



The State of Web Accessibility

A USABLENET WHITEPAPER

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Executive Summary

With each passing week, more and more of our engagements with brands, government, public services, education and friends take place online. While this is fuelling growth in the online economy and convenience for us all as citizens and consumers, many people are excluded from the benefits because most websites they want to access are not usable with visual, auditory or other disabilities.

There are several reasons why organisations should seek to make this right. From a social perspective, it's simply wrong to exclude people on the basis of a disability. From a commercial perspective, businesses are excluding viable customers who want to do business with them online. And from a legal perspective, an increasing number of private lawsuits are being brought against companies whose digital properties, including websites and mobile apps, fail the accessibility and inclusivity test.

Taking a website that has hundreds or even thousands of pages, that has not been built with accessibility in mind, and making it accessible, can look like a daunting task. But there is a simple path to follow to take a proactive approach, demonstrate your commitment and start the work towards making web accessibility part of your company's standard operations. There are tried and tested solutions out there that can address web accessibility in the near term, and complement the actions you need to take to fix accessibility issues across all digital properties in the long term.

In this whitepaper, we explain why no business can afford to ignore web accessibility, and detail exactly how to put your accessibility house in order.

A hand holding a pen pointing at a laptop screen with a green overlay.

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WORK DON'T USE
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THERE IS ALWAYS
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COMPANIES NEED
TO REALISE THIS.”

**Simon Wheatstone, Blind Ultra-marathon
Runner and Digital Evangelist**

Digital Living

We live our lives increasingly in the digital domain. Figures from Ofcom's 2016 Communications Market Report revealed that UK consumers now spend 25 hours a week online. 42% of the 2,025 adults and 500 teenagers polled said they go online or check apps more than 10 times a day, while 11% said they access the internet more than 50 times daily.

It's a similar story in the U.S. where, according to Nielsen's U.S. Digital Consumer Report, the average U.S. consumer spends 60 hours a week consuming content across devices. A separate study from PewResearchCenter found that 20% of all Americans are online "almost constantly", rising to 36% of 18-29 year-olds.

The reasons behind our increasingly digital lifestyles are not hard to fathom. There are millions upon millions of websites covering every field of human endeavour and interest in minute detail. These sites are updated constantly, so we are never more than a click away from our fix of news and information on the stuff that makes us tick.

And we're not just talking PCs and websites. Figures from Statista suggest that there are 2.2m apps in the Google Play store, and another 2m (though with many duplicates) in Apple's App Store. Living on our smartphones, these apps are rarely more than an arm's length away from us, and we go back to them constantly. Indeed, estimates suggest that a typical person will check their smartphone more than 150 times a day.

These behaviours are helping to fuel both the digital and physical economies. While the majority of purchases still take place in physical stores, an increasing amount of commerce takes place online, and on mobile.

All of which is good, and reassuring for those companies that have invested significant amounts of time and money in developing sophisticated transactional websites and mobile apps. They have made it easier than ever for their customers to engage with them, and their customers have responded, making eCommerce the fastest growing part of retail.

There is, however, some trouble in paradise. It lies in the fact that many of these websites and apps create challenges and barriers for many of the people who want to use them. People with visual, auditory, or many other disabilities, find themselves unable to navigate the digital properties of the brands they love. The accessibility issues they encounter every day make it difficult for them to book flights or hotel rooms online, to do the weekly grocery shop, or to check how their favourite sports team performed in their last game.

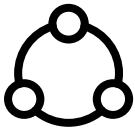
"It's not fair and it's not right, but the situation persists because of a lack of understanding, both of the buying power of the disabled community, and of the legal imperative that exists to make your digital properties accessible. In a world in which almost all interactions are digital they need to think about accessibility as a waypoint on the digital transformation roadmap."

Jason Taylor, Special Advisor to the Usablenet CEO

Time to change

There are three principal reasons why digital accessibility should be in your immediate future. Let's look at each in turn:

The social imperative



In the 21st Century, it simply can't be right that people with disabilities are unable to access the same information and carry out the same tasks online, as people without them. As the internet, smartphones and apps continue to transform our lives, digital accessibility becomes a basic rights issue. Users living with disabilities should not be left out. Companies have a social responsibility to ensure that their online services are built with accessibility in mind.

As Albert J. Rizzi, who lost his sight in 2006 and later founded the campaigning group My Blind Spot, so eloquently explains, "disabled users such as myself have all had to create these very adaptable and ever-changing workarounds to perform a task or achieve an end result on web sites and mobile apps that people who are not disabled never have to deal with. If we don't pay attention to inclusion, we will be silencing the next voices, quelling the brains and creative geniuses that have brought light and prosperity to our world."

The commercial imperative



As Rizzi implies, there is also a strong commercial imperative that should be driving companies of all sizes to make their digital properties accessible. In the US, Baby Boomers hold 80% of personal worth and account for 40% of total consumer demand. In the UK, Baby Boomers own close to £500bn of the country's assets and are a significant proportion of the customer base, making them an important economic power.

These Baby Boomers are very active digitally, so as they grow older and develop sight-related problems, the need to cater to their need for more accessible websites and apps should be self-evident. Figures from Access Economics suggest that one in five Europeans will suffer some degree of sight loss by the age of 75.

Simon Wheatcroft, a blind ultra-marathon runner and Digital Evangelist, is clear on his attitude towards non-accessible sites and apps when he encounters them. He says: "If doesn't work, don't use it, move away. There is always another app; companies need to realise this."

The legal imperative



Perhaps one of the biggest reasons that most companies have so far ignored their accessibility responsibilities is the lack of clear legal guidelines that spell out exactly what they need to do to comply. But this situation is changing fast. Moreover, in the absence of clear legal guidelines, private law firms in the US have become very active in bringing private lawsuits against companies of all types and sizes. The situation in Europe is different, but European firms selling goods online to consumers based in the US could find themselves subject to the same rules.



Albert's story

"I lost my sight through meningitis 10 years ago, and I ran into a literal and virtual wall as I found a lot of sites and apps were rendered disabled to me. I started My Blind Spot to help ensure accessibility for people of all abilities. Our aim is to fuse accessibility and inclusion into the DNA of the corporate cultures of our clients, from the board room to the mail room, to result in accessible employment for people who want to go back to work.

"Access to the right tools is our mantra. Disabled people are not institutionalised, dribbling into cups and being pushed down corridors. We are a contingent of people who want to go to work and are capable of going to work provided we can access the building. The same is true in the digital world, but currently, we are being asked to carry the wheelchair ramps on our backs in order to access the internet.

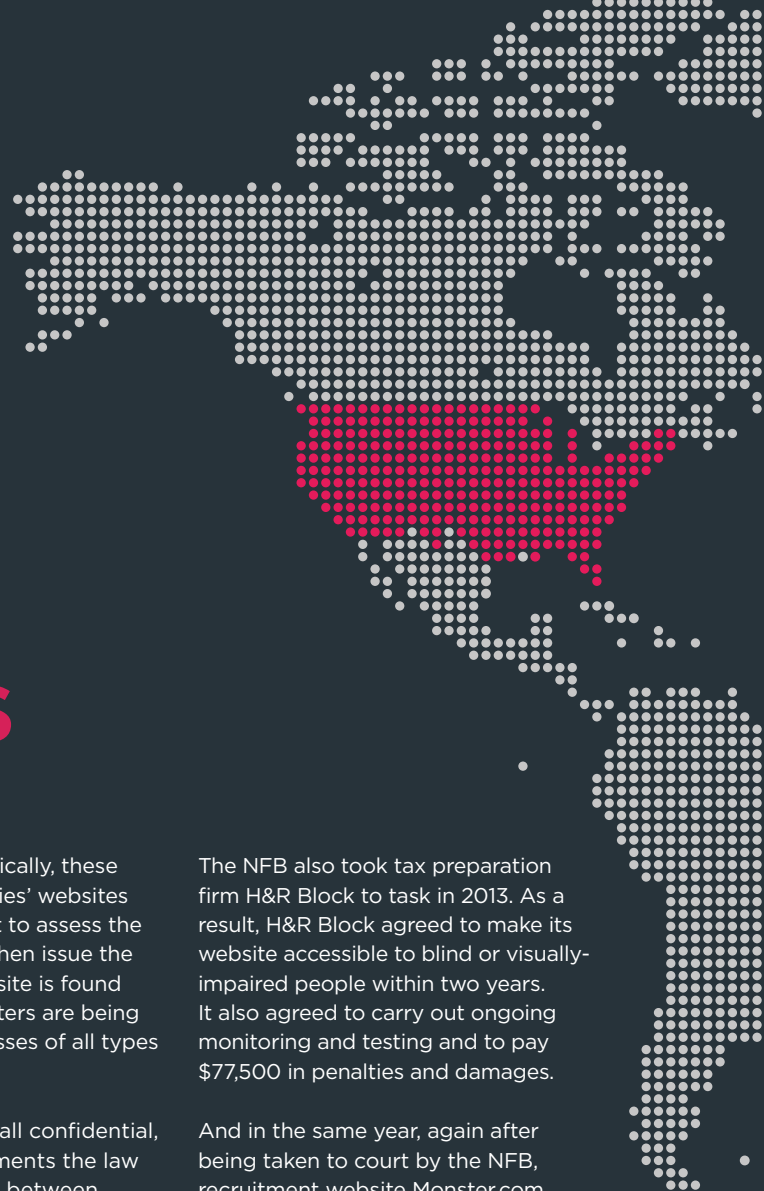
"There are 1.3bn people in the world who are disabled, and they add up to \$8 trillion worth of spending power. So how economically stimulating would it be to get these people off the dole and into work, and have them paying taxes? We need to talk to the right C-suite executives to get them to understand it makes good business sense.

"But accessibility is a marathon not a sprint. When you have Customer Service agents fielding phone calls who don't know the first thing about accessibility and ask you why you don't have someone there to read for you. When you're 52 years old, that's the most dehumanised and complicated emotion and experience I have had as I try to regain my independence.

"But while it can be incredibly frustrating, there are some great moments too, when you feel like you have made some progress, as we have with Morgan Stanley and Direct TV. Quickbooks is another great example, where we made their accounting program accessible for the first time in 25 years and helped people who have moved into the disabled community through no choice of their own to follow a career in bookkeeping."

Albert J Rizzi, Founder, My Blind Spot.

"DISABLED USERS SUCH AS MYSELF HAVE ALL HAD TO CREATE THESE VERY ADAPTABLE AND EVER-CHANGING WORKAROUNDS TO PERFORM A TASK OR ACHIEVE AN END RESULT ON WEB SITES AND MOBILE APPS THAT PEOPLE WHO ARE NOT DISABLED NEVER HAVE TO DEAL WITH. IF WE DON'T PAY ATTENTION TO INCLUSION, WE WILL BE SILENCING THE NEXT VOICES, QUELLING THE BRAINS AND CREATIVE GENIUSES THAT HAVE BROUGHT LIGHT AND PROSPERITY TO OUR WORLD."



Let's take a moment to consider the situation around the world.

United States

There is legislation in place covering the accessibility to digital content in the US - The Americans with Disabilities Act (ADA), Section 508, which requires that electronic and information technology developed, procured, maintained, or used by the Federal government be accessible to people with disabilities. The key words there are 'Federal government'. Section 508 does not apply to the private sector.

So, while there are strict rules in place that prevent companies from discriminating against people with disabilities in their physical outlets, there's no mention of their digital properties. The Department of Justice (DOJ) did propose a set of regulations several years ago, but it subsequently withdrew them in 2010, and at the time of writing, there's no word on when any such regulations will come into force. Worryingly for businesses, however, the DOJ has openly stated its opinion that inaccessible website content is grounds for violating Title III of the ADA. This has created an opportunity for private law firms to enter the arena, threatening legal action against companies whose websites and/or mobile apps are not as accessible as they could be.

The volume of Demand Letters relating to digital accessibility is increasing significantly, with some estimates suggesting that 25,000 companies will be targeted in 2016 by law firms representing small groups

of disabled users. Typically, these firms put the companies' websites through an online test to assess the level of accessibility, then issue the Demand Letter if the site is found wanting. Demand Letters are being issued against businesses of all types and sizes.

"The settlements are all confidential, but the range of payments the law firms are asking for is between \$20,000 and \$60,000," explains ADA attorney Richard Hunt. "For a large business, that's not particularly frightening, but the real fear for businesses is that if you decide to fight instead of settle, you will spend a few years in court, if you win the lawsuit you don't get your attorney fees back, and if you lose, you also pay the other side's fees. So this pushes them to settle, because they fear they will end up spending hundreds of thousands of dollars in legal fees on a case where the outcome is extremely uncertain because the regulations are extremely uncertain."

In addition to these opportunistic lawsuits, there have also been a number of high profile cases where groups representing the interests of those with disabilities have brought their own action against individual companies. In a landmark 2006 lawsuit against Target, for example, the National Federation of the Blind (NFB) was eventually awarded \$9.7m in damages.

The NFB also took tax preparation firm H&R Block to task in 2013. As a result, H&R Block agreed to make its website accessible to blind or visually-impaired people within two years. It also agreed to carry out ongoing monitoring and testing and to pay \$77,500 in penalties and damages.

And in the same year, again after being taken to court by the NFB, recruitment website Monster.com agreed to make its website and mobile apps accessible to blind or visually-impaired people, and to provide \$100,000 in funding for programs to help the blind.

Other companies that have fallen foul of the somewhat vague accessibility laws in the US include Netflix, which was fined \$795,000 and ordered to add captions to its output within 18 months. Cases are ongoing against The Home Depot, the NBA and Toys R Us.

The range of companies facing legal action puts paid to the misconception that only certain types of organisations, (ones dealing in essential products and services), are under threat from a legal challenge. In the last 16 years, cases have been brought against universities, municipalities, banks, insurance companies, healthcare companies, retailers, museums, hotels, online food delivery companies, sports and entertainment companies, and online dating companies.



“IF YOU ARE SERVED WITH A DEMAND LETTER OR OTHERWISE THREATENED WITH LEGAL ACTION, AN IMPORTANT PART OF YOUR DEFENCE WILL BE TO BE ABLE TO PROVE THAT ACCESSIBILITY IS IMPORTANT TO YOU AS A COMPANY AND THAT YOU ARE TAKING ACTION TO COMPLY, EVEN IF A LOT OF WORK REMAINS TO BE DONE”

Richard Hunt: ADA Attorney

U.K. and Europe

The accessibility of digital properties in Europe is covered by the United Nations Convention on the Rights of Persons with Disabilities, which requires that its Parties, like the EU and its Member States, take the necessary measures, including legislation, to ensure accessibility. In December 2015, the EU proposed the European Accessibility Act, which specifically refers to e-commerce as one of the areas it will cover, along with transportation and banking. The Act specifies that all transportation, banking, and e-commerce websites must be accessible within as little as two years after the Act is passed. The Accessibility Act’s regulatory measures will also make the framework for penalties more clear and effective, in order to hold companies appropriately responsible for cases of infringement.

While Europe is typically less litigious than the US, there have nevertheless been some high-profile cases in the EU. In 2012, for example, the Royal National Institute of Blind People in the UK sued travel website BMIbaby.com for failing to heed their repeated requests for compliance with the UK’s Equality Act. This follows several other suits aimed at websites over the past decade. Although most disputes on record ended in settlements after the companies made the requested changes, the all-encompassing nature of the UK’s Equality Act opens the door for broader legal action with meaningful implications. In addition, in 2011, an additional chapter was added to the act, specifying the need for businesses to include their digital properties in their Equality provisions.

Accessibility Checklist

Follow these four steps to achieve accessibility quickly and effectively:



> 01

Communicate with your customers

Publicly display your commitment to achieving web accessibility compliance. Create a public accessibility statement that communicates to your customers that accessibility is a top priority, and add the statement to the footer of your site. Additionally, provide contact phone numbers and email addresses in your footer so that any user having problems accessing your site can speak with a customer representative.

< 02

Communicate internally with your IT and web teams

Make sure that your main IT and web teams understand that accessibility is important to your organization and help them understand the necessity and requirements of web accessibility. Recommend that they read the Introduction to Web Accessibility provided by the W3C.



> 03

Form a web accessibility team

Web accessibility requires constant maintenance. While a third party's auditing and organizational efforts may help in the short-term, long-term success will only come by making web accessibility a part of everyday monitoring, designing, and building sites and apps.

< 04

Check your top pages for accessibility

There are many steps that your developers can take to immediately enhance the web accessibility for users with disability as well as reduce your chance of being subject to accessibility-related legal action.



The best way to prioritize and improve upon web accessibility is to integrate your third party accessibility partner into your process of testing/ auditing your sites and apps during every release. Select a partner company that will understand your development process and bring your long-term accessibility goals to fruition.

Making Things Right

While companies may point to nebulous legal guidelines and legislation as an excuse for their accessibility failings, the same cannot be said of the technical guidelines.



The Web Content Accessibility Guidelines Version 2 AA standard (WCAG2.0AA), published in 2008 by the W3C (World Wide Web consortium) lay down clear standards for making digital content accessible.

They go into great detail to explain to companies how they can make their digital properties perceivable, operable, understandable, and robust. Guidance includes instructions to provide text alternatives for non-text content; to provide captions and other alternatives for multimedia; to make it easier for users to see and hear content; to make content appear and operate in predictable ways; and to make all website functionality available from a keyboard, without the need for a mouse.



All courts cases relating to accessibility around the world tend to reference the W3C WCAG2.0AA standard, so even if the jurisdiction you operate in does not have direct legislation, we know that the DOJ and private plaintiffs agree that if it meets WCAG2.0AA, that is acceptable.

But where do you start? How do you take a website which has evolved over several years with no thought to its accessibility, and begin to make things right, in a sense, like retro-fitting ramps and stairlifts to a physical building that was never designed with the needs of disabled users in mind? It can seem overwhelming, but it's perfectly do-able if you follow a six-stage process, which can be summarised as follows:

- > **Make a plan**
- > **Communicate the plan internally and externally**
- > **Have experts test your site and apps**
- > **Implement solutions that can help immediately**
- > **Train people that will need to help create and maintain content over time**
- > **Establish a monitoring process to stay accessible**

Turn the page to take a closer look at each....

01

Make a plan

This can be as simple as a one-page plan that outlines what you want to do, by when, and who will be involved. Larger organizations should look to work this up into a policy, similar to your Security or Privacy Policy. It can grow and become more sophisticated over time. The W3C offers a very simple process to follow that will help you get started at <https://www.w3.org/WAI/impl/pol>

If you want to create a more detailed plan, you can model yours on the example found in Section 2 of the DOJ consent decree entered for H&R Block, requiring Accessibility of websites and mobile apps under the ADA. You can find that at <https://www.justice.gov/opa/pr/justice-department-enters-consent-decree-national-tax-preparer-hr-block-requiring>

02

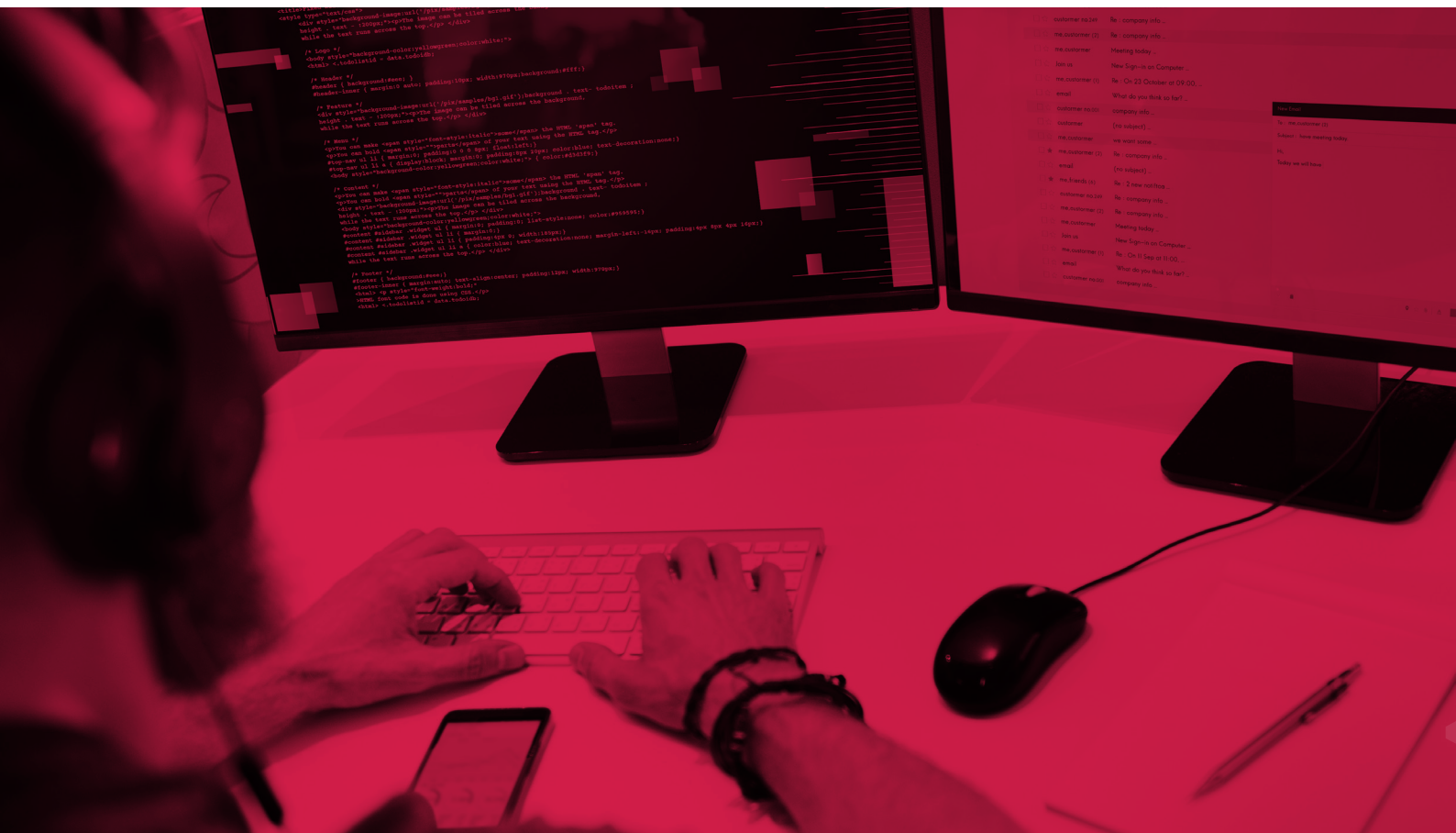
Communicate

Let internal teams know about the plan, and ensure that team members know it's important to the company so that they feel good and motivated when they are working on the tasks it sets out. Communicate the plan to the public so that those people you are trying to help can see that you believe it's important to you to get this right. Make it easy for anyone who has questions about your approach to accessibility to contact you. Just as you have a Privacy Statement on your web site and mobile apps, you should also have a place for accessibility.

03

Test all your sites and apps

Hire an accessibility consultant or use accessibility testing tools internally to establish how your digital properties perform when it comes to accessibility. Look to engage users with disabilities as part of this testing process. This will both increase your level of understanding and ensure that your testers are fully committed to the process, and have a vested interest in the outcome.



04

Implement solutions that can help immediately

Look for quick wins and solutions that can rapidly create dynamic alternative versions of inaccessible features. Target your top user paths so that the changes implemented will have a positive impact on the maximum number of users, as you look to address broader site pages and features over time.

05

Train people that will need to help to create and maintain content over time.

Make sure teams that you want to help correct issues and follow accessibility guidelines have access to the knowledge and training they need to do so. Establish accessibility as an integral part of development, QA and testing. Find a partner you can work with that has experience both in designing accessibility in from the ground up on new projects, and in revisiting existing properties to make them more accessible.

06

Establish a monitoring process to stay accessible

Accessibility is an on-going activity that benefits from monitoring in the same way that security does. Build accessibility into new features and have new releases tested before you post live. You can set up monitoring of live sites to ensure you catch any new issues. In short, look to make accessibility part of your company's DNA.

W3C Accessibility Guidelines

The W3C (World Wide Web Consortium) Accessibility Guidelines offer concise but detailed instructions on what to do to make your digital properties accessible. They fall into four areas, as described below...

Perceivable

- Provide text alternatives for non-text content.
- Provide captions and other alternatives for multimedia.
- Create content that can be presented in different ways, including by assistive technologies, without losing meaning
- Make it easier for users to see and hear content.

Operable

- Make all functionality available from a keyboard.
- Give users enough time to read and use content.
- Do not use content that causes seizures.
- Help users navigate and find content.

Understandable

- Make text readable and understandable.
- Make content appear and operate in predictable ways.
- Help users avoid and correct mistakes.

Robust

- Maximize compatibility with current and future user tools.

About Usablenet

Usablenet has been focused on website accessibility and usability since 2000, helping our clients to create digital properties that everyone can access. Accessibility is a fundamental part of our DNA, and all our developers have studied accessibility as part of their degree or Master's degree.

Our very first clients in 2000 were organisations such as universities and Government departments with huge amounts of web content that had to be available to everyone. Since then, we have attracted clients across many industries from retail and finance to leisure and automotive, but our focus on accessibility remains as strong as ever.

We have UX experts who know how to build accessibility into websites and apps. We have

developers that can train your developers on accessibility, or do it for you if that makes more sense. And we have Quality Assurance teams who can audit digital properties for accessibility and offer ongoing maintenance testing so that they remain accessible with every new revision.

For companies needing to achieve a form of compliance quickly for the most important parts of their digital properties, Usablenet has a solution called Usablenet Assistive. It creates a dynamic, accessible view of content that otherwise has accessibility issues. The Assistive solution ensures quick WCAG 2.0AA compliance, while the heavy lifting of fixing the source pages continues in the background.

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Jason Taylor, Special Advisor to the Usablenet CEO, Usablenet