



DRAFT Position Paper EU Commission Accessibility Act

Key messages

- *EMOTA welcomes the UN and EU Commission goals to ensure the digital economy is accessible to all EU citizens*
- *EMOTA calls on MEPs and the EU Commission to ensure the measures are proportionate to the market needs and will not restrict innovation and competition by being too prescriptive and overly burdensome*
- *Policy makers should also ensure that the scope of the proposal is clearly defined and avoids unnecessary overlaps with other legislation or excessively broad measures*
- *EMOTA welcomes the EU Parliament's proposal to exempt micro-enterprises from the scope of the Proposal and calls for a factual based approach*
- *EMOTA does not support general blanket obligation for any of the players in the eCommerce value chain is not supported*
- *The labelling of non-accessible products as unsafe is disproportionate and will result in burdensome requirements for all stakeholders in the value chain*

Introductory remarks

EMOTA's^[1] welcomes and fully support the United Nations and EU Commission goals to enable the access to the digital economy to as many citizens as possible. In December 2015, the EU Commission published the EU Accessibility Act¹ which, among other requirements, introduces a general obligation for online merchants to provide website data in formats meant to be used for accessibility applications (text to speech, etc.).

EMOTA and the majority of stakeholders have warned that such an approach can lead to unnecessary burdens for businesses and consumers and negatively impact innovation and competition in the market.

Such measures would significantly raise the entry costs to the Digital Single Market, especially for smaller companies. Some of the EMOTA Members calculated that webshops would be forced to invest over 900.000 Euro and significant human resources and time into becoming compliant with this Directive and then in the longer run maintaining in place the systems necessary for regular updates and maintenance ([Link](#)).

[1] EMOTA, the European eCommerce and Omni Channel Trade Association, is the European level umbrella federation representing online and distance sellers across Europe. The main mission of EMOTA is to promote eCommerce and Distance Selling and help policy makers remove any barriers to cross-border selling. Transparency register N° 11251212351-96

1 <http://ec.europa.eu/social/main.jsp?catId=1202>



The specifics: what are we trying to tackle?

Scope:

EMOTA considers that the EU Commission did not issue a clear and proportional legislative proposal, supported by clear evidence and with the development of innovation and choice as goals. The EU Commission instead chose a blanket approach, unnecessarily extending the scope to temporary and permanent limitations in the user's functionality. Our members' approach is one of inclusiveness but this should be carried out within the remit of practical application for businesses.

EMOTA also considers that the EU Commission did not ensure that the Directive does not unnecessarily overlap and is consistent with other sector specific legislation. EMOTA does not support the concept of a universal design for all. This is an unnecessarily burdensome concept and in practice it means a blanket approach.

Notification obligations:

EMOTA fully supports the views of the EU Parliament Rapporteur, MEP Løkkegaard, that micro-enterprises should be removed from the scope of the Directive. *Policy makers should focus on creating incentives for micro-enterprises in terms of innovation and grow new solutions rather than focus on a blanket obligation for accessibility.*

SMEs should be removed from the notification requirements to the national authorities, while keeping in place the option for these to supply documentation if requested by authorities. EMOTA would propose a lite regime for SMEs in terms of documentation and other obligations under this Directive so as not to unduly place administrative burdens on SMEs, as the recitals outline.

The notification procedures and documentation should be harmonized at the EU level to avoid further fragmentation in the Single market, especially for those businesses operating across borders.

As mentioned above, the Directive's scope should be focused only on persons with disabilities, thus not including temporary and permanent functional limitations which are overly general and thus harm the objective of addressing the needs of persons with disabilities.

What products could be covered:

EMOTA supports the view of the Rapporteur that the Directive should focus only on goods for consumers. Even with such a restriction in scope EMOTA would suggest going further in selecting only certain products, ensuring that a minimum level of accessibility is available to consumers and at the same time investments towards innovation in this area are encouraged.

CE Marking?

EMOTA would strongly encourage policy makers to consider other more targeted mechanisms to the one proposed by the EU Commission for the marking of "accessible" products. Applying the same marking rules as for compliance (including associated liabilities) would only result in a very confusing approach for both consumers and sellers.

Risk language and recall measures:

We do not see the added benefit of introducing risk-based language in the proposed Directive. It is disproportionate to label a product not yet fully in accord with this Directive as 'presenting a risk related



to accessibility’ as this is far beyond the scope of health and safety requirements. Furthermore, recalls are an excessive measure for businesses to take and pose significant obstacles to new entrants to the market. We fully support MEP Løkkegaard’s view that these measures would only serve as barriers to innovation.

Online Marketplaces and the supply chain:

While EMOTA supports the exemptions proposed by MEP Løkkegaard and the clarification intended by the introduction of “online marketplaces” instead of the very broad “e-commerce” EMOTA looks at this solution with caution and does not favor a blanket obligation for online marketplaces in terms of accessibility.

Being commercially driven, most businesses, including online sellers and marketplaces, have an interest and strive to make their products and services as accessible as possible for all consumers. The market has developed and continues to develop the technologies that would address every user’s needs.

However, a blanket obligation approach simply guided by the size of the company risks inhibiting the investments in innovative solutions and the development of competition. EMOTA stresses that online marketplaces are essential for the development of micro-enterprises and SMEs in eCommerce. Platforms provide micro-enterprises and SMEs with efficient, low entry cost solutions to sell their products and services. As the eCommerce market is extremely competitive at the global level, any additional administrative burdens in the EU market risks reducing the competitiveness of EU sellers. **These benefits and opportunities for EU sellers should be protected by policy markets.**

At the same time, policy makers should look at the entire value chain and ensure that measures will not be overly burdensome for any specific part of the chain, including importers, wholesalers or distributors in general. Importers would already have to ensure that products from third countries entering the Single market are in accordance with the accessibility requirements of this Directive. It would be too burdensome for them to label products not yet in full conformity as presenting a ‘risk to accessibility’.

Proportionality:

EMOTA welcomes the Rapporteur’s approach towards a set of functionality linked accessibility requirements rather than a set of specific technical requirements.

EMOTA welcomes the derogation under Article 12 which exempts economic operators from the requirements of the Directive if these are deemed too burdensome.

EMOTA strongly rejects the notion that a product which does not have as a main function the assistance of disabled persons could be qualified as unsafe or dangerous by this Directive.

At the same time, the obligations for the identification of economic operators (Recital 51A), should as suggested by the Rapporteur, be aligned with the lifecycle of the products.

Transposition:

MEP Løkkegaard’s report provides sufficient time for these changes to be practically and decisively applied. We call for the transposition time to be realistic in that it allows for the effective implementation of this Directive at national level and for businesses to take adequate steps to adopt these measures and make the necessary changes to their products and services, if required.

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