

The Voice of RSM Special Edition

Pathways to Inclusion: The European Accessibility Act

Approximately 20% of the Dutch population and 27% of individuals over the age of 16 within the European Union experience various levels of disabilities. Addressing this, the European Accessibility Act (EAA) aims to standardize accessibility regulations across EU Member States. This legislative move not only safeguards the rights of individuals with disabilities but also enhances cross-border trade and broadens market access for businesses. By mandating the redesign of products and websites to be accessible to everyone, the EAA introduces both compliance requirements and business opportunities. Products and services adhering to the EAA's standards will enjoy the privilege of free movement across the EU, exempt from additional national regulations. This facilitates greater market penetration for companies and opens a new customer base, including people with disabilities and the elderly. This white paper delves into the EAA's profound impact on digital accessibility across the EU, encompassing a broad spectrum of products, services, and websites, thereby fostering an inclusive digital environment. Redesigning products and services for accessibility is not an overnight task, the time to start preparing for compliance is now, especially for products slated for production after June 2025.

INTRODUCTION

Accessibility in digital design, encompassing websites and other digital products, is crucial for ensuring that all individuals, regardless of temporary or permanent disabilities, can access and use these platforms and products effectively. However, accessibility barriers often hinder the effectiveness of technologies. Addressing these accessibility barriers is not only beneficial for individuals with disabilities but also enhances the overall user experience for a broader audience. For instance, captions on videos are not only essential for those with hearing impairments but also useful for users in noisy environments or those who prefer reading to listening. High-contrast and clear fonts improve readability for users with mild visual impairments, as well as older adults experiencing age-related vision changes. Keyboard navigability benefits users with motor impairments and those who might be temporarily unable to use a mouse, such as someone with a hand injury.

Building on this foundation of inclusive design, the European Accessibility Act (EAA) plays a pivotal role. This directive is specifically aimed at enhancing the functionality of the internal market for accessible products and services. It does so by addressing and removing the barriers that arise from varied and often conflicting accessibility regulations across Member States.

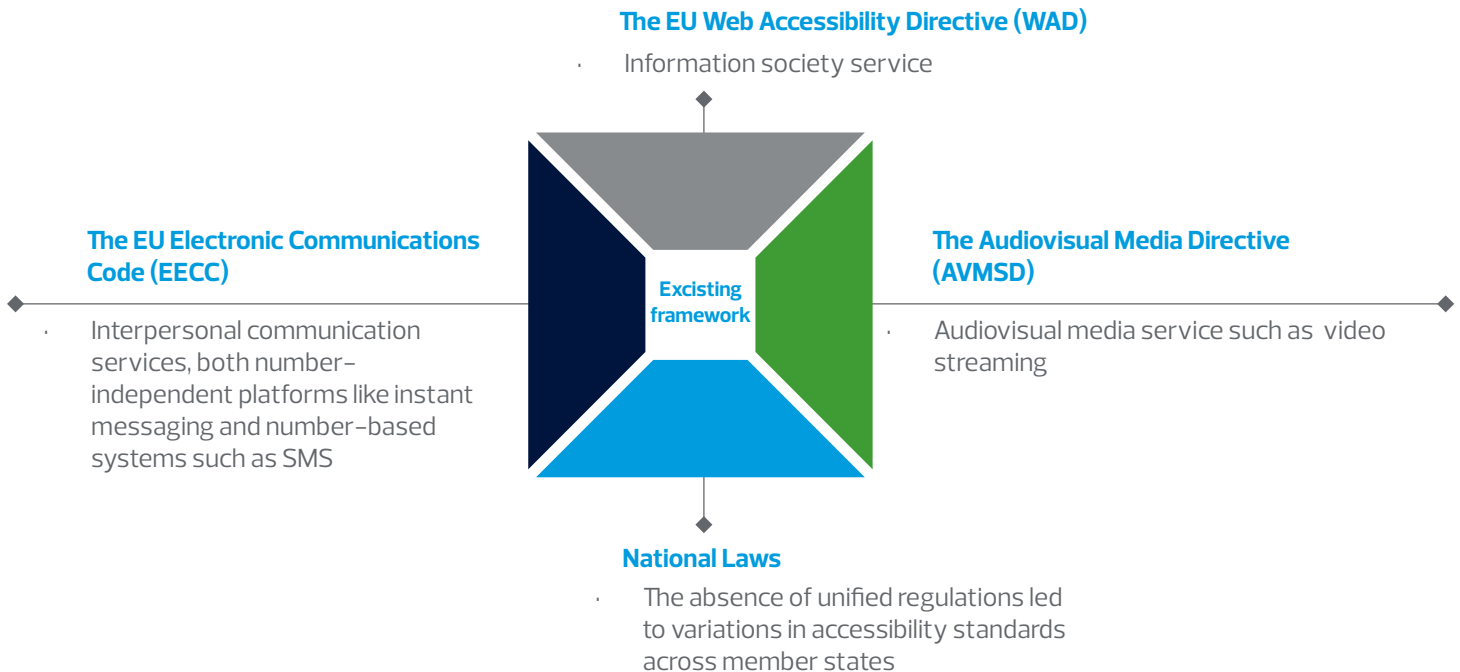
The EAA prohibits member states from obstructing the distribution of products or the offering of services within their territory on grounds of accessibility, if they comply with the EAA, creating opportunities for business to benefit from free movement of goods and services in the economic area.

In this regard, businesses stand to benefit from:

- common rules on accessibility in the EU leading to costs reduction
- easier cross-border trading
- more market opportunities for their accessible products and services

BACKGROUND

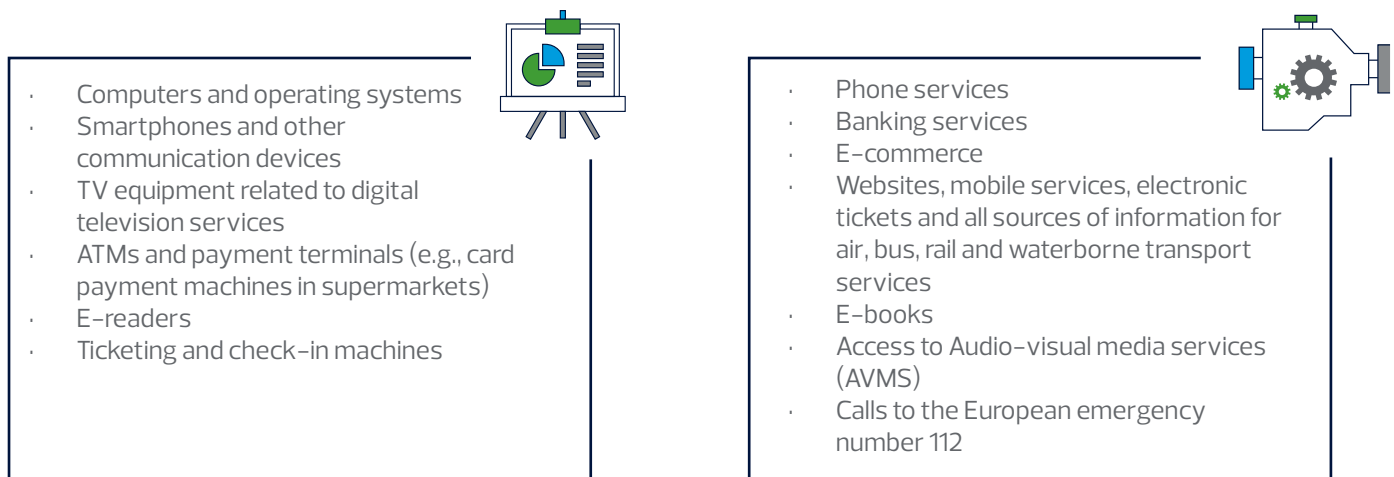
Before the EAA's implementation, there was a lack of harmonized accessibility requirements for private sector products and services across the EU. This differed from the public sector, which was already guided by the EU Web Accessibility Directive mandating accessible websites and applications for public sector bodies. As the newest addition to EU legislation, the EEA complements existing framework on accessibility.



SCOPE OF APPLICATION

The European Accessibility Act targets key products and services that are vital for individuals with disabilities and that historically have had inconsistent accessibility standards across EU nations. It mandates full accessibility for these offerings. The Act applies uniformly to all products and services in the scope available within the EU market, irrespective of whether they are produced within the EU or imported. Consequently, any private sector entity distributing products or services in the EU must adhere to the provisions of the EAA.

This encompasses the following products and services:



OBLIGATIONS

General Outlook

The EAA mandates that products and services:

- Be designed and produced to optimize usability for people with disabilities.
- Adhere to comprehensive regulations regarding information and instructions, user interface and functionality design, support services, and packaging.

The text of the EAA offers insights into what business owners can anticipate. Notably, the Directive specifically mentions the four principles of web accessibility, known as "POUR," affirming their relevance to this Directive. These principles dictate that digital systems must be:

<p>P</p> <p>Perceivable</p> <p>Is your content designed to be perceivable, providing multimodal presentation (like text and audio) to accommodate various sensory consumption preferences?</p>	<p>O</p> <p>Operable</p> <p>Can all users, regardless of whether they use a mouse, keyboard, or an assistive device, operate your interface and navigate your digital system effectively?</p>	<p>U</p> <p>Understandable</p> <p>Is your content and navigation understandable to all users, offering clarity in language and predictability in site performance?</p>	<p>R</p> <p>Robust</p> <p>Does your system demonstrate robustness, ensuring technical compatibility with a broad range of assistive technologies?</p>
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Annex I of the directive comprehensively outlines the accessibility requirements for products and services to enhance their usability for persons with disabilities. This annex is methodically divided into various sections, each focusing on distinct aspects of accessibility.

Section I	General accessibility requirements related to all products covered by this directive in accordance with Article 2(1)
Section II	Accessibility requirements related to products in Article 2(1), except for the self-service terminals referred to in Article 2(1)(b)
Section IV	Additional accessibility requirements related to specific services
Section V	Specific accessibility requirements related to the answering of emergency communications to the single European emergency number '112'
Section VI	Accessibility requirements for features, elements or functions of products and services in accordance with Article 24(2)
Section VII	Functional performance criteria

In this regard,

- For **products** under the EAA's purview, adherence to the criteria specified in Sections 1 and 2 of Annex I is mandatory, except for self-service terminals which are only required to meet the standards of Section 1.
- **Services** covered by the EAA are obliged to fulfil the accessibility requirements detailed in Sections 3 and 4 of Annex I. An exception is made for urban, suburban, and regional transport services, which are only bound to comply with the stipulations of Section 4.
- Additionally, the handling of **emergency responses** to the unified European emergency number "112" is required to conform to the accessibility guidelines set forth in Section 5 of Annex I.

Briefly looking at these obligations, the European Accessibility Act mandates that products be designed with the utmost consideration for usability by persons with disabilities. This encompasses providing accessible information about functionality and features, ensuring that information is available through multiple sensory channels, in formats that are easy to understand, and with appropriate font size and contrast, including adjustable spacing. Additionally, instructions should be easily accessible and publicly available.

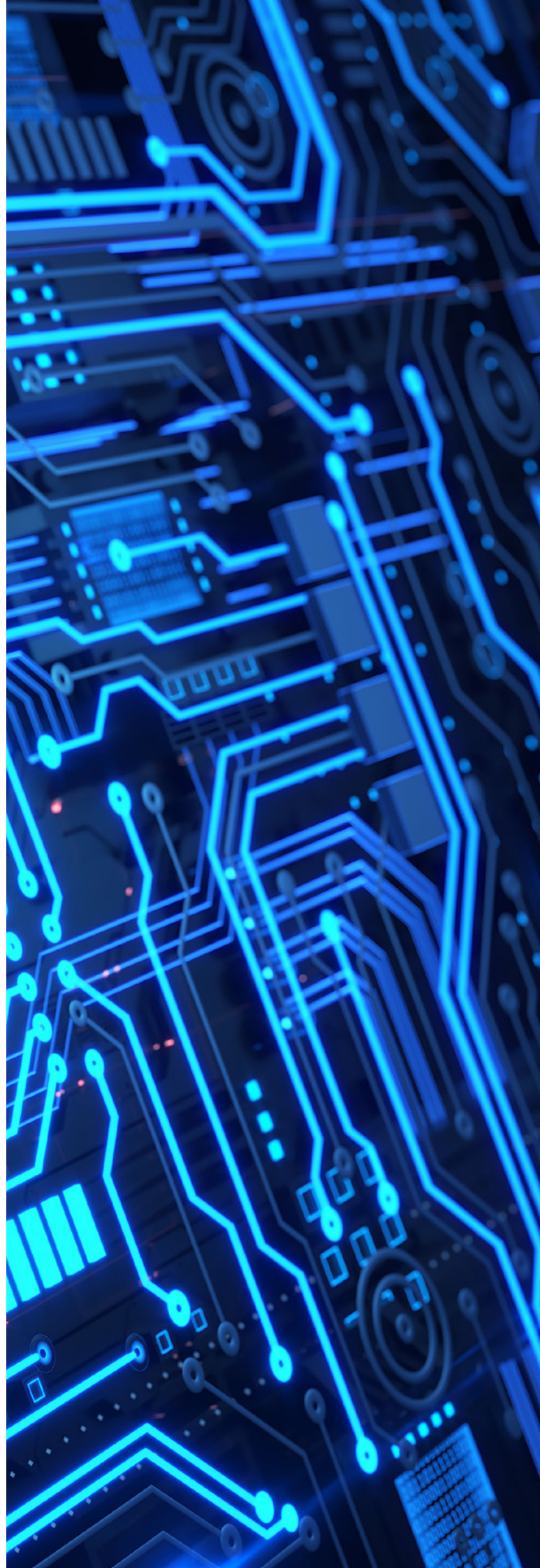
To achieve these goals, entities may offer alternatives to speech and visual elements, provide clear audio signals, incorporate tactilely discernible parts, among others. It's also essential to protect the privacy of users and ensure that products are interoperable with various assistive devices.

Help desks, call centers, and technical support services play a crucial role in this ecosystem. They should offer information about product accessibility and compatibility with assistive technologies in formats that are accessible to all.

In addition to these general requirements, particular attention must be given to the accessibility of packaging and instructions. They should provide information in various accessible formats to accommodate different needs.

Services, as well, must be made accessible. This is particularly crucial for websites and online services. The Act also specifies that different services *-such as electronic communications, audiovisual media, transport, banking, e-books, and e-commerce-* have tailored accessibility requirements to better serve persons with disabilities.

Lastly, products and services should meet functional performance. This includes offering alternative modes of operation that cater to users with various impairments, such as limited vision, hearing, manipulation strength, cognition, and more, ensuring inclusivity and ease of use for a diverse range of users.



ADDITIONAL OBLIGATIONS ON MANUFACTURERS AND SERVICE PROVIDERS

Obligations on Manufacturers

- Under the EAA, manufacturers have the critical obligation to design and manufacture products that meet the EAA's accessibility requirements. They must:
- Create technical documentation and conduct a conformity assessment as specified in Annex IV of the EAA.
- Provide instructions and safety information in clear, understandable language.
- Implement corrective actions or withdraw non-conforming products from the market. Manufacturers are also required to disclose to market surveillance authorities the suppliers and buyers of their products upon request.

Obligations on Service Providers

- Service providers are obligated to design and offer services that comply with the EAA's accessibility standards:
- They must present information detailing how their services meet these standards, accessible to the public and in formats usable by persons with disabilities.
- An accessibility notice must be publicly posted, including online, and if services don't conform, service providers must take corrective measures, inform national authorities, and cooperate with them to ensure compliance.

SITUATION FOR SMES

The European Accessibility Act recognizes the unique position of small and medium-sized enterprises (SMEs) by incorporating provisions for an "undue burden" exception. This exception permits companies to be exempt from compliance if it necessitates significant alterations that would fundamentally change the nature of a product or service, or if adherence would place an excessive financial strain on the company. The detailed accessibility requirements outlined in Annex 1 of the EAA are applicable as long as compliance does not:

- necessitate substantial changes that would alter the fundamental essence of the product or service; and
- impose a disproportionate burden on the economic operators.

The Act also carves out a specific exemption for "micro-enterprises," defined as companies with fewer than 10 employees and an annual turnover of less than two million euros.

Economic operators are required to conduct a thorough assessment to determine whether adhering to the accessibility requirements would lead to a fundamental alteration of their product or service or impose a disproportionate burden. This assessment, guided by criteria in Annex VI of the EAA, must be thoroughly documented and the records retained for five years following the last distribution of the product or the final provision of the service.

Should an economic operator invoke this undue burden exemption for a particular product or service, they are obligated to report this to the pertinent authority in the member state where the product is marketed, or the service is offered.

TIMELINE

The EAA was adopted by the European Union in June 2019. For the next step, in June 2022, all member states must have translated the EAA and added it into their own national legislation.

From 28 June 2025, the European Accessibility Act will come into force. For services placed on the market and contracts entered into before 28 June 2025 there will be an additional transition period of five years. Given that redesigning products and services for accessibility is not an overnight task, the time to start preparing for compliance is now, especially for products slated for production after June 2025.

Member states oversee enforcing their own penalties for noncompliance, which should be "effective, proportionate, and dissuasive." Each member state must make it possible for consumers to report noncompliance to either the courts or the body in charge of enforcing the law in that country. Both public and private organizations also must have the option of going to court or filing a complaint with the body in charge. In the Netherlands, the Dutch Consumer Protection (Enforcement) Act governs enforcement actions, granting supervisory authorities the power to levy administrative fines or enforce orders with penalties. The cap on fines differs among authorities: the Dutch Media Authority can impose fines up to €90,000, whereas the Authority for Consumers and Markets has a higher limit of €900,000 or, for larger entities, 1% to 10% of annual turnover. Additionally, the act allows for product recalls in instances of European Accessibility Act violations.

FORWARD THINKING

Diving into the European Accessibility Act (EAA) is more than just following new rules; it's about being part of a push for inclusivity. This Act is not just another document with instructions; it is the key driver for a movement that makes sure digital access goes beyond limits and opens new opportunities. The EAA marks our shared step towards a future where digital access is a common path for everyone, not a hurdle. It weaves our different needs directly into the core of technology and business, changing the digital world into a place where everyone can succeed.

Stepping into the realm of business today means stepping up to the growing importance of ESG –Environmental, Social, and Governance– factors that increasingly shape a company's impact and image. In this light, EAA emerges as a crucial piece of the social responsibility puzzle, underscoring how companies serve the wider community. Falling out of step with the EAA doesn't just bring the risk of fines; it means missing a vital beat in the rhythm of social progress. Yet, the Act isn't solely about dodging penalties. Aligning with the EAA smooths the way for your products and services to travel across the European Union, unlocking doors to new markets and opportunities, and placing your business on the right side of change. Compliance isn't just a regulatory hoop to jump through; it's a strategic move that positions your entity at the heart of a more accessible, unified market.

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For further questions, please feel free to email mvdbroek@rsmnl.nl.