**Is Your Website ADA Compliant? And does it need to be?**

This question has recently become the talk of many industries. Businesses are not required to have a website. But golf operators, like most small businesses, rely on their website as the primary tool to communicate with customers about their products and services. For many businesses, their website was deployed years ago with little change since other than updated content. Golf courses are now being targeted by lawyers who are scanning the internet for sites that do not meet the ADA regulations and bringing lawsuits which are resulting in fines and/or fee recovery. Some businesses are forced to take their sites down until the sites is fully accessible. While the ADA regulations do not provide clear and specific guidelines for web developers, there are industry adopted standards that courts are relying on. It is important to realize, people who may never use your facility are viewing your site. Access to your site must be accessible to all regardless of their physical abilities.

Golfers today come from all walks of life. With the addition of golf in the U.S. Special Olympics, golfers with disabilities is one area with increasing participation at our courses. Marketing to this group can be a challenge for some operators. What if they are blind? Not only are we required to ensure facilities are accessible, we must also ensure our services meet the requirements of the American with Disabilities Act (ADA). Your website is one of your most important marketing services offered by your golf course. This article is provided to help owners and operators ensure their website meets the requirements of the ADA.

**Are you sure your site is accessible to everyone? Can sight-impaired users and others with disabilities view and receive all content on your site?**

**Why is this important?** The Department of Labor’s published [Americans with Disability Act](https://www.dol.gov/general/topic/disability/ada) regulations do not explicitly define website accessibility as a protected service. One of the requirements under [Title III](https://www.ada.gov/ada_title_III.htm) does address the “*denial of participation* requirement. A public accommodation shall not subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation.”

The Department of Justice (DOJ) was expected to release a new rule clarifying the policy, but in December 2017 they withdrew their proposal. Lack of clear guidance and the potential to receive attorneys’ fees (without the plaintiff being required to give notice and an opportunity for a defendant to fix the issue before a lawsuit) has prompted a number of lawsuits being filed against golf courses claiming they violate Title III of the ADA under the Denial of Participation, in that the user is unable to receive your website content via their audio or text readers. In a recent [article](https://www.adatitleiii.com/2018/01/2017-website-accessibility-lawsuit-recap-a-tough-year-for-businesses/) by Min N, Vu and Susan Ryan from Seyfarth Shaw LLC, there were 814 federal cases filed in 2017. This does not include cases filed in state courts.

According to Adam Losey of Losey PLLC, on a national basis, the issue of whether websites are “places of public accommodation” under the ADA is anything but a settled question, with courts taking different positions on the issue. Also according to Losey, there is a colorable argument that ADA website lawsuits violate a defendant’s due process rights as there are no mandatory accessibility standards that have been enacted as law. Thus, it is not a clear and settled question as to whether a commercial website must be ADA compliant, and whether they can be constitutionally pursued by private plaintiffs for such compliance. Still, getting ahead of a potential nuisance suit is better than waiting for one to hit without evaluating the issues.

NGCOA recognizes many of our owners and operators outsource the development and management of their websites, but they should be reminded they are still accountable for ADA compliance of not only their facility, but also all of their product and services, including websites.

To help owners and operators better understand this requirement we have assembled the following resources to help educate and guide you andyour website designer to ensure your site is both accessible and ADA compliant.

The accepted standard for website accessibility is defined in the Website Content Accessibility Guidelines and on June 5th 2018, The [World Wide Web Consortium](https://www.w3.org/) (W3C) released [WCAG 2.1](https://www.w3.org/TR/WCAG21/). These new guidelines cover a wide range of recommendations for making web content more accessible.These guidelines address accessibility of web content on desktops, laptops, tablets, and mobile devices. Following these guidelines will make Web content more usable to users in general; however they are not laws or otherwise required by the Department of Justice,

**What you can do to ensure your website follows current web accessibility guidelines.**

**Understand How Your Website is Accessed**

Sight-impaired and other disabled individuals use screen readers to hear content and navigate the keyboard. Screen readers are computer programs that read the digital text of a website. Images on a website are not readable unless they have “alt text” or alternative text attached to them.

**Evaluate Your Website**

Here is a tool that will assist you in ensuring your site meets current accessibility requirement. You can paste your site’s URL into the WAVE Web Accessibility Evaluation Tool: [https://wave.webaim.org](https://wave.webaim.org/).

WAVE returns a report with highlighted errors and alerts tied to specific elements on the pages of your site. The elements identified reflect those that are not compatible and cannot be read by assistive reading devices. Please note that some of these messages may only make sense to someone who is a web developer/designer. However, it is a useful tool to give you an idea of what accessibility issues may be hiding on your specific site.

**Perform a Checklist for Website Accessibility**

The WebAIM website is a great resource for information and guidelines on accessibility. Their checklist (derived from [W3C’s Website Content Accessibility Guidelines](https://www.w3.org/TR/WCAG21/)) is a useful guide. You can access it here:<https://webaim.org/standards/wcag/checklist>

Guideline 1.1 on the checklist should be a priority for your website and is easy to implement. Every image that is uploaded to your website needs alternative text or “alt text.” This is a brief description of that image. An example that applies to all websites is alt text for the site logo. Instead of no text or ambiguous text, like “logo reversed,” the alt text should read “your business name logo.” When photos and images on your website do not contain descriptions, screen readers are unable to communicate to your visual or sight-impaired customer the full content of your site.

The checklist is also a good conversation starter with your web developer/designer. Discuss each guideline on the list with them and ask if they are implementing those standards in the structure of your site.

**Congress Is Listening**

On Feb 15 2018, the House passed H.R. 620 - ADA Education and Reform Act of 2017. This bill addresses businesses being targeted with lawsuits for their non-compliance to the ADA regulations, stemming from businesses being sued without being given an opportunity to correct the claimed deficiency. The bill is now in the Senate where it faces an uphill battle due to concerns that it does not encourage businesses to be proactive to ensure their facility and services are compliant.

To address the concern with the dramatic increase in lawsuits surrounding web site accessibility, 103 members of Congress sent a [letter](https://www.adatitleiii.com/wp-content/uploads/sites/121/2018/06/ADA-Final-003.pdf) to Department of Justice (DOJ) urging them to publish clear web accessibility guidelines. They further acknowledged their role in taking legislative action that provides better clarity.

NGCOA will continue to follow the actions by Congress and DOJ and provide members with the latest information

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