National DISABILITY RIGHTS NETWORK

Protection & Advocacy for Individuals with Disabilities

November 21, 2022

Submitted to https://regulations.gov

Mr. Christopher Kucynski, General Counsel
U.S Access Board
1331 F Street NW, Suite 1000
Washington, DC 20004-1111

Re: Docket No. ATBCB-2022-0004

Dear Mr. Kucynski:

The National Disability Rights Network (NDRN) thanks the U.S. Access Board for the opportunity to submit comments for the Advanced Notice of Proposed Rulemaking (ANPRM) regarding self-service transaction machines (SSTM).

NDRN is the non-profit membership association of Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies that are located in all 50 States, the District of Columbia, and the United States Territories. In addition, there is a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. P&A and CAP agencies are authorized under various federal statutes to provide legal representation and related advocacy services. The P&A / CAP Network comprises the nation's largest provider of legally-based advocacy services for persons with disabilities.

Below are comments on the proposed ANPRM questions. NDRN knows this is an important issue and hopes to highlight that in our comments.

Question 1. In this rulemaking, the Board intends to cover fixed or built-in

electronic devices that are designed for unattended operation by customers (i.e., ''self-service'') to conduct a transaction. It also intends to address fixed or built in self-service kiosks, including those used to check-in, place an order, obtain a product, or retrieve information. Are there capabilities, functions, or other objective criteria that should define the types of devices covered as SSTMs or self-service kiosks?

ANSWER: One significant variable that should be considered when requiring accessibility for self-service machines is the lack of employees or little and difficult access to employees at locations that use such technology. If an SSTM has no person attending to the machine to offer assistance, or if employees are sparse and difficult to find to gain assistance, accessibility is imperative; patrons with disabilities must have equal access to the service. At this time, if an SSTM is inaccessible and no person is present to assist, the person with a disability must either travel with a companion or forego the service altogether.

Equal access must also be assessed by the time it takes for someone to use the SSTM. An establishment may argue that a human can assist with the machine but a customer with a disability may have to wait rather than being able to independently use the machines without waiting for help. If the alternative form of service is going to take more time, an accessible SSTM is necessary to provide an equal opportunity.

Privacy is another component to consider. Even if the machine is accompanied by multiple employees, if the transaction includes personal information and other nondisabled patrons can carry-out the transaction without having to divulge their personal information, the machine must allow persons with disabilities to do the same thing.

Question 2. Are there other types of electronic devices providing unattended interaction that should be addressed by this rulemaking? If so, what are they?

ANSWER: Vending machines continue to be a self-service transaction machine that must be made accessible for people with disabilities. In the decades since passage of the ADA, vending machines have evolved from largely mechanical machines to more electronic machines with digital displays to allow the choice of a large selection of products and that often

can accept electronic payments. Consequently, the digital displays of the machines must be made readable in alternative formats to allow blind and visually impaired patrons to utilize the vending machines. NDRN urges the Access Board to first include vending machines in the coverage of self-service transaction machines. Then require them to have informational displays, controls, and payment systems at heights accessible to wheelchair users and usable by customers with dexterity disabilities as well as accessibility features for blind and low vision users, such as a text-to-speech output and large print font and accessible electronic payment readers.

A category of self-service transaction machines that have transitioned from coin payments and selection controls that use knobs or mechanical switches to digital display screens and electronic payments are laundromat washers and dryers. These machines often utilize credit card readers. The lack of accessibility may cause users to pay multiple times or prevent the patron from selecting the proper settings or from using the service altogether. New washers and dryers need to have their controls and payment systems at heights accessible to wheelchair users. They must also be equipped with accessibility features for blind and low vision users, such as a text-to-speech output and large print font and have controls usable by blind and low vision customers as well as customers with dexterity disabilities.

Another new category of self-service transaction machines are smart parcel lockers such as those used by Amazon but also used by retailers for contactless pickup, universities, multifamily housing and others. They typically use touchscreen control panels which need to be located at an accessible height and need to include text-to-speech output and large print font and usable controls.

Finally, single space parking meters as well as more modern multi-space meters and payment systems in self-parking facilities are another category of self-service transaction machines that have transitioned from simple coin payments to electronic payments with digital displays and controls to select time and payment amounts. Until fully autonomous vehicles come to market, blind and low vision individuals will not be independently driving and parking. However, there are many instances where a blind passenger would want to independently pay for parking, such as a blind parent being driven by a sighted adult child or friend. All individuals should have

comparable access to independently pay for parking. These parking meters and parking payment systems should have accessibility features for blind and low vision users, such as a text-to-speech output and large print font and accessible electronic payment readers.

Question 3. Are there types of self-service electronic devices that should not be covered by this rulemaking? If so, why not?

ANSWER: No, a bright-line rule on what machines are not covered must not be included in such regulations and/or guidelines. In the Twenty-First Century, technology is advancing rapidly and the kinds of SSTMs being used continue to expand and evolve in different ways. It would only be detrimental to isolate forms of SSTMs that should not be covered. In contrast, it would be better to find a way to expand on the definition of SSTMs to recognize the ever evolving forms of technology used to do things like pay for meals, check into transportation services, or order retail purchases. If and when SSTMs and other technologies advance and grow, this ANPRM process will simply have to be repeated numerous times without an expansive definition.

Question 4. Should the Board's rule require all fixed or built-in SSTMs and self-service kiosks in each location to be accessible? If not, why, and what should the number be? Are there some facilities or locations that should have a higher number of accessible devices than others?

ANSWER: Yes, all SSTMs at all locations must be designed with accessibility functions to enable users to access all units without having to search out or wait for the small fraction of accessible units. This is time consuming and even difficult for many users with disabilities. For instance, users who are blind or have low vision may struggle to locate all of the units in a given location. Furthermore, most machines will be occupied by other users at any given time. As a result, the user with a disability will have to wait until that accessible machine is vacated before they can assess whether the formerly occupied machine is one of the machines with accessibility functions. Even if the accessible machines are labeled in some way, the person needing the accessible machine will have to wait until other persons have vacated that machine. To make the process smoother and easier to identify the accessible SSTMs, it is imperative that all SSTMs

are made accessible.

Question 5. The Board seeks comment on this planned approach for the proposed supplementary guidelines for SSTMs and self-service kiosks outlined in this ANPRM. The Revised 508 Standards contain requirements not included in the ADA and ABA Accessibility Guidelines that may pertain to ATMs or fare machines. These include a provision that biometrics, where provided, not be the only means of user identification or control. They also require that tickets, fare cards, or keycards, where provided, have an orientation that is tactilely discernible when necessary for use.

ANSWER: Technology has developed that requires biometrics, such as fingerprints or face recognition, to utilize the device. However, these biometric functions have proven to pose problems for persons with disabilities. Some people with amputations or dexterity disabilities cannot necessarily use the fingerprint function. The function that reads an iris is not necessarily usable for persons who have prosthetic eyes. And finally, the function that assesses a face has proven difficult for persons who are blind. As a result, alternative methods must be available.

Question 6. Should requirements for ATMs and fare machines in the current ADA and ABA Accessibility Guidelines be updated as part of this rulemaking to address additional features covered in the Revised 508 Standards and the DOT rule pertinent to the accessibility of ATMs and fare machines?

ANSWER: Yes, the requirements for ATMs and fare machines in the current ADA and ABA Accessibility Guidelines should be updated to address additional features covered in the Revised Section 508 Standards. To the greatest extent possible, the Access Board should standardize the requirements across the existing standards. The existing rules and guidelines should also be viewed as a floor, not a ceiling, for accessibility

requirements. If new technology is developed that provides more accessibility, the standards should be revised to incorporate these developments.

Question 7. The Board seeks comment from users and manufacturers of self-service transaction machines and self-service kiosks on their experiences in using or designing accessible machines and the benefits and costs associated with the proposed requirements.

ANSWER: A substantial benefit of accessible SSTMs is that users with disabilities can independently and privately carry-out a transaction. First, if the person is alone, they can still move forward with the action. However, even if they have a companion with them, they still have the right to carry-out the transaction privately. This also frees up the business or organization from having to assist the person with the transaction.

Because many of the SSTMs are currently inaccessible, the customer with a disability has to search out an employee for assistance. Many businesses employ small numbers of employees who are likely to be busy with other tasks; when they have to assist the patron with a disability, they have to leave the other responsibilities.

Privacy is also maintained. If a person with a disability has to rely on another person, they must relinquish some level of privacy. This becomes more important when patrons are providing sensitive information such as birth dates, addresses, or phone numbers.

One design limitation concern that should be explored is the use of headphone jacks for audio output for blind and low vision users. Audio output is necessary for blind patrons and headphone jacks are imperative to ensure privacy. However, with the advent of new technology such as Bluetooth earbuds, how headphones can connect to ATMs, fare machines or tablets are not as universal as they once were. This inconsistency must be considered. For instance, SSTMs might have multiple headphone jack options or a pair of headphones could be permanently attached to the SSTM. As technology advances, the Access Board should follow closely how connectivity to headphones are being designed and utilized.

Question 8. The Board seeks comments on the numbers of small entities that may be affected by this rulemaking and the potential economic impact to these entities; these include small businesses, small non-profits and governmental entities with a population of fewer than 50,000. The Board also seeks feedback on any regulatory alternatives that may minimize significant economic impacts on small entities.

ANSWER: One of the few alternatives NDRN can surmise to provide access to such machines in place of providing an accessible machine would be to have a person with each device. However, from purely a financial perspective, this alternative would not be smart for small businesses and organizations. Although the one-time purchase and installation of accessible SSTMs may appear costly, the machine will require few additional expenses, except for periodic updates and fixes. In contrast, the employment of numerous persons will cost much more over time.

Existing policies provide tax credits for small businesses when updating infrastructure to comply with the Americans with Disabilities Act (ADA). These tax credit options should be promoted.

Question 9. Should SSTMs and self-service kiosks which accept credit and debit cards be required to accept contactless payment systems?

ANSWER: Yes, these new SSTMs must be required to allow for contactless payments. First, many card-reading devices are already moving in such a direction; the advent of new machines should simply move with the times. Furthermore, contactless devices are more accessible for persons with some disabilities. Persons with dexterity disabilities may struggle with swiping a card through a reader or pushing a card in to read a chip. Instead, simply hovering a card close to a card reader is likely to be more easily accomplishable for persons with some physical disabilities. With the advent of new technology, the Access Board should encourage new technology that is more accessible for persons with disabilities.

Contactless card machines also better accommodate persons with chronic illness and compromised immune systems. The new technology allows for less physical interaction with the machine which could bring about more hand touching of the technology. If less touching transpires, the passage of

germs is likely to limit the passage of viruses. This would better accommodate all people but especially those with compromised immune systems.

Thank you for the opportunity to submit these comments on this important issue of inclusion and access. If you have any questions, please reach out to Claire Stanley at Claire.stanley@ndrn.org.

Sincerely,

Marlene Sallo
Executive Director
National Disability Rights Network