



May 28, 2015

BY ELECTRONIC FILING

Office of Technical and Informational Services
Access Board
1331 F Street NW, Suite 1000
Washington, DC 20004-1111

*Re: Comments of Microsoft Corporation, Docket No. ATBCB-2015-0002,
RIN No. 3014-AA37*

Dear Chair Pavithran and Members of the Board:

Microsoft supports the Draft Information and Communication Technology (ICT) Standards and Guidelines proposed by the Architectural and Transportation Barriers Compliance Board (Access Board) in connection with its February 27, 2015 Notice of Proposed Rulemaking (NPRM) and recommends that the Board issue its final rule promptly, with the modest clarifications suggested below. These clarifications would allow federal agencies, industry and consumers to better reap the benefits of the substantial work the Access Board has done to promote robust and harmonized international procurement standards, including aligning with the European accessibility standard for procurement, ETSI EN 301 549,¹ which was finalized and published in February 2014.

In its comparison of the proposed rule with the European accessibility standard, the Access Board correctly notes that the two standards are substantially the same, with significant differences appearing only with respect to the concept of Real Time Text (RTT) in provision 410.6.² The similarity is not surprising given that ETSI EN 301 549 was developed using recommendations from the Access Board's Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC). ETSI EN 301 549 reflects the positive impact the Access Board has had in pioneering accessibility standards and in collaborating with the EU to promote international harmonization.

¹ ETSI EN 301 549 v1.1.1 (2014-02) Accessibility requirements suitable for public procurement of ICT products and services in Europe

² NPRM at IV.F.2. The Access Board also notes differences with respect to Video Communication in provision 410.8 but acknowledges that the ETSI standard is more prescriptive. Accordingly, conformance with ETSI EN 301 549 for Video Communication results in conformance with the Access Board's proposed rule.

Due to the high degree of alignment between the proposed rule and the European standard, Microsoft urges the Access Board to take the final steps in harmonization by:

- reconsidering its approach to provision 410.6 by providing flexibility in allowing commonly used cross-manufacturer, non-proprietary standards other than RFC 4103 and permitting RTT functionality to be either built-in or “added later”³; and
- clarifying in its final rule that ICT conforming to ETSI EN 301 549 is deemed to conform to the new Access Board standards.

However, if the Access Board determines that provision 410.6 cannot be reconciled between the US and European standards, we strongly recommend that the Board clarify the areas of harmonization and divergence. Specifically, we recommend:

- in provisions E205 and C203 of the proposed rule, add a clause stating that ICT conforming to Chapters 9 and 10 of ETSI EN 301 549 is deemed to conform with the requirements of provisions E205.4 and C203.1 pertaining to content, respectively;
- in provisions E206 and C204 of the proposed rule, add a clause stating that ICT conforming to Chapters 4-8 of ETSI EN 301 549 is deemed to conform to the requirements of Chapter 4 pertaining to Hardware, *with the exception of* provision 410.6 (RTT);
- in provisions E207 and C205 of the proposed rule, add a clause stating that ICT conforming to Chapter 11 of ETSI EN 301 549 is deemed to conform with the requirements of Chapter 5 pertaining to Software; and
- in provisions E208 and C206 of the proposed rule, add a clause stating that ICT conforming to Chapter 12 of ETSI EN 301 549 is deemed to conform with the requirements of Chapter 6 pertaining to Support Documentation and Services.

Based on the Access Board’s analysis comparing the two standards, clarifying the areas of harmonization will simplify global implementation and self-declaration of conformance *without altering the accessibility of ICT meeting the proposed rule*.

The proposed clarifications also recognize that ETSI EN 301 549 and Chapter 5 of the proposed rule both refer to the WCAG2ICT Task Force as the basis for applying WCAG in non-web contexts,⁴ rendering the treatment of WCAG in the Access Board and European standards substantively the same. Rather than require each of the hundreds of Federal agencies covered by Section 508, and all the developers, manufacturers and contractors who provide ICT for those agencies to individually analyze how to implement WCAG in non-web contexts – with the potential for divergent and conflicting interpretations, market confusion, and increased cost and complexity for all involved – the Access Board can dramatically simplify implementation by expressly acknowledging that ETSI EN 301 549 Chapters 9-11 provide an appropriate roadmap for implementing WCAG in both web and non-web contexts.

³ ETSI EN 301 549 at 6.2.1.1

⁴ NPRM at V.B.2.

As the Access Board has long recognized, international standards harmonization creates a unified market for accessible products that in turn spurs more rapid development and increased investment in accessible technology, rather than diverting resources to meet fragmented, market-specific solutions. Harmonization also facilitates trade by enabling a single Supplier Declaration of Conformance (SDOC) to be accepted worldwide.

The Access Board was an early leader in promoting harmonized international standards, including through the TEITAC. As noted in the NPRM,⁵ efforts to harmonize US and European procurement standards have been on-going for many years. Starting in 2003, US stakeholders from the Access Board, General Services Administration and Department of Commerce have been engaged in a transatlantic standards dialogue with officials from the European Commission Directorates General Justice, Enterprise, Connect, Employment and the European Standards Organizations with the intent to harmonize procurement standards, align development schedules and create complimentary conformance practices. This dialogue has been supported by both the Transatlantic Economic Council and the Transatlantic Trade and Investment Partnership.

Microsoft urges the Access Board to finish the important work the US and EU started towards complete harmonization. The needs of people with disabilities and the associated market for accessible ICT are not constrained by national borders. Recognizing the market is truly global, the goal should be to create an environment in which governments and industry can succeed worldwide in driving inclusion through accessible ICT. Even a small degree of fragmentation sets a precedent for every country or market to impose unique requirements, which quickly aggregate into significant complexity in managing those requirements in product design, development, testing and conformance reporting – the end result being added cost to governments, consumers and industry alike.

The Access Board's Regulatory Impact Analysis estimates the cost of implementing the new standards will be more than twice the benefits realized by government agencies.⁶ Lowering costs through greater alignment with the European standard would lessen the cost vs. benefit gap, resulting in significant savings for both government and taxpayers and will create a viable model for other countries to follow. Industry is already developing ICT to meet the requirements of ETSI EN 301 549 and is being asked to self-declare conformance to the standard, well in advance of the April 2016 deadline for EU Member States to take accessibility into consideration in procurement tenders. Additionally, because ETSI EN 301 549 is expected to become an ISO standard, it is currently being cited in tenders from countries outside of Europe and industry expects it to be adopted more broadly around the world as the more than 150 ratifying countries implement their obligations under the United Nations Convention on the Rights of Persons with Disabilities.

⁵ NPRM at IV.F.

⁶ NPRM at Table 1

As many individuals testified during the March public hearings on the NPRM,⁷ it is important for all stakeholders to have the Access Board issue its final rule as quickly as possible. Taking the small steps recommended in these comments would expedite this process and provide necessary clarification for successful implementation.

Respectfully submitted,



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⁷ CSUN Access Board Transcript 2015-03-05, <http://www.regulations.gov/#!documentDetail;D=ATBCB-2015-0002-0016>