Your Website & the Americans with Disabilities Act…
*Sifting through memos to find clarity.*

Last month, some WBMA members found their heart skipping a beat when they received an alarming memo from one of our industries buying cooperatives stating that they may face the threat of a lawsuit because their website is not ADA compliant (i.e. accessible to people with disabilities). While providing access to your store, services, and products to all is, and should be a requirement, in light of this memo it is important to take a step back and help our members sort through the facts.

What is ADA Title III? ADA Title III [the Act] specifically addresses when private businesses are considered “public accommodations,” therefore requiring that they not discriminate against a customer based on a disability and mandating when “reasonable access” must be provided.

Does it apply to my business? Hardware stores and sales/retail outlets are specifically listed as “public accommodations” under the Act. Unless you are a 100% wholesale business and only sell to licensed contractors and/or businesses, the Act applies to you.

What is an ADA compliant website? If someone in a wheelchair wants to access your store its widely understood they need a ramp or other point of entry if your front entrance has stairs. Similarly, people with disabilities have difficulty accessing the same information on the internet that most get to with the click of a mouse.

What’s the rule to abide by? To put things into context, when the ADA was enacted into law the internet didn’t exist. The Department of Justice [DOJ] has never issued proposed or final regulations on website accessibility leaving businesses understandably confused as to what “accessible” means.

In 2010 the DOJ issued an advanced notice a proposed rulemaking in order to solicit comments, but as of today, no well-defined regulation exists. The final rule had been expected out for some time, however, wanting to address government websites first, the issuing of the final rule was recently delayed until sometime in 2018.

Should I wait for the rule to come out? I called the DOJ myself to ask what business can use to help guide them in lieu of no clearly defined ADA regulations. Echoed by the memo our members received, I was told that until the final rule comes out the DOJ is “referring people” to Section 508 of the Rehabilitation Act (applies to government agencies providing information to disabled people) and Level AA standards of industry established guidelines known as the Web Content Accessibility Guidelines (WCAG) 2.0.

What should you do? Take a deep breath, then get informed by doing your homework. Speaking with a web-developer, he said that for most companies it is not a monumental task to make your site universally accessible. Simply put, it’s a good idea to ask your web developer a few questions about ADA compliance.

Can I check if my website is accessible? Some of the recently filed lawsuits are on behalf of blind and visually impaired plaintiffs. The suits allege that certain online retail websites were not designed to allow software that converts text to audio. Here is a list of some text to audio tools if you want to try them out on your website. I downloaded ChromeVox by Google, and while it cannot put a stamp of compliance like hiring an **continued on page 2**
expert can, I was able to hear the text on several member’s sites clearly and accurately.

There are also many online tools that will review your website and notify you of any major accessibility issues. Here is a list of some of those services. The Web Accessibility Evaluation Tool was the best for me at translating things into plain English. I tried a few of the others and as someone who is not an IT expert, a lot of the data was over my head and just added to the confusion (so... if you’re like me, just ask someone who speaks that language).

In Summary... Be proactive by not waiting for the DOJ to clearly define the rules. Make the potential of driving more customers to your website and store as a motivator rather than just the fear of a lawsuit.

Compliance Spotlight…
Are Fire Extinguishers Required on Forklifts?

When doing on-site compliance reviews this question often comes up. Do our forklifts need to have portable fire extinguishers on them? Like most things, the answer is... it depends.

However, unless you have a lot of very old forklifts, for most WBMA members the answer is most likely, yes. Federal OSHA rules are not explicit on the matter so without diving in too deep, here is a simple reason why. 1910.178(a)(4) requires that any modification to a forklift requires the written permission of the manufacturer. If your forklift came with an extinguisher attached, which most do these days, then one needs to be kept on it and properly maintained.

For more detailed information on the rule(s) and how they apply to your business, call WBMA at 360-943-3054 or send an email to tom@wbma.org.

Visit us at wbma.org  

Newsletter Sponsors: 

Visit us at wbma.org 

Quote of the Month:  
“Timing, perseverance, and ten years of trying will eventually make you look like an overnight success.”  
Biz Stone, Twitter co-founder

Upcoming Events: 

Educational Opportunities:  
February 23rd  
• Special Order Management

February 24 – 25th  
• Yard & Operations Management

Dates to Remember:  
March 25th  
• Link Scholarship Deadline

April 18th – 20th  
• NLBMDA Legislative Conference, Washington D.C.

October 2016  
• Part 2 of WBMA’s Leadership Series: Financials for Non-Financial Managers

November 7-9  
• WBMA’s 114th Annual Convention, Red Lion Jantzen Beach, Portland OR

About the Author/Disclaimer: 
Tom Rider is Manager of Member Services for WBMA. He is committed to being a valued resource to its members, particularly on regulatory compliance issues affecting building material suppliers. Unless stated otherwise, this regulatory newsletter is written by him. He is a lawyer, but respectfully, he is not your lawyer (unless you have been in his office and signed a contract). This communication is not intended as legal advice, and no attorney-client relationship results merely by reading it. Please consult your own attorney for legal advice. If you are a WBMA member and would like to contact Tom with questions and/or comments, please email him at: tom@wbma.org