

ADA Accessibility and Bank Websites

Summary and Overview

Deque Systems is a leader in providing software and services for digital accessibility with experience in a number of markets, including financial institutions, government agencies, and the .edu market. We work with a number of customers, including several Fortune 500 companies, to achieve the benefits of making their websites, mobile applications, and digital documents accessible to all users.

This white paper covers essential information concerning digital accessibility compliance and the banking industry, including:

- The Americans with Disabilities Act
- How the ADA relates to banking and digital accessibility, looking very closely at some clear trends in the regulatory climate surrounding digital accessibility
- Some best practices for banks with regard to the ADA and digital accessibility

What is digital accessibility?

Digital Accessibility helps ensure that digital content is accessible and readable by persons with disabilities and the assistive technologies they use. Specific examples of digital accessibility might include:

- a website that is compatible with a screen reader so that a person who is blind can hear the contents of a web site
- a web application that can be navigated entirely by using the keyboard for a person who has limited mobility and cannot use a mouse
- videos that are captioned and have transcripts so people who have difficulty hearing can understand them
- a downloadable PDF that a person who is blind can have their computer read to them

To date, the most common “rules” of digital accessibility are the Web Content Accessibility Guidelines (WCAG). They are a standard set of regulations for making digital materials accessible and have served as the basis for accessibility regulations across the globe.

What is the ADA?

The American’s with Disabilities Act (ADA) was signed into law in 1990. Technology has, of course, changed significantly in the 20 years between now and then, and neither the original act nor the 2008 revisions make provisions for the Internet. However, in the past two years, under the leadership of Assistant Attorney General for the Civil Rights Division, Thomas Perez, the Justice Department has been very open about its intent to enforce web accessibility under Title III of the ADA, which covers public accommodations and commercial facilities. Perez has stated:

Let me be clear: it is and has been the position of the Department of Justice since the late 1990s that Title III of the ADA applies to websites. We intend to issue regulations under our Title III authority in this regard to help companies comply with their obligations to provide equal access ... Companies that do not consider accessibility in their Web site or product development will come to regret their decision, because we intend to use every tool at our disposal to ensure that people with disabilities have equal access to technology and the worlds that technology opens up.



How does it apply to banking web sites?

Banking web sites, like many essential services that people rely on, are governed by the Americans with Disabilities Act. The intent of the Justice Department to enforce this is detailed above, and recently the notion that web sites are governed by the ADA was supported in Federal court.

In the case of National Association of the Deaf v. Netflix, Netflix requested a summary dismissal. The key legal issue in the case is whether the Netflix web site is or is not a “public accommodation,” and whether Netflix is obligated to make the web site accessible under Title III of the ADA. Netflix’s argument in requesting the case be dismissed and not go to trial was that it is an incorrect interpretation of the ADA to make Netflix a “public accommodation” under Title III of the ADA. Netflix argued that a public accommodation could only be a physical location, and the requirement to be accessible under the ADA does not apply to web sites or web-based businesses.

The judge ruled on this point of law, indicating in fact the ADA does apply to web sites, including web-only businesses such as Netflix. The key points in the judge’s argument supporting that the ADA does apply to web sites are:

1. The ADA explicitly expresses the intent to stay current with new technological developments, so it anticipated and governs things like web sites.
2. A detailed reading of the language of the ADA regulation does not suggest that a public accommodation is the same thing as a physical location. A public accommodation can be a service that an individual accesses in their own home (such as an internet web site).

Therefore, based on these points, Netflix is a public accommodation and it must adhere to the ADA. The ruling by the District Court sets a legal precedent that will certainly be referred to and may be respected and upheld in future ADA-related litigation.

We believe that this clear indication that company websites are governed by the ADA makes it more rather than less important for banks to take proactive measures to ensure that their web sites are accessible.

What are the risks of not being compliant?

Advocacy groups like the National Federation of the Blind or the National Association of the Deaf exist to represent and use all the means at their disposal to better the position of their constituents, and these groups have identified the banking industry as an area of focus.

The American Foundation for the Blind recently posted a survey asking for member feedback on how accessible their banks are, asking questions like “How would you best describe the accessibility of your institution’s web site?” The AFB seems to have a sense of what the outcome of the survey will be, as they indicate that they wish to use the results to demonstrate that “there is still more work to be done to improve online accessibility.”

The complaints that the advocacy groups are raising are resulting in structured settlements with a number of key financial institutions. Charles Schwab is the most recent major announced settlement, and there are many others within the banking community that we have first hand knowledge of that have not been announced. This settlement was initiated by the complaint of a single user, a blind day-trader, who suddenly could not access his account because of changes that Schwab made to the interface of their online product. Other settlements and litigation include cases against Wells Fargo, HSBC, H&R Block and HDVest, Bank of America, and Fleet National Bank.

How can I tell if I’m compliant?

Your bank’s readiness can be initially assessed through three basic questions:

- Do you have a team that regularly - monthly - checks all your websites for WCAG compliance, and is the data provided to key stakeholders indicating how you’re doing?
- Do you evaluate your electronic documents, such as account statements, for accessibility? As a key communication tool and part of your web application, PDFs or other documents also need to be usable by people with handicaps.
- Finally, do you have a regular training program for your technical teams and front line employees that equips them to create and to communicate the work your bank is doing around accessibility? Finally, do you have an owner for accessibility within the organization and a written roadmap around accessibility that can be shared externally?

If you’ve answered yes to all these questions, it is likely that you have a strong accessibility program in place. If you’ve answered no to any of the questions, you should consider evaluating and implementing an accessibility plan or revising whatever plan you currently have in place.

What are steps that I can take?

An important disclaimer: we are not attorneys and we are not offering you legal advice. These are some best practices we have seen used effectively by companies in the banking and other industries.

1. Fix high priority issues based on use cases. A use case may be a bank customer logging into their account. This would be a high priority issue because it is essential task that users engage in on a regular basis. Prioritizing the top 2 or 3 or 5 most important use cases is a good way to start.
2. Monitor your site. Scoping and knowing where there are accessibility issues is a key starting point for prioritizing where to focus even limited time and resources.
3. Raise awareness of accessibility among key members of the team, such as senior managers and leaders within IT or development. Ensuring that employees and team members know what accessibility is, why it's important to have an accessibility plan, and the business benefits of being accessible ensures that your business, and your customers, will be able to take advantage of those benefits.
4. Focus on front-line staff. Help them to understand how to handle calls from customers who are handicapped and are asking questions. A customer once informed us that an advocacy group complaint, combined with a single mishandled call placed by a state Justice Department official posing as a customer who is handicapped, resulted in strong scrutiny and, ultimately, a major structured settlement. The time and effort to make sure front line staff can adequately field calls from customers with disabilities who are asking questions or have a complaint is worth it, given what could result.
5. Create a Conformance Statement. A Conformance Statement is a document from a trusted third party that states your bank's commitment to accessibility and current accessibility plan. If any legal or regulatory attention occurs, a Conformance Statement demonstrates an awareness and proactive commitment to the issue. It can provide useful support and a favorable starting point for any discussions that occur around accessibility. A conformance statement is not a written guarantee that every issue on every page of the web site is accessible; it is a document that formally articulates that the organization is working towards accessibility, and it can go a long way.

We have seen favorable outcomes occur when companies sit down and talk with the organizations that are bringing the complaints. In most cases, those bringing the action do not want to exact

damages; they want the organization to become accessible. Dialog often results in workable solutions that both parties in the discussion can accept.

Digital accessibility is a complex topic that requires technical knowledge, skill in process management and organizational change, and experience in the sometimes-complex guidelines that are used to confirm that a large web site is accessible. It is important to get a specialist involved. An experienced accessibility firm that has worked in the context of structured settlements can not only help your company navigate the technical and legal aspects of accessibility but also help to calm the waters and function as a liaison with regulatory bodies.

Finally, becoming accessible requires an investment in tools that support accessibility in every phase of a web project. The accessibility software created at Deque, such as WorldSpace Sync, can be used by designers at the start of a project to make sure that the color, contrast, visual focus, and the structure and components of a website are navigable and accessible to users with disabilities. It provides developers with a toolkit that allows them to test and revise their code as they are writing it. WorldSpace Sync also includes QA tools and resources that will help maintain an accessible website even after it launches and throughout revisions and expansions.

Deque also has a brand new tool for banks called Deque Rx that automatically fixes the most common accessibility problems found on banking web sites, providing a quick and inexpensive means of addressing basic accessibility issues with little or no involvement from IT resources at your bank.

Deque Accessibility Survey of Banking Web Sites

Introduction

The Deque Accessibility Survey of Banking Web sites is a survey of 20 top banking sites, testing for accessibility. We used our tools to test each company's pages for applying for a checking account, finding a location, and comparing products: public and essential tasks that one might perform on a banking site, not to mention tasks that are essential to critical for gaining new customers.

Our goal was to raise awareness of accessibility, how it specifically affects banking, and where banking as an industry currently stands with regard to web accessibility.

Data Set

The following bank web sites were analyzed:

Ally	Chase	Fifth Third	Suntrust
Bank of America	Citibank	HSBC	TD Ameritrade
BB&T	Citizens	Key	Union
Capital One	Comerica	PNC	US Bank
Charles Schwab	Commerce	Regions	Wells Fargo

Methodology

We used our WorldSpace Sync and FireEyes software to test the sites based on WCAG 2.0, and we restricted our testing to each site's pages for applying for a checking account, finding a location, and comparing products.

Deque's software tool FireEyes was used in conjunction with the Deque WorldSpace platform to scan the selected web pages for errors based on the selected standards, simulate how the page would be read in a screen reader, and send the results to the WorldSpace server for analysis.

Results

The results below identify key use cases--actions that banking customers will engage in--that had the most significant accessibility problems. These include:

- Applying for a checking account
- Finding a banking location
- Comparing banking products

Use Case	Number of Accessibility Bugs Across Dataset	Types of Issues Found
Apply for Checking	2272	<ul style="list-style-type: none"> • Navigation issues • Lack of structural markup (such as headings) • Keyboard access issues
Find a Location	1913	<ul style="list-style-type: none"> • Form fields without labels (such as “Find”) • Keyboard access issues • Missing labels or alt-text for images
Compare Products	1435	<ul style="list-style-type: none"> • Keyboard access an issue • Tables without headings or proper association with data cells • Confusing or unlabeled link text

As you can see, the greatest number of errors occurred on the “Apply for Checking” pages; however, a single instance of the types of issues found in the “Find a Location” and “Compare Products” pages is arguably a more serious barrier, e.g. an entire inaccessible table could be a much bigger problem than five mislabeled headings. That is to say, number or errors alone are not an accurate means of assessing the accessibility. It is critical that one understands the errors themselves and what they mean for the user experience in general.

Issues

The table above includes the top three accessibility issues for each type. In this section we will define and discuss each issue type. (Please bear in mind, these are simply the issues that presented the biggest barrier or occurred most frequently on each page. This is not a comprehensive list of all the kinds of accessibility errors.)

- **Navigation issues:** According to WCAG, navigation has two main functions: to tell the user where they are and to enable the user to go somewhere else. Proper site navigation requires that the user be able to locate where they are and have access to all the possible destinations. Unusual or non-linear navigation methods can present barriers to screen readers and to people with cognitive disabilities.
- **Lack of Structural Markup:** This is quite closely related to navigation issues. Proper markup and correct heading usage is essential to creating a page structure that can be navigated by a screen reader. It is also an integral part of making sure your site is keyboard accessible for users who can’t use a mouse. In addition, descriptive headings provide blind users on screen readers with a better idea of where they are and available destinations.

- **Keyboard Access Issues:** All three page types had keyboard access issues. Making sure your site is fully keyboard accessible is not only helpful to blind users, but to any user who is sighted but cannot navigate by mouse due to impaired motor skills, loss of limbs, paralysis, etc. Drop-down menus that require a mouse-over action to actually see the sub-menu, for example, are a barrier to keyboard accessibility.
- **Form Fields Without Labels:** This is a very common issue. If a form field is unlabeled, blind users have no way of knowing what specific fields in a form they are filling out. It may look like a field is labeled on the page to a sighted user, but unless the form field itself is labeled, a screen reader can't attach a label to the field.
- **Missing Image Labels or Alt Text:** Also a very common issue and very easy to fix. If an image is unlabeled or has no alt text, a screen reader has no way of indicating what the image is to the user. This is especially problematic in the case of infographics and other situations where the content of the image is somehow essential to understanding the text on a website.
- **Tables Without Headings or Proper Association with Data Cells:** Tables can be extremely difficult for screen readers to follow if they are not properly labeled. In addition to making sure all headers are clearly labeled, there must be an explicit association between header cells and data cells. Without proper associations the data and relationships in a table are incomprehensible to someone using a screen reader.
- **Confusing or Unlabeled Link Text:** These errors are much like alt text and image labels in that they are very common and very easy to fix. Screen readers do not always read link text within the context of the larger text, so using text like "click here" or a single word in a sentence as your link text provides no indication of what is actually being linked to for a screen reader user.

Conclusion - Why is this important?

The first obvious benefit of making sure your website is accessible and conforms to ADA standards is that you expand your client base. The US Census recently reported that nearly one in five people in the US report having a disability; that's nearly 60 million people. And almost 40 million of those people report having a severe disability. All of those 60 million people need to or will need to manage their finances, and the disabled community is generally very active about promoting accessible products, and very loyal to products that work for them.

The second benefit is that making your website accessible protects you from the risks of litigation and the involved costs. As we have already mentioned, advocacy groups for the blind and deaf are currently very focused on accessibility in the banking industry, and complaints that the advocacy groups are raising are already resulting in structured settlements with a number of key financial institutions.



Finally, the services you provide to the public are essential. Everyone needs to manage their finances, and the internet is rapidly becoming the means by which people perform these actions. Prior to the internet, people with disabilities - particularly the blind - had to rely on friends, family, or some other external party to help them with their finances. Internet banking gives people with disabilities a level of autonomy in their finances that they have not previously been able to benefit from, but only if banking websites are accessible to them and their assistive technologies.

Contact Deque to Learn More

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