

# SCORECARD

ADA audit and report, members' and pool's exposure to litigation and unnecessary compliance costs.

## **USE OF DATA**

The use of the findings of this report for litigious reason is not permitted – any claim made, reliant on the data contain herewith should be considered invalid.

# forward.

The requirement for websites to comply with the Americans with Disabilities Act (ADA) has been formally mandated by the Department of Justice in June of this year (2024), making website accessibility a legal requirement for public entities meaning they are now faced with a much further-reaching exposure for non-compliance.

Organizations that ignore this are now likely to face litigation, negative public opinion, and much higher costs than those that take immediate action. In the same way that we expect buildings to accommodate people living with disabilities, inclusivity is now expected online.

Due to lucrative rewards and the ease of demonstrating non-compliance, litigation has been growing across all sectors, both public and private. One of the softer targets are Pools, with members digital footprints grown rapidly, especially post COVID. Regulatory compliance has failed to keep pace, leading to increased risk exposure and vulnerability across the sector.

Compounding the problem is a false sense of security, spurred on by service providers who promise compliance, *backed up by* their own choice of (sometimes rather selective) self-reporting.

This document also covers the recent legislative revisions and corresponding changes likely to pose the greatest threat to members.



Andrew Grant  
Chair – Diversity and Inclusion Committee.

*“Most of all to make the changes that continually improve and accommodate all users equally – to ensure compliance for good.”*



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Will Bubenik  
Program Delivery Manager.

*"Connect with me and lets setup your Compliance SCORECARD (ADA, Carbon and Privacy)"*



# AB 1757

*“New California assembly bill on website accessibility could result in a lawsuit tsunami”*

*This is only be the start... bearing in mind present scale... New powers, federal position, NY, CO, and IL introduced, updating or revisiting regulations.*

# accessing your SCORECARD.



# what should pools do?

Any Risk, online or physical, should follow established practices.

ADA regulation is not new, it was established for 'buildings' over 30 years ago – with the early days of lawyers manually measuring the height of switches, door widths submitting the odd claim...In the digital world it's so much easier: anyone sitting at a screen can demonstrate ADA website failings.

Until this problem stops being seen 'as a technical issue' we continue to waste millions of hours and spend billions across the country as members are told by vendors 'your website's fine' (*and they may well be the ones with a commercial position to protect...*).

The evidence of a lack of a Risk Managed approach is clear, with year-on-year, report-after-report proving today's methods continue to fail.

## What's the answer then?

### 'Clarity' = Understand

Independent audit and Risk Assessment of members' websites – see next page for details of our offer and why it's FREE.

### 'Compliance' = Breakdown

Who is accountable for what, and when? Once you have clarity, you need understandable reporting to make compliance realistic.

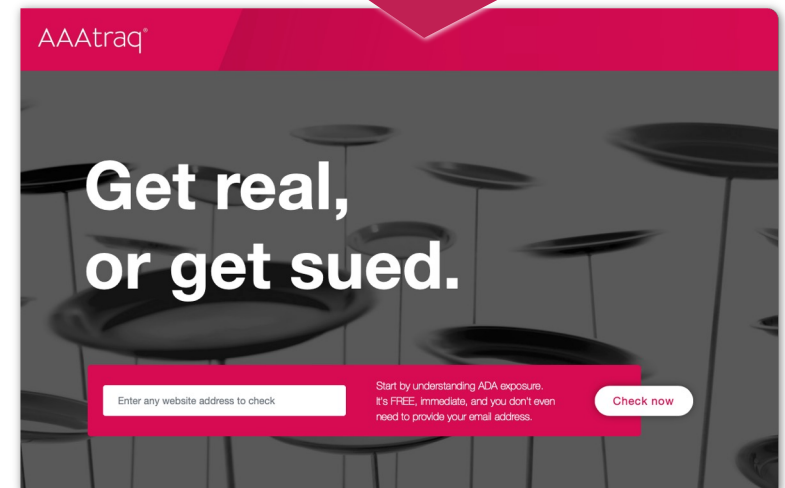
### Contracts

Belonging to the people you're paying to do the work – holding them accountable to their sales promises...

### Coverage

Things will go wrong, and people do make mistakes, so claims management and financial protection is essential.

It is not about pointing fingers – perhaps an important 'first' action (it takes 2 minutes and it's free) is to use the ADA Risk Assessment service.



No signup or email needed - visit:  
<https://aaatraq.com/check/>



# accessing your SCORECARD.

Independent, unbiased clarity – important factors for any audit.

Litigation has been a financial threat for the last 2 years for pools. The costs and time to understand ADA compliance is out of the reach for majority of members, especially as each member is trying to tackle this individually (and all too often the approach is technically led, reactionary and expensive – what we call *spend to fail*). Members now need the collective power of the pool to support them through this unnecessarily distracting challenge.

With the recent changes in Federal legislation – and evolving California rules, the clock started ticking some time ago. Pools (& captives) **are very rich pickings for aggressive lawyers looking for soft targets.**

## SCORECARD what is it?

Compliance audit and Risk Assessment of members' websites.

## Why do you need it?

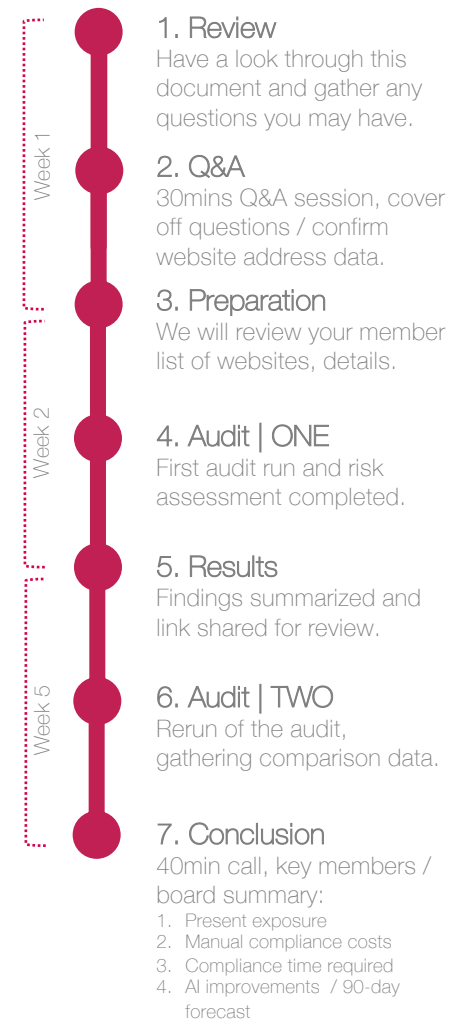
Until you have clarity of your Risk, you can't mitigate against it or monitor improvement or progress.

## How do you get it?

Email [cajpa@AAAtraq.com](mailto:cajpa@AAAtraq.com), using the subject line 'SCORECARD request' and we will arrange one for you.

## Why is it FREE?

With too many promises made by too many vendors, too often across this sector – we start our trusted relationships by offering value.



A black and white photograph of a hand holding a red umbrella. The hand is positioned at the bottom right, with fingers spread, holding the handle of the umbrella. The umbrella is open and its canopy is a vibrant red color, contrasting with the dark background. The background is a blurred image of a person in a suit, suggesting a professional setting.

# Brokers and Risk Managers.

The compliance SCORECARD is a useful value-add for your own insured, helping your clients understand their exposure and litigation Risk (to ADA and also Privacy and Carbon).

**Interested, would you  
like a branded sample?**

Email: [cajpa@AAAtraq.com](mailto:cajpa@AAAtraq.com)  
Subject line: SC / RCP Partner



# about your SCORECARD.



# examples.

Results and importantly where AI <> Risk Intelligence together can bring immediate value.

The requirement for websites to comply with the Americans with Disabilities Act (ADA) has been formally mandated by the Department of Justice in June of this year (2024), making website accessibility a legal requirement for public entities meaning they are now faced with a much further-reaching exposure for non-compliance.

Organizations who ignore this are now likely to face litigation, negative public opinion, and much higher costs than those who take immediate action. In the same way that we expect buildings to accommodate people living with disabilities, inclusivity is now expected online.

## Examples to view

Higher Education

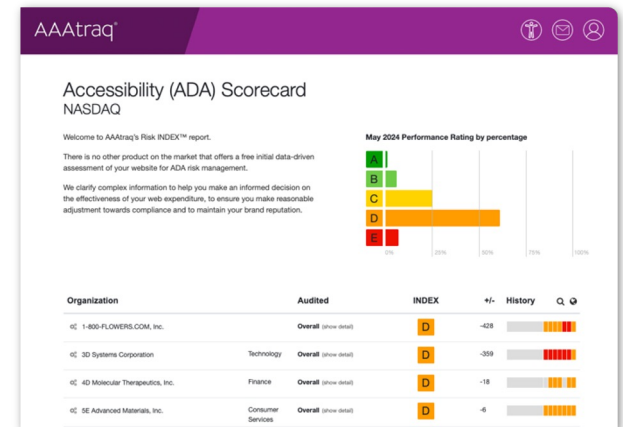
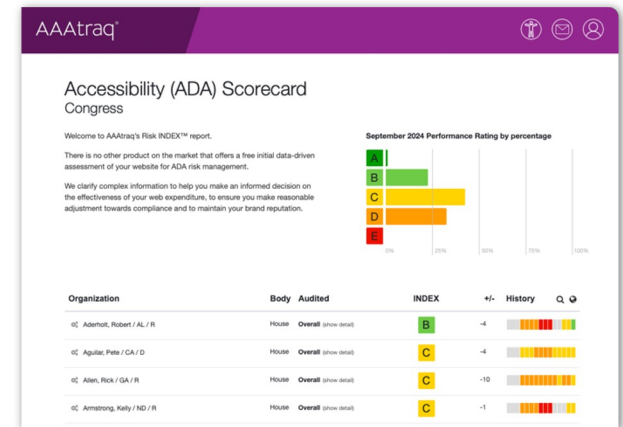
<https://aaatraq.com/index/higher-education/2024/08#accessibility>

NASDAQ

<https://aaatraq.com/index/nasdaq/2024/05/scorecard>

Congress

<https://aaatraq.com/index/congress/2024/09/scorecard>



# example 'results by member' risk audit.

AAAtraq®

## Digital Landscape / ESG Scorecard

IPOOL NAME

AAAtraq's Digital Landscape ESG Scorecard provides you with unbiased clarity on compliance across your digital touchpoints ensuring your ESG (Environmental, Social and Governance) commitments are met.

Non-compliant content poses unnecessary regulatory risks, erodes brand value, and damages shareholder confidence.

**September 2023 Digital Landscape Rating**

A	Green
B	Light Green
C	Yellow
D	Orange
E	Red

Current

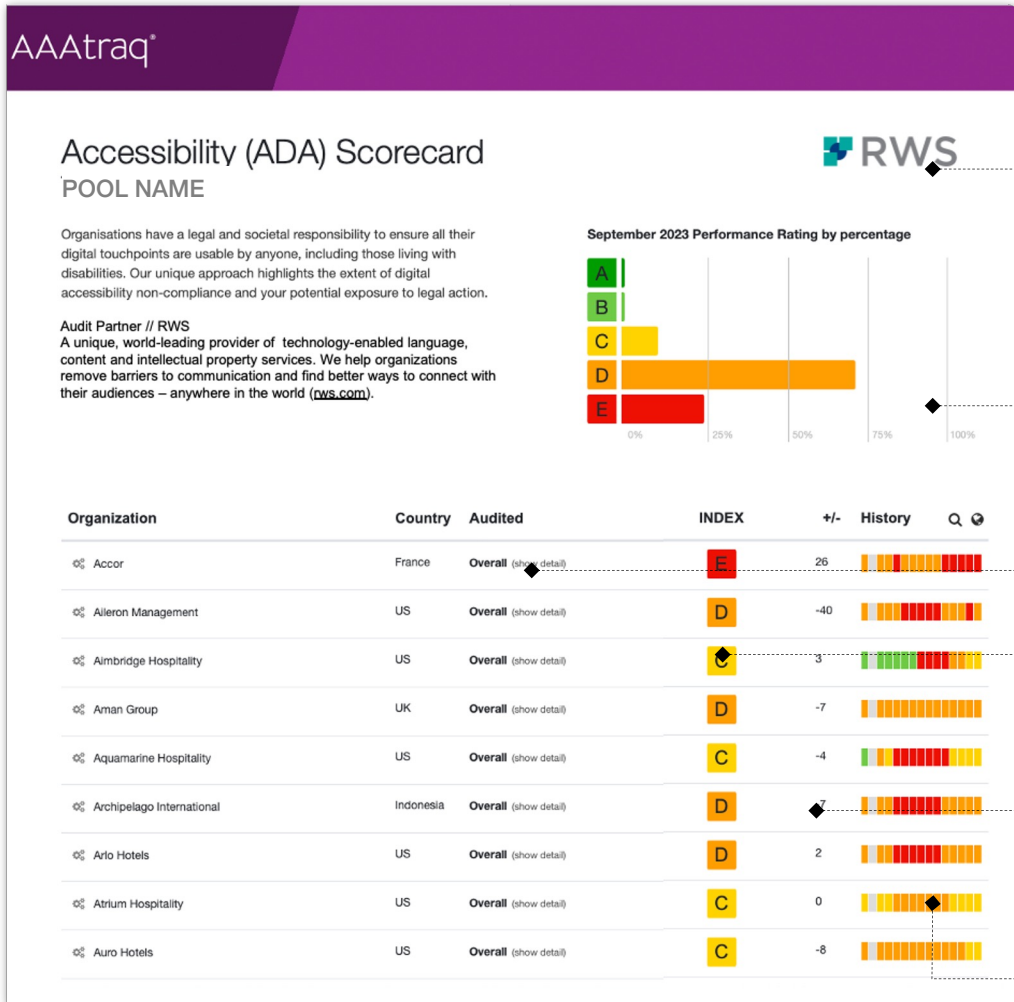
### Audited

Category	Previous	Current
<b>Environmental (Carbon)</b> An organisation's digital footprint can have a significant impact on the environment. In an increasingly digital society, it is more imperative than ever to control this. Reducing your footprint will mitigate your environmental impact and improve your overall ESG performance.	D	D
<b>Social (Accessibility (ADA))</b> Organisations have a legal and societal responsibility to ensure all their digital touchpoints are usable by anyone, including those living with disabilities. Our unique approach highlights the extent of digital accessibility non-compliance and your potential exposure to legal action.	D	D
<b>Governance (Privacy)</b> Privacy is a key consideration within ESG's. Customers have the right to expect confidentiality of their personal information when engaging or using digital services. Are you inadvertently undermining societal commitment and demonstrating poor governance?	E	E

- Clients' login button.
- Contact.
- Switch views (Summary, Privacy, Carbon and Accessibility).
- Overall position, the current rating across the websites audited.
- Previous results for the individual assessed category (linked to results).
- Latest overall results for the individual assessed category (linked to results).



# example 'results by member' risk audit.



Partner logo / branding

Proportion (% of overall) of websites, where they ranked within assessed category.

Click to view the findings, details as to the spread of audit results. Further drill down to \*content specifics.

Ranking for this website (could be section, or specific set of pages).

Change since previous assessment.

Historic results

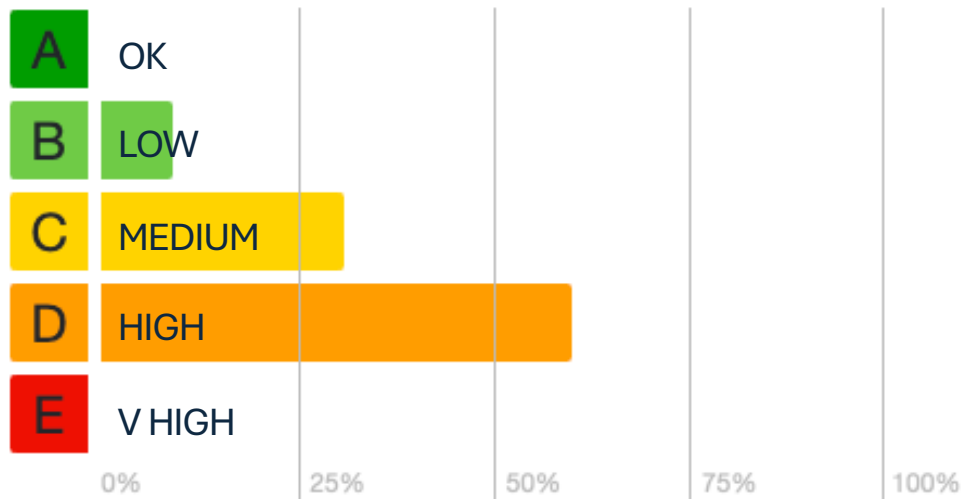
\* Subject to service level, detailed findings optional.

*196% of members are at risk  
and soon they'll have a stark  
choice: comply or await  
litigation and then comply.* ”



# today.

ADA Audit and Risk assessment (members main website).



This will be included in your summary, following the audit of member websites we will summarize ADA Risk and immediate exposure to litigation

## *POOL NAME*

Litigation exposure  
**\$3,608,000**

Compliance costs  
**\$2,340,000**

Based on your current membership (999) with larger members having 4 sites, through to members having the smallest websites with a single page, the total websites number 999. The average ADA litigation cost is \$27,700 (74% of which is estimated to be non-compliant website content).

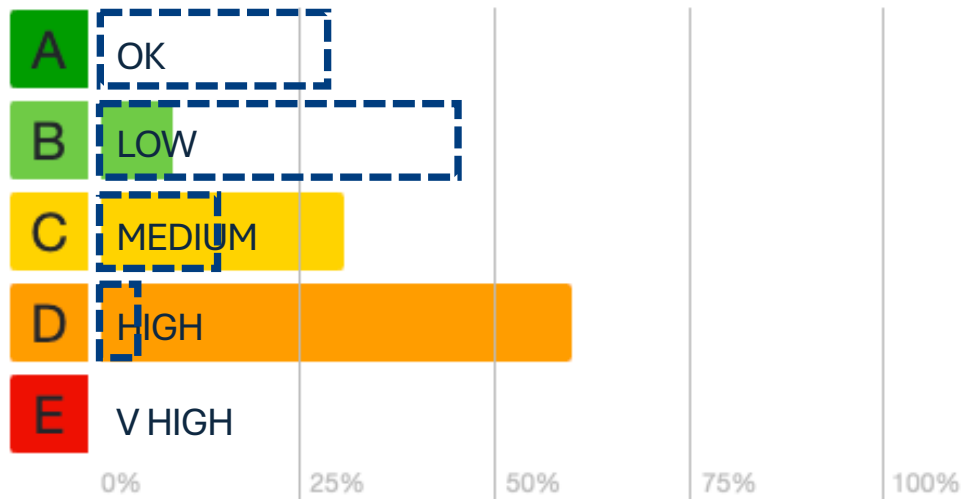
Website remediation (supported costs of \$8,400 (exc. annual costs annualized as \$3,850 pa)). Compliance costs overall covers the 3 years it could take for all to achieve at least 70%.

Audits as of June and July 2024 showing level of discrimination and exposure to litigation.



# in 90 days.

Following the deployment of Risk Control Program.



Once we have completed the second audit, we can forecast Risk reduction and how long it will take – with AI managing over 85% of initial workload.

## *POOL NAME*

Risk

Reduced 54%

Compliance costs

Down 71%

Forecast based on initial set up of Risk Control Program.



**challenges  
faced.**





# misconception.

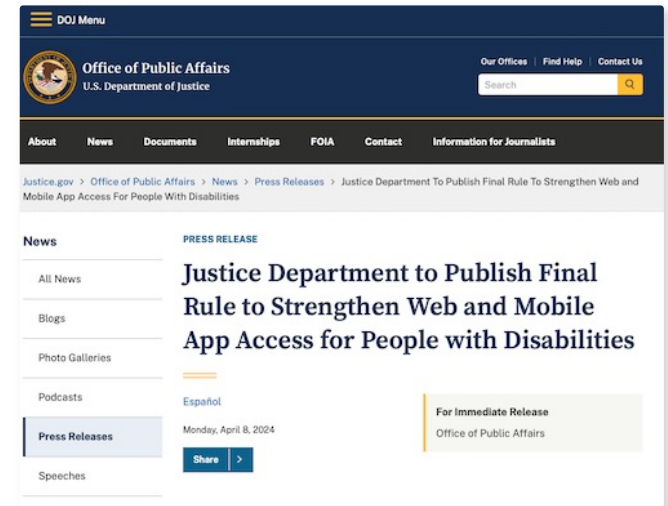
We want to hear good news <> stop listening to what you want to hear, and deal with facts.

## The Misconception: ADA Compliance as a Technical Issue

For too long, ADA compliance has been viewed as a purely technical issue, leaving executives without a clear understanding of their organization's digital risks. This lack of oversight has allowed compliance practices to slip through the cracks, as those responsible for implementation were also responsible for reporting—effectively "marking their own homework."

ADA compliance is not optional, and it's not going away. Pools, captives, and their members must adopt a risk-managed approach to tackle this challenge once and for all, moving away from the reactive "fix and fail" cycle that has plagued the industry.

"Department of Justice // Mandates Website Accessibility as of June 2024"

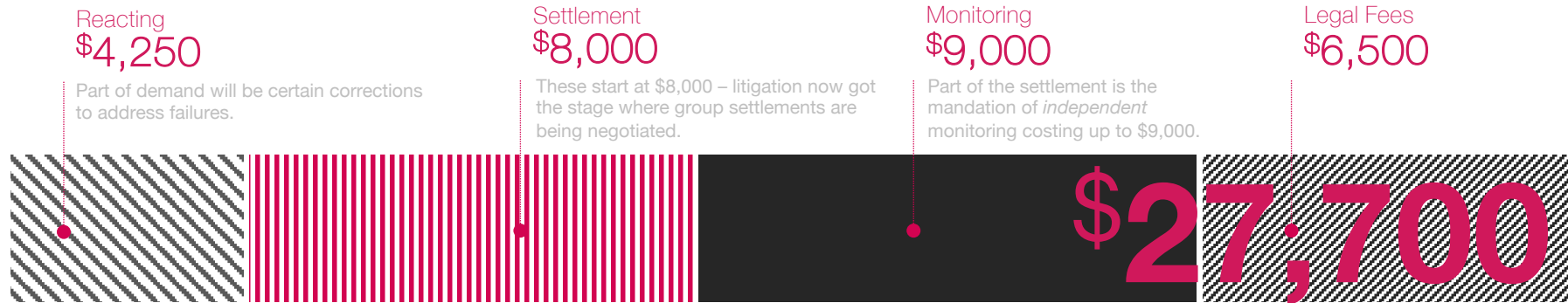


<https://www.justice.gov/opa/pr/justice-department-publish-final-rule-strengthen-web-and-mobile-app-access-people>



# cost of a demand.

The \$27,700 is the financial hit, but the internal distraction has a far greater impact.



<https://purplesec.us/resources/cyber-security-statistics/>  
<https://www.boia.org/blog/did-u-s-businesses-spend-billions-on-legal-fees-for-inaccessible-websites-in-2020>

# Distraction 4.5<sup>months</sup>

## Immediate impact

(Finding support, not knowing what to do and managing an unknown process).



# member challenges.

Without a Risk Control offering covering ADA – are you less attractive to new members?

The legal requirement and societal need to ensure content is available to everyone has created a perfect storm, against which lawyers are making millions and present-day vendors have little accountability (as well as a blank check to charge fees).

Challenge – what is impacting members?

1. Complex technical standards
2. Marketing promises and vendors selling without accountability
3. Cost and time to understand present reporting and know what to correct

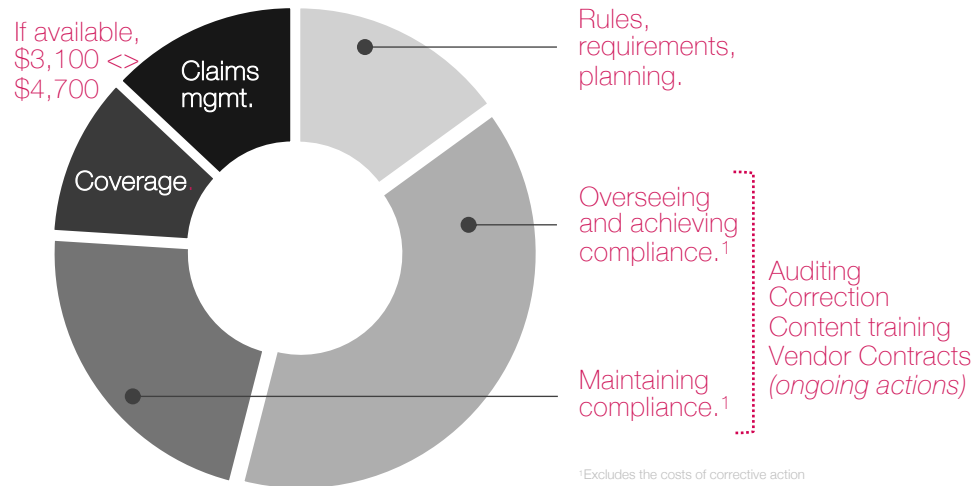
Left with ongoing distraction, organizations cannot understand what to do and the cost of compliance can be prohibitive – with litigation growing exponentially.



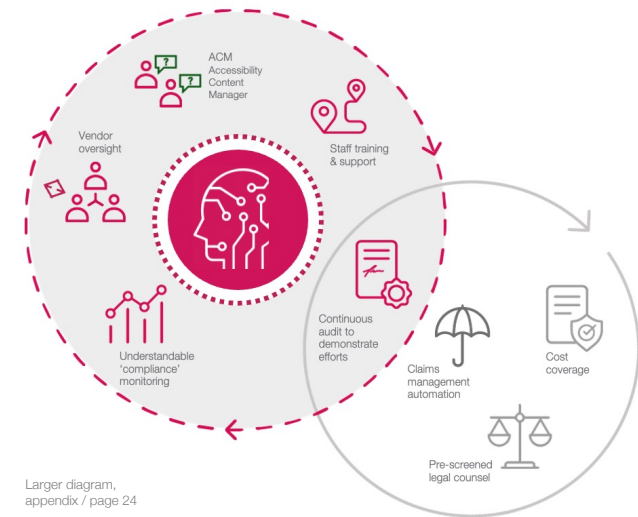
# managed process.

Move from today's technical, reactive process and compliance is realistic, with considerable savings.

## Today's approach (happening now)



## Risk managed approach (ready, when you are)



### Per website

Yr. 1 \$4,300 <> \$20,700 (\$8,400)  
Yr. 2 onwards \$3,850 <> £7,200

### Excludes:

1. Coverage / claims management
2. Risk monitoring / reporting

Costing on average \$1,850<sup>2</sup> member/annum with AI and proven process also removing 93% of the effort required.

<sup>2</sup>Excludes initial setup – deployment.



*In the last 4 years, claims and spend have risen exponentially – with little or no change in compliance adherence. Until there is a **risk control** led approach, we continue with repeated spend to fail.*



**the law, ADA  
background.**



**compliance is not an option.**

# ADA

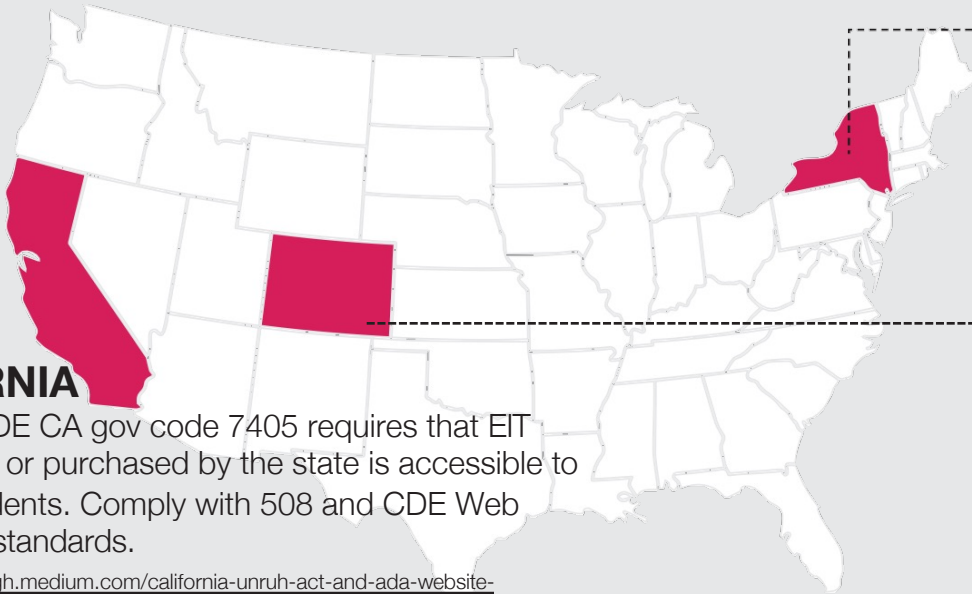
You cannot discriminate online;  
the ADA is a legal requirement.

A managed approach will save time,  
reduce costs and remove distraction.



# state regulations.

Examples of regulations evolving nationwide.



## CALIFORNIA

UNRUH & CDE CA gov code 7405 requires that EIT development or purchased by the state is accessible to disabled students. Comply with 508 and CDE Web Accessibility standards.

<https://krisrivenburgh.medium.com/california-unruh-act-and-ada-website-accessibility-lawsuits-in-2020-db71a3e352b>

AB1757 ....even stronger in some significant ways. This [AB1757] may have a big impact on companies 'organizations' and web developers and may further expose them to liability.

<https://convergeaccessibility.com/2023/07/04/california-ab-1757-update/>

## NEW YORK

New York State has established specific web accessibility guidelines that are applicable to institutions that fall under the jurisdiction of the New York State Department of Education (NYS Policy NYS-P08-005). The require compliance to WCAG 2.0 (moving 2.1) AA.

<https://its.ny.gov/document/accessibility-web-based-information-and-applications-compliance-reporting>

## COLORADO

In June of 2021, the Colorado State Legislature passed HB- 1100, making it the first state to require local and public entities to comply with web accessibility standards. The plan for this law will be released by July of 2022, and its enforcement will beginning July of 2024.

<https://co.colorado.gov/accessibility-standards>





# doj update.

Time may have already run out – is the pool ready for a collective action and claim?

JUNE 2024 // Litigation has been growing exponentially in recent years. The majority of your members fail on the basics TODAY. This is easy money for aggressive lawyers...is this just the tip of the iceberg?

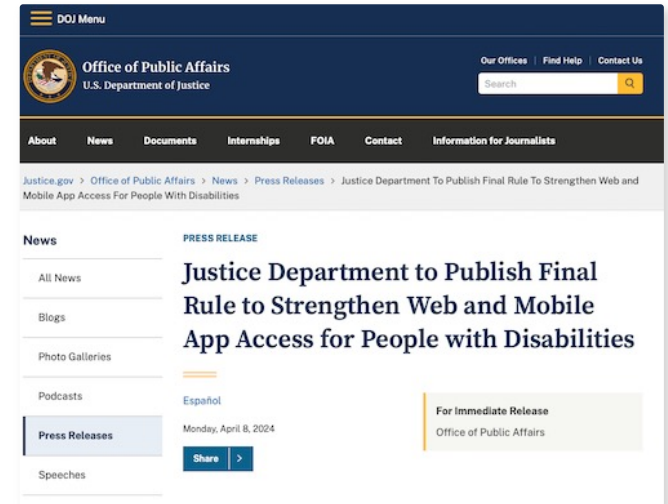
Update to Title II June 24<sup>th</sup> mandating website accessibility for public entities – the risk is far wider than just monetary fines, what if it means you are no longer able to operate online?

*But we have 'another' two years to comply?*

**Really, you don't...**

Do nothing, and anybody can sue you today, but in two years' time, if you've still done nothing, the government can sue you, too.

Members need to start their journeys now, as they have 2 years to become compliant – are they going to leave it until the last minute? AND they can still get sued in the meantime.



“Department of Justice // Mandates Website Accessibility as of June 2024”



# federal regulations.

## 508, 504 'Rehabilitation Act 1973' and OCR.

### SECTION 508

The Government of the United States is required by Section 508 of the Rehabilitation Act of 1973 (29 USC § 794d) to make their technologies (including sites) accessible to people living with disabilities when developing, procuring, or maintaining, information and communication technology (ICT).

<https://www.section508.gov>

<https://www.webfx.com/web-design/learn/%20ada-vs-508-compliance/>

**UPDATE: Reporting entities will have until 11:59 p.m. ET on July 31, 2024, to complete the Section 508 Assessment.**

### OCR (members who offer education resources)

OCR “complaint review,” or investigation of a complaint of discrimination by the district against a student or students. Anyone who believes that a district has discriminated against a student on the basis of race, color, national origin, sex, disability, or age may file a complaint with OCR.

<https://www2.ed.gov/about/offices/list/ocr/blog/20200724.html>

### SECTION 504 (members offering education resources)

Depending on the type of institution, section 504 is more applicable to lower levels of education (elementary and secondary). For post-secondary, 504 is applicable such that it offers a qualified student the avenue to get “appropriate adjustments and auxiliary aids and services that are necessary to afford an individual with a disability an equal opportunity to participate in a school’s program”.

<https://cdn-files.nsba.org/s3fs-public/16.%20Klimesh%20Website%20Accessibility%20Paper.pdf>

UPDATE: <https://acl.gov/504rule>

*The following text is copied directly from website for information only:*

On May 1, 2024, U.S. Department of Health and Human Services (HHS) made disability rights history with the release of a long-awaited final rule implementing Section 504 of the Rehabilitation Act of 1973.

This comprehensive update “the first since the initial regulation was put into place more than 40 years ago — creates one of the most powerful tools we have ever had to combat discrimination based on disability in health care and human services. The direct result of decades of advocacy by people with disabilities, the new 504 rule represents a giant step forward in the disability civil rights movement.”

#### KEY PROVISION:

Web, mobile app, and kiosk accessibility: The rule adopts the Web Content Accessibility Guidelines (WCAG) 2.1, Level AA accessibility standards for websites and mobile applications. It also requires web-enabled systems in self-service kiosks in medical providers’ offices to be accessible. These provisions are particularly important given the increased use of websites, apps, telehealth, video platforms, and self-service kiosks to access health care.



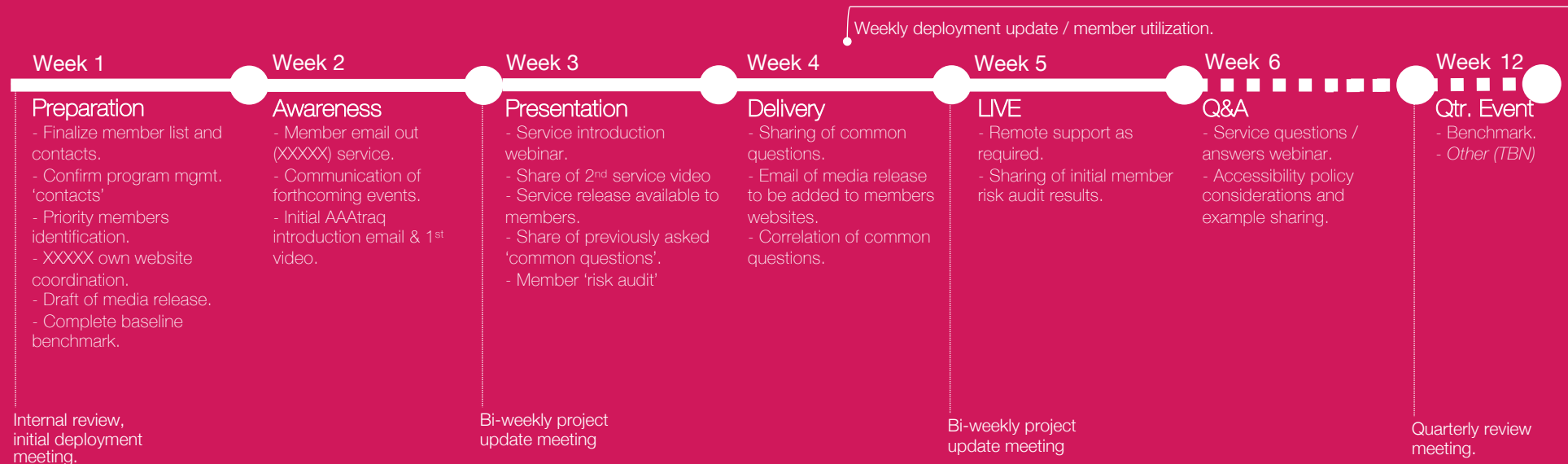
**our ADA risk  
control program.**



# program.

Managed and administered for you.

The stages of deployment shown below in the first six weeks. All proposed communications are shared and for review ahead of distribution.



# Admin free.

We'll very nearly...95%

We do the setup and ongoing management of the program for you!



# ADA risk control program.

Fully managed, supporting the pool and its members.

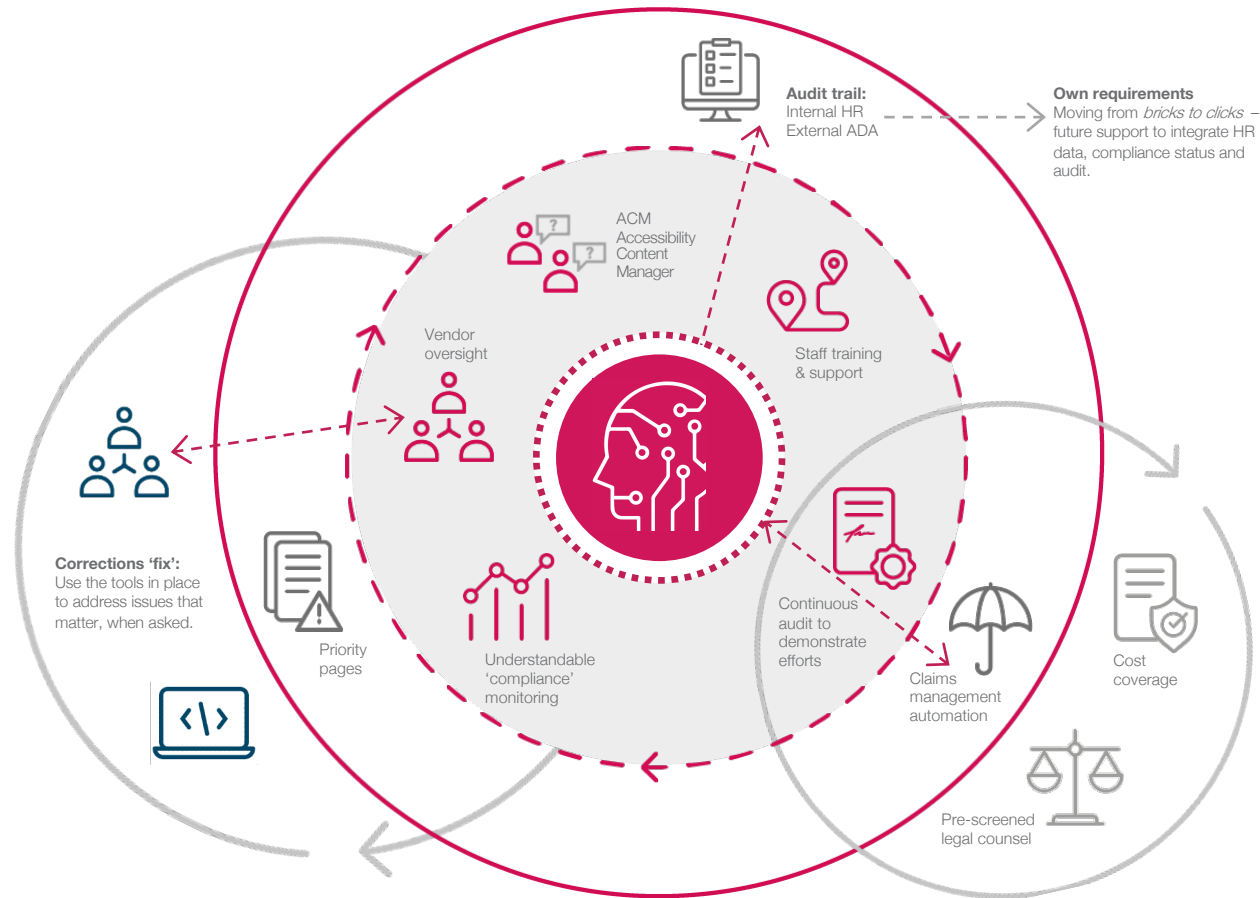
## IT IS COMPLICATED

To remove the risk, the organization, regardless of size, needs to integrate many disciplines. Take control, be realistic about effort & costs - remove risks - or do not be online.

## SO WE AUTOMATED IT

Our background is online compliance - we took our know-how, project methodology and built technology to remove the majority of costs and confusion in understanding and removing risk and maintaining compliance.

We have the first AI engine to integrate HI (human Intelligence) which maps compliance needs against 3.7 trillion data points, built over 25 years of website auditing and ADA (Accessibility) projects delivery.





ADA / You're not alone.



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## Accessibility

AAAtraq is committed to ensuring access to content for all, without discrimination of any kind. We engage in ongoing efforts to ensure adherence to the requirements defined by the World Wide Web Consortium (W3C), specifically, the Web Content Accessibility Guidelines (WCAG) 2.1.

Content contained within PDF documents can be provided in alternative formats to ensure access is available to as wide an audience as possible.

Although AAAtraq endeavours to meet the WCAG requirements, it is not always possible to do so in all areas of our websites, all documents formats at all times; be it our reliance on 3rd parties, technical or usability limitations.

If you experience problems, please let us know, at your convenience by email ([accessibility@AAAtraq.com](mailto:accessibility@AAAtraq.com))

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