

BITKOM Recommendations for Phase 2 of EU Mandate 376

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The German Association for Information Technology, Telecommunications and New Media (BITKOM) represents more than 1,200 companies. Its 900 direct members generate a sales volume of 135 billion euros annually and employ 700,000 people. They include providers of software, IT and telecommunication services, manufacturers of hardware and consumer electronics as well as digital media businesses. BITKOM is working, in particular, to improve the regulatory framework in Germany, for modernization of the education system and for an economic policy which encourages innovation.

Summary

BITKOM is pleased to submit its comments on mandate 376 to the attention of the project team. We kindly ask for careful consideration and feedback on the further processing.

We would be glad to assist in case questions or concerns will arise during the evaluation of our comments.

Best regards,

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1 Background

According to the EU mandate 376, phase II shall provide the following deliverables:

- II.1 An European standard (EN) specifying accessibility requirements for all ICT products and services within each of the technical areas, whether they already exist or are newly developed, following the results of phase I of mandate 376.
- II.2 A Technical Report (TR) listing the standards and technical specifications that comply with the accessibility requirements of the European accessibility standard.
- II.3 Guidelines on accessibility award criteria relevant to each technical area that can be used in the procurement of ICT products and services.
- II.4 Guidance and support material for public procurement. It should address at least the following:
 - Information technology planning guidelines
 - Broad circulation of material on accessible information technology
 - Technical advice on new ICT hardware or software
 - Training of IT staff on the use of the developed material
 - Inventory of existing accessibility support services and of accessibility support needs
 - Inclusion of accessibility in ICT call for proposals
 - Verification of supplier claims of accessibility
 - Tracking of non-compliance of products and services with accessibility requirements in tenders
 - Information on the testing and certification aspects
- II.5 An online, accessible toolkit providing structured access to the full content of the EN, the TR, the guidelines and the guidance material. It shall provide, in particular, thorough guidance and ready text to public procurers who will access it.

2 List of Recommendations

The following recommendations for phase II of the EU mandate 376 are proposed by BITKOM to emphasise the ICT industry's expectation in this work. The order of the following recommendations is not related to priorities.

2.1 General Recommendations

- There are various ongoing efforts (e.g. the Action Plan on electronic procurement) to review the European public procurement framework to make public procurement more flexible, efficient, cost effective and legally comprehensive for procurers and tenderers. The intention of mandate 376 to include accessibility as a criterion in public procurement should not undermine these efforts. Therefore, the phase II activities should be closely coordinated with the more general efforts.
- Although accessibility is an important specification parameter for ICT products and services, it is just one of many. Therefore, the development of unique conformance schemes for accessibility is inadequate and there is no reason to treat accessibility different than other criteria. A well-grounded cost benefit analysis taking into account the needs, abilities and capacities of tenderers, procurers and persons with disabilities should be carried out in phase II of Mandate 376 to provide objective evidence. Such an analysis should be performed before developing and implementing unique conformance schemes for accessibility.
- The suggested determination of the appropriate reporting scheme for accessibility on a procurement by procurement basis (see clause 9 of the CEN/CENELEC report) is plainly not working in practice for tenderers and

procurers in a European market. One reason is, among many others, that products or services (or parts of them) have to be assessed several times in different procurement contexts. Many other industry concerns were given during the comment phase on the report.

Therefore, this approach should be no longer pursued in phase II of mandate 376. Flexibility should be ensured both for procurers and suppliers, so that an appropriate conformity assessment scheme or system can be chosen depending on the procurement situation. A decision system for this is provided in the report.

- When including accessibility as a criterion in European public procurement of ICT products and services, it is crucial to do it in a way that it is easy to handle and easy to understand and, consequently, feasible for SMEs. Phase II should consider the situation of SMEs in order to not disadvantage this large group of tenderers.
- When including accessibility as a criterion in European public procurement of ICT products and services, it is crucial to do it in a very economic, efficient, and practical way, permitting and encouraging innovation, supporting competition and bringing more benefit to users with disabilities. These aspects should be considered in phase II of mandate 376.
- The harmonised accessibility requirements and harmonised means of demonstrating conformance with those requirements should help procurers and manufacturers in their daily business to apply them effectively and efficiently already in the design phase. It is a well known fact that accessible design can be achieved and documented most efficiently and sustainably during the product development process by the manufacturer. In most cases, an accessibility evaluation of a mature product is too late to fix possible accessibility problems. Especially the question if a highly labour- and cost-intensive certification process for accessibility can increase accessibility significantly, has to be analysed very carefully in phase II of mandate 376.
- When including accessibility as a criterion in European public procurement of ICT products and services, it is necessary to clearly distinguish between the procurement of standard off-the-shelf products and services, and complex systems and services. In the first mentioned case, accessibility should be determined only once and declared by the manufacturer who remains responsible for conformance with requirements, even if a third party is involved with the assessment. This declaration should be valid for all European countries and all offers and should be used by all resellers and procurers independent of the procurement context.
In the latter case, accessibility has to be achieved and demonstrated during the runtime of the contract which is outside the procurement process. Phase II of mandate 376 should consider these very different situations and their impact on the procurement process.
- The participation of procurers on European as well as on member states level is required in phase II of mandate 376.
- The participation of representatives from member state regulators who are responsible for the national legal implementation, is required for phase II of mandate 376.
- Future business models and procurement strategies in the ICT domain and their influence on accessibility should be analysed in phase II of mandate 376 very carefully. There are e.g. developments to buy complete services for a period of time or to pay per use of a service ("software as a service"). Also the action plan on electronic procurement and the aspects of "in house" procurement should be considered in phase II of mandate 376.
- A careful analysis of the European procurement directives as well as their legal implementation in the member states is required in phase II of mandate 376 in order to avoid possible fragmentation in the field of accessibility.
- The timing of the EU mandate 376 and the US Section 508 revision provides a unique opportunity to achieve a harmonisation of accessibility requirements and the means of demonstrating compliance with those requirements. Because most ICT companies are active in both markets and the accessibility

requirements of persons with disabilities are the same around the world, it is strongly recommended to use this opportunity in phase II of the mandate 376 to create and realise a synergy which will be beneficial for all stake holders.

2.2 Recommendations for the newly to be developed European ICT accessibility standard (deliverable II.1)

- The standard should be written in such a way that:
 - it facilitates and encourages the development of new technologies and their accessibility.
 - it is general enough that the accessibility recommendations can be implemented in many different technical environments.
 - it boosts the acceptance level of all stakeholders (including member states) to avoid fragmented standards.
- The ISO IEC Guide 71 = CEN/CENELEC Guide 6 and the complementary new ISO TR 22411 should be used for general accessibility design methods and ergonomic data of elderly persons and persons with disabilities.
- If available, reasonable test methods should be included for each accessibility recommendation.
- In contrast to many technical test methods, accessibility assessment does not require a high accuracy. Therefore test methods should be reduced to reasonable efforts.
- When defining test methods for accessibility requirements, a certain proportion of user capabilities should be pre assumed. Users should, for example, be able to operate state-of-the-art assistive technology.
- The standard should be complete, i.e. cover all accessibility aspects of a product. A declaration of conformity to a standard where physical accessibility is fully covered but cognitive accessibility to a lesser extent, may convey a wrong message.
- The standard should provide priorities of the accessibility requirements (at least on 3 levels).
- The standard should not be used for ranking of accessible products. This may convey a wrong message, because not all accessibility recommendations have the same relevance for a certain product, and individual accessibility is perceived very differently by the users. Therefore, small differences in accessibility don't play an important role in practice. It would be of much more value to clearly distinguish the accessibility evaluation for the different types of limited abilities (e.g. along the concept of ISO/IEC Guide 71 plus ISO TR22411).
- The standard should be harmonised with other international accessibility standards including the test methods.
- A close co-operation with other standardisation groups should be established in phase II of Mandate 376, namely: ISO TC159 (and subgroups including the "Advisory Group on Accessible Design", AGAD), ISO/IEC JTC1 SWG-A, TEITAC, CEN BT/WG "Accessibility for All" (newly created), IEC TC59 (WG11), ITU "Joint Coordination Activity on Accessibility and Human Factors" (JCA-AHF) and others.

2.3 Recommendations for the Technical Report listing the standards and technical specifications that comply with the accessibility requirements of the European accessibility standard (deliverable II.2)

- The technical report should consider only commonly accepted, preferably international or European accessibility standards and guidelines as well as commonly agreed accessibility requirements.

- The technical report should not include outdated or purely national accessibility standards and guidelines as well as outdated accessibility requirements e.g. resulting from outdated assistive technology.
- The Vienna agreement and the Dresden agreement must be considered when dealing with competing accessibility standards and accessibility requirements and recommendations.

2.4 Recommendations for the guidelines on accessibility award criteria (deliverable II.3)

- In the recent years more and more certification schemes and labels have been introduced into the market. Procurers could not just rely on a certain label. They need to know what is covered by a certain label. Moreover, they should be empowered to determine whether a label is needed to be based on third-party certification or a self-declaration or other certification schemes. As a starting point, the CEN report gives a good description in its chapter 6.
- Accessibility is only one of many criteria in public procurement. Tenderers and procurers require clear and reliable rules for dealing with prioritisation of the award criteria. Is an energy saving, middle price product with basic accessibility more preferable than a product of higher costs and higher energy consumption, but higher accessibility?
These rules should be the same independent of the procurement context.
- Section 10 of the CEN report proposes to use requirements for supplier's technical capacities and abilities in the accessibility domain for the selection of suppliers. This suggestion seems not to be workable in practice. Problems may occur with resellers, sub-contractors, suppliers of certain parts of the product or the size of the tenderer. At least, the tenderer may buy the missing expertise if not available in house.
This approach should be justified in phase II of Mandate 376.

2.5 Recommendations for the Guidance and support material for public procurements (deliverable II.4)

- Guidance and supporting material about accessible design should be written not only for designers but also for procurers. Because the knowledge about accessible design is different between these groups, it may be necessary to provide different kinds of supporting materials.
- With harmonised EU-US accessibility requirements, training materials and tools need not to be developed twice.
- The tracking of compliance of products and services with accessibility requirements in tenders (positive list) would be of more value and more informative for all stakeholders than the tracking of non-compliance of products and services.
- Guidance and supporting material about accessible design should be made available in different European languages.
- It is expected that all materials, tools and WEB-sites are accessible in accordance to the given rules.

2.6 Recommendations for the online, accessible toolkit (deliverable II.5)

- See the recommendations for deliverable II.4 above.