

Is Your Website ADA Accessible?

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Last fall, Microsoft released its Xbox Adaptive Controller, which is made for those with limited mobility. As Microsoft artfully put it in a television commercial advertising the new product, "When everyone plays, we all win."

Commercials like that one are welcome reminders that accessibility is important to consumers, and companies that make accessibility a priority win consumers' hearts - and their business.

Over the years, you've likely addressed accessibility issues under the Americans with Disabilities Act related to your brick-and-mortar locations. But did you know that the Department of Justice and some courts have interpreted the ADA to require that disabled users be provided with equal access to the products, services, and information offered through your website and mobile application?

Though accessibility appears to be required, there are no statutes or regulations telling businesses how to comply. Instead, the DOJ has indicated that businesses have flexibility in determining how to ensure accessibility. This flexibility has created uncertainty, which has led to a surge in the number of court cases in which disabled plaintiffs allege that they were not able to access businesses' websites.

In June, Domino's Pizza filed a petition with the United States Supreme Court asking it to overturn the lower court's decision allowing a web content accessibility suit to proceed against the company. Accordingly, we may see the Court weigh in on the issue and provide much-needed clarity regarding whether web content accessibility is required under the ADA.

But, what should dealers do for now? Courts and regulators typically have required businesses to measure and improve the accessibility of their websites by following the Web Content Accessibility Guidelines 2.0, designed to make web content more accessible to people with various disabilities, including visual, auditory, physical, speech, cognitive, language, learning, and neurological disabilities. As a result, these guidelines appear to provide the best means of fixing existing accessibility barriers and ensuring that future web content does not contain those barriers.

The path to accessibility begins with a check-up using a third-party tool or auditor to review your website and mobile applications. Next, you should develop a plan to

implement any recommended updates or improvements. You also should develop web content accessibility policies and procedures that provide for employee training, in addition to regular audits and corrective measures to ensure ongoing accessibility, as technology changes and new content is added or deleted.

The Internet has become an indispensable source of information, goods, and services for most individuals. Make sure consumers know that you're committed to accessibility - not just at your dealership, but also on your website. Failure to do so opens the door for private plaintiffs and federal regulators to pursue claims against your dealership for lack of compliance, including claims for damages and reimbursement of attorneys' fees.

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