

# ADA Compliance:

An Eye for Accessibility





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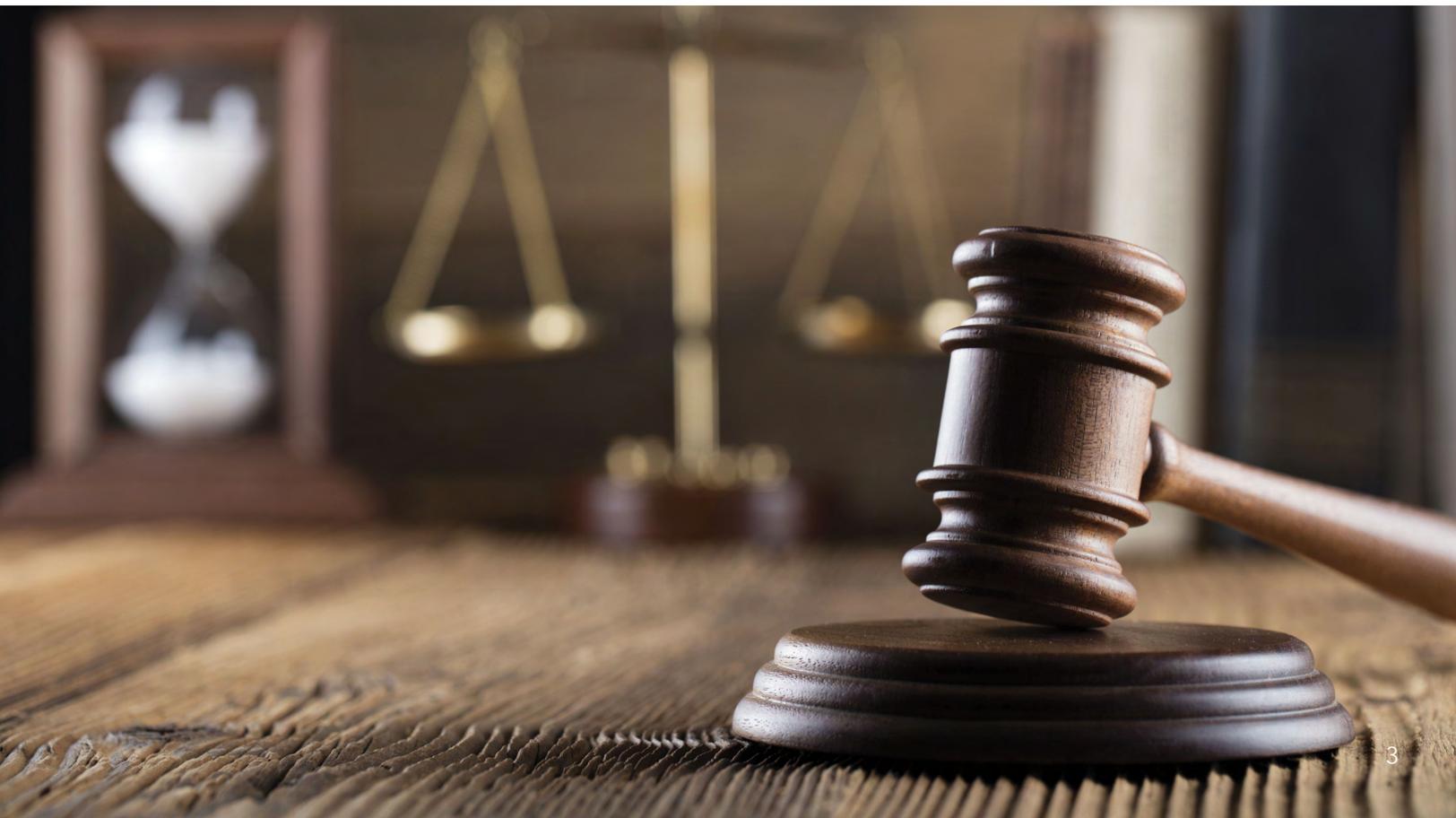
Credit unions are beginning to see their websites and mobile applications as more than just digital branches, but as fundamental platforms for their members. In today's digital age, the first and often most important contact a member has with a credit union is through the institution's website or mobile app. So, what happens when a website has fundamental flaws? In the last three years, banks and credit unions have received thousands of demand letters and even lawsuits challenging the accessibility of their websites under the Americans with Disabilities Act (ADA).

Plaintiffs in these cases, sometimes organized by advocacy groups, are not picky. Credit unions of all sizes, from those with \$2 million in assets to those with \$20 billion have been hit with lawsuits. Just in December of 2017 alone, more than 30 credit unions were served with lawsuits related to ADA compliance.

## THE PROBLEM

The wave of lawsuits and demand letters in recent years is due largely to a renewed focus on ADA-related compliance by the Department of Justice (DOJ). The DOJ had been preparing new regulations for Title II and Title III of the Act, the latter of which impacts various industries, including financial services. Originally planned to be released in 2016, new regulations were delayed and in December 2017, the DOJ withdrew the guidance document, sidelining new regulations indefinitely. In the absence of detailed language, both advocacy groups and those looking to profit financially from these lawsuits, are continuing to target financial institutions. Credit unions need to ensure that their websites are ADA compliant, or else risk seeing a demand letter in the mail.

“The absence of law begets lawsuits,” says Sean Bradley, president and chief technology officer at AudioEye, a technology firm that specializes in online accessibility. “The logic, here, is simple. Since businesses and organizations aren’t mandated, the issue isn’t on their radar. Since it isn’t even on their radar, they are completely blindsided when they are served a legal complaint claiming ADA Title III violations. If the DOJ gets around to issuing a ruling, more businesses and banking institutions would know the requirements and their responsibilities under Title III, as it pertains to digital inclusion and ensuring equal access for their users.”



## Understand compliance requirements

The lack of specific ADA website standards and continued delay of new regulations mean that it can be hard to know what is specifically required of credit unions in terms of accessibility. However, this does not mean that ignorance can be used as a shield against ADA compliance. The DOJ has become increasingly more diligent in the enforcement of ADA violations. Credit union compliance and risk staff, as well as the leadership team, would do well to learn more about ADA Title III regulations.

In the absence of updated ADA regulations, the globally recognized consensus for web accessibility is the Web Content Accessibility Guidelines (WCAG) 2.0, which operates on three levels: A, AA and AAA. WCAG is published by the Web Accessibility Initiative of the World Wide Web Consortium, a standards organization for the internet founded by Tim Berners-Lee. WCAG 2.0 was announced in 2008 as a set of guidelines for web developers and organized under four principles:

### **Perceivable**

Information and user interface components must be presentable to users in ways they can perceive.

- **Guideline 1.1:** Provide text alternatives for any non-text content so that it can be changed into other forms people need, such as large print, braille, speech, symbols or simpler language.
- **Guideline 1.2:** Time-based media: Provide alternatives for time-based media.
- **Guideline 1.3:** Create content that can be presented in different ways (for example simpler layout) without losing information or structure.
- **Guideline 1.4:** Make it easier for users to see and hear content including separating foreground from background.

### **Operable**

User interface components and navigation must be operable.

- **Guideline 2.1:** Make all functionality available from a keyboard.
- **Guideline 2.2:** Provide users enough time to read and use content.
- **Guideline 2.3:** Do not design content in a way that is known to cause seizures.
- **Guideline 2.4:** Provide ways to help users navigate, find content, and determine where they are.

## **Understandable**

Information and the operation of user interface must be understandable.

- Guideline 3.1: Make text content readable and understandable.
- Guideline 3.2: Make web pages appear and operate in predictable ways.
- Guideline 3.3: Help users avoid and correct mistakes.

## **Robust**

Content must be robust enough that it can be interpreted reliably by a wide variety of user agents, including assistive technologies.

- Guideline 4.1.: Maximize compatibility with current and future user agents, including assistive technologies.

Understanding these technical elements can provide an elementary baseline for auditing a website and implementing changes.

“Specifically Level AA Success Criteria is the target benchmark that is commonly required in the context of ‘compliance’ as defined through the various legal mandates and precedents related to conforming with ADA Title III requirements,” Bradley clarified.

“In order to conform with WCAG 2.0 AA, designers and developers must constantly benchmark their creations against the testable success criteria provided through these internationally recognized standards and best practices. Content publishers – those updating and publishing content to their website (commonly via a Content Management System) – must, also, benchmark their published materials against the same testable success criteria.”

## **Undertake a website audit**

Redesigning a website can cost a credit union upwards of \$60,000, where an audit may only cost a tiny fraction of that amount. It is better for credit unions to be proactive and ensure that their websites are accessible, than to deal with a demand letter and be forced to respond quickly (and expensively). Additionally, making sure that the website is accessible can clear up some long standing, if sometimes unvoiced, frustrations from your members. According to the most recent data for the U.S. Census Bureau, 12.6 percent of people in the United States, or roughly 39 million, live with some sort of disability. The total number of people with disabilities that impact their web browsing is more than 50 percent of that number.



**75 PERCENT**  
of people with disabilities  
use computers and mobile  
devices

**22 PERCENT**  
of all working-age  
adults can benefit from  
accessibility technology

**19.9 MILLION**  
Americans have difficulty  
lifting or grasping, possibly  
impacting their use of a  
keyboard and mouse

**6.8 MILLION**  
Americans have a serious  
vision impairment,  
requiring the use of  
on-screen magnifiers or  
other visual tools

**10.8 MILLION**  
Americans have a hearing  
impairment, relying on  
transcripts for media

Source: US Census Bureau, Forrester Research  
and AudioEye

“Every website should be audited for accessibility prior to launch to ensure it was designed and coded properly,” Bradley stated. “When not coded properly, websites can be difficult or even impossible to fully access by people that rely on assistive technologies or specific need-driven techniques to navigate the digital world. In the same sense that a building must provide certain physical accommodations - ramps, rails, wide doorways, curb cuts and elevators - websites must provide specific accommodations to enable full access. Websites should be designed and developed to accommodate users with diverse abilities in a manner that focuses on user-first, universal design principles.”

One mistake many companies are making in ADA compliance is returning to their web developer to help audit for compliance issues. Unless the vendor also specializes in auditing for accessibility, many developers simply are not outfitted to do so.

Instead, credit unions should look for companies that focus on ADA compliance and have a set, automated process for doing so. Auditing a website manually takes time, not to mention that the process is prone to human error. Automated processes however, can quickly identify potential issues and provide ongoing monitoring to ensure a website stays accessible no matter what functions are added.

When creating a new website, credit unions need to make sure that ADA compliance is a default standard with their web developer.

## Have a response plan

Making accessibility changes takes time, so credit unions should be prepared for a demand letter as they are making changes to their website.

Organizations should, at the very least, have a basic plan prepared for such an eventuality.

“To exacerbate the problem, when these legal demands hit, it turns out that they are, in many ways and instances, backed by legal precedent,” Bradley explains. “These complaints are founded on the idea that the business or organization has neglected to accommodate individuals with disabilities, a sizable and ever-growing market that exceeds 1 billion individuals, worldwide. Obviously, these scenarios present a high-risk and immediate challenge that tends to trigger chaos within the organization scrambling to retroactively ‘comply’ as they seek to avoid the potential negative publicity that may come from any perception that they failed to address such a large and often marginalized constituency.”



Source: Seyfarth Shaw

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## Key Steps for Financial Institutions:

### ✔ *Consult an attorney*

Once a credit union receives a legal demand letter, or perhaps even a notification that they are being sued, it becomes a legal matter. The first and best step in this process is to consult legal counsel, who can best guide you through the process of responding.

### ✔ *Mitigate your exposure*

Now that a demand letter has been received, a credit union must prioritize addressing the issue and mitigating negative exposure. Organizations can do this by conducting an independent audit of accessibility issues, releasing a statement on their website as well as providing a forum for members to post their issues. A certain level of transparency can be very helpful, but make sure that the process is scrutinized by legal representation.

### ✔ *Respond to the demand letter*

Finally, continue working with an attorney to craft a response to the demand letter. Credit unions should enter this phase carefully. Addressing the points made in the demand letter or lawsuit take priority, but ideally the organization should take steps to make long term changes that will benefit its membership.



# DIFFERENTIATORS

## SMALL CREDIT UNION PERSPECTIVES

ADA compliance issues are a threat to all credit unions, both large and small. Smaller credit unions should take steps to ensure that appropriate staff members are aware of the organization's ADA-related responsibility and that the website is properly reviewed for possible compliance issues. Credit unions need to remain vigilant and conduct ongoing auditing, monitoring and review of the websites and mobile applications they own.

The last two years were rough for businesses who had accessibility vulnerabilities, and 2018 does not look much different with the continued delay in ADA Title III regulations.

"A return to the status quo only means one thing: more lawsuits," Bradley said. "From our experience, this decision from the DOJ only encourages legal actions filed by plaintiffs in pursuit of defending their civil rights. Year after year, in the face of the DOJ's inaction, the courts continue to process more and more legal actions covering digital accessibility complaints."

## HOW CU SOLUTIONS GROUP CAN HELP

CU Solutions Group partnered with AudioEye, a leader in accessibility, to incorporate ADA digital compliance for credit union websites. **AudioEye** is one of the only accessibility services that does not only audit a website, but also applies any changes needed. This service includes a full audit of a credit union's website, corrections to address all ADA issues (including automated corrections as well as manual corrections), ongoing weekly monitoring and corrections.



AudioEye specializes in resolving issues of accessibility through the integration of its patented technology. AudioEye first deploys a proprietary JavaScript, an efficient and powerful tool for identifying and addressing accessibility issues. In a matter of minutes, the AudioEye JavaScript can be deployed securely to immediately begin identifying and resolving accessibility issues.

"Our technology runs tests in real time, benchmarking against WCAG 2.0 testable success criteria," Bradley explained. "As specific common issues are found, the technology is able to apply the appropriate remediation specific to the violation. This happens seamlessly in the background without altering the aesthetic or function of a site. While the automated process comprehensively identifies all the violations and remediates the most common errors, engineering-generated remediations are also necessary."



## Read more in CU TrendScan

[CUTrendScan.com](http://CUTrendScan.com)

CU TrendScan is a quarterly digital publication that explores trends within the credit union industry. Focusing specifically on the areas of technology, marketing, and HR performance, CU TrendScan takes a closer look at the issues that drive the industry forward.



## More about Accessibility

[CUSolutionsGroup.com/ADA](http://CUSolutionsGroup.com/ADA)

Technology Solutions from CU Solutions Group will perform a full review of your website to assist in identifying accessibility issues. Our consultation, with our partner AudioEye updating your current website, will give you peace of mind and help you to provide a more inclusive experience. We know that your credit union cares and we want to help you ensure that this care is reflected in your website.

The only way to determine whether a screen reader can communicate with your site is to complete a comprehensive analysis of your website's code and content. Once the analysis is complete, we will not only begin resolving issues automatically but continually as your website evolves.



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