The Proposed European Accessibility Act:

Legal and Moral Imperatives and Opportunities

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# 1. The Legal Imperative

## 1.1 EU and Member State Commitments under the UN Convention on the Rights of Persons with Disabilities

All but one of the EU Member States have ratified the UN Convention on the Rights of Persons with Disabilities (CRPD). The EU itself ratified/concluded the CRPD in 2010. It thereby pledged to implement the rights set out in the CRPD to the extent of EU competence. The EU, and the European Parliament in particular, has always taken seriously its human rights obligations to disabled people.

Specific reference was made by the UN Committee on the Rights of Persons with Disabilities (CRPD Committee) to the importance of making progress with the European Accessibility Act in its concluding observations on the EU in September 2015. According to it:

“29. The Committee recommends that the European Union take efficient measures for prompt adoption of an amended European Accessibility Act that is aligned to the Convention, as elaborated in the Committee’s General comment No. 2 (2014) on accessibility, including effective and accessible enforcement and complaint mechanisms. …”

## 1.2 Nature of the Main CRPD Accessibility Obligation

The most relevant provision of the CRPD is Article 9, the meaning and implications of which have been explained in more detail by the CRPD Committee in its General Comment No 2. Article 9 requires States Parties (including the EU) to take “appropriate measures” to grant to disabled people

“access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas …”.

It lists various examples of “appropriate measures” including:

* “identification and elimination of obstacles and barriers to accessibility”,
* “Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public”;
* “Promote access for persons with disabilities to new information and communication technologies and systems, including the Internet”; and
* “Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost”.

## 1.3 Accessibility as a Pre-Condition for Other Human Rights

Although accessibility is the subject of Article 9 of the CRPD, it is also a general principle of the CRPD (Article 3). Without it, many disabled people will be locked out of any possibility of enjoying other human rights (eg to education, employment, health, freedom of expression) on the same basis as others. Accessibility is a basic gateway right.

# 2. The Legal Opportunity

## 2.1 Greater Consistency for Relevant Products and Services

The proposed European Accessibility Act is based on the internal market provisions of the EU treaties. It represents an opportunity to reduce inconsistent accessibility standards and to ensure consistency between the new standards which are being developed by Member States in response to the CRPD. Consistency in these standards will generate benefits of efficiency and scale for economic operators dealing with the types of product and service covered by the proposal.

## 2.2 Greater Consistency and Understanding of ‘Accessibility’ Requirements in Other EU Legislation

The proposal for a European Accessibility Act would also set out a common definition of accessibility for purposes of other accessibility requirements in EU legislation – eg:

* Procurement Directives;
* European Structural and Investment Fund Regulations;

# 3. The Moral Case

Lack of accessibility operates as a lock-out of many disabled and older people. The human (and economic) cost of inaccessibility is therefore immense. Two of the cases which have come before the UN CRPD Committee illustrate the impact on individuals of inaccessible technology – Nyusti and Takács v Hungary 2013; and Jungelin v Sweden 2014. Two English cases illustrate the impact on disabled people of inaccessible physical structures – Bernard v Enfield Council 2002; and Roads v Central Trains 2004.

There is a price for inaccessible design – and it falls on disabled and older people financially, socially, emotionally and in terms of health. The European Accessibility Act is Europe’s chance for change.