

Technology Law Analysis

June 04, 2019

WEBSITES IN INDIA TO BE MADE ACCESSIBLE TO THE DIFFERENTLY ABLED BY JUNE 15, 2019

Certain requirements to make online websites accessible for disabled persons have been prescribed under the Rights of Persons with Disabilities Act, 2016 ("**Act**") and the Rights of Persons with Disabilities Rules, 2017 ("**Rules**").

The deadline for compliance under the Act and Rules is June 14th, 2019.

BACKGROUND TO THE LAW:

Section 42 of the Act requires that the Government take measures to ensure that "(i) all contents available in audio, print and electronic media are in accessible format; (ii) persons with disabilities have access to electronic media by providing audio description, sign language interpretation and close captioning; (iii) electronic goods and equipment which are meant for every day use are available in universal design."

Pursuant to Section 42, certain standards have been prescribed to ensure accessibility of information and communication technology under Rule 15 of the Rules. Rule 15 requires that all '*establishments*' comply with the following standards vis-a-vis information and communication technology:

1. website standard as specified in the guidelines for Indian Government websites, as adopted by Department of Administrative Reforms and Public Grievances, Government of India; ("**Requirement 1**")
2. documents to be placed on websites shall be in Electronic Publication (ePUB) or Optical Character Reader (OCR) based pdf format; ("**Requirement 2**")

Rule 15 further provides that the standard of accessibility in respect of other services and facilities shall be specified by the Central Government within a period of 6 months from the date of notification of the Rules. However, no further standards have been prescribed.

An 'establishment' for the purpose of Rule 15 has been defined under Section 2(i) of the Act to include *both Government and private establishments*.

TIMELINE FOR COMPLIANCE:

Section 46 of the Act provides that all service providers, *whether Government or private*, are required to adhere to the rules on accessibility within a period of 2 (two) years from the date of notification of such rules.

The Rules, (which prescribe the accessibility requirements under Rule 15), were notified on 15th June, 2017.

Therefore, the deadline for complying with Rule 15 is June 15th, 2019.

APPLICABILITY OF RULE 15 TO PRIVATE ONLINE WEBSITES:

From a bare reading of the aforesaid provisions, the accessibility requirements under Rule 15 would appear to apply to both Government as well as private service providers. This is because, an 'establishment' under Rule 15 has been defined to include private establishments, and Section 46 of the Act refers to both Government, as well as private service providers.

We understand from the Department of Empowerment of Persons with Disabilities, under the Ministry of Social Justice that the **standards prescribed** under Requirement 1 only apply to Government websites.

Insofar as Requirement 2 is concerned, depending upon the nature of the content on the website, it would need to be examined whether this requirement applies.

PENALTIES FOR NON-COMPLIANCE:

Section 89 of the Act prescribes that the penalty for contravention of any provision of the Act or Rules shall be a fine which may extend to INR 10,000 (Rupees Ten Thousand) for a first contravention, and for any subsequent contravention, a fine which shall not be less than INR 50,000 (Rupees Fifty Thousand) but which may extend to INR 5,00,000 (Rupees Five Lakhs).

ENFORCEMENT:

Overall, how the Government intends to enforce these requirements is not clear and the industry may want to seek overall guidance.

Please see our legal alert titled "**INDIA'S NEW LAW ON DISABILITY EXTENDS TO PRIVATE EMPLOYERS**".

– Tanisha Khanna, Aaron Kamath & Gowree Gokhale
You can direct your queries or comments to the authors

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