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Introduction

Companies have until 28 June 2025 to comply with the European Accessibility Act (EAA). Additionally, for services using products placed on the market and contracts entered into before 28 June 2025 there will be an additional transition period of five years (ending on 28 June 2030), during which service providers do not need to comply with the accessibility requirements of the EAA for such preexisting services and contracts, but will need to take steps necessary to ensure that by 28 June 2030 even such services and contracts are compliant if they continue to be in force after that date. While this may sound like a long time, companies may need to start preparing now. The EU legislature deliberately chose to give companies time to put in place measures aimed at ensuring compliance, given the complexity of the new regulations. This short guide is intended to assist companies in understanding their requirements and meeting this deadline, thus avoiding enforcement action. It also compares the EAA with equivalent legislation in the UK.

Background

Website accessibility is about designing websites in a way that ensures that individuals with temporary or permanent disabilities, such as, for example, sight loss, can use a website in the same way non-disabled people can. To do so, disabled people may need to rely on assistive technologies, like a screen reader in case of sight loss. However, due to existing web accessibility barriers, screen readers are occasionally not compatible with websites displaying certain features, such as, for example, content that cannot be navigated using a keyboard, or low colour contrast. Overcoming web accessibility barriers may help disabled people be included in the digital society, but it may also benefit all website users – for example, older users, users with a poor internet connection, and users who access content in different mediums because of their surroundings (e.g. reading video captions rather than listening to the sound in a noisy environment).

Web Accessibility in the EU

The EAA is a new directive that sets out common rules for accessibility products and services across the EU member states.[1]

The EAA is the latest piece of EU legislation being adopted to create a more inclusive EU digital society. Other instruments that the EAA accessibility requirements will complement include the following:

- The EU Web Accessibility Directive (WAD)
- The EU Electronic Communications Code (EECC)
- The Audiovisual Media Directive (AVMSD)
- Any national laws that go beyond the EU requirements

The table below indicates for which types of services these EU instruments are likely to be more relevant:

Type of Service	WAD[2]	EECC	AVMSD
Number-independent interpersonal communications service, such as instant messaging		✓	
Number-based interpersonal communications service, such as SMS		✓	
Information society service	✓		
Audiovisual media service, including video streaming			✓

The scope of the EAA requirements will cover all the above types of services and beyond, including the private sector, to the extent that they are provided to consumers and not to business customers.

While the deadline for EU member states to transpose the EAA has passed, a number of member states are still working to transpose the law. So far, all that have transposed the law have not deviated from the original directive, so requirements should be consistent with both the original directive and between member states generally.

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1 Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services.
2 Only applies to public sector bodies – however, public bodies may contractually require third-party services providers to help them comply.

The accessibility standard that the EAA requires services to meet is WCAG 2.1 level AA. Therefore, ensuring that any implicated services meet this standard is a good starting basis to ensure compatibility with the EAA requirements.

Despite the fact that the EAA only applies to EU member states, any private sector organisation selling products and services within the EU must also comply with the EAA. For example, a UK-based business that sells products and/or services in an EU member state is forced to make sure that its website complies with the EAA. This suggests that unless UK private sector businesses want to create a two-level accessibility system (one for the UK market and for the EU market), they will benefit from applying the EAA standards to all their products and services in order to be competitive both domestically and abroad, and avoid providing a less accessible product/service within the UK.

What Is Covered by the EAA

The EAA applies to the following products:

(i) Consumer general purpose computer hardware systems and operating systems for those hardware systems[3]

(ii) Payment terminals[4]

(iii) Self-service terminals, including automated teller machines, ticketing machines, check-in machines and interactive self-service terminals providing information, excluding terminals installed as integrated parts of vehicles, aircrafts, ships or rolling stock[5]

(iv) Consumer terminal equipment with interactive computing capability, used for electronic communications services[6]

(v) Consumer terminal equipment with interactive computing capability, used for accessing audiovisual media services[7]

(vi) e-Readers[8]

The EAA also applies to the following services:

(i) Electronic communications services, with the exception of transmission services used for the provision of machine-to-machine services[9]

(ii) Services providing access to audiovisual media services[10]

(iii) Consumer banking services[11]

(iv) e-Books and dedicated software[12]

(v) e-Commerce services[13]

(iv) Websites; mobile device-based services, including mobile applications, electronic tickets and electronic ticketing services, and delivery of transport service information; and interactive self-service terminals related to air, bus, rail and waterborne passenger transport services.[14]

The EAA also applies to the answering of emergency communications to the single European emergency number "112".[15]

What Are the Accessibility Requirements Under the EAA

All products falling within the scope of the EAA must comply with the accessibility requirements set out in Sections 1 and 2 of Annex 1 of the EAA – with the exception of self-service terminals, which must comply only with the accessibility requirements in Section 1 of Annex 1.[16]

All services within the scope of the EAA must comply with the accessibility requirements in Sections 3 and 4 of Annex 1 of the EAA – with the exception of urban, suburban and regional transport services, which must comply only with the accessibility requirements in Section 4 of Annex 1.[17]

The answering of emergency communications to the single European emergency number "112" must comply with the accessibility requirements in Section 5 of Annex 1.[18]

Obligations on Manufacturers

The EAA imposes various obligations on manufacturers of products, the most of important of which is that they must "ensure that the products have been designed and manufactured in accordance with the applicable accessibility requirements of" the EAA.[19]

Manufacturers must also:

• Draw up technical documentation and carry out a conformity assessment procedure as described in Annex IV to the EAA[20]

• Ensure "that the product is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users [and is] clear, understandable and intelligible"[21]

• Take corrective measures or withdraw a product from the market if they have reason to believe that it is not in conformity with the EAA[22]

Manufacturers must also, upon request, identify to the market surveillance authorities any other economic operator that has supplied them with a product or to which they have supplied a product.[23]

3 EAA, Article 2(1)(a).
4 EAA, Article 2(1)(b)(i).
5 EAA, Article 2(1)(b)(ii).
6 EAA, Article 2(1)(c).
7 EAA, Article 2(1)(d).
8 EAA, Article 2(1)(e).
9 EAA, Article 2(2)(a).
10 EAA, Article 2(2)(b).
11 EAA, Article 2(2)(d).
12 EAA, Article 2(2)(e).
13 EAA, Article 2(2)(f).
14 EAA, Article 2(2)(c).

15 EAA, Article 2(3).
16 EAA, Article 4(2).
17 EAA, Article 4(2).
18 EAA, Article 4(8).
19 EAA, Article 7(1).
20 EAA, Article 7(2).
21 EAA, Article 7(7).
22 EAA, Article 7(8).
23 EAA, Article 12(1).

Obligations on Service Providers

Service providers must "ensure that they design and provide services in accordance with the accessibility requirements of" the EAA,[24] and must prepare the necessary information to explain how their service meets the applicable accessibility requirements, which must be made available to the public in written and oral format, including in a manner which is accessible to persons with disabilities.[25] In practice, this is done through an accessibility notice to be posted in a way that is publicly accessible; for example, online.

Service providers must, in case of nonconformity, take the corrective measures necessary to bring their service into conformity with the applicable accessibility requirements, and immediately inform the competent national authorities of the member states in which they provide their service.[26]

Service providers must, further to a reasoned request from a competent authority, provide such authority with all the information necessary to demonstrate the conformity of their service with the applicable accessibility requirements, and must cooperate with that authority on any action taken to bring the services into compliance with those requirements.[27]

Proportionality

The various accessibility requirements referred to above and listed in Annex 1 to the EAA "apply only to the extent that compliance:

(a) Does not require a significant change in a product or service that results in the fundamental alteration of its basic nature; and

(b) Does not result in the imposition of a disproportionate burden on the economic operators concerned.[28]"

Economic operators must carry out an assessment of whether compliance with those accessibility requirements would introduce a fundamental alteration or impose a disproportionate burden based on criteria set out in Annex VI to the EAA.[29] This assessment must be documented, and this record must be kept for a period of five years from the last making-available of the product on the market or from the date on which the service was last provided.[30]

When an economic operator relies on this exception for a specific product or service, it must send information to that effect to the relevant competent authority of the member state where the specific product is placed on the market, or the specific service is provided.[31]

Presumption of Conformity and Free Movement

Products and services that are in conformity with harmonised standards that have been published by the EU are presumed to be in conformity with the accessibility requirements of the EAA insofar as those standards cover those requirements.[32]

The EAA forbids member states from impeding, for reasons related to accessibility requirements, the making available in their territory of products or the provision of services that comply with the EAA.[33]

Web Accessibility in the UK

The two key pieces of web accessibility legislation that organisations need to be familiar with in the UK are summarised below.

1. The Equality Act (EQA)

Under this act all providers of goods and services to individuals in the UK, both public and private, have a legal obligation to protect individuals with certain characteristics from discrimination. This includes individuals with a disability.

In addition to zero tolerance for discrimination, the EQA requires website owners to actively provide an equal website experience to all their users. To comply with the law, website owners must therefore make the reasonable adjustments so that their web content is accessible to people with disabilities. While the act and its accompanying statutory guidance does not outline the technical accessibility standards it requires, organisations are expected to align their web content with WCAG 2.1 Level AA standards.

2. The Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations (2018)

While the EQA set a baseline for web accessibility legislation in the UK, digital accessibility protection was expanded for the public sector in September 2018 with the introduction of the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations. The regulations aim to make certain that services provided by public sector bodies are accessible to people with disabilities. After aligning with WCAG 2.1 Level AA, they must also publish an accessibility statement that highlights any areas of their site that does not meet WCAG 2.1 Level AA standards.

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24 EAA, Article 13(1).
25 EAA, Article 13(2).
26 EAA, Article 13(4).
27 EAA, Article 13(5).
28 EAA, Article 14(1).
29 EAA, Article 14(2).
30 EAA, Article 14(3).
31 EAA, Article 14(8).

32 EAA, Article 15(1).
33 EAA, Article 6.

An exemption under the Regulations is that public sector bodies are not required to fix certain types of historic website content. This includes pre-recorded audio or visual material published before September 2020 or most PDFs and other documents before September 2018.

It is worth nothing that although, to some extent, both pieces of legislation are derived from EU law, there is currently no indication that the UK government intends to revoke or make any material changes to this legislation.

Public sector bodies that must comply with the law include:

- Central government organisations
- Local government organisations
- Some non-government organisations

Public sector organisations that are exempt from the law include:

- Non-governmental organisations, like charities – unless they are mostly financed by public funding, provide services that are essential to the public or aimed at disabled people
- Public sector broadcasters and their subsidiaries

Some nonexempt organisations may not have to fully comply with the accessibility regulations if they would face a "disproportionate burden". Factors like the type of organisation, the size of the organisation and the cost of making content accessible are taken into consideration for this proportionality assessment.

Public sector organisations that are partially exempt from the law include:

- Primary and secondary schools and nurseries – with the exception of web content that people need to access in order to use their services

It is important to note that partially exempt organisations still need to publish an accessibility statement on their website.

Web Accessibility in Practice – Web Content Accessibility Guidelines (WCAG)

The laws for accessibility are based on the international gold standard for web accessibility, the Web Content Accessibility Guidelines (WCAG). WCAG explains how to make a website more accessible to people with disabilities.

Measuring a website against WCAG compliance standards is a good indicator of whether it would be considered accessible to disabled people in a court case. There are four main WCAG principles to bear in mind, often referred to as POUR:

- **Perceivable** – All users should be able to accurately see and read your website content. That means content must not exclude people with vision loss, hearing loss and other disabilities.

- **Operable** – Website content should be responsive and simple to navigate for all users; for example, using keyboard-only commands to navigate a website rather than a mouse.

- **Understandable** – Website interfaces and information should be organised in a way that makes them easy to use, predictable to navigate and contain language that is understandable to all users.

- **Robust** – Websites should be compatible with a wide range of technology, including assistive technology tools that are commonly used by users with disabilities.

When creating content, the following WCAG accessibility practises should be considered:

- **Alternative text** – Images and other non-text content should have descriptive alternative text (alt text) added to them so they can be read by a screen reader. Alt text also helps search engines understand your non-text content better.

- **Keyboard navigation** – All website functionality should be available using a keyboard only.

- **Semantic markup** – A logical page structure using semantic markup to designate headings, lists and other structural elements. For example, headings should be identified as an H1, then structured in a sensible way – H1, followed by H2 and then H3.

- **Tables** – Data tables need extra markup. Add row and column header cells to make them accessible to screen readers.

- **Instructions** – Instructions to complete a task should not rely on sound, shape, size, or visual location.

- **Descriptive links** – Using generic link text like "learn more" and "click here" provides no context to screen reader users. All link text should therefore make sense when read in isolation.

- **Forms** – To ensure everyone can submit a form, it needs to be labelled properly – that includes text fields, dropdown lists and checkboxes.

- **Videos and audio** – A text equivalent, such as captions or transcripts, should accompany multimedia content

- **PDFs** – PDF files need to be tagged to make them accessible.

- **Colour** – You must not rely on colour alone to signify meaning. If you do use a colour to convey meaning, you should also include a text alternative.

- **Readability** – Use accessible fonts, format copy logically with headings that enable skimming, and write at a level that matches your target audience for optimal comprehension.

- **Skip elements** – Include a skip navigation link. This helps users with assistive technology to skip repetitive elements on a page so they can read faster.

- **Titles** – Page titles should be descriptive and informative.

- **Contrast** – Text and images of text have sufficient colour contrast ratio for users with low vision.

- **Text** – No loss of functionality or content should occur when the text is zoomed in on.
- **Seizure triggers** – Do not use blinking or flashing content.

This list is just a selection of accessibility recommendations. To see the full list requirements and techniques for achieving them, visit the Web Content Accessibility Guidelines (WCAG) 2.1.

There are three different levels of WCAG conformance, A, AA, and AAA, each with different checkpoints and measurable success criteria for accessibility. Level A is the minimum, so, if a website does not meet Level A standards, it is likely to be inaccessible to disabled users. As determined by laws, Level AA is the required standard in the UK. Level AAA is the highest level, and it is usually adopted by organisations with more advanced accessibility agendas.

Checking Accessibility Status

To ensure that their websites are meeting WCAG standards, organisations often conduct a full accessibility audit. This audit informs them of their site's current accessibility status and assists them in efficiently identifying any violations while prioritising fixes based on severity. Accessibility checks remain regular and are never ending as many organisations continue to add new content to their websites or make changes to existing content. As a way to mitigate risk, organisations have scheduled automated and manual accessibility testing.

If you have any questions on how to ensure compliance with the EAA and equivalent UK legislation, please contact your lawyers at the firm, or the author of this guide.

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