

December 17, 2014, 6:00 AM ET

DOJ Pushes for Better Blind Access to Websites



National Federation of the Blind

A blind man conducts a transaction at an ATM machine.

The Americans With Disabilities Act was enacted before there was an Internet, but the U.S. Department of Justice interprets the law in a way that companies must make their websites and mobile apps accessible to blind people and people with other physical limitations.

The agency has been focusing greater attention on the issue and is planning to release revised rules next year to codify the ADA so it's clear that accessibility extends to the Internet, which wasn't a big part of everyday life when the law originally was passed in 1990, said Chris Danielsen, director of public relations at the National Federation of the Blind. The Justice Department didn't respond to requests to comment, but posted a notice to The Federal Register last spring saying rules would be [introduced in March 2015](#).

"The DOJ has taken the position that the ADA applies to the Internet...and the courts have gone with it," said Michael P. Wippler, a managing member at law firm Dykema Gossett.

“That horse is out of the barn and, in my view, we’ll probably see more government action and more court action. If you don’t do it and fight it and end up in litigation, especially if the DOJ is coming at you, odds are you are going to lose.”

The Justice Department’s interpretation of ADA being applicable to websites is no different than it telling restaurants or other businesses that existed before the law that they had to install wheelchair ramps or make their bathrooms handicap-accessible, Mr. Wippler said.

The Justice Department has entered into settlements this year with [H&R Block](#) and online grocery service Peapod and [intervened in private litigation](#) on behalf of a plaintiff who sued clothing store Lucky Brand for failing to provide blind-accessible point-of-sale devices at its stores.

Lucky Brand argued in court its point-of-sale devices didn’t have to be accessible because the ADA hasn’t specified technical standards for them, and also argued the plaintiff could have used an alternative method to pay for goods, according to a commentary on the issue by Mr. Wippler, who cited court documents. A judge granted Lucky Brand’s motion to dismiss the case, citing a lack of standing by the plaintiff, but left open the possibility for the case to be refiled. Lucky Brand declined to comment.

In the case of H&R Block, the Massachusetts chapter of the National Federation of the Blind sued the tax-preparation company for failing to make its website accessible. The DOJ intervened in the case, and under a settlement announced in March, the company agreed to make its site and mobile apps accessible by Jan. 1, 2015, as part of a five-year consent decree. An H&R Block spokesman said the company wouldn’t comment on the specifics of the lawsuit, but said the company is “firmly committed” to compliance with the ADA and to the Justice Department settlement.

The Justice Department in November announced an [agreement](#) with Ahold USA Inc. and its affiliate, Peapod, to fix what the department said were violations of the ADA that left Peapod’s website inaccessible to some people who are blind or have low vision, to some people who are deaf or hard of hearing and to some people with physical disabilities affecting their manual dexterity.

Thomas Parkinson, co-founder and chief technology officer for Peapod, said the company has been committed to providing accessibility to the disabled since its inception in 1989, and called the settlement a way to “put some structure to some of the processes” the company already had in place. These included hiring a third-party company to audit its websites and mobile apps, hiring a coordinator to oversee ADA compliance and to file reports to the DOJ to show the company is compliant, Mr. Parkinson said.

“Most of things in the agreement were already being put in place; the only real addition is reporting to them,” he said. “We don’t know why the Department of Justice approached us, but we welcomed it. We had a good story to tell them.”

Peapod will continue to train its staff on the various screen readers and other equipment used by blind and other disabled people to navigate websites and apps, Mr. Parkinson said, and will spend more time with technology developers to make sure whatever new products they come up with meet the latest ADA standards. The settlement won’t result in any penalties to the company, or any additional costs, he said.

Last June the National Federation of the Blind and eBay announced a [partnership](#) that would improve access to eBay’s website and mobile apps for buyers and sellers who are blind. An eBay spokeswoman declined to comment. The federation last month [settled a lawsuit](#) with automated teller machine company [Cardtronics](#) Inc. in which the company agreed to create an accessibility center of excellence to improve use of voice commands at its ATMs. Cardtronics “intends to be at the forefront of providing convenient cash access to blind people,” said Chief Executive Steve Rathgaber in a statement.

Mr. Danielsen of the National Federation for the Blind said the involvement of the Justice Department is leading to more awareness of the challenges blind people face when trying to buy online or make purchases at checkout. One area of focus is getting point-of-sale payment systems to allow blind people to enter their pin numbers without having to tell a store clerk or third party what that secret code is. “If a device has a touch screen and no tactile key pad to enter a pin number on, then they have to reveal their pin number to a third party, which is not acceptable,” he said.

“If you’re doing business, if you are providing a good or service, you need to be prepared to provide that good or service to everybody, including people with disabilities and including blind people.”

Write to Ben DiPietro at ben.dipietro@dowjones.com, and follow him on Twitter [@BenDiPietro1](#).

Copyright 2014 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our [Subscriber Agreement](#) and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com