

**Insights**

## **WEBSITE ACCESSIBILITY REQUIREMENTS IN THE US AND EU**

### **WHAT DO ONLINE RETAILERS NEED TO KNOW?**

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#### **SUMMARY**

The digital world is becoming more inclusive, and that's great news for everyone. But for online retailers, accessibility laws in both the EU and US create compliance challenges that can't be ignored. Whether you're selling to customers in Brussels or Boston, your website now needs to meet specific accessibility standards that ensure everyone—including people with disabilities—can browse, shop, and complete purchases of goods and services with ease. The question isn't whether you need to comply, but how to do it effectively across different regulatory frameworks. In this article, we'll break down the essential requirements for consumer-facing retail websites and provide practical guidance on demonstrating compliance with both EU and US accessibility standards.

### **NEW EU ACCESSIBILITY ACT**

With effect from 28 June 2025, the EU Accessibility Act (EAA) imposes significant requirements around website accessibility for consumers.

Retailers must comply with three key requirements:

- provision of information about the use / function of products is easily available and understandable, and provided via more than one sensory channel, in a way consumers can easily perceive (adequate font size, suitable shape, contrasts, spacing, alternative presentation for non-textual content);
- compatibility with assistive technologies (screen readers, vocal readers, content descriptions) and adaptable interfaces (textual options, high contrasts); and
- provision of accessible support services.

The user interface for the website must be designed to allow persons with disabilities to access, perceive, operate, understand and control the product, through alternatives to vision, auditory, speech and tactile elements or by avoiding triggering or inaccessible features.

Services should be provided so that they can be adapted to the needs of persons with disabilities and are interoperable with assistive technologies. This means services providing access to audiovisual media services must include subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation, transmitted fully with adequate quality for accurate display, and synchronised with sound and video, while still allowing for user control of their display and use.

Whilst the EAA does not directly follow the global non-binding accessibility standards for website and app accessibility set out in W3C's Web Content Accessibility Guidelines 2.1 (WCAG), the EU requirements embodied in the EAA broadly reflect the WCAG principles of perceivability, operability, understandability and robustness. This means online retailers meeting WCAG 2.1 Level AA requirements should also be compliant with the EAA requirements.

As the EAA is a directive, EU Member States were given some latitude about how they implemented its requirements into domestic law. This may create complexities for businesses operating cross-border in the EU, who will need to comply with existing national laws and varying local implementation of the EAA, necessitating a jurisdiction-by-jurisdiction compliance assessment. However, there is a presumption of conformity, if a business elects to conform to a harmonised standard (such as EN 301 549, discussed below, which set compliance standards for earlier EU accessibility legislation). However, this presumption will not apply in those EU Member States where national norms have priority over European standards. In those countries where a more specific local law or standard takes precedence over European standards, operators and service providers will not be able to rely on the presumption of conformity and must exercise heightened diligence in assessing and implementing accessibility requirements. Notable examples are the BITV (*Barrierefreie Informationstechnik-Verordnung*) in Germany and the RGAA (*Référentiel général d'amélioration de l'accessibilité*) in France, both of which establish comprehensive criteria for digital accessibility that sometimes extend beyond the baseline set by EU standards.

Pan-European standards which are relevant to EU-facing e-commerce businesses include [EN 301 549](#). This outlines technical accessibility criteria for Information and Communication Technology (ICT) products and services and also incorporates WCAG 2.1 requirements, including web content accessibility requirements (although it extends to a wider range of ICT products and services, beyond websites and mobile apps, to include hardware, telecommunications equipment, and software), such as:

- adjustments for users with no or limited vision (text alternatives, adequate content structure, keyboard accessible, audio descriptions of multimedia content, resizable text, sufficient colour contrast);

- adjustments for users with no or limited hearing (multimedia content to have sign language interpretation, captions, alternatives to voices messages, such as text messaging services, real time text functionalities);
- adjustments for users with limited or no vocal capabilities (such as alternatives to authentication by voice recognition, real time text communication channels for video conference platforms);
- minimisation of photosensitive seizure triggers; and
- provision of information about products or services in more than one format, to maximise accessibility.

This standard is due to be updated to reflect the coming into force of the EAA and published later in 2025.

## **SANCTIONS FOR NON-COMPLIANCE**

Sanctions apply on an individual EU Member State basis. This potentially means a single failure to comply with the accessibility requirements could attract multiple penalties in different EU countries, particularly if a consumer body decides to take action on behalf of consumers in a number of member states in relation to an accessibility issue.

### **FRANCE**

In France, under Article R451-4 of the Consumer Code, failure to meet accessibility requirements is punishable by a fine of €1,500 (or €3,000 in case of repeated offences).

### **GERMANY**

In Germany, the market surveillance authority can restrict or prohibit the availability of non-compliant products, or require their withdrawal or recall. Additionally, fines ranging from €10,000 to €100,000 may be imposed depending on the severity of the offence.

### **ITALY**

In Italy, accessibility violations are subject to administrative sanctions which may range from €5,000 to €40,000 per infraction.

## **THE US'S AMERICANS WITH DISABILITIES ACT**

In the US, retailers have for the past decade faced wave after wave of website accessibility lawsuits, despite the fact that Title III of the Americans with Disabilities Act (**ADA**) and its implementing regulations do not expressly address website accessibility.

The ADA prohibits discrimination in “places of public accommodation.” The majority of circuit courts (*i.e.* the Third, Sixth, Ninth, and Eleventh) have held that a website is only a place of public accommodation if it has a connection to a physical location, and recently a few district courts in New York have applied that reasoning to dismiss lawsuits against stand-alone websites. There continue to be numerous lawsuits, however, against websites connected to brick-and-mortar stores, and there has been an increase in lawsuits against stand-alone e-commerce sites in jurisdictions such as Minnesota, Missouri and Illinois.

The ADA does not include a provision or award of damages, but prevailing plaintiffs can obtain injunctive relief and recover their reasonable attorneys’ fees, leading many cases to settle early in the litigation. In addition, some states have disability laws that allow for damages or statutory penalties. For example, California’s Unruh Civil Rights Act includes incorporates violations of the ADA as violations and has minimum statutory penalties of \$4,000 per violation.

The U.S. Department of Justice (**DOJ**) has never issued regulations concerning website accessibility, In 2022, however, the DOJ issued a Guidance on Web Accessibility and the ADA. 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.

According to the Guidance, the following (non-exhaustive) list of practices are “examples of what businesses should do to make websites accessible”:

- Sufficient color contrast between text and background.
- Text cues instead of relying on colour 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 W3C [Web Content Accessibility Guidelines](#) 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.

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, as the tester plaintiffs and their experts can typically find some website function where they experienced difficulty using only a screen reader and keyboard. We therefore anticipate that the onslaught of website accessibility lawsuits will continue in the US, at least until there is legislative or regulatory reform.

## UK ONLINE ACCESSIBILITY REQUIREMENTS

The UK lacks the prescriptive accessibility requirements set out in the recent US and EU legislation. Businesses however do need to ensure they meet Equality Act 2010 requirements which prevent discrimination by those providing goods, facilities or services on the basis of disability and age (amongst other characteristics). This could mean that a failure to ensure that a website is accessible may amount to indirect disability discrimination, indirect age discrimination or both. An example given in the Equality Act Code of Practice of potential indirect discrimination is the embedding of the text on a website within graphics. This is because this practice disadvantages persons with a visual impairment because they cannot increase the font size or use text-to-text speech recognition software, and therefore cannot access the website. Unless this practice can be justified, it is likely to amount to indirect disability discrimination.

There is also a duty to make reasonable adjustments for disabled consumers – with this duty extending to e-commerce platforms, online marketplaces, social media platforms, cloud service providers and streaming services (subject to limited exceptions for those platforms/providers acting as mere conduits). This duty would entail ensuring a website is accessible to a disabled user (but no specific requirements are mandated).

Separately, the Advertising Standards CAP Code requires advertisers to avoid using visual effects or techniques that are likely to adversely affect members of the public with photosensitive epilepsy. With the advent of the UK's new Digital Markets, Competition and Consumers Act 2024, businesses also need to bear in mind whether any accessibility practices constitute unfair commercial practices, when directed at a particular group of consumers. This might be the case for example, if a particular display of text online means it is not accessible to those who are visually impaired, resulting in those consumers not receiving key information about a product or service.

It is likely retailers who chose to focus compliance efforts on EU standards will be in compliance with UK rules, but those choosing to comply with the UK rules will need to take extra steps to check their online offerings meet EAA standards. Note too that the UK is due to develop a new Plan for Disability, which aims to break down barriers to opportunity for Deaf and disabled people as part of

its 'Plan for Change' and which may in the future impact businesses when interacting with deaf and disabled consumers and employees.

## KEY TAKEAWAYS

As with so many cross-border compliance requirements, there is no 'one size fits all' approach when it comes to ensuring your website will meet accessibility requirements in every country where you offer goods and services. However, working towards meeting WCAG 2.1 Level AA standards for all your consumer-facing websites should ensure compliance with the key principles in the EAA and current DoJ guidance. And as the new EU regime beds in, we expect to see a greater focus on accessibility standards, although enforcement will depend on the appetite of member state regulatory bodies to take action and will therefore vary by jurisdiction. This snapshot offers a high level overview of the key accessibility requirements – but is not a substitute for verifying whether there are specific national EU member state / US state legislation which could affect: (i) how information about products and services is displayed on a website; (ii) how product support / after sales services are provided; and (iii) processes for handling customer complaints.

BCLP's cross-border team of Retail and Consumer sector experts can assist you with compliance queries, as well as compliance audits, conformity assessments, responding to claims from regulatory bodies, and enforcement risk management.

## RELATED CAPABILITIES

- Retail & Consumer Products
- General Data Protection Regulation
- Consumer Products
- Digital Transformation & Emerging Technology
- Technology Transactions

## MEET THE TEAM



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