

Proposal for a directive on accessibility requirements for products and services

As a matter of principle, UTP supports all actions that promote ridership and improve the quality of urban and rail public transport.

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For many years UTP and its members have worked closely with disability organisations to help design services that best fulfil the needs and expectations of the people with disabilities. Moreover, UTP actively participated in the drafting of the disability law passed in France in 2005 and amended in 2014. Inherent in the principle that everyone has a right to transport is the belief that services should be **accessible as independently as possible**, while specific assistive devices for the least mobile individuals should be made available when necessary.

Nevertheless, UTP finds it regrettable that the impact analysis for such an important directive proposal for accessibility would be so clearly inadequate, failing as it does to consider the **very significant consequences for urban and rail public transport**.

TOO MANY UNANSWERED QUESTIONS ABOUT THE SCOPE OF THE FUTURE DIRECTIVE

First, there is **great uncertainty as to whether existing structures** such as terminals and passenger information displays, validators, ticket vending machines, websites and mobile applications **will need to be retrofitted**. UTP maintains that the future directive should only apply to equipment acquired after the transition period provided under the directive. This is also consistent with the principle of non-retroactivity of European texts. An inconsistent interpretation of the directive would require significant investment, not only for the purchase of equipment, but also for its installation. This could also compromise the status of existing contracts.

The scope of the proposed directive should also be clarified. **Are metros and trams to be considered** as railways¹? What about coaches², bearing in mind that coach services are distinct from bus services?

There is even less justification for the lack of certainty given that the proposed directive states that the Commission can pass legislation specifying obligations for which the company will be responsible.

URBAN AND RAIL TRANSPORT ALREADY BENEFIT FROM NUMEROUS INDUSTRY-SPECIFIC REGULATIONS

Urban and rail transport are already subject to industry-specific legislation which establishes numerous requirements for the provision of services for people with disabilities (permanent and temporary).

They are also subject to many specific provisions regarding access to their services, in particular, Regulation 1371/2007 dealing with rail transport, and Regulation 181/2011 on transport by bus and coach. Rail transport is also subject to the provisions of TSI, including the TSI PRM of 2014 which makes Member States responsible for plan implementation. It is also impacted by the TAP TSI and Directive 2016/797 on interoperability of the rail system (4th railway package).

1. Regulation 1370/2007, amended by the 4th railway package, states that railways do not include other track-based modes such as metros and trams.
2. Coaches are distinguished from buses by trip length, lower stop frequency, and the requirement that passengers be seated. Will all commercial coach services that have been operating since August 2015 in France therefore be subject to the future directive?

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LEGAL UNCERTAINTY IS CREATED IN TRANSPORT

This directive will undoubtedly raise **challenges in terms of coordination and compatibility with existing industry-specific regulations**, many of which have already been adopted.

For many years, public and rail transport have accommodated Persons with Reduced Mobility (PRM), who have permanent or temporary disabilities. However, the definition of PRM differs from that of people with functional limitations as set out under the directive. This raises the question of how to reconcile these two separate concepts and put them into practice.

A further example is Article 10 of Regulation 181/2011 which provides for certain exceptions to the accommodation of PRMs, regarding safety conditions, for example. Yet this assumption is nowhere to be found in the directive proposal. Neither is the assumption that there are special transport services designed for people with disabilities.

A DIRECTIVE UNSUITED TO THE CONDITIONS IN URBAN AND RAIL TRANSPORT

The proposed directive is directed toward ensuring that the internal market runs smoothly. It has little or nothing to say regarding the goal of greater accessibility and does not address the specific features of the urban and rail transport industries.

The proposed directive **will therefore not only directly impact goods and services in public transport** (Article 21 and Section V of Annex I), it will also affect **the built environment, vehicles, stations and stops** (190 000 in urban networks alone) and even ticketing (Article 21 and Section IX of Annex I).

With regard to goods and services alone, the UTP and its members know through work with disability rights organisations that people with visual and hearing impairments, as well as mental and cognitive challenges, prefer to organise **their trips in advance by planning and downloading itineraries and purchasing their tickets from home**. Many networks have therefore developed special aids and apps that can be used on portable personal devices for guidance or in dialogue with conventional equipment. **Many provisions of the directive are therefore entirely unsuitable** since they completely disregard this fact in terms of recurring and repetitive requirements.

Finally, it should be mentioned that while **independence should be a priority in public transport**, not all disabilities can be handled in the same way, as the UN convention³ shows. Therefore, urban transport systems have developed specialised services dedicated to people with severe disabilities and special needs through the use of adapted and proportionate vehicles and assistance services.

INADEQUATE PROVISIONS FOR WEB AND MOBILE APPLICATIONS

The proposed directive **disregards international rules that apply to websites and mobile apps**. Indeed, it should be noted that European companies follow the standards established by the World Wide Web Consortium for their websites (see eEurope 2005 plan). Standards and benchmarks have not been established for mobile applications, however. Technological advances in this area are completely dependent on the Internet Giants who develop the new operating systems (OS) that everyone must use (for websites and applications).

With these constraints, the investment that would be required to bring existing websites and smartphone apps up to standard would be extremely onerous - roughly equivalent to the cost of developing the original websites.

THE DIRECTIVE CREATES COMPETITIVE DISTORTIONS IN TRANSPORT

The proposed directive is particularly **punishing for the public transport industry**. Article 21 provides that the very **restrictive provisions of Section IX of Annex I⁴ are only applicable to public transport services and infrastructure**. This is particularly regrettable considering that urban and rail transport are already heavily regulated and face aggressive competition from other transport services, such as car

pooling and private car hire services which are not subject to accessibility regulations of any sort for their websites and mobile applications. These provisions are contrary to the harmonious and fair development of the internal market proudly trumpeted the proposed directive.

What makes this differential treatment even more unacceptable is the fact that Article 12, as currently drafted, does not allow public service operators to claim a 'disproportionate burden'. Indeed, public transport services by definition require compensation in order to meet their public service obligations and operate⁵. This is therefore **a double penalty for public transport operators.**

THE DIRECTIVE ESTABLISHES DIFFERENT REQUIREMENTS DEPENDING ON THE LEGAL STATUS OF THE COMPANY AND THE METHODS OF PUBLIC SERVICE MANAGEMENT (ARTICLES 21 §1 AND 3)

As 'contracting entities', public companies will thus be subject to additional requirements (Section IX of Annex I) regarding access by visitors with disabilities to their own buildings, even if said buildings are not open to the public. Similarly, companies that are awarded public contracts, or that win tender offers under Regulation 1370/2007 will be subject to these additional requirements (Section IX

of Annex I) on transporting people with disabilities. It seems **unacceptable to us** that the operators providing all these public transport services **should be subject to different rules of accessibility to services based on whether their contract was awarded directly or won through a tender offer.**

SIGNIFICANT INVESTMENT IN AN ALREADY CONSTRAINED BUDGETARY FRAMEWORK

Contrary to the assertions of the impact study, implementing the directive **will require significant investment.**

Thus, based on estimates by the UTP for urban and rail networks in France, it will be necessary to invest nearly **1 billion euros for information equipment** on buses and at train stations and stops, nearly 250 million euros for validators and about **2.7 billion euros for the DAT**. These estimates for unit and installation costs assume that existing equipment will be replaced; this would be preferable in the case of retrofitting.

These estimates do not include the need for potential installation, for example, for accessibility to stations and stops (190 000), modification of existing buildings, or the impact on certain transport infrastructure.

In conclusion, there will be a significant impact on the investment required by public

authorities to ensure accessibility to administrative buildings, including those not open to the public, along with access to train depots, maintenance hubs and workshops used for public transport.

AN INADEQUATE TRANSITION PERIOD FOR THE INVESTMENT REQUIRED

A six-year transition period is inadequate, particularly for much of the equipment, which has depreciation periods of 10 to 15 years. As a minimum, the future directive should provide for variable transition periods, which can be coordinated with the specified services and equipment, based on lifespan and use.

³. *Convention on the rights of persons with disabilities.*

⁴. *These are the services provided by contracting entities and contractor of public procurements and sometimes contractor of concessions.*

⁵. *This is the reason for the applicability of Regulation 1370/2007, which is industry-based in terms of state aid.*

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UTP (Union des Transports Publics et ferroviaires) is the professional association of France's urban transport and rail transport undertakings (passengers and freight). It represents its members at the European and French levels and pursues lobbying actions aimed at authorities and decision-makers.

UTP represents over 170 urban transport undertakings all over France. Most of them are connected to international transport groups such as CarPostal France, Groupe RATP, Keolis, SNCF Mobilités, Transdev, Vectalia France. Others are independent and may be members of AGIR association.

Since 2006, UTP has gathered railway undertakings such as Agenia, CFTA, Colas Rail, Euro Cargo Rail, Europorte, Eurostar, Groupe RATP, Keolis, Objectif OFP, RRT PACA, SNCF, SNCF Mobilités, Thalys International, Thello, Transdev, VFLI.

Since January 2013, UTP also welcomed Infrastructure Managers (Eurotunnel, LISEA, SNCF Réseau) as members, thus embodying the unity of the railway sector.

