



Submitted electronically via ictrule@access-board.gov

June 23, 2010

Mr. Tim Creagan
Office of Technical and Information Services
Architectural and Transportation Barriers Compliance Board
1331 F Street, NW
Suite 1000
Washington, D.C. 20004

RE: RIN 3014-AA37 – American with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

Dear Mr. Creagan:

On behalf of the National Association of Manufacturers (NAM) and the Retail Industry Leaders Association (RILA), we respectfully submit these comments in response to the Advanced Notice of Proposed Rulemaking (ANPRM) to revise the Americans with Disabilities Act Accessibility Guidelines (ADAAG). As representatives of the manufacturing and retail industries, we are committed to providing accessible marketplaces. Our associations are proud that many of our members companies have won prestigious awards for providing meaningful career opportunities to individuals with disabilities.

Statement of Interest

We appreciate the efforts by the Telecommunications and Electronic and Information Technology Advisory Committee (TEITAC) to update guidelines that ultimately could allow for better accessibility to point-of-sale machines, kiosks and other self-service equipment. In order to develop effective standards that enable greater access to user interface devices the Board should involve all stakeholders in the process of developing the standards. This includes the manufacturers who build the machines and retailers who are directly interact with retail consumers and who would ultimately bear the responsibility for complying with the new standards.

By way of background, the NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. The NAM's mission is to advocate on behalf of its members that employer over 12 million Americans to enhance the competitiveness of manufacturers by shaping a legislative and regulatory efforts that supports pro-growth policies that create and retain jobs.

The Retail Industry Leaders Association is the trade association of the world's largest and most innovative retail companies. RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Its members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

Comments on the ANPRM

The draft rule is comprised of the recommendations developed by the TEITAC, which we understand had a goal to review Section 508 standards from the Rehabilitation Act of 1973 and improve applications related to federal agencies. In addition, the TEITAC also reviewed the guidelines covered by Section 255 the Telecommunications Act and, specifically, provisions to supplement the ADAAG. We appreciate efforts by TEITAC panel members over the past several years to thoughtfully consider both these of issues. However, from the ANPRM before us, it is clear the main focus for the panel review was updating standards specific to electronic and information technology in the federal sector.

In order to ensure effective compliance with the proposed standards for both manufacturers and retailers, the compliance board should pursue the promulgation of these regulations with separate rulemaking. The inclusion of new requirements for “self-service” machines in this proposed rulemaking—which is primarily focused on telecommunication accessibility for the federal sector—creates confusion for stakeholders and has hindered the solicitation of feedback from manufacturers and retailers who may face new requirements as a result of these proposals. Many employer groups were unaware that this ANPRM seeks to achieve multiple goals. Therefore, we urge you to make the self-service machine regulation a part of a separate rulemaking process so its impacts are clear, and the affected regulated community can participate fully in developing the rule.

As for the self-service machine regulation itself, of particular concern to NAM and RILA members are the breadth of terms used, especially “self-service machines”. The ANPRM refers to airline ticketing and restaurants as examples but it is not clear if the scope of devices the Board sees for application is broader than that of the revised guidelines. The Board should bring additional clarity to the scope of devices it wishes to include in their efforts to develop new standards for accessing “self-service” machines.

For instance, if the Board is referring to transactional machines—machines used to complete a sales transaction—that could mean a series of devices such as credit card readers, signature capture pads, in-store computer assistance terminals, etc. Similarly, if the Board is referring to non-transactional machines—devices which may aid in completing a sales transaction but do not actually complete the transaction—that could reference an even wider array of machines, including price check scanners, devices for looking up the availability of product in the store, grocery store coupon dispensers, etc. Manufacturers and retailers have an ongoing working relationship to develop innovative approaches which provide self-accessible

devices that support increasing customer service demands. As such, any proposed rulemaking should take into account new and emerging technologies that are under development in the field of “self-service” devices. Further, clear definitions ensure that compliance obligations are well understood, improving cross-industry communications, company compliance and individual accessibility.

We are also concerned about the potentially short window of time for compliance. If self-service machines must meet new federal standards, the technology and assembly behind them may need to be redesigned. This is a process that could potentially take years given the scope of potential changes which will involve design engineers and assembly plants on the manufacturing side, and computer systems modifications, store redesign and workforce training on the retail side.

Further, the proposed rule states that for any self-serving machine which meets the definition of information and communication technology, at least one of each type must be provided at every location. We respectfully request that the ANPRM be clarified to make clear that existing devices would be grandfathered into any final revised guidelines. Retailers and manufacturers have a vested interest in making self-service machines accessible to as many people as possible. Companies have developed technologies that they believe best service their unique consumer needs, even though there is no set standard. For this reason, we also echo other industry comments that the Board’s final requirements be descriptive rather than prescriptive to allow for technical flexibility and innovation.

Finally, the proposed rule seeks feedback on the overall organization of the draft. We support regulations which incorporate new standards into the existing regulatory guidance in lieu of layering new requirements which require that references be made to compare “old” and “new” text.

Thank you for this opportunity to submit comments. We remain committed to the letter and spirit of the Americans with Disabilities Act and look forward to working with the U.S. Access Board to advance our shared goals of increasing accessibility.

Should you have additional thoughts or questions, please do not hesitate to contact Sarah Arbes of RILA at (703) 600-2021 or sarah.arbes@rila.org; or Keith Smith of NAM at (202) 637-3045 or ksmith@nam.org.

Sincerely,



Keith Smith
Director of Labor and Employment Policy
National Association of Manufacturers



Sarah Arbes
Vice President, Government Affairs
Retail Industry Leaders Association