



FAQ

AMERICANS WITH DISABILITIES ACT

Does the American with Disabilities Act (ADA) specifically address website accessibility?

The ADA does not explicitly address public-facing websites, let alone detail how they should be made accessible for the disabled public. ADA rules governing reasonable public accommodation are focused on physical barriers at physical business locations. With no overt coverage in the law or regulations themselves, it has fallen to the courts to determine how ADA standards apply to websites—or whether they do at all. Between 2017 and 2018, website accessibility lawsuits surged by some 30 percent, with the majority targeting the banking, restaurant, and retail industry sectors. Retail light-duty vehicle dealerships have been threatened with lawsuits and sued. Unfortunately, the case decisions interpreting how the ADA applies to public-facing websites have varied widely between the circuits, and even among district courts within a circuit, resulting in a legal grey area.

Do guidelines exist for those seeking to enhance website accessibility?

While [generic non-governmental website accessibility standards](#) exist, there are no specific federal legal guidelines serving as a “safe harbor” for ADA compliance. This makes it difficult for dealerships to understand how best to make their websites more accessible.

What steps, if any, should dealerships take to make their websites more accessible?

Since it is unclear how or even if the ADA will be applied to retail websites, NADA suggests that dealerships discuss accessibility with their website vendors to better understand if investments in website accessibility will lead to increased business opportunities and/or reduce the potential for legal liability, legal costs, and/or negative publicity. Dealerships should evaluate these issues in conjunction with their legal counsel, their insurers, and the manufacturers they represent.

What about OEM-sponsored (mandated) websites?

The website accessibility issue is made more complex for franchised dealerships with respect to OEM-mandated websites involving OEM mandated frameworks, formats, and content. Certainly, the argument can be made that dealerships should not be responsible for the accessibility costs associated with the OEM-mandated/supplied portion of these websites.

How is NADA engaged on this issue?

Working with a coalition of business organizations, NADA has focused on getting the Department of Justice (DOJ) and/or Congress to issue appropriate website accessibility guidelines. For example, in March 2019, NADA arranged to meet with DOJ’s new Assistant Attorney General for Civil Rights. At that meeting, it was argued that additional guidance would serve to enhance website accessibility for the disabled public, while reducing legal, transactional, and public relations risks for business.

In addition, NADA has discussed the accessibility issue with the largest dealership website development/management vendors and with at least one major company offering dealerships a website accessibility “add-on” product. Stay tuned for updates on this topic as they become available.

Please feel free to direct questions on this matter to Doug Greenhaus or Kaye Lynch-Sparks at 703.821.7040 or regulatoryaffairs@nada.org.