

Think Your Mobile App Can Avoid the ADA? Well, Think Again...

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The Department of Justice continues to aggressively pursue its enforcement agenda when it comes to ensuring that websites are accessible to persons with disabilities under the Americans with Disabilities Act (“ADA”). Last week, the DOJ [settled](#) its first enforcement action requiring the settling party to make its mobile app ADA-compliant.

Specifically, the DOJ initiated an investigation against Florida State University alleging that the FSU Police Department’s online application form asked questions about a past or present disability and other medical conditions in violation of the ADA. As part of the settlement agreement, FSU must ensure that the FSU Police Department website, including its employment opportunities website and its mobile apps, conform, at a minimum, to the World Wide Web Consortium’s [Web Content Accessibility Guidelines 2.0 Level AA](#) (“WCAG 2.0”). The WCAG 2.0 contain a set of recommendations for making websites more accessible, which can also be adapted for mobile apps.

The settlement is the first of its kind, considering that the DOJ has yet to issue proposed regulations defining the standard for what constitutes an “accessible” website. The DOJ was supposed to issue proposed regulations in [March 2014](#) setting forth the scope and extent to which the ADA applies to websites of private parties under Title III, including private retailers offering goods and services to the public online. As we [previously noted](#), there has already been an increase in class actions relating to ADA-compliance in the digital age.

If you operate a retail website or mobile app, you should pay close attention to these developments and ensure that your site and app are in compliance.