

Website Compliance & Website Accessibility

By Bob Sailer, Pacific Northwest Law Group

With almost 50 million people with disabilities in the US, big name branded companies have faced fines and litigation for non-compliance with the Americans with Disabilities Act (ADA).

Various legal actions have targeted large companies like universities, Amazon, Reebok and Ace Hardware. Lawsuits have been on the rise since 2016 since sweat-shop niche law firms can grind out cookie-cutter complaints 24/7 in the hopes of obtaining easy legal fees. In 2018 there were 2,285 consumer lawsuits filed against companies with websites that were found to be inaccessible by users who require assistive devices. Fines for non-compliance with ADA guidelines can range up to \$75,000 and would not typically be covered by general liability insurance.

Who is Regulated?

Under ADA Title I: private employers of any size, State and local governments, labor unions, non-profit groups, and employment agencies. **Under ADA Title III:** any business which regularly serves the public; schools, hotels, care facilities, etc. For website accessibility this also includes private clubs and religious organizations.

The Risk of Being Non-Compliant.

An estimated 8.1 million Americans who use the internet have a vision impairment which requires assistance like magnification or a screen reader to access written/ digital media online; 7.6 million Americans who use the internet have a hearing impairment, requiring closed captioning or written transcripts of audio/ video media online. Having a website that's out-of-date or not accessible means the loss of potential customers or employees, and potential for a discrimination lawsuit.

What Website Accessibility Looks Like.

There's no "one size fits all" solution for designing a perfectly accessible site, and the ADA provides little in the way of direct guidance for how to make a website accessible. Fortunately, the World Wide Web Consortium (W3C) was founded in 1994 at the MIT Laboratory for Computer Science. The 429-member consortium has worked, with the support of the European Commission and DARPA, to set standards for website designs which are as accessible as possible (Web Content Accessibility Guidelines (WCAG)). WCAG Guidelines include:

1. **Functional Use Accessibility** – making websites navigable by people with limited manual dexterity.
2. **Auditory Accessibility** – making video and audio media available for people with limited hearing.

3. **Visual Accessibility** – making all aspects of visual media available for people with impaired vision who use screen readers.

Making Sure Your Business Website is ADA Compliant.

If you're worried your business website is not ADA compliant there are several things you (or your site designer) can do to ensure you're compliant with the ADA by using the WCAG. (For more information on W3C and the WCAG visit <https://www.w3.org/WAI/>.)

Free Online Tools - Businesses should start by checking their website pages. There are free, online tools, such as WAVE (<http://wave.webaim.org/>), which scan your webpage to assess it for potential problems; or companies like Lighthouse Works (<https://lighthouseworks.org/>), which provide website accessibility audits and works with businesses to ensure changes are made effectively.

These Online Tools Help to Check the Following –

Graphics – pictures should be coded with alt-text descriptions or captioned with a description below the picture; slideshows should be able to be paused and not change pictures quickly to be read by screen readers. Flashing graphics should not flash more than 3 times per second to reduce risk to users with seizure disorders.

Text – avoid hard-to-read fonts (e.g. serif fonts like Garamond, or stylized fonts like Forte), a san-serif font like Arial or Calibri will be easiest to read by users with visual impairments or cognitive impairments such as dyslexia. Font colors should be easy to read against the color of the site background, avoid using colored text on a similarly colored backgrounds or pale colored text on dark backgrounds.

Layout – use standard HTML coding to create headers, sub headers, lists, and other similar design elements to ensure sites can be navigated with a keyboard or other assistive device. Make features like pop-ups easy to close by clearly displaying a “close” button or “x”.

Audio/Video Media – videos should have subtitles, hardcoded when possible, and written transcripts should be provided for voice recordings like interviews.

Pacific Northwest Law Group
16141 Cleveland St., C109
Redmond, WA 98052 Tel.: 425-867-0512 bob@pnwlg.com