumer has the possibility to take legal action but the burden of enforcement should not rely on individual actions of consumers but should also be done by an adequately resourced and accessible complaints mechanism. The Market Surveillance Authorities, which will have to be equipped with the necessary expertise and power to do so, could take this role. Individual legal action should only be the last resort considering that many persons with disabilities already have problems accessing the justice system and court proceedings are costly and time-consuming. AM 162 of the IMCO report on paragraph 2(a) introduces the restriction of “consumers that are directly affected”. This should be deleted because it is not possible to clearly assess who is directly and who is indirectly affected.

Paragraph 2(c) on the complaint mechanism was taken from the TRAN opinion AM 76. AM 166 of the IMCO report (paragraph 2b new) on certain contracts provides exemptions from this article. EBU rejects this exemption and wants it to be deleted, since it would result in watering down the obligations of public contractors to award and buy accessible products/services (article 42). However, the reference to Directives 2014/23, 2014/24 and 2014/25 must remain because it is crucial that all procurement is done accessibly. Excluding these directives regarding enforcement procedures would significantly downgrade the existing obligation of the public procurement directive to procure accessible products/services in the public sector and to establish



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redress mechanisms for cases where tenderers have shown non-compliance in accessibility requirements after the award of contracts. All directives do not provide a stipulation where consumers or their representative organizations could take action under national law and legally claim noncompliance of tenderers regarding accessibility requirements.

## Article 26 (Penalties) - Amendments 167 - 168

IMCO final report	EBU amendments
<p>2. The penalties provided for shall be effective, proportionate and dissuasive, but shall not serve as an alternative to the fulfilment, by economic operators, of their obligation to make their products or services accessible.</p> <p>4. Penalties shall take into account the extent of the non-compliance, including its seriousness, and the number of units of non-complying products or services concerned, as well as the number of people affected.</p>	<p>2. The penalties provided for shall be effective, proportionate and dissuasive, <b>but not serve as an alternative to the fulfilment by economic operators of their obligation to make their products or services accessible.</b></p> <p><b>2 (a). Member States shall dedicate the necessary resources to enforce and collect penalties. Funds raised shall be re-invested in accessibility related measures.</b></p> <p>4. Penalties shall take into account the extent of the non-compliance, including the number of units of non-complying products or services concerned, as well as the number of people affected.</p> <p><b>4a. The proceeds collected from the imposition of penalties shall be re-invested in accessibility-related measures.</b></p>

### Justification:

Amendments regarding the transition period for penalties should be deleted. The introduction of penalties should rest with the competent authorities and should take place in relation to a more sophisticated transition period, which considers the life cycle of the products and services include in the scope of this directive.

Paragraph 2 on penalties was taken from the TRAN opinion AM 76.



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Paragraph 4(a) on the re-investment of penalties was taken from the TRAN opinion AM 78.

## Article 27 (Transposition) - Amendment 171

IMCO final report	EBU amendments
2b. Member States may provide that self-service terminals lawfully used by service providers for the provision of services before .... [six years after the date of entry into force of this Directive] may continue to be used in the provision of similar services until the end of their economically useful life.	<b>Deletion</b>

### Justification:

The proposed timeline of six years after the entry into force of the Directive for all products and services is too long. Considering that most products and services under the proposed Accessibility Act are related to ICT and are subject to a quick evolution and a short lifespan. In addition, EBU rejects the introduction of extra transitional periods for inaccessible self-service-terminals, which can be used until the end of their economic life according to the IMCO report. In practice, this would lead to the provision of inaccessible self-service-terminals far longer than the given transitional periods, leaving disabled persons at status quo and preventing the implementation progress of this directive.

## Article 27 (Transposition) - New amendment by EBU

EBU refers to the Commission's proposal.

Commission proposal	EBU amendments
1. Member States shall adopt and publish, by [... insert date - two years after the entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall adopt and publish, by [... insert date - two years after the entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.
2. They shall apply those provisions from [... insert date - <b>six years</b> after the entry into force of this Directive].	2. They shall apply those provisions from [... insert date - <ul style="list-style-type: none"> <li>• <b>3 years after the entry into force of this Directive for</b></li> </ul>





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	<p><b>products under Article 1(a) – general purpose computer hardware and operating systems</b></p> <ul style="list-style-type: none"><li>• <b>5 years after entry into force of this Directive for products under Article 1(b) – self-service terminals</b></li><li>• <b>4 years after the entry into force of this Directive for products under Article 1(c) - Consumer terminal equipment with advanced computing capability related to telephony services</b></li><li>• <b>4 years after the entry into force of this Directive for products under Article 1(d) - Consumer terminal equipment with advanced computing capabilities related to audiovisual media services</b></li><li>• <b>4 years after the entry into force of this Directive for products under Article 1(e) - Household appliances operated by a user interface</b></li><li>• <b>4 years after the entry into force of this Directive for services under Article 1.2(a) – Telephony services</b></li><li>• <b>6 years after the entry into force of this Directive for services under Article 1.2(b) – Audiovisual Media services</b></li><li>• <b>3 years after the entry into force of this Directive for services under Article 1.2(c)1 – air, bus, rail and waterborne passenger transport services (websites and mobile applications)</b></li><li>• <b>5 years after the entry into force of this Directive for</b></li></ul>
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	<p>services under Article 1.2(c)1 – air, bus, rail and waterborne passenger transport services (self-service terminals and ticketing machines)</p> <ul style="list-style-type: none"><li>• 10 years after the entry into force of this Directive for services under Article 1.2(c)2 – air, bus, rail and waterborne passenger transport services (vehicles and infrastructure)</li><li>• 5 years after the entry into force of this Directive for services under Article 1.2(d) – banking services and payment terminals (self-service terminals and payment terminals)</li><li>• 3 years after the entry into force of this Directive for services under Article 1.2(d) – banking services and payment terminals (banking service)</li><li>• 3 years after the entry into force of this Directive for services under Article 1.2(e) – e-books</li></ul> <p>3 years after the entry into force of this Directive for services under Article 1.2(f) – e-commerce, websites of providers of products and services, social media and news websites, and online platforms</p> <ul style="list-style-type: none"><li>• 3 years after the entry into force of this Directive for services under Article 1.2(g) – accommodation services (built environment)</li></ul>
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Justification:

The proposed timeline of six years after the entry into force of the Directive for all products and services is too long. Considering that most products and services under the proposed Accessibility Act are related to ICT and are subject to a quick evolution



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and a short lifespan, a progress transposition period adjusted to the life-cycle of each product is more appropriate.

## ANNEX I

### Section IV - Audiovisual media services and the related consumer equipment with advanced computing capability – Amendments 191 - 193

IMCO final report	EBU amendments
<p>Websites and online applications of audiovisual media services and the related consumer equipment</p> <p>A. Websites and online applications:</p> <p>1. The provision of services in order to maximise their reasonably foreseeable use by persons with disabilities shall be achieved by meeting the functional performance requirements set out in Part C of section I, and shall include:</p> <p>(a) making websites accessible in a consistent and adequate way for users' perception, operation and understanding, including the adaptability of content presentation and interaction, when necessary providing an accessible electronic alternative; and in a way which facilitates interoperability with a variety of user agents and assistive technologies available at Union and international level;</p>	<p><b>Audiovisual media services and the related consumer equipment with advance computing capability</b></p> <p><b>A. Services:</b></p> <p>1. The provision of services in order to maximise their reasonably foreseeable use by persons with disabilities shall be achieved by meeting the functional performance requirements set out in Part C of section I, and shall include:</p> <p>(a) <b>the products the service providers use in the provision of the service concerned, in accordance with the rules laid down in Part B of this Section;</b></p>



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<p>(b) mobile device-based applications.</p>	<p>(b) <b>information about the functioning of the service concerned and about its accessibility characteristics and facilities, including within the Electronic Programming Guides;</b></p> <p>(c) making websites accessible in a consistent and adequate way for users' perception, operation and understanding, including the adaptability of content presentation and interaction, when necessary providing an accessible electronic alternative; and in a way which facilitates interoperability with a variety of user agents and assistive technologies available at Union and international level;</p> <p>(d) <b>mobile and TV device-based applications.</b></p> <p>(e) <b>information to facilitate complementarities with assistive services;</b></p> <p>(f) <b>functions, practices, policies, procedures and alterations in the operation of the service targeted to address the needs of persons with disabilities; which can be achieved for instance by ensuring the following:</b></p>
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	<ul style="list-style-type: none"><li>i) <b>The subtitles for the deaf and hard of hearing are well synchronised with the video, readable, accurate and comprehensible in order to effectively reflect the audio information. This includes setting up quality specifications covering at least the font type, font size, contrast and use of colours as well as, where possible, the necessary requirements to ensure users' control over these subtitles.</b></li><li>ii) <b>The audio description and spoken subtitles are well synchronized with the video. This includes setting up quality specifications related to audio placement and clarity of the audio description and spoken subtitles, as well as the necessary requirements to ensure users' control over them.</b></li><li>iii) <b>The sign language interpretation is accurate and comprehensible in order to effectively reflect the audio information. This includes setting up professional requirements for the interpreters and quality specifications for the way the signing is provided. Where technically possible, requirements to ensure users' control over the signing provision should be adopted.</b></li></ul>
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Justification:

Similarly to other services, persons with disabilities find very little information on what audiovisual content includes access services. Furthermore, EPGs and information about the programmes remain largely inaccessible for them. That is why, EBU believes that audiovisual media service providers shall update their “gateways” to content and make them accessible.



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One of the gateways is the EPG, which should inform about the availability of access services and be accessible itself. Additional gateways increasingly used by viewers are the websites and mobile apps of the audiovisual service providers. Even though not all the audiovisual content will include access services (see EBU amendments for article 3), it is crucial that these websites and apps are designed following the relevant and commonly used W3C standards.

Additionally, access services are increasingly produced through automatic tools that may reduce the quality of the access service (e.g. automatic subtitles without human supervision). EBU does not reject the use of these new tools, but it is therefore necessary that audiovisual media service providers, in consultation with users, freely set out quality standards (point h).

As for the equipment (televisions), we include the additional functional requirements to support the access services, allowing industry to come up with solutions for further personalisation by the user (some people may need subtitles but with high contrast), or by synchronizing another device to render or display the access service. For instance, a blind person may prefer to synchronise his smartphone with headsets to get the audio description for the movie he is watching with the family (there already exist some apps capable of this).

We did not include anything on the menu navigation because this is how the equipment is operated by the user, therefore the functional accessibility requirements of Section I should apply.

## Rest of Annex I

Even though there are **many undermining amendments in the IMCO report**, the following ones should be tackled:

### Annex I – Section II – point 1 (Self-service terminals) - Amendment 184

IMCO final report	EBU amendments
(c) the functionality of the product by providing functions aimed to address the needs of persons with disabilities; which can be achieved for instance by allowing for the use of personal headsets, where a timed response is required, by alerting the user by more than one sensory channel and by giving the possibility to extend the time permitted and by having	(c) the functionality of the product by providing functions aimed to address the needs of persons with disabilities; which <b>must</b> be achieved [...] by allowing for the use of personal headsets, where a timed response is required, by alerting the user by more than one sensory channel and by giving the possibility to extend the time permitted and by having

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an adequate contrast and tactilely discernible keys and controls;	an adequate contrast and tactilely discernible keys and controls;
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### Annex I – Section III – Part A – point 1 (Telephony and emergency services) – amendment 187

IMCO final report	EBU amendments
(e) functions, practices, policies, procedures and alterations in the operation of the service targeted to address the needs of persons with disabilities and ensure interoperability; which can be achieved for instance by supporting voice, video and real time text communication, alone or in combination (total conversation), between two users, or between a user and an emergency service.	(e) functions, practices, policies, procedures and alterations in the operation of the service targeted to address the needs of persons with disabilities and ensure interoperability; which <b>must</b> be achieved by supporting voice, video and real time text communication, alone or in combination (total conversation), between two users, or between a user and an emergency service.

### Annex I – Section III – Part B – point 1 (Smartphones) – Amendment 189

IMCO final report	EBU amendments
(e) the functionality of the product by providing functions aimed to address the needs of persons with disabilities and ensure interoperability; which can be achieved for instance by supporting high fidelity audio, a video resolution enabling sign language communication, real time text alone or in combination with voice and video communication or by ensuring effective wireless coupling to hearing technologies;	(e) the functionality of the product by providing functions aimed to address the needs of persons with disabilities and ensure interoperability; which <b>must</b> be achieved by supporting high fidelity audio, a video resolution enabling sign language communication, real time text alone or in combination with voice and video communication or by ensuring effective wireless coupling to hearing technologies;



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## Annex I – Section IV – Part B – point 1 (TVs) - Amendment 195

IMCO final report	EBU amendments
<p>(e) the functionality of the product by providing functions aimed to address the needs of persons with disabilities; which can be achieved for instance by supporting the possibility to select, personalise and display access services such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation, by providing means for effective wireless coupling to hearing technologies or by providing the user controls to activate access services for audiovisual services to the user at the same level of prominence as the primary media controls;</p>	<p>(e) the functionality of the product by providing functions aimed to address the needs of persons with disabilities; which <b>must</b> be achieved [...] by supporting the possibility to select, personalise and display access services such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation, by providing means for effective wireless coupling to hearing technologies or by providing the user controls to activate access services for audiovisual services to the user at the same level of prominence as the primary media controls;</p>

## Annex I – Section V – Part A – point 1 (Transport services) – Amendment 198

IMCO final report	EBU amendments
<p>(c) functions, practices, policies, procedures and alterations in the operation of the service targeted to address the needs of persons with disabilities; which can be achieved for instance by providing smart ticketing (electronic reservation, booking of tickets, etc.), real-time passenger information (timetables, information about traffic disruptions, connecting services, onwards travel with other</p>	<p>(c) functions, practices, policies, procedures and alterations in the operation of the service targeted to address the needs of persons with disabilities <b>including making mobile-based services including mobile applications needed in the provision of the service accessible in a consistent and adequate way for users' perception, operation and understanding, including the</b></p>





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<p>transport modes, etc.), and additional service information (e.g. staffing of stations, lifts that are out of order or services that are temporarily unavailable);</p>	<p><b>adaptability of content presentation and interaction, when necessary providing an accessible electronic alternative; and in a robust way which facilitates interoperability with a variety of user agents and assistive technologies available at Union and international level;</b></p> <p><b>This concerns part of the service such as</b> smart ticketing (electronic reservation, booking of tickets, etc.), real-time passenger information (timetables, information about traffic disruptions, connecting services, onwards travel with other transport modes, etc.), and additional service information (e.g. staffing of stations, lifts that are out of order or services that are temporarily unavailable);</p>
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## Annex I – Section VI – Part A – point 1 (Banking services) – Amendment 205

IMCO final report	EBU amendments
<p>(ba) electronic information, including the related websites and online applications needed in the provision of the service concerned. That can refer for instance to electronic identification, security and payment methods needed for the provision of the service;</p>	<p>(ba) electronic information, including the related websites and online applications needed in the provision of the service <b>concerned including</b> electronic identification, security and payment methods needed for the provision of the service;</p>



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## Annex I – Section VII – Part A – point 1 (e-books) - Amendment 212

IMCO final report	EBU amendments
<p>(b) information about the functioning of the service and about its accessibility characteristics and facilities;</p> <p>(e) functions, practices, policies, procedures and alterations in the operation of the service targeted to address the needs of persons with disabilities.</p>	<p>(b) information about the functioning of the service and about its accessibility characteristics and <b>facilities providing available information (metadata) on accessibility features of products and services;</b></p> <p>(e) functions, practices, policies, procedures and alterations in the operation of the service targeted to address the needs of persons with <b>disabilities which must be achieved by ensuring the navigation throughout the document, dynamic layouts, the possibility to synchronize text and audio content, text-to-speech technology, allowing alternative renditions of the content and its interoperability with a variety of assistive technologies in such a way that can be perceivable, understandable, operable and maximizes compatibility with user agents.</b></p>

## Annex I – Section VIII – Part A – point 1 (e-Commerce) – amendment 215

IMCO final report	EBU amendments
<p>(aa) electronic information, including the related online applications needed in</p>	<p>(aa) electronic information, including the related online applications needed in</p>



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the provision of the service concerned shall be provided in accordance with point (b); which. can refer for instance to electronic identification, security and payment methods needed for the provision of the service;	the provision of the service concerned shall be provided in accordance with point (b) <b>including the</b> electronic identification, security and payment methods needed for the provision of the service;
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## Amendments 216 (products) and 218 (services) – Other Union Acts

Accessibility requirements have been removed, as well as the user interface (AM 217, Annex I – Section IX – Part A – point 2), and instead it includes the Functional Performance Requirements.

We could accept the first addition in the first paragraph of AM 216 (Annex I – Section IX – Part A – point1) and 218 (Annex I – Section IX – Part B – point 1), but **reject the removal of the specific accessibility requirements.**

E.g. “(ii) the information shall be available in different ways and via more than one sensory channel;”

## About EBU

The European Blind Union (EBU) is a non-governmental, non-profit making European organisation founded in 1984. It is one of the six regional bodies of the World Blind Union, and it promotes the interests of blind people and people with low vision in Europe.

Our Interest Representative Register ID is 42378755934-87.

We are happy for our contribution to be made public.

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