

ANEC comments and proposed amendments for draft EP IMCO report on the proposal for a directive of the European Parliament and of the Council on the accessibility of public sector bodies' websites (COM(2012)0721 – C7-0394/2012 – 2012/0340(COD))

Please note that the ANEC suggested amendments are in *italics and underlined*.

Amendment 3	Amendment
<p>Proposal for a Directive Recital 13</p> <p><i>Text Proposed by the Commission</i></p> <p>(13) The approximation of national measures at Union level, based on an agreement on accessibility requirements for public sector bodies' websites, is necessary in order to put an end to fragmentation. It would reduce uncertainty for web-developers and would foster interoperability. By using accessibility requirements which are technology neutral, innovation will not be hampered and may possibly even be stimulated.</p>	<p>(13) The approximation of national measures at Union level, based on an agreement on accessibility requirements for public sector bodies' websites <i>and for websites operated by entities providing basic services to the public</i> is necessary in order to put an end to fragmentation. It would reduce uncertainty for web-developers and would foster interoperability. By using accessibility requirements which are technology neutral, innovation will not be hampered and may possibly even be stimulated.</p>

Justification

ANEC welcomes very much the new recital 13 as it reflects our belief that the scope of the proposed Directive should be enlarged and the focus should be on the nature of the service provided rather than whether it is delivered by a public authority. Many essential services today are delivered by private bodies (e.g. network or financial services). Private websites and services providers would gain economic benefits from accessibility as people with disabilities and older people represent a large group of new consumers and this would increase the potential of the market for web-accessibility products and services.

<p>Amendment 10</p> <p>Proposal for a directive</p> <p>Article 1 – paragraph 1</p> <p><i>Text proposed by the Commission</i></p> <p>1. This Directive aims at approximating the laws, regulations and administrative provisions of the Member States related to the accessibility of the content of public sector bodies' websites to all users, in particular people with functional limitations including persons with disabilities.</p>	<p><i>Amendment</i></p> <p><i>Amendment</i></p> <p>1. This Directive aims at approximating the laws, regulations and administrative provisions of the Member States related to the accessibility of the content of public sector bodies' websites and websites operated by entities providing basic services to the public to all users, in particular persons with disabilities.</p>
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Justification

ANEC welcomes very much the amendment as it reflects our belief that the scope of the proposed Directive should be enlarged and the focus should be on the nature of the service provided rather than whether it is delivered by a public authority. Many essential services today are delivered by private bodies (e.g. network or financial services). Private websites and services providers would gain economic benefits from accessibility as people with disabilities and older people represent a large group of new consumers and this would increase the potential of the market for web-accessibility products and services.

<p>Amendment 17</p> <p>Proposal for a directive</p> <p>Article 2 – point 1</p> <p><i>Text proposed by the Commission</i></p> <p>(1) ‘Websites concerned’ means those referred to in Article 1(2) of this Directive.</p>	<p><i>Amendment</i></p> <p>(1) ‘Websites concerned’ means all versions of those websites referred to in Article 1(2), including those designed to be accessed with a mobile device or by any other means.</p>
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Justification

ANEC welcomes very much the explicit reference to websites designed to be accessed via a mobile device as such devices are increasingly being used by consumers of different ages and abilities to access information.

Amendment 18	<i>Amendment</i>
<p>Proposal for a directive</p> <p>Article 2 – point 2</p> <p><i>Text proposed by the Commission</i></p> <p>(2) ‘Content of websites’ means information to be communicated to the user by means of a user agent, including code or mark-up that defines the content's structure, presentation, and interactions.</p>	<p>(2) ‘Content of websites’ means information <i>and user interface components</i> to be communicated to the user by means of a user agent, including code or mark-up that defines the content's structure, presentation, and interactions. <i>Content of websites includes textual as well as non-textual information, the downloading of documents and forms as well as two-way interaction such as the processing of digital forms and the completion of authentication, identification and payment processes. Content of websites also includes functions and content provided through websites, which are external to the website concerned, for instance, through the use of web-links, on the condition that the external website is the only means by which the information and service is provided to the user.</i></p> <p><u><i>(2bis) (New) ‘Authoring tool’ means any software used to write the web such as web page authoring tools, software for directly editing source code or mark, software for converting to web content technologies”.</i></u></p>

Justification

ANEC supports this amendment as ensuring that interaction with downloadable documents is possible is essential to render all content of these websites accessible to all users, in particular those with disabilities. However, we believe that a reference to social media content (e.g. Facebook, Twitter, blogging, online forums, etc) should be included. Social media channels are frequently used by public authorities for support services (e.g; online forums as helpdesks instead of helplines). This is why we suggest to add “content” to the functions that are provided through a web-site external to the web-site concerned.

Moreover, despite the European Commission Impact Assessment¹ discarded the option of including in the scope of the proposal “authoring tools”, their inclusion would increase the accessibility of the created web-content of websites. As the execution of Mandate 376 also covers the standardisation of functional

¹<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD%3A2012%3A0401%3AFIN%3AEN%3APDF>

specifications for authoring tools and W3C/WAI is developing Authoring Tool Accessibility Guidelines, it seems feasible and reasonable to include “authoring tools” in the definition of “content of website”. Authoring tools are used for user-generated content and, given the objective of the proposal, these could be included.

Amendment 19	<i>Amendment</i>
<p>Proposal for a directive Article 2 – point 3</p> <p><i>Text proposed by the Commission</i></p> <p>(3) ‘User agent’ means any software that retrieves and presents web contents for users, including web browsers, media players, plug-ins, and other programs that help in retrieving, rendering, and interacting with web content.</p>	<p>(3) ‘User agent’ means any software that retrieves and presents website contents for users, including web browsers, media players, plug-ins, and other programs that help in retrieving, rendering, and interacting with website content, <i>regardless of the device used to interact with content. If a mobile application offers the same or an enhanced set of services as the website concerned, this definition shall also apply to the interface and operation of such mobile applications.</i></p>

Justification

ANEC welcomes very much this amendment as it makes a specific reference to mobile applications. Given the increasing use of mobile devices and applications by consumers (including users with disabilities) to access services online, it is essential that these are also included in the Directive.

Amendment 24	<i>Amendment</i>
<p>Proposal for a directive Article 3 – paragraph 1 – point b</p> <p><i>Text proposed by the Commission</i></p> <p>(b) in a way which facilitates interoperability with a variety of user agents and assistive technologies at Union and international level.</p>	<p>(b) in a way which enables interoperability with a variety of user agents and assistive technologies at Union and international level.</p>

Justification

ANEC welcomes this amendment as enhancing interoperability will help integrate assistive technologies within the single market, which would contribute to innovation.

<p>Proposal for a directive Article 4</p> <p>Presumption of conformity with harmonized standards</p> <p>1. The websites concerned that meet harmonised standards or parts thereof the references of which have been drawn up and published by the Commission in the Official Journal of the European Union, in accordance with Regulation (EU) No 1025/2012, shall be presumed to be in conformity with the web-accessibility requirements covered by those standards or parts thereof, set out in Article 3.</p>	<p><i>Amendment (New)</i></p> <p><i>1. The websites concerned that meet harmonised standards or parts thereof the references of which have been drawn up and published by the Commission in the Official Journal of the European Union, in accordance with Regulation (EU) No 1025/2012, shall be presumed to be in conformity with the web-accessibility requirements covered by those standards or parts thereof, set out in Article 3.</i></p> <p><i><u>2. Where a harmonised standard satisfies the requirements which it aims to cover and which are set out in article 3, the Commission shall publish a reference of such harmonised standard without delay in the Official Journal of the European Union.</u></i></p>
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Justification

ANEC believes that it might be worth it to clarify the procedure to be followed for the referencing of Harmonised Standards in the Official Journal, according to the European Standardisation Regulation²

² Art. 10.6 Regulation (EU) No 1025/2012 of 25 October 2012 on European Standardisation

<p>Proposal for a directive</p> <p>Article 5</p> <p>Presumption of conformity with European or international standards</p> <p>3. As long as the references of the European standards referred to in paragraph 1 have not yet been determined, the websites concerned that meet the parts of the ISO/IEC 40500:2012 covering the Success Criteria and Conformance Requirements for Level AA conformance, shall be presumed to be in conformity with the web-accessibility requirements set out in Article 3.</p>	<p><i>Amendment (New)</i></p> <p><u>3. As long as the references of the European standards referred to in paragraph 1 have not yet been determined, the websites concerned that meet the relevant international standards, shall be presumed to be in conformity with the web-accessibility requirements set out in Article 3.</u></p>
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Justification

In general, reference to a specific standard is to be avoided in legislation as it risks quickly becoming outdated, once the standard is revised or superseded.

<p>Amendment 27</p> <p>Proposal for a directive</p> <p>Article 6 – paragraph 1</p> <p><i>Text proposed by the Commission</i></p> <p>1. Member States shall <i>promote</i> that the websites concerned provide a statement on their accessibility, in particular on their compliance with this Directive and with possibly additional accessibility information in support to users.</p>	<p><i>Amendment</i></p> <p>1. Member States shall <i>ensure</i> that the websites concerned provide a statement on their accessibility, in particular on their compliance with this Directive and with possibly additional accessibility information in support to users. <i>That information shall be provided in accessible formats.</i></p>
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Justification

ANEC is pleased with this amendment as we consider that it is essential for consumers to be provided with relevant and trustworthy information whether the website they are about to access is indeed accessible.

<p>Amendment 31</p> <p>Proposal for a directive Article 7 – paragraph 1</p> <p><i>Text proposed by the Commission</i></p> <p>1. Member States shall monitor the compliance of the websites concerned with the requirements for web-accessibility on a continuous basis, using the methodology provided for in paragraph 4.</p>	<p><i>Amendment</i></p> <p>Member States shall monitor the compliance of the websites concerned with the requirements for web-accessibility on a continuous basis, using the methodology provided for in paragraph 4. <i>For that purpose each Member State shall designate a competent authority. Members States shall inform the Commission about the designated competent authorities by 30 June 2014. Member States shall arrange for such authorities to have and use the necessary powers to take the appropriate measures incumbent upon them according to this Directive.</i></p>
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Justification

ANEC welcomes this amendment and the suggestion on the designation of a competent authority by Member States. It is important to explicitly mention the obligations of Member States to provide such authorities with sufficient powers and resources to do their work.

<p>Amendment 32</p> <p>Proposal for a directive Article 7 – paragraph 1 a (new)</p>	<p><i>Amendment</i></p> <p><i>1a. The designated competent authority shall also be responsible for following up any complaints lodged by users or other interested parties about any failures to comply with the requirements for web-accessibility of the websites concerned, as set out in Article 3(1).</i></p> <p><i>Member States shall take the measures necessary to inform the users or other interested parties of the possibility of lodging complaints, referred to in subparagraph 1 to the designated competent authority.</i></p>
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Justification

ANEC welcomes very much this amendment as we believe that it is essential for consumers to have the possibility of lodging complaints on non-compliant websites and other problems they might encounter in accessing the relevant websites. This is equally important for the facilitation of interaction between citizens and governments and online provision of public services.

<p>Amendment 38</p> <p>Proposal for a directive</p> <p>Article 7 a (new)</p>	<p><i>Amendment</i></p> <p><i>Article 7a</i></p> <p><i>Reporting</i></p> <p><i>1. Member States shall regularly report to the Commission on the outcome of the monitoring carried out in accordance with Article 7 including in relation to the measurement data and, where appropriate, the list of the websites referred to in Article 1(3). That report shall be made public in readily accessible formats.</i></p> <p><i>2. That report shall also cover the actions carried out pursuant to Article 6 including possible general conclusions drawn by relevant competent authorities on the basis of the monitoring.</i></p> <p><i>3. The arrangements for reporting by Member States to the Commission shall be established by the Commission by way of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 9(2).</i></p>
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Justification

ANEC welcomes this proposal as we believe that publicly available reports could increase the 'peer pressure' with regards to web accessibility.

<p>Amendment 39</p> <p>Proposal for a directive</p> <p>Article 7 b (new)</p>	<p><i>Amendment</i></p> <p><i>Article 7b</i></p> <p><i>Penalties</i></p> <p><i>Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that the penalties are implemented. The penalties provided for shall be effective, proportionate and dissuasive.</i></p> <p><i>Member States shall notify those provisions to the Commission by 30 June 2014 and shall notify it without delay of any subsequent amendment affecting them.</i></p>
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Justification

ANEC fully supports this amendment and is pleased that our suggestion was taken into count in the draft EP IMCO report.³ We are of the opinion that Members States should adopt provisions about the non-respect of obligations of the Directive and inform the Commission about this.

³ ANEC Position Paper on Standardisation and other aspects of the European Commission Proposal for a Directive on Accessibility of Public Sector Bodies' Websites, March 2013 (<http://tinyurl.com/lzhva5q>)

<p>Amendment 40</p> <p>Article 10 – paragraph 1 a (new)</p> <p><i>Text proposed by the Commission</i></p>	<p><i>Amendment</i></p> <p>(New) <u>1a. Member States shall apply the measures referred to in Article 3(1) in accordance with their administrative, institutional and legal framework to all:</u></p> <p>(a) <u>new websites by 31 December 2016;</u></p> <p>(b) <u>existing web-sites belonging to public sector bodies' at national level by 31 December 2016,</u></p> <p><i>1b. Member States shall apply the measures referred to in Article 3(1) in accordance with their administrative, institutional and legal framework to all existing websites:</i></p> <p>(b) <i>belonging to public sector bodies' at regional level by 31 December 2018,</i></p> <p>(c) <i>belonging to public sector bodies at local level by <u>31 December 2018,</u></i></p> <p>(d) <i>operated by entities providing basic services to the public by <u>31 December 2018,</u> the types of which are specified in the Annex.</i></p>
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Justification

ANEC welcomes the inclusion of a more detailed timetable. However, ANEC is of the opinion that a more ambitious approach should be undertaken to allow consumers with disabilities and older consumers to reap the benefits of the digital society and to meet the EU targets related to the creation of an inclusive information society. We also believe that a two-step approach distinguishing between new and already existing websites may be easier to apply. We are concerned that the proposed breakdown may create some difficulties (e.g. if local websites are being redeveloped at an earlier stage, there would be no legal requirement for them to be accessible). Furthermore, as retrofitting of existing inaccessible websites could be considered as an excessive burden, ANEC believes an obligation concerning new content and functionalities of websites should be explicitly provided.

<p>Amendment 41</p> <p>Proposal for a directive Article 11 – paragraph 1</p> <p><i>Text proposed by the Commission</i></p> <p>The Commission shall <i>carry out a</i> review <i>of</i> the application of this Directive <i>within three years from its entry into force</i>.</p>	<p><i>Amendment</i></p> <p><i>The Commission shall review the application of this Directive and transmit a report to the European Parliament and the Council not later than ... *. That report shall assess whether this Directive has achieved its objectives, in particular with regard to enhancing the accessibility of websites, taking into account the convergence of technologies and the use of other technologies and devices to access online content.</i></p>
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Justification

ANEC fully supports this amendment and is pleased that our suggestion was taken into count in the draft EP IMCO report. Given the rapid technological developments of both software and hardware as well as technologies convergence, it seems opportune that the review of the proposed Directive foreseen in article 11 focuses on these aspects and the reaching of the Directive's objectives (e.g.: increased accessibility of websites). In light of the proposed timeframe for application of measures (Amendment 40), ANEC believes that progress review within 24 months of the entry into force of the directive may prove more effective and appropriate.

<p>Amendment 42</p> <p>Proposal for a directive Annex I – title</p> <p><i>Text proposed by the Commission</i></p> <p>Types of <i>public sector bodies' websites</i></p>	<p><i>Amendment</i></p> <p>Types of <i>websites operated by entities providing basic services to the public.</i></p>
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Justification

ANEC welcomes this amendment and the suggested widening of the scope of the proposed Directive. We believe that the suggested scope is more relevant than the originally proposed one as it includes a number of important basic services of public interest, such as financial, postal and transport-related services. Hence, ANEC also welcomes amendments 43 to 54.

About ANEC

ANEC is the European consumer voice in standardisation, defending consumer interests in the processes of technical standardisation and conformity assessment, as well as related legislation and public policies. ANEC was established in 1995 as an international non-profit association under Belgian law and is open to the representation of national consumer organisations in 33 countries. ANEC is funded by the European Union and EFTA, with national consumer organisations contributing in kind. Its Secretariat is based in Brussels.