

United States Senate

WASHINGTON, DC 20510

June 30, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

It has come to our attention that the Department of Justice (DOJ) has not reported on the federal government’s compliance with accessibility standards for information technology over the last decade, despite statutory requirements for it to do so biennially. The Rehabilitation Act of 1973 (herein the “Act”) requires government electronic and information technology to be accessible for individuals with disabilities.¹ In addition, Section 508 of the Act states that, every two years, “the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance.”² On behalf of the 26 percent of Americans living with a disability, including the 40 percent of people over age 65 who have a disability, we write to urge DOJ to take immediate steps to meet its obligations and once again issue these biennial reports.³

The last publicly available DOJ report on Section 508 compliance is from 2012.⁴ The 2012 report identified substantial gaps in Section 508 compliance across the federal government and included recommendations for agencies to meet their accessibility requirements. For example, DOJ reported “mixed levels of success” with general processes for Section 508 implementation and recommended that agencies increase training, appoint 508 coordinators, and establish 508 offices or programs.⁵ The 2012 report also found that agency components often used “basic contract requirements” during procurement instead of specific Section 508 accessibility standards.⁶ The report recommended the use of specific language along with the development of procurement policies for both Section 508 compliance and product testing for accessibility by agency officials.⁷ Furthermore, the report found that approximately 30 percent of agency

¹ The Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq. (1973).

² 29 U.S.C. 794d(d)(2). See also Office of Management and Budget, *Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act*, at 6, (Jan. 24, 2013), <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>. The OMB highlighted DOJ’s biennial report as an important monitoring tool in this memo, which detailed a strategic plan to improve Section 508 compliance across the government.

³ *Disability Impacts All of US*, CDC.GOV, <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html#:~:text=61%20million%20adults%20in%20the,is%20highest%20in%20the%20South> (last reviewed Sept. 16, 2020).

⁴ *Section 508*, JUSTICE.GOV, <https://www.justice.gov/crt/section-508-home-page-0> (last updated Nov. 17, 2021.)

⁵ U.S. Dep’t of Justice, *Report to the President and Congress: Accessibility of Federal Electronic and Information Technology*, (2012), https://www.ada.gov/508/508_Report.htm#_Toc327291802.

⁶ *Id.*

⁷ *Id.*

components had policies and procedures for reporting Section 508 complaints.⁸ It recommended establishing specific procedures and widely distributing information on how to file a complaint.⁹

The 2012 report's findings provided an important examination of the progress the federal government made toward meeting its obligations under Section 508. It also provided crucial recommendations for improving federal compliance. Without regular reports, Congress, taxpayers, and agencies themselves lack a crucial source of feedback for identifying and resolving longstanding accessibility issues. While not a substitute for DOJ's government-wide evaluations, a recent congressionally mandated report by the Department of Veterans Affairs (VA) showed that, as of 2021, just eight percent of VA internet sites and six percent of VA intranet sites fully complied with Section 508 requirements.¹⁰ The lack of fully accessible websites at VA is a potential barrier for the one-quarter of all veterans with a service-connected disability,¹¹ and may well be a harbinger of similar shortfalls at other federal agencies and departments. Third-party groups also have identified ongoing accessibility concerns with federal technology, demonstrating the need for additional oversight. For example, a 2021 report found that 30 percent of the most popular federal websites did not pass an automated accessibility test for their homepage and 48 percent of those sites failed the test on at least one of their three most popular pages.¹² Furthermore, one-third of those sites did not have easily discoverable contact information to report accessibility issues.¹³

Accordingly, we ask you to resume your agency's biennial reports on Section 508 compliance across the federal government. We also ask that you answer the following questions by July 29, 2022:

1. Why did DOJ stop issuing biennial reports on Section 508 compliance?
2. Given the absence of biennial reports, does DOJ believe it is satisfying its data collection and reporting obligations under Section 508?
3. Has DOJ collected Section 508 compliance data more recently than 2012? If so, when? If not, why not?
4. Has DOJ issued recommendations or feedback to other federal agencies on their Section 508 compliance?

⁸ *Id.*

⁹ *Id.*

¹⁰ U.S. Dep't of Veterans Affairs, *Report on the Accessibility of Websites of the Department of Veterans Affairs to Individuals with Disabilities*, at 2, (2021), https://www.casey.senate.gov/imo/media/doc/report_on_the_accessibility_of_websites_of_the_department_of_veterans_affairs1.pdf. See also Press Release, Casey Leads Bipartisan Letter Urging Veterans Affairs to Make Website Accessible for People with Diabetes (June 2022), <https://www.casey.senate.gov/news/releases/casey-leads-bipartisan-letter-urging-veterans-affairs-to-make-websites-accessible-for-people-with-disabilities>.

¹¹ Census Bureau, *Those Who Served: America's Veterans From World War II to the War on Terror*, (June 2020), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/acs-43.pdf>.

¹² Ashley Johnson and Daniel Castro, *Improving Accessibility of Federal Government Websites*, ITIF (June 3, 2021), <https://itif.org/publications/2021/06/03/improving-accessibility-federal-government-websites>.

¹³ *Id.*

5. Does DOJ have the resources and personnel necessary to comply with the law and issue these reports?
6. How does DOJ plan to begin meeting its biennial reporting requirement under Section 508 of the Rehabilitation Act? Please include a detailed timeline indicating when DOJ plans to notify federal departments that it plans to conduct a survey; when it plans to send that survey; and when it plans to issue a report to Congress and the President detailing the results of the survey, along with its recommendations.

Thank you for your attention to this important matter.

Sincerely,



Robert P. Casey, Jr.
Chair
Special Committee on Aging



Tim Scott
Ranking Member
Special Committee on Aging

/s/

Richard J. Durbin
Chair
Committee on the Judiciary



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Patty Murray
Chair
Committee on Health, Education,
Labor and Pensions



Richard Burr
Ranking Member
Committee on Health, Education,
Labor and Pensions



Tammy Duckworth
U.S. Senator