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Delivering the Promise of the ADA in the Digital Age

by Virginia A. Jacko   Wednesday, July 21, 2021

The 31st anniversary of the Americans with Disabilities Act (ADA) on July 26 marks the passage of an emancipation proclamation for persons with disabilities. Yet the lofty ideals of the ADA remain unfulfilled as the realities of the current Digital Age have created new obstacles, particularly for millions of Americans who are visually and hearing impaired.

When President George H.W. Bush signed the ADA into law in 1990, emphasis was placed on physical access with requirements for buildings to install ramps, wide entrances, elevators, curb cuts and other accommodations. Private and public property owners were mandated to make improvements to benefit persons in wheelchairs and with significant mobility challenges.

The decades that followed brought the Digital Age into fruition with computers and the Internet becoming basic tools of modern life. Access to websites became critical gateways to everything from education, employment and health care to shopping, banking and leisure. Today, most Americans take it for granted that information and electronic transactions are available with just a few key strokes. In fact, the isolation of the COVID-19 pandemic only strengthened this reliance on the Internet.

The digital realm is where the promise of the ADA falls short. Visually challenged Internet users rely on a variety of assistive technologies, including large-print software, braille output devices and page-reading software, to access digital content. The hearing impaired utilize amplified sound, captioning, picture boards, telecoil hearing aid connections and other technologies. However, most of today's websites are improperly structured or coded to accommodate these specialized tools, rendering much of their digital content inaccessible to these specific audiences with disabilities.

As a blind person, I can attest to the frustration and futility of encountering inaccessible websites. In my role of President and CEO of Miami Lighthouse for the Blind, I use all Microsoft Office applications, such as, Outlook, PowerPoint and Excel, as well as any sighted executive. There are just two differences – I use lots of keystroke commands and a screen-reading software application called JAWS that provides auditory feedback. However, I am unable to "read" too many Internet websites containing graphics because JAWS and other adaptive software are designed to interact with text, even though proper coding could eliminate this shortcoming.

In addition to denying access to a significant number of highly receptive users – more than 8 million visually impaired persons and more than 10 million hearing impaired in the United States alone -- these businesses, institutions and organizations may face future litigation challenges. The Eleventh Court of Appeals recently ruled that website accessibility was not anticipated and is not covered by the ADA's accommodation requirements. However, the U.S. Department of Justice may be developing enhanced website accessibility guidelines that were previously contemplated under the Obama Administration.

Beyond the legal issues, full accessibility should be a central reputation-management concern for any entity with an Internet presence. Just as the ADA introduced physical accommodations to persons with disabilities 31 years ago, universal website accessibility will create a new level of freedom for the visually and hearing impaired in the Digital Age.

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