

Accessibility Strengthening Act (Barrierefreiheitsstärkungsgesetz – BFSG)

Fit for digital accessibility?

Specific requirements for "e-commerce services"



Presentation and Introduction

Speakers



Sebastian von Rüden, LL.M. (IP/IT)

Partner | Deloitte Legal | Service Area Digital Law
Certified specialist for intellectual property law
Certified specialist for information technology law

Phone: +49 211 877 255 44
E-Mail: svonrueden@deloitte.de



André Poeggel

Director | Deloitte Digital
Head of Experience Design & Digital Products

Phone: +49 211 8772 4917
E-mail: apoeggel@deloitte.de



Eva Heier

Studio Lead | Deloitte Digital
Experience Design & Digital Products
Certified Professional in Accessibility

Phone: + 49 40 3208 012 67
E-mail: eheier@deloitte.de

Agenda

1

Background & Overview of the Accessibility
Strengthening Act (BFSG)

2

E-commerce services (Sec. 2 no. 26 BFSG)

3

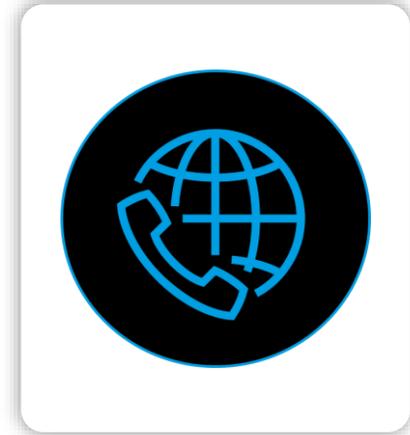
Technical implementation of the accessibility requirements
Deloitte Digital



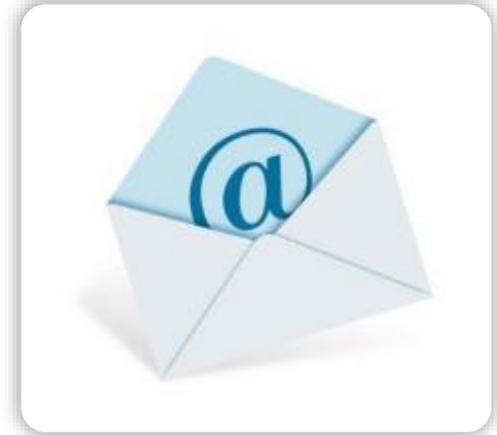
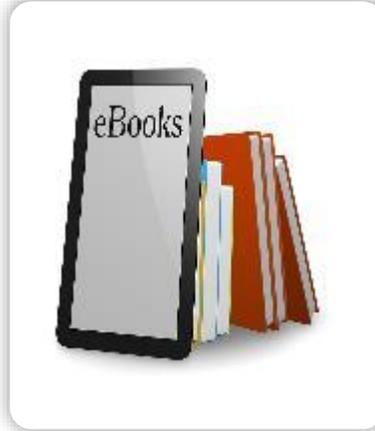
Background & Overview of the **Accessibility Strengthening Act (BFSG)**

Digital Participation

High demand



13 million people in Germany with disabilities or impairments are dependent on digital participation



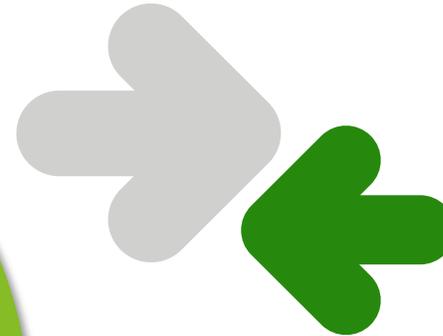
Accessibility Strengthening Act

Definition of “accessibility”

Sec. 3 (1) sentence 2 BFSG

"Products and services are **accessible** if they can be found, accessed, and used by people with disabilities

- (i) in a generally usual manner,
- (ii) without particular difficulty, and,
- (iii) in principle, without external help."



People with disabilities

There are various types of disabilities that require digital accessibility:

- Motor impairments
- Physical limitations
- Deafness, hearing impairment
- Blindness, visual impairment, red-green vision deficiency, age-related vision impairment
- Cognitive impairments
- Learning impairments



The accessibility requirements are specified in the **Ordinance on the Accessibility Strengthening Act (Verordnung zum Barrierefreiheitsstärkungsgesetz – BFSGV).**

Accessibility Strengthening Act

Material scope of application

Products Sec. 1 (2) BFSG

- **Hardware systems** (computers, notebooks, tablets, smartphones, etc.)
- **Self-service terminals** (ATMs, ticketing machines, check-in machines, etc.)
- **Interactive consumer terminal equipment** (e.g., smart TV)
- **E-book-readers**

Services Sec. 1 (2) BFSG

- **Telecommunications services** (e.g., internet access services, telephone and messenger services, email transmission services)
- Certain elements of **passenger transportation services** (e.g., websites, electronic ticketing services)
- **Banking services** for consumers (e.g., consumer loan agreements, payment account services)
- **E-books** and dedicated software



e-commerce services

e-commerce:



- ✓ **Online sale of services/products to consumers**
- ✓ **Online appointment bookings** (e.g., booking a hair appointment at a large hair salon)
- ✓ **Online contract initiation & conclusion** for products/offline services that are not subject to the BFSG (e.g., gym membership contract)



Exemptions pursuant to Sec. 16, 17 BFSG:

- **Fundamental change** to the relevant product or service's **essential characteristics**
- **Disproportionate burden** (excessive organizational or financial burden)

Accessibility Strengthening Act

Personal scope of application

Addressees so-called economic operator (Sec. 2 no. 15 BFSG)

- **Manufacturers** of affected products (incl. distribution)
- **Authorized representatives** acting on behalf of a manufacturer
- **Distributors** who only distribute products but do not manufacture them
- **Importers** of products from a third country
- **Service providers**



Attention:

Extension of responsibility of third parties pursuant to Sec. 1 (4) no. 4 BFSG for content and mobile applications that are financed, developed or controlled by the economic operator.



E-commerce services

Excluded

- **Private individuals**
- **Business offers in the B2B sector**
- **Small-sized enterprises** (Sec. 3 (3) sentence 1 BFSG)

- (-) pure B2B offers
- (+) hybrid offers that can be used by both B2B and B2C customers

Small-sized enterprises

- employ fewer than 10 persons **and**
- either have an annual turnover not exceeding EUR 2 million or an annual balance sheet total not exceeding EUR 2 million.

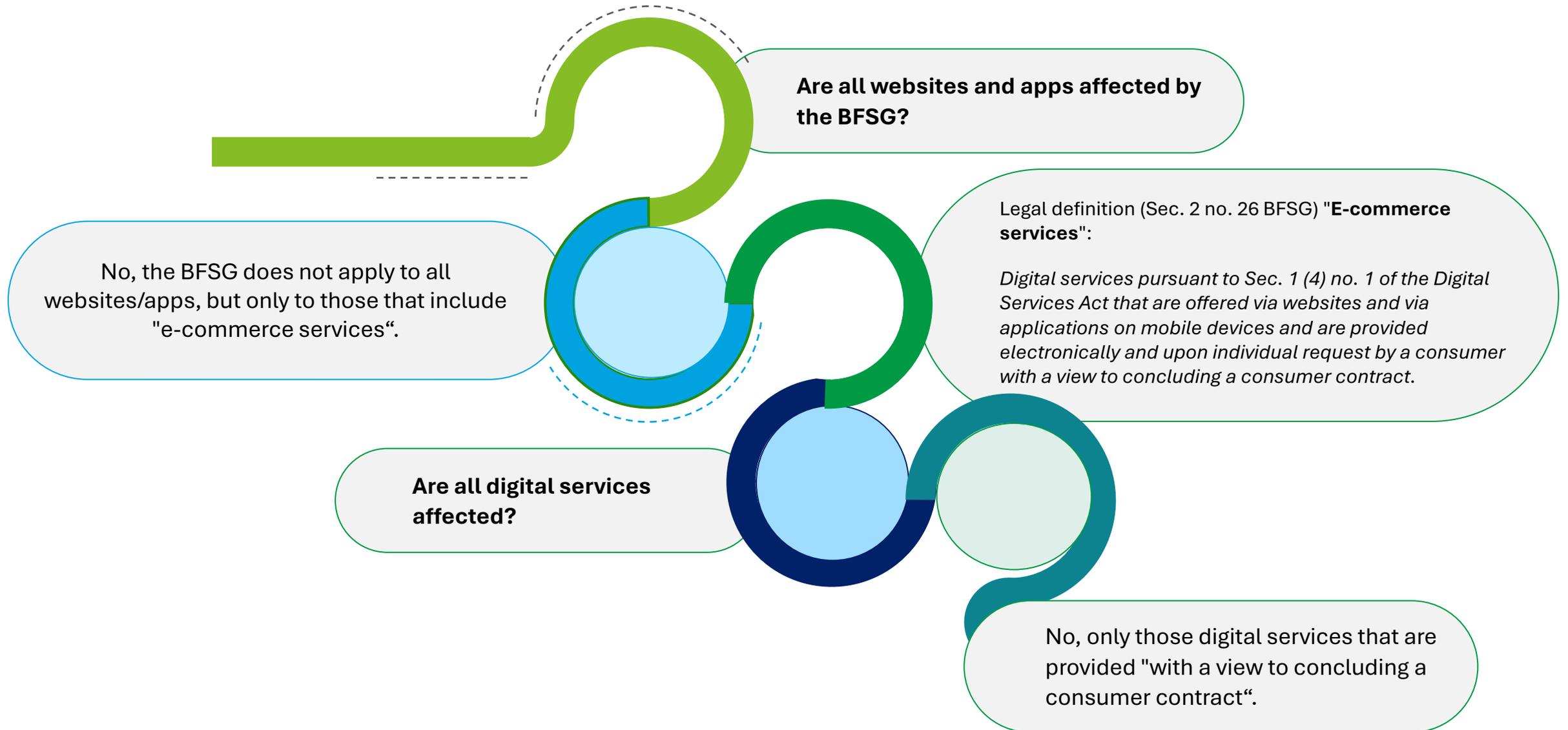


The requirements regarding the number of employees and annual turnover or balance sheet total must be met cumulatively.

E-commerce Services (Sec. 2 no. 26 BFSG)

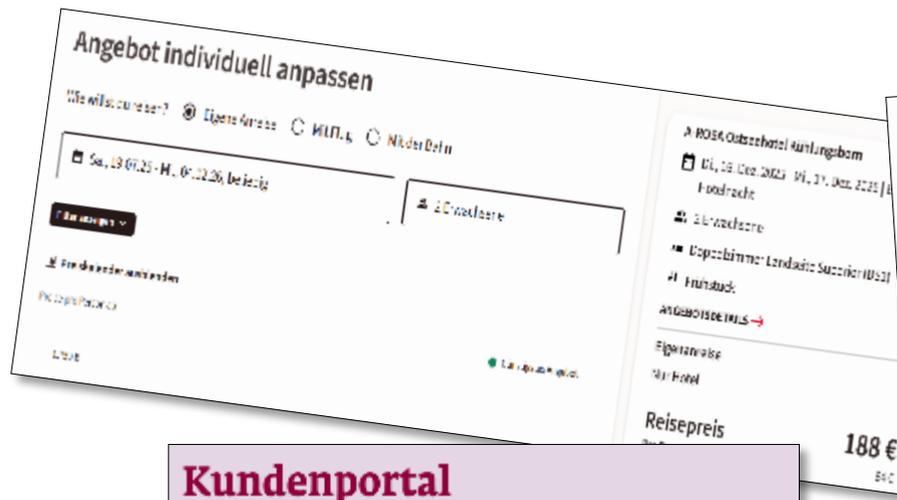
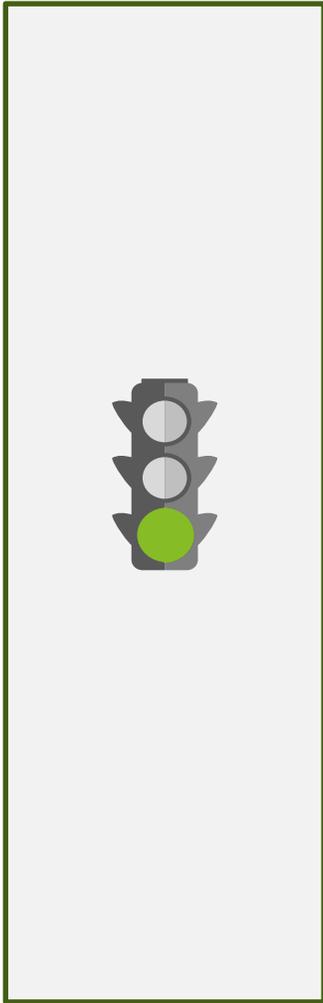
The background features a dark green color with decorative wavy lines in a lighter green and silver color, flowing across the bottom and right side of the slide.

E-commerce Services (Sec. 2 no. 26 BFSG)



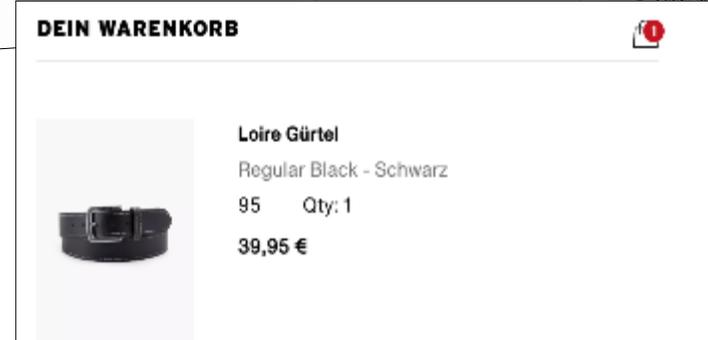
Possible use cases of the BFSG in the area of "e-commerce services" (1/3)

- **Online shops** and digital sales platforms for consumers
- **Booking portals** for travel, events, or accommodation
- **Forms and apps** for digital contract conclusions and customer portals for services

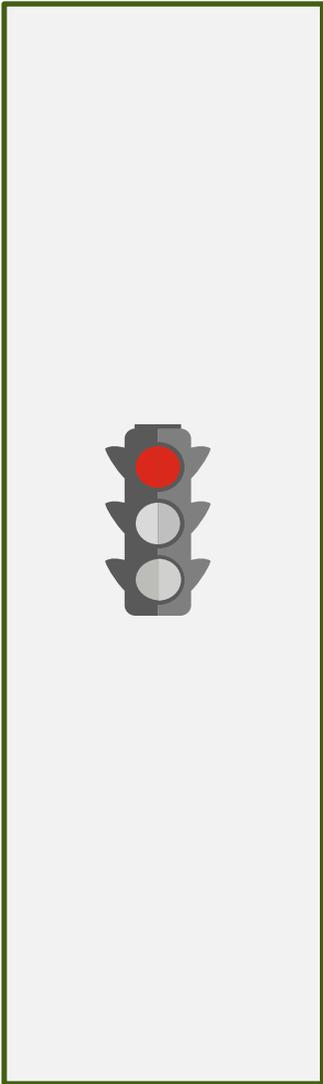


Kundenportal
„Meine Versicherungen“

Bitte melden Sie sich mit Ihrem Benutzernamen und Ihrem Passwort an.



Possible use cases of the BFGS in the area of "e-commerce services" (2/3)



- Purely "passive" **presentation homepages**
- Mere **advertising/informative content** without any connection to the conclusion of a contract
- **Corporate blogs/news pages**



Possible use cases of the BFGS in the area of "e-commerce services" (3/3)

*When do websites and/or mobile apps work **towards the conclusion of a consumer contract**?*



- *Provision of interactive contact forms?*
- *Websites with cookie paywall [pure subscription models]?*
- *Support pages/online customer service?*
- *Contract documents?*
- *Online appointment bookings/appointment arrangements (offline products or offline services)?*
- *Email communication (with and without call-to-action button)?*
- *Live chats?*
- *Free online offers (registration for online communities; competitions; newsletter subscriptions)?*
- *Online application forms?*

Transition period under the BFSG / exemptions from the scope of application for certain content



There is no transition period for **e-commerce offers**

Transition phase pursuant to Sec. 38 BFSG

- **Existing devices:** Companies can continue to provide their services using devices and technologies that they had in use prior to June 28, 2025, until June 27, 2030 [older e-book-readers, smartphones, tablets]
- **Existing contracts:** Contracts concluded before June 28, 2025, may remain unchanged until they end, but no later than June 27, 2030 [e.g., subscriptions for streaming-services; memberships in online libraries]
- **Self-service terminals:** Devices such as ATMs or ticket machines that were installed before June 28, 2025, and complied with the applicable rules at that time may continue to be used until they reach the end of their service life, but no longer than 15 years after they were put into operation

Exemptions from the scope of application for certain content listed exhaustively in Sec. 1 (4) BFSG

- **Recorded time-based media** (audio, video) published before June 28, 2025 [e.g., product videos]
- **File formats for office applications** published before June 28, 2025 [e.g., old PDF or Microsoft Office files]
- **Archived content** that will no longer be updated after June 28, 2025 [e.g., online archive of insurance terms and conditions]
- **Third-party content that is** neither financed nor developed by the economic operator in question, nor subject to its control [*however:* anyone who integrates external content from third-party providers must ensure that it is accessible, as they "control" the integration]

Accessibility Strengthening Act (BFSG)

Overview of sanctions, enforcement & monitoring mechanisms

Monitoring measures

of the market surveillance authority

Products:

- **Cause-independent market surveillance** based on the market surveillance strategy developed by the federal states
- **Occasion-related specific inspection** of individual products if there are indications of non-compliance with the BFSG

Services:

- **Random checks** of services by the market surveillance authority for compliance with the BFSG without prior cause
- **Occasion-related specific inspection** of individual services if there are indications of non-compliance with the BFSG

Sanctions

Violations of the BFSG:

1. **Orders/decrees issued by the market surveillance authority**
 - Prohibition orders
 - Obligations to recall products
2. **Fines (Sec. 37 BFSG)**
 - In minor cases: up to EUR 10,000.00
 - In severe cases: up to EUR 100,000.00

Violations of the GDPR:

A **risk under data protection law** exists in particular when health-related data is collected and processed in the context of the accessible design of websites and mobile applications (e.g., with regard to the accessible design of consents).

Enforcement options

Administrative proceedings:

Consumer & recognized association under the Disability Equality Act (Gesetz zur Gleichstellung von Menschen mit Behinderungen - BGG) or qualified body under the Injunctive Relief Act (Gesetz über Unterlassungsklagen bei Verbraucherrechts- und anderen Verstößen - UKlaG):

Authorization to initiate official action against economic operators in accordance with Sec. 29 f. BFSG

Administrative court proceedings:

Consumer & recognized association under the BGG/qualified institution under the UKlaG [right of collective action]:

Possibility of bringing an action before the administrative courts if the authorities reject the application for action

Options under civil law:

- **Warnings** based on the Unfair Competition Act (Gesetz gegen den unlauteren Wettbewerb - UWG), in particular by competitors or consumer protection associations
- **Warranty claims** under the German Civil Code (Bürgerliches Gesetzbuch - BGB) for products: In the case of products, a violation of the BFSG may also constitute a material defect



Reputation

Market surveillance authorities' obligation to provide information to consumers:

Obligation to notify whether companies comply with the requirements of the BFSG, Sec. 21 (4) BFSG (products) & Sec. 28 (4) BFSG (services)

Accessibility Strengthening Act (BFSG) - Requirements & obligations websites (e-commerce)

Directive (EU) 2019/882
European Accessibility Act - EAA



Implementation of the directive in Germany by

Accessibility Strengthening Act
(Barrierefreiheitsstärkungsgesetz - BFSG)



*Specification of the accessibility requirements according to
the BFSG by*

Ordinance on the Accessibility Strengthening Act
(Verordnung zum
Barrierefreiheitsstärkungsgesetz - BFSGV)

BFSGV refers to the "state of the art"
→ **for websites:** The Web Content Accessibility Guidelines (WCAG)
apply via the European harmonized norm EN 301 549

Web Content Accessibility Guidelines (WCAG)

International standard for accessible website design; contains
a total of 78 criteria that address different forms of impairment

We build Accessible Digital Experiences

Digital Accessibility strives to keep a digital experience meaningful and usable for everyone



WE ARE COMMITTED TO INCLUSIVITY AND ACCESSIBILITY, VALUES THAT ARE DEEPLY INGRAINED IN THE DNA OF OUR TEAMS.

We support you by reviewing websites and applications to identify barriers for people with disabilities and ensure compliance with standards such as EAA, BFSG, and BITV.

*Digital accessibility **opens up to 20% more potential customers**, improves search engine optimization (SEO), appeals to an economically strong target group, protects against legal risks, and is a future-proof investment.*

LARGE TARGET GROUP

Approximately 15-20% of the world's population (over 135 million in the EU) live with a disability, so accessibility makes your offer accessible to a large audience.

DEMOGRAPHIC CHANGE

With more than 25% of EU citizens aged 60 or older, accessible design meets the needs of an increasingly ageing user group.

COMPLIANCE WITH LEGISLATION

In the US, over 4,000 ADA lawsuits are filed each year, and European accessibility legislation will become mandatory in June 2025, so early compliance diminishes legal and financial risk.

ECONOMIC IMPORTANCE

People with disabilities have an annual purchasing power of around \$490 billion in the US (and hundreds of billions in Europe), making them an important customer segment.

IMPROVED SEO

Semantic, well-structured, accessible websites can increase search visibility by up to 50%, resulting in significantly more organic traffic.

Accessibility

Depending on the scope and requirements, our team of accessibility experts from the fields of UX/UI design and front-end development can provide our customers with the best possible support, working closely with them to assess the status quo and provide them with the best possible support.

KNOWN CHALLENGES

- Accessibility **is not a one-time project**. Customers often underestimate the need for continuous monitoring, correction of new content, and updating as standards evolve.
- In the context of tight budgets and urgent deadlines, accessibility **is often considered secondary**, especially when it is viewed as a discretionary issue rather than a fundamental requirement.
- Development, design, and content teams responsible for digital accessibility in companies often have **insufficient knowledge** of WCAG guidelines, ARIA markup, semantic HTML, and libraries for accessible components.
- Accessibility in **design is neglected** and urgently requires qualified advice.

OUR SUPPORT

- **Accessibility Report** Insight into the status of accessibility with specific recommendations.
- **Accessibility Roadmap** A prioritized list of areas for improvement.
- **Accessibility Implementation** Implementation of accessible design and development.
- **Accessibility Monitoring** Monitoring to ensure accessibility.

REFERENCE CLIENTS



TOOLS



From fast to sustainable accessibility

Accessibility that integrates in a long-term and sustainable manner



Myths about rapid implementation

01

Accessibility through a widget

A widget is not capable of making a website completely accessible.

Barriers are only cosmetically adjusted or overlaid. They continue to discriminate against users and do not remove structural barriers in the code or design.

02

Not all WCAG must be implemented

All criteria included in Level AA and applicable to the website must be implemented.

Criteria are only excluded if they relate to videos and audio, for example, and these are not implemented.

03

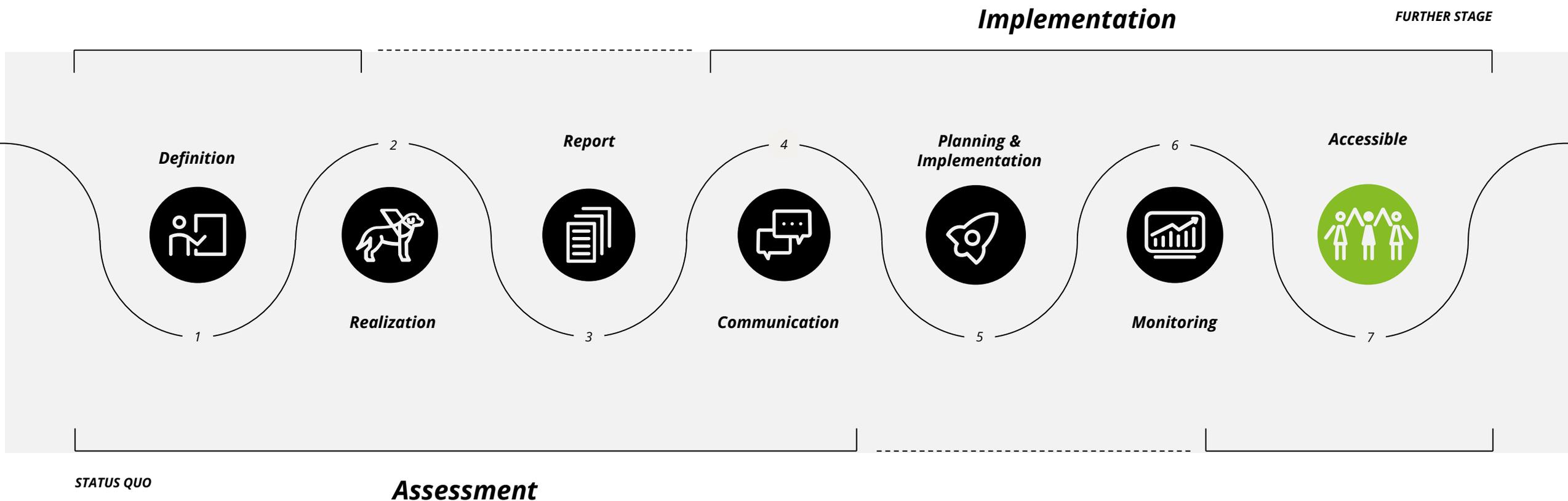
Only the checkout must be accessible

The entire journey to a conclusion of sale must be designed to be accessible.

This includes all information, from product presentation to completion of the purchase.



Becoming sustainably accessible

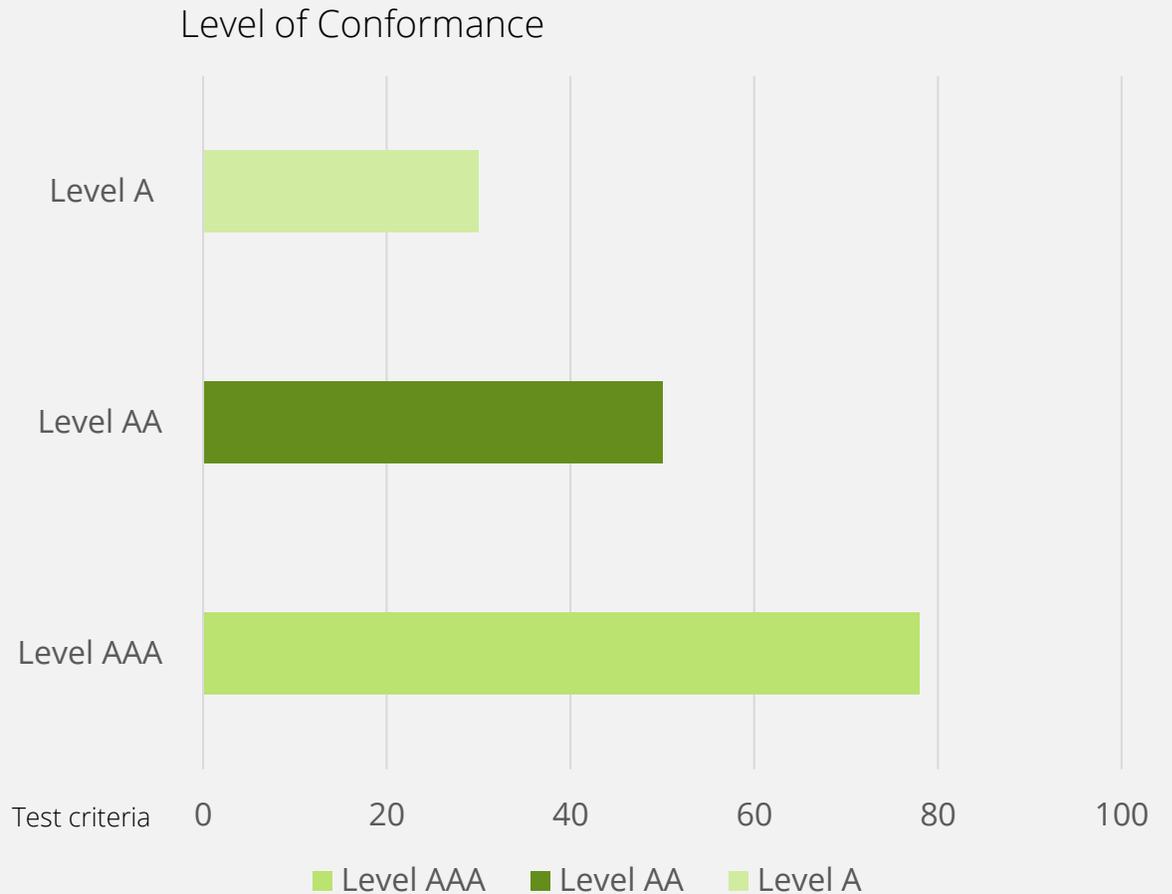


How do we define whether a website is accessible

International standard for Web Accessibility - WCAG.

The Web Content Accessibility Guidelines (WCAG) are a set of standards developed by the World Wide Web Consortium (W3C) to make online content accessible to all users. **They define three levels of conformance: Level A (minimum), Level AA (addresses the most common barriers for users with disabilities), and Level AAA (highest, more comprehensive standard).** These levels ensure that web content is perceivable, easy to use, understandable and implemented in such a way that anyone can interact with it (POUR principle).

The BFGS must fulfill the requirements of conformance Level AA (50 of 78 criteria).



The most common barriers on websites...

and how we can remove them using the criteria.

01

Text alternatives (alt texts)

Images, icons or other non-text content have no or inappropriate alternative text, meaning that screen reader users do not receive any information

WCAG text alternatives (1.1.1)



Controls that do not require text, such as clickable icons or other clickable images, require a text alternative.

For example, an arrow icon that links to the previous page should be labelled "Back" and not "Left arrow".



Any image that conveys information or helps to better understand the content of your page requires an alternative text.

Alternativtext für Bilder

✓ Richtig

Bild: Hund spielt im Park

```

```

Beschreibt: Was ist zu sehen und was passiert

✗ Falsch

Bild: Hund spielt im Park

```

```

Problem: Zu unspezifisch, nicht hilfreich

i Barrierefreiheit

Screenreader lesen Alt-Text vor. Beschreibt das Bild so, dass blinde Menschen verstehen, was zu sehen ist.

Alt-Text Beispiele

02

Poor color contrasts

Text and important UI elements do not have enough contrast to the background, making it difficult for people with visual impairments to read.

WCAG Contrast (Minimum) (1.4.3, 1.4.11)



The contrast ratio between text and background must be high enough. The required minimum contrast is 4.5:1 for texts with a font size of less than 24 px and 3:1 for texts with a font size of more than 24 px.



All graphic elements that can be interacted with (e.g., icon buttons) or that are important for understanding the page should have a contrast of at least 3:1 to the background.

WCAG Kontrast-Richtlinien

✓ AA-konform (4,5:1)

Weißer Text auf schwarzem Hintergrund
Kontrast: 21:1

Weißer Text auf dunkelblauem Hintergrund
Kontrast: 8,6:1

Schwarzer Text auf weißem Hintergrund
Kontrast: 21:1

Erfüllt: WCAG AA und AAA Standards

✗ Nicht konform (<4,5:1)

Grauer Text auf hellgrauem Hintergrund
Kontrast: 2,8:1

Gelber Text auf gelbem Hintergrund
Kontrast: 1,9:1

Hellblauer Text auf hellblauem Hintergrund
Kontrast: 3,1:1

Problem: Schwer lesbar für Menschen mit Sehbehinderungen

Kontrast-Beispiele

03

Keyboard navigation

Content or functions cannot be fully operated using the keyboard, which excludes users who cannot use a mouse.

WCAG Keyboard Accessible (2.1)



Your website must be fully operable using the keyboard. All pages must remain accessible and no functionality must be lost.

The content of your website should be accessible in a logical order using the keyboard (tab key). Normally, the tab order follows the visual order.

Example: Make all interactive elements accessible via the tab key, e.g., buttons with tabindex="0".

Tastaturnavigation

✓ Richtige Tab-Reihenfolge

1 Zum Hauptinhalt springen

Navigation

2 Start 3 Über uns 4 Kontakt

5 Name
6 E-Mail
7 Senden

Logisch: Skip-Link → Navigation → Hauptinhalt → Formular

✗ Falsche Tab-Reihenfolge

5 Versteckter Link 1 Footer Link

3 Eingabefeld ohne Fokus

2 Navigation 4 Button

Problem: Unlogische Reihenfolge, fehlende Fokus-Indikatoren

Wichtige Tastenkombinationen

Tab	Vorwärts navigieren	⇧+Tab	Rückwärts navigieren
Enter	Links/Buttons aktivieren	Esc	Dialoge schließen
↑↓	In Listen navigieren	Space	Checkboxen aktivieren

! Tastatur-Richtlinien

- Fokus sichtbar: Deutliche Umrandung oder Hervorhebung
- Logische Reihenfolge: Von oben nach unten, links nach rechts
- Skip-Links: Zum Hauptinhalt springen ermöglichen
- Kein Fokus-Trap: Alle Bereiche erreichbar

Tastaturnavigation

Next steps

01 ***Impact analysis***

02 ***Assessment***

03 ***Planning and prioritization***

04 ***Implementing accessibility***





Q&A



Thank you
for your attention

Deloitte Legal

Your Contact



Sebastian von Rueden, LL.M. (IP/IT)

Partner | Deloitte Legal | Service Area Digital Law
Certified specialist for intellectual property law
Certified specialist for information technology law

Phone: +49 211 877 255 44
E-Mail: svonrueden@deloitte.de



André Poeggel

Director | Deloitte Digital
Head of Experience Design & Digital Products

Phone: +49 211 8772 4917
E-mail: apoeggel@deloitte.de



Eva Heier

Studio Lead | Deloitte Digital
Experience Design & Digital Products
Certified Professional in Accessibility

Phone: + 49 40 3208 012 67
E-mail: eheier@deloitte.de



Deloitte Legal refers to the legal practices of Deloitte Touche Tohmatsu Limited member firms, their affiliates or partner firms that provide legal services.

Deloitte refers to Deloitte Touche Tohmatsu Limited (DTTL), its worldwide network of member firms and their affiliates (collectively, the "Deloitte organization"). DTTL (also referred to as "Deloitte Global") and each of its member firms and their affiliates are legally separate and independent entities that cannot bind or obligate each other to any third party. DTTL, each DTTL member firm and its affiliates are liable only for their own acts and omissions and not for those of others. DTTL does not itself provide services to clients. For more information, please visit www.deloitte.com/de/UeberUns.

Deloitte provides leading audit and advisory services to nearly 90% of the Fortune Global 500® companies and thousands of private companies. Legal services in Germany are provided by Deloitte Legal. Our people deliver measurable, long-term results that help build public confidence in the capital markets and help our clients transform and grow. Deloitte builds on a 180-year history and operates in more than 150 countries. Learn more about how Deloitte's 460,000 employees live the mission statement "making an impact that matters" every day: www.deloitte.com/de.

This publication contains general information only and neither Deloitte Legal Rechtsanwaltsgesellschaft mbH nor Deloitte Touche Tohmatsu Limited ("DTTL"), its worldwide network of member firms, nor their affiliates (collectively, the "Deloitte organization") are providing a professional service with this publication. This publication is not intended for use in making business or financial decisions or actions. You should consult a qualified advisor on a case-by-case basis.

No representation, warranty or undertaking (express or implied) is made as to the accuracy or completeness of the information in this publication and neither DTTL nor any of its member companies, affiliates, employees or agents shall be liable or responsible for any loss or damage of any kind incurred directly or indirectly in connection with any person relying on this publication. DTTL and each of its member companies and affiliates are separate and independent legal entities.