

Horizon for Websites

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The Morgan Lewis ADA Title II, III & State Accessibility Law practice issued a [LawFlash](#) earlier this week regarding the applicability of Title III of the Americans with Disabilities Act (Title III) to websites. In the recent *Earll v. eBay* decision, the influential Ninth Circuit held that a website business not connected to a physical place is not a “place of public accommodation” for purposes of the ADA. However, as noted in the LawFlash, there has been a split in lower federal courts with regard to this issue, and the Department of Justice (DOJ) continues to take the position that Title III applies to web-based goods and services. Therefore, website operators need to continue to monitor this issue and consider steps that may be necessary to comply with the rules that govern “places of public accommodation.”

The Application of ADA Title III to Web Services

Title III requires private entities that operate places of public accommodation to take certain steps to accommodate and refrain from restricting access to or discriminating against persons with disabilities. The DOJ is expected this summer to accelerate its role in making and enforcing rules regarding accessibility to websites and to propose the [Web Content Accessibility Guidelines \(WCAG\) 2.0, Level AA](#) as the standard required under Title III.

Making Web Services Accessible

Although a discussion of the compliance risks for web services under Title III is beyond the scope of this blog post, website operators should consider reviewing the WCAG standards for making Internet services accessible to persons with disabilities. The guidelines fall under four general principles:

1. Content must be presentable to users in ways they can perceive – Provide text alternatives for non-text content so that it can be changed into other forms that people need, such as large print, Braille, speech, symbols, or simpler language.
2. User interface components and navigation must be operable – Make functionality available

from a keyboard and conform to certain accessible navigation design principles.

3. Information and the operation of user interfaces must be understandable – Web pages should appear and operate in predictable ways, and text content should be readable and understandable.
4. Content must be robust enough to be interpreted by a wide variety of user agents, including assistive technologies – Include compatibility with current and future assistive technologies.

Note that although the WCAG are expected to be proposed by the DOJ as the standard for Internet accessibility required under Title III, they do not have the force of law, and any new regulations promulgated by the DOJ may not address technical standards for accessibility in the same way.

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