



Massachusetts Office on Disability

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Re: Access Board Information and Communication Technology (ICT) Standards and Guidelines, Notice of Proposed Rulemaking, RIN 3014-AA37, Docket ID ATBCB-2015-0002

On behalf of the Commonwealth of Massachusetts, thank you for providing an opportunity to comment on this Notice of Proposed Rulemaking. Massachusetts has a long history of advancing and enforcing the rights of people with disabilities. This includes ensuring equal access to information and communications technologies (ICT) by setting ICT and procurement policies and standards. While we are not subject to section 255 or section 508, we increase the impact on the ICT market if our standards and policies are in alignment with the federal government. The final rule will have a significant influence on planned updates to our policies and standards.

General Comments

Speed of rulemaking

We urge the Access Board to proceed with this rulemaking with all possible haste.

These proposed regulations are not perfect. Final specifications are not available for some emerging technologies. The needs of people with low vision or cognitive disabilities are not known in enough detail, and therefore the standards to ensure that those needs are met are unfortunately still inadequate.

However, it is impossible to wait for "perfect." Changes in information and communications technologies will continue to develop at breakneck speed, making some current guidance irrelevant and creating the need for accessibility standards in new areas.

It is imperative that the Access Board find ways to streamline the review and updating of these standards if there is any hope of having them be technologically relevant. Some suggestions for a more proactive approach to ICT accessibility policy include:

- The Access Board or designated federal agency representatives should collaborate with standards setting bodies to improve standards for people with low-vision or cognitive impairment.
- The Access Board should maintain a list of specifications and guidelines that are in process to facilitate incorporating them as soon as possible.
- The Access Board should investigate emerging technologies to see if they present new approaches, or new challenges, to current ways of providing equal access for people with disabilities. For instance, should federal agencies be encouraged to provide APIs for

their content and data to encourage and support the creation of alternative views? How would that support initiatives such as the Global Public Inclusive Infrastructure (GPII)?

We understand that these suggestions require resources. The Access Board should investigate ways to make use of talent in federal agencies that are leaders in ensuring that their ICT is accessible. Many are doing work like this already. Providing formal ways to collaborate and share results would increase the benefits of those efforts.

Ideally the standards will be reviewed on an annual basis with updates no later than two years from the last update.

Functional Performance Criteria

The Massachusetts accessibility standards require reporting on Functional Performance Criteria (FPC) in all circumstances. We have encountered software that meets the technical standards and yet is unusable in practice; requiring FPC enables us to identify and address these cases. FPC are also valuable in measuring the impact of specific instances of non-compliance with the technical standards, allowing us to focus on those that create actual barriers for people with disabilities. For non-subjective testing, we measure against intended features and task completion, asking:

- Can all features be reached and used as intended?
- Can all tasks be carried through to completion without onerous workarounds?

We strongly encourage the Access Board to require FPC in all cases.

Incorporating standards by reference

We applaud the use of voluntary consensus standards through incorporation by reference.

We fully support the Access Board's decision to use the functionality-based WCAG 2.0 A and AA Success Criteria for all ICT.

Additional standards

We recommend adding the following standards from the World Wide Web Consortium by incorporation, if they have reached a final status at the time of rulemaking. If not available, or if this change is too significant to make at this point in the process, we encourage the Access Board to consider including them in a future update.

- User Agent Accessibility Guidelines (UAAG) Version 2, W3C
- Authoring Tool Accessibility Guidelines (ATAG) Version 2, W3C

Additionally, the Access Board should consider including the EPUB 3 standard. While ebook formats are not widely used in government at present, EPUB 3 is an attractive alternative to web pages or PDF because of its advanced handling of complex layouts, rich media and interactivity, and global typography features, as well as its enhanced support for structure and semantics.

The DAISY Consortium worked closely with the International Digital Publishing Forum to incorporate DAISY accessibility requirements into EPUB 3 and to ensure accessibility support for all features.

EPUB 3 was published as international standard ISO/IEC TS 30135 – Information technology – Digital publishing – EPUB3 in November, 2014.

Responses to questions

Questions 12 and 13

The concepts of "best meets" and "commercial unavailability" should no longer be considered suitable answers. The software industry has had ample time to create products that are fully compliant. This approach has led to an attitude of "we'll just get a waiver" rather than driving accessibility improvement. At the very least, agencies who proceed with procurements for non-compliant goods or services should be required to submit plans for how they intend to mitigate the harm caused. The plans should include vendor remediation plans, equivalent alternate methods, suitable accommodations, and other actions that will lessen the impact on people with disabilities.

Question 14

The scope of public facing content covered by proposed E205.2 is clear, but it could prove difficult in practice for some content. Some types of materials are particularly challenging, and may not be able to be made fully accessible, such as blueprints and engineering schematics.

Question 16

While the telecommunications equipment exception seems reasonable, the wording in 204.1 and its exception is vague. An advisory including some of the information given on p. 84 of the NPRM or examples of "components" would help provide clarity and avoid misinterpretation.

Question 17

We agree that the needs of all people with limited vision may not be sufficiently addressed in the current standards. Lacking suggestions for specific recommendations complete with scientific evidence that they would be effective, we suggest that this rulemaking proceed, with an understanding that the Access Board needs to adopt procedures to make updates in a more timely manner.

Question 18

Use of variable message signs (VMS) should be as accessible as the technology allows, and we support incorporating by reference ICC A117.1-2009, or its successor if finalized at the time of rulemaking. A confounding issue with individualized speech access to VMS is that people would need to know that it exists. Given the current state of VMS technology, requiring audible public address in conjunction with VMS is the most equitable approach, and would aid both blind and low vision users, especially for existing low resolution VMS.

Question 19

There are many commercially available products for interacting with capacitive touchscreens without direct human contact, such as styluses and gloves with compatible fingertips, that can be used with prosthetic devices. A reasonable requirement would be to provide a stylus (appropriately secured to ensure availability) for public display touchscreens (such as kiosks) for users with prosthetics who do not already have their own solution, rather than limit the technologies that can be used for that purpose.

Question 20

We support the proposal to allow other “tactilely discernable” methods for identifying input controls beyond raised keys.

Question 22

These guidelines should apply to ICT subject to the 255 Guidelines only if the stationary display is the only way to obtain critical information. This would rarely apply, however, since most telecommunications equipment, (such as cable modems and routers), is not stationary or provides remote monitoring options, or both.

Question 23

This should not be a requirement. While allowing adjustment of the display angle might be appropriate for a desktop-sized display, it would be unrealistic for a very large, wall-mounted screen, for instance. Given the increasing number of uses and situations for stationary displays, it would not make sense to try to prescribe solutions that only apply to specific implementations.

Question 24

The current wording of 409.1 seems appropriate and adequate.

Question 25

Yes, the requirements in proposed Exception 3 to 409.1 are sufficiently clear.

Question 27

We suggest referring to or copying the video quality standards in 28 CFR 35.160(d) (Title II Regulations) that specify high-quality real-time, full-motion video and audio with sharply delineated images without any lags, choppiness, or blurriness; a clear, audible transmission of voices; and adequate training to users of the technology.

Questions 30, 31, and 32

The current wording of 413 seems appropriate and adequate. In particular, requiring "location that is comparable in prominence" in 413.1.1 and 413.1.2 allows manufacturers design flexibility. Limiting this requirement to certain types of hardware would be of limited value and would require frequent revision to keep up with innovations.

Question 34

Our state accessibility standards require that such documentation for software products be accessible. No software provider, knowing what this entails, has protested that this is cost-prohibitive.

Question 35

We agree with the proposed effective date.

Question 36

Mobile devices should have support for RTT. Even if it isn't a feature that would be used frequently, it would be important when it is.

While the emerging standards for real-time text could be superior, we understand the requirement to only include final versions of standards and specifications. We suggest proceeding with 410.6 as published in the NPRM, with an understanding that the Access Board needs to adopt procedures to make updates to 255/508 in a more timely manner.

Question 40

To the extent that equal access to government services and resources requires cost justification, we suggest you look at federal agencies' costs, both in staff time and outright expenditures, for the following:

- Providing accommodations, including staff time and materials relative to providing an alternative to the service or resource.
- Handling complaints, including maintenance and activation of internal processes, and legal fees and opportunity costs for formal complaints.
- Staff training in awareness and processes for providing accommodations

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Sincerely,

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