



ADA Web Content Accessibility Considerations During a Pandemic

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As COVID-19 cases increase and state and local governments continue to issue orders and mandates related to how dealers are permitted to conduct business, now is the perfect time to review your dealership's policies and procedures addressing the Americans with Disabilities Act and to consider how you ensure effective communication with, and accessibility to, individuals with disabilities.

In recent months, dealerships have been forced to limit operations, restrict business hours, or close altogether for periods of time throughout the pandemic. Moreover, stay-at-home and safer-at-home orders, social distancing requirements, and concerns among the general public about virus transmission, particularly for those in high-risk groups, continue to influence consumers' behavior with respect to shopping for vehicles and accessing vehicle repair and maintenance services.

Thus, both by necessity and by preference, many more consumers are conducting their daily business online via websites and mobile applications. These surging numbers of consumers being driven to your website and mobile apps mean that it is more pressing than ever that you give your web content a check-up to ensure that it is accessible to individuals with disabilities.

The ADA is silent on the issue of whether accessibility of web content is required. This silence is almost certainly due to the fact that the ADA was passed in 1990, well before the Internet occupied its current place in everyday life. And the drafters of the ADA couldn't possibly have contemplated a global pandemic that would propel even more consumers to conduct business almost exclusively via the web for months on end. The Department of Justice has indicated that, even though the ADA does not speak directly to the issue, the web content of public accommodations must be accessible to all users.

What does accessible mean? Well, that isn't entirely clear, as the DOJ has thus far declined to promulgate regulations adopting a standard by which accessibility should be measured. However, courts and regulators typically have required businesses to measure and improve the accessibility of their web content by following the Web Content Accessibility Guidelines, now in version 2.1. The WCAG were designed to make web content more accessible to individuals with various disabilities, including visual, auditory, physical, speech, cognitive, language, learning, and neurological disabilities.

While application of, and alignment with, the WCAG for your website as a whole is an important step, it's an overwhelming one, too. Thus, it's equally (or maybe even more) important to focus first on the major use cases for your website and ensure that those features, pages, etc., are

accessible. In other words, why are consumers primarily accessing your website? Is it to search current vehicle inventory? To view vehicle models and compare features? To schedule service appointments? To determine dealership hours or contact information? Once you identify why consumers come to your website and what features are most significant to them, concentrate on making those areas of the site accessible, and then move on from there.

When evaluating where to start with your website accessibility review, you also should look to what pages consumers most frequently encounter. Home screens, landing pages, and other pages consumers cannot avoid when navigating the site are crucial areas on which to focus and fix accessibility barriers. Moreover, if you receive consumer complaints about certain webpages or features, those complaints are helpful in determining where accessibility barriers exist.

When you are in the process of identifying and fixing accessibility barriers on your website, engage a third-party vendor to conduct the review. The vendor should perform an automated review, comparing the site to the WCAG 2.1 standards, but also conduct a manual review to identify potential gaps between the standards and the actual user experience.

In addition, make certain that your website incorporates an accessibility statement affirming your commitment to accessibility and offering a 24-hour help desk solution that provides alternative points of contact to users encountering accessibility barriers. Make sure that your help desk is actually helpful-in other words, respond to help requests quickly and effectively. Also, consider soliciting user feedback in your accessibility statement by encouraging users to let you know if they find a problem or encounter a barrier. But, if you solicit feedback, make sure you are responsive and actually fix the issues once they've been brought to your attention.

The dramatic increase in web content usage during the pandemic is almost certain to lead to a surge in court filings and demand letters alleging inaccessible web content. So, make sure you get in front of the issue and start looking at your web content's accessibility right away, especially if you haven't addressed the issue before. After all, to borrow the words of an accessibility advocate, accessibility for all should be viewed as a necessity and not a luxury.