

Did you know?

There's a recent wave of ADA lawsuits targeting websites across the country.

Facts:

- Title III of the Americans with Disabilities Act is being interpreted to include websites as "places of public accommodation".
- Websites with significant inaccessible components can be seen as discriminatory against persons with disabilities, in violation of Title III of the ADA.
- The ADA is a strict liability law which means there are no excuses/defenses for violations (e.g. ignorance, web developer is working on it, etc.)
- No current legal prescription exists for web accessibility but WCAG 2.0 AA has been commonly referenced as a guide.
- Newly published Web Accessibility Standards (WAS) make accessibility easier to understand and achieve.
- Lawyers are currently filing ADA lawsuits as fast as they can.



Are you at risk of being sued?

So here we are, we survived the mayhem and chaos caused by the GDPR (General Data Protection Regulation) that the European Union mandated. It seems all websites now have that friendly popup alerting us that websites are tracking us.

I remember thinking to myself how so many companies here in the United States was rushing to become GDPR compliant, when they are not even under the jurisdiction of the EU, and yet almost no companies are considering ADA compliance which is required here in the US.

Does your website offer products, services, or functions for end-users or consumers like forms or document downloads? Does it pass the WCAG 2.1 compliance checklist? If not, then yes, you are at very real risk of being sued.

- Preston W. Kincaid

What is WCAG?

The Web Content Accessibility Guidelines or WCAG provides technical specifications to improve the accessibility of web content, websites and web applications on desktop computers, laptops, tablets and mobile devices for people with a wide range of disabilities, including auditory, cognitive, neurological, physical, speech and visual disabilities.

Manual and Functional Testing

Manual and functional testing are an essential component of accessibility testing. These testing types involve using human expertise to check the automated tests and then having trained teams and persons with disabilities actually engage with the digital experiences directly. There simply isn't any technology that can replace this portion of accessibility testing.

Your Options

1. Build an in-house team of accessibility testers to perform QA on digital properties in development.
2. Hire an outside consultant to systematically test the website, apps and/or electronic documents. They will provide you with a one-time report outlining the issues and barriers encountered.
3. Work with an accessibility partner over time with access to a team of testers who manually check digital properties in multiple environments using different assistive technologies. These partners also work with you to develop a prioritization report outlining the critical, high, medium and low-level issues, monitor your digital properties on an ongoing basis and integrate into your backend systems to better collaborate with your team.

No Biggie... Right?

! Settlements on ADA website compliance typically range from \$5,000 to \$50,000.

ADA lawsuits, filed in federal and state courts, have targeted the websites of retailers (including Winn-Dixie Stores Inc. supermarkets), restaurants (including Domino's Pizza Inc.) and universities (including Harvard and MIT).

The Hooters restaurant chain was sued in 2017, even after the chain agreed to fix its website as part of a settlement of a previous lawsuit. A federal appeals court ruled that Hooters remained vulnerable to lawsuits until it fixed the website under the previous lawsuit settlement.

In 2018, the American Council of the Blind announced that it had reached a settlement with the streaming service Hulu to make Hulu's website and software app more accessible to blind users.

WCAG 2.1 covers the following:

- Code Validation
- Color Contrast and Color Blindness
- Mobile Accessibility
- Document Accessibility
- Web Accessibility

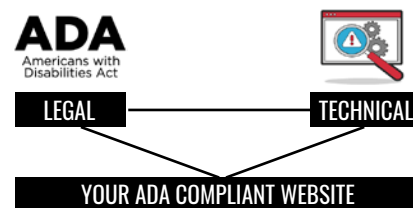
The law that primarily governs website accessibility is The Americans with Disabilities Act (ADA). Even though it doesn't mention websites, Title III of the ADA has been interpreted by U.S. courts to apply to websites. Which means, for websites to be ADA compliant, they need to be accessible.

Website accessibility can mean two things and it depends on the context:

1. The process of making your website so that its content and functions are accessible to people with disabilities.
2. How accessible your website is to people with disabilities.

The ADA is the legal side, are you in compliance with the law?
Accessibility is the technical or developmental side, how well can persons with disabilities access your website?

The next question is: How do you make your website accessible?



The answer is to make it so people with disabilities can enjoy the full use of your website; they can access content, navigate your website successfully, engage with different elements, etc. U.S. courts and the Department of Justice (DOJ) have frequently referenced the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA success criteria as a standard to gauge whether websites are accessible. The WCAG 2.0 AA success criteria are comprised of 38 requirements, individually referred to as success criterion.

If your website meets all 38 of those success criteria, you're in great shape. But, even if it doesn't, your website can still be accessible to those with disabilities.

The most important thing is that you take care of the basics. For now at least, the most important thing you can do to avoid being sued is to do something. Websites that don't even try are most at risk. Next, I'll list 28 things to address first.

Website Presentation

1. **Descriptive text:** Clear, descriptive text is used for page titles, headings, and link anchor text. This text must accurately convey the page or content that follows.
2. **Nested Headings:** For each page, headings start with one <h1> tag and optionally then flow down to <h2>, <h3>, and so on down to <h6> based on the hierarchy of subheadings within the page content.
3. **Color alone does not convey meaning:** Color cannot be the only means used to convey information or instructions. If color is used, an alternative must be provided.
4. **Clear forms:** Forms must have coded labels for fields, clear instructions on fields and how to fix errors, clear error indications, and example formats (e.g. 10/12/1980).
5. **Uniform labels:** All images and elements (e.g. icons, frames, fields) that are identical should have identical labels and alt tags sitewide.
6. **Clean code:** The website is free of error pages, broken links, and HTML errors.



If you get a demand letter and end up settling, you still have to make your website accessible.

Website Appearance

1. **Zoom text:** Text must be able to be increased by up to 200% by the user without negatively affecting the readability of a website.
2. **Color contrast ratio:** All text must have a color contrast ratio of 4.5:1 against its background.
3. **Distinctive links:** Text links inside a body of text (not inside header or footer navigation menus) must stand out from normal text through at least two of the following markups: underline, bold, italics, color.
4. **Consistent layout and navigation:** A consistent layout framework and header and footer navigation must be maintained throughout the website. Different layouts within a website are permitted (e.g. products page vs. information page) but respective pages within those layouts must be consistent (e.g. product A page has the same layout as product B page).

Content Alternatives

1. **Descriptive alt text:** All meaningful images on a website must have alt text. Any images, charts, infographics, etc. that require over 30 words of description have a descriptive caption beneath them and alt text that identifies the image and refers to the caption.
2. **No images of text:** No images of text are permitted when actual text can readily be substituted. Exceptions: logos, branding, graph labels
3. **Text transcripts:** All audio and video files must be accompanied with a text transcript directly below the file. Text transcript must accurately convey the full meaning conveyed in the audio or video.
4. **Closed captioning:** All video with meaningful sound contains accurate, synced closed captioning.
5. **Table data:** If a table contains a large amount of data such that it would be difficult to understand when read aloud, either 1) an alternative version of the table is provided that breaks up the table into manageable columns and/or rows or 2) a caption is provided that accurately conveys the data. Both methods may be used.
6. **Extraneous documents:** All documents such as PDFs, PowerPoint presentations, Excel files, Microsoft Word documents, etc. meet basic respective accessibility requirements.

User Control

1. No automatic pop-ups: Unless to provide instructions or assist website users (e.g. how to correct an error, time limit warning), no pop-ups are allowed. Pop-ups of commercial intent (e.g. newsletter sign up, discount offer) are not permitted.
2. No automatic video or audio: Video and/or audio may not play unless a user clicks to play the media.
3. No unexpected changes: No part of a website may change unexpectedly.
4. Pause updating/refreshing content: Any content that automatically updates or refreshes (e.g. sports scores, scrolling news) can be paused by the user. Exception: rotating ads are permitted.
5. Adjustable time limits: All but necessary time limits (e.g. auction bids) must provide a warning before time expires and the ability to extend the time limit by up to 8x the original limit before the time limit begins.
6. Important submissions: For websites that require the submission of critical financial/personal/scheduling information (e.g. credit card number, social security number, reservation date, etc.), users must be provided with an opportunity to review and correct information submitted before finalizing the submission.



If you get sued once, it doesn't mean you can't get sued again if you don't fix your website.

Website Usability

1. Keyboard only: All functions and content of a website must be accessible by keyboard only.
2. Focus indicator: A focus indicator box shows on all links and fields.
3. Skip navigation: A skip navigation link is available at the top left of every page on a website. This does not have to be visible.
4. Search function: A search function must be provided for, at a minimum, on the homepage. If placed on additional pages, the search function must remain in the same place.
5. Sitemap: A link to a sitemap must be provided for, at a minimum, on the homepage.
6. Language: A default language is set for the website.

Not Sure Where to Start?

Making sure your website is accessible to people with disabilities doesn't have to be expensive or overly-cumbersome. I can perform an audit on your website and provide a quote for creating a compliance plan, and what work will be necessary. Heck, you may be compliant already, but there's only way to find out!

Start by going here:

www.prestondesignplus.com/ada