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**TESTIMONY OF FRANCES W. WEST
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BEFORE THE U.S. SENATE
COMMITTEE ON FOREIGN RELATIONS
EUROPEAN AFFAIRS SUBCOMMITTEE
ON
U.S. – E.U. REGULATORY COOPERATION ON EMERGING
TECHNOLOGIES**

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Good afternoon. I am Frances West with the IBM Corporation. It is my pleasure to appear today before you on behalf of the European-American Business Council (EABC) and the Information Technology Industry Council (ITI), two organizations with whom IBM has a longstanding relationship.

We appreciate the opportunity to speak to the Senate European Affairs Subcommittee on the topic of accessibility – a subject we believe is strongly tied to enhancing human capacity in the transatlantic region. Specifically, we will share our views on the impact information technology (IT) accessibility policy can have on the transatlantic market, how certification and labeling proposals can negatively impact the current growth and development of accessibility initiatives, and our recommendations for the U.S. government to work with the European Union towards the same goal of a global accessibility standard for technology.

Introduction

IT Accessibility, until recently seen as an emerging market and technology issue, is going mainstream, fueled by powerful demographic and social trends.

Between 750 million and one billion of the world's six billion people have a speech, vision, mobility, hearing or cognitive impairment, according to the World Health Organization. And accessible information technology is one solution to assist all these people in connecting to the world around them.

In the U.S., more than 54 million people have disabilities. These numbers are increasing, in part, because while people are living longer and health care is continually improving, this has not fully ameliorated the incidence of acquired disabilities as a natural part of the aging process. According to AARP, one in every four people will acquire a functional disability by age 50, one in two people by age 65.

According to the Center for Strategic and International Studies in a 2003 report, the rapid aging of the populations of developed countries poses major challenges for global prosperity and stability during first half of the 21st century. In countries like Italy, Spain and Japan, by year 2040, 45% of the population will be over the age of 60. This changing demographic further elevates the importance of accessibility.

The impact of accessibility affects society as whole. As this emerging trend continues, society and industry can realize economic returns if individuals are allowed to benefit from product, services and solution innovation and if this innovation is enabled by governmental policies.

IBM, for example, is taking a holistic approach to accessibility. Our focus on accessibility encompasses our roles as a developer and manufacture of IT products, a service provider in the IT industry, a buyer of components, products and services and an employer of over 330,000 people worldwide, looking to attract and retain the best talent in a competitive industry. To each of these roles, we bring a philosophy that strives to enhance human capacity by enabling and easing information access for the largest number of people – especially those whose disabilities restrict direct access. Frequently, this involves the creation of special products or modifications of the products that we design and manufacture. But, to achieve the greatest benefit requires more than just products.

We believe that making technology accessible to all is a need that is best met by technologies and solutions that are committed to interoperability based on open standards, and have been developed via collaborative processes. Accessibility is enhanced by open standards that permit the free exchange of information, encourage innovation and give businesses, governments, schools and social agencies more flexibility to customize solutions and meet their own individual requirements.

IBM workforce diversity is a core commitment and we have long viewed accessibility as part of this corporate belief. For example, IBM hired its first disabled employee in 1914, fully 76 years before the ADA was enacted. We accelerated accessibility related investments, however, when the U.S. government took a leadership role in establishing Section 508. We believe that Section 508 is a comprehensive and meaningful framework to support the

industry's work in this area. We, along with ITI, EABC and our industry colleagues like SAP applaud the U.S. Government's foresight in this issue.

Background

The need for accessible information technology is acute across the globe. The global number of people with disabilities is expected to grow as the population ages. In response to this reality, the U.S. led the world in developing a policy for IT accessibility when it passed Section 508 of the Rehabilitation Act in 1998, a procurement law mandating that all IT purchased by the federal government be accessible. This law, with technical specifications defined within it, has had an impact far beyond the U.S. federal government and in fact, has global reach.

However, we have a concern that the positive impact of Section 508 may be disrupted or side tracked. Governments in Europe are currently exploring or actually establishing national or regional, IT accessibility policies. Some of these policies are similar to Section 508, but many of them are different. These governments are considering procurement policy now to help develop accessible e-government systems. This is good for the technology sector, for the people who need accessibility and for the marketplace. But without a harmonized approach to accessible IT procurement, each government could decide to adopt a different technical standard, thereby fragmenting markets, limiting accessible choices, reducing incentive for research and innovation by companies, but most importantly, undercutting the very real contributions we need persons with disabilities to make..

Section 508 has been important not only to those requiring accessibility but to the whole technology sector. Since the passing of Section 508 into law, the technology industry has invested significant technical and human resources in bringing products into compliance. IBM, for example, has made significant investments in our internal infrastructure as well as our design and testing processes.

- We have developed an extensive set of techniques that guide our development teams in implementing Section 508 requirements and our test teams in validating that the requirements have been properly met.
- We have integrated accessibility tasks into all phases of our mainstream development processes. Accessibility requirements are considered from the very beginning during the concept phase of product development.
- We have developed an extensive reporting and tracking system for the accessibility of all our products. Once a product is ready for announcement, a Section 508 Voluntary Product Accessibility Template (VPATs) is created.

Fulfilling the true mandate of Section 508 is not easily accomplished – it takes systematic and corporate wide effort in order to be realized. Industry has made much progress but there is more to do. Given the broad implications accessibility has on society and the population in general, industry is looking to move beyond compliance and bring innovative solutions to the marketplace. This is where we can use your help.

U.S.-E.U. Regulatory Harmonization is Needed

If you are blind and use a screen reader to surf the Web, it should read sites from the U.S. government as easily as it reads ones posted by the government of Sweden. This can only be done if there is agreement among governments on the policy for accessibility.

Without transatlantic harmonization of global IT accessibility approaches in policy and standards, all consumers - or more importantly the people who need the technology most - lose. If differing regional or country technical requirements are mandated, industry is forced to focus on multiple compliance developments rather than pushing beyond and investing in new technologies and solutions.

Take just Web site accessibility and compliance as an example. IBM has approximately 5 million internal and external Web pages. If it had to bring all of its Web pages into compliance with *multiple* accessibility mandates, it would be economically and practically impossible.

If different standards are enforced, as one can see in the example just cited, the cost of implementation would be astronomical. Companies would be forced to choose whether they have the resources to develop unique products and services to meet varying specifications. Or, more likely, they might choose not compete in certain markets at all. If, on the other hand, the European technical specifications for accessibility are harmonized with those globally, it would more than double the market for conforming IT products and would create an even greater incentive for manufacturers to compete on the basis of accessibility. Ultimately, society will reap the greatest benefits in the form of more involved citizens, more contributing workers and more enabled individuals.

What the technology sector seeks is for the U.S. government to work with the European Commission to ensure that any new accessibility policy removes existing barriers and does not create any new barriers to the accessibility market.

Third Party Testing or Certification

The European Commission will publish its Communication on eAccessibility in the autumn of this year; it is expected to discuss the introduction of accessibility compliance testing or certification by a third party. Based on the technology sector's experience with third party testing over the years in other venues, and given the resources involved in accessible product design, development, marketing, and support, third party certifications present significant problems and draw backs:

- Third party certification tends to freeze innovation by driving manufacturers to focus their attention and resources on passing certification tests rather than on new research and development that can lead to new and innovative ways to incorporate accessibility features into IT.
- Only the manufacturer has the flexibility to test and evaluate components as they are developed in-cycle, whereas third-party testing is usually performed at the end of the development cycle, thereby increasing the costs of product modifications or redesigns. External certification increases manufacturing costs considerably; it would lengthen the product development cycle; and can not only delay the introduction of new products into the market, but also potentially slow the procurement process. This benefits no one, especially the end user.
- Third-party testing across the range of accessibility products is impractical due to the inherent subjectivity, ambiguities, and complexity of the technical accessibility standards. In some cases it is technically infeasible, like trying to measure 'equivalent facilitation' or difficult to be objective when determining if a Web page uses simple language to convey a concept.
- This method of testing demands that a certifying organization rely on open, transparent and recognized objective technical criteria and testing protocols, yet these criteria and protocols do not exist. For example, there are no established Section 508 objective conformance criteria, and it is highly unlikely that they could be developed in light of the broad range and multifaceted functionality of IT products currently in the marketplace.
- An additional complexity is that third party testing organizations, in using any such objective conformance criteria and testing protocols required for IT products, would also have to account for IT interoperability with assistive technologies. The assistive technology issue is particularly problematic, as there are many different assistive technology products, and they are not all designed to work on all systems.

- Another problem with this approach is the scope and depth of technical expertise that would be needed by external testing organizations.

In light of the significant technological and operational complexity in this area, and the negative impact it would have ultimately on the user, third party testing is not an approach that will increase IT accessibility or add value to products or services. For whether or not a testing organization successfully evaluates a product's accessibility, the manufacturer in either case remains responsible and liable for the accessibility of the product.

We do support, however, a voluntary system of self certification that strengthens the incentive to address accessibility early in the product design phase, and enables innovative products to be brought to the marketplace more quickly. Evaluation of products in-house encourages interoperability and collaborative problem solving between hardware, software, and assistive technology vendors, and also reinforces a corporate commitment to accessibility. This self-declaration approach has been implemented successfully in Europe and elsewhere on such critical matters as product safety and environmental attributes (e.g. electrical shock, flammability standards). In the U.S., the Voluntary Product Accessibility Template or VPAT has been a successful part of the procurement process to report compliance with the technical requirements of Section 508.

Product Labeling

There is discussion in the EU about developing a quality mark or labeling for accessibility on IT products and services. We have concerns regarding potential requirements for accessibility labeling or an accessibility mark and the effect it will have on the development of IT products.

Given the enormous range of functional limitations that exist, even within a single disability or impairment type, it would be nearly impossible to create a label or mark that could provide sufficient information to buyers regarding a product's conformance with evolving accessibility technical and procurement standards. Indeed, it could raise false expectations for consumers and thereby generate significant legal and practical concerns for manufacturers. We see labeling as having the following drawbacks:

- Consumers and users can misperceive labeling proposals as a simplistic and complete solution to a complicated technology issue that only due diligence by the developers can resolve. A quality mark can never replace the in-depth work that site developers and owners should be doing in their creation of pages.
- Labeling proposals would not provide sufficient information regarding conformance with developing accessibility standards given the various

differences among disabilities and even within a single disability or impairment.

- Labeling proposals run the risk of setting false expectations for consumers. For example, with Websites, most consumers do not recognize that an accessible web page is only part of a comprehensive solution to deliver an accessible experience to the end-user. Support is also needed in the web browser and the assistive technology. Labeling a Web page as accessible may not give the consumer accessibility if the assistive technology does not perform as expected. False expectations from labels may give rise to significant legal and practical concerns for manufacturers and employers.
- Labeling proposals would be difficult to organize and implement for most products, but especially for Web pages that are updated frequently - some as often as many times an hour.

Finally, product labeling is expensive. If a government entity were to embrace unique accessibility labeling requirements for products sold in a specific marketplace, the business case for selling in that marketplace would be lessened, reducing competition and consumer choice. And again, the people most in need of this technology would lose.

Conclusion

IBM, on behalf of the IT industry, requests the assistance of this committee in ensuring that all who need accessible technology get the best our industry has to offer. We have three specific requests:

First, given the broad reach of the technology and potential impact on all citizens, IT accessibility policy demands attention from the highest levels of government. We hope that the profile and importance of IT accessibility can be raised whenever there are discussions between U.S. and E.U. leaders.

Second, we suggest establishing an early warning process where Congressional and Parliament members can work in tandem to examine regulatory convergence issues such as IT accessibility. We believe that with increased attention from the leadership and proper oversight, transatlantic agency activities with regard to accessibility standardization can be accelerated.

And third, we request that the U.S. government work with the European Commission to continue the pursuit of a harmonized approach to accessibility.

In closing, IBM shares the belief with EABC and ITI that IT accessibility is a topic that touches not just people with disabilities, but increasingly the population at large, as we all will experience some type of disability the older we get and the

longer we live. We therefore need to work towards a global standard that is open, harmonized to existing approaches, and promotes an IT environment that enables interoperability. This would foster innovation, unite the market place, and create a border free and barrier free information society.

Finally, at IBM, we envision an environment in which all people can fulfill their highest capacity, regardless of ability or disability. Currently, all lines of business within IBM are involved in inventing and developing technologies, products, services, solutions that will benefit people with diverse capabilities. We are engaged with governments and the private sector in first-of-a-kind enterprise transformation initiatives that will result in a more inclusive society; a society where human and societal potential can be optimized. In essence, we are striving to deliver “innovation that matters to the world,” a corporate wide value. And we think enhancing human capacity through accessible technology and solutions is an innovation that matters.

But, this vision can only be achieved through active collaboration between industry, government and the citizenry. We therefore appreciate opportunities such as today's hearing for advancing this dialogue.

Thank you for your attention and I look forward to answering your questions.

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