

## Ask an Expert

### Six Things You May Need to Do for Your Business Website

#### ***New government regulations under the Americans with Disabilities Act will directly apply to commercial websites***

Pay attention if you own a business that has a website. If you offer goods or services on the internet or have an “online store,” listen up. In other words, the subject of this article is something that applies to virtually everyone!

The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination based on disability. It applies to businesses of all types and sizes, department stores to mom and pop shops and internet businesses. The law requires that accommodations be made in “public areas” for people who are disabled. The “public accommodation” requirements provide that any business offering goods or services must meet certain standards to make their business accessible to the disabled. However, the ADA statute, enacted in 1990 before the internet boom, does not specifically address web based businesses, nor do the current regulations.

Considering that most businesses have websites with online stores, and that web based business has become universal, the government is preparing new regulations under the ADA that will directly apply to commercial websites. Courts have struggled in recent years with whether and how to apply the ADA’s public accommodation requirements to online businesses. While some courts have held that commercial websites are a natural extension of the ADA’s current accessibility requirements, inconsistent results have made it difficult for businesses with an online store to determine what, if anything, to do to comply with the ADA.

Most experts agree that a proactive approach to compliance is the most cost-effective approach. Businesses offering goods and services on the internet should obtain qualified legal and technical advice to evaluate the accessibility of their website. When considering potential modifications, companies should consider whether and how websites can be used by people who are blind, deaf, and unable to use their hands or are otherwise disabled. The following potential modifications, while by no means exhaustive, include areas likely to be covered in future ADA regulations and guidelines, as well as accessibility aspects that often result in lawsuits under the ADA:

- Ensure your website is designed so it can be displayed using color and font settings

for each visitor’s browser and operating system;

- Ensure text equivalents are used for photos, videos, or graphic content that is essential to the operation of the website;
- Include closed captioning or other visual notification and transcript for any audio content;
- Provide an audio description of any video content that is essential to the operation of the website;

- Minimize blinking, flashing and other such features; and
  - Ensure that website content is not dependent upon the user’s ability to recognize color.
- Thinking about and dealing with these issues prior to the release of new ADA regulations, which are expected within the next six months, will make it less likely that your business will find out about the new ADA requirements for the first time by being named

as a defendant in a lawsuit. Additionally, it makes good business sense because modifications to your website, if necessary, will make it easier for everyone to buy your products and services online.



Steve H. Doto, Esq.

*For more information on how best to evaluate and enhance your website to protect you from potential claims under the ADA, contact Steve H. Doto, Esq., a member of Lauletta Birnbaum LLC, who has more than 25 years of experience in commercial law and complex litigation at 856.210.5873 or email: sdoto@lauletta.com*

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