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## Department of Justice Issues Advance Notice of Proposed Rulemaking on Accessibility of Web Information and Services

The United States Department of Justice (DOJ) recently reiterated its intent to enforce website accessibility standards under the Americans With Disabilities Act (ADA). The DOJ is focusing on ensuring that covered entities provide ready access for the disabled to their websites. In short, the ADA accessibility rules cover anyone (governmental or private entities) that opens its doors to the public, including places of lodging, retailers, restaurants, medical facilities, banks, local governments and schools. The DOJ has consistently maintained the position that websites operated by covered entities are "public accommodations," and recent court decisions have supported this view. The courts have reasoned that websites serve as extensions of and invitations to the physical structures that serve as more traditional public accommodations.

The DOJ has issued an Advance Notice of Proposed Rulemaking (ANPRM) for public accommodation websites and has promised increased enforcement and heightened scrutiny of company and governmental websites. Through the public comment process, the DOJ seeks input on such matters as barriers to website accessibility, coverage limitations of the ADA, cost of compliance on small businesses and the need for increased DOJ enforcement. While the DOJ will solicit comments over the next several months before it issues final regulations, now is the time for entities covered by the upcoming rules to address any accessibility issues on websites.

Companies should review their website content and design for accessibility by individuals with disabilities including visual, motor and cognitive impairments. For example, web designers should be employed to provide text descriptions for visual content that is compatible with assistive technology (Braille and Screen Readers) used by the blind. Web design should be consistent and easy to navigate, and all video and audio should be captioned and minimize the use of color cues. Online recruitment and hiring capabilities should conform to all ADA standards as well.

In addition, website content should include a full description of how the company/covered entity provides full access to the disabled at its physical locations. Architectural and engineering compliance should be fully explained and all online purchasing opportunities should be available to persons with disabilities. Any barriers to or limitations upon accessibility should be fully disclosed. For example, a hotel should provide ready access to information on the types and number of rooms available to the physically disabled and make sure that any individual using its website can determine how to reserve the room that best accommodates any impairment.

Failure to comply with the new regulations may leave a covered entity exposed to damages and other compliance measures initiated by the DOJ, as well as lawsuits by individuals under the ADA. Venable attorneys are monitoring the situation with respect to the DOJ's rulemaking as well as legal developments at the legislative and judicial level, and we routinely advise individual employers, trade associations and other consortiums of businesses regarding the submission of comments to proposed rule making and in other public policy efforts. We are available to assist parties interested in being heard on this important matter and to answer any questions they may have on these developments.

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