



White Paper: What Does It Take to Achieve Compliance with Digital Accessibility Legislation?

Executive Summary

Digital accessibility compliance is often wrongly equated with conformance to the Web Content Accessibility Guidelines (WCAG), set forth by the World Wide Web Consortium (W3C). In practice, compliance is more complex and nuanced. There is no standardized way to score a website's accessibility, and no legislation quantifies compliance.

History shows that law courts are less concerned about theoretical adherence to standards and more interested in practical outcomes. Perfection is not the required standard; instead, complying with digital accessibility legislation depends on ensuring that people with disabilities are able to use the core functions of a website, with the aid of standard assistive technology if necessary.

Today's web design, development and content management practices are plagued with subtle issues that can undermine organizations' digital accessibility efforts. Automated solutions for detecting and resolving these problems will only ever catch a minority of them. For everything else, you need expert human testing and remediation. You also need to take the long view: As standards and technologies evolve, and as website content is updated, new accessibility concerns will continually emerge.

A best-practice strategy for digital accessibility compliance should encompass:

- Substantial ongoing conformance to WCAG
- Regular expert website audits
- Comprehensive remediation plans
- Clear feedback procedures for visitors
- Internal accessibility training and tooling

AudioEye's unique hybrid solutions combine automated monitoring and remediation with expert manual testing and legal support, helping clients address all aspects of compliance with the relevant legislation.

Navigating the Legal Maze

Given growing numbers of high-profile court cases, compliance with digital accessibility legislation is a pressing concern for many organizations. Depending on what yours does, where it is headquartered and where it operates, you may be subject to more than one set of legislation on digital accessibility.

In the U.S., there are federal laws such as the Americans With Disabilities Act (ADA) and Section 508 of the Rehabilitation Act. There is also legislation at the state level, including the Unruh Civil Rights Act in California. Likewise, Canada has both national-level and province-level laws, and we're seeing a similar picture across many other countries worldwide.

Compliance can be defined simply as meeting the demands of the relevant legal framework or frameworks. That's where the simplicity ends, however. All laws are subject to interpretation and revision over time, and digital accessibility legislation is rarely explicit about what an organization actually needs to do to achieve and maintain conformance.



WCAG — a Measure of Compliance?

Fortunately, there is one element that is common to most legal codes worldwide. The technical standard for judging digital accessibility is almost always based on conforming to the Web Content Accessibility Guidelines (WCAG), which are maintained and updated by the W3C.

This has given rise to a common misconception that WCAG conformance equals legal compliance. Some providers of digital accessibility consulting or technology will even say that if you achieve a certain percentage of adherence to WCAG, then your digital content is legally compliant.

In fact, compliance is not nearly so clear-cut.

First, none of the major legal frameworks quantifies compliance, and WCAG is not designed to produce a standardized “score.” While you could measure your conformance percentage to the hundreds of guidelines, the score would be meaningless, as some of them have far more practical impact on accessibility than others.

Second — and contrary to what some accessibility consultants claim — technology is not a silver bullet for compliance. While it's possible to detect and resolve some types of website accessibility issues automatically, many others still require human insight to recognize and remediate. Even if an automated tool gives you a perfect accessibility rating on the problems it can detect, that's no guarantee that a court would consider your site compliant.



Third, compliance is not a precise science. While adherence to the guidelines plays an important role, plaintiffs and courts are interested more in the practical usability of websites by people with disabilities than in whether a site technically meets all the requirements.

Finally, compliance is a moving target: WCAG is continually updated, and your web content is likely constantly changing too; both factors will impact accessibility, as will changes in the technology used by people with disabilities. Accessibility compliance is therefore an ongoing process.

Legal precedent suggests that attaining and sustaining substantial conformance to WCAG is a necessary, but not sufficient, element in compliance. A best-practice strategy for digital accessibility conformance should encompass:

- Substantial ongoing adherence to WCAG
- Regular website audits by accessibility experts
- Comprehensive remediation plans for dealing with identified shortcomings
- Clear feedback and grievance procedures for website visitors
- Internal accessibility training and tooling

Substantial WCAG Conformance

Many accessibility solution providers define compliance solely in terms of quantified conformance with WCAG. Quantifying your progress toward a target is always useful, but assuming that a particular score equals compliance is misleading in two ways.

First, legal precedent shows that courts do not treat compliance as a box-checking exercise. Rather, they seek to establish whether core website functions can be completed by a person with disabilities who is using standard assistive technology. This means that your website is not expected to be perfect. It also means that having a high-scoring website will not necessarily keep the lawyers from your door. A minor infringement of WCAG does not necessarily equal noncompliance with digital accessibility legislation, while a high degree of WCAG conformance may not protect you from related lawsuits.

Second, WCAG conformance is itself a nuanced measure. Many guidelines stipulate subjective qualities that cannot reliably be tested by an automated system but rather require human judgment. AudioEye believes that even the best automated systems will detect only around 35% of WCAG errors at most.

Understanding that quantified measures are a useful yardstick — even if they do not translate exactly into legal compliance — AudioEye works with clients to achieve and sustain substantial conformance to WCAG, which we define as 95% adherence to the hundreds of testable success criteria. Automated testing and monitoring are just the starting point; an effective compliance strategy also requires manual monitoring, testing and remediation. In particular, you need to have human experts evaluating common workflows on your digital properties and validating their real-world usability.

AudioEye provides AI-powered automated testing and remediation to clients from day one, backed by manual monitoring and testing from experts certified by the International Association of Accessibility Professionals (IAAP). Our powerful toolbar gives visitors web personalization tools to customize their user experience, and we also offer manual remediation as an add-on service.

Regular Website Audits

Legal precedent suggests that compliance is not about unthinking conformance to WCAG; it's about how well your website is able to support users of all abilities in achieving core goals.

AudioEye's real-time monitoring gauges every visitor's experience, detecting more errors and barriers than any of the other leading scanners and running over 400 accessibility tests based on WCAG. This always-on monitoring ensures that the pages most frequently accessed by visitors are prioritized and evaluated for accessibility conformance.

Critically, we weight individual WCAG test results by their potential impact on users. For example, failing a test for image alternative texts will weigh heavily on the score, as this may represent a significant accessibility barrier. To help clients understand their current performance on key accessibility criteria, we roll up all the weighted scores into a single Accessibility Score, where 75 or more out of 100 typically indicates a website with no significant accessibility barriers.

AudioEye's base plan includes Live Monitoring and Risk-Based Periodic Evaluations. We monitor production web environments as standard practice, but we also support lower-level deployments of our tooling for clients who want to catch accessibility concerns during development, testing or preproduction. As an add-on service, AudioEye offers manual reviews led by IAAP-certified experts with a deep understanding of current and forthcoming standards and legislation.



Remediation Planning

Once accessibility problems are identified, it can be challenging to understand how to fix them. Some minor issues can be resolved automatically, while more complex ones may require deeper thinking and planning.

In our base plan, we offer active automated fixes using our proprietary and patented AudioEye Dynamic Remediation Technology, which includes the automatic retesting of addressed problems to validate usability of content and functionality. We believe that our AI-powered platform eliminates more accessibility barriers on day one than any competing offering.

To assist with compliance, AudioEye provides a Sustainable Testing & Remediation (STAR) Plan to all clients. STAR is an automatically generated report showing all WCAG errors that have been identified and remediated, demonstrating both the track record of compliance effort and an ongoing commitment to accessibility. A STAR plan is a valuable resource for any organization facing legal action or in receipt of a legal demand letter. AudioEye also offers manual remediation services and customized STAR plans as add-ons.



Grievance Procedures, Training and Tooling

Courts expect organizations to provide a way for website visitors to raise accessibility concerns, so the AudioEye base plan includes a 24/7 feedback solution — the Help Desk utility in our Accessibility Toolbar. Using the Help Desk, visitors can report any accessibility errors they encounter, and we prioritize the remediation of these problems.

We also provide Accessibility Statements, authored and maintained by our in-house experts, for our clients to embed in their websites. These statements help our clients communicate their web accessibility policies to users clearly and unambiguously, which helps to set expectations and reduce the risk of misunderstandings.

To help build an internal culture of compliance backed by the right technical skills, AudioEye gives clients access to a comprehensive library of training resources. We also provide tools and reporting to help clients manage their digital accessibility programs and to incorporate best practices across their design, development and content creation processes.

From day one, all AudioEye clients benefit from legal support, and we also provide warranties that our solutions aim to:

- Maximize usability for individuals with disabilities, targeting ADA compliance
- Sustain substantial conformance with WCAG 2.1 Level AA success criteria, considered a benchmark for digital accessibility



Conclusion

Compliance with digital accessibility legislation is not just a question of conformance to WCAG. Your organization needs to demonstrate an ongoing commitment to equal access for users of all abilities. That means you may need to change the way you think about accessibility.

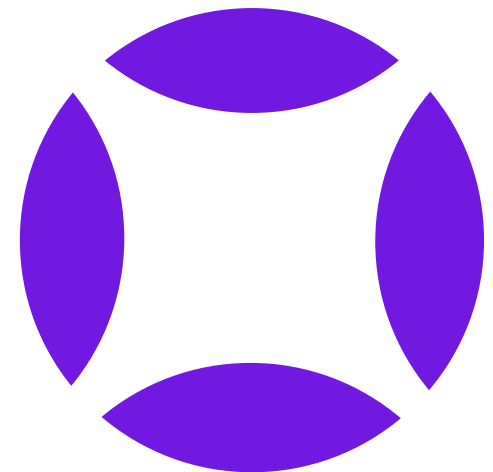
AudioEye understands the full breadth and complexity of what it means to be compliant and can help you build a sustainable best-practice program encompassing:

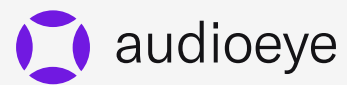
- WCAG conformance
- Regular site audits
- Remediation planning
- Grievance procedures
- Training and tooling

Our unique hybrid approach — combining intelligent live monitoring and automated remediation with manual testing and legal expertise — helps clients build and sustain an internal culture of compliance with the relevant accessibility legislation.

There are no silver bullets and no absolute guarantees of legal indemnity, which is why thousands of U.S. companies are still being sued for digital accessibility violations each year. Engaging AudioEye can significantly reduce the risk of a lawsuit because our clients benefit from our knowledge of what the courts expect to see in a successful defense: evidence of formal testing, use of expert consultancy services, website monitoring, reporting/tooling software, user feedback and support channels, structured training in digital accessibility and clear internal policies.

For more information on how AudioEye can help you achieve and maintain a long-term culture of digital accessibility compliance, visit audioeye.com today.





sales@audioeye.com | 866.331.5324 | audioeye.com