

Invest in Accessibility on Your Website, Too!

By Lori Beam When you think about the Americans with Disabilities Act (ADA), you probably picture wheelchair ramps, handicap parking spaces, and braille writing on ATMs making places of public accommodations accessible to people with disabilities. The ADA's protections no longer apply only to physical accommodations. Although the internet did not exist when the ADA was enacted, **the ADA increasingly applies to the virtual world, requiring website accessibility on desktops, laptops, tablets and mobile phones.** And, the number of lawsuits alleging website noncompliance is rapidly accelerating. In 2018 alone, more than 200 lawsuits have been filed against businesses in a wide range of industries. Circuit courts differ on whether websites are public accommodations covered by the ADA. Two circuits interpret the ADA as applying only to brick-and-mortar locations. Two others say websites themselves are public accommodations and no brick-and-mortar presence is required. And two circuits take a compromise position applying the ADA if there is a connection between website accessibility and the brick and mortar locations. **Because websites are generally available to residents in all circuit courts, the only wise approach to avoid claims of noncompliance is to assume the ADA applies.** People affected by website accessibility barriers include:

- Blind readers using screen reader software
 - Cannot access website images without embedded descriptions
 - Cannot navigate by mouse
- Low-vision users
 - Color contrast issues
 - Non-adjustable font or screen size
- Limited manual-dexterity users
 - Need speech recognition and/or keyboard alternatives
- Deaf or hard-of-hearing users
 - Audio features not transcribed
 - Cannot navigate by mouse

The meaning of ADA compliance for websites is unclear. The Department of Justice promised regulations in 2018, but the Trump administration put website accessibility regulations on its “inactive list.” The Department of Justice appears to endorse the World Wide Web Consortium’s Web Content Accessibility Guidelines (WCAG) 2.0 AA for compliance. And it will likely also endorse WCAG 2.1, projected to be released in 2018. The guidelines are organized under four principles: **Perceivable.** Disabled user can see or hear web content through, for example, text alternatives for image and audio content, transcripts of audio only content, captioning of video content, audio-transcribed video content. **Operable.** Disabled user can use a webpage’s functionality meaning, for example, all functionality is available from a key board, sufficient time is given to read and use content, content doesn’t cause seizures, webpage provides help for users to find and navigate content. **Understandable.** Content is readable and understandable, website appears and operates in predictable ways, and website detects input errors and assists users in correcting mistakes. **Robust.** Website maximizes compatibility with current assistive tools such as screen readers. By investing in website compliance, you can protect your company from expensive litigation and better serve your entire customer base. Lori Beam chairs the firm’s Advertising, Marketing and Promotions practice group. Contact her at lbeam@sb-kc.com or 816-421-4460. *This article is general in nature and does not constitute legal advice. Readers with legal questions should consult with an attorney prior to making any legal decisions.