



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

March 23, 2022

The Honorable Richard Blumenthal  
706 Hart Senate Office Building  
Washington, DC 20510

The Honorable Sherrod Brown  
503 Hart Senate Office Building  
Washington, DC 20510

The Honorable Bob Casey  
339 Russell Senate Office Building  
Washington, DC 20510

The Honorable Richard Durbin  
711 Hart Senate Office Building  
Washington, DC 20510

The Honorable Ed Markey  
255 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Cory Booker  
717 Hart Senate Office Building  
Washington, DC 20510

The Honorable Ben Cardin  
509 Hart Senate Office Building  
Washington, DC 20510

The Honorable Tammy Duckworth  
524 Hart Senate Office Building  
Washington, DC 20510

The Honorable Amy Klobuchar  
425 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Elizabeth Warren  
309 Hart Senate Office Building  
Washington, DC 20510

**Adoption by DOJ of 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 Senators:

On behalf of the undersigned co-chairs of the Consortium for Citizens with Disabilities<sup>1</sup> Technology & Telecommunications<sup>2</sup> and Rights<sup>3</sup> Task Forces, we request that you urge the Department of Justice (DOJ) to immediately pursue regulatory and additional

---

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.

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 ask you to urge the Department to adopt updated regulations implementing 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. The Department recently issued new Guidance on Web Accessibility and the ADA<sup>4</sup>, which we strongly support. Additional clarity is sorely needed regarding covered entities' obligations to provide accessible websites, online systems, mobile applications and other forms of ICT in order to address the persistent inequities in access to the Internet and digital life faced by people with disabilities.

In order to ensure uniform and consistent implementation of the ADA across the country,<sup>5</sup> 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 this rulemaking, we ask that you 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.<sup>6</sup>

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 highlighting 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. We ask that you urge DOJ to ensure these efforts also focus on online systems, mobile applications, and other forms of ICT.

As you may know, in 2010, the Department issued an Advanced Notice of Proposed Rulemaking (ANPRM) that would have sought to revise regulations implementing Titles

---

4 <https://beta.ada.gov/web-guidance/>

5 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.

6 Available at: [https://www.ada.gov/websites2\\_scrn.pdf](https://www.ada.gov/websites2_scrn.pdf).

II and III of the ADA to establish requirements for web accessibility relating to state and local governments and public accommodations.<sup>7</sup> Despite widespread support from the disability community, and the letter that several of your offices signed in 2015 to DOJ and the Office of Management and Budget (reattached here for your reference), a proposed rule was never issued, and in 2017, the ANPRM was withdrawn entirely.<sup>8</sup>

The Department has long recognized that “access to information and electronic technologies is increasingly becoming the gateway civil rights issue for individuals with disabilities.”<sup>9</sup> 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 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 also note that several of your offices recently received a letter from many of our partners in the disability community, including many of the undersigned organizations, dated February 28, 2022, on the urgent need to advance digital accessibility regulations; we strongly support this request. This letter is included here as an attachment.

---

7 Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations, 75 Fed. Reg. 43460 (July 26, 2010).

8 Nondiscrimination on the Basis of Disability; Notice of Withdrawal of Four Previously Announced Rulemaking Actions, 82 Fed. Reg. 60932 (December 26, 2017).

9 *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., 111<sup>th</sup> 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>.

\*\*\*\*\*

Thank you for your consideration of this important request. We have taken the liberty of drafting a letter to be sent from your offices and with sign-on from any colleagues in the Senate who similarly support this work, which is included as an attachment to this letter. We offer this draft for your review and welcome your edits.

We look forward to working with you and your colleagues to advance regulations 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 Forces listed below.

Sincerely,

Audrey Busch-Treussard, Association of Assistive Technology Act Programs  
[Audrey.busch-treussard@ataporg.org](mailto:Audrey.busch-treussard@ataporg.org)

Laura Kaloi, Assistive Technology Industry Association  
[lkaloi@stridepolicy.com](mailto:lkaloi@stridepolicy.com)

Joe Nahra, Perkins School for the Blind  
[joseph.nahra@powerslaw.com](mailto:joseph.nahra@powerslaw.com)

Clark Rachfal, American Council of the Blind  
[crachfal@acb.org](mailto:crachfal@acb.org)

Claudia Center, Disability Rights Education and Defense Fund  
[ccenter@dredf.org](mailto:ccenter@dredf.org)

Stephen Lieberman, United Spinal Association  
[slieberman@unitedspinal.org](mailto:slieberman@unitedspinal.org)  
Carlean Ponder, The Arc of the United States  
[ponder@thearc.org](mailto:ponder@thearc.org)

Morgan Whitlatch, Center for Public Representation  
[mwhitlatch@cpr-ma.org](mailto:mwhitlatch@cpr-ma.org)