

Compliance With Disability Laws



DOZIER

UNSETTLED LAW, CONFLICTING DECISIONS DICTATE COMPLIANCE

WE ARE OFTEN ASKED ABOUT compliance with the Americans with Disabilities Act. There is a reasonably strong argument, supported by court decisions, that a stand-alone business operating as a website with no physical presence may not be covered by the ADA. But without prolonged litigation we will not know for sure, and there is contradictory law on the point. Absent court decisions deciding whether states can enforce state disability laws, it may be that you will have to accommodate the disabled even if the ADA does not require it. If your website is a robust ecommerce site taking payments and selling goods, and you market or sell to residents within a particular state, you probably have to comply with that state's laws.

We could discuss the legal issues in detail, but that is a legal exercise better left to the litigation environment. This is about solutions, and there are none on the legal front. For the small commercial website, the business solution is really quite simple. Comply with the ADA accommodations and you will likely be compliant with the state requirements. There are many excellent resources that can lead you and your programmer through the process. At least one of the best free testing environments disappeared on February 1, 2008, and is now only available in a high-end commercial setting. So, go ahead and move quickly to comply before the better resources become unavailable.

As a law firm serving small and mid-size businesses we recommend that instead of spending legal fees on lawyers studying compliance requirements you spend the money on smart

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and knowledgeable programmers and software, and commit your resources to creating as pleasing an online accommodation as you can afford. Aside from avoiding litigation, you will be opening up your site to an entirely new, and substantial, group of prospective customers.

Court decision that determines, once and for all, whether your business needed to comply with the ADA and state disability laws. If it ever comes, it will be years away. In the meantime, your businesses' non-compliance will give rise to significant legal liability. The law is in an early stage of development; and the online industry is just beginning to deliver the guidance, advice, tools, knowledge, and expertise to make compliance affordable for just about every web

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We conduct legal audits and evaluations of websites and ecommerce businesses all the time. But I wouldn't venture to tell you what coding and structural changes you need to make in order to comply. Industry web developers, compliance consultants and marketing experts can assist you with the nuts and bolts. We'll tell a client when there is an obvious problem, such as images not having alt tags, or video and audio files not having an accompanying machine-readable text interpretation. But the accommodations, if ultimately required by law, will likely vary from site to site based on a number of different factors.

On a final note, keep in mind that the law of the Internet is evolving slowly. Do not play the waiting game. Don't wait for the US Supreme

business. It's fair to say there has been a sort of grace period while technology and expertise catches up, and the cost of compliance goes down. It may take you months to go through the life cycle development process and get your website compliant. In the meantime, let the public (and ADA lawyers) know about your commitment by appropriately announcing on your website that you are working towards accommodating the disabled. ■

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The information in this article is not intended to be legal advice. Always consult your attorney when faced with legal issues.