Robin:

Hey guys, we have seen the impact that the public sector regulations that was EU law now brought into UK law is having here in the UK. It's finally shifted the needle, like the Equality Act and the DDA. Before it never did and we were going to be getting the European Accessibility Act but Brexit got in the way. I'm talking about it with expert Heather Burns, check it out.

Heather Burns:

Morning Robin. Thank you for having me on today. I am a freelance tech policy regulation specialist from Glasgow.

Robin:

Brilliant and you have written an article awhile ago about why it's a shame that the European Accessibility Act is not going to be enshrined in UK law as the Public Sector Regulations Act was. Do you want to just say a little bit about what you said in that article and what the landscape's like today?

Heather Burns:

Shall we perhaps back up a step and refresh our audience on what the European Accessibility Act is all about?

Robin:

Absolutely. Please do.

Heather Burns:

It is a piece of legislation that took a long time coming, but it is about creating a level playing field for standards for products and services. So things like your TVs, your ATMs, your public transport machines, ticket machines on public transport, even eCommerce, your gadgets, your things like that. The idea is that people with disabilities, wherever they are in Europe can just plug in their gadgets, buy a new TV, walk up to a ticket machine and know that they will be able to do that because everything has been built on a certain common set of standards and principles. So what the European Accessibility Act really was was about standards. It wasn't about creating a new set of rules, it was just about saying here is the basic legal standard that you must follow.

Robin:

And with the Public Sector Regulations Act, which has become UK law because it was enshrined in our legislation prior to Brexit, there was something there around clarification on what web accessibility would look like. So obviously in the UK we've had the Equality Act. If you're talking about employees and the systems that they use at work, you've obviously got employment law that's relevant as well. And all of that law has been around for a while and yet still in 2020, by my estimation anyway, less than 10%, single digit figures of websites even meet single A compliance. So it's a pretty rough landscape out there. So the legislation that exists at the moment hasn't really borne fruit or got traction. And yet the Public Sector Regulations, which provided that clarity at least for websites and digital properties relating to the public sector and organizations that supply to the public sector suddenly had a effect.

Robin:

We were hoping that you'd have a similar impact when if the European Equality Act came into effect, because that would affect a much broader number of sectors and physical gadgets as well. And I think that the main, and tell me what your thoughts are on this, but the main difference with the public sector regulations act was that it was enforced.

Heather Burns:

It was.

Robin:

It had [crosstalk 00:03:35] body who were monitoring and reporting, or bodies and it was finally looking like the government would actually be mandated or would mandate themselves to do something proactive and active in the area of enforcement. That's why all the public sector bodies, higher education institutions, et cetera, instantly sat up and... Well not instantly because they actually left it right till the last minute in most cases and are still kind of playing catch up. But yeah, we had loads of activity and we were hopeful that that would be the same if the European Act came in.

Heather Burns:

And this is a really classic example of how what we were told about how leaving Europe would streamline and simplify regulations, it's actually going to make it harder, because there are certain aspects of our lives that there will be a piece of regulation on the books and now there are certain aspects of our lives that there will not be that piece of legislation. So the question then becomes, what are we as a nation outside of Europe going to do to fill that gap? Everyone says, "Oh, we'll be able to take back control of our laws and everything." Well here we are now. Nobody has proposed any alternative that would be equal to or better than the European Accessibility Act. There's just crickets chirping right now, Robin.

Robin:

Don't you think that with all that Brexit implies and this ridiculously short time frame, or let's hope it's a good amount of time to get a decent set of deals through, but we've got till the end of the year, there's all these bigger pictures that need to be filled in. This isn't going to be on anyone's agenda for a very long time, is it?

Heather Burns:

It absolutely will not be. And the issue that you've discussed about the European Accessibility Act is that it falls into that little gap, which several pieces of European digital legislation can are in on a couple of other issues such as privacy and copyright that the legislation was passed, but the transposition period where it normally would have had to be transposed into UK law falls outside the Brexit transition period. So if this had been passed or if things had been different, we would be working on transposing this into national law. Which again, this isn't anything new or unique. This is just creating the legal basis for the minimum set of product and service standards. Now because the transposition date for the Accessibility Act is past the Brexit transition deadline, whether or not the UK decides to put it into domestic law is entirely optional. And I am going to make a bet here and say that it is not going to happen.

Heather Burns:

There are two reasons for that. One is that in the many years that the European Accessibility Act was taking its shape in all the committee processes in Europe, hate to say it, but the UK was very much the bad guy in the room. The UK was the delegation which was getting the legislation watered down and weakened in a constant obsession over how much will this cost British businesses. And then when the legislation actually came up for a vote, the UKIP block overwhelmingly voted against it. So it's a classic example of this all or nothing view of Europe as the bad guy regardless of the substance, so that the UK has actively worked within Europe to water down and to try to avoid basic accessibility standards. Based on that, and the fact that the transposition deadline is outside the transition deadline, I don't think we will be adapting this into domestic law.

Heather Burns:

Unless, and you hinted at this a minute ago, trade deals. It may come to the point where the fact that we are going to be going our own on accessibility standards of all things becomes a matter for a trade deal. How can disabled people from Europe come to visit UK as tourists when they maybe can't roll up their wheelchair to an ATM or they can't get a ticket on the tube or they can't even book the tickets at all?

Robin:

And conversely, if we're providing products for the mainland, we are going to have to comply with those guidelines, so will they provide two levels of service or two levels of inclusion in their products? One for the home market, one for the... It doesn't make sense, does it, to have a two speed marketplace in this way?

Heather Burns:

It's this league of gentlemen scenario where we will have British goods for British people, and that is something that doesn't benefit anybody. So we need to encourage the dialogue on this to be sensible, and realistic, and positive and help policymakers to understand that just because this piece of legislation came from Europe, it's not evil and it's not bad and it's not over-regulating British businesses. It's common sense that you do not want Europe, excuse me, the United Kingdom to be a semi accessible island off the coast of Europe. So I think disability rights groups yourselves are going to have a little bit of work to do to encourage this dialogue to go in a positive direction, whether that's through trade deals or just common sense human rights and disability law. And as I said if this is our opportunity to go our own way outside of Europe, show us the evidence, show us the draft laws you'd like to make to enshrine accessibility rights in UK law outside Europe, because they have produced nothing yet.

Robin:

It's very unlikely, like you've said, that our homegrown legislation is going to be anything approaching what they have, almost on principle. That we are out, we don't want to... We're free of the shackles of Europe and we can do things, we can be more agile, we can be more competitive, et cetera. And whilst we know that inclusive products are better for everyone, there's significant ROI, return on investment, so if this is a savvy thing to do from a commercial point of view, competitiveness. But they won't see it that way, and that's why I've always been calling for more proactivity from the government. Where are the traffic wardens or tax inspectors of the internet that actually make people feel like that law applies to them? Because it will make for better services, it will help UK PLC, but the reason why I've been calling for that all this time is because the carrots alone haven't been working. It's, would you say, a bleak period ahead for... Will we have to buy all our things in from Europe to make sure that we a better level of service? Obviously we haven't got any control over what ATMs or public kiosks the companies choose to employ.

Heather Burns:

I think you're right that the situation is bleak and in terms of enforcement and the meaningful implementation of these laws that you are looking for, this is not going to happen under a conservative administration that views everything as big government and interference. What I would advise people to do is take a look at the European accessibility act in terms of the product and service standards that it is putting into law and use those standards as the baseline for your work. Whether you're engaged in product development or eCommerce or anything in between. For two reasons. Number one, it creates a good base standard of compliance that you know is going to be equivocal to what European people with disabilities are going to enjoy. And number two, we do not have anything to replace it. Until such time as government comes up with its own idea of what disability rights laws will look like outside of Europe, you have to do something, and something is better than nothing.

Robin:

Absolutely. And just like section 508 over in the States made a whole wide range of businesses across different sectors that that wanted potentially to supply to the federal government, over here, if you want to be able to have at least the option of delivering your services and goods to mainland Europe, then you'll need to look hard at those guidelines as well.

Heather Burns:

Yeah. It is a bleak time, but I want everyone to stay positive and constructive. Think in terms of how we can preserve the existing disability rates, whether that's web accessibility or product service design. Make sure that government does not regress any disability rights laws to less than we enjoyed under Europe. And as I said, think about how we can progress the dialogue. If this was all about making our own way outside Europe, hold them to that and demand that they start producing disability rights legislation that can take its place.

Robin:

Yep. Something tells me they're going to have their hands full with other things for quite some time, but yeah. Great. Thank you very much indeed. Let's all get on board and try and advocate in any ways that we can to see if we can get something really tangible happening in this area in the absence of actually bringing this European Accessibility Act into UK law. It was all about timing, wasn't it? Such a shame.

Heather Burns:

It really was.

Robin:

Yeah. Brilliant. Thanks Heather.

Heather Burns:

My pleasure, Robin. Thank you.

Robin:

Thanks a lot.