

REQUIREMENTS FOR THE ACCESSIBILITY OF WEBSITES

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Introduction

On June 28, 2025, the Accessibility Improvement Act (BFSG) will come into force in Germany. The BFSG is intended to promote the equal and non-discriminatory participation of people with disabilities, impairments and older people, particularly in e-commerce offerings. To this end, the law stipulates various requirements for the design of certain products and services. The BFSG implements the EU Directive on the accessibility requirements for products and services of April 17, 2019 (Directive 2019/882), which uniformly defines the technical requirements for accessibility and the accessibility information obligations. For many companies, the implementation of the BFSG means a review and, if necessary, technical adaptation of their own online offerings.

To whom do the requirements of the BFSG apply?

On the product side, the scope of application of the BFSG includes hardware systems for universal computers, self-service terminals, consumer terminals with interactive features such as computers, notebooks, smartphones and tablets, game consoles and e-book readers, Section 1 (2) BFSG. For most companies, however, it is likely to be more relevant in practice that all services in electronic commerce that are provided with a view to concluding a consumer contract are also covered by the scope of application. In addition to telecommunications and messenger services, this also includes passenger transportation services, banking services, e-books and e-commerce services. An e-commerce service is deemed to exist if a consumer can conclude a consumer contract or at least enter into a pre-contractual obligation at their individual request. All online stores aimed at consumers (B2C) are therefore ultimately covered, as are online booking portals for courses and events for consumers and websites with forms for booking appointments.

The requirements and obligations of the BFSG apply to all economic operators in the supply chain, i.e. not only to manufacturers, but in particular also to distributors and service providers. A distributor within the meaning of the BFSG is any natural or legal person or partnership with legal capacity that makes a product available on the market in the supply chain, with the exception of the manufacturer or importer, Section 2 No. 14 BFSG. Service provider is any natural or legal person or partnership with legal capacity that provides a service to consumers on the Union market or offers to provide such a service, so that the operators of online stores and other e-commerce offers are also obliged to make their offers accessible.

Only small companies that employ fewer than 10 people and either have an annual turnover of no more than 2 million euros or whose annual balance sheet total is no more than 2 million euros are exempt from the scope and obligations of the BFSG, Section 3 (3) BFSG.

What requirements must be met to implement accessibility?

The BFSG does not regulate when exactly a barrier exists or which specific requirements must be met for an offer to be barrier-free. However, according to the definition in Section 3 (1) (2) BFSG, products and services are barrier-free if they can be found, accessed and used by people with disabilities in the usual way, without particular difficulty and generally without assistance. The more specific requirements can then be found in the Ordinance to the BFSG (BFSGV), which has already been promulgated and will also come into force on June 28, 2025. In particular, the state of the art must be taken into account when fulfilling the requirements.

According to Section 13 BFSGV, one of the general requirements for services is that associated information must be provided via more than one sensory channel, i.e. there must be alternatives to visual, auditory, spoken and tactile elements, such as corresponding transcripts. In addition, the information must be easy to find and understand and be provided in a suitable text format and font size. Online offerings must also be designed to be perceptible, operable, comprehensible and robust. In addition to the general requirements, the Ordinance to the BFSG contains further specific requirements for the individual product and service categories covered by the BFSG, which must be determined for each specific case.

Companies can use the EN 301 549 standard ("Accessibility requirements for ICT products and services"), which defines the accessibility requirements for information and communication technology in the public sector, as a guide when designing their offering. Chapter 9 of the EN standard contains requirements for websites that refer to the Web Content Accessibility Guidelines (WSAG). According to the WSAG, four main principles apply to accessibility: perceptibility, usability, comprehensibility and robustness. In addition, it is possible to participate in the publications of the Federal Agency for Accessibility, which is obliged under Section 3 (2) BFSGV to regularly publish up-to-date information on the most important standards to be observed.

What else needs to be considered?

According to Section 14 (1) BFSG, service providers are not only obliged to fulfill the accessibility requirements of the BFSG Ordinance, but also to provide certain information on the service and make it accessible to the general public in an accessible form. According to Annex 3 No. 1, the service provider must provide information on how it meets the accessibility requirements in its general terms and conditions or in another clearly perceptible manner, so that affected companies must also regularly adapt their general terms and conditions or alternatively provide separate information materials. The relevant information shall include a description of the applicable requirements and, where relevant to the assessment, cover the design and implementation of the service. In addition, a general description of the service in an accessible format, descriptions and explanations necessary to understand the performance of the service, a description of compliance with the requirements and information on the competent market surveillance authority shall be provided.

What are the consequences if the requirements are not met?

If the provisions of the BFSG are not complied with, companies must expect fines of up to 10,000 euros, in serious cases up to 100,000 euros, in accordance with Section 37 (2) BFSG. In addition,

there is the threat of prohibition and discontinuation orders in accordance with Section 23 (3) (1), 30 (3) and (4) BFSG as well as obligations to recall products in accordance with Section 22 (4) (1), 26 (3) (2) BFSG. The competent market surveillance authority is responsible for imposing sanctions under the BFSG and must also take action at the request of consumers, recognized associations and qualified institutions. Competition law claims may also be considered. Violations can also constitute a defect within the meaning of Section 434 BGB.

Conclusion

Companies that fall under the scope of the Accessibility Improvement Act must comply with the legal requirements for accessibility from June 28, 2025. In order to meet the requirements, it is advisable to make the company's services accessible at an early stage. In addition, the necessary information materials on accessibility should be created or the general terms and conditions adapted in good time. We are happy to support you in implementing the requirements of the Accessibility Improvement Act.

Dr. Christoph Rempe / Christina Prowald

You will also find further information on the Accessibility Improvement Act in the next issue of our BRANDI-report.



Contact:

BRANDI Rechtsanwälte
Partnerschaft mbB
Adenauerplatz 1
33602 Bielefeld

Dr. Christoph Rempe Lawyer

Certified Specialized Attorney in
information technology law
Certified Specialized Attorney in
copyright and media law

T +49 521 96535 - 875
F +49 521 96535 - 113
M christoph.rempe@brandi.net

Christina Prowald Research Associate

T +49 521 96535 - 980
F +49 521 96535 - 113
M christina.prowald@brandi.net