



# Summary of the Guidance Issued by ICBA on ADA Accessibility for Websites

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The Independent Community Bankers of America (“ICBA”) reached out to the Department of Justice (“DOJ”) asking for guidance regarding whether the DOJ will adopt the standards in the World Wide Web Consortium’s Web Content Accessibility Guidelines (“WCAG”). The DOJ stated that although it has not yet adopted the WCAG standards, it is leaning toward adopting the standards. Furthermore, the DOJ stated that in its view, ADA requirements to provide accessible technology is an “already-existing obligation” and compliance is expected unless a business can prove an undue burden.

The ICBA’s survey found that 19% of community banks had received a demand letter about ADA compliance of the bank’s website. As of December 6, 2016, banks have taken the following responses upon receiving such a demand letter:

- 85% sought legal advice
- 58% developed plans to bring their websites into compliance
- 39% conducted a review of their websites
- Some respondents expressed confusion as to their level of compliance with the WCAG standard
- None settled
- Several contacted their insurance company or fidelity bond company
- Several contacted their website vendors and core processors

In light of the DOJ’s response, the ICBA has listed several things that should be done upon receiving such a demand letter:

1. **Do not ignore the letter**
2. Seek legal counsel and check with other area banks and businesses
3. Conduct an ADA compliance review of the bank’s website
4. Check vendor contracts with online banking/web-hosting companies to ensure they comply with the ADA
5. Assess the claim and ask the plaintiff’s law firm for additional information
6. Evaluate the quality of the plaintiff’s law firm response and decide on a course of action
7. If your bank hires a company to update your website, conduct a follow-up independent review to ensure compliance
8. Limited website functionality does not absolve your bank’s compliance responsibility
9. Do not wait for a demand letter
10. Take heed to the DOJ’s response

## Recommendations

In light of this the ICBA’s guidance and the DOJ’s response, it is best to be proactive and ensure compliance with the WCAG standard before you receive a demand letter. If you receive a demand letter regarding ADA compliance, you should contact your counsel and then decide whether an independent WCAG standard compliance review of your website is warranted. If the bank finds that its website is compliant, then ignoring the demand letter may still be the best response. If the bank finds that its website is not in compliance, it should make the necessary changes to make the website compliant. A practical problem, however, is that many website vendors have not yet designed applications that are WCAG compliant.

This post was drafted by [David Hrabik](#), an associate in the Spencer Fane LLP Kansas City, MO office. For more

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