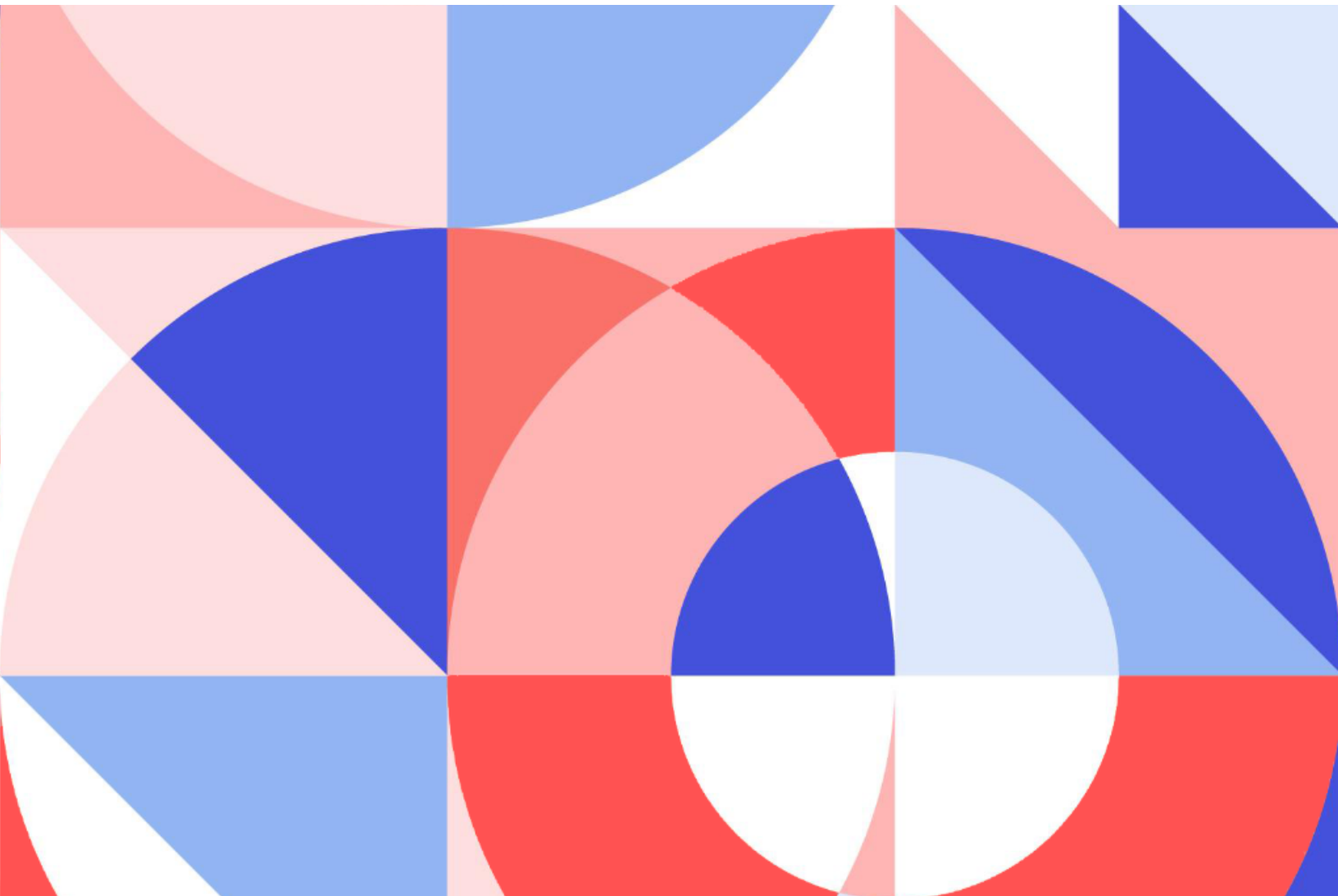


# WCAG Accessibility Compliance Guide

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A practical, layperson's  
guide to **web accessibility  
compliance** in the United  
States, Canada, the  
European Union and the  
United Kingdom.



# Accessibility is a Crucial Part of the Digital Era

We live in a digital reality. So websites and web applications need to be inclusive for all users regardless of their limitations, situations or disabilities.

**Anti-discrimination laws** and regulations worldwide emphasize (and often require) that no one be left behind as it relates to digital interactions and eCommerce services. Some regulations include harsh penalties or open your organization to civil lawsuits and class actions from users.

Although accessibility standards vary by jurisdiction, the *World Wide Web Consortium* (W3C) created a common set of guidelines: the *Web Content Accessibility Guidelines* (WCAG) to establish a reference. **Still, local laws vary.**

**[The charts \(page 4 to 11\)](#) will help you determine which standards apply to you** based on your location, organization type, number of employees, revenue and other criteria.

**This is the starting point of your journey towards website accessibility.** The end result: your customers benefit from greater access and enhanced usability across all devices.

## Overview <sup>1</sup>

### United States of America

The number of lawsuits under the Americans with Disabilities Act (ADA) continue to increase against private organizations that do not comply with WCAG 2.0 or 2.1 AA. In 2020 alone, about 3,550 accessibility violation lawsuits were filed in the USA<sup>2</sup>.

### Canada

Public sector bodies at the federal and provincial levels must meet different accessibility levels, while only private organizations with 50+ employees in Ontario must meet WCAG 2.0 AA standards.

### Europe

General standards are in place across Europe, but legislations from individual Member States are on the horizon. Digital consumer services will need to be at least WCAG 2.1 AA compliant after June 28, 2025. Regulations, sanctions and norms may differ for each Member State.

### United Kingdom

WCAG 2.1 AA applies to Public Sector Bodies with new intranet, extranet and mobile applications. No clear standard applies to private sector organizations, which must nevertheless comply with equality laws.

<sup>1</sup> This list is not exhaustive. Other countries have accessibility requirements.

<sup>2</sup> Based on [Usablenet's 2020 Report](#) on Digital Accessibility Lawsuits.

# Which Standard Applies to Us?

## Web Content Accessibility Guidelines (WCAG)

Although each law includes different standards, the WCAG is the main benchmark used worldwide for web accessibility.

**The WCAG guidelines are divided into 4 principles:**

1. Perceivable,
2. Operable,
3. Understandable,
4. Robust.

Each principle has criteria and a list of techniques to meet that criteria. The principles also include recommendations and a list of situations describing when and how a criteria would fail.

## WCAG Versions

The WCAG standard evolves over time with technological evolutions. The most up-to-date version is WCAG 2.1. A new standard (2.2) is expected to be published before the end of 2021, and a 3.0 version is in draft stage.

**It is good practice to use the most current version of WCAG when developing a website.** It may however not be required by law and entail additional development costs.

WCAG 2.0 is approved as an ISO standard: ISO/IEC 40500:2012. **Like nesting dolls**, content that conforms to WCAG 2.1 also conforms to WCAG 2.0, and below.

## WCAG Levels

Each criterion of WCAG has a level code (A, AA or AAA) with different success criteria. Success criteria include elements like contrast levels, consistency of the user experience, responsive content, alternative text on images and videos, and usability on mobile devices. For example, WCAG 2.1 AA has 50 success criteria, while 2.1 AAA has 78.

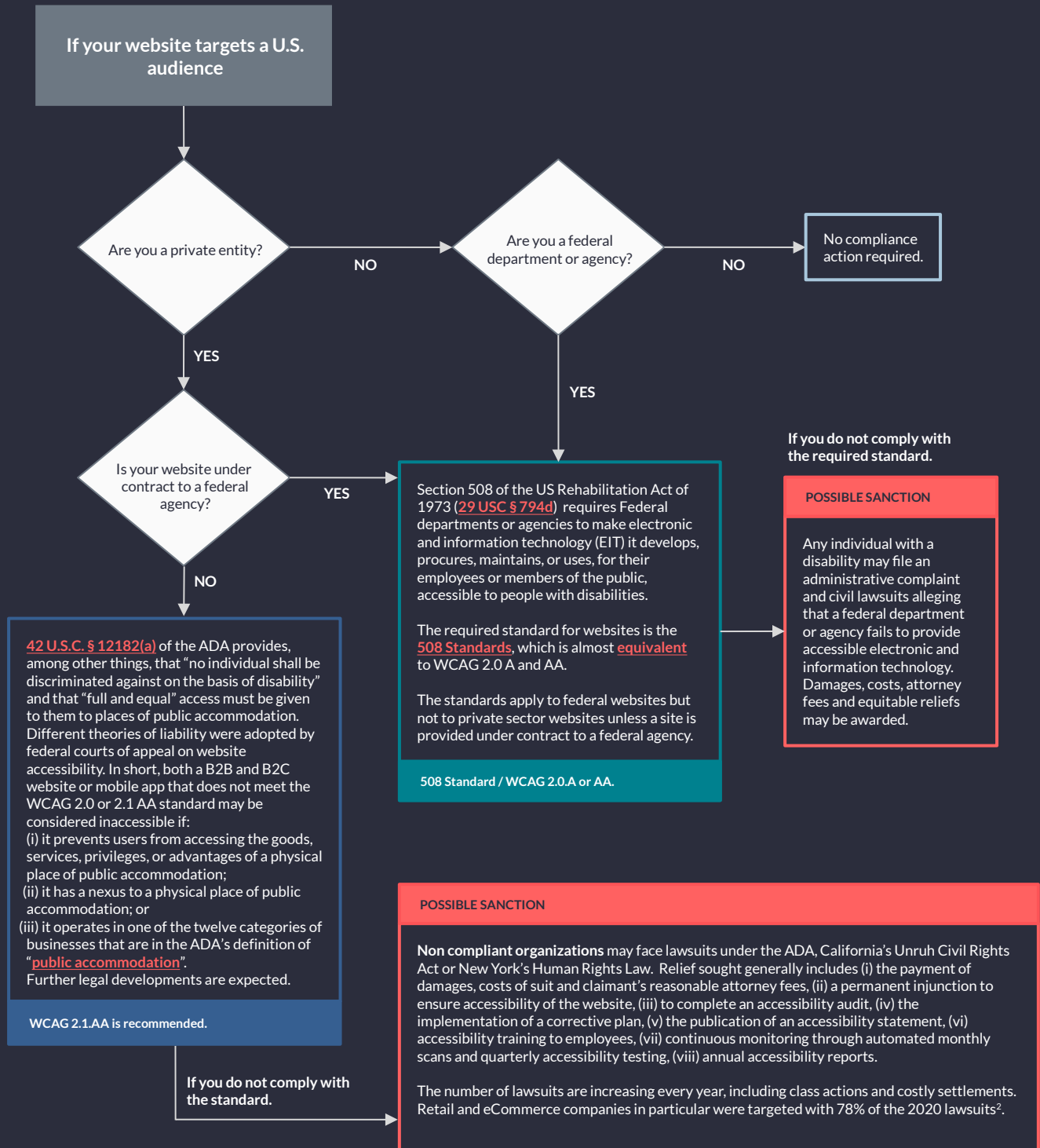
Each success criteria is written objectively so it can be tested. **Only about 1/3 of the criteria can be tested using automated software. The rest needs human intervention.**

# United States

## Accessibility Compliance Flow Chart

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U.S. American B2C and B2B websites must ensure “full and equal” access to their services, as outlined in the *Americans with Disabilities Act (ADA)*. This broadly defined standard sets the tone for similar standards under the *California Unruh Act* and the *New York Human Rights Law*. As a strict liability regime, the ADA leaves no wiggle room for non-compliance. Settlements for accessibility lawsuits are costly (starting in the range from \$10K to \$50K). And you still have to make your website accessible. Prevention is key. **Don't wait for a lawsuit to make your website accessible.**



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**Don't wait for a lawsuit to make your website accessible.**

### If your website targets a U.S. audience

#### If you are a private entity with no contract to a federal agency:

The standard WCAG 2.1 AA is recommended.

[42 U.S.C. § 12182\(a\)](#) of the ADA provides, among other things, that “no individual shall be discriminated against on the basis of disability” and that “full and equal” access must be given to them to places of public accommodation. Different theories of liability were adopted by federal courts of appeal on website accessibility. In short, both a B2B and B2C website or mobile app that does not meet the WCAG 2.0 or 2.1 AA standard may be considered inaccessible if:

- it prevents users from accessing the goods, services, privileges, or advantages of a physical place of public accommodation;
- it has a nexus to a physical place of public accommodation; or
- it operates in one of the twelve categories of businesses that are in the ADA's definition of “[public accommodation](#)”.

Further legal developments are expected.

**If you do not comply with the standard:** Non compliant organizations may face lawsuits under the ADA, California's Unruh Civil Rights Act or New York's Human Rights Law. Relief sought generally includes

1. the payment of damages, costs of suit and claimant's reasonable attorney fees,
2. a permanent injunction to ensure accessibility of the website,
3. to complete an accessibility audit,
4. the implementation of a corrective plan,
5. the publication of an accessibility statement,
6. accessibility training to employees,
7. continuous monitoring through automated monthly scans and quarterly accessibility testing,
8. annual accessibility reports.

The number of lawsuits are increasing every year, including class actions and costly settlements. Retail and eCommerce companies in particular were targeted with 78% of the 2020 lawsuits<sup>2</sup>.

#### If you are a private entity with contracts to a federal agency or you are a federal department or agency:

Section 508 of the US Rehabilitation Act of 1973 ([29 USC § 794d](#)) requires Federal departments or agencies to make electronic and information technology (EIT) it develops, procures, maintains, or uses, for their employees or members of the public, accessible to people with disabilities.

The required standard for websites is the [508 Standards](#), which is almost [equivalent](#) to WCAG 2.0 A and AA.

The standards apply to federal websites but not to private sector websites unless a site is provided under contract to a federal agency.

**If you do not comply with the required standard, the possible sanction is:** Any individual with a disability may file an administrative complaint and civil lawsuits alleging that a federal department or agency fails to provide accessible electronic and information technology. Damages, costs, attorney fees and equitable reliefs may be awarded.

#### If you are not a private entity or a federal department or agency:

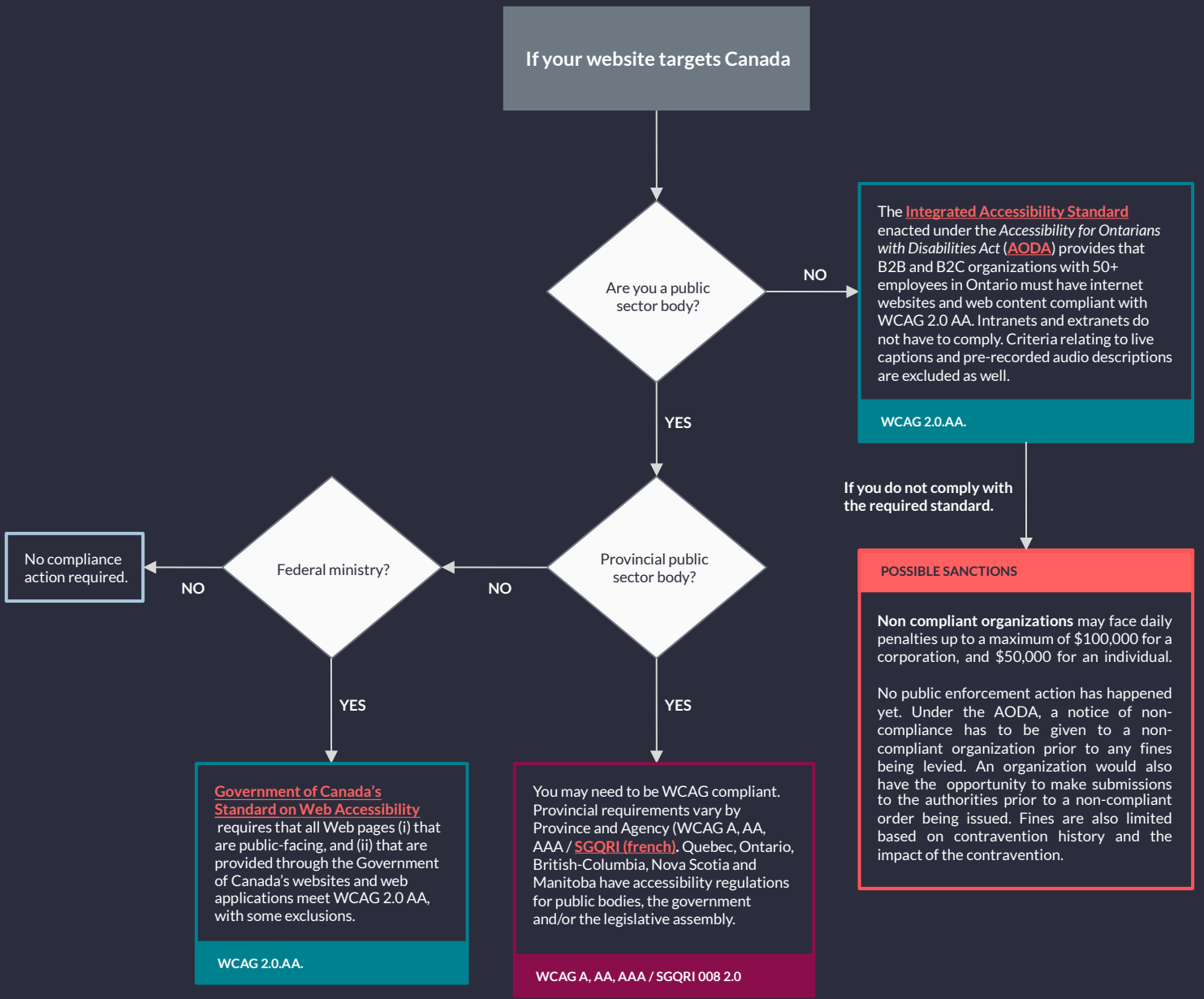
No compliance action required.

# Canada

## Accessibility Compliance Flow Chart

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The Province of Ontario is the only province of Canada that has enacted regulations with hefty fines for private organizations for website accessibility. Organizations with 50+ employees in Ontario need to make all their internet websites and web content WCAG 2.0 AA compliant. Although regulations provide for up to \$100,000/day in fines, no public case has been published of actual sanctions levied. Rules for the other provinces and the federal government only apply to public sector bodies.



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### If your website targets Canada

#### If you are not a public sector body:

The [Integrated Accessibility Standard](#) enacted under the *Accessibility for Ontarians with Disabilities Act (AODA)* provides that B2B and B2C organizations with 50+ employees in Ontario must have internet websites and web content compliant with WCAG 2.0 AA. Intranets and extranets do not have to comply. Criteria relating to live captions and pre-recorded audio descriptions are excluded as well.

**If you do not comply with the required standard, the possible sanction is:** Non compliant organizations may face daily penalties up to a maximum of \$100,000 for a corporation, and \$50,000 for an individual.

No public enforcement action has happened yet. Under the AODA, a notice of non-compliance has to be given to a non-compliant organization prior to any fines being levied. An organization would also have the opportunity to make submissions to the authorities prior to a non-compliant order being issued. Fines are also limited based on contravention history and the impact of the contravention.

#### If you are a provincial public sector body:

You may need to be WCAG compliant. Provincial requirements vary by Province and Agency (WCAG A, AA, AAA / [SGQRI \(french\)](#)). Quebec, Ontario, British-Columbia, Nova Scotia and Manitoba have accessibility regulations for public bodies, the government and/or the legislative assembly.

#### If you are a federal ministry:

[Government of Canada's Standard on Web Accessibility](#) requires that all Web pages:

1. that are public-facing; and
2. that are provided through the Government of Canada's websites and web applications,

meet WCAG 2.0 AA, with some exclusions.

#### If you are not in the previous categories

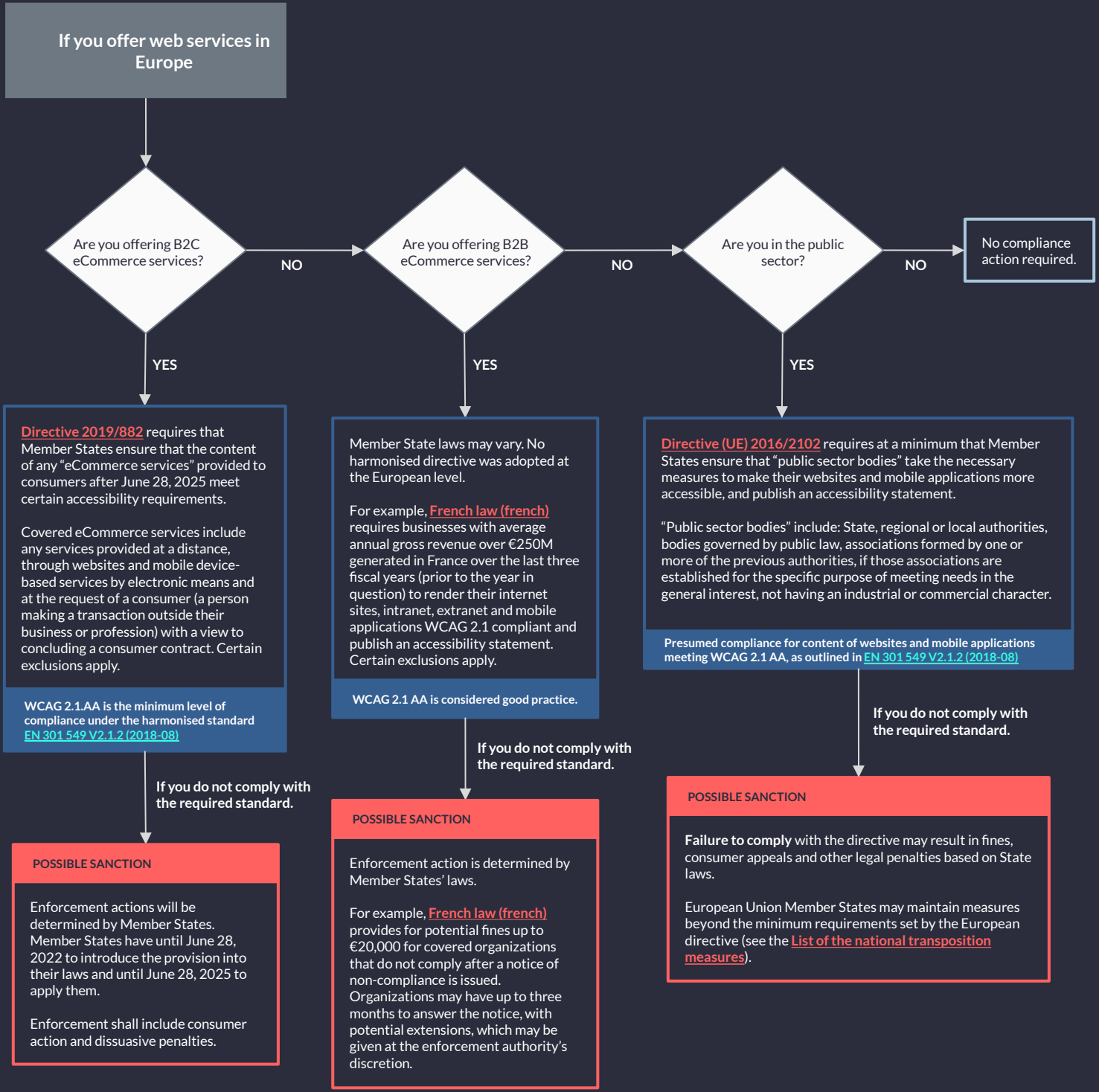
No compliance action required.

# European Union

## Accessibility Compliance Flow Chart

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Harmonized standards were enacted at the European level. Legislations from individual Member States are also on the horizon. Ecommerce services to consumers will need to be at least WCAG 2.1 AA compliant after June 28, 2025. As of now, public sector bodies are also required to meet the WCAG 2.1 AA. Regulations, sanctions and norms may differ for each Member State.





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## Accessibility Compliance Flowchart Transcript

Harmonized standards were enacted at the European level. Legislations from individual Member States are also on the horizon. Ecommerce services to consumers will need to be at least WCAG 2.1 AA compliant after June 28, 2025. As of now, public sector bodies are also required to meet the WCAG 2.1 AA. Regulations, sanctions and norms may differ for each Member State.

### If you offer web services in Europe

#### Are you offering B2C eCommerce services?

If yes: WCAG 2.1.AA is the minimum level of compliance under the harmonised standard [EN 301 549 V2.1.2 \(2018-08\)](#).

[Directive 2019/882](#) requires that Member States ensure that the content of any “eCommerce services” provided to consumers after June 28, 2025 meet certain accessibility requirements.

Covered eCommerce services include any services provided at a distance, through websites and mobile device-based services by electronic means and at the request of a consumer (a person making a transaction outside their business or profession) with a view to concluding a consumer contract. Certain exclusions apply.

**If you do not comply with the required standard, the possible sanction is:** Enforcement actions will be determined by Member States. Member States have until June 28, 2022 to introduce the provision into their laws and until June 28, 2025 to apply them. Enforcement shall include consumer action and dissuasive penalties.

#### If you don't offer B2C e-commerce services, do you offer B2B e-commerce services?

If yes: WCAG 2.1 AA is considered good practice. Member State laws may vary. No harmonised directive was adopted at the European level. For example, [French law \(french\)](#) requires businesses with average annual gross revenue over €250M generated in France over the last three fiscal years (prior to the year in question) to render their internet sites, intranet, extranet and mobile applications WCAG 2.1 compliant and publish an accessibility statement. Certain exclusions apply.

**If you do not comply with the required standard, the possible sanction is:** Enforcement action is determined by Member States’ laws.

For example, [French law \(french\)](#) provides for potential fines up to €20,000 for covered organizations that do not comply after a notice of non-compliance is issued. Organizations may have up to three months to answer the notice, with potential extensions, which may be given at the enforcement authority’s discretion.

#### If you don't offer B2C or B2B e-commerce services, but you are in the public sector:

Compliance is presumed for content of websites and mobile applications meeting WCAG 2.1 AA, as outlined in [EN 301 549 V2.1.2 \(2018-08\)](#).

[Directive \(UE\) 2016/2102](#) requires at a minimum that Member States ensure that “public sector bodies” take the necessary measures to make their websites and mobile applications more accessible, and publish an accessibility statement.

“Public sector bodies” include: State, regional or local authorities, bodies governed by public law, associations formed by one or more of the previous authorities, if those associations are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character.

**If you do not comply with the required standard, the possible sanction is:** Failure to comply with the directive may result in fines, consumer appeals and other legal penalties based on State laws.

European Union Member States may maintain measures beyond the minimum requirements set by the European directive (see the [List of the national transposition measures](#)).

#### If you do not offer B2C or B2B e-commerce services, and are not a public sector body:

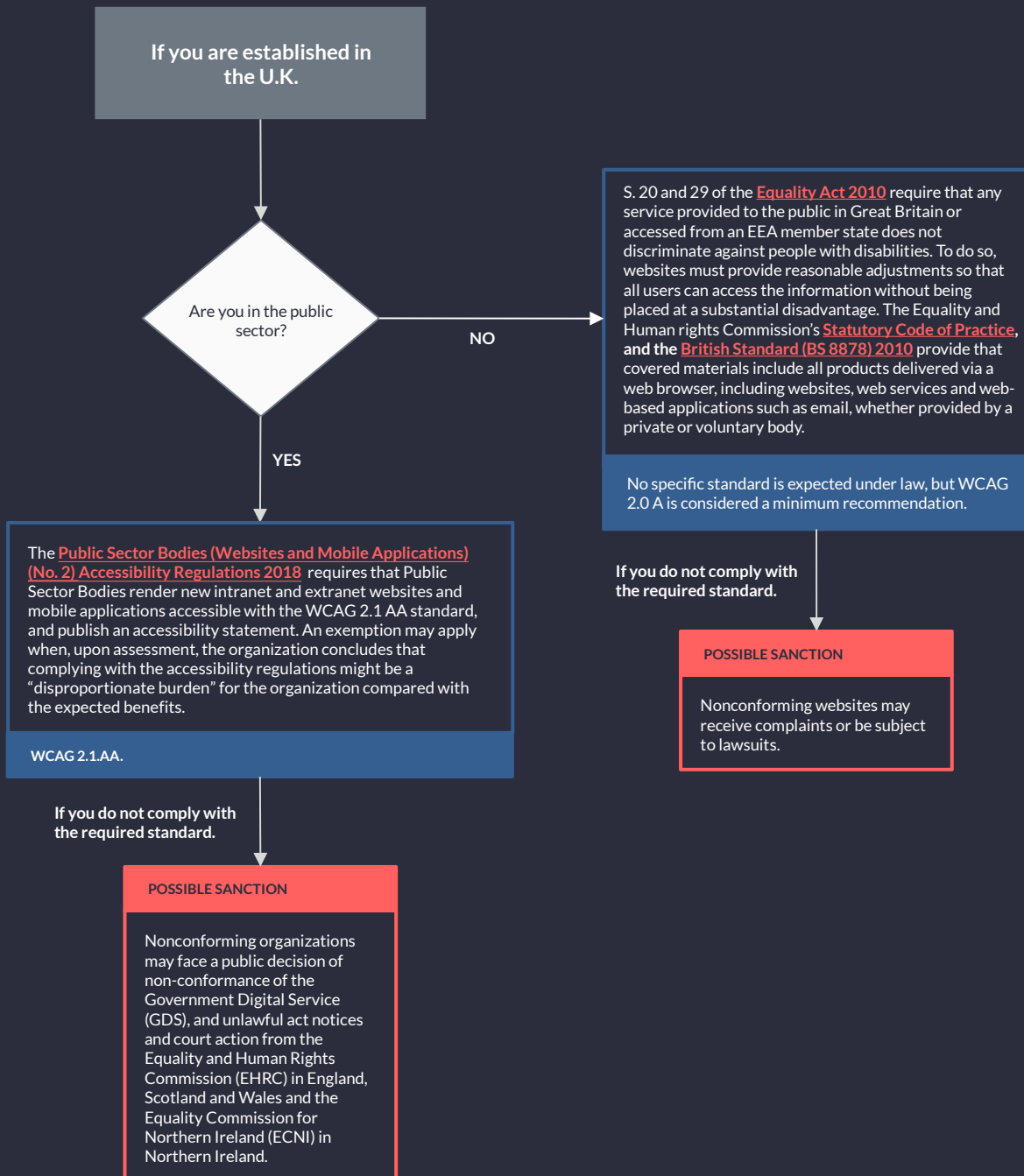
No compliance action is required.

# United Kingdom

## Accessibility Compliance Flow Chart

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Public Sector Bodies that develop internet, intranet and extranet websites and mobile applications for the public must ensure they meet WCAG 2.1AA standards and publish an accessibility statement. Some organisations are exempt from the regulation including non-government organisations like certain charities and public sector broadcasters. Private sector organisations must ensure their online services have reasonable adjustments so that all users can access the information without being placed at a substantial disadvantage.



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### If you are established in the U.K.

#### If you are in the public sector:

The standard is WCAG 2.1.AA. The [Public Sector Bodies \(Websites and Mobile Applications\) \(No. 2\) Accessibility Regulations 2018](#) requires that Public Sector Bodies render new intranet and extranet websites and mobile applications accessible with the WCAG 2.1 AA standard, and publish an accessibility statement. An exemption may apply when, upon assessment, the organization concludes that complying with the accessibility regulations might be a “disproportionate burden” for the organization compared with the expected benefits.

**If you do not comply with the required standard, the possible sanction is:** Nonconforming organizations may face a public decision of non-conformance of the Government Digital Service (GDS), and unlawful act notices and court action from the Equality and Human Rights Commission (EHRC) in England, Scotland and Wales and the Equality Commission for Northern Ireland (ECNI) in Northern Ireland.

#### If you are not in the public sector:

No specific standard is expected under law, but WCAG 2.0 A is considered a minimum recommendation. S. 20 and 29 of the [Equality Act 2010](#) require that any service provided to the public in Great Britain or accessed from an EEA member state does not discriminate against people with disabilities. To do so, websites must provide reasonable adjustments so that all users can access the information without being placed at a substantial disadvantage. The Equality and Human rights Commission’s [Statutory Code of Practice](#), and the [British Standard \(BS 8878\) 2010](#) provide that covered materials include all products delivered via a web browser, including websites, web services and web-based applications such as email, whether provided by a private or voluntary body.

**If you do not comply with the required standard, the possible sanction is:** Nonconforming websites may receive complaints or be subject to lawsuits.

# Accessibility Strategies

**Accessibility compliance is not a one-time deal; it's a journey.**

Web accessibility requires continuous efforts. It should be part of the process from the start of the project and continue throughout the evolution of your website. Accessibility standards are a moving target: they increase and change over time. The WCAG 2.1 standard was released in 2018, a final version of WCAG 2.2 is expected by the end of 2021, and WCAG 3.0 is at the working draft stage.

New technologies, updates, development work and content added to your website may also require accessibility reassessments. Accessibility lawsuits are rapidly increasing in the USA, and there is no guaranteed protection against frivolous claims.

**Receiving strategic advice with a clear action plan is crucial.** Absolunet can offer tailored, cost-effective solutions that maximize accessibility compliance (see next page). Your budget and risk tolerance has to be taken into account in the process and we can guide you through your journey.

## What about automated tools?

Automated accessibility software can look attractive. However, even when using artificial intelligence, it can only flag or correct approximately 25% of WCAG 2.1 AA's accessibility criterias.

Moreover, those tools generally provide a full disclaimer in their terms of services, no warranty, and no indemnification in case of lawsuits. They are also currently under increased legal scrutiny. For example, in the USA, more than 250 lawsuits were filed in 2020 against companies using overlays or widgets for accessibility<sup>2</sup>. Finally, if you have already invested in custom-made accessibility for your website, accessibility overlays or accessibility widgets may lead to a decrease in its quality and impact its accessibility score.

**From our point of view, automated accessibility tools can be seen as a minimal effort for risk tolerant organizations. Human intervention is needed with manual assessment and testing for organizations truly committed to compliance.**

## Our recommendations

Accessibility may look daunting at first. It requires cooperation among many stakeholders, including:

- the **software platform**
- the **web developer**
- the **third party apps and modules**
- the **content provider**
- the **designer**
- the **marketing department**
- **legal experts**

This is why you should **work with an eCommerce services firm who has an accessibility practice** that bridges website development, strategic advice AND digital marketing.

**Absolunet** has strategic capabilities to help you understand and meet the right standard. We can conduct an accessibility assessment to counsel you on priorities for UX, development and content entry. **Our strategic advice will be tailored to your needs, budget and risk tolerance.**

## Let's talk.

This document isn't exhaustive. It is a resource to help you understand how compliance may affect your business, where you may be exposed and mostly, to help you ask better questions about what your eCommerce division should be doing to comply to current and future laws, regulations and guidelines.

**Need help?** We can convert your regulatory obligations into a roadmap so you can focus on your business, your customers and who you are as a brand.

To choose the right tools, platforms, partners, strategies and tactics to maximize growth while minimizing risk, contact us.

Absolunet:  
[info@absolunet.com](mailto:info@absolunet.com)  
1-877-979-2276

## Disclaimer

*That's right, we have a legal disclaimer for this document, to make sure that we don't get sued for trying to help merchants not get sued.*

This Accessibility Compliance Guide was written by our accessibility and compliance experts for informational purposes only. It does not provide legal advice and should not be construed as such. Certain exceptions apply in each jurisdiction presented and rules change over time. To understand the full legal context of your organization, please consult with an attorney. Our accessibility experts may then bridge the gap between the rules and actual deliverables.

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