

Your inaccessible website may get you sued.

Don't get caught up in litigation or lose contracts or funding because of a noncompliant website

Today, roughly 20% of Americans have a disability falling under the ADA (Americans with Disabilities Act) that causes challenges with web experiences. An accessible website gives all potential users (including consumers and employees) a comparable online experience. Until recent years, the main consequence companies faced for not having an accessible website was the loss of this huge audience. However, increased lawsuits and new regulations are changing this.



What are the risks in not having an accessible website?

A growing number of companies and organizations are navigating their way through expensive and time-consuming lawsuits initiated by consumers, businesses, employees and vendors, because of inaccessible websites. Perhaps more alarming, in 2013 new standards will be enforced and the risks increase for organizations to lose funding, contracts and grants. Unfortunately, these penalties will come as a complete surprise to many.

High-profile litigation cases for inaccessibility include:

**In all the below cases, each organization was subject to at least one of the following: fines, screen reader installation, and/or legal fees.*

2003 / Priceline & Ramada

In 2003, there were two lawsuits formed against Priceline.com and Ramada.com, with the plaintiff contending that these websites were inaccessible to blind and low vision customers. Priceline.com and Ramada.com ultimately made the decision to comply by paying a large fine, installing expensive and specialized software and re-working their site.

2010 / Hilton Worldwide, Inc.

In 2010, Hilton Worldwide, Inc. entered into a comprehensive ADA settlement decree with the DOJ in which it agreed to enhance accessibility to its telephonic and internet-based reservation system. In addition to paying a monetary penalty, Hilton agreed to modify and maintain all of its websites to comply with the WCAG version 2.0, Level A success criteria.

1999 / America Online (AOL)

In 1999, the National Federation of the Blind sued America Online because its website was inaccessible to the blind. A cash settlement was reached and AOL made the necessary website changes to get compliance.

2007 / Target Corp.

In 2007, the U.S. District Court for the Northern District of California certified a national class action lawsuit in National Federation of the Blind vs. Target Corp., holding for the first time that online retailers must provide website access to disabled persons. Target settled the case for \$6,000,000 and agreed to install screen reader software costing more than \$20,000.

History

Congress formed the original ADA in 1990, before the internet had really developed, so it did not explicitly cover internet accessibility. However, the ADA was structured in such a way that it could expand to accommodate new technologies as they were developed.

The current Title I (related to employment) and Title II (related to public entities and transportation) accessibility regulations have already led to costly legal cases that have been severe enough to drive companies to close their doors.

The absence of accessibility on the web means a significant number of people are effectively blocked or severely limited from participating in many key aspects of today's society: education, commerce, public affairs, recreation, healthcare, entertainment, government services and more.

Now the regulations are being amended by the ADA to more specifically cover website accessibility. The objective of these amendments is to protect both people with disabilities and website owners alike by more explicitly defining the requirements.

Your inaccessible website may get you sued.



Don't get caught up in litigation or lose contracts or funding because of a noncompliant website

Who is impacted?

To the extent a business entity offers the goods or services of a public accommodation online, the business is responsible for making such offerings accessible to everyone, including individuals with disabilities. Further, if a website is designed in such a way that it requires the user to be directed to an additional website to complete a transaction (i.e. third party payment processing), the website owner may also be liable for the accessibility of the sites it is directing its customers to, even if they do not directly control them. Current ADA accessibility requirements also extend to company intranet sites used by employees.

How do I know if I'm compliant?

There are many tests that a site must pass to ensure full compliance, but one quick test is for you to blindfold yourself and go through your site with a screen reader (they are built into the latest Windows and MAC operating systems and are typically under "Accessibility" or "User" settings). If you are using an older system you can also download JAWS from Freedom Scientific. If you can navigate your site successfully while blindfolded and perform key functions like filling out forms, listening to videos, searching for product or service information, understanding links or jumping to specific sections quickly; then your site is probably at a lower risk, at least until the new standards are released. But the only way to know definitively is to get an audit or contact someone who is an expert in ADA compliant websites.

How much time do I have to comply?

The changes are set to take effect in the summer of 2013. The timing and staging of compliance is expected to be as follows: Any website or pages redesigned or newly created within six months of the effective date will need to be in total compliance of the new standards. New pages on existing websites (if you update an old site) would need to comply to the maximum extent feasible, with a complete compliance expected within two years. Provisions are being considered for small businesses.

If your website, forms, internal systems, calendars, event registration pages, mobile sites, etc. are not offering a comparable experience to all users, with or without disabilities, you are already at risk of a lawsuit under the current regulations. The more users you touch, the higher the risk. The more you use cloud-based systems and third-party solutions, the higher the risk. Also, from a business perspective, consider that you are potentially neglecting or ignoring 1/5 of your potential audience!

What can I do now?

If you are concerned and want some immediate action items, you can do the following **5 things** today to improve compliance and mitigate your risk:

- 1. Provide headings for data tables**
- 2. Ensure users can complete and submit all forms and that any PDF is compliant**
- 3. Caption and/or provide transcripts for media**
- 4. Do not rely on color alone to convey meaning**
- 5. Design to common standards**

Apexx Group has a history of strategic planning, working to build websites, increase donations, develop programs and create marketing materials that meet or exceed ADA and W3C compliance standards. Clients include: Vision Forward, ABLE, Casa Romero, Independence First, Connections In Sight, Professional Connections, Kathy's House, IPW and a long list of for-profit and non-profit organizations.

Apexx Group LLC

6737 West Washington Street
Suite #1125
West Allis, Wisconsin 53214

P 414-475-2730

F 414-475-2750

www.apexxgroup.com
marketing@apexxgroup.com

Your inaccessible website may get you sued.



Don't get caught up in litigation or lose contracts or funding because of a noncompliant website

References

- <http://www.ada.gov/websites2.htm>
- http://news.cnet.com/2100-1030_3_6038123.html?part=rss&tag=6038123&subj=news
- <http://www.ada.gov/LSAC.htm>
- <http://llegal.com/2012/06/netflix/>
- Department of Justice ADA website
- <http://www.webaim.org/standards/508/checklist>
- <http://www.webaim.org/intro/>
- <http://www.ada.gov/websites2.htm#Anchor-47857>
- <http://www.redish.net/content/papers/interactions.html>