

DOJ ISSUES WEB ACCESSIBILITY GUIDANCE

Mar 21, 2022

Businesses continue to feel the pain from the deluge of website accessibility complaints filed by vision-impaired individuals and organizations representing the vision-impaired. Much of the problem is due to the lack clear government direction as to whether commercial websites are covered by the ADA and if so, what is required with respect to accessibility. The U.S. Department of Justice DOJ initiated rulemaking concerning website accessibility in 2010, but that effort was withdrawn in 2017.

On March 18, 2022, the DOJ released a [Guidance on Web Accessibility and the ADA](#). The guidance comes after 181 disability organizations last month signed a letter calling for DOJ to promulgate enforceable online accessibility standards by the end of the current administration. The

The Guidance does not have the force of regulations, but confirms DOJ's position that state and local governments (covered by Title II) and businesses open to the public (covered by Title III) should ensure that their websites are accessible to people with disabilities.

The Guidance emphasizes that businesses and state and local governments "have flexibility in how they comply with the ADA's general requirements of nondiscrimination and effective communication," but states that "they still must ensure that the programs, services, and goods that they provide to the public – including those provided online – are accessible to people with disabilities."

According to the Guidance, following are "examples of what businesses should do to make websites accessible include (but are not limited to) the following practices:"

- Sufficient color contrast between text and background.
- Text cues instead of relying on color alone to convey information.
- Text alternatives (alt text) that can be read by a screen reader to convey the purpose of an image.
- Video captions.

- Labels for online forms requiring information from the user.
- Text resize and zoom capability.
- Headings that allow users to navigate and understand the page layout.
- Navigation using a keyboard instead of a mouse.

These principles are all included in the [Web Content Accessibility Guidelines \(WCAG\)](#) that courts have been applying in the absence of government regulations, and which are also referenced in the Guidance. The Guidance states that this list “is not a complete list of things to consider” in ensuring that a website is accessible in compliance with the ADA.

Other than confirming the DOJ’s position that commercial websites are covered by Title III of the ADA, the Guidance offers little relief to businesses. They will continue to be faced with an onslaught of website accessibility lawsuits fueled primarily by opportunistic attorneys seeking to take advantage of the fact that there are no government regulations concerning website accessibility, and it is extremely difficult to ensure that a website is entirely compliant with the more than 100 provisions in the latest versions of the WCAG.

The Guidance cautions against relying solely on automated tools to identify or fix accessibility issues, but recommends using a combination of automated tools and manual checks. The Guidance also recommends providing a way for users to report accessibility issues and get additional assistance.

For questions or more information, contact the authors listed.

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