

**Regulation Update:
Section 508 of the Rehabilitation Act,
Section 255 of the Telecommunications
Act, and the Pending Refresh**

ADA Audio Conference Series

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Today's topics:

- I. Background:
 - §508 of the Rehabilitation Act
 - §255 of the Telecommunications Act
 - Accommodations versus Accessibility
- II. Why Conduct a "Refresh"?
- III. TEITAC – The "Refresh" of §508 and §255
- IV. What does the TEITAC report recommend?

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I. Background:

- §508 of the Rehabilitation Act and
- §255 of the Telecommunications Act
- Accommodations versus Accessibility

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About the Access Board

- **25 members:**
 - 13 Public Members appointed by the President for four year terms
 - 12 Federal members:
 - Justice
 - GSA
 - Interior
 - Labor
 - Defense
 - Transportation
 - Education
 - Housing and Urban Development
 - USPS
 - Commerce
 - Health and Human Services
 - Veterans' Affairs
- \$6 million budget
- 28 employees
- **3 organizational units**
 - Office of the Executive Director
 - General Counsel
 - **Technical and Information Services**

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Access Board Programs

- **Guidelines and standards development**
 - Architectural Barriers Act of 1968
 - Americans with Disabilities Act of 1990
 - Telecommunications Act of 1996
 - Rehabilitation Act Amendments of 1998
- **Technical assistance and training**
- **Research**
- **Compliance and enforcement**

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Overview

- **Telecommunications Act of 1996**
47 U.S.C. §255
 - “Section 255”
- **Section 508 of the Rehabilitation Act of 1973, as amended**
29 U.S.C. § 794 (d)
 - “Section 508”

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Access Board Revisions of Standards and Guidelines:

Rulemaking Process provides for periodic review and “refresh” of:

- Electronic and Information Technology Accessibility Standards (“§508 Standards”)
- Telecommunications Act Accessibility Guidelines (“§255 Guidelines”)
- Americans with Disabilities Act Accessibility Guidelines (“ADA Guidelines”)

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Electronic and Information Technology

Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), requires that:

- Federal employees with disabilities, and members of the public with disabilities seeking information or services, have access to and use of information and data that is comparable to the access and use by persons who are not individuals with disabilities, unless...

Standard:

....an “Undue Burden” would be imposed on the agency.

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Telecommunications Act

- Manufacturers and service providers must ensure that products are "designed, developed, and fabricated to be accessible to and usable by individuals with disabilities" or
- "...ensure that [products or services are] **compatible** with [AT] commonly used by individuals with disabilities to achieve access..."

Standard:

- When it is "Readily Achievable" to do so

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Differences Between the ADA, §504, §508, and §255

- **ADA and §504** - do not directly regulate the design of technology and are primarily focused on the "individual".
- **§508** - requires Federal entities to **develop, procure, and maintain** accessible E&IT and is primarily focused on the "technology environment" available to anyone (employee or consumer) of government services.
- **§255** - requires **Telecommunication** manufacturers and service provider to **provide** accessible products and services.

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Accommodation v. Accessibility

- Particular
- Occurs “after the fact”
- §504
- “Person focused”
- “Civil Rights”
- Global
- “Built In”
- §508
- “Technology Focused”
- “Procurement”

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Section 255 of the Telecommunications Act

Overview

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The Purpose of Section 255

"...to ensure that people with disabilities have ***access to telecommunications services and related equipment...***"

Source: Federal Register Nov. 19, 1999 p. 63235

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What does Section 255 require?

Manufacturers and service providers must:

- make their products and services accessible.
- "...ensure that [products or services are] **compatible** with [AT] commonly used by individuals with disabilities to achieve access..."

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§ 255 General Requirements

- **Provide equipment** that is accessible
- **Include representation** from people with disabilities in the processes of Product Design, Development, and Evaluation



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Cell Phone: How Accessible ?



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Section 508 of the Rehabilitation Act

Overview

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Rehab Act § 508 requires:

- Federal agencies
 - develop, maintain, procure or use and purchase accessible E&IT
 - through procurement process
- Enforcement mechanisms
 - Complaint Process
 - Legal Action

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Who Must Comply With § 508?

- Each Federal Department and Agency
- United States Postal Service
- When procuring, developing, maintaining, or using E&IT

Section 508 (a)(1)(A)

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Who Benefits from § 508

1. People with disabilities who interact with federal agencies.
2. Federal employees with disabilities.
3. All people with disabilities because accessible products for the federal market are also sold in the public marketplace.

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What Technology is Covered by §508?

Includes, but is not limited to...

Computers

Printers

Telecommunications

Kiosks

Software

Office Equipment

Websites

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Access Board §508 Standards Cover--

- Technical Standards
- Functional Performance Criteria
- Information, Documentation and Support

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II. Why Do We Need A “Refresh”?

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Goals in the Revision Process

- “We agree that what is needed are clear, consensus driven, testable, and reliable accessibility requirements. In this world of global scales, it is critical that accessibility requirements be harmonized throughout the world. Product manufacturers want to build to a single set of requirements – or at least not be faced with competing world wide requirements. We should do what we can to facilitate this, because ultimately if we can make the regulatory process easier to achieve – and by that I do not mean that we need to weaken the requirements that exist today – we will enhance accessibility for people with disabilities worldwide.”

*Marc Guthrie, Access Board public member
International Workshop on Accessibility Requirements
Brussels, Belgium -- October 21, 2004*

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Why Revisions are Needed?

- The Access Board shall periodically review and, as appropriate, amend the standards to reflect technological advances or changes in electronic and information technology (*section 508*)
- The Board shall review and update the Telecommunications Act Accessibility Guidelines periodically (*section 255*)
- Almost 8 years since the Section 508 standards were issued – 10 years for the Telecommunications Act Accessibility Guidelines

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Why Revisions are Needed?

- Frequent requests for clarification and technical assistance
 - what products are covered?
 - ambiguity
 - increase testability
- Technological changes
 - convergence of products
 - widespread adoption of wireless and VoIP
- International efforts are underway

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Changed Technology:

iPods and Podcasting



VoIP (Voice over Internet Protocol) Phones



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TEITAC issues

- Convergence of technology
- VOIP (Voice over the Internet Protocol)
- Change in concept of “self-contained, closed products”
- User interfaces: multi-touch and gestures
- Synchronized media
- Assistive technologies

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Convergence of Technology

- Web applications and web-software installed on a pc v. on web



wiki



- Hardware, esp. mobile devices



Cell phone /w text messaging

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Use of AT in mainstream products:

Speech input and output more common
cell phones
automobiles

Interactive text – IM – Real time Text –

API (Application Programming Interface) –
address compatibility responses between AT
and IT software (make products interoperate)

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API : how 2 pieces of software interact with each other



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Multi-touch and gesture interfaces:

Touch interfaces on mobile devices.

Touchscreens, cameras, and other movement detection systems can receive and analyze complex actions: “chorded” input

(several fingers at once)



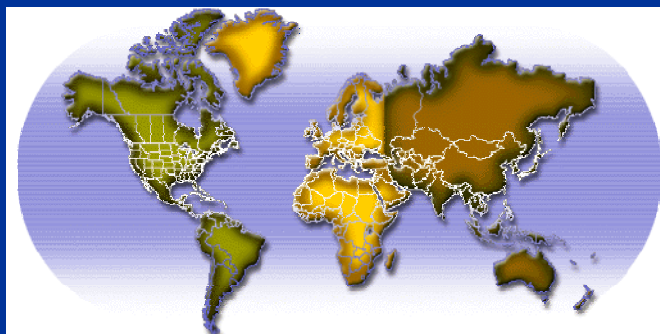
Whole gestures: spreading two fingers apart or tilting one's head to the side



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What are other countries doing?

- How can we harmonize our standards?



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Intended Audiences and Levels of Effort

- The Telecommunications Act Accessibility Guidelines apply to manufacturers
- A manufacturer of telecommunications equipment ...shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable

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Intended Audiences and Levels of Effort

- The Electronic and Information Technology Accessibility Standards apply to Federal government agencies
- When agencies develop, procure, maintain, or use electronic and information technology, they must ensure that it is accessible to Federal employees and individuals with disabilities who are members of the public seeking information or services from a Federal agency unless an undue burden would be imposed on the agency

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Why an Advisory Committee?

- Advisory committees allow interested groups to play a substantive role in the development of rules which are then proposed for public comment
- §508 requires consultation



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Why One Rulemaking?

- The telecommunications provisions in the section 508 standards are based on, and are consistent with, the Board's Telecommunications Act Accessibility Guidelines
- The “intended audiences” and “levels of effort” for each law will remain different

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III. TEITAC

Telecommunications and
Electronic and
Information Technology
Advisory Committee

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TEITAC Begins - July 2006

- Committee members recruited broadly
 - Federal agencies
 - ICT and AT industries and their trade associations
 - standards organizations
 - consumer advocates
 - researchers and developers
 - national and international experts

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TEITAC Members

- Adobe Systems, Inc.
- American Association of People with Disabilities
- American Council of the Blind
- American Foundation for the Blind
- AOL LLC
- Apple, Inc.
- Association of Assistive Technology Act Programs
- Assistive Technology Industry Association
- AT&T
- Avaya, Inc.
- Canon USA, Inc.
- Communication Service for the Deaf
- CTIA - The Wireless Association
- Dell, Inc.
- Easter Seals
- European Commission
- Hearing Loss Association of America
- Human Rights and Equal Opportunity Commission (Australia)
- IBM
- Inclusive Technologies
- Industry Canada
- Information Technology Association of America
- Information Technology Industry Council
- Japanese Standards Association
- Microsoft Corporation
- National Association of State Chief Information Officers
- National Center on Disability and Access to Education
- National Federation of the Blind
- National Network of Disability and Business Technical Assistance Centers
- Panasonic Corporation of North America
- Paralyzed Veterans of America
- SRA International, Inc.
- Sun Microsystems, Inc.
- Telecommunications Industry Association
- The Paciello Group, LLP
- Trace Research and Development Center
- Usability Professionals' Association
- U.S. Department of Homeland Security
- U.S. Social Security Administration
- WGBH National Center for Accessible Media
- World Wide Web Consortium – Web Accessibility Initiative

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Federal Advisory Committee Act

- Charter: outlines the committee's mission and specific duties
- Duration: two years
- Committees must be fairly balanced in terms of the points of view represented and the functions to be performed
- Members are selected by the head of the agency

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TEITAC Process

- Bi-monthly public meetings (9)
- Teleconferences (20)
- Subcommittees (8)
- Editorial working group
- Extensive outside participation
- Wiki
- Consensus based

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TEITAC Meetings

- # 1 September 27-29, 2006, NSF
- # 2 November 2006
- # 3 February 2007
- # 4 May 2007
- # 5 July 2007, August (Teleconferences)
- # 6 September 2007
- # 7 October 2007 (Teleconferences)
- # 8 November 2007
- # 9 December 2007(Teleconferences)
- #10 January 2008
- #11 January- March 2008 (Teleconference)

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TEITAC Report:

- <http://www.access-board.gov/sec508/refresh/report>

Minority reports:

- <http://www.access-board.gov/sec508/update-index.htm>

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TEITAC Recommendations

- “Product characteristics” rather than “product categories”
- Largely harmonized with WCAG 2.0 (Web May 2007 draft) and ISO 9241-171 (software)
- Software, Web, other content, and interfaces now largely converged into “User Interface and Electronic Content”

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Subpart A

- Purpose
- Application
- General Exceptions
- Equivalent Facilitation
- Definitions

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Subpart B: Functional Performance Criteria

- Without Vision
- With Limited Vision
- With Color Vision Deficits
- Without Hearing
- With Limited Hearing
- Without Speech
- With Limited Reach, Strength, or Manipulation
- Without Physical Contact
- With Cognitive, Language, or Learning Limitations

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Subpart C: Technical Requirements

- General Technical Requirements
- Requirements for Hardware Aspects of Products
- Requirements for User Interface and Electronic Content
- Additional Requirements for Audio-Visual Players or Displays
- Requirements for Audio and/or Video Content
- Additional Requirements for Real-Time Voice Conversation Functionality
- Additional Requirements for Authoring Tools

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Subpart D

- Information, Documentation and Support
- Implementation, Operation, and Maintenance

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TEITAC Concludes – April 2008



Report presented to the Board on April 3, 2008

www.access-board.gov/sec508/refresh/report

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What are the Required Rulemaking Steps?

- Notice of Proposed Rulemaking
 - Regulatory assessment – costs and benefits
 - Submit to OMB – 90 day review period
 - Publish in Federal Register – minimum 30 day comment period
- Final Rule
 - Regulatory assessment
 - Submit to OMB – 90 day review period
 - Publish in Federal Register

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Is Rulemaking Lengthy?

- Past history indicates that the amount of time needed is about 2 years
 - Section 508 rulemaking took 19 months
 - Section 255 rulemaking took 13 months

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First Step: TEITAC report

- 1. Advisory committee** of 41 stakeholder groups, (7/2006-4/2008) including:
 - Industry
 - Consumers
 - Standards setting bodies
 - International representatives
- 2. Report** of recommendations:
April 3, 2008

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After TEITAC, Next Steps:

- 3.** Internal review of report
- 4.** Draft Text of provisions
- 5.** Access Board approves
- 6.** Draft Preamble, Advisories and Regulatory Assessment
- 7.** Access Board Approves
- 8.** OMB Review
- 9.** Publish Notice of Proposed Rulemaking (NPRM)

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What About Other Agencies?

- Not later than 6 months after the Access Board revises any standards the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulations

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Conclusion

- Rulemaking will be lively
- Implementation issues involve other Federal actors
- Continued research and monitoring of harmonization is needed
- Follow www.access-board.gov for updates

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Questions? Comments? Want
more information?

Contact the Access Board:

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Thank you!

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