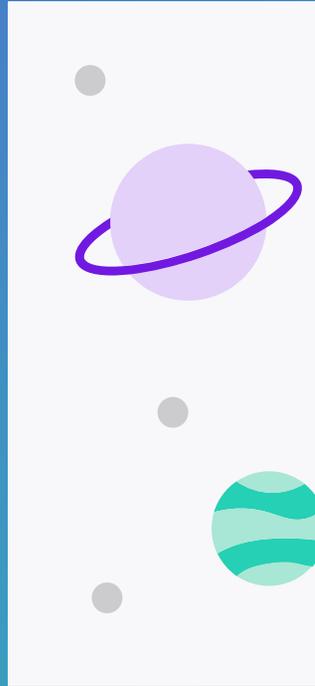
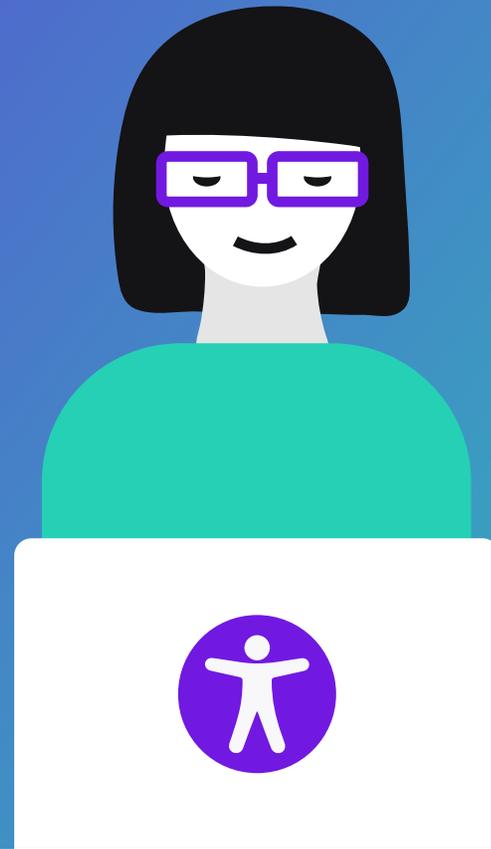




# Accessibility Compliance Is Smart Business



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# Introduction

Whether you conform to accessibility standards because of a business strategy or a court order, the cost of having an accessible website should be considered table stakes to any organization that values its presence on the web.

Ensuring your website provides equal access to visitors of all abilities is always good for business. The goal of growth-minded organizations is to reach more people. Clinging to substandard code that effectively shuts out an entire group is managerially negligent and irresponsible.

It's also against the law. You're legally obliged to make sure your website conforms to modern accessibility standards.

No matter your industry or size, you face tremendous risks to your productivity, reputation, and finances if you lose an accessibility lawsuit. And you'll still pay to have an accessible website when all is said and done.

Again, table stakes. Or in other words, smart business.

## Chapter 1

# Accessibility for Growth

One of the most compelling business reasons for caring about website accessibility is the fact that your organization's website is among its most valuable assets.

Your site has a variety of uses, not the least of which is building a sense of trust with the people you'd like to become or remain your customers. It's the front door to your presence on the internet and one of the first places people look when they want to learn more about you and what you have to offer.

### Your Website Matters

81% of shoppers research online before making a purchasing decision.<sup>1</sup>



Your site must work properly. All the time.  
For everyone.

If some part of your website were to break, you'd arrange to get it fixed as quickly as possible. If it were to stop working for a few hours every day, you'd spare no expense to figure out why — not having your site online is bad for business. If people from a particular geographical region couldn't reach your site, you'd do the same thing. Why? Because you cannot expect your business to remain healthy if you allow the size of your market to be limited.

Selling to fewer people — not more — doesn't make good business sense, yet that's precisely what happens when otherwise healthy and functional

organizations neglect to mind the accessibility of their digital spaces. People with disabilities who cannot access your website cannot become or remain customers.

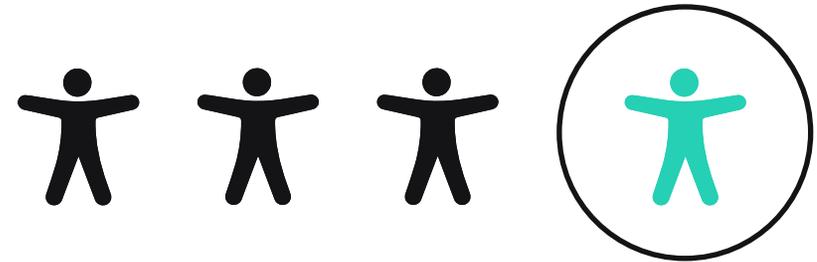
## **Inaccessible Is the Same as Broken**

88% of online consumers are less likely to return to a website that they don't think works properly.<sup>2</sup>

Failing to do what's necessary to reach this market is a wasted opportunity, and the opportunity is massive. In fact, with an estimated global population of 1.85 billion, people with disabilities make up one of the largest markets in the world.<sup>3</sup>

Just within the United States, the adult population of people with disabilities amounts to some 61 million. That's one in four adults, or 26% of the population.<sup>4</sup> And the buying power of these individuals is impressive. According to the American Institutes for Research, the discretionary income — the money someone is left with after covering necessities like housing, food and clothing — of working-age Americans with disabilities is \$21 billion.<sup>5</sup>

To shun this market by refusing to make your website accessible would be outrageously irresponsible.



## Expand Your Market Reach

People with disabilities tend to be more brand-loyal and spend more money per shopping event than people who do not have disabilities.<sup>6</sup>

## Chapter 2

# Accessibility for Risk Mitigation

When it comes to website accessibility, the promise of expanding your market is very much a “carrot.” Making sure your website is accessible to people with disabilities means you can serve more people, and that can result in more business opportunities and more substantial growth. The “stick” part of the equation — the consequences of neglecting website accessibility problems — involves the possibility of facing an expensive lawsuit.

This risk, which is very real, cannot be ignored.

Although there are many other federal, state, and municipal laws that mandate website accessibility — Sections 504 and 508 of the Rehabilitation Act of 1973, California’s Unruh Civil Rights Act and the New York State Human Rights Law immediately come to mind — Title III of the Americans with Disabilities Act (ADA) provides the biggest tent for digital accessibility suits because it prohibits discrimination based on disability in places of that are generally open to the public.

# Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA), which has been the law of the land for more than 30 years, prohibits discrimination based on disability across five sections of public life. Each of the act's titles outlines rules for those sections: employment, government, public places (including businesses), telecommunications and a variety of provisions gathered under a general "miscellaneous" designation. The ADA titles covering digital accessibility issues are Title I, Title II, and Title III.

## Title I

### Employment (15 or more employees)

Employment-related digital accessibility issues can be **employee-facing**, covering such tools as the software and websites employees are required to use as part of their job duties, and **public-facing**, covering components like an organization's careers page and job application portal that non-employees might use.

## Title II

### Government (state and local)

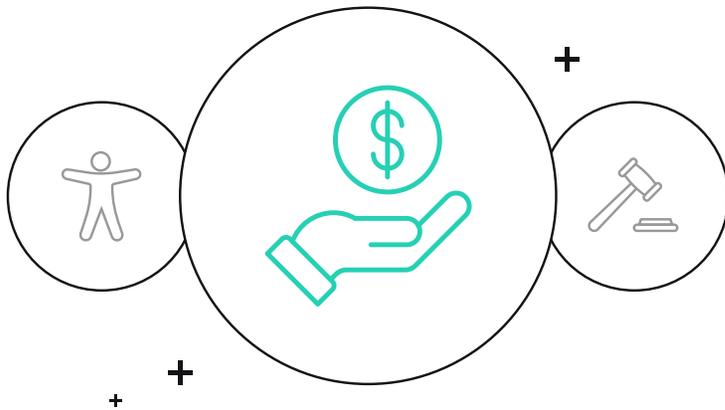
It's worth noting that in addition to state and local governments, Title II covers government-funded institutions like **schools** and **libraries**, which means all websites and apps related to public school districts, public colleges and universities, and public libraries are required to be accessible.

## Title III

### Public Places (including private businesses)

Title III of the ADA prohibits discrimination based on disability in places that are generally **open to the public** (and which fall into one of 12 categories), such as hotels, restaurants, theaters, banks, health care providers, schools, gymnasiums and, importantly, their websites.

Because the plaintiffs who prevail in these suits are entitled to injunctive relief, attorneys' fees and whatever damages that may be awarded under state and municipal laws, smart businesses should consider whether the potentially high cost of defending or settling such suits can be endured.



## Protect Your Reputation

Defending yourself against an accessibility lawsuit can harm the reputation of your brand. Because 64% of consumers say they will make purchase and/or boycott decisions based solely on a brand's position on a social or political issue<sup>7</sup>, that reputational harm can show up in your bottom line in alarming ways.

Another factor to keep in mind: organizations with unaddressed digital accessibility issues are more likely to face a lawsuit now than ever before. In fact, over the past few years, ADA Title III lawsuits have increased unabated. In 2020, there were 23% more web accessibility-related lawsuits than in 2019<sup>8</sup>, there were 25% more lawsuits in 2019 than in 2018, and there were 184% more lawsuits in 2018 than in 2017.

Given the steady increase in website accessibility lawsuits (not to mention more demand letters, which are impossible to track) and long-standing trends on rulings that tend to favor plaintiffs, taking active measures to reduce the risk of a legal battle is the most sensible move you can make.

A smart business leader can always regard the expense of building an accessible website as an investment. The cost of avoidable legal fights and attorneys' fees, though, is just wasted money.

## Legal Trends

District and circuit court rulings favorable to plaintiffs in New York, Florida, and California have set precedents that make it more likely for lawsuits to be filed in these states.



## Chapter 3

# Web Content Accessibility Guidelines

Before discussing how an organization should go about fixing its website, let's take a moment to discuss the Web Content Accessibility Guidelines (WCAG) established by the World Wide Web Consortium (W3C).

Note that WCAG is not a set of laws, and the W3C is not a government body.

### Compliance vs Conformance

Although the title of this ebook is “Accessibility Compliance Is Smart Business,” the term “compliance” isn't exactly correct. WCAG is frequently cited as the benchmark standard in legislation around the world, but it is not actual law. As such, a business can conform to — not comply with — the standards outlined in WCAG.

WCAG is a collection of recommendations for making web content accessible for everyone regardless of a person’s “hardware, software, network infrastructure, native language, culture, geographical location, or physical or mental ability.” The directions are compiled by a special committee of the W3C, an independent, international standards organization.

The W3C was founded in 1994. Administratively, it is governed by the more than 430 universities, not-for-profit organizations, businesses, government entities and individual experts comprising its worldwide membership. The W3C believes that “the social value of the Web is that it enables human communication, commerce and

opportunities to share knowledge,” and it counts making the web available to everyone — regardless of physical or mental ability — among its primary goals.

## Making Mobile More Usable

Conforming to WCAG doesn’t just make your web content accessible to people with disabilities — it also helps people trying to reach your site from mobile devices, which have small screens and different input modes, or from slow, expensive or unreliable internet connections.



Because of the authority and expertise of the W3C, WCAG has been recognized around the globe as the standard for internet users of all abilities. Many jurisdictions — including federal, state and municipal bodies in the United States — use WCAG as the benchmark for legal compliance matters.



AudioEye is a proud member of the W3C.<sup>9</sup>



“Our goal at AudioEye is to ensure digital accessibility for all. As members of the governing body establishing web standards, the W3C, I’m confident we will make an even more meaningful impact with respect to advancements in digital accessibility.”<sup>10</sup>

**Dominic Varacalli**  
AudioEye, President

# WCAG Compliance Around the World

Although WCAG is not law, the guidelines have informed accessibility laws in countries around the globe. Below is a list of 30 governments whose website accessibility laws specifically mention WCAG.<sup>11</sup>

**Argentina** – Law 26.653  
**Australia** – Disability Discrimination Act of 1992  
**Brazil** – E-Government Accessibility Model  
**Canada** – Policy on Communications and Federal Identity  
**Chile** – Supreme Decree 100/2006  
**China** – Voluntary Web Accessibility Standard  
**Columbia** – Technical Standard 5854  
**Denmark** – Agreement on the use of open standards for software in the public sector  
**Dominican Republic** – NORTIC B2: 2017  
**Ecuador** – Ecuadorian Technical Regulation RTE INEN 288  
**European Union** – Web and Mobile Accessibility Directive  
**France** – Order of 29 April 2015  
**Germany** – Federal Ordinance on Barrier-Free Information Technology  
**Hong Kong** (Hong Kong Special Administrative Region of the People's Republic of China) – Guidelines on Dissemination of Information Through Government Websites  
**India** – Guidelines for Indian Government Websites

**Ireland** – Equal Status Acts 2000 to 2004  
**Israel** – Equal Rights of Persons With Disabilities Act  
**Italy** – Stanca Law  
**The Netherlands** – Procurement Law 2012  
**Norway** – Regulations on Universal Design of ICT  
**Peru** – Law N° 29973  
**Portugal** – Resolution of the Council of Ministers Concerning the Accessibility of Public Administration Web Sites for Citizens With Special Needs  
**Singapore** – eGAP II Web Content Accessibility Guidelines  
**South Korea** – Act on Welfare of Persons With Disabilities  
**Spain** – Law 34/2002 and multiple others  
**Switzerland** – Federal Law on the Elimination of Inequalities for Persons With Disabilities  
**Taiwan** – Web Accessibility Guidelines 2.0  
**United Kingdom** – Equality Act of 2010  
**United States** – The Rehabilitation Act of 1973 and the Air Carrier Access Act of 1986  
**Venezuela** – Resolution 026

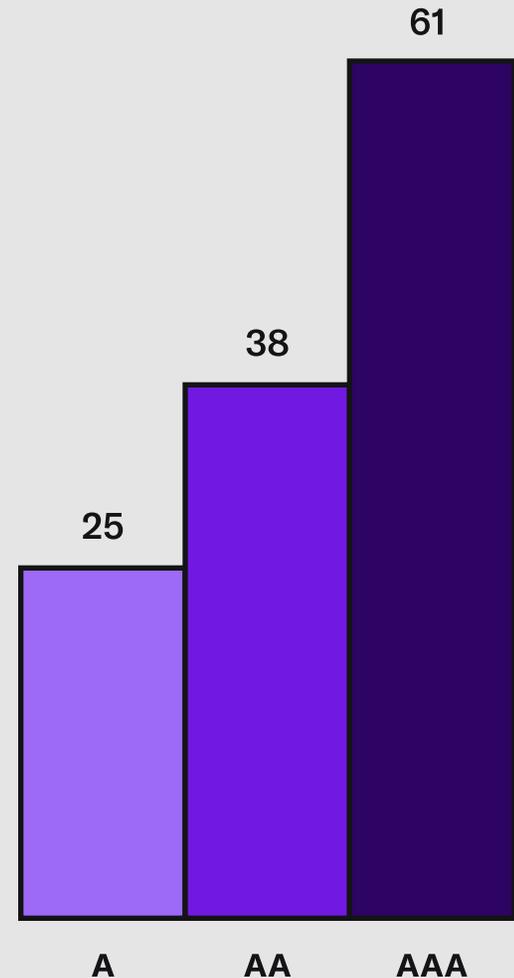
As a set of guidelines, WCAG specifies three levels of conformance: Level A, Level AA and Level AAA.

WCAG Level A features 25 criteria and is considered the bare-minimum level of digital accessibility.

Level AA has 38 criteria (including all from Level A). According to the W3C, most organizations strive to meet Level AA.

Finally, Level AAA has 61 criteria (including everything from Levels A and AA). Although Level AAA is a benchmark to strive for, it's not technically possible to satisfy all Level AAA success criteria for some content types.

## WCAG Success Criteria by Level



# WCAG Principles

To develop its Web Content Accessibility Guidelines, the W3C relies on four fundamental principles. Anyone who wants to use a website must have content that is:

| Perceivable   | Operable   | Understandable  | Robust   |
|---|--|---|--|
| Information and user interface components must be presentable to users in ways they can perceive. | User interface components and navigation must be operable.   | Information and the operation of user interface must be understandable. | Content must be robust enough to be interpreted reliably by a wide variety of user agents, including assistive technologies.                               |
| <b>In other words ...</b>   |  |   |  |
| If a component is invisible to a user's senses, the site is not accessible.                       | The site's interface cannot require interaction that a user cannot perform.                        | A site's content or operation cannot be beyond a user's understanding.  | Site content must be compatible with current and future technologies.  |
| <b>Examples</b>   |  |   |  |
| Making sure all site images have alt tags that describe the content.                              | Ensuring that all interactive elements (buttons, menus, etc.) can be operated by keyboard control. | Guaranteeing that all website navigation is consistent and predictable. | Assuring that all dynamic interfaces like drop-down menus, slideshows and modal windows have ARIA (Accessible Rich Internet Applications) markup language. |

Finally, it's important to mention that WCAG is continuously evolving. The current version — WCAG 2.1 — was first released in June 2018. The next version is expected to launch sometime in the latter half of 2021.

Between official versions are a number of working drafts and updates that allow accessibility professionals to see how the standards evolve. Staying on top of WCAG developments, as well as knowing how they affect the legal landscape, can be burdensome for organizations that use their internal resources to address accessibility.

# WCAG



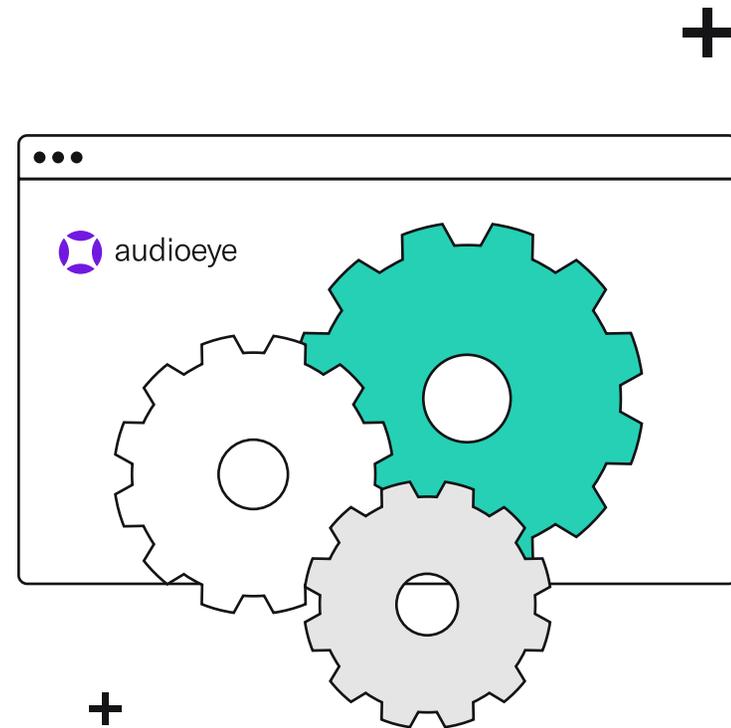
UPDATING...

## Chapter 4

# Conforming to Standards

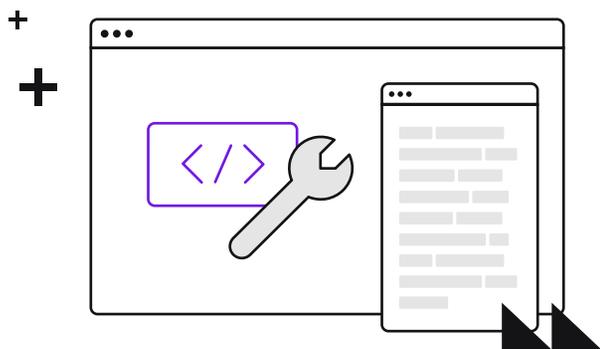
So far, we've reviewed the strategic, growth-related reasons for ensuring your site's accessibility and covered some of the legal risks you could face if you were to maintain the status quo. Because we have also walked through how accessibility standards are established through the W3C and WCAG, you have a pretty good idea of what your targets should be.

Now that you've got a general lay of the land, we're ready to talk about fixing your site so you can conform to these standards.



# Option 1: Start Over and Rebuild from Scratch

Although it's not practical for many organizations because of the required time and prohibitive expense, tearing down a website and rewriting every single line of code with a goal of WCAG Level AA or AAA conformity in mind is a valid way to ensure that the new site is inclusive and accessible to all.



## Did You Know?

Some accessibility advocates believe the best way to ensure conformity to accessibility standards is to adopt a “shift-left” approach, where testing for accessibility moves to the earliest possible stages of the website development process.

Although shift-left development does provide a sturdy foundation for accessibility, the approach can be intensive of time and resources and therefore not practical for organizations that may be juggling multiple priorities.

## Option 2: Address Concerns with In-House Resources

If rebuilding a site from scratch is not possible, you might consider assigning remediation tasks to your in-house team. Of course, this approach is not without its challenges.

Does your team have the bandwidth to tackle accessibility work and its regular duties? Also, do you have accessibility experts on staff? Because accessibility standards are a moving target, if your team members aren't already accessibility experts, you may waste time or, worse, overlook significant barriers and weaknesses.

### Did You Know?

The knowledge and skills required to remediate websites properly have become so complex that top practitioners in the field are distinguishing themselves with professional credentials from the International Association of Accessibility Professionals (IAAP). IAAP certifications require rigorous preparation, and successful certificants must complete a specified number of hours of continuing accessibility education credits (dependent upon credential), which must be approved by the IAAP in order to maintain their credentials.

## Option 3: Apply a Low-Cost Automated Solution

There are various off-the-shelf software products that promise to scan and fix your website's accessibility problems with the click of a button. Although applications like scanners, toolbars, plug-ins, widgets and overlays can help you identify and remove barriers to accessibility, be wary of offers that seem too good to be true. The fact is, some aspects of WCAG compliance are just too complex to entrust to a fully automated solution without any expert human oversight.

### Did You Know?

You can be sued if your accessibility software doesn't fix your site's accessibility concerns. In recent years, several lawsuits have been filed against companies using cheap widgets, plug-ins and overlays that didn't work as advertised. The only way to eliminate the risk of a lawsuit is to demonstrate conformity to WCAG.

## Option 4: Outsource Compliance to a Reputable Vendor

By handing over responsibility for WCAG compliance to a reputable vendor with experienced consultants and advanced technology, you can achieve compliance faster and maintain it at a low ongoing cost.

This approach demands vastly less internal time and effort, significantly reduces the need to acquire and maintain new skills or to track changing standards, and enables you to focus on what you do best: running your business.



### Did You Know?

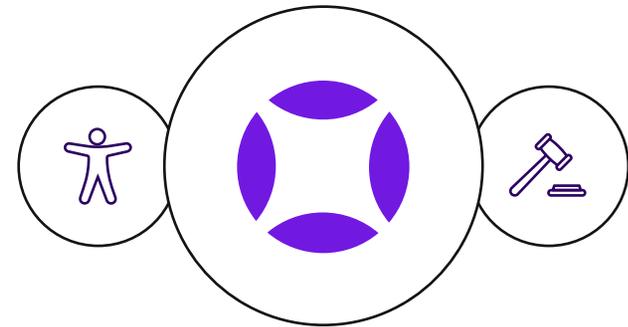
Some vendors offer free software tools that reveal basic instances of noncompliance but charge fees for consultant-led reviews to catch the remaining issues.

When you work with a vendor, make sure you understand how and when fees are charged. If you agree to a contract with confusing language, you could be charged fees every time you change your website. These costs can add up quickly!

## Chapter 5

# Complying with a Legal Judgment or Settlement

It's one thing to approach a website accessibility project as the result of a strategic decision to reach more customers and mitigate the risk of getting sued, and it's quite another to be doing so as the result of a settlement or legal judgment. Organizations that have been compelled to remediate their inaccessible websites face special challenges as well as increased pressures and decreased timelines.

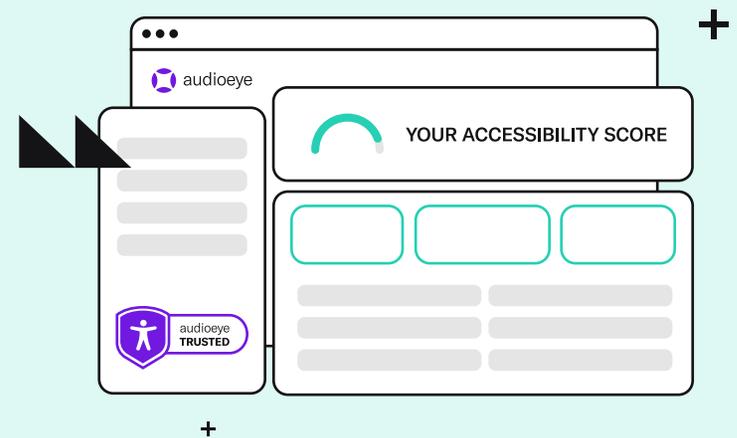


### Legal Support

AudioEye, a best-in-class ADA and WCAG accessibility compliance firm, can provide legal advice and documentation to help with legal compliance matters.

After the lawyers have entered the equation, there is little room for error, which is why we strongly recommend seeking assistance from expert providers. You don't want to waste time and resources making sure your team is able to acquire and maintain noncore technical skills or legal knowledge.

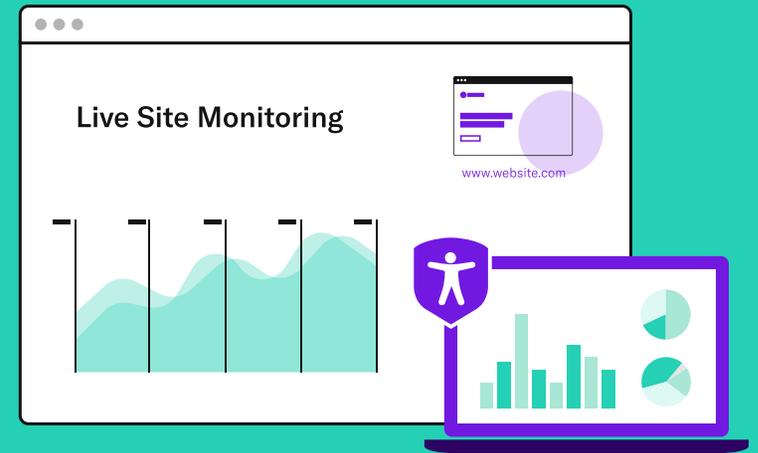
You'll also want to avoid increasing your operational costs, which you can do by keeping website personnel focused on their areas of expertise.



# Legal Compliance Action Plan

| <b>Step 1: Test</b>   | <b>Step 2: Remediate</b>   | <b>Step 3: Monitor</b>  |
|---|--|---|
| <p>You can't begin until you know where to do so. Although some problems may have been identified in a legal complaint, you'll want an expert review so you can understand the whole picture.</p> | <p>This is where the rubber meets the road. In the remediation stage, you'll go through the results of your testing to eliminate each and every barrier.</p>   | <p>Accessibility isn't a trophy that you earn and place on the shelf. You have to commit to it, which means devoting time and resources to maintain accessibility over time.</p>  |
| <b>How AudioEye Works</b>   |  |   |
| <p>AudioEye's comprehensive, AI-powered testing gives real-time insights into the errors your site's visitors encounter every day.</p>  | <p>AudioEye's patented algorithms automatically fix the most common and unique accessibility errors, and our team of IAAP-certified experts is always ready to step in when a human touch is required.</p> | <p>AudioEye scans your website every time it's visited. It offers real-time insights on any accessibility concerns, performs immediate remediations and makes live updates to your Accessibility Score and other reporting.</p> |

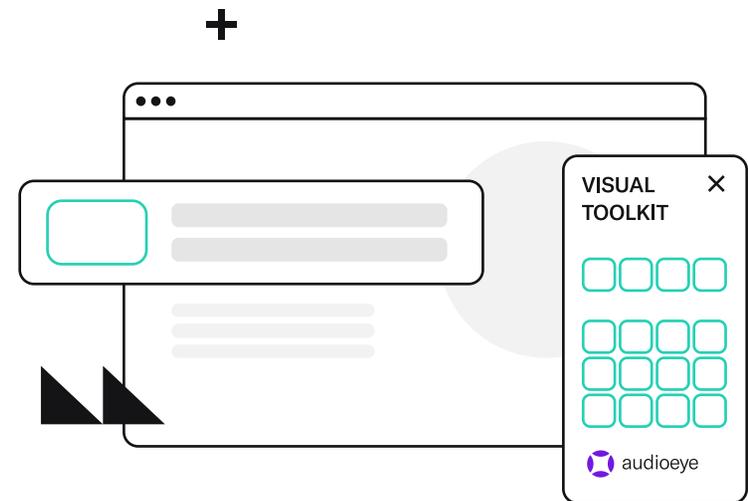
When you choose an expert solution provider, you gain immediate peace of mind and breathing space. While the provider works to harmonize your website with the accessibility best practices and standards, you can focus on your core business.



# Resources and Links

# References

- 1 [GE Capital Retail Bank Major Purchase Shopper Study](#)
- 2 [Why Web Performance Matters: Is Your Site Driving Customers Away?](#)
- 3 [2020 Annual Report: The Global Economics of Disability](#)
- 4 [Disability Impacts All of Us](#)
- 5 [A Hidden Market: The Purchasing Power of Working-Age Adults with Disabilities](#)
- 6 [Reaching Prevalent, Diverse Consumers with Disabilities](#)
- 7 [Edelman Trust Barometer 2020](#)
- 8 [2020 Report on Digital Accessibility Lawsuits](#)
- 9 [W3C Current Members & Testimonials](#)
- 10 [AudioEye Becomes Member of World Wide Web Consortium](#)
- 11 [Web Accessibility: National and International Legislation](#)



# Additional Resources

We hope you find this ebook useful. You can find more digital accessibility thought leadership and advice on the [AudioEye blog](#).



**Web Accessibility Myths: Debunking Common Misconceptions About Website Accessibility**



**Web Accessibility: Four Principles for Achieving WCAG Compliance**



**How to Save on Your Accessibility Investment**



**White Paper: Global Perspective on Website Accessibility**



**Why SEO & Accessibility Go Hand-in-Hand**



**10 Accessible Web Design Examples to Inspire ADA Compliance**



# About AudioEye

AudioEye's industry-defining digital accessibility platform delivers website compliance efficiently and affordably for organizations of all sizes. Our platform leverages more than 15 years of investment in advanced technology supported and informed by our team of dedicated IAAP-certified professionals to help deliver improved access to the web.

[Get Started Now](#)

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