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The Swedish Disability Federation position on the proposal for a European Accessibility Act¹

The Swedish Disability Federation is the united voice of the Swedish disability movement before government, the parliament and national authorities. The federation was founded 1942 and consists of 39 national disability organisations with about 400 000 individual members. Our values are based on Human Rights. We are active members in the European Disability Forum.

Summary

We welcome the proposal for a European Accessibility Act as first step to comply with the recommendation from the UN from September 2015. The proposal includes some necessary actions for member states to implement the procurement directive and the structural funds. We find however that there are many areas that are not covered by the proposal. We lack a progressive approach to include the concept of universal design application to new products and services as well as widening the limited scope and requirements. There are many gaps in between service chains, and in between public and private entities as well as relations to other existing and coming EU initiatives. Making it possible for DPO involvement in standardization and market surveillance and easy transparent complaint mechanisms are vital for the implementation.

The concept of Universal design is wider than accessibility. We stress that what is necessary for a few is beneficial for the majority.

Introduction

The Swedish Disability Federation has been active² in requesting a European Accessibility Act with a wide scope that closely relates to human rights, universal design and global sustainability. Our members involve persons with allergies and today many

¹ The proposal for a European Accessibility Act
<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2400&furtherNews=yes>

² Comments at the Public Consultation in 2012.
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fEU%2fCO%2f1&Lang=en



environments have barriers that exclude them. Many member organisations represent persons with different cognitive limitations and impairments due to mental disorders.

In September 2015 the UN committee on the rights of persons with disabilities (CRPD committee) recommended the European Commission to promptly adopt an amended European Accessibility Act “that is aligned to the Convention, as developed in the Committee’s general comment No. 2”³. We have based our comments on the general comment that we will refer to as GC2.

Accessibility and Universal Design relation to Agenda 2030

161 states around the world have ratified the CRPD. UN Agenda 2030 has been launched with universal sustainable development goals. The social dimension of sustainability was stressed when the goals were preceded by a question about “The world we want”. The answer was “Leave no one behind”. The goals focus more on inclusion and persons with disabilities than the MDGs and correspond well to areas in GC2. The demand for products and services beyond those mentioned in the proposed directive will increase. Universal design learning and use of accessible ICT for learning, accessible work environment and urban planning to make it possible for persons with disabilities to work.

Universal design should be mainstreamed in all EU initiatives for research and development, as well as tenders. Health services, including e-health must be developed keeping in mind that persons with disabilities are also active and working in services, not only recipients of services.

Identifying gaps and coordination

We appreciate that the proposal is trying to reach many stakeholders. There are still many gaps between the fragmented responsibilities in a service value chain. The state is responsible according to GC2 but the increase of private entities performing what used to be public services makes it impossible for users of transport services, education and health services to know who is responsible and causes exclusion from services for users and costly administrative burdens for the states.

³ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/226/55/PDF/G1522655.pdf?OpenElement>



Comments related to the proposal

Memorandum and preamble

The directive is limited to specific products and services as emphasized in point 18 and 19. GC2 has a much wider scope and embraces Universal design to new products that might be developed during adoption and implementation, see GC2 for example (15)

Built environment is mentioned in point 23 as something that “may” be included by member states, not in line with GC2. Mandate 420⁴ and relation to transport regulations that involve buildings lacking.

The difference between universal design, accessibility and reasonable accommodation needs to be explained – well defined in GC2 (24-26)

Scope (art 1)

We agree with the European Disability Forum that there is a legal base for a wider scope. We would like to see more focus on services, like “including health and education” see GC2 (6) Services related travelling, beyond transport, like hotels etc. are important not only for recreation also for conferences and activities related to education, training and work.

Accessibility requirements (art 3)

Functional requirements in the Annexes are not sufficient. In other parts of the proposal standards and CTS are mentioned. Standards are under development in some areas on a global level, and related to a specific context they are insufficient or not even planned.

3.9 about built environment should be rephrased to comply with GC2. At least member states should include requirements for built environment in the explanatory documents mentioned in the memorandum. The EC Mandate 420 about Accessibility to built environment has not delivered final documents. But when they are ready, it should be relevant to the European Accessibility Act.

The relation between the requirements in the annexes and standards/CTS to be completed needs to be clearer.

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<http://www.cencenelec.eu/standards/Sectors/Accessibility/PublicProcurement/Pages/M420.aspx>



Chapter III Obligations of economic operators

We welcome the approach to reach many stakeholders and the relation to public procurement. We are still concerned that there will be gaps in the service chains, and to the role of procurers whether private or public below the threshold. The mainstreaming of universal design in all EU policies and initiatives needs to be complementing this directive.

Fundamental alteration and disproportionate burden (art 12)

Undue burden should be explained in relation to GC2 (25 and 26). Lack of reasonable accommodation is discrimination. The incentive to make innovations and apply universal design to the process could be an opportunity especially for small businesses.

Chapter IV Harmonised Standards, common technical specifications and Conformity of products and services

Standardisation takes time and resources from NGO:s. We are involved in global standardization to develop guidelines for cognitive accessibility where members are defining themselves what they need. Standards and conformity assessment processes for labeling etc needs user involvement and DPO:s to comply with GC2.

We are not familiar with the CTS process, but we expect DPO:s are included. In principle we do not trust the system of self declarations, and prefer certification. But we see an urgent need for labels / marking to make it easier for procurers to buy products off the shelf, and accessible services as well as a way to check that suppliers have applied universal design in their quality systems.

General principles of the CE marking of products (art 16)

We are not familiar with these principles, but we are supportive of integrating accessibility in systems that are familiar to the market. Integration of accessibility will require training and awareness raising so we think that it could be an opportunity to strengthen the process for marking, taking into account consumer organisations experiences of the effects of the marking.

Chapter V MARKET SURVEILLANCE, COMPLIANCE AND UNION SAFEGUARD PROCEDURE

The UN recommendation stresses the importance of the complaint mechanism. In the memorandum there is reference to similar US



legislation. The US Communication Video Accessibility ACT, CVAA, seems to have a progressive design reaching areas like online education and with a complaint mechanism that seems very easy and transparent allowing users to identify areas with barriers, could be a source of inspiration. Europe should go further by addressing universal design, more user requirements especially when it comes to cognition to be included.

The surveillance must be transparent. It must be extremely easy to make complaints, even if the user is not sure who is responsible. This mechanism could also be used to identify gaps in regulations. Surveillance could be done in cooperation with DPO:s testing products and services. Part of sanctions could be used to adjust products and services and finance wide public communication about the products and services that fail to comply with the requirements. Certification systems for services needs to be developed.

CHAPTER VI ACCESSIBILITY REQUIREMENTS IN OTHER UNION LEGISLATION

The focus on ICT in the proposal makes it extremely important to make sure that nothing is lost in between the EAA and the accessibility directive for public web content. Many other related directives are lacking. EDF has listed some of them. To comply with GC2 there is a need to progressively integrate accessibility requirements in coming EC initiatives and regulations, covering environment, food (allergies), e-government, e-health, Digital Single market strategy, requirements on service providers and all areas like education, work, city development, democracy and work covered in the sustainable development goals.

Finally ICT is not a solution for everybody in our member organisations. GC2 is covering information and communication including ICT. There must be alternative ways for people without access to ICT / web to access personal services otherwise persons with impairments due to mental disorders or cognitive limitations may be excluded from using them.