



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

March 23, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Adopting Regulatory and Subregulatory Initiatives to Advance Accessibility and Usability of Websites, Online Systems, Mobile Applications, and Other Forms of Information and Communication Technology Under Titles II and III of the ADA

Dear Attorney General Garland:

On behalf of the undersigned co-chairs of the Consortium for Citizens with Disabilities¹ Technology & Telecommunications² and Rights³ Task Forces, we wish to provide our support for the recent Guidance on Web Accessibility and the Americans with Disabilities Act (ADA) issued by the Department of Justice (DOJ). At the same time, we urge DOJ to immediately pursue regulatory and additional subregulatory initiatives under Titles II and III of the Americans with Disabilities Act (ADA) to ensure that state and local governments and public accommodations ***procure, design, maintain, and use websites, mobile applications, online systems, and other forms of information and communication technology (ICT) that are accessible to and usable by the widest range of people with disabilities possible.***

More specifically, we urge the Department to adopt updated regulations implementing

1 The Consortium for Citizens with Disabilities (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.

2 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.

3 The Rights Task Force advocates on a wide variety of matters involving the civil rights of individuals with disabilities, driven by the four key goals set forth in the Americans with Disabilities Act (ADA): equality of opportunity, full participation, independent living, and economic self-sufficiency.

Titles II and III of the ADA that include clear and enforceable accessibility and usability standards that align with current requirements under Section 508 of the Rehabilitation Act, including the incorporation by reference of the internationally accepted Web Content Accessibility Guidelines (WCAG) 2.1 Levels A and AA.

In order to ensure uniform and consistent implementation of the ADA across the country,⁴ it is also critical that the Department clarify that its regulations implementing Title III of the ADA apply to websites, online systems, mobile applications, and other forms of ICT, ***whether or not a covered entity also owns or operates a physical location offering the same or similar goods, services, or information.***

In conjunction with its rulemaking, we encourage DOJ to update existing subregulatory guidance regarding accessibility of websites, online systems, mobile applications, and other forms of ICT, such as the technical assistance guidelines on *Accessibility of State and Local Government Websites to People with Disabilities*, last updated in 2003.⁵

Further, we strongly support DOJ's commitment to pursue additional focused settlement agreements with state and local governments through Project Civic Access and with public accommodations highlights accessibility of **websites**, which can be used not only to advance accessibility under the specific settlement parties, but as clear policy guidance for all covered entities. These efforts should also focus on **online systems, mobile applications, and other forms of ICT.**

The Department has long recognized that “access to information and electronic technologies is increasingly becoming the gateway civil rights issue for individuals with disabilities.”⁶ We agree with the Department's assessment -- inaccessible websites, online systems, mobile applications, and other forms of ICT present a clear, growing, and present danger to the civic, economic, and social welfare of people with disabilities.

Businesses, employers, and federal, state, and local governments are becoming more and more dependent on information and communication technology to provide goods and services. For people with disabilities, accessibility of websites and other ICT is a necessity—not a luxury or a convenience—that fosters independence, economic self-sufficiency, and active, meaningful participation in civic life. These issues are not limited

4 Though the Department has long held that the ADA applies to websites and other forms of ICT, certain court decisions have muddied the waters as to whether and how the ADA should apply to ICT.

5 Available at: https://www.ada.gov/websites2_scrn.pdf.

6 *Achieving the Promises of the Americans with Disabilities Act in the Digital Age – Current Issues, Challenges, and Opportunities*, Hearing Before the Subcomm. on the Constitution, Civil Rights, and Civil Liberties of the House Judiciary Comm., 111th Congress, p. 5 (2010) (statement of Samuel Bagenstos, Principal Deputy Assistant Attorney General for Civil Rights, Department of Justice). Available at <https://www.congress.gov/111/chrq/CHRG-111hrg56070/CHRG-111hrg56070.pdf>.

to those with sensory disabilities; many individuals with other disabilities, such as those who use augmentative and alternative communication devices, those with intellectual and developmental disabilities, and many more find that they are unable to access online systems that are integral to modern daily life.

Regulatory action by DOJ in this area is critical – there is a virtual flood of new and emerging technologies entering the marketplace and being incorporated into our daily lives. If these technologies are inaccessible, they will leave many people with disabilities behind. The impact of the COVID-19 pandemic has only exacerbated the disparate access to websites and other forms of ICT and has further prevented people with disabilities from fully participating in our increasingly remote and virtual world.

We note that your office recently received a letter from many of our partners in the disability community, including each of the undersigned organizations, dated February 28, 2022, on the urgent need to advance digital accessibility regulations; we strongly support this request.

Thank you for your consideration of this important request. We look forward to working with you and your colleagues to advance regulations and subregulatory initiatives in this area. If you have any questions, please feel free to contact any of the co-chairs of the Technology & Telecommunications and Rights Task Force listed below.

Sincerely,

Audrey Busch-Treussard, Association of Assistive Technology Act Programs
Audrey.busch-treussard@ataporg.org

Laura Kaloi, Assistive Technology Industry Association
lkaloi@stridepolicy.com

Joe Nahra, Perkins School for the Blind
joseph.nahra@powerslaw.com

Clark Rachfal, American Council of the Blind
crachfal@acb.org

Claudia Center, Disability Rights Education and Defense Fund
ccenter@dredf.org

Stephen Lieberman, United Spinal Association
slieberman@unitedspinal.org

Carlean Ponder, The Arc of the United States
ponder@thearc.org

Morgan Whitlatch, Center for Public Representation
mwhitlatch@cpr-ma.org

CC:

Kristen Clarke, Assistant Attorney General for Civil Rights
Jennifer Mathis, Deputy Assistant Attorney General for Civil Rights
Rebecca Bond, Chief, Disability Rights Section
Anne Raish, Principal Deputy Chief, Disability Rights Section