



November 21, 2022

Sachin Pavithran
Executive Director
Architectural and Transportation Barriers Compliance Board
1331 F Street NW, Suite 1000
Washington, DC 20004

Re: **Accessibility Standards for Self-Service Transaction Machines and Self-Service Kiosks (Docket No. ATBCB-2022-0004)**

Dear Director Pavithran:

On behalf of the undersigned members of the Consortium for Constituents with Disabilities (CCD) Technology and Telecommunications Task Force, we thank you for the opportunity to provide comment on the Access Board's Advanced Notice of Proposed Rulemaking (ANPRM) on the accessibility of self-service transaction machines (SSTMs) and self-service kiosks (Docket No. ATBCB-2022-0004).

CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. The Technology & Telecommunications Task Force deals with issues related to access to telecommunications, assistive technology, and information and communication technology in education, employment, independent living, and other areas.

Definition of SSTMs and Scope of Rulemaking

The Access Board seeks comments on the types of self-service electronic devices that should and should not be addressed by this rulemaking, as well as the capabilities, functions, or other objective criteria that should define the types of devices covered. We strongly encourage the Access Board to take an expansive view of the scope of this rulemaking, to ensure that the maximal range of devices are covered. This is particularly important given the continued expansion of self-service devices and the rapid pace of development of new technology. To the greatest extent possible, we encourage the Access Board to develop these standards with an eye toward the future and to ensuring that all self-service technologies encountered by people with disabilities are made accessible.

Under the Americans with Disabilities Act (ADA), state and local governments and public accommodations (entities that operate the vast majority of SSTMs and kiosks)

are already required to provide effective communication for people with disabilities.¹ The publication of technical standards by the Access Board will make it significantly easier for operators to comply with these requirements and clarify how to achieve true accessibility. However, the standards themselves (and any associated limitations) will not newly confer the requirement to provide effective communication, nor will they absolve the operators of any excluded devices from their obligations under the ADA. We encourage the Access Board to view these standards as an opportunity to remind covered entities of these current obligations and provide clear “rules of the road” to ensure that these systems meaningfully provide accessibility to all users with disabilities.

The ANPRM identifies many common types of SSTMs and kiosks, including point-of-sale (POS) machines for self-checkout in retail facilities, grocery stores, and restaurants; check-in kiosks at airports and hotels; touchscreen ordering systems at restaurants; and check-in kiosks provided in health care settings. In addition, we note several other types of SSTMs which are frequently used and yet often inaccessible: additional self-service devices used in health care settings, such as symptom checkers, patient portals, and billing systems; kiosks used to facilitate public transportation; and “live chat” ordering systems in some restaurants (see below for additional comments regarding these live chat systems). While we recognize the value of highlighting commonly used SSTMs and kiosks in the ANPRM and in the proposed/final regulation, we urge the Access Board to clarify that such a list should be viewed only as demonstrative examples, and not as an exclusive list. This will help avoid finalizing a set of standards that unintentionally excludes certain types of devices or indicates to operators and manufacturers that an unlisted device may not be subject to the final standards.

Regarding the definition of “built-in” and “fixed” devices, we note that many common self-service systems may be technically movable (such as a mounted tablet at a checkout counter that is not entirely bolted to the surface or wall) but are clearly intended to stay in one place and operate as a fixed piece of equipment at its given location. To the greatest extent possible under current authority, we urge the Access Board to extend its standards to include such devices to ensure that the standards truly encompass the universe of SSTMs and self-service kiosks.

Limitations on and Exceptions to Standards

The Access Board seeks comments on several potential limitations on the application of the forthcoming standards, including whether the Board’s rule should require all or only some covered devices within a given location to be accessible and whether there should be any limitations or carve-outs to minimize the economic impact on smaller entities. We urge the Access Board **not** to undermine the impact of its forthcoming rule by limiting it unnecessarily and weakening the application of technical accessibility standards to only certain entities or allowing only partial compliance.

¹ In addition to being subject to longstanding ADA coverage, many entities receiving federal funding that use electronic kiosks have also been covered even longer by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794).

As previously stated, the ADA already requires state and local governments and public accommodations to offer effective communication to people with disabilities. We believe this amounts to a requirement that any and all SSTMs and kiosks operated by these covered entities should be accessible already, though many are not. The ANPRM notes the kiosk industry's contention that the lack of clear technical standards is a roadblock to compliance with these existing requirements. Therefore, we believe the standards should reflect the ADA's requirements in their application and should not allow covered entities to claim compliance by only making a portion of their devices accessible. We recognize that the Department of Transportation's (DOT) standards governing airport fare machines requires only 25% of kiosks to be accessible, while the Section 508 standards require all SSTMs and kiosks to be accessible. Allowing entities to be in compliance while only offering certain accessible kiosks inherently prevents people with disabilities from full participation in the services offered at such locations. We urge the Access Board to adopt the approach detailed in the Section 508 standards.

Regarding exceptions or alternative approaches for small entities, the ADA already incorporates certain limited exceptions for small entities that would face a fundamental alteration of their services or undue burden/hardship from providing full accessibility. These exceptions will continue to apply regardless of the requirements in the Access Board's rule. We do not believe that the Board's standards should offer additional exceptions or loopholes that would allow covered entities to provide less than full accessibility as required under the ADA.

Interaction with Existing Standards

The ANRPM notes that there are several different, sometimes overlapping standards that already impact the universe of SSTMs and self-service kiosks, including the ADA and ABA Accessibility Guidelines, the Section 508 Accessibility Standards, and the DOT's rules governing accessibility of ATMs and fare machines in airports. Multiple standards can lead to unintended gaps in coverage, where certain types of machines or operating entities may fall through the cracks, particularly as new and emerging technologies continue to develop and proliferate.

We appreciate the Access Board's intent to propose provisions for SSTMs and self-service kiosks based on the existing guidelines for ATMs and fare machines detailed in the ADA and ABA Accessibility Guidelines. We also applaud the Access Board for noting that there are additional criteria specifically relevant to SSTMs and kiosks as outlined in the comparison matrix included in the docket for this ANPRM.

To the greatest extent possible, we encourage the Access Board to work to standardize the requirements across the existing standards and the forthcoming rule for SSTMs and kiosks. However, the pursuit of standardized requirements should not be viewed as a limiting factor, and where the Access Board and public stakeholders identify room for improvement, or areas not covered by the existing rules, we urge the Board to develop the most effective relevant standards. The existing rules and guidelines should be viewed as a floor, not a ceiling, for accessibility requirements. Wherever the new standards go further to maximize accessibility considerations, we support the Access

Board working with federal partners to update pre-existing to incorporate these new provisions.

Specific Accessibility Considerations

Reach-Range and Dismountable Access

We encourage the Access Board to consider specific provisions for removable mounting incorporated into SSTMs and self-service kiosks to provide access for individuals with limited reach-range and other disabilities impacting their ability to physically access a mounted device. Removably mounting a POS interface device provides accessibility for POS card and PIN reader mounting for all attended and unattended readers in fixed position environments. Removable mounting is an action that allows a release from fixed position mounting for POS card and PIN readers, so that individuals with disabilities are able to independently access these devices, as well as providing PIN privacy for users who may not be able to reach a fixed POS device without the dismount option.

This technology utilizes existing requirements in both the ADA Accessibility Guidelines, Section 508 standards, Payment Card Industry (PCI) standards for PIN Transaction Security Points of Interaction (PTS POI), and PIN bank card processing requirements, as well as related international standards. Releasable access and removable mounting can be incorporated into all POS card and PIN machines utilized in SSTMs, kiosks, and other self-service locations (such as gas pumps and self-checkouts) and allows full independent accessibility while the user is in reach and range of the device. Such features offer overall privacy and comfort in use, provide better visual screen contact for users, and assist with dexterity issues and functional limitations such as limited spinal movement and shoulder rotation.

Employer/Office Building SSTMs and Kiosks

We encourage the Access Board to specifically consider the growing use of SSTMs and kiosks in employment settings, such as office buildings. Many modern or upgraded office settings may utilize kiosks or similar devices, such as fixed tablets, to offer services such as scheduling and management for shared spaces, conference system functions, and more. These systems are often not accessible – barriers include a lack of options to connect or otherwise utilize audio for users with visual impairments, the use of lights or colors to indicate when rooms are occupied or free without non-visual output options or contrast settings and fixing the system to an inaccessible height on an interior wall. Users have also encountered kiosk-adjacent systems or otherwise electronic displays that may offer more interactivity but have replaced physical signs that offer braille or raised lettering. The Board should explicitly clarify that such SSTMs and kiosks are included in the scope of the standards and identify specific considerations for the use cases noted above.

Use of Video Relay Services

As mentioned briefly above, one type of kiosk that has recently grown in usage is so-called “virtual cashiers,” where a customer encounters a live chat with another person located remotely in a call center, facilitated by a kiosk. These systems combine a

videoconferencing feature with the more common features of SSTMs and kiosks, such as a touch screen and self-service payment system. These technologies are not yet as widespread as other SSTMs and kiosks described in the ANPRM, but they do present unique accessibility challenges when the only method to “complete” the interaction is through engaging in live video chat. In the event that a service function of an SSTM or kiosk is a live interaction via the kiosk with a remote person engaging in interactive information exchange, the device should be equipped with Telecommunications Relay Services (TRS) to provide effective communication access for deaf/hard of hearing consumers.

Thank you for the opportunity to weigh in on the Access Board’s rulemaking process, and we look forward to continuing to work with the Access Board as a proposed rule is developed. If you have any questions pertaining to these comments, or need any further information, please do not hesitate to contact Joe Nahra, one of the Task Force co-chairs, at joseph.nahra@powerslaw.com.

Sincerely,

The Undersigned Members of the CCD Technology and Telecommunications Task Force

Access Ready
American Council of the Blind
American Foundation for the Blind
American Printing House for the Blind
American Therapeutic Recreation Association
The Arc of the United States
Assistive Technology Industry Association
Association of Assistive Technology Act Programs
Autistic Self-Advocacy Network
Autistic Women and Nonbinary Network
Disability Rights Education and Defense Fund
National Association of Councils on Developmental Disabilities
National Disability Rights Network (NDRN)
Perkins School for the Blind
Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
United Spinal Association
U.S. International Council on Disabilities
The Viscardi Center
VisionServe Alliance