

Digital Accessibility and Website ADA Compliance

by Jeremy Richardson and Joel B. Bruckman

A FREEBORN & PETERS LLP CLIENT ALERT

Companies that own or operate websites or mobile apps not optimized for use by disabled people may become targets of lawsuits under the Americans with Disabilities Act (“ADA”), a federal law requiring public places (which include the cyber realm) be accessible to disabled people. Several state and local laws mirror the ADA and even add statutory damages (California and New York are popular among the plaintiffs’ bar).



Businesses that receive Federal funding and are principally engaged in providing education, health care, housing, or social services are also under accessibility compliance requirements pursuant to Section 504 of The Rehabilitation Act of 1973. Simply working with state agencies and universities may compel businesses to comply with accessibility standards.

In view of these persistent claims, companies need to know the prevailing judicial view—that the ADA and some state laws require websites and mobile apps to be accessible to disabled visitors. Accessibility includes: (i) allowing words to be converted to audio translations by screen-reading software; (ii) having images and video made accessible to the visually impaired by way of adequate written descriptions of voiced content; and (iii) for keyboard commands to allow those unable to handle a mouse to use a website’s interactive functions.

Because the Justice Department has not issued standards, we recommend companies substantially comply with the Web Content Accessibility Guidelines (WCAG) 2.1, which aims to provide a single shared standard for web content accessibility that meets the needs of individuals (including the disabled).

Free tools are available to test websites and mobile media for digital barriers (the same tools many plaintiffs’ lawyers use). More robust “paid subscription” versions are available (but when used alone do not guaranty compliance). At no cost to you, Freeborn will facilitate use of these tools for an indication of your website’s accessibility.

Freeborn regularly works with digital accessibility experts both for proactive compliance and post-litigation corrective measures. Adding an Accessibility Statement is another step companies may consider. Compliance achieves the dual purpose of helping avoid lawsuits and enabling disabled consumers to learn about and purchase your products and services.

To learn how to optimize your website and mobile apps for visually impaired customers and reduce the risk of website accessibility claims, please contact Jeremy Richardson (jrichardson@freeborn.com, 646-993-4437) or Joel Bruckman (jbruckman@freeborn.com, 312-360-6461).

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