



October 14, 2020

Representative Ted Budd
118 Cannon House Office Building
Washington, DC 20515

Representative Lou Correa
1039 Longworth House Office Building
Washington, DC 20515

Dear Representatives Budd and Correa:

The National Disability Rights Network (NDRN) writes in strong opposition to “The Online Accessibility Act” (H.R. 8478), and urge the Congress to not enact this bill into law. The Americans with Disabilities Act (ADA) is the nation’s strongest law protecting the civil rights of people with disabilities and NDRN has vigorously defended the ADA since its inception. This bill is a veiled attempt to implement an onerous pre-suit notification process¹.

NDRN is the voluntary membership association for Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies. The P&A and CAP agencies are a nationwide network of congressionally mandated, cross disability organizations operating in every state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands). There is also a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo, and San Juan Southern Paiute Nations located in the Four Corners region of the Southwest.

The ADA is a landmark civil rights law protecting the rights of people with disabilities and any efforts to undermine the intent of the law inevitably puts people with disabilities at risk. At its core, this bill would require exhausting administrative remedies before a private right of action can be pursued against entities with inaccessible websites. Barring private lawsuits only after entities have exhausted remedies through administrative compliance is in essence an ADA notification bill. The ADA makes clear that people with disabilities have the right to immediately go to court to enforce their rights and to press for timely removal of the barrier that impedes access. The right to bring a private lawsuit without having to exhaust an unfunded administrative process is a critical provision of the ADA and this bill severely jeopardizes that right.

Additionally, we reject the argument that this bill and similar ADA notification bills would help businesses avoid costly lawsuits. This issue is best addressed with the attorneys and the entities that oversee the legal profession and the courts which have imposed

¹ Consortium for Citizens with Disabilities “Myths and Truths About ADA Notification Proposals” <http://www.c-c-d.org/fichiers/CCD-Letterhead-Myth-Truth-Updated.pdf>

restrictions on attorneys who file meritless cases. People with disabilities should not have the rights afforded to them under the law limited because an infinitesimal number of lawyers have filed lawsuits that may be frivolous or fraudulent. Again, ADA notification proposals, such as this bill, just allow businesses to put off coming into compliance with the law.

NDRN reiterates our strong opposition to the "The Online Accessibility Act" (H.R. 8478). The ADA and the rights afforded to people with disabilities under the law must be protected and preserved. We also want to convey our disappointment that as one of the nation's leading disability rights organizations, we were not, at a minimum, consulted about a piece of legislation attempting to substantively change the ADA. Should you have any questions, please do not hesitate to contact Cyrus Huncharek, Public Policy Analyst, at cyrus.huncharek@ndrn.org.

Sincerely,



Curtis L. Decker
Executive Director

CC: Chairman Frank Pallone, House Energy and Commerce Committee
Ranking Member Greg Walden, House Energy and Commerce Committee
Chairman Jerry Nadler, House Judiciary Committee
Ranking Member Jim Jordan, House Judiciary Committee