

Is your Web site accessible?

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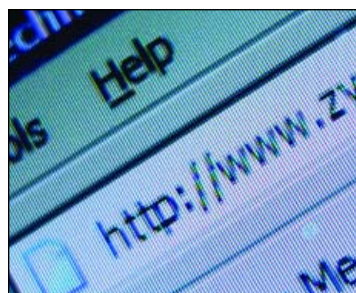
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Special parking. Ramps. Doorways wide enough to accommodate wheelchairs. These important provisions are designed to make businesses more physically accessible to people with disabilities. And rightly so. But what about businesses that operate not in physical but in virtual space? Should e-businesses, like their brick and mortar counterparts, make provisions to accommodate disabled customers?

The Americans with Disabilities Act

In 1990, Congress passed the Americans with Disabilities Act, which prohibits employers from discriminating against individuals with disabilities and requires employers to take steps to ensure that disabled employees can perform their jobs. The Act also requires that companies take steps to ensure that the public has access to their goods and services. According to Title III of the ADA, "No individual

shall be discriminated against on the basis of disability in the full and equal employment of the goods, services, facilities, privileges, advantages, or accommodation of any place of public accommodation."



When the ADA was passed, public accommodation referred to physical space. The Internet, while not exactly new, was still relatively rare as a marketplace. At that time, few people realized how the Internet – virtual space – would revolutionize the way businesses advertise and provide their goods and services.

The explosion of the Internet as a site of

commerce and information has made web accessibility an important aspect of daily life for most people. We shop, pay bills, communicate with friends, perform our jobs, keep abreast of current events, all through the Internet. But is the Internet a place of public accommodation and therefore subject to the regulations established by the ADA?

Public Accommodation in Virtual Space

The first test of the ADA's applicability to virtual space came in 1999 when the National Federation of the Blind along with nine blind individuals sued America Online in the U.S. District Court in Massachusetts. The plaintiffs alleged that AOL violated Title III of the ADA when it failed to make its software and site compatible with screen readers. The following year, the parties reached an out-of-court settlement in which AOL agreed to redesign its service to be compatible with screen

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The question is,
are places of
public
accommodation
limited to physical
spaces under the
ADA?

access programs for the visually impaired.

In 2002, the disability group called Access Now sued Barnes and Noble and Claire's Stores, alleging that their web sites violated the ADA. Again, the cases were settled out of court so that the question of ADA's applicability to virtual space remained unresolved.

Later that same year, Access Now sued Southwest Airlines, once again alleging that its web site violated the ADA because it was not accessible to the visually impaired. On October 18, 2002, a federal district court in Florida ruled that web sites do not fall within the scope of ADA's "public accommodation" provisions. The written ruling stated that "It is the role of Congress, not this Court, to specifically expand the ADA's definition of 'public accommodation' beyond physical, concrete places of public accommodation, to include 'virtual' places of accommodation."

Case closed? Not at all. In another, unrelated case, a court of appeals ruled that the "plain meaning" of Title III of the ADA is not necessarily limited to physical structures. The court ruling stated, "It

would be irrational to conclude that persons who enter an office to purchase services are protected by the ADA, but persons who purchase the same services over the telephone or by mail are not." The implications of this ruling for the Internet seem clear.

The key word, of course, is "seem". To further muddy the legal waters, First Circuit Judge Posner, in ruling on a case involving insurance being sold to a person with AIDS, wrote that although an insurance company cannot refuse to sell an insurance policy to someone with AIDS, it is certainly free to choose the content of the services it provides. To illustrate his position, Judge Posner said that "a camera store may not refuse to sell cameras to a disabled person, but it is not required to stock cameras specifically designed for such persons." Applying Judge Posner's reasoning to the Internet, the conclusion reached is that even if a web site is deemed a place of public accommodation, the owners of that site may not be legally required to alter the content of that site. In other words, site owners are not required to include content that can be interpreted by screen readers.

Beyond ADA
While the question of

ADA's applicability to private web sites remains unresolved, the federal government has taken the lead in U.S. web accessibility under Section 508 of the Rehabilitation Act. Section 508 requires that all web sites of federal agencies be made accessible to people with physical disabilities.

The most obvious disability that prevents web use is visual impairment. The Web is an extremely visual medium, and many web sites rely heavily on graphical elements. Screen-reading software, which can read web text for users, cannot "read" a picture. If the meaning, use, and navigation of a site's content depend on graphics, a person who must rely on a screen reader is lost. So making a web site accessible for the disabled often begins with making it accessible to screen-reading software, and that means making text equivalents for every graphic element on a web site.

With that requirement in mind, the **Federal IT Accessibility Initiative** has developed this list of standards to apply to all federal web sites.

a. A text equivalent for every non-text element shall be provided (e.g., via

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government watch

The Too Real ID Act

The 109th Congress has held a rash of hearings and introduced dozens of bills to combat identity theft, data fraud, and computer scams. So the passage of the Real ID Act has many data security experts shaking their heads in perplexity.

To be fair, Congress didn't actually pass the Real ID Act. What they passed was an omnibus appropriations bill to which the Real ID Act had been added as a last-minute rider. Because the spending bill appropriated funds for U.S. troops in the Middle East, its passage with little or no debate was all but guaranteed. Both civil libertarians and computer security experts have decried that lack of debate about what amounts to a National ID card.

Provisions of the Real ID Act

Chief among the provisions of the Real ID Act are changes to State driver's licenses and identification cards. The Act "Prohibits Federal agencies from accepting State issued driver's licenses or identification cards unless such

documents are determined by the Secretary [of Homeland Security] to meet minimum security requirements, including the incorporation of specified data, a common machine-readable technology, and certain anti-fraud security features."

The Act requires that the "machine-readable technology" be uniform throughout the nation and that State databases be linked nationwide. This means that personal information, such as your name, address, phone number, and Social Security number, will be instantly available, through your driver's license, in any part of the United States.

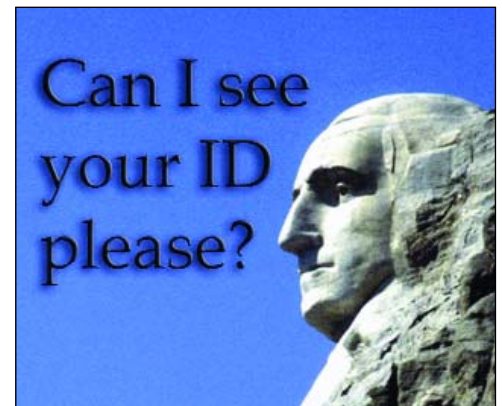
To ensure that States comply, the Act also "requires States, as a condition of receiving grant funds or other financial assistance under this title, to participate in the interstate compact regarding the sharing of driver's license data." And if some States refuse to cooperate (an unlikely scenario), the citizens of those states would be unable to board commercial airlines or

enter federal buildings.

Implications for Security

Proponents of the Real ID Act insist that its provisions are necessary to prevent (or at least impede) potential terrorists from obtaining driver's licenses. And the Act does, according to a summary by the Congressional Research Service, "Set forth minimum issuance standards for such documents that require: (1) verification of presented information; (2) evidence that the applicant is lawfully present in the United States; and (3) issuance of temporary driver's licenses or identification cards to persons temporarily present that are valid only for their period of authorized stay (or for one year where the period of stay is indefinite)." These provisions, opponents acknowledge, will make it harder for impostors to obtain licenses. But at what cost?

The USACM (the U.S.



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More and more countries are establishing legal precedents for requiring web sites to be accessible to the disabled.

“alt”, “longdesc”, or in element content).

- b.** Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.
- c.** Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.
- d.** Documents shall be organized so they are readable without requiring an associated style sheet.
- e.** Redundant text links shall be provided for each active region of a server-side image map.
- f.** Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.
- g.** Row and column headers shall be identified for data tables.
- h.** Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.
- i.** Frames shall be titled with text that facilitates frame identification and navigation.
- j.** Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.
- k.** A text-only page, with equivalent information or functionality, shall be

- provided to make a web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.
- l.** When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.
 - m.** When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with §1194.21(a) through (l).
 - n.** When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.
 - o.** A method shall be provided that permits users to skip repetitive navigation links.
 - p.** When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.

While Section 508 of the Rehabilitation Act is not binding on private sector web sites, companies that do business with the federal government or who develop web content for government sites need to comply with Section 508. But beyond that, applying web accessibility standards to private commercial web sites may be plain good business. Attorney Douglas M. Isenberg, founder, editor, and publisher of GigaLaw.com, has commented that private web sites really have an incentive to comply with the accessibility standards. “By creating web sites that are accessible to the disabled, companies will reach a potentially larger audience than if they did not do so.”

Outside our Borders

While the American legal system continues to debate the applicability of the ADA to the Internet, many other countries have already established that web sites must be accessible to people with disabilities. In the U.K., for example, the Disability Discrimination Act asserts that access to and use of means of communication must be provided equally to everyone. According to England’s Disability Rights Commission, this provision applies to web sites. Predictably, web

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employee watch

Ric Whiting

Was it the fast-paced environment?

The intellectual stimulation? The challenge of ongoing education? The lure of technological wizardry? Nope. Ask Ric Whiting what drew him to a career in computers, and he'll say it was the blinking lights.

Ric had plans of becoming a math professor, but when he took a class tour of NWTC, those plans changed. It was the mid-70s, and the NWTC data center was fairly new. Ric recalls, "They had all these blinking lights on the computers, and I said 'Wow! This is cool!' So it really was the blinking lights."

There may not be as many blinking lights today, but Ric is still satisfied with his career choice. Part of that choice has been to enter the field of IT consulting.

Like many IT professionals who choose consulting rather than a permanent position, Ric enjoys the opportunity to meet different people and get to know the ins and outs of different companies and industries.

One of those industries is food, which is very different from other types of manufacturing environments, according to Ric. He commented, "I was five years at American Foods Group and at Packerland for the last two years. I've come to know the beef industry inside and out. It's been fun. Totally different than production-related things, because here, everything changes every day. A mad, mad pace. This is such a specialized industry that other manufacturing experience doesn't really apply. There are no building materials, no availability list. It's all day by day."

Ric also noted that consulting can be more challenging than a permanent position, because IT consultants need to be both specialists and flexible. Ric explained that a consultant is expected to perform from day one. "It's hard to switch gears when you have to go from one job to the next, especially if it's a different language," he said. "If you have to switch from RPG to COBOL or something, and you've been doing RPG

for the last six years, there's a learning curve."

Over his 23-year career, Ric has worked mainly with IBM midrange computers, starting with the System 3, then the 34, then 36, 38, and finally the AS400. Recently, a lot of his work has involved switching over to WebSphere, which relieves heavily on Java. "So a lot of the AS400s are switching to being just big servers," Ric commented, adding, "I see that trend continuing."

And where does Ric see IT heading in the future? "I think there will be a lot more outsourcing of the programming side of it. I think you're going to see a lot of colleges and people moving more into the think tank side of it. The analytical part will be done more in the United States. The programming will be done overseas via the Internet. I see that trend continuing. I see more and more companies switching over to a Microsoft platform, trying to standardize the whole world so everything looks and feels like Microsoft Windows."



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The Real ID Act

“vastly increases

the risk that an

average citizen’s

personal data will

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~~ Eugene Spafford

Public Policy Committee of the Association for Computing Machinery), the Electronic Privacy Information Center (EPIC), and the ACLU are among the many organizations that are expressing concerns about the possible effects of the Real ID Act on both privacy and security. In a press release issued after the Real ID Act became public law, USACM Chair Eugene Spafford, a well-known cybersecurity expert, said, “The act’s stated goal is to reduce terrorists’ ability to travel, but it does little to actually inhibit a dedicated terrorist from securing a valid ID. At the same time, it vastly increases the risk that an average citizen’s personal data will be stolen. This is ill-conceived security strategy and one that should be reconsidered.” And in a letter to Senator Lamar Alexander, the USACM stated that the Act “increased the risk of identity theft by mandating that states share their driver’s license databases with each other without basic security protocols identifying access rights.” The USACM also noted that the act contained no

guidance on how the shared databases should be secured or how the personal information contained within them should be handled.

The USACM also cited three major risks inherent in national ID systems: (1) knowing the identity of a person reveals nothing of that person’s intent – every criminal and terrorist has an identity, but no record prior to the first offense; (2) despite a history of state workers succumbing to bribery to grant driver’s licenses to unqualified persons, this act provides a national ID to anyone who can find a lax or corrupt official – a trivial task given the number involved; and (3) a single ID will accustom some guards to check form rather than content, leading to weaker security than previous protocols requiring guards to determine an ID’s origin and validity.

Also troubling, the Real ID Act makes no exceptions for certain people, such as battered women and judges in sensitive positions, who need to keep their home addresses off their driver’s

licenses.

ACLU legislative counsel Timothy Sparapani noted that the Real ID Act will make critical information about nearly every adult American available in one linked database. “We’re giving access [to private information] to tens of thousands of state DMV employees and federal agents,” he said. Given recent security breaches in data brokers such as LexisNexus and ChoicePoint, the specter of a nationwide, machine-readable database freely available to anyone with the ability to scan a driver’s license is disturbing indeed.

How the Real ID Act plays out in practice remains to be seen. In the meantime, groups such as the ACM continue to lobby Congress, urging members to examine the wisdom of a national driver’s license.

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While some IT experts have expressed misgivings over security problems associated with outsourcing, Ric doesn't see that as a big concern. Ric explained that only the code is being outsourced. "The data will still be protected. The guardians of data will still be here," he said.

As for the open source world, currently promoting Linux, Ric doesn't see that as a big threat to

Microsoft. "I just think their [Microsoft's] foothold is too big," he said. "There'll always be some oddballs out there, but you have to go with the volume. Look what happened to Word. Everyone thought WordPerfect would be the text writer of the future, and it had a pretty good hold. But now, I don't know any place that still uses WordPerfect."

And if he didn't have a

career in IT, what would Ric be doing? "I'd probably be acting," he said. "Theater, stage, something like that. I'm a natural ham. I play guitar and sing. The hard thing is that you have to devote a lot of time to that and you can't fish as much as you want!"

So it looks like stage lights won't lure Ric away from those blinking computer lights. Theater's loss is definitely ZyQuest's gain.

On the lighter side...



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accessibility consultancy has arisen as a profitable business in England, even though the law's applicability to web sites has not been tested in court.

In Australia, a similar provision in that country's Disability Discrimination Act has been tested. In a suit brought against the Sydney Organizing Committee for the Olympic Games (SOCOG), the plaintiffs argued that SOCOG's web site was largely

inaccessible to the visually impaired and therefore violated Australia's Disability Discrimination Act. The court agreed.

Canadian laws of accessibility appear to apply equally to physical and virtual businesses. But so far, there has been no actual jurisprudence regarding the issue of web site accessibility in Canada. Nevertheless, legal experts believe that the U.K. and Australian experiences will apply to Canadian law and make

Internet accessibility mandatory for Canadian businesses.

As more and more countries establish legal precedents for requiring web sites to be accessible to the disabled, it may behoove American businesses to ensure the accessibility of their own sites. Historically, commerce, not legislation, has often driven business reform. If American companies wish to stay competitive in the global market, they may need to

modify their web sites to accommodate the disabled, even without the force of law requiring them to do so.

The W3C (World Wide Web Consortium) has compiled a list of international policies relating to Web accessibility. To learn more, visit their site at www.w3.org/WAI/Policy.