



FAQ

Website Accessibility and the ADA

Does the Americans with Disabilities Act (ADA) specifically address website accessibility?

The ADA does not explicitly address public-facing websites, let alone detail how they should be made accessible for the disabled public. ADA rules governing reasonable public accommodation are focused on physical barriers at physical business locations. With no overt coverage in the law or regulations themselves, it has fallen to the courts to determine how ADA standards apply to websites—or whether they do at all. Between 2017 and 2018, website accessibility lawsuits surged by some 30 percent, with the majority targeting the banking, restaurant, and retail industry sectors. Retail light-duty vehicle dealerships have been threatened with lawsuits and sued. The legal case decisions interpreting how the ADA applies to public-facing websites have varied widely between the circuits, and even among district courts within a circuit, resulting in a legal grey area.

Do guidelines exist for those seeking to enhance website accessibility?

The most commonly used standards are the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA. There are no specific federal legal rules or guidelines serving as a “safe harbor” for ADA compliance. This makes it difficult for dealerships to understand how best to make their websites more accessible.

What steps, if any, should dealerships take to make their websites more accessible?

Accessibility is not a “one and done” issue. It must be maintained and periodically evaluated as changes to websites are made. When problems arise, an efficient remediation system must be in place. NADA suggests that dealerships discuss accessibility with their website vendors to better understand investments in website accessibility and what new procedures at the dealership level are needed. Dealerships should consider whether website accessibility leads to increased business opportunities and/or reduces the potential for legal liability, legal costs, and/or negative publicity. Dealerships should evaluate these issues in conjunction with their legal counsel, their insurers, and the manufacturers they represent.

What about OEM-sponsored (mandated) websites?

The website accessibility issue is made more complex for franchised dealerships with respect to website development/management vendors and OEM-mandated websites involving OEM mandated frameworks, formats, and content. All parties who manage or make decisions impacting dealership websites bear a responsibility to ensure that accessibility is taken into consideration.

How is NADA engaged on this issue?

Working with a coalition of business organizations, NADA has focused on getting the Department of Justice (DOJ) and/or Congress to issue appropriate website accessibility guidelines.

In addition, NADA has discussed the accessibility issue with several OEMs, the largest dealership website development/management vendors and with at least one major company offering dealerships a website accessibility “add-on” product. NADA is working to determine how dealerships, OEMs and third-party web partners can work together to reduce the legal risks, liabilities, and transactional costs. Stay tuned for updates on this topic as they become available.

Please feel free to direct questions on this matter to Doug Greenhaus or Kaye Lynch-Sparks at 703.821.7040 or regulatoryaffairs@nada.org.

Legal Disclaimer: This document was revised on October 22, 2019. The information provided in this document does not, and is not intended to, constitute legal advice; instead, all information, content, and materials are for general informational purposes only. Information in this document may not constitute the most up-to-date legal or other information. Furthermore, each dealership should consult an attorney who is familiar with federal and state law applicable and the dealership's operations to obtain advice with respect to any particular legal matter.