

Accessibility Information Toolkit

Summer Webinar Series

Webinar 1: Law and Administration

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ACE Pilot

(Nov 2012 - Nov 2013)

EnAbling Change grant = shared digital repository of accessible texts + an information toolkit

The screenshot shows the Ontario Ministry of Economic Development, Trade and Employment website. The header includes the Ontario logo, the text 'Ontario.ca | Français', and 'MINISTRY OF ECONOMIC DEVELOPMENT, TRADE AND EMPLOYMENT'. A search bar is visible. The navigation menu includes 'HOME | ABOUT THE MINISTRY | PROGRAMS & SERVICES | NEWS'. The main content area is titled 'EnAbling Change Program'. It features a sidebar with a menu where 'EnAbling Change Program' is selected. The main content includes a section 'What the program funds' with a list of items: salaries for staff and consultants/contractors directly involved in the project, production of products, such as publications, development of a website or other informational materials, and project administration and coordination. Below this, it states that partners must contribute a minimum of 25 per cent of the total project cost in funds or in kind. Another section, 'What the program does not fund', lists items that are not covered: building renovations (such as ramps, elevators, lifts and automatic door openers), equipment, or furniture; capital expenses; accessibility audits; operational expenses related to ongoing business activities; therapy programs, counselling or support groups; and workplace accommodation or other accessibility measures already required under the Ontario Human Rights Code. A text box on the right side of the page clarifies that the EnAbling Change Program is not the same as the Government of Canada's Enabling Accessibility Fund, which supports community-based projects across Canada that improve accessibility, remove barriers, and enable Canadians with disabilities to participate in and contribute to their communities.

Accessibility Information Toolkit

Helping OCUL members to prepare and respond to the AODA in three focus areas:

- Public Services
 - Procurement
 - Law & Administration
-
- Direct links to supporting information
 - Explaining the AODA language and requirements
 - Offering best practices and sample policy language
 - Highlighting practices and formats which are inherently inaccessible
 - Emphasis on collaborative problem-solving

The toolkit can be downloaded as an accessible PDF from the [OCUL website](#). If you would like a copy of the toolkit in an alternative format please email ocul@ocul.ca.

about this tool

Three sections

- Effectively linking to existing projects
- Section cross-references to avoid content repetition

Acknowledgements

Glossary (to be published)

Next steps

– Toolkit launch

Webinars

Workshops

Website

Accessibility Community

OCUL Accessibility Community

OCUL Accessibility Community provides a forum for information-sharing and discussion on accessibility issues. This Community supports OCUL partner institutions in their efforts to create accessible and inclusive collections, services, research tools, physical spaces and programming for all library users.

The formation of an OCUL Accessibility Community advances many of the goals outlined in OCUL's Strategic Plan. In particular, this Community supports goals pertaining to student engagement, enhanced learning for diverse student populations and access to digital library resources.

Community Moderator

Lari Langford, University of Toronto (lari.langford@utoronto.ca)

Community Members

Established 2014

More Information

For more information or to participate in this community email ocul@ocul.on.ca.

[Visit the Community wikispace](#) (SPOTdocs login required)

News

In Memoriam: Faye Abrams

Faye Abrams, former OCUL Projects Officer died in Toronto on April 10, 2014. Faye was a very special OCUL person and she will be missed by her many friends and colleagues in the OCUL community.

OCUL congratulates Guy Berthiaume on appointment as Librarian and Archivist of Canada

Heartbleed vulnerability update

Scholars GeoPortal project prize draw

Markit! Student Metadata Program 2014-15 Award Announcement

New content on Scholars Portal Books



Implementing the AODA IAS Information and Communications Standard:

Balancing compliance with vision and pragmatism

Athol Gow
University of Guelph Library

The AODA and Compliance Thinking

- Focusing solely on compliance can lead to:
 - Deemphasizing the human dimension of the AODA
 - Avoidance rather than engagement
 - Doing the minimum
 - Compartmentalization
 - Losing sight of opportunities



Causes of compliance-based thinking

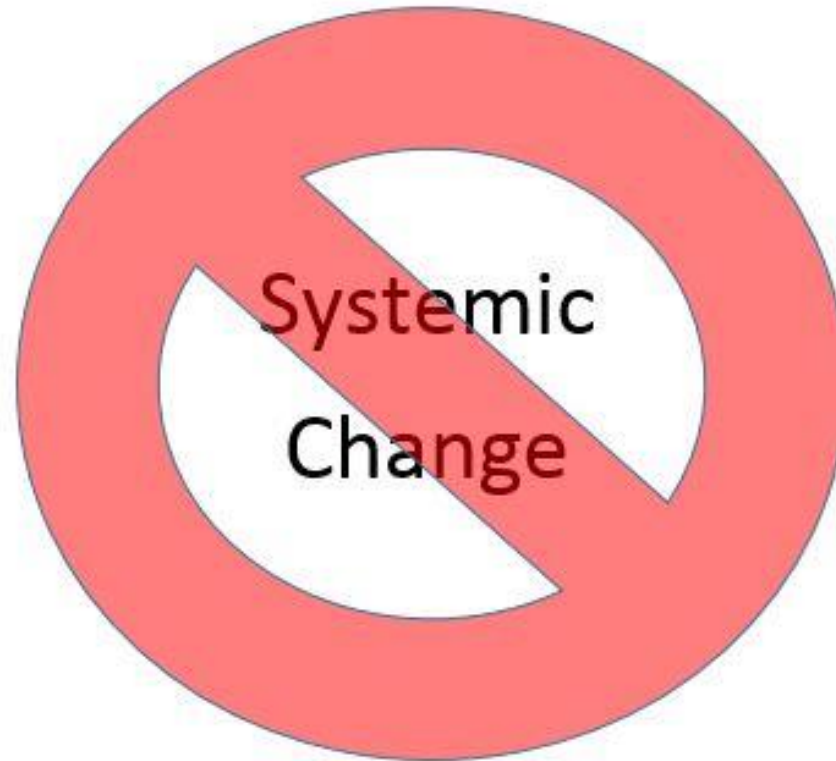
- No provincial funding
- Tight implementation timelines
- Competing priorities
- Administrators with Jugglers' fatigue
- Overcommitted staff
- Ambiguous legislation



IAS Interpretation Challenges

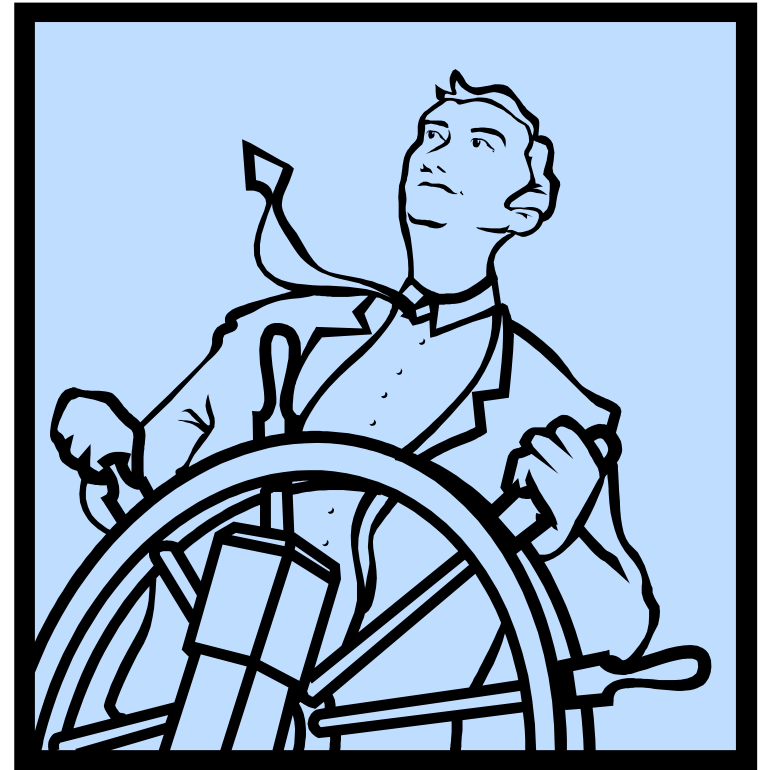
- Systemic accessibility vs. 'upon request'
- Overlapping information accessibility standards
- Lack of a stated document accessibility standard
- Vague terminology

The danger of over-focusing on compliance



What's the Alternative?

- We need to define the vision and values of the AODA and the Integrated Accessibility Standards
- We need to apply them in the development of AODA policy



The Accessibility for Ontarians with Disabilities Act, 2005

- A recognition of the history of discrimination against persons with disabilities in Ontario.
- The purpose of the Act:
“...developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises on or before January 1, 2025.”

AODA - Accessibility Barriers

- The AODA mandated the creation of standards to remove barriers.
- The Act defines barriers as:
 - ...anything that prevents a person with a disability from fully participating in all aspects of society because of his or her disability, including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice...

The Customer Service Standard, 2007

- Service providers should ensure that their policies, practices and procedures are consistent with the following principles:
 1. The goods or services must be provided in a manner that respects the **dignity and independence** of persons with disabilities.
 2. The provision of goods or services to persons with disabilities and others must be **integrated** unless an alternate measure is necessary...
 3. Persons with disabilities must be given an opportunity **equal** to that given to others to obtain, use and benefit from the goods or services.

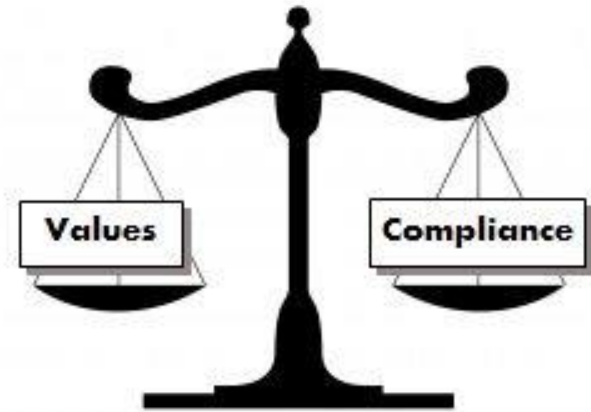
Applying the AODA Vision and Values

Question:

Does the “upon request” service model used in Sections 12, 15 and 18 of the Integrated Accessibility Standards meet the vision of the AODA legislation or the principles of the Customer Service Standard?

Balancing Compliance with Vision and Values

- Promotes:
 - Humane approach to the AODA
 - Holistic understanding of the AODA
 - Integration of the AODA in our daily activities
 - Proactive policy creation



AODA Policy Creation

Balancing compliance with pragmatism

- A recent example:
 - AODA IAS Section 18 – Libraries of Educational and Training Institutions.
 - Exemption of special collections, archival materials, rare books and donations

Pragmatism (noun)
\ 'prag-mə- ,ti-zəm\
- a reasonable and logical way of doing things or of thinking about problems that is based on dealing with specific situations instead of on ideas and theories

A pragmatic approach to document accessibility

The goal of document accessibility is to create or repair a document so that it can be used by the greatest number of people

Document accessibility depends upon the content, context and user.

Document Accessibility Rubric

Document Examples	Accessibility
MS Word or PDF document containing headings, alt-text on images, accessible links, fonts and tables, proper contrast	Accessible
MS Word document created without headings, alt-text on images, etc.	Marginally accessible
PDF scanned from paper original, with un-proofed tags and OCR'd text	Inaccessible/marginally accessible
PDF scanned from a paper original (image only)	Inaccessible

Resources:

- [United Nations Convention on the Rights of Persons with Disabilities](#)
- [Charting A Path Forward: Report of the Independent Review of the Accessibility for Ontarians with Disabilities Act, 2005](#)
- [Access Ryerson: Ryerson's Accessibility Initiative Foundational Principles and Values](#)

AODA and the Canadian Copyright Landscape

Heather Martin
Guelph University Library

AODA and the Canadian Copyright Landscape

- Providing content in accessible formats raises issues of copyright
- When is permission required in order to make alternate format copies?
- How does the AODA interact with the Copyright Act?

Toolkit Resources on Copyright

- Explanation of, and links to, relevant sections of the Copyright Act
- Examples of how the Act can enable the making of alternate format copies for library users
- Limitations and restrictions for libraries to be aware of
- Sample permission forms libraries can use to request permission from copyright owner

Important

- The Toolkit provides interpretations of legislation and guidelines on best practices; NOT legal advice
- Consult local experts such as legal counsel and/or Accessibility Coordinator, for advice on specific situations

Copyright Act

- Contains user exceptions that permit copies to be made without permission in certain cases
- Section 29 - fair dealing exception
 - short excerpts of a work for one of the fair dealing purposes
 - available to anyone
- Section 32 – exception specifically for Persons with Perceptual Disabilities
- Copyright Modernization Act (2012) expanded Section 32, but also added digital locks (TPMs)

Section 32 (1) explained

It is not an infringement of copyright for

- a person with a perceptual disability, or
- a person acting at the request of such a person, or
- a non-profit organization acting for the benefit of such a person

to

- make a copy or sound recording of a work, or
- translate, adapt or reproduce the work in sign language, or
- perform the work in public,

If the original work is

- a literary or dramatic work, but NOT a cinematographic work

And the copy is

- In a format specially designed for persons with a perceptual disability

Limitations of Section 32

- Does not apply to making of large print books
- Copying of cinematographic works are not included in the exception – e.g. motion pictures, films, videos
- Does not apply where the work or sound recording is commercially available in a format specially designed to meet the needs of a person with a perceptual disability

Definitions in the Act

“commercially available”

available on the Canadian market within a reasonable time and for a reasonable price and may be located with reasonable effort

“perceptual disability”

a disability that prevents or inhibits a person from reading or hearing a literary, musical, dramatic or artistic work in its original format

Includes

- (a) severe or total impairment of sight or hearing
- (b) the inability to hold/manipulate a book, or
- (c) an impairment relating to comprehension

Application in Libraries

- Section 32 permits libraries to make copies in accessible formats on behalf of users with perceptual disabilities, provided the conditions set out in the exception are followed
- Problem of how to make films and videos accessible to library users – permission may be required in order to caption, provide transcripts or descriptive audio
- Fair dealing may be applicable, in cases where Section 32 cannot be used

AODA and the Canadian Copyright Landscape

Bobby Glushko
University of Toronto Libraries

What's the issue?

Section 41 of the Act- “Technological Protection Measures and Rights Management Information”

What's the issue?

- Forbids the circumvention (or enabling others to do so) of technological protection measures.
- What are TPM?
 - -- “any effective technology....(that) controls access to a work

Accessibility access? Really?

- **Persons with perceptual disabilities**
- **41.16 (1)** Paragraph 41.1(1)(a) does not apply to a person with a perceptual disability

So what's the problem?

- “...to the extent that the services, technology, device or component do not unduly impair the technological protection measure.”
- What is unduly impair?

Heart of the Matter

- Digital lock provisions are fundamentally unclear
- We have a role to play here

Examples

- Student with print disability, needs to move a copy of a book for people with print disabilities to another device
- Examples from your practice?

Why evidence?

- Evidence is power, no “Journal of Good Feelings”
- Petition the Governor in Council
- Impact litigation

Intro to the Marrakesh Treaty

Mark Swartz
Queen's University

Agenda

- Relationship between Canadian Law and International Organizations
- United Nations and WIPO
- The Marrakesh Treaty and where Canada stands

Canadian Copyright

- Canadian Copyright Act
- Sections of the Act are based upon a variety of international treaties and agreements
- Many of these treaties are created via the UN or by a specialized agency associated with the UN

How UN international treaties work in Canada

- Treaty = Agreement between States
- Signing (a show of support) vs. ratifying (once ratified, Canada is bound by the treaty when it comes into force)
- Implementation: Monist vs. Dualist models (international law is not a self-executing process in Canada)
- Canada cannot ratify a treaty until measures are in place to enforce the treaty in Canadian law

United Nations

- Six principle organs and 17 specialized agencies (eg. The World Bank, the World Health Organization, The World Intellectual Property Organization and WIPO)
- WIPO was created in 1967 to “encourage creative activity, to promote the protection of intellectual property throughout the world”
- WIPO now administers 25 treaties

The Marrakesh Treaty

- First international copyright treaty to focus on users interests, known as the “miracle in Marrakesh”
- Significant opposition to the treaty in the months before the conference
- IFLA supported the treaty and was active in ensuring that libraries were considered trusted intermediaries and could create alternate formats and deliver the services
- Canada also played a big role as facilitator in getting this passed

What is in it?

Countries that ratify the treaty must:

1. Have an exception to copyright law for individuals that are visually impaired and/or print disabled;
2. Allow the import and export of accessible versions of books and other copyrighted works without copyright holder permission.

What is in it? Part 2

- Article 7 “provides that when a Contracting Party prohibits the circumvention of technological protection measures in its general copyright legislation, it “shall take appropriate measures, as necessary to ensure that ... this legal protection does not prevent beneficiary persons from enjoying the limitations and exceptions provided for in this Treaty.” Thus, the Contracting Party must adopt a mechanism such as an exception to the circumvention prohibition to permit an authorized entity to make an accessible format copy.”

Treaty Status

- 66 countries have signed the treaty
- No country has ratified the treaty yet, but India should be the first
- Treaty does not take effect until 20 countries ratify it (then it is binding)
- Canada has not signed the treaty...

“In plain language, this is a Treaty that should start to remedy the book famine. It provides a crucial legal framework for adoption of national copyright exceptions in countries that lack them. It creates an international import/export regime for the exchange of accessible books across borders. Countries need to sign, and implement these provisions. Non-profit organizations, libraries, educational institutions and government need to take advantage of these provisions to actually deliver the accessible books people with disabilities need for education, employment and full social inclusion.”

- World Blind Union

ADA

Lei Jin
Ryerson University Library

American legal framework

- Section 504 of the Rehabilitation Act of 1973
- Title II of the Americans with Disabilities Act (ADA) of 1990 and the regulations that implement those statutes at 34 C.F.R. Part 104 and 28 C.F.R. Part 35
- Title III of the ADA that covers commercial facilities, public accommodations and private entities

A typical process would be...

Scenario

- Newly implemented web-based content management system
- Pilot e-book reader/devices lending program
- Classroom technology (smart podiums, clickers, etc.)

Lawsuit / Complaint filed

- Disability rights organization or student finds it inaccessible and segregating
- Students file suits against university with the help of NFB or ACB

Agreement

- Campus/system-wide comprehensive review of accessibility; regular accessibility audit
- New policies and procedures to be set up and implemented
- Purchase new accessible e-book readers

Recent cases

Year	Plaintiffs	Defendant(s)	Complaint	Outcome
2009	NFB, ACB	Arizona State U.	Inaccessible Kindle DX	Settled in 2010; payment of any damages or attorney's fees or costs is not involved
2009	NFB, ACB	Penn State U.	Library website, course management system	New policies, procedures as well as accessibility audit
2011	NFB	Florida State U.	IT; inaccessible course materials	\$75,000 to each of the two students filed suits
2012	NFB	Free Library of Philadelphia	Inaccessible NOOK e-reader	Add 10 accessible e-readers and switch to only accessible e-readers in four years
2012	NFB	University of Montana	IT; inaccessible course materials, library databases, etc.	Agreement reached in Mar. 2014; new policies, procedures, trainings, etc.
2014	NFB	Miami University	Inaccessible course materials	Pending

Questions?

