June 20, 2018

The Honorable Jeff Sessions
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530-0001

Dear Attorney General Sessions:

Thank you for your service to our country. We write today to express support for the Department of Justice providing guidance and clarity with regard to website accessibility under the Americans with Disabilities Act or ADA.

Although there have been several recent court decisions on the application of the ADA, the statutory authority for applying the ADA to websites is unclear.[1] However, businesses of every shape and size throughout the country are being threatened with legal action by private plaintiffs for unsubstantiated violations of the ADA. This problem is expanding at a rapid rate since the Internet allows such actions to be filed from anywhere, and there are no restrictions or limitations on making such complaints. The absence of statutory, regulatory, or other controlling language on this issue only fuels the proliferation of these suits since there are no requirements these complaints have to meet. In fact, in most cases these suits are filed for the purpose of reaching a financial settlement and do little or nothing to improve website accessibility.

We support the original spirit and intent of the ADA. However, unresolved questions about the applicability of the ADA to websites as well as the Department's abandonment of the effort to write a rule defining website accessibility standards, has created a liability hazard that directly affects businesses in our states and the customers they serve.

It is critically important for the Department to take steps now to state publicly that private legal action under the ADA with respect to websites is unfair and violates basic due process principles in the absence of clear statutory authority and issuance by the Department of a final rule establishing website accessibility standards. We agree with the U.S. District Court for the Central

District of California in *Domino’s Pizza v. Robles* which held that “impos[ing] on all regulated persons and entities a requirement that they ‘compl[y] with the WCAG 2.0 Guidelines’ without specifying a particular level of success criteria and without the DOJ offering meaningful guidance on this topic … files in the face of due process.” Further, as it dismissed the ADA complaint, the court said:

The Court concludes by calling on Congress, the Attorney General, and the Department of Justice to take action to set minimum web accessibility standards for the benefit of the disabled community, those subject to Title III, and the judiciary.

It is important for Congress to act to provide greater clarity through the legislative process. However, in the meantime, it is also unfair and disruptive to subject businesses to litigation risk caused by insufficiently specific statutory language or even basic direction on compliance from the Department. We respectfully urge you to help resolve this situation as soon as possible.

Thank you again for your service to this nation and we look forward to your response.

Sincerely,

Ted Budd  
Member of Congress

J. Luis Correa  
Member of Congress

Don Young  
Member of Congress

Joe Barton  
Member of Congress

Sanford D. Bishop, Jr.  
Member of Congress

Ken Calvert  
Member of Congress

Ed Royce  
Member of Congress

Frank Lucas  
Member of Congress

Walter B. Jones, Jr  
Member of Congress

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2. Id. at 8.
Frank LoBiondo
Member of Congress

Bill Pascrell
Member of Congress

Steve Chabot
Member of Congress

Sam Graves
Member of Congress

Joe Wilson
Member of Congress

Steve King
Member of Congress

Michael R. Turner
Member of Congress

Virginia Foxx
Member of Congress

Patrick T. McHenry
Member of Congress

Ted Poe
Member of Congress

Steve Pearce
Member of Congress

Jim Jordan
Member of Congress

Mark Sanford
Member of Congress

Duncan Hunter
Member of Congress

Lynn Jenkins
Member of Congress

Leonard Lance
Member of Congress

Blaine Lentkemeyer
Member of Congress

Tom McClintock II
Member of Congress

Bill Posey
Member of Congress

Tim Walberg
Member of Congress

Mo Brooks
Member of Congress
Scott DesJarlais, M.D.
Member of Congress

Jeff Duncan
Member of Congress

Bill Huizenga
Member of Congress

Randy Hultgren
Member of Congress

Andy Harris
Member of Congress

Raúl R. Labrador
Member of Congress

Kristi Noem
Member of Congress

Jim Renacci
Member of Congress

Martha Roby
Member of Congress

Dennis A. Ross
Member of Congress

David Schweikert
Member of Congress

Steve Stivers
Member of Congress

Scott Tipton
Member of Congress

Rob Woodall
Member of Congress

Mark Amodei
Member of Congress

Andy Barr
Member of Congress

Susan W. Brooks
Member of Congress

Doug Collins
Member of Congress
Paul Cook  
Member of Congress

Richard Hudson  
Member of Congress

Mark Meadows  
Member of Congress

Luke Messer  
Member of Congress

Robert Pittenger  
Member of Congress

Keith Rothfus  
Member of Congress

David G. Valadao  
Member of Congress

Ann Wagner  
Member of Congress

Randy K. Weber  
Member of Congress

Roger Williams  
Member of Congress

Ted S. Yoho, D.V.M.  
Member of Congress

Dave Brat  
Member of Congress

Rick W. Allen  
Member of Congress

Ralph Abraham, M.D.  
Member of Congress

Mike Bishop  
Member of Congress

Earl L. "Buddy" Carter  
Member of Congress

Tom Emmer  
Member of Congress
Garret Graves
Member of Congress

Glenn Grothman
Member of Congress

Jody Hice
Member of Congress

Barry Loudermilk
Member of Congress

Mia Love
Member of Congress

Tom MacArthur
Member of Congress

Gary Palmer
Member of Congress

Alex Mooney
Member of Congress

Dan Newhouse
Member of Congress

John Ratcliff
Member of Congress

David Rouzer
Member of Congress

Dave Trott
Member of Congress

Mark Walker
Member of Congress

Mimi Walters
Member of Congress

Lee Zeldin
Member of Congress

Warren Davidson
Member of Congress

James Comer
Member of Congress

Jim Banks
Member of Congress
September 4, 2018

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Sessions:

We write to urge the Department of Justice to help resolve uncertainty regarding website accessibility obligations under the Americans with Disabilities Act (ADA). For nearly 30 years, the ADA has protected countless individuals with disabilities, ensuring physical access to "any place of public accommodation."1 We support the ADA and all that it stands for.

But for the ADA to be effective, it must be clear so that law abiding Americans can faithfully follow the law. Right now it is not clear whether the ADA applies to websites. This leaves businesses and property owners unsure of what standards, if any, govern their online services. To date, the Department has not issued guidance or regulations to provide clarity, and conflicting court opinions have created even more confusion.2 Plaintiffs' lawyers are exploiting this opportunity for personal gain and sending threatening demand letters and filing hundreds of lawsuits against small and medium-sized businesses across the country—from banks and credit unions to retailers and restaurants.

More ADA website accessibility lawsuits were filed in the first half of this year than in all of 2017, which witnessed over 800 such suits.3 Statistics recently released by the Administrative Office of the U.S. Courts demonstrate that, more broadly, filings of cases raising certain ADA claims increased 521 percent from 2005 to 2017.4 Unless the Department acts, this trend will only continue and even more lawsuits and demand letters will follow. Businesses would rather invest in making sure they can serve their disabled customers, instead of pay money to avoid a shakedown by trial lawyers who do not have the interests of the disabled at heart. The Department should waste no time in resolving this uncertainty, which will no doubt increase accessibility while curbing unnecessary and abusive litigation.

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1 42 U.S.C. § 12182(a).
As you may know, in 2010 the Department issued an Advanced Notice of Proposed Rulemaking concerning website accessibility standards. In December 2017, however, the Department withdrew the proposal. In doing so, the Department stated that it is “evaluating whether promulgating regulations about the accessibility of Web information and services is necessary and appropriate. Such an evaluation will be informed by additional review of data and further analysis. The Department will continue to assess whether specific technical standards are necessary and appropriate to assist covered entities with complying with the ADA.”

We appreciate the Department’s careful scrutiny of this complicated matter. At this time, however, the lack of regulatory clarity benefits only the plaintiffs’ lawyers. Clarity in the law will encourage private investment in technology and other measures that will improve conditions for the disabled.

Accordingly, we respectfully urge the Department to promptly take all necessary and appropriate actions within its authority—including filing statements of interest in currently pending litigation—to resolve the current uncertainty. Further, we request the Department provide a briefing to our staff with respect to its intentions on this important issue by no later than September 28, 2018.

Thank you for your consideration of this request, and we look forward to your response.

Respectfully,

Charles E. Grassley  
United States Senator

Thom Tillis  
United States Senator

John Cornyn  
United States Senator

M. Michael Rounds  
United States Senator

Mike Crapo  
United States Senator

Joni K. Ernst  
United States Senator