

PERSPECTIVE

The Growing Challenge of Producing ADA-Compliant Accessible Websites

BY KATHERINE BARRETT AND RICHARD GREENE



Back in 1990, when the Americans with Disabilities Act was signed into law, its application to the public sector was largely to require physical accommodations so all public buildings could be accessible to all people. Common examples were curb ramps so people in wheelchairs could travel safely through local streets and restrooms in public buildings for people with disabilities.

But while accommodations to physical infrastructure are relatively straightforward, electronic infrastructure—notably public-sector websites that provide financial information and permit residents to conduct a variety of transactions

with their governments—present a potentially expensive and time-consuming challenge to ADA compliance.

There are no Justice Department regulations clarifying the requirements for ADA compliance on websites, but in its settlement agreements and consent decrees, the agency has adopted a standard set of intensely detailed rules known as the Web Content Accessibility Guidelines (WCAG). Efforts by localities to follow these guidelines are nothing new. But with the arrival of COVID-19 and the necessity of conducting a host of governmental transactions on websites, the importance of allowing the blind, deaf, and those with other disabilities to access services through the internet has become of paramount importance.

“COVID laid bare the fact that many online services are hard to access for residents, or the services are hard to navigate,” says Julia Richman, deputy executive director of the State of Colorado’s Office of Information Technology.

This is true, in large part, because a number of localities must make sure that all residents can use their websites, while they add a regular flow of information and services to their online offerings. “Web accessibility is really broken in many places,” says Ken Nakata, principle of Converge Accessibility. “Cities and states don’t think about it when they put up the site. And then, if a problem is identified, they often fix it, but then they add new content, and they still don’t pay sufficient attention to accessibility.”

Colorado took a giant step forward in ensuring that its localities move toward ADA compliance on June 30, 2021, when the governor signed a statute taking effect on July 1, 2024, requiring that all state agencies and localities ensure that their websites are ADA-compliant. Beyond that mandate, the law opened the door for individuals with disabilities to file complaints against the state for non-compliance. If successful, a complainant can receive up to \$3,500 for each violation. This can turn into a dramatic amount of money if thousands of people are affected in a number of ways by websites that aren’t accessible.

To be abundantly clear, it’s not easy to maintain a website that is accessible to people with a variety of disabilities.

The list of rules required for a website to be fully compliant with WCAG guidelines begins with requirements that they:

- Provide alternatives to text so it can be changed into accessible forms such as braille or large print, or the use of speech synthesizers.
- Include content that can be presented with simpler layout without losing information.
- Avoid content that makes it difficult to separate the background from the foreground—for example, putting type on top of an image, which can elude the capacity of even sophisticated speech synthesizers.
- Make all functions available from a keyboard so users who can’t use a mouse can still take advantage of a website’s content.
- Give users enough time to read and use content, which can be difficult when text scrolls across the top of a screen.
- Design content in ways that don’t cause seizures or physical reactions, including anything that flashes more than three times in a one-second period.

Accessible public-sector websites are obviously a good thing in and of themselves. People with disabilities should, for example, be able to get a fishing license online and have access to fish in publicly owned ponds.

The ADA considers these website shortcomings discrimination, according to Marc Dubin, CEO of ADA Expertise Consulting and one of the first attorneys hired by the Justice Department to enforce the ADA. “When a website is not accessible, it has the impact of excluding an audience from information provided by local governments; and by failing to comply with the ADA, such actions constitute discrimination on the basis of disability. It is not necessary to

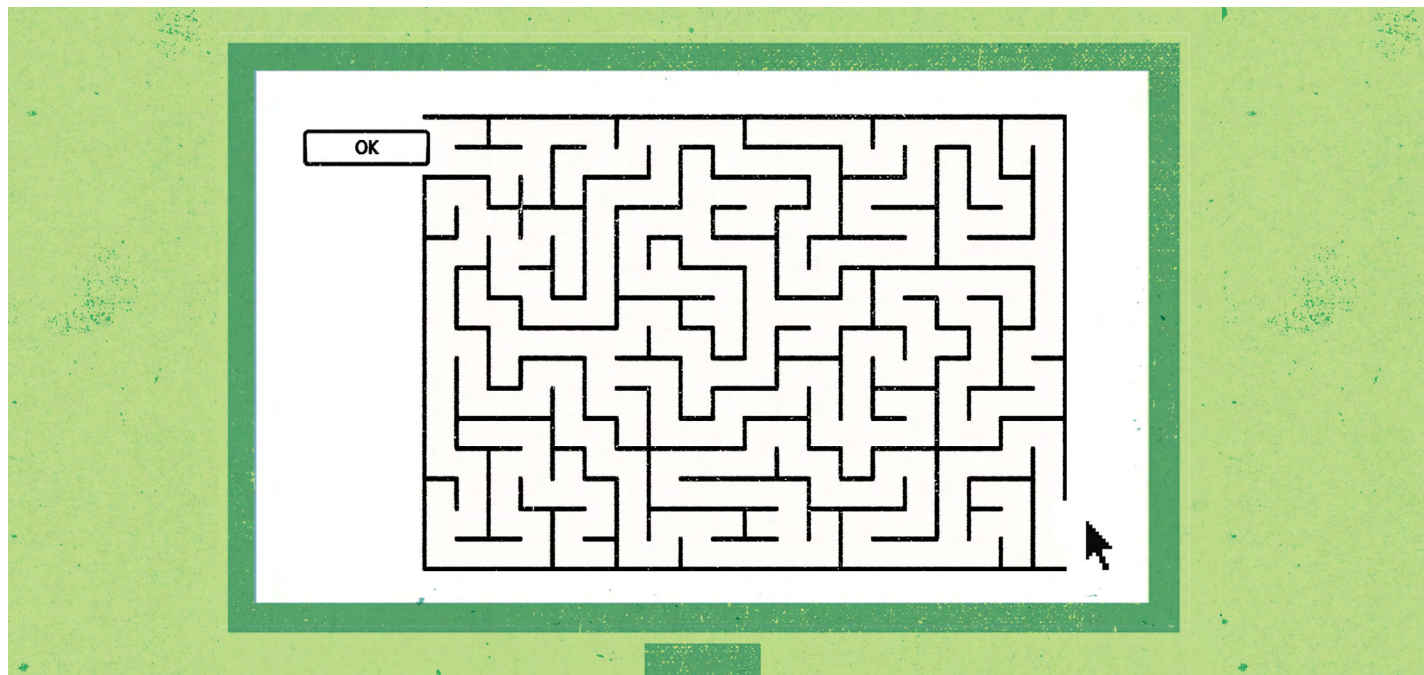
put up a sign saying, ‘No Blacks or Jews Allowed’ for the impact of exclusion to be just as significant when a website is inaccessible.”

Beyond doing what is right, governments also want to avoid lawsuits that are being brought on behalf of a class of individuals who could conceivably be discriminated against by non-compliant websites. “It’s a major problem for state and local governments nationwide,” Dubin said. “The number of lawsuits increases every year.”

Avoiding such lawsuits and providing a fair environment for all citizens requires constant vigilance. For example, Nick Brock, digital content administrator for Lexington-Fayette County, Kentucky, checks every single page that gets published on his community’s website to make sure that it’s accessible.

This job has become ever more difficult. Brock said: “Web pages that include COVID information have been growing astronomically. One issue we’ve had is that agencies have wanted to post images of fliers—like the kinds of things you would post on a wall to encourage people to get vaccinated. But those aren’t necessarily accessible, and I had to educate people to help them understand that any content we put out there had to be available in clearly readable text form.”

The City of Arlington, Virginia, has long focused on providing an inclusive environment “in all aspects, whether digital or otherwise,” David Herlihy, deputy chief technology officer, said. He concurs with Brock that one of the difficulties in providing access to every webpage is that “the content is always evolving, and you’re always striving to be the best.”



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A significant challenge, says Herlihy, is creating forms that permit ADA-compliant transactions between residents and a community. “For people who want to make a comment about a board meeting through a form, that form represents that citizen’s ability to communicate,” he said. “And that experience for someone with a disability needs to be the best it can be.”

Most localities don’t create their own websites, instead hiring contractors to do so. This leads to an important question: How can a city, county, or state be sure that the contractor has the capacity to create ADA-compliant websites?

Jay Wyant, the State of Minnesota’s first chief accessibility officer, recommends that Minnesota cities and counties ask three things of contractors before signing on the bottom line for website work:

- Explain how you ensure your staff and contractors have the knowledge and skills to create accessible digital technology within the scope of the project or services being delivered.
- Describe your approach to ensuring accessibility for your solution, such as strategy, tools, design, testing, and ongoing validation.
- Provide links to websites, copies of documents, or access to other samples of digital information technology your organization has developed that meet accessibility standards.

Even if vendors can answer these questions in a way that provides reassurance, Dubin strongly recommends that public-sector websites should post an accessibility statement telling people who to contact if they encounter a problem using the site. The statement should include a timeframe for when the organization will respond to their concerns.

This is helpful because no matter how hard an entity tries to provide accessibility to its websites, problems will inevitably crop up. “If anyone ever says they’re 100 percent compliant, they’re probably wrong because the landscape is always changing,” said Arlington’s Herlihy. ■

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