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INSTITUTIONAL MECHANISMS FOR CORRECTING MARKET FAILURES IN THE EUROPEAN ACCESSIBILITY ACT

Edyta ZDUŃSKA-LESEUX

Warsaw School of Economics; eleseux@sgh.waw.pl, ORCID: 0000-0001-9338-5939

Purpose: The article aims to identify and analyse the institutional mechanisms for correcting market failures embedded in the European Accessibility Act (EAA), Directive (EU) 2019/882, and to assess their consistency with the assumptions of institutional economics. The analysis focuses on market failures arising from insufficient accessibility of products and services essential for full participation in social and economic life, as well as from divergences in accessibility requirements across EU.
Design/methodology: The study applies a qualitative institutional analysis combining new institutional economics with a critical analysis of EU regulatory content. It includes an examination of EU law, institutional documents, and relevant literature.
Findings: The EAA establishes a coherent institutional framework addressing market failures resulting from the misalignment between products and services and the diverse needs of users, particularly information asymmetry, externalities, and coordination problems. By introducing minimum accessibility requirements for products and services and approximating national regulations, the EAA enhances market transparency, facilitates the internalisation of the social costs of the inaccessibility of products and services, and reduces regulatory fragmentation, which has previously increased entry barriers and adjustment costs.
Research limitations: The study is institutional in nature and does not include an empirical assessment of regulatory outcomes. Although the provisions implementing the EAA have been applicable since 28 June 2025, the adjustment process among enterprises and the level of regulatory awareness remain uneven, which justifies further empirical research of a sectoral and comparative nature.
Practical and social implications: Conceptualising the accessibility of products and services within the regulatory framework of the EAA as a mechanism for reducing market inefficiencies may support the design and development of coherent regulatory frameworks, foster more predictable business conditions, and contribute to the shaping of more inclusive public policies.
Originality: The article interprets the EAA through the lens of institutional economics and conceptualises the regulation as a mechanism for correcting persistent market failures rather than merely a set of technical requirements. The study fills a gap between dominant legal analyses and the economic perspective on the accessibility of products and services.
Keywords: accessibility, market failures, institutional economics, European Accessibility Act.
Category of the paper: Research paper.

1. Introduction

Ensuring the ability to use products and services regarded as essential constitutes one of the conditions for full and equal participation in social and economic life. A lack of accessibility in this area reduces economic activity among many individuals, deepens exclusion, and leads to an unequal distribution of costs and benefits within the economy. Empirical analyses based on international and European data indicate that among people facing functional and environmental barriers, lower levels of labour market participation and lower household incomes are more frequently observed (European Commission, 2021; OECD, 2022; Mussida, Sciulli, 2024; Krok, 2024).

From the perspective of institutional economics, the lack of accessibility of essential products and services may be interpreted as a manifestation of persistent market failures that market mechanisms are unable to correct on their own. Information asymmetry, externalities, and coordination difficulties mean that accessibility often remains outside the economic calculus of many market entities, even under conditions of developed competition. In this view, market failures are not incidental, but rather result from incomplete or inconsistent institutional rules that shape economic incentives and the conditions under which decisions are made (North, 1990; Williamson, 1985; Ménard, 2018).

An additional factor exacerbating these market failures is the diversity of national regulations, which increases adjustment costs and regulatory compliance costs for enterprises and hinders the achievement of economies of scale. The fragmentation of accessibility requirements raises regulatory risk and weakens the efficiency of the internal market. From the perspective of institutional economics, these phenomena may be interpreted as a result of increasing uncertainty and transaction costs, which contribute to the persistence of inefficiencies and limit the developmental potential of the economy (North, 1990; Williamson, 1985).

In response to these problems, the European Union adopted Directive (EU) 2019/882 on the accessibility requirements for products and services (European Accessibility Act – EAA). This regulation introduces minimum accessibility requirements for products and services, as well as mechanisms for the approximation of Member States' laws, thereby reducing regulatory fragmentation and affecting the conditions under which products and services are placed on the market. In European Union institutional documents, the EAA is identified as part of a broader strategy aimed at enhancing the participation of persons facing barriers in access to products and services and improving the functioning of the internal market (European Commission, 2015; European Parliament, Council of the EU, 2019; European Commission, 2021).

Most existing analyses of the European Accessibility Act focus primarily on its legal and social dimensions, while its economic significance remains less explored. The aim of the article is to identify and analyse the institutional mechanisms for correcting market failures embedded in the EAA and to assess their consistency with the theoretical framework of institutional economics. The main research question concerns how this regulation affects information asymmetry, externalities, and coordination problems related to the accessibility of products and services, as well as the extent to which these mechanisms are consistent with the theoretical framework of institutional economics.

The study adopts a theoretical and qualitative research approach characteristic of institutional analysis. It is based on a critical analysis of the European Accessibility Act. This analysis is supplemented by an examination of European Union institutional documents and the literature on institutional economics, in particular new institutional economics (NEI). This approach enables the identification of institutional mechanisms embedded in the EAA and their interpretation in light of market failures as conceptualised within institutional economics.

2. Institutions and market failures in institutional economics

Institutional economics challenges the assumptions that market participants have unrestricted access to information and that market mechanisms are costless and self-regulating, assumptions that long dominated neoclassical analyses (Coase, 1937, 1960; Williamson, 1985; North, 1990). A key reference point for this critique is the work of Ronald H. Coase, who demonstrated that the market functioning entails positive transaction costs, which constitute a persistent element of economic exchange processes. Coase defined these as all costs associated with using the price mechanism, including, inter alia, the costs of acquiring information, negotiating the terms of exchange, and enforcing contractual obligations (Coase, 1937). These considerations were further developed by Oliver E. Williamson (1989), who defined transaction costs as the relative costs of planning, adapting, monitoring, and executing transactions. Douglass C. North (1990), in turn, understood them as the costs of specifying the attributes of the goods exchanged, protecting property rights, and safeguarding and enforcing contracts. The market, therefore, is not an abstract mechanism of resource allocation, but a process embedded in specific institutional frameworks that determine the conditions of exchange as well as the scale and persistence of market failures.

One of the most frequently analysed market failures is information asymmetry between participants in market exchange. Limited access to information, difficulties in its verification, and uncertainty regarding the future behaviour of other entities increase transaction risk and weaken the market's capacity to effectively coordinate economic activity. Williamson (1985) points out that information asymmetry, alongside bounded rationality and the potential

opportunism of entities, constitutes one of the key sources of positive transaction costs. This relationship is confirmed both in classical analyses of adverse selection (Akerlof, 1970) and in contemporary studies on the functioning of economic and political institutions, in which information is treated as a costly and unevenly distributed resource among market participants (Ménard, 2018; Acemoglu, Robinson, 2019).

Externalities also constitute a significant source of market failure. They arise when the production or consumption decisions of some entities affect the welfare of others, and these effects are not reflected in market prices. As a result, private calculations omit costs or benefits borne by third parties who are not participants in a given transaction. Consequently, divergences emerge between private and social calculations. However, as Coase (1960) argued, the mere existence of externalities does not in itself justify state intervention. Under conditions of zero transaction costs, parties could negotiate and reach efficient outcomes regardless of the initial allocation of property rights. In real-world conditions of positive transaction costs, however, the negotiation process faces significant constraints that prevent parties from reaching agreement and fully internalising the effects of their actions.

At this point, the importance of institutions becomes evident. Institutions are understood as formal and informal "rules of the game" that structure economic and social interactions. Douglass C. North (1990) emphasises that institutions shape economic incentives and reduce the uncertainty associated with exchange processes. They stabilise the expectations of market participants, enabling economic exchange to function under conditions of incomplete information. In this perspective, market failures are not incidental, but result from incomplete, inconsistent, or ineffective institutional frameworks. Analysing these failures therefore requires taking into account how existing rules influence the behaviour of entities and the structure of economic processes.

The institutional perspective proposed by Douglass C. North is further developed in the work of Oliver E. Williamson (1985). He argues that economic decisions are made under conditions of bounded rationality and the potential opportunism of market participants. These factors hinder stable coordination and give rise to contractual problems, thereby increasing the importance of formal institutions as instruments for reducing risk and structuring market relations. Contemporary strands of institutional economics continue this approach, highlighting the role of public regulation as a tool for shaping market incentives in areas where market mechanisms prove systematically insufficient, particularly in the context of complex social objectives and long-term development challenges (Rodrik, 2007; Mazzucato, 2018).

From the perspective of institutional economics, information asymmetry, externalities, and coordination problems constitute an interconnected set of market failures. They limit the ability of market mechanisms to generate outcomes consistent with the social welfare. Under such conditions, formal institutions play a crucial role. Through the establishment of rules, obligations, and enforcement mechanisms, they shape the course of economic processes.

This perspective provides a basis for analysing regulatory solutions addressing the problem of the accessibility of products and services.

3. The European Accessibility Act as a formal institution

The European Accessibility Act was adopted in the form of Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 and constitutes part of the secondary law of the European Union. The Act sets regulatory objectives while leaving Member States discretion as to the form and means of their implementation, in accordance with Article 288 of the Treaty on the Functioning of the European Union (European Union, 2012). The EAA operates within the legal framework of the European Union's internal market. It reflects a model of regulatory harmonisation that does not lead to the full unification of national laws, but instead establishes a common normative framework applicable across the EU (see Zeitlin, 2025).

The adopted model of harmonisation implies that the unification of accessibility requirements for products and services has not been treated in the EAA as an autonomous objective of the Directive. Rather, it constitutes an instrument for achieving a higher-order objective. That objective is to improve the functioning of the internal market, as stated *expressis verbis* in Article 1 of the Directive (European Parliament, Council of the EU, 2019). The Directive pursues this objective by reducing regulatory divergences between Member States in the area of accessibility requirements for products and services. This mechanism is intended to eliminate and prevent barriers that hinder the free movement of the products and services covered by the Directive. Consequently, accessibility is linked to the principles governing the functioning of the internal market and to the conditions for conducting business activities in the European Union, rather than being confined solely to the social or technical sphere (see Drabarz, 2020; Weatherill, 2020).

The material scope of the EAA covers categories of products and services explicitly listed in Article 2 of the Directive. The EAA applies to selected digital and electronic products, including, inter alia, payment terminals, ATMs, self-service check-in devices, ticketing machines, interactive information terminals, personal computers, devices used for the provision of telecommunications services, e-readers, and equipment enabling access to audiovisual media services. It also covers services considered particularly important for everyday functioning, such as passenger transport services (in specified areas), retail banking services, e-commerce, telecommunications services, and e-books together with related software (European Parliament, Council of the EU, 2019). These are widely used products and services which the EU legislator has recognised as essential for accessing the internal market and for participating in social and economic life on an equal basis (Zduńska-Leseux, Szypulewska-Porczyńska, 2024).

Their inclusion within common accessibility requirements is not general in nature, but is limited to those market segments explicitly identified in the provisions of the Directive.

The Directive also specifies the entities to which the obligations arising from the EAA are addressed. These include manufacturers, authorised representatives, importers, distributors, and service providers, insofar as they offer products and services covered by the Directive. The provisions differentiate the scope of responsibility of individual entities, taking into account their role in the processes of design, placing on the market, and service provision. Such differentiation allows regulatory obligations to be assigned at different stages of economic circulation and structures the relationships among market participants.

The EAA establishes binding accessibility requirements. These define the minimum requirements that must be met by the products and services covered by the Directive, in accordance with Annex I of Directive 2019/882. These requirements form part of the binding legal framework of the internal market and are subject to implementation into the national legal systems of the Member States. Their application is not optional, which confirms the normative anchoring of accessibility in European Union law (see Waddington, 2011).

The Directive provides for mechanisms of supervision and enforcement of the national provisions implementing it. Member States are required to establish systems for monitoring compliance of products and services with accessibility requirements and to introduce sanctions for violations of these provisions (Article 30). The Directive does not specify in detail the nature of enforcement measures, leaving their design to national legislators. It does, however, indicate that sanctions should be effective, proportionate, and dissuasive, in line with established legislative practice in the European Union.

The EAA functions as a formal regulatory institution of the internal market. It establishes binding rules concerning the accessibility of products and services and defines the framework of responsibility of economic operators and public authorities. The Act shapes the conditions under which accessibility becomes an integral element of the rules governing economic activity in the European Union and remains part of the broader legal order of the internal market.

4. Mechanisms of the European Accessibility Act and the correction of market failures

An analysis of the European Accessibility Act from the perspective of institutional economics indicates that the Directive affects several interrelated market failures. These are failures that, in the absence of institutional intervention, are not effectively corrected by market mechanisms (see Michtner, 2025). This applies in particular to information asymmetry, externalities associated with the mismatch between products and services and users' needs, and coordination difficulties resulting from the diversity of national regulations.

These mechanisms do not occur in isolation but reinforce one another, limiting the efficiency of resource allocation and perpetuating barriers to market access. The EAA introduces formal rules that modify the conditions under which economic decisions are made and reshape the structure of economic incentives for both enterprises and users.

One of the key areas of the EAA's impact is the reduction of information asymmetry. The accessibility of products and services constitutes a quality attribute that is difficult for users to assess prior to purchase or use (Volkmann et al., 2025). In the absence of clear accessibility requirements, consumers make decisions based on incomplete information, which leads to an informational advantage on the part of producers and service providers and distorts market mechanisms. The introduction of minimum accessibility requirements, together with related information obligations, enhances market transparency and facilitates the comparability of offers. In this way, the EAA stabilises user expectations and reduces decision uncertainty. Indirectly, this leads to a reduction in information costs incurred in exchange processes, which, from the perspective of institutional economics, constitute an important source of market inefficiencies (Williamson, 1985; North, 1990). As a result, market mechanisms operate under conditions of greater predictability, supporting more rational consumer and investment decisions (European Parliament, Council of the EU, 2019).

The impact of the EAA on negative externalities arising from the inaccessibility of products and services is also significant. The inability to use essential products and services generates consequences that extend beyond market relationships between enterprises and users. It limits participation in education, the labour market, and social life, and reduces both autonomy and quality of life. The costs of such conditions are not reflected in firms' economic calculations. They are dispersed and, as a consequence, may lead to increased pressure on social security systems and public institutions. Imposing an obligation to ensure accessibility shifts part of the adjustment burden onto producers and service providers. This promotes the internalisation of external effects and a more efficient allocation of social resources, in line with the institutional approach to correcting market failures (Coase, 1960; European Commission, 2015).

An important dimension of the EAA's impact is also the reduction of coordination difficulties resulting from regulatory fragmentation. Prior to the adoption of the Directive, enterprises operating in the EU market faced diverse national regulations concerning the accessibility of products and services, which required them to adapt their offerings to different legal systems. This led to higher adjustment costs, increased regulatory risk, and limited opportunities for market expansion. The introduction of minimum accessibility requirements for products and services, together with the approximation of Member States' laws in this area, reduces these barriers. It increases the predictability of business conditions and facilitates investment planning. Moreover, the reduction of regulatory fragmentation contributes to lowering entry barriers to new markets and simplifying procedures for placing products and services on the market. As a result, it strengthens the efficiency of market mechanisms at the supranational level (North, 1990; Ménard, 2018).

The approximation of regulations concerning accessibility requirements for products and services also contributes to expanding the potential market. Designing products and services in accordance with minimum accessibility requirements enables their use by a broader group of users, which increases demand and allows enterprises to achieve economies of scale. Accessibility thus ceases to be a niche factor and becomes an element influencing market size and dynamics (Zduńska-Leseux, Szypulewska-Porczyńska, 2024). From an economic perspective, the regulation reduces entry barriers, supports the mobility of products and services, and enhances competition—not through price reduction, but through improvements in the quality of offerings. These effects are therefore consistent with the institutional understanding of the market as a system of rules shaping the behaviour of economic entities.

The mechanisms provided for in the European Accessibility Act also affect the structure of economic incentives shaping firms' strategies. The introduction of mandatory accessibility requirements changes the cost–benefit calculus associated with the design of products and services, making accessibility a condition for market participation. The regulation encourages economic entities to incorporate accessibility already at the design stage, which fosters the development of solutions based on universal design principles as well as organisational and technological innovation. At the same time, the stability and predictability of the regulatory framework reduce investment uncertainty and facilitate long-term business planning, thereby stabilising relationships among market participants (Williamson, 1985; Rodrik, 2007).

The analysis of the mechanisms provided for in the EAA demonstrates that the Directive affects the functioning of the market in a multidimensional manner, simultaneously addressing the key market failures identified in institutional economics. The introduction of minimum accessibility requirements and the approximation of Member States' laws lead to changes in the conditions under which economic decisions are made and to modifications in the structure of economic incentives. This allows the European Accessibility Act to be interpreted as a formal institution that corrects persistent imperfections of market mechanisms.

5. Conclusions

The analysis indicates that the European Accessibility Act can be interpreted as a formal institution correcting persistent market failures. These failures arise from the limited ability to use products and services regarded as essential for full and equal participation in social and economic life. The source of these limitations lies in the inadequate accessibility of products and services in relation to the diverse capabilities and needs of users, which leads to the exclusion of part of the potential market. An additional factor reinforcing these imperfections is the divergence in accessibility requirements for products and services across European Union Member States. From the perspective of institutional economics, the regulation should therefore

not be seen merely as a set of technical requirements, but as an element of the institutional structure influencing the behaviour of market participants and the conditions under which economic decisions are made.

In particular, the analysis demonstrates that the mechanisms provided for in the EAA address the key market failures identified in the institutional economics literature, such as information asymmetry, externalities, and coordination problems. By introducing minimum accessibility requirements for products and services and approximating Member States' laws, the regulation enhances market transparency, facilitates the internalisation of the social costs associated with the inaccessibility of products and services, and reduces regulatory fragmentation, which previously increased entry barriers and adjustment costs for enterprises.

An important result of the analysis is the identification of the EAA's impact on the structure of economic incentives, through modifications to the cost–benefit calculus of economic entities. Accessibility ceases to be treated as an optional or niche feature and becomes a condition for market participation, as well as a factor shaping design, investment, and organisational strategies. In this sense, the regulation contributes to the stabilisation of market expectations and strengthens the predictability of the institutional environment.

From an economic perspective, it is also important that correcting market failures in the area of accessibility leads to the expansion of the potential market and enables the achievement of economies of scale. The regulation not only mitigates the negative social consequences of the inaccessibility of products and services, but also creates conditions conducive to increased economic activity and more efficient resource allocation. Accessibility of products and services thus emerges as a category of clear economic significance, rather than solely a social one.

The findings indicate that the European Accessibility Act is consistent with the logic of institutional economics, according to which formal institutions play a key role in correcting imperfections in market mechanisms. A limitation of this article is its theoretical character and the lack of empirical verification of the effects of the implementation of the EAA. At the same time, the analysis opens avenues for further research on the effectiveness of the Directive's implementation, its differentiated sectoral impacts, and its long-term effects on the competitiveness and innovativeness of enterprises in the European Union. In particular, empirical research appears warranted on firms' adjustment costs, the level of compliance of products and services with accessibility requirements, and changes in demand structures resulting from increased accessibility. A further promising direction for research is comparative analysis of the ways and extent to which the Directive is implemented across Member States and its impact on the functioning of the internal market.

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