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Department of Justice

November 18, 2010 Public Hearing

Chicago, IL

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Good morning, everybody.

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My name is Patrick Johnson; I'm an attorney with U.S. Attorney's office here in Chicago.

And I'm in charge of overseeing all of the Civil Rights litigation that comes out of the U.S. Attorney's office.

What that means is I work with the Department of Justice and local Civil Rights groups and organizations to enforce the nation's Civil Rights laws.

And chief among those is the ADA, which brings us to the point of today's public hearing.

On behalf of Pat Fitzgerald and the United States' attorney's office I'd like to welcome everyone to today's public hearing.

It's really a unique opportunity for me and everyone else here to participate in what's really the front end of our legal system, where the government gets to hear comments and insights and concerns and thoughts from the Chicago community about amendments and revisions and additions to the rules and regulations implementing the ADA.

I want to thank Marca Bristo and everyone here at Access Living for welcoming us into their beautiful facility.

I want to thank my Department of Justice colleagues for organizing and managing this public hearing and for really allowing the Chicago community to participate and voice its concerns and thoughts.

And, most importantly, I want to thank you all who will be participating today and this afternoon in this important hearing.

We have representatives obviously from the disabled community, from disability rights advocates, local and state government, private citizens and the business community, all who will be sharing their thoughts today.

And I can assure you all of your comments, whether written or orally presented, are highly critical to this process and greatly appreciated by us.

With that, I look forward to interesting and productive morning and afternoon for this hearing.

Thank you very much.

>>JOHN WODATCH: Thank you, Patrick, we appreciate your presence here today.

My name is John Wodatch.

I'm the chief of the disability rights section and will preside over the hearings today.

My main job will be to ensure that everyone has an opportunity to get their comments in, in a timely manner.

And we look forward very much to your comments.

We're very appreciative of your being here.

I would like to thank Marca Bristo and the people at Access Living for providing us with their beautiful and accessible facility.

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And we're delighted for being here in Chicago and I look forward to the comments that will proceed.

We're going to begin with opening remarks this morning by Mazen Basrawi who is the Counsel to the Assistant Attorney General for Civil Rights.

Mazen is an expert in disability rights' law and has as part of his portfolio ensuring the fair, effective and vigorous enforcement of the ADA and the other disability rights laws that the department enforces.

Mazen?

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>> MAZEN BASRAWI: Thank you, John.

Good morning, everyone.

On behalf of Assistant Attorney General Tom Perez, I'd like to welcome you to the first of three hearings to take public comment on our advanced notices of proposed rulemaking.

Before I begin, I would like to thank Marca Bristo and Access Living for giving us the opportunity to use this wonderful space that is really a model of accessibility and a model of our regulatory standards, I might add, to have us further the work of advancing the Americans with Disabilities Act.

This is the first of three hearings we're holding.

And as Patrick mentioned, it really is the first step in the rulemaking process.

We issue Advanced Notices of Proposed Rulemaking when we intend to regulate in areas that are, for lack of a better term, new and exciting.

We have now had 20 years of the Americans with Disabilities Act, and we've seen that there are a number of areas where people with disabilities have yet to fully realize their potential and enjoy equal services, activities, public accommodations and services and facilities of public entities.

And so we've issued advanced notices of proposed rulemaking in four very important areas: The first is web services and information.

As we all know, the Internet is ubiquitous part of our lives.

And people with disabilities are unfortunately denied the same ability to enjoy the ease and array, wide array of services and information that's available on the Internet, in large part because there have not been sufficient legal authority in this area.

And this is one of the reasons we are regulating this area -- in order to clarify obligations for regulated entities.

The second is movie captioning.

This is an area where the disability rights section and the Department of Justice has been very active.

But we have seen that far too many people with hearing impairments are denied the same ability to enjoy the same forms of entertainment as their non-hearing countrymen and women.

Next generation 911, we live in an era where old telephone services are no longer standard for many millions of Americans who use voice over Internet protocol and other ways to communicate.

And we need to make sure that emergency services are available to persons with disabilities so that they are not left behind when they need their governments most.

And finally in the area of equipment and furniture, where we have seen far too many people with disabilities are denied access to medical equipment, sporting and gymnasium facilities and many other facilities because equipment and furniture are inaccessible.

So we're here today to listen to your comments.

And we're very pleased to see that we have a large number of people who have signed up to deliver their comments today either in person or over the phone.

It's very important that we hear what you have to say because we have asked you, essentially, 90 questions that we need answers from the public, from both the disability community as well as the regulated community so that our regulations can meet the needs of the public.

So with that, I want to just say a few words about our presiding officer.

Mr. Wodatch has been a public servant for over 40 years and was responsible for some of the initial federal regulations under Section 504 of the rehabilitation act.

He shepherded our regulations under the ADA in the early 1990s and most recently that we issued in July of this year that will go into effect this March.

So this gentleman has an untold number of years of experience in this area, and I can't think of a better person to preside over this hearing and our future hearings in this area.

So thank you and we look forward to hearing your comments today.

>> JOHN WODATCH: Thank you, Mazen.

I didn't put him up to that. Another, a disability rights leader, Pat Wright, once told me, that we're going to keep doing this until we got it right. So I'm still working at it.

And part of the process that we're doing here today is to get your input. We were really very interested in it. We are at a very early stage.

Your views, the information you can provide to us, whether it's on technology that's available, on costs and benefits of approaches, we are very much interested in what you have to say.

I'd like to introduce to you our panel, who will be listening today. You've heard from Mazen Basrawi.

To my far left is Jeanine Worden. Jeanine is a deputy chief in the disability rights section. She is the person responsible for a large number of the investigations, settlement agreements, some of the litigation and a great deal of the technical assistance that occurs from our section.

To my immediate left is Bob Mather. Bob is a Senior Attorney in the Disability Rights Section with a distinguished career in dealing with the issues of access for people with disabilities.

And I'm delighted that the three of them are able to join us today.

Brief word on how we're going to proceed.

We have almost 40 people who are going to testify today. There may be others who are coming. And so efficiency is going to be very important to us. We have two stations. Staff here will help you to the stations so that we can continue somewhat seamlessly to hear comments from all of you.

You have five minutes to testify. We have a device in front of me here that has a green light, a yellow light, and a red light. They will also be accompanied by a buzzer.

When you begin, you will have five minutes to testify.

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At the four-minute mark, you will hear a beep and the yellow light will go off. You'll know you have a minute to go. And at the end of the five minutes, the red light will come on and you will hear a beep, as well.

We realize -- and we appreciate your willingness to deal with this format. It does enable a number of people to provide comments to us in person. Of course, we hope that you will supplement your testimony today with written comments.

You have until January 24th to get written comments to us. You should know, however, we are videotaping this session. And within a few days, the entire session will be posted on our website and will remain there through January 24th. So you can tell your family members that they can see you.

But also so that people around the country can have -- can share the wisdom that you are providing to us today.

We will also make a record of the proceedings today and put those as a comment on regulations.gov so that they will be available and part of the formal rulemaking.

Okay.

Why don't we begin?

We are starting the day very appropriately with Marca Bristo. Marca is the President and CEO of Access Living of metropolitan Chicago. In addition to being today's host for our sessions, she is a nationally recognized and now internationally recognized leader of people with disabilities.

Marca?

>> MARCA BRISTO: Thank you very much, John.

I'd like to welcome all of you here to the great City of Chicago and to Access Living. We're delighted that you chose our facility as a place to hold your hearings.

As we sit in this great room, we are in this 20th year of the Americans with disabilities act, we're surrounded by photographs of one of our great leaders, Tom Olen. I think it's important to look around this room and see the many years of struggle depicted in these photographs that remind us that our work has taken a lot of forms to bring us to where we are today. On the wall of one of our great federal buildings is a quote that says, "Past is prologue."

And I think we are all reminded that the disability community has worked very, very hard to get us to where we are today.

As the former chair of the national council on disability, many of the areas that you're taking testimony on today are not new to us. We began looking at NCD on the area of telecommunication, Internet accessibility back a good 10, 15 years ago.

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And I think it's really, really important that you are looking at proposing some regulations in these areas.

I want to say that if you were to take a look at the docket of cases that the Department of Justice has either settled or brought to trial and received positive findings, you can look across so many areas of our life to see how excluded people with disabilities were.

In many respects, those of us who worked to pass the ADA I think really didn't understand fully the full impact we would see.

I read your docket not too long ago in preparing for a speech, and everything from cruise ships to movie theaters to schools, across-the-board, it's important to take a look at that not only to see how excluded we were but how important federal enforcement and federal regulations are.

Whereas I would like to believe that people would do the right thing and just make these decisions on their own that, unfortunately, has not been the case. So regulations, while they sometimes create a backlash from people who are either afraid of how they will be received are extremely important in providing the guidance necessary to open up the world for people with disabilities.

My colleagues here today in particular areas identified, but I want to ask you a question as you start this day: What would it be like if tomorrow in America we said to any segment of society that you can no longer use iPhones?

You can no longer use 911? You can no longer go to the movies and hear what's on the screen?

If this was being said to any other segment of the community, we would not stand for it.

If we were to take away those things that many of us don't have access to right now, our country would not stand for it.

So it should be no different for people with disabilities.

And I urge you to stay the course on this.

Because no doubt you will be hearing all the usual reasons that we can't do this: It's either too expensive or it's too difficult.

And I've been around long enough here in this great city to know, for example, when we brought a lawsuit against the CTA to get lifts on buses, those same arguments were used.

When NCG paid a visit to Microsoft before 508 was being implemented, those same excuses were used at that time.

And, yet, because of leadership from the Federal Government, we've seen those things turn around.

The two areas that I'd like to speak on a little bit more specifically are the areas of furniture in hotels and the area of medical equipment.

First off, it's insane to think that all the changes we made to the built environment to make hotels accessible are now becoming inaccessible to me because of the choice of beds that hotels are putting in.

All the same hotels that I used to stay at, for example, in Washington, D.C., I can't stay there anymore.

The beds are too high. I have to ask them to take the mattress out and then the beds are too low. I have been stuck in bed and then told that they can't provide assistance to get me out of bed because I would be an insurance risk in the very hotels I was able to stay in before.

>> JOHN WODATCH: You can continue.

>> MARCA BRISTO: Okay, thank you.

That needs to change.

It's something that is so simple, but it will not be done unless you make it be done.

The second area that I want to comment on is the area of medical examination, exam tables, mammogram machines, and others will speak more.

But as a former labor and delivery and women's health nurse, I can't tell you how many times we sent women home unexamined because we couldn't get them on the inaccessible exam table in time for their Para transit ride, which came to pick them up.

Unless we make this a requirement, women with disabilities will not get the same level of care. When I go to the doctor, it depends upon who's there, whether I can have an honest exam, whether they have staff that can lift me onto that exam table or not. I know I'm not getting the same quality of medical exam when I can't get on that exam table.

And, finally, an area that I don't think you're really expecting testimony on, but I think is extremely important as healthcare spending is rising and people are looking for ways to cut the budget and as technology is advancing, telemedicine is going to become an enormous wave of our future.

My mom was kept alive for probably a full year because she was in an experimental program that brought a computer into her home where she could speak to her nurse directly through this.

She could take her blood pressure, her blood oxygen level, her sugar content, her weight, her temperature. Real-time.

And as she developed e lesions, there was a camera that allowed the nurse who was 150 miles away in rural upstate New York to look at her wound care. This is the wave of the future.

What I was reminded as I was there seeing how wonderful it was for her that my colleagues who are deaf would not have the same access to that equipment.

This is going to be an extremely important area for you all to look at. How do we make telemedicine truly accessible to all people? So I'm grateful that you're here looking at this.

I want to urge you to stay the course and be prepared for all those people who will say, "This can't be done." It's been said to us so many times before and yet I think the disability, working in a bipartisan way, has found a way to prove to the world that when there's a will, there is a way.

And we need your support on this.

So my colleagues here in Chicago I know won't disappoint in bringing forward to you the real life stories of why this is so important as well as the suggestions of how to do it.

We built this great building following universal design principles by bringing disabled people in and asking them a simple question: What do you hate about work places?

And what would you change if you could? I wish more people asked us those types of questions. We have so much to offer. So thank you very much and thank you very much for giving me an extra minute or two.

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>> JOHN WODATCH: Thank you very much, Marca. Our next commenter is Stephanie Kanter who is the manager of sports and recreation at the Virginia Wadsworth Sports Program of the Rehabilitation Institute of Chicago.

Miss Kanter, the floor is yours.

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>> STEPHANIE KANTER: Thank you.

As you said, my name is Stephanie Kanter, I manage a sports program that provides recreation and disability sport opportunities for people with disabilities and has done so since 1981.

We actively serve about 500 participants in a range of programs.

I've been a beneficiary of this program, and I'm pleased to be able to present on some of the issues related to access to sports and recreation equipment today.

Recreational engagement is clearly a vital part of the spectrum of activities that support and define one's quality of life and has played an important part in my own adjustment to life post disability.

So I come to you as manager of this program but as a consumer and as a parent who would like to share in sports and recreational opportunities common to the childhood of a four and a half year old. I am going to specifically address the issue of golf carts since that was one of the points brought up in the questions presented.

At our program, we do offer an adaptive golf program. Our program provides instruction as well as course time opportunities to folks. It meets twice weekly in the summer. And it serves a wide range of people with disabilities from people with visual impairments, spinal cord injury, stroke, amputation, multiple sclerosis just to name a few.

And with such a wide range of disabilities, we heavily rely on adaptive equipment such as accessible golf carts. There are a couple of accessible golf carts that are on the market. We have found that they are very beneficial to helping our participants to play successfully. They are used for transport as well as for play.

Currently, our program has four of these carts. They're single-rider carts. They can be adapted to have a second seat added for an additional rider.

The features that sort of make these carts unique are that they have swivable seats, the seats can tilt at to a 45-degree angle enabling someone like myself to get into an optimal position to swing the golf club. Accessible carts are hand-controlled.

And we have found them to be stable and safe. And our experience is that if driven properly, these carts are suitable to drive onto greens so that golfers can access the tee box without causing damage to the green space.

It has happened where our participants have been commanded by non-disabled golfers to get off because it is an untraditional space to see a golf cart.

And it raises, of course, the issue of awareness around access and, you know, these are common things. But it requires education: Education of the golfer who would be participating but education of the public, education of the golf course, the staff is an important feature of what makes a program successful.

We have staff that can help educate that.

But across-the-board you've got a very uneducated public who is unconditioned to seeing people with disabilities share their space in recreational settings.

And of course accessibility is as much about raising awareness and educating people without disabilities but what rights we have, about what our capacities and capabilities are as well as educating people with disabilities as to what their options are to participate in life.

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To sort of relate a recent experience, we offer camp for military veterans who have been injured.

And we had someone come in who hadn't participated in any recreational activities since his disability.

He had a head injury. And he started golfing. We got him playing tennis. We got him in the swimming pool. And at one point he said to me, "You know, I've been telling myself I can't do this since my injury. I guess I can't tell myself that anymore."

And here's someone who maybe will take that experience and translate it into employment, into engagement with his family, into being out in the community seeking those opportunities.

And I see sports and recreation as a point of advocacy and activism that if you're out there in the world and you're seen, you help to start break down those barriers in places where people might not expect to see them.

Thank you.

>> JOHN WODATCH: Thank you very much.

And that was exactly five minutes.

Very impressive.

And now we'll turn to Lynn Esp, who is the Assistant General Counsel for the Illinois Credit Union League.

Thank you for being here.

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>> LYNN ESP: Thank you for having me.

As you said, my name is Lynn Esp and I'm an attorney with the Illinois Credit Union League.

I'm here on behalf of 400 Illinois credit unions whose average asset size is 10 million dollars. Credit unions are not-for-profit financial institutions who's dividends are paid to their members rather than their managers, presidents or CEOs.

They represent a number of groups; they represent factory employees, union employees, church groups, airline pilots, just to name a few.

Some credit unions are in homes, some credit unions are in factories, some are in the CTA offices, others are stand-alone facilities.

The issue that we would like to address today is this issue of website accessibility.

In the last two years, we have had 30 -- credit unions have been subject to 30 regulations which have impacted them significantly.

Of the most important of these is the loan disclosure requirements under reg Z-- which has caused credit unions to issue new mortgage disclosures and statements which has imposed a cost of \$47,000 on a credit union.

And there are varying sizes of credit unions for -- if you do an asset size, some are at 10 million, some are 100 million.

Some just have one manager, some have 50 managers; some have 300 employees, but most of them are small credit unions and are very impacted by this.

In addition, restrictions on gift cards, credit cards and other things where they're decreasing in fees.

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So as a result of many of these changes 82 credit unions have been merged because they haven't been economically viable.

As recently as I'm sure you're aware the ADA has also imposed regulations on ATMs to make them hearing accessible.

And to upgrade, for an upgrade of that it costs between \$1500 to \$2600. To purchase new software is \$5500 to \$7200. And to purchase a new ATM because many of them are outdated and have been put in many years ago, it costs \$20,000 to \$30,000.

So there's been many forces that are coming at credit unions to do requirements of the ADA and other regulations.

We are not suggesting under the website accessibility rules that we have no obligations, and we do believe that there is -- that websites should be accessible, especially as a means to come -- we serve pretty much people who -- other banks and other financial institutions won't serve.

So we understand and we appreciate the need for accessibility to the website. However, we would maybe recommend that the burdens be placed on number of employees or number of assets.

So, for example, we would propose that credit unions with 100 or more employees have a responsibility to do accessibilities.

What I've looked at as I went and looked at 35 credit unions and I looked at their websites under WAVE. And there was anywhere from two inaccessibility components to 71.

And the problems that we have is that we have credit unions who don't really have the expertise to go and change that or to even know, if I would take that information to them, they wouldn't know what to do with it. They would say, "Well, how is it inaccessible?"

And they don't have – some of them don't have the tools nor the money to redirect, to reformat their software or their website.

So what we're asking is that a consideration be given to the size of the credit unions and the institutions for which you would impose these requirements.

In addition, one thing I'm wondering is that, is the responsibility more imposed on the software issuer? Because I understand that there's a new – there's Windows 7.0 that has assistive technology that has onsite keyboards, magnifiers, speech recognition and a narrator.

And maybe another timeline that we can impose is suggesting that when they purchase new software, the smaller credit unions could come into compliance with that to allow them to integrate that software into their programs, into their website designs.

So, basically, we're asking for consideration based upon the size of the credit union and maybe their assets and the software component.

And because we do serve people in smaller communities and we do have smaller financial institutions. And we're not saying we don't want that responsibility. We agree with it. We just need to see if there's other avenues upon which this can be imposed. That's it

>> JOHN WODATCH: Thank you very much.

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Our next commenter is an old friend of the ADA, Steve Fellman, who is representing the National Association of Theater Owners. Steve and I have worked together on ADA issues before either of us would want to say. We're delighted to hear you today.

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>> STEVEN FELLMAN: Thank you, John. My name is Steve Fellman and I am ADA counsel for the National Association of Theater Owners, the other NATO.

NATO is the largest trade association of motion picture theater operators in the world. Our members operate more than 30,000 of the 40,000 motion picture screens in the United States.

I'm here today to talk about closed captioning and video description.

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Today there are approximately 40,000 movie screens in the U.S.

Roughly 12,000 screens are now digital.

They show movies sent by the distributor to the theater in a digital format, not a film format. By the end of 2013, the four largest theater chains which operate more than 18,000 screens, estimates that almost all of their first-run theaters will be digital. And within five years, the industry now estimates that over 30,000 U.S. movie screens will be digital.

Captioning and video description that works in a digital environment will not work in a film environment; and, similarly, captioning and video description that works in a film environment won't work in the digital environment.

Today we need to focus on digital cinemas. Just like the old movie era where you take pictures with snapshots, no one buys film anymore because of the digital camera. And we're going to the same thing.

Digital cinema offers enhanced products for movie goers and the industry has developed a program that will result in a new technology being affordable for the great majority of theaters.

To make digital cinema a reality, distributors must be able to transmit a standardized product, or movie, that can be played on standardized equipment with theaters.

When we add closed captioning and video description, the product coming from the distributor must have closed caption and video description content that can be read by the equipment in the theaters and transmitted to the captioning display unit or descriptive video headsets used by the consumer.

What is necessary is standards for distributors, equipment manufacturers, theater operators to provide quality and interoperability.

We are pleased to report that all the major standards are now in place, including major standards for closed captioning and descriptive video. What they're called is SMPTE DCP standards for closed captioning and descriptive video and they have just been published. It's very exciting news.

However, this is all so new that testing is still underway to ensure that everything works in a theater setting.

We need to know that the equipment is reliable, that movie goers can use the equipment, and we need to get hard numbers on what captioning and video description will cost.

We don't have these answers. And we can't answer the 90 questions that are before us. But we believe that these answers will be available within the next 24 months.

You will note that I have been talking about digital cinema. And you may ask what about those theaters that don't convert? We're talking about theaters with the lowest profitability, small theaters, rural theaters, theaters with short-term leases.

There is a great concern that many, if not most of these theaters will fail. Those that remain will not be showing first-run products. And any product that they will show may not have captioning content or video description available.

The motion picture industry, including exhibitors and distributors, have voluntarily moved forward on digital closed captioning and video description, even though I may add, we don't think we're required to do so.

However, it will be another 24 months before we can realistically provide the type of hard data on issues, such as costs, display unit options, interoperability, reliability, quality, and, of great importance, user acceptability that's called for in the ANPRM.

During the next 24 months we believe that major distributors will be providing digital cinema with closed captioning and video description in standardized SMPTE DCP format. And exhibitors will be getting the equipment that will enable us to experiment with the various types of display units that are being developed and now are coming onto the market.

Certainly, there will be a very substantial increase in closed captioning and video description availability, all on a voluntary basis.

We, therefore, request that the DOJ hold off further action on the ANPRM for 24 months and use that time to work with the industry and consumers to learn more about these new and exciting digital technologies.

During that time, DOJ must consider the situations of those theaters that did not convert to digital. Those will have to be exempted from any captioning.

And, lastly one final thing, we want to assure you that in the digital world our industry is committed that our patrons will have access to closed captioning and video description. Thank you.

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>> JOHN WODATCH: Thank you.

Our next commenter is Edwin Gladbach who is counsel for AMC Entertainment. Welcome.

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>> EDWIN GLADBACH: Good morning. My name is Edwin Gladbach. I'm Vice President of legal for AMC entertainment, which is the parent theater of AMC theaters.

AMC is the second largest movie exhibitor in the United States, with 365 theaters in 31 states and the District of Columbia, with 5,087 screens and seating capacity of over 1 million. Last year nearly 200 million Americans saw movies on our screens.

AMC is committed to offering the best possible movie-going experience for all of our guests.

To that end, we have been a leader in providing access to closed captioning and descriptive narration.

We have installed more than 160 rear-window captioning and descriptive narration systems in auditoriums and our theaters.

Our general managers have seen firsthand the positive impact that's had on the communities. And I can tell you, frankly, that our general managers are some of the strongest advocates within our Company for expanding access to these technologies.

AMC is a member of NATO and supports the position outlined by the prior speaker.

As outlined before, AMC believes that the transition from 35 millimeter to digital cinema will provide an opportunity to greatly expand availability of closed captions and descriptive narration, both by reducing the capital costs required to install the systems and by providing a platform for new accessibility technologies.

While we certainly appreciate the clarity a regulation would bring to this area of the law, AMC believes adoption of a regulation at this time could have the effect of stifling development of improved accessibility technologies.

Currently 1,600 of our 5,000 plus screens in the U.S. have digital cinema systems, and we project that by the end of 2014 almost all of you are U.S. theaters will be converted to digital.

Therefore, we think it would be a misuse of resources to require installation of 35 millimeter accessibility systems as they will become obsolete in the very near future.

When the digital transition is completed our theaters will be equipped with systems that comply with the DCI NATO specifications and, therefore, will be able to process SMPTE DCP closed captioning and video description files when provided by studios and distributors.

Those digital systems currently installed will need to be upgraded in order to play the SMPTE DCP movies.

In addition to digital cinema servers and projectors, we'll have to acquire separate systems that will be able to receive the digital file output and transmit the accessible content to a device that can be used by the theater guest.

The device will likely be a seat-mounted digital display unit or some type of eyewear for closed captions and headphones for descriptive narration similar to what exists today.

During the transition process thus far we've had limited access to digital SMPTE DCP product with captioned and description files. Determining the proper equipment configuration and software interface to extract the digital caption and description data and deliver it to theater guests in the auditorium has been somewhat difficult for us.

These are complex technological systems and require significant resources and expertise that are not off-the-shelf plug-and-play components available at your local electronics store.

However, I can say that I learned yesterday we've made significant progress in just the last week and believe that we have systems that are – that will function properly.

Since there will be additional technology issues to resolve and further innovation to occur we can't say exactly where our theaters will be in five years. However AMC firmly believes that increased access to closed captioning and descriptive narration will be available in our digital theaters and are committed to make that happen.

It is impossible to predict how the technology will develop or what accessibility equipment ultimately will prove the most beneficial, both for movie exhibitors and our theater guests.

It is premature for DOJ to enact a rule, as the rule would require purchase of accessibility systems that are just now being introduced and have not been sufficiently tested by either theater operators or persons with disabilities.

Requiring a selection of systems at this point would prematurely bring an end to further research and development.

In addition, we are unsure that the manufacturers of the systems that are currently commercially available can meet the demand created by an imposition of regulation at this time.

As stated by NATO, we recommend that DOJ recognize the voluntary effort through the SMPTE DCP NATO standards to provide closed captioning and video description on a voluntary basis.

Two years from now we suggest the DOJ re-examine the issue and in light of what exists at that time determine whether a rule is needed. Thank you.

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>> JOHN WODATCH: Thank you very much.

If I may just suggest, I assume that NATO and AMC and others in the industry will provide written comment. I hope you do. And if you do, one question that has been raised to us that we didn't raise in the ANPRM very specifically was the impact of 3-D movies on the issue of closed captioning and whether there's anything special that has to be considered in that. And I just throw that out to you to consider as you hopefully provide us with more comments.

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>> EDWIN GLADBACH: We will provide additional comment. I can say that there are additional factors to be considered with 3-D.

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>> JOHN WODATCH: Thank you very much.

Our next commenter is Aric Roush, who is the director of information services at the Office of Emergency Management and Communications.

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>> ARIC ROUSH: Thanks. My name is Aric Roush.

I'm the Director of information services for the City of Chicago Office of Emergency Management and Communications.

By way of background, we process around 5.5 million calls for service for 911, and have been aggressively pursuing next generation 911 initiatives.

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Specifically, I want to address a couple of the key questions that are being asked by the Department of Justice, particularly what devices and modes of communication, text, video, et cetera, individuals are utilizing to make what are being considered calls for service as well as how do we assure that any Internet protocol based on 911 centers receive direct calls from these devices.

There are several conditions here that I think we may be in a situation where the cart is a little bit before the horse in this case and I'll address some of that.

When it comes to device standards, obviously the 911 community wants to be as agnostic as far as the ability to receive calls.

The catch is how the information gets delivered to the 911 center.

The City of Chicago, particularly my organization, tries to be as up front as possible with regard to technology implementations.

I'll talk a little bit about that in a second.

With regards specifically to devices, the number one -- in my eyes the number one device issue is providing a positional location for that device be enabled over IP technology.

Currently your cell phone is able to deliver GPS technology.

Some sort of locations technology doesn't necessarily have to be GPS.

There are many other different positional technologies available.

But when you are talking about a direct connection, particularly via some sort of chat or text message, the inclusion of positional location is critical.

Say, for example, you're receiving what I'll call a call that for all intents and purposes a chat message with emergency response organization and your chat is disconnected.

I as the responsible organization needs to know where you're located, where the caller's located.

Currently that technology does not exist for transmission over an IP network.

That is some of the standards development the Department of Transportation and the FCC are working on as part of the next generation 911 project.

How do you handle emerging the technology?

A common problem is technology moves faster than users.

So as new protocols to enhance capability, to enhance overall service for consumers, how does the ADA in particular address emerging technologies and new technologies as they come out.

And then third what may end up being most important is how do you handle network security?

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A very common problem in many agencies is once you open up a network to the outside and you are allowing such chat, now guys who you don't want to connect to you are also able to connect to and how do you handle that?

Secondly, the second question you ask is how do you IP-enable 911 centers, PSAPs, how are they able to handle IP protocol messages?

The City of Chicago has been blessed with visionary leadership to be able to provide us with the resources to be able to handle a lot of this information.

So while some of the infrastructure development issues that may apply to every 911 PSAP center applies a little bit less Chicago because we have the resources, the technology resources to be able to do it but it's still a problem.

The technical network aspect of the issue here isn't necessarily Internet delivery of messages. It's more software applications that exist on the devices being standardized so that messages that are transmitted are able to communicate across platforms.

So someone in San Diego who happens to be in Chicago needs to make a chat call to 911 for service and direct connection to it, how do you ensure that the message that they're sending is able to connect to the 911 PSAP in Chicago, for example? And that's a very common problem.

The development of standards and protocol is also extremely important. There needs to be a national standard for how these messages are disseminated and how they're received.

There are many laws across the United States that govern 911 PSAPs and 911 emergency carriers. There is going to be a broad range of legislative changes that are going to need to be enacted in order to be able to develop this national framework.

The City of Chicago definitely recognizes the need for this. We're not waiting for a national standard to develop. We're hoping to participate in whatever that standard development process is.

We've already started by allowing users to send text messages to 911, particularly with their images. Right now that is not unsolicited, it needs to be accompanied with the 911 emergency call. The idea here is to cut down on the number of pictures that shouldn't be sent to you and messages that shouldn't be received. And that's been hugely successful. And we've been live for about a month now.

The next phase of that is development of real-time chat interface. We want to delay the final work, see the foundation, see what the impact is going to be and then move on.

And then, finally, by far the biggest one is funding. Who's going to pay for the national infrastructure? Who is going to govern the national infrastructure?

When you start talking about how telecommunications and 911 works now, it's in the hands of the telecommunications providers. It isn't in the hands of the PSAPs. AT&T, your local exchange carrier is responsible for delivering that service.

Well there's many different wireless carriers and the Internet is open to anyone. So how does that governance work and, more importantly, who pays for it?

Thank you.

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>> JOHN WODATCH: Thank you, Mr. Roush.

Our next comment is Dr. James Rimmer from the University of Illinois, Chicago.

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>> DR. JAMES RIMMER: Thank you very much. It's my pleasure to provide a hearing today on the importance of accessible equipment for people with disabilities.

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As you may know, we spend billions of dollars in this country on rehabilitation.

And people return home with the need and desire to continue to rehabilitate but have no access to accessible exercise equipment in their local fitness centers and health clubs.

So it's extremely important for us today to consider where do we move beyond the ADA in terms of the built environment in order to provide the types of equipment that people with disabilities have the right to use in order to continue to improve their health and to rehabilitate after injury.

So today I'd like to share with you the good news, which is that since 2001, there is an initiative in the UK entitled the Inclusive Fitness Initiative.

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And as often occurs, most of what happens on the innovative side occurs across the Atlantic. They've learned that it's extremely important to provide inclusive fitness to people with disabilities, and for that reason they started this initiative with funding from their country to provide manufacturers with directions and guidelines on how to make their exercise equipment inclusive.

Today we have 100 pieces of exercise machinery representing 15 major international manufacturers who have been certified through this IFI initiative to provide accessible exercise equipment. On the market today, commercially available, are nine treadmills, nine recumbent cycles, several upright cycles, upper body ergometers, rowing machines, cross trainers, et cetera, et cetera. All types of equipment that are extremely important to improving health among people with disabilities.

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If you look at the research literature on health disparities, you'll find that there are higher rates of obesity, poorer levels of health, high rates of secondary conditions among people with disabilities.

And, therefore, it's incumbent upon us as a federal agency and as a country to ensure that these facilities provide inclusive exercise equipment that can help people empower themselves to improve their health and to restore some type of wellness to their daily activity.

So I'd just like to also mention that it has been 20 years since the passage of the ADA and 10 years since the above recommendation was made that we needed inclusive equipment, and the ADA did move on this.

The Department of Justice has passed guidelines, generic guidelines associated with the footprint, associated around the exercise equipment so that a wheelchair user, you can get to it.

But there are still issues associated with mounting and dismounting the exercise equipment, being able to read the display panels, being able to utilize the machinery because of the type of resistance that the base level starts at.

And so the Inclusive Fitness Initiative has really addressed those issues now, and manufacturers are producing equipment that is universal design and much more accessible for people with disabilities.

So I think it's now time for us in this country to begin to emulate what the UK has done and to ensure that when an individual with a disability enters a fitness center that he or she is not discriminated in terms of their capacity to use what exists in that facility.

Today what you often find is an occasional fitness center may have an ergometer or a special piece of equipment for that individual with a disability.

That, to us, is no longer acceptable. Separate but equal is no longer acceptable. We have equipment that is universal design, and if a caregiver wants to go with a spouse or a friend and work out together, they have every right to work out on the same type of equipment in that facility as opposed to going to a separate area of a facility where they get an opportunity to use one or two pieces of equipment.

So, in closing, I'd like to say that unfortunately there has been no progress in the fitness industry to push these standards in this country.

Fitness manufacturers often perceive that having universally designed equipment is more expensive. That is not true. We have data to prove that. This equipment is not only beneficial to people with disabilities but it cuts across people who are overweight, older adults, a generation now who are going to need fitness centers and health clubs in order to maintain their health and decrease the healthcare utilization cost in this country.

So I would strongly encourage you to read the written statements that we are going to submit on behalf of the National Center on Physical Activity and Disability. There is no excuse any longer for a fitness manufacturer or for the fitness industry to exclude people with disabilities in their programs and services. Thank you.

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>> JOHN WODATCH: Thank you very much Dr. Rimmer.

I also hope that an issue maybe we didn't identify specifically enough in our rule that we would like some guidance on is not just the use of equipment by people with mobility disabilities but also how people with low vision or people who are blind can interact with exercise equipment would be very helpful.

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>> DR. JAMES RIMMER: We also have that in our statement.

>> JOHN WODATCH: Thank you.

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Our next commenter is Mr. Murray Fisher.

Mr. Fisher?

>> MURRAY FISHER: Movie theater captioning, why has this taken so long?

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In the late '90s, technology to caption first-run movies was being developed and demonstrated. In the early 2000s, I with my partners at personal captioning systems were demonstrating heads-up captioning glasses and small screen PDA displays at the user's seat for live theater and classrooms.

In July 2006, we captioned The Pirates of the Caribbean at the Pickwick Theater in Park Ridge, Illinois with captions displayed on wireless PDAs supported by flexible goosenecks at the user's seat.

The technology was demonstrated opening weekend, during regular viewing times on Friday and Saturday afternoon and evenings.

There were exit surveys and focus groups conducted with the cooperation of the International Center on Deafness and the Arts. 100 percent of the users said that the captioning display technology served their needs. 100 percent of those in the general audience said that they were not distracted or disturbed by the captioning.

The next year we demonstrated technology that had the potential to caption 10 screens of different movies simultaneously at a multiplex in Barrington, Illinois.

This technology demonstrated that discrete small screen captioning can be provided for every film at every showing in a multiplex.

Every movie, 35 millimeter, 70 millimeter, or digital has an embedded time code. Our technology pulled that time code and synchronized the studio-provided captions to the action on the screen.

The same technology could be used to synchronize video descriptors. For a few thousand dollars per screen film projectors can be retrofitted to make it possible to synchronize captions and video descriptors.

There is no need to wait for digital projectors costing \$70,000 to \$100,000 to be installed in the movie theaters.

The technology to provide 24/7 captioning on every screen is available now. There is no need to delay making movies accessible to those who need the accommodation.

I believe that the best approach is for the movie industry and our government to support an open platform technology to ensure that all theaters would provide the highest quality captions and video descriptors at all showings of all films regardless of their current theater equipment.

A device that is interfaced to the projector would broadcast a standardized open format signal that contained both the captioning and the video descriptors, making it possible for secondary manufacturers to develop and market display technologies.

It should be at the discretion of the movie theater management to install open captioning technology, Rear Window captioning technology or any other captioning technologies in addition to broadcasting the standardized closed caption signal.

A movie theater would be responsible for a few display units and any patron would be allowed to bring in their own display device that meets the set criteria.

This would also allow a movie theater to use open captioning at specific showings of the film when several in the audience request captioning.

While at all other times broadcast the closed captioning signal for small screen captioning users, therefore, providing the most important accommodation at every showing of every film.

Think of it like a car towing a boat.

It doesn't matter what kind of car is used. It doesn't matter what kind of boat is being towed. As long as the hitch is specific to the car but universal to the boat trailer.

It doesn't matter if the projector is film or digital, it doesn't matter if it is DTS, Doremi, Sony, THX, Kodak or Dolby. It doesn't matter if the captions are viewed from a heads-up glasses display, a PDA, an iPod or option captioning system projected on the screen or from a rear window display unit mounted on the back wall, as long as the data is always being transmitted in a format that is open and available.

Oh, yeah, and while we're here, why is there no mention in the proposed ADA rule changes to make other entertainment venues accessible?

Live stage performances, sporting events, tourist attractions. Chicago's own Victory Gardens Theater has provided captioning and video descriptors since 2000.

The technology to make every entertainment venue accessible to those who are deaf and hard-of-hearing or visually limited is available. There is no reason to wait any longer. This issue has been stalled long already. Thank you.

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>> JOHN WODATCH: Thank you, Mr. Fisher.

Next we have Adam Ballard who is the community development organizer for youth at Access Living of Metropolitan Chicago.

Mr. Ballard?

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>> ADAM BALLARD: Thank you.

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I'm here today speaking just as a person, not an expert on the issue I'm going to present, but a person who has used automated teller machines for a while and I am responding to question 18 under the APNRMs, however that goes.

Regarding the IT kiosks, again primarily ATM machines. I, right now, due to my disability -- every time I use an ATM machine,

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I have to rely on either an attendant who is with me or most of the time if I'm alone I have to rely on a stranger to help me use my card to access the machine.

And the reason for that is because at least at Chase Bank, where I bank, recently they have gone, in the last couple of years they've gone to a system where the card has to be inserted and withdrawn immediately in order to gain access to the machine.

Because of my limited mobility in my hands and arms I'm not able to remove the card quickly enough in order to access that machine. So far I've been lucky and the strangers I've relied on have all been trustworthy, but every time I do that it's a worry to me. Is this person going to take my card, take my cash when it comes out? Can I trust this person?

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It's a major challenge.

The other issue for me is the touch screen technology is not accessible to me because of limited use of my arms and hands.

So those are the two issues that I bring forward today with automated teller machines.

A couple of recommendations: I believe that -- I know there is technology where a card, a magnetized card can be tapped against, I'm not sure what it is, but I see it on transit systems where there is a reader or sensor.

The card to be tapped against. I think you see that in some checkout lanes as well, now. People can tap the card and immediately pay.

I think the same technology could be used with ATM machines to have a sensor that'd be low enough that we could tap our card against and gain access to the system.

Also, with the touch screen technology there's a way to enter in all of our data without having to use the touch screen through the keypad or maybe some kind of mouse system that could be used in order to access the information on the touch screen.

Again, this is an important issue for me because as a person who likes to be as independent as possible, I don't like to have to take someone with me every time I use an ATM. And I definitely don't like having to count on strangers, either, but that's the only option I have at this point.

So I do believe that this is an issue that would impact a lot of people. And to have these possible changes available I think would increase our ability to be independent in the community, which is a big part of the spirit of the ADA. Thank you.

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>> JOHN WODATCH: Thank you very much, Mr. Ballard.

I think that if the ADA has stood for one thing over its lifetime is that we're trying to avoid the kindness of strangers and providing independent access for people with disabilities.

We appreciate your testimony.

Next we have Amber Smock who is the Director of advocacy at Access Living of Metropolitan Chicago.

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>> AMBER SMOCK: Good morning. I'm here today to testify from my personal perspective as a person with severe hearing loss.

I was diagnosed with my hearing loss when I was three and began wearing hearing aids when I was four. I was mainstreamed in school and learned sign language in my 20s. My mother also wears hearing aids due to mild adult, late onset hearing loss.

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Both my mother and I use text and email a great deal and I rely on video relay service to make phone calls for the extensive outreach that I do as part of my job here.

I want to submit some written comments that answer specific aspects of the questions that you're asking but I want to provide a few general comments here.

The first is on movie captioning.

I know you've heard many, many, many comments on movie captioning, specifically to answer the question about the 50 percent by five years.

It is my understanding that you're looking to determine whether to require that 50 percent of all theaters shown in movies be captioned five years from now.

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I want to particularly note that I'm for theaters being able to show films with open captioning. So that's my vision of what five years from now should look like.

I think that closed captioning systems that serve individuals such as Rear Window are uncomfortable and only serve to propagate the myth of specialness.

The reality of society is we're diverse in our abilities to receive and process language. However, able-ism runs deep and hard in such a way that films are usually made on the assumption that audiences will be non-disabled. The world we live in should aspire to universal design that works for everyone. And that means open captioning as well as audio description.

Then not to mention that nearly 30 million adults in the United States have low literacy levels, and some of that actually does have to do with lack of access to the written word. So there are many schools in Chicago, for example, that lack libraries.

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As a consumer of visual media, I'm not particularly interested in waiting five years to file lawsuits to enforce a rule that half of films shown be captioned. Theaters have had 20 years' notice on this issue.

In addition, I find the idea of theaters selecting which films will be captioned very offensive. It's a form of censorship and opens the door to bias. What if we were to find that films that appeal to white audiences were captioned more often than films that appeal to people of color?

My personal recommendation is that 50 percent of films shown be captioned within three years and 100 percent within five.

I would advise theaters to hold the money they would spend on lawsuits and invest it in updating their projecting equipment.

My request on the shorter time frame in total compliance is based on the observation that it will take lawsuits to make this happen once and for all.

The other thing that I wanted to comment on was emergency 911. I was really pleased to see that you're very interested in finding out how to regulate the use of texting and other forms of fast electronic communications we get in relations to emergency response.

This is my preferred form of communication for reaching anyone quickly, especially since I'm often on the go and I'm not at my work desk or at home where I have access to video every day. So I do want to emphasize that folding in SMS text messaging is of particular importance because it is the cheapest form of communication available to many deaf and hard-of-hearing people.

Not all of us are able to purchase PDAs that would allow for video relay or Internet instant messaging, but a lot of people can more easily afford text messaging. And given the fact that many, many people with disabilities, including deaf people, live in poverty, the access to 911 should not be limited in a practical sense because of your income.

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Additionally, some people find themselves in emergency situations such as domestic violence where it's also inadvisable to speak aloud for risk of being heard and then harmed. So consequently I strongly support the idea that 911 centers immediately develop interim plans for responding to SMS texts from all kinds of devices. As I mentioned, I'll also have more in-depth comments electronically.

Thank you for your time and I look forward to your continuing leadership issues related to ADA access. Thank you.

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>> JOHN WODATCH: Thank you very much. Our next commenter is Ally Bain who is a patient advocate at the Crohn's and Colitis Foundation of America. Ms. Bain.

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>> ALLY BAIN: My name is Ally Bain, and I'm the Ally behind Ally's Law also, known as the Restroom Access Act. This legislation, which was first passed right here in Illinois in August 2005, states that anyone with specific diseases must be allowed access to a retail store's employee-only restroom.

I come before you this morning on behalf of the Crohn's and Colitis Foundation of America as an advocate for patients with restroom access needs, which we believe similar regulations be adopted through the Americans with Disabilities Act.

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The ADA has helped to highlight the reality that many people across the United States suffer from disabilities which often quiet their voices. I encourage people with disabilities to use their voices to gain the rights that belong to everyone, including the right of access to employee-only restroom.

I know what it is like to need the use of a restroom -- and fast. When I was 11 years old, I was diagnosed with Crohn's disease, an immune disease that may affect the entire digestive tract.

It is estimated that there are 1.4 million Americans who suffer from Crohn's disease and its sister illness, ulcerative colitis.

Among other symptoms, these digestive illnesses can cause the urgent need for a restroom.

Flare-ups and mismanagement of medical care caused me to miss school because I was at home sometimes going to the bathroom 40 times a day. Each day was unpredictable and I never could have imagined what would happen to me just three years later.

When I was 14, my mom and I were shopping at a retail store when I realized I needed to use the restroom or else suffer from having an accident in the store. When we begged the store manager for permission to use the employee-only restroom, he denied our request. Claiming he was making a managerial decision, he continued to deny me access as I was crying and bending over in pain.

Unfortunately, time ran out and although no one knew about my accident, I felt ashamed, humiliated and helpless. Leaving the store in defeat, my mom promised me that this would never happen to me or anyone else again.

I agreed that we needed to correct the social injustice, and so we called Illinois State Representative Kathy Ryg, who I had met just two months earlier while on an eighth grade class field trip to the Illinois capital.

Within months, I was helping Representative Ryg to write a bill that stated that anyone with a medical emergency must, such as inflammatory bowel disease or diabetes, must be allowed access to a private restroom.

In 2005, Representative Ryg, my mom and I testified in front of a judiciary committee in support of the legislation. It passed unanimously through the committee and also through the Illinois House and Senate. The Restroom Access Act was signed into law and Illinois was the first to do so.

Since then, I have been a liaison for people in other states who have been interested in passing the Restroom Access Act.

Due to the efforts of people around the country, the law has passed in 11 other states, including Minnesota, Texas, Kentucky, Tennessee, Colorado, Ohio, Michigan, Washington, Oregon, Wisconsin and Connecticut. It is pending in many more. But there are still many patients who need help.

People around the country still experience the humiliation of not having access to a restroom. People still feel helpless when they are unable to alleviate their pain.

Many of them believe their only solution is to stay away from public places whenever possible.

There are still people throughout the country who are not ready to use their voices to ask for this equal access and opportunity. So individuals and organizations must represent them.

The Crohn's and Colitis Foundation of America is one organization that speaks for the voices of many, and I am proud to be here to represent this organization and its purpose of improving the lives of others.

I encourage you to join in this culture of empowerment and in the belief that we can make an impact by including our proposed rules as ADA regulations that will allow for greater restroom access for people with disabilities. Together we can make a small change in the law that will make an enormous change in the lives of millions of people.

Thank you.

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>> MAZEN BASRAWI: Thank you, Ally for your testimony today. I have a question. How old are you?

>> ALLY BAIN: 20.

>> MAZEN BASRAWI: You're 20. So you were a teenager when you had originally testified.

>> ALLY BAIN: Yes, I was 15.

>> MAZEN BASRAWI: I really want to thank you for your testimony today and commend you for your courage and leadership in this area. It's young people like you who are the future of our movement.

>> ALLY BAIN: Thank you.

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>> JOHN WODATCH: Thank you. And next we will have Carolyn Mueller, if I pronounced that correctly. Muller, I apologize.

Carolyn Muller, who is the manager of fitness services at the Helen M. Galvin Center at the Rehabilitation Institute of Chicago. Please proceed.

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>> CAROLYN MULLER: Yes.

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My name is Carolyn Muller; I'm the manager of the fitness services at Rehab Institute of Chicago.

We have a fully accessible fitness center. We opened in 1996.

We provide an arena for individuals of all ages, backgrounds and levels of disability to develop their own physical potential.

Currently we're serving about 1,000 active, physically disabled participants. And including with that is specialized classes and programs for people with different conditions.

But today I would like to address the importance of having accessible fitness equipment in a gym setting. Fourteen years ago when we first purchased our accessible strength training line, there was really only one main manufacturer. There are now more accessible lines from different manufacturers and the cost of each piece of equipment is really not that much different than non-accessible equipment.

Accessible strength training equipment can be used by both individuals with disabilities and those without. They have seats that can either swing away or fold up, making them wheelchair accessible. They also have easy-to-use pins to change the amount of weights that they would like to lift, and some machines even use air resistance in place of weights.

Accessible strength training machines can range from about \$2,000 to \$4,000, which is actually quite comparable and sometimes even less expensive than non-accessible equipment.

There are also cardiovascular equipment that is more accessible. Some pieces have swivel seats to make it easier for individuals to transfer in and out of.

Having equipment for both seated and standing users of course is very important. We have several recumbent bikes with a seat can come entirely off, making it wheelchair accessible. So an individual in a wheelchair can easily pull themselves up and use the bike as well or use it as a hand bike.

Also, treadmills can be purchased and programmed to start at a very low speed. Most treadmills start at about .5 to 1.0 miles per hour, but there are treadmills that can start at .1 miles per hour. However, they can still go just as high as other treadmills in a regular fitness facility.

Therefore an individual -- also, for individuals with visual impairments, there is equipment that has raised buttons on them, as well, so it's easier for an individual to feel for the start button, the stop button, the incline or the speed, also increasing their independence so that they don't have to rely entirely on somebody else helping them with programming.

Seeing that accessible equipment is affordable when compared to non-accessible equipment, it is to my belief that all fitness facilities could in fact be equipped with equipment usable by both ambulatory and non-ambulatory participants. Furthermore, this could also increase our gym membership, clientele and participation by serving this growing population.

We want to be able to increase inclusion and access to health and physical activity for people with disabilities. Not only is this so that they can have an equal opportunity to work towards their goals, but for many people with disabilities, exercise is essential to manage their condition. Not to mention that having accessible lines within fitness facilities would assist in increasing awareness of this population and educating all of us on how to interact with a person with a disability and also to help reduce that intimidation factor of exercise in general.

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Everyone of course deserves the right to work towards their own potential and should not be denied this opportunity because their local fitness or recreational center does not have the equipment available to them. This is our opportunity to serve the whole population instead of just a portion of it so that the question of where to go after let's say being discharged from therapy will bring up a wide list of options to choose from instead of only a few.

In summary, reducing the barriers to participation will only help to build upon a stronger community where all of us can work together to reach our full ability. Thank you.

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>> JOHN WODATCH: Thank you very much. Our next commenter is Andres Gallegos, who is an attorney with the office of Robbins, Salomon, & Patt. Mr. Gallegos.

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>> ANDRES GALLEGOS: Good morning, I have a PowerPoint presentation to accompany this.

Thank you for the opportunity to testify before the DOJ.

Our firm is involved in a project with Access Living and Equip for Equality to improve access to medical services for persons with disabilities at hospitals in and around Chicago.

As part of this project, we have been interviewing individuals across all types of disabilities to learn of their experiences accessing medical services.

As you can see, I am spinal cord injured and have been for 14 years. It is through my personal experiences and experiences of others that we have come to know through our healthcare access project that have prepared these remarks. Next slide.

There is only one issue that I want to address this morning, and that is clarity. Specifically, the need for clarity as it pertains to the lifting of patients and in guidance relating to accessible exercise equipment. Next slide.

DOJ issued guidance to health care providers on access issues versus mobility disabilities earlier this year. The guide, while addressing the need to have lift equipment available, did not provide specific guidance for providers with respect to lifting of patients, specifically when lifting would be permitted and under what circumstances.

Clarity is needed to reflect that lifting should only be permitted when the patient requests to be lifted and when the provider has staff trained to lift the patient safely.

Otherwise, all transfers of patients should be conducted through the use of lift equipment.

Further clarity is needed so that providers understand that the offering to manually lift a patient, if not accepted by the patient, does not absolve the providers of their Title III obligations to provide full and equal access. Clarity on these issues is needed now, and it should not wait for your rulemaking process to run its lengthy course. Next slide.

With respect to guidance relating to exercise equipment, I want to point out that language matters. In the Title III final rules just released, in its commentary to accessible route to exercise machines and equipment, the DOJ states that the 2010 standards requires an accessible route to serve accessible exercise machines and equipment.

That is both general and ambiguous. Is it instructive to the fitness centers that they should merely provide access to whatever exercise equipment they may offer, or is it instructive to shape and control which machines and equipment may be offered? Much to the dismay of persons with mobility impairments who use

wheelchairs and their advocates, the answer was provided further in the commentaries as follows. Next slide.

Here the Department did not require the fitness center provide accessible equipment and machines, but merely that it provide a clear route and sufficient space for a wheelchair.

And the Department expressed its belief that this was an appropriate balance to provide persons with disabilities, particularly those who use wheelchairs, the same opportunity as others.

Well, it does not. It is the equivalent of a bridge to nowhere. What it does provide is the license for facilities to continue to discriminate. The language and guidance creates confusion and contributes to the existing of our mental barriers at fitness centers that exclude persons in wheelchairs who cannot independently transfer or stand to obtain full participation.

It is the absence of clarity on this issue that is prolonging the access problems that people in wheelchairs must confront. Next slide.

Clarity is critical in this issue as persons with disabilities, in particular persons with mobility impairments, have a great propensity to develop obesity, Type 2 diabetes, osteoporosis, high blood pressure and heart disease, most of which can be managed through exercise.

It is also critical to meet a stated goal of the U.S. Surgeon General in its 2005 call to action, that is, persons with disabilities can promote their own good health by developing and maintaining healthy lifestyles. It is more difficult to develop or maintain a healthy lifestyle without access to accessible exercise equipment.

In 2008 the Health and Human Services developed physical activity guidelines for Americans to include fitness guidelines for individuals with disabilities. In its implementation provisions, it points out that those guidelines may only be achieved through communities and facilities complying with the ADA.

HHS gets it. Why doesn't DOJ? This is too critical an issue to be left as it is. Accessible machines and equipment must be made available. Clarity is needed. Thank you.

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>> JOHN WODATCH: Thank you very much. We appreciate your comments. And next we will hear from Mr. Kelly Pierce.

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>> KELLY PIERCE: Hello. Thank you very much. I have come here today with the experience over the last decade and a half of working on a number of ADA-related issues, including some of those being addressed in the ANPRM. Specifically, I worked with Bank One in creating one of the first settlement agreements on website accessibility. Bank One in 2004 merged with the J.P. Morgan Chase and became one of the country's largest financial institutions.

Website accessibility has been around for a long time. And I would encourage the Department to consider the issue of international harmonization because currently if we look at what was the G7 nations, the majority of G7 nations have some kind of policy in place regarding website accessibility. Particularly the European Union, the UK, Japan and of course, the United States.

The World Wide Web Consortium has an active means of developing that and creating another standard or focusing on simply the federal government's standard does not recognize, for example, that many transactions are conducted internationally and, frankly, many United States corporations are international in scope and work in a number of countries, and their websites and their web presence frequently reflects, and their web operations reflect these international operations.

Without international harmonization, such as through the World Wide Web Consortium and using the web content accessibility guidelines, we would end up with fractured regulations and perhaps difficulty meeting basic accessibility needs for people with disabilities.

So it is important for the Department to consider using already existing guidelines and standards rather than suggesting ones additional, including standards that are already used by a number of states, including this one here in Illinois which uses the web content accessibility guidelines in the World Wide Web Consortium. So considering other standards like the 508 standard or something else is maybe inappropriate.

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In addition, those states also use AA standard, not just A standard, of the World Wide Web content accessibility guidelines.

I would also like to point the Department's direction into the time frames involved in both website access and movie theater access. They propose certain timeframes for providing accessibility or based upon certain criteria.

It should be important that, particularly for website accessibility that there be a single uniform standard to prevent confusion. The ADA already has a provision called undue burden for auxiliary agent services under which things such as

website accessibility and movie theater accessibility and other kinds of auxiliary aids and services would fall under.

That undue burden standard would find something, for example, a five-year time frame for some organizations to be too little.

And maybe to extend that time frame as was mentioned by the movie theater industry.

On others, it may be substantially too much. And some of the largest companies, including one that testified here earlier this morning, has enough cash to, frankly, buy up another theater movie chain as they did in the last year. And so to say that they need more time is silly when the movie theater industry has been sued for the past decade on captioning and audio description and now the claim that they need more time seems a bit odd when the ADA already has a provision for undue burden for analyzing what is appropriate time frames for each entity.

So I would consider the Department to consider those issues in issuing regulations. Our community, people with disabilities, have waited too long. And everyone says for access, as Marcus said earlier, later sometime, in the future, at some point we will do it.

Well, for many years they've been sued and they haven't on a number of industries, including those under regulation today.

Thanks so much for listening to my comments.

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>> JOHN WODATCH: Thank you, Mr. Pierce. We appreciate your comments. Next we'll hear from Melissa Picciola who is a staff attorney with Equip for Equality.

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>> MELISSA PICCIOLA: Good morning. My name is Melissa Picciola, and I'm staff attorney for Equip for Equality.

Equip for Equality is an independent not-for-profit organization designated by the governor in 1985 to administer the federally mandated protection advocacy system for people with disabilities in Illinois.

Equip for Equality's mission is to advance the civil and human rights of people with disabilities, and this is accomplished through self-advocacy training and technical assistance, legal services, abuse investigations and public policy initiatives.

I want to thank you for the opportunity to testify regarding revisions to the regulations and changes to help public safety answering points, also known as PSAPs, accept communications from individuals and the accessibility of next generation 911.

Some of my colleagues will be testifying later regarding the other topics and we will be submitting more detailed written comments at a later date.

Equip for Equality is in strong support of modifying the existing regulations and adding additional regulations in order to ensure that individuals with disabilities can effectively communicate with 911 call centers in the event of an emergency. As the Department of Justice recognized in its Advanced Notice of Proposed Rulemaking, there have been significant changes in telecommunications since the regulations regarding access to PSAPs were published in 1991.

There have been significant advances in technology; and as a result, individuals with various disabilities use a variety of devices and a variety of methods in order to communicate. The ability to communicate using this technology largely makes it possible for individuals with disabilities to live independently.

Individuals who are deaf and hard-of-hearing, as well as individuals who have speech disabilities or cognitive disabilities, rely extensively on text, video and data devices for everyday communication. These same devices would be used to communicate with PSAPs in the event of an emergency.

The current regulations, which only require 911 call taking centers to have the capacity to accept calls from individuals using analog text telephones or TTYs, fail to take into account the vast changes in technology and correspondingly do not provide equal access to individuals with disabilities.

Equip for Equality strongly supports changes to these regulations, which will ensure that call centers can accept messages and effectively communicate with individuals with disabilities. We are in agreement with the fact that the goal should be to have an emergency network that will enable the general public as well as individuals with disabilities to send a message regarding an emergency, via voice, text or a video from wired or wireless devices and directly communicate with personnel at the PSAP.

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As the Department of Justice formulates regulations in order to achieve this goal, it should be mindful of the fact that the ability to communicate with public safety officers in an emergency is an essential safety issue for individuals with disabilities. Knowing that individuals will be able to seamlessly communicate

with a PSAP will allow individuals with disabilities to continue to live independently and help ensure their safety in a variety of settings.

In addition, it must be recognized that any delay encountered when an individual contacts a PSAP may be life-threatening in an emergency; therefore, the regulations developed by the Department of Justice should minimize the allowance of third-party relay or other routing and instead require that PSAPs have the capability to directly accept calls from individuals with disabilities.

In an emergency, seconds can often be crucial. And they should not be lost because of the inability of the PSAP to communicate with an individual with a disability. Related to this is the idea that specialized training be required to ensure that in the event of an emergency all staff of the PSAP know how to handle a call or message from an individual with a disability.

This should include not only technical training on how to accept a call from an individual who may be using a specialized device or method to communicate but also on appropriate etiquette when communicating with an individual with a disability and the possibility that the individual may need additional or specialized assistance and how to alert public safety officers of that fact.

Given the importance of this issue, Equip for Equality believes that the new regulation should be in effect as soon as possible, but in any event compliance should be required within six months. While we are mindful of the fact that PSAPs throughout the country are transitioning technology to Next Generation 911, we must also be aware that much of the technology for communicating via alternative methods already exists.

Furthermore, other countries and other parts of the United States are already using 911 call centers which accept SMS text.

Thank you very much for allowing us to give our perspective on ensuring equal access to Next Generation 911 for individuals with disabilities.

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>> JOHN WODATCH: Thank you very much. We appreciate you taking the time to comment. Our next commenter is Bill Graham, who is a co-founder of the Association of Late Deafened Adults. Mr. Graham.

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>> BILL GRAHAM: I co-founded that group in Chicago in 1987.

And it now has national and international chapters.

Realtime captioning is the foundation of all of them, as people who become deaf as adults have no other common way of communicating collectively.

Few deafened adults know sign language well; few are skilled lip readers and most of us do not benefit enough from assistive devices to hear in a group or at a public event.

ALDA was the first organization to have a conference with open realtime captions and that was in 1989. Since then, every deaf and hard-of-hearing organization that I know of includes open captioning as part of their conferences and large gatherings.

The benefits of captioning are pretty straightforward, not only for deaf and hard-of-hearing people but also to hearing people in many situations.

Personally, captioning is an anchor of my life. With it I can enjoy television with my wife and two kids and my friends.

It's helped me have a successful career in which I actually say intelligent things at meetings once in a while. And without captioning, my life would be a different story.

When I was in grad school long ago and losing my hearing, I failed to pass my oral exams largely because I misunderstood what some people on the orals committee asked me. It was a traumatic experience and I never did recover and get my master's degree. I was a different person back then, pretty much paralyzed by my sudden inability to hear. And I just never recovered from that. If I had captioning back then, I'm pretty sure I would have an M.A. on my résumé now.

But the Internet threatens to undo much of the progress that has been made for millions of people like me. A lot has done to level the playing field for deaf people through email and social media. The web is rapidly becoming an unaccommodating place in one critical regard, and that is the lack of captioning through web video content.

I don't just mean all the short and amusing videos on YouTube that provide entertainment, although not understanding them can certainly be frustrating. Of far more importance is the absence of captioning from things like webcasts and webinars and podcasts, all of which are proliferating like rabbits.

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Online video broadcasts now are used in a great variety of venues and cover every imaginable topic. Some businesses specialize in online academic courses that include webcasts that are inaccessible to deaf and hard-of-hearing people. I

communicated with one the other day and was told that if I provided a note from my doctor or employer testifying to my deafness two weeks ahead of time, they would give me realtime captioning for their on-site courses but not for their online courses. And I found this to be bewildering. This was a fairly good-sized educational company. Smaller businesses or individual webcasters are even less accommodating.

Perhaps even more ominous are webcasts, or webinars related to employment. To get ahead in your job, you can take online workshops on management, IT, business writing, you name it, but you won't find many that are captioned. For deaf and hard-of-hearing people, this means getting behind in our jobs, not getting ahead.

Some people say to me what about Google's automatic captioning for videos on YouTube? Doesn't that solve the problem? Well, these people wouldn't ask me that if they ever watched one of those videos. The writing is on the wall; it is very clear. Unless video, online videos are made accessible through quality captioning, deaf and hard-of-hearing people face an increasingly severe competitive disadvantage in the workplace and in education.

This is not a good situation. This is a bad situation, one that is already impacting millions of deaf and hard-of-hearing people and will impact many more very soon. Therefore I urge the government to adopt strong regulations mandating the captioning of online video content; it's already getting too late.

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>> JOHN WODATCH: Thank you very much, Mr. Graham. Our next commenter is Mark Williams who is executive director of the Chicago Business Leadership Network. Thank you for being here.

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>> MARK WILLIAMS: If I might make a correction. I'm executive director of Disability Works. Disability works is home to the Chicago Business Leadership Network, which is a member of the United States Business Leadership Network.

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I'm here to talk today about website access. I understand that Titles II and III of the ADA do not necessarily address the employment issues of which my work is concerned; however, I'd like to offer today an example of the Illinois workNet website portal, which the Illinois Department of Commerce and Economic Opportunity has developed for people with all types of disabilities in mind.

The site provides information for people on local Illinois workNet centers and other organizations that provide work readiness and career planning for placement-related services for people with disabilities. The overall goal of the Illinois workNet portal is to create web content that meets the needs of all users and is accessible to the broadest possible range of users by being compatible with a wide range of assistive technologies.

In an effort to address these needs, the standards to which web content is developed in the Illinois workNet portal are based on the amendment to the Workforce Rehabilitation Act, Federal Section 508, the World Wide Web Consortium, W3C, and the Illinois Information Technology Accessibility Act.

To maintain workNet's accessibility, all new website development is tested using accessibility validation tools and software such as Jaws, Screen Reader and Zoom Text Screen Magnifier. Annual usability and accessibility studies garner user feedback and ensure web pages work with assistive technology.

Processes are also in place to take information from annual studies, surveys and other feedback collection methods to inform site updates to enhance usability and accessibility.

The site's disability resources pathway helps adults and youth to go from disability benefits to school and to work.

For low literacy and people with a cognitive disability, web pages for individuals are written at approximately a fifth grade reading level.

Browse Aloud is available to all website visitors. Browse Aloud reads web pages out loud and can help anyone who has difficulty reading online including people with mild visual impairments, low literacy, English as a second language or learning disabilities such as dyslexia.

I'd also like to say that Disability Works receives many requests from the business community. We're housed at the Chicagoland Chamber of Commerce and a major part of our work is helping the private employer community become more disability friendly in its workplace, marketplace and supply chain activities like the Business Leadership Network.

I'd also encourage the panel to develop standards and guidelines that are easy to understand and that are themselves accessible. And I would like to encourage the panel to consider the concept of universal design in the development of its guidelines, as well, and to engage creatively in thinking how the very same concepts that make this building so friendly and attractive could possibly be incorporated into the intent that's behind the rules that you're developing.

And I'd also like to encourage the panel to consider the benefit of using incentives to promote compliance rather than punishments.

And that's the extent of my testimony. Thank you very much for your time.

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>> JOHN WODATCH: Thank you very much. Our next commenter is Ms. Karen Putz.

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>> KAREN PUTZ: Thank you. Hello. My name is Karen Putz and I'm from Bolingbrook, Illinois. I'm offering testimony on behalf of TDI, Telecommunications for the Deaf and Hard-of-Hearing Inc.

I would like to talk about the movie captioning. My husband and I, we're both deaf. We have three deaf and hard-of-hearing children. And the five of us, we enjoy going to the movies, but it's very limiting for us. We have to drive a great distance and we're limited by the days and the times and the movies that are offered.

TDI welcomes and encourages innovation in movie captioning technology. TDI supports a mixed strategy of scheduling open captions showings plus the use of a system where patrons can view closed captions at any time in any movie theater.

Any consumer equipment that is used by patrons should be easy to use without any strain to comprehend the captions while watching the movie.

TDI also would like to comment about website access. Quite simply, we want to make sure that all videos are captioned and accessible on the web. Companies that offer online support to customers through using voice conversations should also provide it with text. It needs to be accessible to us, too.

Any time auditory information is presented, we want to provide visual information, as well, that's accessible.

Last I would like to talk about access to the Next Generation 911 services. TDI supports the system where deaf and hard-of-hearing people will be able to have equally reliable, direct access to public safety services through voice, text or video.

Maintaining indirect access to emergency assistance through relay services should remain a viable option if the direct access is not available. Thank you.

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>> JOHN WODATCH: Thank you very much. Our next speaker is Ms. Jacqueline Thomas. Ms. Thomas?

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>> JACQUELINE THOMAS: How you doing. Yes, my name is Jacqueline Thomas. I am a staff associate here at Access Living. I am also a peer mentor for the Empowered Fifis. I would like to make my comment today on accessible equipment and furniture.

As a person with a disability, I was born with cerebral palsy in 1988. As a person with this disability, it can be considered to most people non-visible. And for my disability, I have a very hard time having accessibility because everyone thinks -- some people think that accessibility is just accessible doors.

Well, for somebody who has a non-visible disability, I've stayed at places like the Best Western or I go to a movie theater where the seats are too close and I can't stretch my legs as far as I would like to for them to be elevated so blood can circulate.

If I'm compacted closely, then I can't allow my body to breathe, which means that I'll get cramps or I'll get back pain.

So I would like it to be instead of one room being so compacted and so small where it's two beds and everything is so close together, there needs to be space. There needs to be room so that I can be able to walk around.

There have been plenty of times that I've tripped on the bed or I have to basically try to get a ladder in order to get on top of the bed or I fall off trying to get off the bed because it's either too high or too low. So I would like it to be accessible.

Like in the bathrooms, the shower is too high to get in. And then there are no bars outside the shower to hold onto so that you can step down. So I would like it to be accessible not only door-wise but space-wise. There is no space in places like the Holiday Inn or the Best Western or the movie theaters.

It's seat's right on your feet; I can't move or I can't have space in order to let my body breathe. So that's one of the complications that I have.

And so I would like to say that that's definitely something that needs to be changed. Disability is just more than that somebody using a piece of equipment like a cane or a wheelchair.

It's people like me who have a non-disability where somebody might think it's just a limp but it's actually CP. It may be a very mild case but it still needs to be accommodated. Thank you.

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>> JOHN WODATCH: Thank you very much. We appreciate you sharing your testimony with us and we'll take that to heart. You've raised some new issues that I haven't heard before and I appreciate you coming forward with them.

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>> JACQUELINE THOMAS: Thank you. No problem.

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>> JOHN WODATCH: Our next commenter is Nick Mokolke from Gemset Golf. How did I do with your name?

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>> NICK MOKELKE: Excellent. Took my wife 30 years to get that. Good morning. Thank you first of all. My pleasure to be here today, and I thank you for this opportunity to speak regarding these issues.

Gemset Golf manages and/or runs seven 18-hole courses in Chicago, four of which are at Cog Hill where I am the general manager; Pine Meadow in Mundelein; and St. Andrew's, which is in west Chicago.

We have long been sensitive to these issues and understand what we feel is a moral issue to serve all people. We have been proactive with regard to accessible golf carts, purchasing our first golf cart in 1996. We own three accessible golf carts.

And our neighbor right directly across the street, the Chicago District Golf Association, has an additional three carts.

There is also a golf course that's built at the CDJ, which is accessible and open only to people with disabilities and to kids. That's their format. People don't pay to play golf there. They actually play there for free. A regular person that wants to play golf can't get on. So it's kind of an exclusive club because it's dedicated to these two particular groups.

At Cog Hill, the carts, these accessible carts can be reserved over the phone or online by sending us email.

And we also try to promote these carts by having the carts displayed out with our regular fleet.

Our approach has been to pool these carts. Well, Pine Meadow and St. Andrews don't have carts; we transport carts back and forth to them and also to some of our neighbors, Silver Lake Country Club and some of our other neighbors, nearby neighbors, have the advantage of having our carts because to this point, the usage has been, quite frankly, disappointing. We had seven with three carts, we had seven carts that were actually used last year for this purpose, the purpose of playing golf.

In addition to those seven carts, our other carts we provide flags for people that want to be out on a regular golf cart and probably don't need the full extent of an accessible cart.

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And these carts are allowed right up to the edge of the green.

Some of the concerns that we have, number one, is for safety.

At this time we're not aware of any ANSI standards for these carts. And because of the nature of our business, the uneven surfaces that are traditionally inherent to the game causes us some concern.

So thank you. I want to just thank you for being here today and having a chance to address these issues and we appreciate your fine work. Thank you.

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>> JOHN WODATCH: Thank you very much. We appreciate your comments. Our next commenter is Terry Hanley who is with Kemper Sports.

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>> TERRY HANLEY: Good morning, and thank you for having us here today. We appreciate the opportunity. KemperSports operates five golf courses in the Chicago area. Three are private and two are public golf courses, The Glen Club, Royal Melbourne, and Hawthorn Woods. Highland Park -- those that are private -- Highland Park and Bolingbrook golf courses are our public courses.

As Nick mentioned, we have been extremely sensitive and proactive, as well, as a company. Over the past few years, KemperSports has ensured that each of these courses has an accessible cart available if such a cart is requested.

We have participated in a pooling of accessible carts and have been prepared to ensure that accessible carts are available upon a 24-hour notice by a guest.

We own a cart which is housed at the Glen Club and is available for all courses. Out of the five Chicagoland golf courses, we have had only one request for an accessible cart over the past two years. And to put that in perspective, on an average I think throughout all the courses, it's just a little over 100,000 rounds of golf per year that are played.

We have had numerous requests for flags. And we have had numerous guests with disabilities play our courses over the last two years. Other than the one request for an accessible cart, each of these disabled guests uses a regular golf cart with the appropriate flag and as you know this allows our guests and our staff to know that this guest is able -- these guests are able to access the course in all areas with that cart.

We have opted to use the pooling process for the accessible cart due to the high cost of the carts and the low usage at this point. Purchasing or leasing a dedicated cart for each course simply isn't needed and the pooling process has been sufficient to handle any demand.

Again, we appreciate the opportunity today and look forward to working with you.

>> JOHN WODATCH: Would you mind if I ask a question about the pooling process, since that had been an issue that has been discussed in the past? Does the weight of the accessible carts themselves hinder the ability to pool them and transport them?

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>> TERRY HANLEY: No. We have our -- each golf course has a vehicle that can go pick the carts up and bring them back.

And because we have a lot of courses that are within proximity of each other, it works very well.

>> JOHN WOODATCH: Okay, thank you very much.

>> TERRY HANLEY: Great, thank you.

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>> JOHN WODATCH: Our next speaker is Julie Clasen who is the Superintendent of Recreation at the Northwest Special Recreation Association. Ms. Clasen, please proceed.

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>> JULIE CLASEN: Thank you. Good morning. My name is Julie Clasen, I'm Superintendent of Recreation with Northwest Special Recreation Association. And we are comprised of 17 park districts in the northwest suburbs of Chicago. And we exist to provide outstanding opportunities for recreation to children and adults with disabilities.

I'm here today to bring up the issue of fitness centers. One of our roles with the park districts is to help with accessibility and to make sure that our park district facilities are accessible to all residents.

Fitness is important, as we know, for -- fitness centers are important for health and wellness of all residents. And one of the things that we're finding is that we're needing a little more clarity. What does "type of equipment" mean? As far as cardio, do we need -- if we have elliptical machines and we have recumbent bikes and if we have treadmills, do all of them need to be compliant, because they all represent a different type of cardio?

We're also looking for the number of accessible machines. If you're a large facility, what is the exact number of accessible machines that is needed in a facility?

We're also looking for some guidelines on accessible path.

We understand that there is a 36-inch pathway that's needed between machines, but in some facilities, if the room is small and it's a really small center, we need a little bit more clarity what the turning radius is as far as getting on and off the machines and also the path of accessibility.

So that's why I'm here today, to just ask the committee to consider some clarity for us as we help our park districts become accessible and as we promote the wellness of all residents in the northwest suburbs and being able to participate in these fitness centers. Thank you very much.

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>> JOHN WODATCH: Thank you. I think you've raised a couple issues for us. I think one way that we can proceed on that without going through the regulatory process in something that we do is develop what we call technical assistance documents, guides. And I think the kinds of questions you're asking call out for that kind of answer from us. And we will take that back to our offices and may, if you don't mind, be in touch with you as we think about those efforts.

>> JULIE CLASEN: I would be very happy, thank you. And you have some excellent guides in other things, so this would be one of those things that we would really appreciate. So thank you very much for your time.

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>> JOHN WODATCH: Thank you. Our next commenter is Benro Ogunyipe, who is the accessibility specialist for the Illinois Department of Human Services. And if I have badly misstated your name, please correct it for me.

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>> BENRO OGUNYIPE: Everyone mispronounces my name. That's fine. Yes. My name is Benro Ogunyipe, and I'm the accessibility specialist with the Office of Accessibility and Customer Support at the Illinois Department of Human Services.

IDHS Services is the largest state agency providing programs.

And we're able to maintain -- to have independence within the community. Our office assures accessibility is provided in compliance with the Americans with Disabilities Act.

I want to thank the Department of Justice for the opportunity to provide testimony. My testimony will primarily address issues experienced by persons who are deaf and hard-of-hearing in terms of communication access. My testimony represents my experience as an accessibility specialist and my personal experiences shared by individuals who are deaf and hard-of-hearing.

So what can the federal government do to enforce movie captioning for 28 million deaf and hard-of-hearing people in America who want to have the same benefit and equal opportunities to go to movie theaters? The movie industry needs to be responsible for providing open captioning at theaters to allow movies to be more accessible to people who are deaf and hard-of-hearing.

In the United States there are very few open captioning features provided in select movie theaters. It is never enough to be accessible to the millions of individuals who are deaf and hard-of-hearing and those with low vision.

As the ADA was written to provide equal opportunity, movies should be shown with open captioning. That means that open captioning should not be limited to on weekends, but also on weekdays, giving deaf and hard-of-hearing people and those with low vision more flexibility to watch movies the same way as hearing people do.

We are asking DOJ to amend the regulation to require the movie industry to provide open captioning accessible to deaf and hard-of-hearing people as an equal opportunity unless the movie industry can demonstrate an undue burden.

Now what can online movies and live streaming and online video description do to improve access in opportunities for deaf and hard-of-hearing people for the greater benefit of their interaction with web technologies? The emerging web technologies including online movies and live streaming are popular and have reached customers of all ages. However, many deaf and hard-of-hearing are left out of these web technologies.

TV networks and online movie vendors need to include accessibility for the 28 million deaf and hard-of-hearing people who want to experience the same benefit of online movies and web technologies. This includes companies online and also TV shows.

The examples under the popular website like Hulu.com and Netflix.com.

Deaf and hard-of-hearing people have been paying to subscribe to these services the same way as non-disabled people do; however, they receive less benefit because accessible -- the service is inaccessible.

How to make 911 -- the third question is how to make 911 more accessible to the emerging technologies currently being used by deaf and hard-of-hearing people across the country. When the ADA was enacted in 1990, it was hard to predict how future technologies would comply with the 1990 law.

There has been 20 years in between. When the ADA was enacted in 1990, it was mandated that all 911 centers be able to communicate via TTY or TTD to provide realtime access to 911 services to the deaf and hard-of-hearing people. Today, many TTY machines have been outdated and replaced with SMS text messaging technologies.

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In Illinois, state agencies, they use Next Talk to allow TTYs to be answered by using personal computers. These advanced technologies are being used mostly by people who are deaf and hard-of-hearing. However, many mobile phone technologies have not been effective or proactive with including 911 emergency calls being accessible to people who are deaf and hard-of-hearing.

So it needs to be -- and so with the mobile phone technologies, they need to include 911 accessibility.

Okay. I think that's it.

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>> JOHN WODATCH: If you have about another minute, that would be fine.

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>> BENRO OGUNYIPE: Okay, sure. And with SMS text services, and the same way voice calls. And with the 911 network, there will be instant messages. Okay, the interpreter lost his place. With the SMS text messaging technologies - - he wants this read exactly so I'm trying to follow him at the same time he reads.

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So we want the federal agency of the government to require accessibility in this program under --

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Okay, yes. We are all served when the federal government requires accessibility in projects that are under way.

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And we know --

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And with the FCC, Federal Communications Commission, to streamline access to health and human services.

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To the health and human services.

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And the same access for those who are deaf or hard-of-hearing has not been successful.

Similar 911 services, FCC would need to require access for persons who are deaf or hard-of-hearing within the 2-1-1 network calls to the U.S. Thank you.

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>> JOHN WODATCH: Thank you very much. We appreciate your testimony. Next we have Tom Harbison. Mr. Harbison, the floor is yours.

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>> INTERPRETER: Hi.

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My name is Tom Harbison. I'm deaf.

I'm the only deaf citizen here but I'm going to sign for myself here. I know that the captioning is here, but this is how I communicate daily.

Really, -- ADA has really opened up the world for many, many people. But there are still some things that need to be fixed, there are still some things that are missing. All services should be provided equally.

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Sometimes we have services, sometimes we don't have services.

I'd like to see this administration deal with language, and force all people to provide services the same way in the same method. For example, captioning in the movie theaters. I know that we have cable networks and they have captioning. I think the same should be true for the movie theaters.

Often we go to the movies and the captions are missing. We have to use video on demand to see something afterwards. But sometimes even in that situation, there's no captioning. We need to have captioning so that our families can watch the movies.

Sometimes -- well this might not relate to the ANPRMs, but, if we go to public museums, often we'll have tour guides or something. And there might not be an interpreter there or there might be a foreign language interpreter for somebody else.

But they'll have audio descriptive services for other people.

But sometimes there's not interpreters. So why don't they give me a script? That would be nice.

Or if they do give me a script, sometimes it's kind of hard to watch the tour and the exhibits, and if my glasses aren't on -- why can't we have something, even a machine, that we could look and see? But then again we have to consider lighting factor there.

I know that there's SMS availability in some of the airports.

But there's no captioning. Even emergency situations as we've been talking about in the airports. If I'm sitting there waiting for an airplane, and I see people - - maybe there's nobody in my gate area. What happened? Oh, well it's over at another gate. Or maybe there was some place else and I didn't realize this. The gate has changed, and then I'm in a hurry because I have to hurry and get there and make sure that I don't miss my plane. There's no captioning there. That would be helpful. That would be very accessible for people who are deaf.

Same thing with on the metro or the trains coming here. They have no, no accessibility issues there. There's no accessibility, there's no captioning. There's no way for us to know that we need to get off at the train and there's an emergency or something. How are deaf people supposed to know that? The captioning is a must in those situations.

Thank you so much for your time and listening to my testimony today.

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>> JOHN WODATCH: Thank you, Mr. Harbison. Our next commenter is Roger Claussen. Mr. Claussen?

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>> INTERPRETER: Everybody okay? Hi. I want to describe something that happens to people and something that has happened to some people here today.

Actually last week, we were doing an investigation related to movie captioning. I was in Milwaukee. And there was two blind people that were behind me from the state of Wisconsin that were there, as well. There was 46 plus movie theaters where we were.

And 422 films that were being shown. So add that.

Okay. Total count. Okay, we had -- 28 of them were shown all week that were captioned, that's it. That was 1.28 percent of these movies were captioned. That's sad. That is very sad.

We have -- the deaf community and the hard-of-hearing community have -- it's hogwash for us. I mean it's sometimes what we get. You know, the companies, the theaters and the cost money and there's many things to consider, but I honestly think it's bullshit. And we need to know. ADA's been around for 20 years, and I support all the things that have been done for the disabled communities. What Tom just said, that's just the iceberg. The accessibilities, we just need to do so much more for accessibility.

And as I did my little investigation, I found out about the captioning and the cost of the captioning. It costs \$35 per minute. That's it. Figure that into my calculations about the movies nationwide. That's only about half. 90 minutes times 35 is \$300,500 approximately. And if you think about having the machine, the cost of the machine, I think that's easy to do.

Millions and millions of dollars can be made by the deaf community, with the equipment that you buy, the actors get paid for these. Deaf people in the deaf community all around are really tired of this. We're tired of hearing, "Oh the movies will be captioned," or "The captioning is only offered at this time. They are offered only on Thursdays or 1:00 on Tuesday afternoons." Come on. What about Saturdays and Sundays when everybody else goes to the movie? "Well you can't. It's not captioned. Sorry. Schedule's full." That's ridiculous.

My family and I want to go to the movies. We want to be able to go to the movie when the movie is offered at any particular time and be able to choose just like everybody else what time we go and see captioned, all movies are captioned. It's not there yet. It's not equal. We have no equal access.

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The hearing people, I mean they can drive to the theater. Let's see, we're going to go, it might be a mile and a half away. Deaf people have to figure out, oh my goodness where is that movie theater? Is it over there? Oh it's -- people from Milwaukee said they drove 45 minutes to get to a movie theater that was captioned. That's just not satisfactory. It's not equal access again.

I hope that the FCC, DOJ everybody wakes up and listens to our concerns. We have the opportunity, we want the opportunity to enjoy the movies and to have them captioned. Thank you so much for your time.

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>> JOHN WODATCH: Thank you very much. Our next commenter is Marilyn Martin.

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>> MARILYN MARTIN: Good morning, my name is Marilyn Martin. I'm a policy analyst here at Access Living. I'm actually presenting the comments for Gail Kear, K-E-A-R, who is executive director of the Life Center for Independent Living in Bloomington, Illinois.

As a member of the deaf community, Miss Kear wanted to address three issues. With respect to movie captioning, Miss Kear states: "I have been disheartened

that multiple lawsuits regarding movie captioning seem to be negotiated and results sealed and they don't end up affecting movie theaters everywhere. I am a strong proponent of assuring that every movie, every showing, every theater must be captioned. I don't think that people who are deaf or hard-of-hearing and their families and friends should have to wait a long time or travel a long distance to watch a segregated, captioned showing.

I do understand that the general public should not have to look at open captions; however, there are several technologies out there, such as rear view captioning, that allow individuals to watch the movie with captioning without affecting the viewing pleasure of others in the audience.

The FCC must stop their practice of too freely granting exemptions for captioning requirements for television programming.

TV news must find a way to caption all TV news broadcasts.

They also need to find a way for captioning not to occupy the same space on the TV screen as emergency information about weather alerts, disasters and the like.

It's disconcerting to see that they are announcing the presence and direction of tornadoes, for example, but then you can't see where the tornado is. Captions also tend to block the news that rolls across the bottom of the screen.

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Many people are beginning to utilize Netflix movie streaming and similar services because they are less expensive than cable premium movie services and you have more choices to watch what you want when you want it. However, I'm told that captioning is only available for a small percentage of Netflix-streamed movies. They are selling this service to the public, and it needs to be accessible."

Regarding 911 calls, Miss Kear states: "My senator has met with every 911 call center in our four-county service area to assure that they know how to answer calls from people who are deaf using the communication technology most commonly used in the deaf community.

But who knows if every 911 call center has the same capacity? I would assume that 911 call centers have to pass some kind of accreditation or certification process. Perhaps that accreditation/certification criteria should include having the appropriate equipment for and demonstrated competence in using communication technology commonly used in the deaf community."

And, finally, regarding healthcare access issues, Miss Kear states: "We continue to see doctors refuse to provide sign language interpreters for patients who are

deaf. One local doctor refused to provide an interpreter for a patient who has a Medicaid card, and when informed of his obligation to do so, threatened to stop serving all Medicaid patients if forced to do so. We've battled this issue so many times. A better solution must be found."

Miss Kear thanks you for her opportunity to make these comments.

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>> JOHN WODATCH: We thank you for coming and we thank Ms. Kear for the comments. Our next commenter is Joel Sheffel. Mr. Sheffel.

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>> JOEL SHEFFEL: My name is Joel Sheffel. I'm the executive director of the organization called Website Supplied Access News Association.

It's most interesting how this organization was founded. Approximately 11 years ago, I came out of a nursing home. I had no idea: Where do I go? What services are available to me?

How have they changed? We founded -- I founded the organization in 2001.

In 2003, we created our website. Our website yesterday turned our 224,000th visitor to it. If we were not existing, where would these people get their information? We have over 960 posts which show information which we get from other organizations and their newsletters which tell of the services and programs which they provide.

There has to be more publicity of the websites which are out there so that people know: Here is where I go. It is amazing as I attend different functions and everything that it just is not known of these websites. It is not known of the programs they have. If we are going to improve Internet for persons with disabilities, we must improve the knowledge of people with disabilities.

And one thing which we must do is to have polite and correct language. There is no such thing as a disabled person. There is a person with a disability. What is the difference? You are saying person first. They cannot be called that epileptic person, that autism person. A person with autism, that's fine.

Because you have called them a person first. This has to be taken and made part of the regulations because otherwise, it is not going to be done.

I thank you for your time.

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>> JOHN WODATCH: I thank you very much, Mr. Sheffel. I think we have concluded the morning session of this hearing. I appreciate everyone who has come to testify thus far today. I think it has been a very enlightening morning. A number of new issues have been brought forward for us. We are going to recess until 1 p.m. and we will be back at that time. Thank you very much.

(recess)

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>> JOHN WODATCH: Good afternoon, everyone. Welcome back. We will now re-begin our hearings on public comment on the four advanced notices of proposed rule makings under the Americans with Disabilities Act.

We'll begin this afternoon with Judy Panko-Reis, who is the health access policy analyst at Access Living of Metropolitan Chicago. Please proceed.

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>> JUDY PANKO-REIS: Thank you. My name is Judy Panko-Reis. In addition to being a policy analyst at Access Living, today I'm here to testify on behalf of my work as a consumer of primary and reproductive health services for women with disabilities. I'm here to testify on behalf of work as a Robert Wood Johnson community health leader who has worked on healthcare access issues for people with disabilities for close to 20 years. This includes my role as executive Director of the Rehabilitation Institute of Chicago, Women with Disabilities Center, which was the only comprehensive health center in the country run by and for women with disabilities in partnership with rehabilitation medical providers.

In 2004, I was funded by the Robert Wood Johnson Foundation to write and publish a comprehensive white policy paper entitled "It Takes More Than Ramps To Solve The Health Care Crisis For People With Disabilities In The United States."

The paper focused on the urgent need to identify and to remove access barriers in the healthcare setting that prevented persons with disabilities from receiving quality patient-centered care. It was widely acclaimed by researchers, by clinicians, including the U.S. Surgeon General, the National Council For Disabilities and the Department Of Health And Human Services.

Today I'm here to offer recommendations in two key areas. The first is regarding the scheduling and admission process in the clinical setting as it relates to ADA accommodations. The second is the need for a rule that mandates a baseline of provider compliance in the health care setting that includes adjustable medical equipment and lifts as well as safe, trained lifting teams and a safe lifting policy.

My first recommendation is that the Department of Justice make a rule that mandates that health care providers include a question during the clinical scheduling or admission process that specifies and explains what accommodations are required under the ADA and asks persons if they require one or more of such accommodations: sign language interpreter, adjustable tables, et cetera.

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I believe this is a low cost, low-tech recommendation that will enlighten providers about their responsibilities in the healthcare setting to people with disabilities. At the same time it will educate those of us with disabilities about what our rights are when we go into the healthcare setting in a scheduling or admission process.

My second recommendation is that the rule be made that mandates a baseline requirement for mechanical lifts, adjustable examination and diagnostic equipment and a trained safe lifting team and policy.

All three of these alternatives need to be mandated to accommodate the wide range of disabilities that people have, number one. And also to be in compliance with the Americans with Disabilities Act.

I want to stress that the final use of using lifting equipment, adjustable equipment or a safe lifting team must be left to an individual with a disability who is competent.

To declare this recommendation, I do not advocate a zero lifting policy because of my belief in self-determination and the right of people with disabilities to choose from a range of safe, dignified choices comparable to the choices that we have in accessing a bus.

For example, we have a range of choices in Chicago. If we're able-bodied or nondisabled, we can use the steps in the bus, we can use hydraulic lifts if we use assistive devices or we can use the kneeling stairs. I believe that similarly we want a range of choices.

I strongly urge you to consider leaving the choice of access accommodations in the healthcare setting to the competent consumer, not the provider. Just as the choice of a safe, dignified option regarding the use of stairs, kneeling stairs or hydraulic lift is left to the consumer, not the transit operator. Thank you very much.

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>> JOHN WODATCH: Thank you. We appreciate your coming here today to share your comments with us.

Our next commenter is Paul Scher of Jordan Scher and Associates, Mr. Scher? Oh, I'm sorry. This is different.

It's Jered Wieland. I apologize.

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>> JERED WIELAND: Good afternoon. My name is Jered Wieland. I'm Vice President of Operations for Billy Casper Golf. I oversee the Midwest operation for our company which includes 34 golf operations basically from Mexico to Canada. I've been a member of the Professional Golfers Association Of America for 13 years, and I've been in the golf business for 24 years. I started when I was young.

I will refer to Billy Casper Golf as BCG for simplicity sake. BCG operates 121 golf courses in 27 states in America. And that actually makes it the second largest operator of golf courses in America.

Between possession of accessible golf carts and our partnerships with courses that have a pooling of accessible golf carts, we have been able to accommodate all requests for accessible golf carts at our facilities across the country with 100 percent being met this year. Golfers with disabilities are provided an accessible golf cart with as little as one day tee time. So it's a pretty quick turnaround.

BCG welcomes the opportunity to serve golfers with disabilities. And some of our courses actually serve as hubs for outreach programs, specially designed to bring people into the game that traditionally would not feel comfortable or would not be able to get into the game. Through website notices, on site materials and through staff training program, we actively promote the availability of accessible golf carts to our patrons.

And even with this strong commitment and effort, we still very rarely get requests for their use outside of a program. We have actually averaged this year less than one request for an accessible golf cart per facility for this season to put it into context.

In addition to providing accessible golf carts, we also create a liberal access policy for our conventional golf carts, which allows patrons to take those carts onto areas of the golf course that normally a golf cart would not be allowed.

This actually is used quite frequently and is a very good accommodation that meets the needs of a lot of golfers with disabilities that play our facilities. We

allow traditional carts to actually go on the green if needed, as well. So that is the major accommodation that we've actually been very effective with.

In the Chicagoland golf market, it is one of the largest golf markets in America. We operate 22 golf courses here. Twenty of those are on behalf of municipal forms of government, whether it's park districts, forest preserves, cities, states, what have you. So out of the 22 in this market, 20 are actually municipal facilities. And those clients of ours have as much of a commitment to providing accessible golf as we do. So it's been a very good working environment here.

There was actually a couple of speakers earlier with the Rehabilitation Institute of Chicago. Proud to say they come to our facilities to put on their programs at two of the facilities that we run in Chicago. We also host Sunshine Through Golf Special Olympics and other outreach programs intended to bring golf to those with mobility and other disabilities.

Chicago area golfers with mobility limitations, as I mentioned, have made great use of our liberal use policy for conventional golf carts, but despite the fact that we've been very proactive through information as well as having carts available and an easy access policy for those carts, they still pretty much collect dust.

There were a couple of speakers earlier that operate in this market. One of them actually got one of the first models of an accessible golf cart back in 1996. And as he said, they've been on the front end of this, and they still haven't had use for those carts much.

A question was posed. What is the best means of addressing the needs of golfers with mobility disabilities? The answer is to allow these golfers on to all playing surfaces, using a proven and tested four-wheel golf car that is known to be safe for driving on common areas on a golf course. Where that can provide an accommodation, where greater accommodation may be required for the golfer. These safe and proven golf carts can actually have hand controls and swivel seats installed on them.

If that's not sufficient, where a golfer may have a more significant disability, then use and access to an accessible golf cart would be the next logical step. Can I go a little longer?

>> JOHN WODATCH: Just a little.

>> JERED WIELAND: In terms of the question what are appropriate scoping requirements for accessible golf cars, safety, I think, is something that somebody mentioned earlier, but it's a serious concern with carts. So as long as they're deemed to be safe for a particular facility, we feel that that is a good accommodation that should be made. And we have plenty of experience and

empirical data that shows that we have met all of those requests, even though our facilities don't all have their own accessible golf carts.

So, in summary, just to put that all together, our company and our facilities have been very supportive of providing access to golf courses. I would like to say we're a leader in that regard as some of my counterparts were that were here earlier. But that doesn't necessarily require us to have accessible golf carts at every facility.

I didn't even get into the small business aspect of it as far as the difficulties in the golf market for individual course owners, and what that capital expense can be. But where there's a pooling of resources that can provide those carts in a short notice period, I think that that's a very reasonable accommodation.

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>> JOHN WODATCH: Would you indulge me a question or two?

>> JERED WIELAND: Sure.

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>> JOHN WODATCH: Do you have any sense why there is so little demand? Is it people don't know about it? Do you have any sense?

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>> JERED WIELAND: Well, I talked with one of my golf course managers this morning that has some of those accessible carts at her facility. She has only had one request outside of a specific program from like RIC. When the person was made aware that we had an adaptable golf cart, the person said, oh no, I don't want that. I just want to be able to take a regular golf cart up on the green, basically, which we were more than happy to make that accommodation if that's what they needed.

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I don't know why. I just know that the GEMSEC family has been innovative in golf for a lot of years. They came up and they commented. They were on the front end of this. They've got accessible golf carts, and they've just been sitting there pretty much unused for a lot of years.

You still need them for some people to participate, so we feel that you do need to have them or at least have access to them. But I don't know if you're considering making every course have their own. But it's a big investment that if your

neighbor course has one and they're willing to share, which the golf industry is very user-friendly in that regard.

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>> JOHN WODATCH: One other question. For the people who are using regular golf cars with flags, or however, do you have policies? We have heard of entities that have policies when there are wet conditions or allowing a certain number on the course at a time. Do you deal with those issues?

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>> JERED WIELAND: Well, yes, you do. Depending on how wet it gets. We had a really wet year in Chicago this year, so it wasn't too good for golf. But there are some days where we just don't allow golf carts on the course because it's just too destructive to the facility. It's still turf.

So if it's firm enough. And actually it's unsafe if it's really wet and slick out there depending on how severe the terrain or the facility is.

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>> JOHN WODATCH: Okay, thank you very much. We appreciate your willingness to come and testify.

Our next commenter is going to comment via the phone. We are expecting to hear from Ray Campbell, who is an adaptive technology specialist with the Chicago Lighthouse for People who are Blind or Visually Impaired. Mr. Campbell?

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>> RAY CAMPBELL: Thank you, good afternoon. I appreciate the opportunity to speak with you all today.

I am going to also give my comments in wearing two other hats that I wear, as president of the Illinois Council Of The Blind and also on the national board of directors for the American Council Of The Blind.

My comments today will address two areas: The area of website accessibility. That advanced notice of proposed rulemaking and the advanced notice of proposed rulemaking on the video description as it pertains to the Americans with Disabilities Act.

Regarding website accessibility, I believe it's very important that when the department promulgates rules for places of public accommodation regarding website accessibility that the rules express some very key points.

The first one is that a person using a website should be able to perform all of the functions on the website using a keyboard and therefore not requiring the use of a mouse. This is very important to people who are blind or visually impaired, particularly those who are totally blind that use screen reading technology because we do not use a mouse. We use the keyboard exclusively.

And there are occasions when we will go to certain websites. And while some functions are accessible, others may not be. So it's very important for us to be able to read the information, browse for products and services, order, pay for those products and services. And do all the other things that any Title III website would allow.

This has been a problem because when the ADA was passed 20 years ago, it could never have foreseen the explosion in the use of the World Wide Web. Now, it seems that if you don't have a computer, you're at a disadvantage.

Well, people with disabilities, and particularly those who are blind or visually impaired, are at a big disadvantage because websites to this point have not had to follow any kind of a standard. There are standards for making websites accessible. In particular I'd refer the Department to two such standards. Available 1 is at Section 508.gov. That's 5 - 0 - 8 dot gov. Those are the federal section 508 standards.

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The second one is from the World Wide Web Consortium, and that is at www.w3c.org/wai.

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Those will give some very good guidance as to what can and should be done to make websites more accessible.

Also, two particular problems people who are blind or visually impaired have with websites are in graphics that are not labeled properly and in the use of what are called CAPTCHAs. These are the funny squiggly characters that you have to type into a box in order to access certain websites.

It should be required that commercial websites have what are called alternative text or alt tags on every picture or image. These are tags that provide a description of what that image is. The second thing is that there must be an alternative way for people to access products and services where a CAPTCHA is

being used so that people who are blind or visually impaired including those who are deaf/blind are not shut out.

There are a number of ways this can be done. There are audio versions of CAPTCHAs that are available. You can also have ways where a person punches in a code or phone number, phone number calls back, gives you a code and then you are able to put that code in.

Regarding video description, I believe it's very important that movie theater chains across the country, under the ADA, be required to make a certain percentage of their theaters equipped with the video description equipment and equipment that allows for rear window captioning of movies.

If we only say that one theater has to be equipped with such equipment, that can be a problem because if you have a 30-screen theater, that's only one out of 30. It would be a better approach, in my view, that, say, maybe five or ten percent of those theaters have to have the video description. That provides more options.

I thank you very much for the opportunity to speak this afternoon. And I'd be glad to entertain any questions.

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>> JOHN WODATCH: Thank you very much. We appreciate your calling in to us today.

>> RAY CAMPBELL: Thank you.

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>> JOHN WODATCH: Our next commenter will be Linda Miller who is a domestic violence coordinator at the Schwab Rehabilitation Hospital. Ms. Miller?

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>> LINDA MILLER: Thank you for giving me this opportunity to address you today. As you just mentioned my name is Linda Miller, and I've been disabled since the age of three. So it's 53 years that I've had a disability.

On the professional side, you mentioned that I work for the Rehabilitation Institute of Chicago for 15 years and the last year I've worked for Schwab. I'm also a consumer advocate for disabled women in the healthcare setting.

I'm here today to testify on behalf of the zero lifting policy. And there's three things that come to mind when I think about that. It's being asked or being forced

to bring family members or friends with you for the sole purpose of lifting you onto the table for your examination.

Also, people with disabilities should not have to be subjected to unsafe transfers performed by clinical staff which could not only further injure the patient but the staff who are attempting to lift or transfer this patient.

And, finally, this lifting policy also places an unreasonable expectation for the facility to have adequate staff to perform this task. Oftentimes the patients cannot be lifted manually. The patient will be required to reschedule their appointment or given a lower standard of care by settling for a pseudo-examination in their mobility devices.

These are all three examples of things that I've experienced in my visits to medical facilities. I thank you. Is there any questions that I can answer for you?

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>> JOHN WODATCH: Thank you very much. We appreciate your testimony. Thank you for being here.

>> LINDA MILLER: Thank you.

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>> JOHN WODATCH: Next we will hear from Tony Olivero, with the National Federation Of The Blind. Mr. Olivero.

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>> TONY OLIVERO: Good afternoon. On behalf of the National Federation Of The Blind, the nation's oldest and largest consumer organization of the blind, I thank you for the opportunity to address some key issues we feel the Department should consider in updating the ADA regulations.

The opinions that I'm expressing today are not mine alone but are the result of the collective experience of the nearly 50,000 members of our organization.

In the 20 years since the ADA was written, the Internet has grown from a military and research network to an essential component of life in the 21st Century. A network providing instant access to shopping, education, and government resources was not envisioned when the original regulations were developed.

Today, websites are a fundamental component of participating in society.

Equal access to these websites is a civil right, and the continued inaccessibility of many of them is an infringement upon that right. As a technology specialist for the Federation, I encounter inaccessible websites on a daily basis. Many complaints that I receive are from blind students who are unable to access the e-learning platforms provided by their universities.

Blind students who want to get an education, enter the workforce and combat the nearly 70 percent unemployment rate amongst the blind are frequently stymied in their efforts to do so because they cannot register for classes, participate in online elements of classes, including discussion boards, submitting assignments, checking their grades. And in some cases reporting their presence in a physical classroom because developers have failed to follow simple accessibility guidelines that would provide a fully equivalent and accessible experience.

It is unacceptable that blind students are currently being denied access to the modern digital classroom. As a blind user of non-visual screen access technology, I encounter inaccessible e-commerce sites in my personal life as well. Oftentimes when I wish to purchase a plane ticket, I find that a developer has failed to label the text input fields that ask for information from me.

This means that my screen access product will tell me that a text field exists but not whether it is asking for my departure date or arrival city. Because developers fail to learn how to make their websites accessible, I am unable to, in a comparable amount of time to a sighted peer, make travel arrangements, purchase goods, register to participate in events, search for and apply for jobs, and conduct numerous other web transactions.

Having web development experience myself, this is particularly annoying because I understand how easily these problems can generally be remedied and that they take significantly small amounts of time to do so.

Despite a wealth of accessibility available, companies continue to release products that are inaccessible to the blind. It is essential that the Department release regulations guaranteeing website availability as a civil right.

We applaud you for taking this step and addressing the accessibility gap that undermines the original intent of the ADA and threat threatens the independence of blind Americans. The NFB urges the Department to adopt the World Wide Web Consortium web content accessibility guidelines version 2 to Level AA standard as the baseline for technical standard for web accessibility.

The W3C has developed the most comprehensive and well-organized guidelines that we've found. And they have taken substantial effort to ensure that the guidelines are technology-agnostic and will continue to be viable for years to come.

We would also like to emphasize that due to the fact that it is possible to follow all technical guidelines and still have a website unusable by the blind, that functional performance standard guaranteeing access to all transactions with substantially equivalent ease of use should also be provided on top of the technical standards.

We do have some concerns over some of the suggestions the department has put forth. Particularly the two-year time frame for implementing full accessibility. Given the number of tools and training resources available to assist in the remediation process, we believe that six months following the publication of final rules in the Federal Register is a more reasonable time frame.

We also discourage the Department from adopting existing government web accessibility standards as they do not provide the scope and full functionality available from the previously cited W3C guidelines.

Finally, we discourage the Department from accepting alternatives to a fully accessible website as being considered compliant. The NFB does not believe that alternative accessibility solutions offer a fully accessible experience.

Alternative solutions promote a separate but equal approach to accessibility and only provide a second-class access to information and functionality available to sighted users. Given the dynamic nature of modern websites and the ability to make nearly all content fully accessible, covered entities should be required to make their primary web presence fully accessible.

Thank you for the opportunity to speak today. I also have extended written comments available, and the Federation will be filing additional comments in January that we hope you will find valuable in the rule-making process.

>> JOHN WODATCH: Thank you very much, Mr. Olivero. If you have written comments you want to submit today, we will accept those, as well. Or we can just wait for the comments. But if you have something you would like to submit, you already have them to our hearing clerk. Thank you. We appreciate you doing that.

Next we will hear from Debby Kent Stein.

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>> DEBORAH KENT STEIN: My name is Deborah Kent Stein. I'm first Vice President of the National Federation Of The Blind of Illinois.

I wish to comment on the Justice Department's proposal to require movie theater owners and operators to have video descriptions on 50 percent of their movie screens beginning with ten percent in the first year and increasing by ten percent each year until the 50 percent goal is reached.

We believe that this sliding compliance schedule achieves the proper balance, providing accessibility for people with sensory disabilities and allowing sufficient time for movie theater owners to acquire the necessary technology and equipment. However, the final goal should be the 100 percent mark rather than the 50 percent mark, because the definition of a movie and the outlets used to watch that movie have been transformed.

All movies should include video description. The digital information age has blurred the line between information and entertainment. Today, there is little meaningful distinction between theatrical film releases, digital television and computer videos. Movies and videos are more ubiquitous than ever before. Standards of access should aim to include 100 percent of formats and outlets.

While the regulations are being developed, the NFB and its affiliates would like to make several recommendations. The Department should consider an exemption for small businesses. Small businesses hold a small portion of the market share, and the burden may be too large specifically for single-screen theaters.

We also accept the Department's plan to exempt drive-in theaters under the assumption that there is no known technology that would enable closed captioning or video description of drive-in movies. Should such technology become available, we urge the Department to revisit the drive-in theater exemption.

The Department should also consider a notification requirement. A notation included in movie postings on the Internet, by phone or in the newspaper would be sufficient notification that the showing will have closed captioning and video description.

A required disclosure is helpful for those people with disabilities when choosing a showing. The costs of an asterisk next to a movie title in a newspaper posting or a quick statement on a recorded phone message are negligible. By allowing flexibility in the type of notification, theater owners can tailor their notation to their style and budget.

We urge the Department not to require movie theater owners and operators to establish any procedure or method for directing individuals with sensory disabilities to special locations or staff for obtaining necessary equipment. The intent of closed captioning and video description is to allow blind and deaf moviegoers to have the same experience as the sighted and hearing audience. The requirement is to have the necessary accommodations, not to establish a procedure for delivering them.

Each deaf or blind individual should be treated as an independent customer with the responsibility to ask for assistance or the equipment for watching the movie

as needed and desired. In addition, we urge the Department not to distinguish between closed captioning for the deaf and video description for the blind in the final regulation. The regulation should require the same number or percentage of movies with video description be exhibited as required for movies with captioning.

Although there may be more deaf or hearing impaired people in the country, these accommodations are meant to meet the needs of people with even the lowest incidence disability. The regulations should also include a training requirement for movie theater personnel. They must be able to operate any captioning and video description equipment in order to ensure compliance with the law.

However, detailed requirements of how movie theater owners and operators provide that training should be left to the discretion of the employer. The costs and burdens of implementing such training are negligible. Considering the training is already required for most employees in any position. Being able to operate the equipment will just be one of many skill sets required to perform the job.

The National Federation Of The Blind is optimistic about the Department's intention to require video descriptions in movie theaters, and we hope that the proposal will be revised to include a goal of 100 percent compliance with the requirements.

We look forward to working with the Department, movie and video producers and movie theater owners and operators to ensure that disabled patrons are accommodated, and that change in technology is properly reflected in the law.

Before I close, I would also like to comment on questions posed by the Department regarding accessible medical equipment and technology.

Medical equipment used for treatment and non-diagnostic purposes is routinely inaccessible to blind people. We urge the board to broaden the scope of covered entities when adopting standards of accessible medical equipment. Blind people need to be able to access their medical information safely, privately and independently. Yet prescription medications are labeled almost exclusively in print. Print is also used almost exclusively in attached instructions, warnings and descriptions.

Technologies have emerged that would make prescription labels accessible to blind customers, but many pharmacies choose not to purchase this technology. Furthermore, the overwhelming majority of insurance providers refuse to cover this service, including the centers for Medicare and Medicaid services.

Title III of the ADA specifically addresses the responsibility of pharmacies to modify practices and communication with people who are blind by providing them with effective communication aids that are equal in access, not minimally adequate. Yet these technologies are still not being utilized.

In addition, a large number of blind people are also diabetic, yet most glucometers are not accessible. The burden of finding and paying for an accessible glucometer lies with the patient. This seriously compromises a blind diabetic's independence and poses a threat to his or her health. It is imperative that diabetics be able to assess their blood sugar and insulin levels quickly and accurately.

A blind person cannot do this with a digital or electronic glucometer unless it is equipped with non-visual output. Glucometers, like most other electronic medical equipment, are an essential tool for survival and disease maintenance. Yet there are no standards of accessibility for this type of equipment.

The National Federation Of The Blind strongly urges the Department to develop standards that will ensure non-visual access to this type of medical equipment and include those standards in the proposed regulations.

The problem of inaccessibility extends further into rehabilitative and exercise equipment. The greatest difficulty for blind people who access this equipment is the ability to independently operate the controls and settings of machines. Because flat screens and digital displays have replaced manual tactile methods of adjustment, many treadmills or elliptical machines cannot be operated independently by blind people. A simple, speech output technology could provide blind users with the independence that they need at little cost to the manufacturer. There are currently no accessible alternatives that can allow a blind person to independently turn on and adjust the settings for this type of equipment.

The Department has asked for guidance about the accessibility of electronic and information technology, EIT, including kiosks. And what considerations should be made regarding the uses of EIT and kiosks.

There is a rapidly growing proliferation of kiosks in service settings, replacing traditional customer service personnel in a wide range of services. These include jury service payments, voting, healthcare, library services, and obtaining building permits. Currently, no kiosk other than an ATM is required to be accessible. And most are completely inoperable by a blind person.

The access board is considering adding kiosks to the ADA accessibility guidelines, but the proposed guidelines are silent on other uses of a kiosk.

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>> JOHN WODATCH: Ms. Stein, will you wrap up?

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>> DEBORAH KENT STEIN: Okay, I'm almost done, thank you. This silence leaves room for further debate over which services are covered under the law and what standards apply to the kiosks.

I'd like to thank the Department for allowing me to testify on behalf of the National Federation Of The Blind and hope that I have given helpful and insightful guidance to the Department regarding these initiatives.

I look forward to working with you in the development of these regulations and look forward to seeing the ADA regulations finally updated to reflect changes in technology. Thank you.

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>> JOHN WODATCH: Thank you very much. I hope that as you consider written comments, that some of the technologies, especially the prescription labels and issues of that nature, if you have more information that you can provide about the availability of those and difficulties that your members have experienced, we would appreciate hearing that if that's possible.

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>> DEBORAH KENT STEIN: Thank you, yes.

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>> JOHN WODATCH: Next we hear from Barry Taylor, who is the esteemed legal advocacy Director of Equip for Equality.

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>> BARRY TAYLOR: Thank you. Good afternoon. My name is Barry Taylor, and I am the legal advocacy, Equip for Equality. Equip for Equality is an independent not-for-profit organization designated by the governor in 1985 to administer the protection and advocacy system for people with disabilities in the State of Illinois.

Among the legal issues that we address is discrimination under the ADA. We appreciate the opportunity to give our perspective on the Department of Justice's advanced notice of proposed rulemaking.

Equip for Equality will be presenting more detailed written comments on all four topics in which DOJ is seeking input, but my comments today are limited to the accessibility of web information and services provided by entities covered by the ADA.

Since the passage of the ADA, the Internet has emerged as an incredibly valuable resource for Americans, including Americans with disabilities. The Internet provides access to a vast array of information and services provided by state and local governments and private businesses. Access to the web is particularly important to people with disabilities because of limited accessible transportation and other barriers people face.

Unfortunately for many people with disabilities, the Internet has not been an easily accessed information super highway, but instead has been an inaccessible road often leading to nowhere. For years, people with disabilities and their advocates have been working with state and local governments and private businesses to address these barriers. The advanced notice of proposed rulemaking on web accessibility is a very welcomed development that will bring the federal government's voice more fully into the effort to ensure equal access to the web for people with disabilities.

We commend the DOJ for responding to the call from the disability community to establish clear guidance and standards on this critical issue. Equip for Equality meets regularly with the members of the disability community, including semi-annual meetings with the blind community to discuss issues of concern.

Web accessibility is a frequent issue that is raised because it cuts across so many issues that impact people with disabilities. Access to vital government service, access to needed products of private businesses, access to employment and educational opportunities, access to a range of entertainment options and above all access to information. Knowledge is power.

Equip for Equality's work with LaSalle Bank is a good example of our experience with web accessibility. For meeting with the blind community, it was identified that LaSalle Bank presented a wide variety of access barriers, including an inaccessible website.

In 2005, LaSalle Bank was the second largest bank here in Chicago and had hundreds of retail locations in numerous states. Given the increased popularity of online banking and LaSalle's large number of customers, its inaccessible website posed a significant barrier to people with disabilities. Fortunately, when Equip for Equality and our co-counsel brought this problem to LaSalle's attention, it responded quickly and effectively.

Why? Because it was not only the right thing to do under the law and something that could be done relatively easily and economically, but because it was good for business and it was good for their public relations.

As a result of LaSalle's effort to address web accessibility as well as other positive disability efforts they made, Equip for Equality gave LaSalle its corporate excellence award the year after they made its website accessible.

This is just one example of how a systemic problem can be resolved in a positive fashion, and this can serve as a model for businesses that have not yet addressed this issue.

Our written comments will respond in detail to the various questions that DOJ has posed on web accessibility, but we wanted to highlight two questions today that focus on the timing and implementation in standards.

First, regarding the timing of implementation based on type of website, Equip for Equality strongly supports a single implementation date of six months. Staggering the implementation date, depending on whether a website is new or existing or has new pages, is very confusing and will result in unnecessary uncertainty for covered entities as well as for the disability community.

A two-year implementation delay only serves to extend the unfair and unlawful exclusion of people with disabilities from the goods and services of private businesses and governmental entities. Many businesses like LaSalle Bank addressed this web accessibility years ago.

Providing a two-year extension essentially rewards those businesses and governmental entities that have chosen to put their collective heads in the sand about this issue. It's akin to private businesses that still ignore their responsibilities of removing readily achievable barriers under Title III until they are threatened with a lawsuit, even though the ADA was passed over 20 years ago.

DOJ should not reward Title II and Title III entities that have failed to address web accessibility for years while continuing to reap the benefits that the Internet provides. Similarly, we do not believe that DOJ should adopt different effective date based on certain criteria such as number of employees, revenue or type of entity. Again these exceptions will only serve to cause confusion and uncertainty.

Titles II and III already provide for an undue burden defense. So, if complying with accessibility requirements ultimately prove to be problematic for a particular covered entity, that defense is readily available.

Finally, we strongly recommend that the DOJ adopt web content accessibility guidelines 2.0 level AA success criteria as its standard for website accessibility and not the Section 508 standards.

Again, thank you very much for this opportunity to provide our perspective on this important issue. We strongly urge DOJ to move expeditiously so that true access for people with disabilities using the web become a reality.

>> JOHN WODATCH: Thank you very much. We appreciate you being here today, Barry.

Our next commenter, someone who I called earlier, Paul Scher of Jordan Scher and Associates. Mr. Scher?

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>> PAUL SCHER: Thank you, sir. Indeed, it is an honor to be able to testify to the Department of Justice regarding accessibility. And what I'm going to do is ad lib my remarks because I like to work from 4 by 6 cards. As I put these together at 1:00 this morning, I've got two different presentations mixed up. But fortunately you do have a written copy of what I was going to say.

Suffice it to say I'm concerned with the descriptive video service in theaters. And actually based on Deborah's presentation, I think what I have to say comes down to the grassroots level because I'm going to share with you the experiences that I've had using DVS in Chicagoland theaters.

Now, according to looking at Mopex, there are nine theaters in the Chicago metropolitan area with descriptive video service. And of those, my wife and I tend to frequent four of them. The problems that we experience actually affect all four, but some are better than others and I have listed those theaters in my paper.

The problems that emerge, starting out with you discover, really, from the WGBS announcement of films that are out, and the newspaper, you find out what films are playing, what pictures are showing. And you want to go to the show to see one of them. And it does say that it has DVS. You try to call up the theater. The four theaters we use, one the answering system for the public is such that you never talk to a human being.

And they don't tell you if the film is being played in DVS or not.

So it's very difficult to determine that in fact it is even though it's already been accommodated. The other thing, the person answers the telephone, and they seem to have accepted closed caption but the teenager on the other end of the line has no idea what DVS is. And after you spend about two-and-a-half, three

minutes explaining that to her/him, they say excuse me, and they get their manager.

And then half the time, the manager says, well, it's in theater so-and-so, yes, we are showing it but at these times. We've also gotten to the theater and discovered that the film, in fact, is not being showed.

What else happens? The ear phones. It's very common, even in the best theater that we like, the Glen, which is up in Glenview, that you have to try out two or three pairs of ear phones before one is working. And this gets rather aggravating after a while. After all, I'm basically retired, though my license to practice is still good and I do some volunteer work and occasionally bill a client, but you want to go to the show and enjoy it like everyone else. And I happen to be a train freak.

So this Sunday, we went to the Glen, and we wanted to see "Unstoppable" which is a really exciting movie that ends happily about a run-away freight train. And we get to the theater, we get my ear phones, and it turns out that they don't work. Two sets later, they're still not working. And we've both missed the first 15 minutes of the show.

And as Ann is running back and forth with ear phones, the manager finally gets up to the control booth and discovers that the sound transmitter was not on for DVS.

Now, the Glen, they are extremely courteous, and when there's a screw-up, we get a couple of free passes, and this time we got our money back.

So, I think that we're all very much involved with the laws and the regulation, and I decided that I would testify today primarily because this is how it affects people. You want to enjoy yourself. And if you're blind and you want to take advantage of DVS, you'll get a hassle. Thank you very much.

>> JOHN WODATCH: Thank you very much, Mr. Scher. And I appreciate the level of testimony. I think our experience, which is probably a little wider with assistive listening devices for people who have hearing loss, is very similar to some of the issues you've talked about today, and we appreciate your taking the time.

>> PAUL SCHER: Thank you. And I do have a temporary solution for a minor problem that is very low cost in my paper. So, you'll get to see. Thank you.

>> JOHN WODATCH: Look forward to seeing it. Our next commenter is Tom Benzinger. You may proceed.

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>> INTERPRETER: Thank you. Good afternoon, my name is Tom Benzinger, and I reside in east Troy, Wisconsin, and I'm a former resident of Chicago of many years.

And I'm here to talk about 911, captioning, housing as well as hospitals as long as I have time. So, in regard to the 911 issue, I know that you have heard some testimony today in regards to 911, but this is a little bit unique. I bought a house in a new subdivision. And in that area, it does not appear on the GPS systems or on MapQuests. It does not appear.

So, my concern is that if I do call 911, will the emergency services be able to find my house as it's not located on the MapQuest or GPS? And what brought my attention to this issue was that I have had some deliveries to the house, and they would always stop at the gas station to call me for directions to get to my house.

And I'm a single widower, and God forbid if anything happens to me, and I would need to use 911 to call for emergency services. And I know it takes time to call through the video relay. And that is additional time. And I'm afraid that by the time they might get there, something horrible could happen.

Now, in regards to captioning, recently I rented five DVDs from the Redbox. And they were new releases. And so, to my surprise when I put them in my machine, they were like award-winning films from the Sundance Festival, and they don't have the captions on these films.

So I was wondering why these DVDs are award-winning, but they are not accessible for our viewing. And then one of the films had captioning in Spanish, but it was not available with English captioning.

And we as deaf and hard-of-hearing consumers, we pay to have the TV captioning connected to our house. And the companies, the cable companies, et cetera, like, for example, Comcast or Time Warner, and I use Time Warner services, they have their own commercials. None of the commercials have captioning. So, I wonder why am I paying for a service that is not captioned from that company? And they do their own commercials for their own products.

And another story I would like to share for you that I recently had a conversation with a woman who is a mother who is also deaf. And she has some middle school aged children.

There was a film that was recommended by the children's teacher because they were going to discuss the film in school. And the mother was very happy to take her children to see this film. However, the film was not accessible. And she decided not attend the film because she wanted to do it because she wanted to fully participate with her children, but she was not able to. And the other kids in

the classroom saw the film. However, the children who had a deaf parent were unable to.

Now, this is something else I brought up about the families in regards to families. Due to the fact that sometimes things are not accessible to one person or another, like in regard to housing. Like I mentioned, I bought a house in Wisconsin and it's a rural area. And I worked with the developer to build the house and the specifications of the things that I wanted in my home to meet my needs.

And then in terms of the smoke detectors and the alarms, there was an extra charge to me due to I needed specialized equipment for those things. However, the other people in this subdivision all had the smoke detectors and the fire alarms, and the doorbell chimes are already included in the price of the house. However, the disabled people are punished because we have to pay extra for that kind of specialized equipment for the alarms.

Now, in regards to health care issues, I have been involved with the deaf and hard-of-hearing community all my life, and I'm pleased to say that the ADA does protect our rights and provide us with reasonable accommodations. However, it is not 100 percent. We are still fighting to improve accessibility and awareness.

I would like to share this with you about a nondisabled person and a disabled person. Like, for example, my daughter, she is hearing. She had to bring her husband to the emergency room. And she saw a sign for a TDY telephone, and she wanted to use that telephone to call me to let me know that our plans for that evening had to be canceled. And the hospital would not let her use the TTY telephone because she is not deaf. Luckily she was able to use her cell phone to call through the video relay service.

And I've heard stories of parents who are deaf and they have their children in the hospital of all different ages. Their children were sick, and the hospital refuses to provide them with an interpreter because they are not the patient. And the hospital uses the parents as the interpreter. So, we want the law to protect us.

And thank you very much for giving me the opportunity to speak and on my own behalf and for the behalf of the deaf and hard-of-hearing community, and thank you to the interpreters.

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>> JOHN WODATCH: Thank you very much. Our next commenter.

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>> INTERPRETER: Any questions?

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>> JOHN WODATCH: No, we're fine. Thank you, sir. Our next commenter is Dr. Kristi Kirschner of the Schwab Rehabilitation Hospital. Dr. Kirschner?

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>> DR. KRISTI KIRSCHNER: Thank you. It's an honor to be here today.

I'm a physician in physical medicine and rehabilitation. And I've been in practice for a little over 20 years. I've worked predominantly for people with neurological disabilities, spinal cord injuries, traumatic brain injury, cerebral palsy, spina bifida, neuromuscular disorders. So, people with complex disabilities.

I was at the Rehab Institute of Chicago until December of last year when I moved my clinical practice to Schwab. While I was at RIC, I also helped coordinate a program of reproductive healthcare services for disabled women. And I worked for many years for healthcare access for people with disabilities.

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I continue to hold academic appointment at the Northwestern University Feinberg School of Medicine. So I'll be speaking from my experience as a clinician. And I'd like to start by saying I came of age in 1990, the year of the ADA, where we were all looking forward to having sweeping changes in accessibility in the healthcare settings.

And I have to say over the past 20 years, I've been quite disappointed over the impact the ADA has had on the healthcare setting. I think it's been one of the slower areas of society to change.

I'd like to address two of the issues today that have to do with accessible medical equipment and specifically the transfers and lift techniques for people with disabilities. And the second issue I just want to comment on are the issues of communication access equipment with hospital beds.

So, let me start with the first issue. The transfers and lifts for people with mobility impairments in the healthcare setting. We do transfers in hospitals in many different venues. We do bed-to-wheelchair transfers, wheelchair to toilet, bed to cart, cart to medical equipment, wheelchair to medical equipment, so there are a lot of different kind of formats for transfers.

And for many people, the height of the bed or the toilet or the medical equipment can turn a dependent transfer into an independent or minimal assistance transfer. Ancillary equipment like grab bars, gate belts, sliding boards can also

be valuable aids. There have been some discussions about whether hospitals and healthcare settings should have no lift policies for transfers, for hospital staff. And this is primarily, as I understand it, a means to safeguard healthcare worker safety.

But I think we have to take a more nuanced stance to the issue of the means of transfers. First and foremost, patients are the experts on what transfer techniques work best for them and should be taken into consideration. Secondly, though, I'd like to emphasize the goal of care for individual patients.

Many patients who are in a hospital are weak. Maybe from sickness or from a new onset disability. And one of the goals of care may be to help them regain their strength and their mobility while they're in the hospital or the rehabilitation setting. So, being able to practice transfers with graded support may be of paramount importance.

So, again, accessible equipment and appropriate staff training in those circumstances can help to mitigate healthcare worker injury. I think it's still important that we take into consideration patient preferences, needs, goals of care and balance those issues.

The second issue I just want to briefly speak to is the importance of call lights. I've had many patients over the years who have significant disabilities who are admitted to hospitals or nursing homes. And they're given the traditional call button call light. And we all know this is a call light where you have to be able to press a button, a voice comes over the speaker and the patient needs to speak.

Patients who are unable to push a button, who may be deaf, who may have speech disabilities are not able to use this mode of call light. And I have many examples, if I had more time I would share with you. It's just not safe, nor equitable, for patients not to have an accessible call light. And the fact of the matter is, there are a number of different kinds of button interfaces. Whether it's a sip and puff call light, whether it's a head switch, many, many different ways that you can provide an interface for a communication system in a hospital.

So, I would like to advocate for a policy where hospitals have to assess communication needs upon admission, provide the appropriate equipment for call lights. And that information needs to be communicated in the patient's chart so it follows the patient throughout their hospital stay. And I would say this is also true for medical diagnostic equipment, because call lights are often used in settings like MRI scanners, as well.

I thank you all for the opportunity to present on these issues.

>> JOHN WODATCH: Thank you. We appreciate you taking the time to come and spend it with us today. Our next commenter is Marsha Koelliker who is the public policy director at Equip for Equality. Welcome.

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>> MARSHA KOELLIKER: Thank you. It's an honor to be here.

And as you said, I'm Marsha Koelliker, I'm the public policy director for Equip for Equality.

And I know you have already heard what Equip for Equality is and what our mission is. So I'll save you that.

Equip for Equality commends the work of the Department of Justice in advancing accessibility for people with disabilities under the Americans with Disabilities Act. We also appreciate this opportunity to comment on revisions to regulations governing the provision of movie theater captioning and video description to make movies accessible to blind, deaf or hard-of-hearing.

Equip for Equality has been working on this issue in Illinois for several years. In July of 2007, Equip for Equality sent a letter to the Illinois Attorney General to register complaints of violations of the ADA with regard to accessibility of movie theaters and requested an investigation of these violations.

The complainants included the Illinois Association Of The Deaf, the Illinois Council of the Blind, and four individuals. There were additional individuals and organizations who planned to join once the investigation got underway.

Unfortunately, before the investigation was commenced, there was a decision in Arizona that was adverse to captioning and video description. The decision held that the ADA did not require movie theaters to alter the content of their services.

Recently, however, that decision was reversed by the 9th Circuit saying that closed captioning and audio descriptions are auxiliary aids and services, and movie theaters may be required to provide them as long as these services are not an undue burden and would not fundamentally alter services. As a result of that decision, Equip for Equality has again contacted the Office of Attorney General in Illinois and believes that they will now pursue the case.

Among the complaints were things that you heard already today, that there aren't enough offerings of movies that are accessible, that the show times are often at odd hours and not equal to those of people who do not need the assistive technology. That many times the equipment is not working. And that people at the theater are not able to make it work.

And that there's no advance notice of the breakdown of the equipment so that people can avoid going and losing their time and the disappointment and the cost of getting to the theater.

Our work in looking at these issues has reinforced our understanding of how important equal access to public accommodations, including entertainment, is to people with disabilities. The underlying purpose of the ADA is to end discriminatory practices that present barriers for people with disabilities to the full enjoyment of life. So we strongly support strengthening the requirements for movie theater captioning and video description.

We will be submitting written comments to address the questions, but we wanted to comment specifically on question 1 today. We believe the mandate for access should be 100 percent. To require less, such as 50 percent, would be contrary to the intent of the ADA.

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Title III of the ADA does not contain provisions that allow any place of public accommodation to give partial access to any person with a disability. Rather, there are provisions that allow a place of public accommodation to not provide access if it would present an undue burden or fundamentally alter the services.

We believe most of the large chains could rapidly meet the 100 percent. Smaller chains could also meet it and should be required to meet it maybe over an elongated period of time,. But they should be able to show continuous improvement in that process.

We'd also like to just note that it's important that the regulations include maintenance of equipment, training of staff for how to run it, and public notice when various accessible showings and until they reach 100 percent. And when there is a problem, so people are not disappointed at the moment of the showing.

As technology improves, it'll become easier and easier to provide accessibility to all patrons. But until then, we ask you to promulgate regulations that will move towards total accessibility continuously. Thank you.

>> JOHN WODATCH: Thank you very much. We appreciate your comments. Our next commenter is going to be on the phone. Jake Joehl, an accessible specialist with JJ's List, please proceed.

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>> JAKE JOEHL: Okay, thank you. This is my first time doing this, so thanks for allowing me the opportunity.

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JJ's List is a website where people can go write reviews of the disability awareness of local businesses and services that they go to or services that they receive.

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And those can be people with or without disabilities.

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And we're doing this to promote integration of people with disabilities into every day life. And these reviews can include things such as disability, physically accessible -- does it have ramps? And also is the customer service disability-aware? Do the employees talk directly to the people with disabilities or their companions?

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Are the employees patient? And is the service flexible? So that's basically we're doing.

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The website is JWWW.JJSLIST.com. And you'll have to, in order to post a review, you have to create a profile. But you don't have to create a profile just to read reviews on the website.

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We went live in March of last year 2009, so this is going on our third year. And we've been very successful so far.

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We're mainly based -- well, we're mainly based in Illinois, but we do have a couple reviews from out of state, which is good. In fact, more than a couple.

And so I'm not sure if there are any questions or how exactly I should proceed here. So, I guess if anyone has questions, feel free.

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>> JOHN WODATCH: This is John Wodatch speaking. We appreciate your taking the time, and I'm very interested to hear about this website. I don't believe

we have any questions. And we thank you for taking the time to participate with us.

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>> JAKE JOEHL: Okay, thank you.

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>> JOHN WODATCH: Our next commenter is Amy Peterson, who's a Senior Attorney for Equip for Equality.

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>> AMY PETERSON: I'm Amy Peterson. I'm a Senior Attorney on the Civil Rights Team at Equip for Equality, and I am the manager of our Assisted Technology project.

You've already heard about our mission and some of the work we have done, providing legal representation to individuals under the ADA, so, I won't go into that anymore. We also assist people to obtain funding for assistive technology services and devices to help them maximize independence at school, work and in all activities of daily living.

Thanks for this opportunity to comment today on the ANPRM.

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I'm going to limit my comments on accessible equipment and furniture.

With respect to automated teller machines, ATMs, we're not sure why they're mentioned in the ANPRM and don't see a need for any reference to them.

As you know, the Department recently published its revised rules implementing the ADA which take effect in March 2011, with compliance required by March 2012.

The new 2010 standards for accessible design regarding ATMs include detailed requirements for audio input, tactile, input controls and other features which insure accessibility of these machines.

And on the ground, accessibility is ahead of the regulations.

There are over 100,000 talking ATMs now in use by financial institutions already.

Equip for Equality and co-counsel have obtained settlement agreements in the past with a couple of banks, LaSalle bank was mentioned earlier and TCF bank, which provide for talking ATMs.

These banks were brought to our attention by persons with visual impairments who were unable to use their ATMs without the assistance of another person.

They simply wanted equal access and the ability to navigate the machines for themselves without the need to share their private banking information with anyone else.

These banks took steps to improve accessibility for persons with disabilities by providing talking ATMs.

The technology has been around for talking ATMs for more than a decade.

These machines allow persons with visual impairments and others who have difficulty reading information on a screen to bank independently.

And they're also good for business by expanding customer base.

With the proliferation of machines providing products, services and information through self-service kiosks, it is critical that the Department impose standards similar to those already in place for talking ATMs, for all electronic information and kiosks.

Some of these devices include fully automated ATM-style dispensers of prescription medications, self-service patient check-in kiosks, airline kiosks, and a variety of other terminals used in retail settings.

Most of these kiosks have touch screens and are inaccessible to anyone who cannot see the screen.

People with disabilities will need access to all of these devices.

The department must use its expertise to ensure that the kiosks in use today as well as those to be developed in the future are fully accessible to people with disabilities for physical as well as communication access.

This issue becomes more critical as time passes and more and more of these terminals arise with new purposes and in new settings.

With regard to the use of electronic and information technology and accessible rooms in hospitals, nursing homes and hotels, TTY technology is virtually obsolete.

Although some individuals who are deaf and hard-of-hearing still continue to rely on this device.

Therefore TTY's should not be removed where they already exist.

Video phones have become the empowering technology for many deaf and hard-of-hearing people who use sign language in the same way telephones changed the world for the rest of the world.

However, hospitals, nursing home facilities and guest rooms in hotels and motels currently do not offer such technology but continue to offer at the most TTYs.

It's important for these facilities to offer video phones as an option for telecommunication purposes.

In addition, where possible, other EIT would facilitate direct communications between consumers and service agents.

If SMS, text, MMS, IMs text chats and emails were required as a means of contact.

For example, hotel rooms could offer SMS texting as a means to order room service and this would facilitate communication for individuals with all forms of communication challenges. Equip for Equality has received many complaints over the years from hospital patients who are not provided with interpreters for critical conversations concerning their medical care and treatment.

Various forms of EIT as just mentioned with respect to the hotel setting would also allow some patients in hospitals and nursing homes to share information directly with medical and other personnel thereby easing communication barriers that would otherwise exist.

And, finally, with respect to accessible medical diagnostic equipment, Equip for Equality applauds the Department's recognition of this critical area directly impacting the health of people with disabilities as well as its consideration of proposing regulations to include medical equipment used for treatment, rehabilitative or other purposes. As an example in the range of issues the department is reviewing, Equip for Equality hears from too many people who use wheelchairs that are routinely not waived because their medical provider has no accessible scale.

These individuals have medicine prescribed to them on the basis of their own guesses as to what they weigh.

This is obviously dangerous and results in substandard medical care.

Persons with disabilities should have the benefit to access whatever medical equipment is needed for their care.

We have also been contacted buy patients that are not provided such fundamental items as accessible shower chairs and call buttons as discussed earlier that they can physically access.

Inaccessible exam tables and the lack of available lifts are also commonplace.

These examples underscore the need for the department to requirement the medical establishment to provide accessibility for all patients.

Equip for Equality believes that 18 months is too long of a period of time to allow medical facilities to continue to provide unequal treatment to people with disabilities.

We suggest that six months is a long enough period for facilities to lease or purchase the necessary equipment.

Thank you again for allowing us to share our perspective.

>> JOHN WODATCH: Thank you very much.

We appreciate your comments.

Our next commenter is Beverly Huckman who is the Associate Vice President for equal opportunity at the Rush University Medical Center, and chair of the Rush ADA taskforce.

Please proceed.

^M03:37:20:00

>> BEVERLY HUCKMAN: Thank you very much.

^M03:37:21:00

Two days ago there was a wonderful event at Rush marking the 20th anniversary of the ADA and the 19th anniversary of the Rush Donor Award, an honor named after a faculty member of ours and given annually to a person or team in the Rush community of 9,000 for outstanding contributions to furthering disability rights and services within our medical center or university.

At the [phonetic] Sonar award ceremony, we distributed two handouts which I am sharing with you today and I have been told have been given to the hearing clerk.

Making strides at Rush.

And Rush transformation Universal Design standards.

These include many but not all of the Rush programs and initiatives related to Universal Design, accessibility, education, outreach for patient employees and students and I'm very pleased to say I think we are addressing most of the issues that I've heard from several of the immediately previous speakers.

At this moment, Rush is in the middle of a major transformation program that includes a new hospital tower, orthopedics building, cancer center, diagnostic imaging center and several other outpatient facilities as well as major renovation of its decades-old current buildings.

Because of a strong commitment of our Board of Trustees and our administrative leadership, by 2012 the new Rush will be a model, a national model we hope, of medical center accessibility, universal design, and green design.

Most of the facilities and equipment questions on your list have been raised by numerous work groups that have been involved in the Rush transformation program.

With considerable input from the ADA taskforce, faculty and clinicians who specialize in various areas of disability and people such as Marca Bristo who I'm proud to say is a Rush trustee, we think we are addressing these questions in a most effective manner.

The Universal Design handout that I have given you cite some of our initiatives relative to signage, ramp slopes, automatic doors, standardized accessible toilets throughout, ceiling tracking for lifts in all acute care and critical care rooms, adjustable height exam tables, a minimum of 20 percent, and that is a minimum only. Public and patient bathrooms, including all of our showers with seats for the patients. Elevators with voice information, digital screens and extended call lights, registration bays, 25 percent of which will have TTY capacity.

Uniformly accessible countertops at a height of approximately I believe it is 36 inches. Extensive accessible parking in a number of locations. And these are just the beginning for us.

Let me note that Dr. Sheila Dugan of our ADA taskforce did a presentation a few weeks ago for the U.S. Access Board at its hearing here about accommodations and equipment in our current mammography suite and those planned for our new diagnostic imaging center.

She also noted problems with imaging equipment that still need attention from manufacturers. We were told that the U.S. Access Board would be sharing that testimony with you, so I will not repeat it today.

^M03:41:14:00

However, the material that Dr. Dugan presented, along with some of our own experiences in selecting other equipment, caused me to suggest that you might want to contact manufacturers to testify about certain limitations with available equipment and how they might work with you and other knowledgeable people to overcome these limitations.

As you proceed, I'm glad to offer Rush as a medical center resource that shares your concerns and is currently addressing many of them.

And I would be willing to serve as an intermediary to help arrange contacts with proper individuals for specific issues.

I was asked to address your questions relative to reasonable regulations and reasonable time tables.

I find that difficult.

The patient with a disability who spent years trying to find accommodations in health care would probably define reasonable quite differently from the leadership of a large, multispecialty medical center trying to retrofit old buildings and update old equipment, and each has a case to put forward.

So how do we at Rush define reasonable?

Our formula has been: Strong institutional commitment and strong advocacy with compromise at the highest possible level.

Rush is proud of its record to date and the recognition that we have received, including the U.S. Department of Labor's Eve Award. And we are mindful that our new facilities give us an opportunity to become a national leader in universal design, and we are working toward that goal.

While I recognize that our Rush formula might not provide much guidance for the reasonableness decisions that the Department of Justice must make, this approach and the efforts that have followed have made life better for all of us in the Rush community.

>> JOHN WODATCH: Thank you very much.

We look forward to reviewing the materials that you have provided and also will follow-up to make sure that we have the information presented to the Access Board.

>> BEVERLY HUCKMAN: And if I could just make one comment relative to that.

There were a lot of questions relative to cost of equipment, other things of that kind. We have investigated almost all of your questions. And I just did not have a chance in five minutes. We have all laughed quite a bit to go through all of the things. So I have left many of them with the clerk.

And also, I would encourage you to keep in touch with us. I would be happy to put you in touch with the individuals who have done it. Everyone at Rush, and this is from the President and CEO on, is very willing to cooperate.

^M03:44:15:00

>> JOHN WODATCH: We appreciate that offer very much.

Thank you very much.

Next we'll hear from Kim Borowicz.

^M03:44:24:00

>> KIM BOROWICZ: Hi. My name is Kim Borowicz. And, I'm speaking from my personal experience with as a person with a vision impairment.

There definitely needs to be rules for websites on color contrasts. Part of my vision impairment is that I'm completely colorblind. So colors like white to yellow or green to blue or red to black look exactly the same to me.

So if there's text in red on a black background, I can't read it at all because those two colors look the same.

I would suggest that the color contrast rules for websites be modeled after the color contrast rules that are used for signage. I also am a zoom text user. Zoom text is a piece of assistive technology that enlarges a standard computer monitor screen. So I'm able to read it.

In the process of enlarging the computer screen, I also can only see portions of my computer screen at a time. It is very helpful for me if websites have text that is able to be made smaller along the edges of the page so I'm able to scroll straight down as I'm reading text rather than having to maneuver back and forth from left to right as I read the screen.

All forms provided on websites should be made fillable by typing. A lot of forms you'll download them and they will be in a format that you would have to print them out and fill them out by hand. This is not accessible to people who have vision impairments. They must be able to type into the form.

I as an advocate for people with disabilities find the current website accessibility standards incredibly confusing. I'm often asked by different organizations to test their websites for screen ware accessibility. I have no idea to do this. I don't know who does it. I have not been able to find organizations that can test websites. So I do definitely think there needs to be an enforcement mechanism for making sure that websites are screen reader accessible.

I'm a huge user of the website peapod.com. Peapod.com is a website that allows you to order your groceries online and have them delivered to you.

This is an example of a website that is not attached to a facility.

So that would definitely be an example of a website that needs to be accessible for people who use screen readers because if you're blind, the service of having groceries delivered to you is very, very helpful because you're not able to drive to the store and find groceries on your own.

In terms of access to electronic information, I have not been able to find an electronic reader that works for me. I've tried both the kindle and the nook.

My issues with these are that the navigational prompts are not in large print. So while you can get the actual book in large print, the actual navigational buttons to get to the book are not in large print.

Therefore if I can't find the book, how am I supposed to read the book even if it's in large print? When kiosks are being used or any kind of point of sale machine is being used, the text needs to be accessible to people with low vision throughout.

Oftentimes when I'm using a kiosk, some of it will be large print in good contrast but then other portions will not. So in addition to having the audible readouts for people who are blind there are also people with a wide range of vision impairments that need certain accessibility and kiosks. A quick note about furniture.

I often go to bars and restaurants that only have high tables that cannot be access accessed by people who use wheelchairs.

There should be a requirement that these entities have lower tables for people who have vision impairments. I am a Para Olympic hopeful in cycling. I ride on a tandem bike on the back of the bike. So I often use gyms. So I have a few comments on the accessibility of gyms for people with vision impairments.

Often machines like treadmills have buttons that are flush with the back of the display panel. Flush buttons cannot be identified by people who are blind or low vision.

Oftentimes these machines have touch screens which can also be inaccessible. I think that machines like treadmills, ellipticals and stationary bikes, should have, there should be at least one machine in every gym that can talk to the user, telling them their speed, miles per hour and that type of information.

There should be hand bikes available at standard gyms, especially in spin bike rooms. Often color coding is used for resistance bands or free weights.

People like me who are colorblind cannot at all tell what the color is identifying.

There should be high contrast information and Braille on free weights, medicine balls and weight machines so that people know how much weight they're using.

No one to my knowledge has ever been able to find a talking waterproof stopwatch.

No one has been able to find a talking heart rate monitor or talking bike computers that can tell you how fast you're going. Weight machines should have benches that swing out so that wheelchair users can approach them.

And this summer, a new international rule was made for people who don't do triathlons in the vision impairment category saying that they have to wear blackout glasses while doing the race.

^M03:49:39:00

For people like me who have vision impairment, I should not be forced to wear a piece of equipment that makes me more disabled than I already am in order to participate in athletics.

Thank you very much.

^M03:49:49:00

>> JOHN WODATCH: Thank you very much.

That was very interesting testimony for us and we're going to be looking for you in 2012 in London or in the U.S. trials on the way.

^M03:49:58:00

>> KIM BOROWICZ: I'm on my way. I'm really hoping I make it.

^M03:50:01:00

>> JOHN WODATCH: So do we.

Our next commenter is Iris Martinez who is going to testify via the video phone.

^M03:50:14:00

>> INTERPRETER: Hello. I am Iris Martinez. And this is my husband Fidel Martinez.

I would be happy to speak to you today. I have a few things to say. Well around two years ago the two of us drove. It happened to be in a storm. We were driving on the highway. And, unfortunately somehow we skidded on some ice and the car skidded off the road.

^M03:50:55:05

And there was a lot of traffic on the highway. And we ended, we were in the middle and we were stuck and it was a pretty bad situation. And I could not use my text phone for 911. And I was trying to figure out how, you know, what am I going to do in this situation? It's an emergency. It's a bad storm.

All these cars are going by. No one stopped to help us. Everyone just kept flying by. We were out there on the highway and we were stuck.

My husband, he has a pacemaker, so he cannot get out there and shovel and try to push the car out, you know.

And we were trying to get to work. I'm late.

And there was no way for us to call 911 in that situation.

And, you know, there was no way that we could push the car out and there was no way to figure out how to get out.

So it is very important that we need some kind of 911 services through cell phones and pagers. You know, because

and it's also very important for people who are maybe victims of crime.

Now in terms of hotels, like I stay overnight in a hotel and I may need information from the front desk in the middle of the night and then I want to call downstairs but I can't.

So I would have to go downstairs.

But hotels don't provide, you know sometimes you go to a hotel last minute and you just stay overnight at the hotel and you don't have a video phone or a TTY to use to call even the front desk.

Video phones are an excellent way, would be an excellent way to communicate with the front desk downstairs and to tell them what your needs are.

The TTY is more of a struggle.

If I bring a TTY, I have to find somewhere to plug it in and that kind of thing and it takes a lot of time.

With a video phone, if they had one in each room, it would be very easy.

You just press a button and you call and you can have your communication with the hotel or you could make outside calls to let your family know or whoever that you arrived safely at the hotel.

You could hook it up also to the television.

Now, in terms of hospitals, sometimes you're too weak or too tired to type everything on a TTY, and the TTY it's unexpected that someone may need that.

And a video phone is much easier to use.

You can connect it with a television and you could communicate through the video that way.

Like if my mother was sick or I call and say okay, I'm in the hospital then they know what's going on.

So the video phone, it's a great help to people, to the patients in the hospital.

And it also can help to communicate with the doctor to explain what's going on in this situation.

I don't know how they would set that up but I think that would be a good idea. The other topic is in terms of websites.

It's pretty important to me because when, if I miss the news on television, I miss the news or maybe I want more information about a topic, or the captions weren't on the television program or the captions end for some reason or the speaking

ends and the captions haven't caught up with it and it's caught off, so then I go to the computer to get the other information from the website.

But sometimes it's also a video on the website and there's no captions.

So it's just another person speaking and I'm missing the information again.

So it's important to have captions, especially for news and different kind of information that the deaf people may need.

^M03:55:22:00

And since we do pay for the television service, for Comcast, for the line, it seems that it should be accessible to everyone.

And that would just be really great.

And hopefully this will be my last comment.

Now in terms of movie theaters and captioning or movies and captioning, closed captioning, I will never forget what happened, but we went to a theater, movie theater and they had a special device for us to use.

It was kind of a struggle to set it up.

The device would have the captions in the seat in front of us so you have to look at the screen and then look down at the seat behind you with the captioning.

So you're looking back and forth from the screen.

But it's kind of cumbersome and you're sort of missing information, but we felt we paid the same fee as everyone else to get into the movie, it would be much better if the captions were actually on the screen.

And sometimes they have a specific date and time and it's not convenient for that movie. And if I really wanted to see that movie and I want to get the full picture of the whole story, sometimes I can't do it because it's only a specific date and time.

But it would be nice to be able to go to any movie that I wanted at whatever time that I wanted. That would be very nice.

If I wanted to go at the last minute with my family or something, it would make it much more convenient.

Okay?

^M03:57:00:0

>> JOHN WODATCH: Okay, thank you very much.

Are we also going to hear from Fidel Martinez?

^M03:57:09:00

>> INTERPRETER: Are you going to say something, honey?

Well, I'm a little nervous.

^M03:57:15:00

>> INTERPRETER: I don't know. What should I say?

Iris is saying, we can talk about improving on captioning or about pager services. Just talk about what you want to say. Fidel is saying, I don't know. I can't think of it. I can't think of what to say.

^M03:57:30:00

But what my wife said was right, what she said was right.

^M03:57:35:00

Iris is saying, we had a complaint about captioning on the news. Do you remember when it gets cut off?

Sometimes the captions get cut off or it doesn't match with the picture?

Do you remember? You were complaining about that before?

^M03:57:46:00

Fidel is saying yes, that was before. We were commenting about that.

Iris is back and saying, yes. Well, anyway, maybe we can just add something.

I kind of -- his comments are kind of what I had said. I think we kind of covered everything.

^M03:58:04:06

>> JOHN WODATCH: Okay.

Well I appreciate both of you taking the time to be with us over the video phone.

Thank you very much.

^M03:58:15:00

>> Okay, thank you. Thank you.

^M03:58:18:00

>> JOHN WODATCH: Our next commenter is Matt Guilford who is the program manager for digital excellence in innovation, the Department of Innovation and Technology for the City of Chicago.

Welcome, Mr. Guilford.

^M03:58:30:00

>> MATT GUILFORD: Thank you.

And good afternoon.

And thank you again for the opportunity to address this panel.

It's particularly fitting that this hearing is being held here in Chicago in light of Mayor Richard M. Daley's commitment to two key goals, first making Chicago the most accessible city in America for people with disabilities and second making sure that all Chicagoans have access to the technological tools they need to compete and thrive in the global economy. A collaborative effort between

the department of innovation and technology also known as do it and the mayor's office for people with disabilities also known as MOPD at the intersection of these two goals is working to making sure that our technology enabled services are fully accessible to people with disabilities.

In Chicago we have attempted to take a holistic view to accessible technology that looks at both the "demand" side and also the supply side of the accessible technology.

On the demand side we know that from a study released last week by the national telecommunications and information administration and the Department of Commerce, that people with disabilities face considerable barriers to getting online.

Never mind accessing e-services.

Roughly 77 percent of Americans use the internet compared to only 51 percent of households where the householder has a disability. And this is despite the fact that people with disabilities arguably have the most to gain from access to services online.

We are addressing this issue thanks to a new 12 million dollar project supported by the broadband technologies opportunities program, a part of the American Recovery and Reinvestment Act that will allow the city and our sister agencies to help more people with disabilities get online.

We are creating 20 new publicly accessible computer centers and expanding capacity at 132 existing sites across Chicago and we have made a commitment that each center will have work stations equipped with the latest assistive technologies. Although this new project called smart Chicago public computer centers will have great impact, the fact that

62 percent of people with disabilities lack broadband at home suggests that we need more computing resources and that this need will only continue to grow over time.

Accordingly we recommend the Department of Justice coordinate with other federal agencies like commerce and education to promote programs that increase the supply of technology resources for people with disabilities.

Moving on to the supply of e-services, I'd like to briefly respond to some of the topics included in the advanced notice of proposed rulemaking published by your Department on July 26th.

One of the most important first steps in launching our accessible technology initiative was selecting a set of standards that had sufficient rigor and the ability to adapt to advances in technology.

With MOPD and an accessible technology advisory committee composed of outside experts and community leaders, many of whom are here today, we evaluated several standards, including WCAG and Section 508. We ultimately selected the Illinois information technology accessibility act standards finding them to be the most rigorous and timely and their effectiveness have been demonstrated through their implementation in the city of Chicago.

One down side however to a state or local standard, however rigorous, comes from the fact that many of the most important technologies state and local governments used are in fact procured from national vendors rather than being developed internally.

Many of the vendors for our large systems have thousands of clients both from the public and the private sectors.

If one entity requests modifications to meet a local accessibility requirement, a vendor may simply choose to not bid on a contract rather than modify its existing core product used by thousands of different clients.

We therefore recommend that the Department does need a single, clear, rigorous standard to help inform decisions by government agencies and their vendors alike.

Further, it is critical that the Department update the standard more quickly than other federal standards for accessibility in order to account for the quickly evolving nature of technology.

While adopting a standard is critical, it is only the first step on a path towards full accessibility.

In fact, standards are just one of nine strategies included in a toolkit we developed for the global initiative for inclusive information and communication technologies, a United Nations program.

Examples of additional strategies include integrating accessibility into the information technology governance project management and procurement processes, training employees on adopted IT accessibility standards, and auditing projects and reporting on results.

While much of the implementation of these strategies can be done with existing staff and resources, success will also depend on state and local governments' ability to create and deploy new operating models.

These new strategies will be most effective if they are developed collaboratively by both academic researchers and practitioners in government that recognize and can design around real world challenges.

Accordingly, we recommend the Department provide grants to governments, research institutions and the private sector to create Centers of Excellence in accessible technology that develop new models and share best practices among local governments and state governments.

^M04:03:36:00

I would like to close if I have time by very quickly addressing the costs and benefits of accessible technology for people with disabilities.

On the cost side, it would be naive to say that ensuring full accessibility is achievable without investments.

State and local governments will likely need to purchase new products and bring in additional intellectual capital, whether through staff or consultants.

Suppliers of information technology solutions will need to invest time and money in designing testing and deploying accessible systems.

And even if we do everything possible to ensure accessibility, users with disabilities will still need to purchase assistive technology tools that remain far too expensive.

That said, America has far more to gain by embracing this challenge in the same way we have risen to the challenges of renewable energy or universal healthcare.

New demand will fuel creation of new accessible technologies by entrepreneurs and innovators creating new companies and jobs.

Connecting people with disabilities to education and workforce services will unlock productivity from an underutilized segment of the workforce and making e-government services even more accessible will benefit all users in the same way that ADA ramps benefit ordinary people with luggage.

So, again, thank you for the opportunity to address this panel.

We wish you the best of luck in your deliberations today and I look forward to addressing these topics in more detail in our written comments.

I'm happy to answer any questions.

>> JOHN WODATCH: Thank you.

We appreciate your testimony.

Next we are going to hear from Vincent Smith.

Mr. Smith?

^M04:05:06:00

>> VINCENT SMITH: Good afternoon.

^M04:05:10:00

I'm an individual with a disability.

^M04:05:13:00

I go to a hotel.

^M04:05:16:00

And none of the hotel is accessible.

^M04:05:22:00

I use key guards for the keyboard, none of the hotels have free wheel in their keyboard.

^M04:05:41:00

And going to a doctor, we do need to take into account buttons to get into the hotel room.

^M04:05:52:00

To call for the nurse.

^M04:06:00

For 911, all you can do is get TTY -- or a cell phone. Instead of calling 911.

^M04:06:15:00

-- there are people to see to come get us.

^M04:06:21:00

And that's it.

^M04:06:25:00

>> JOHN WODATCH: Thank you very much for that testimony.

I think the issues you're raising are important ones for us to realize the variety of ways that people can get access without just voice commands in order to get the services and goods that they need.

Sure.

^M04:06:44:00

If you want to add?

^M04:06:45:00

>> VINCENT SMITH: Yeah.

You talk about the (indiscernible)

^M04:06:50:00

-- America (indiscernible).

^M04:06:52:00

There need to be big buttons on the ATM machines.

^M04:07:04:00

The small ones are hard to press.

^M04:07:09:02

So we need big buttons, also.

^M04:07:13:00

>> JOHN WODATCH: Thank you very much.

^M04:07:14:00

>> VINCENT SMITH: Thank you.

^M04:07:15:00

>> JOHN WODATCH: All right.

Next commenter is Bruce Paul?

Mr. Paul?

^M04:07:22:00

>> BRUCE PAUL: Hi, my name is Bruce Paul.

I am speaking as a resident of the City of Chicago.

And all of my comments are not to deprecate any comments made by my fellow members of the American Federation of the Blind.

I would like to start by saying that I went to college at a time before the ADA.

I remember having conversations with architects at my undergraduate university who refused to change the accessibility of the structures because they were afraid it would compete with the academic gothic design of the university itself.

Of course, I graduated in 1990, shortly after which they had to retrofit everything resulting in greater costs for all of their buildings and construction projects.

Similarly, in the mid '90s when the World Wide Web was coming around, we saw many websites coming up not following the accessible standards that were published by the W3C consortium, the WAI, which has been in existence since the '90s and could have been followed.

But for some reason, a great many companies had decided to not use those technologies and make websites completely inaccessible to those of us who are blind and use accessible software such as JAWS and other screen readers.

The reality is the costs involved in moving forward in these efforts are minimal if one establishes standards and pushes with those standards so that all people use those standards.

Specifically in the area of technology, one shouldn't think about what we have now in terms of computers and accessible devices, as I'm sure all the members of the Department of Justice panel realize, most email is done on devices the size of the phone I have in my hand right now, which is an Android phone.

And one can connect to those phones using Bluetooth, which is a standard.

One could also get a keypad which connects to that phone.

And the reason one could do that is because there's a standard which is Bluetooth protocol that allows one to connect to that phone automatically and use any keyboard to connect to that phone.

Thus demonstrating the use of standards for devices which would normally be considered inaccessible.

Also, I wanted to say in the area of medical things that a great many of the tasks being done by doctors and technicians nowadays in the field of medicine will be

replaced by AI, for example, in the area of imaging technologies, the segmentation of MRI images will most likely be done by computers in the future.

Also, a lot of the assistants that people require in the hospital will be done by robots and things like that, which isn't as far fetched as one might think because if one looks in Japan, that is already a reality.

As such, I would recommend that the Department of Justice think about standards and think about enforcement which incorporates developing standards for accessible AI, accessible robots such as 911 standards that will connect a robot to say, not just thinking about the grandmother who fell down and can't get up, but think about the robot who's helping take care of the grandmother and connecting to the fire department to call the fire department.

These standards are required for one to have autonomy and for one to have a safe standard in their personal lives.

And that's all I have to say.

Thank you.

>> JOHN WODATCH: Thank you, Mr. Paul, for a glimpse into a future that maybe some of us haven't thought about yet.

I think that's the first time that I've heard a discussion of an accessible robot or the use of AI.

But it ties in with something that Marca Bristo talked about earlier in her testimony about advances in healthcare.

So I think we will take those to think about what you had to tell us.

^M04:11:41:00

>> BRUCE PAUL: Thank you. They've already started testing the first robot for giving patients sponge baths, actually.

So it does exist.

^M04:11:50:00

>> JOHN WODATCH: Thank you.

And next we will hear from William Bielawski who is with the Chicago Light House for the Blind.

^M04:11:59:00

(applause)

>> WILLIAM BIEWLASKI: Ah, Fan club.

^M04:12:00:00

Hello, my name is Bill Bielawski. And I appreciate the opportunity to speak today. My comments are my own. And they're not the position of any of my affiliated organizations.

I want to address accessibility issues related to folks who are blind or visually impaired.

^M04:12:16:00

When I use the word blind I mean folks that are legally blind and when I use the phrase visually impaired, I mean someone who is not necessarily blind but still has functional vision difficulties.

This is sometimes defined as an acuity of 20/60 or worse.

I'm involved in these issues because my 25-year-old daughter was born blind.

25 years ago, I was a cofounder of Illinois association for parents of children with visual impairments, and I am currently IPVI's president.

For the past five years, I was manager of the adaptive technology center at the Chicago Lighthouse for People who are Blind or Visually Impaired.

I am also an instructor in the assistive technology unit at the University of Illinois at Chicago.

I have a few comments on what I heard earlier today. First, UIC does require transcripts for their online course content, so that it is accessible to people who are Deaf and hard-of-hearing.

Also a gentleman mentioned browse aloud which reads websites to users. And the screen reader is free to the user and that's a very good thing.

But the company that produces browse aloud charges an annual fee to the website owner.

If the Federal Government could supply such website access in a way that was free to both the user and to the company hosting the website, that would be great.

And, lastly, all products should follow universal design principles.

My first career was a software engineer at Bell Laboratories and so I apologize if the rest of this testimony is kind of techie.

I want to share some thoughts on accessing computer-driven equipment, like exercising machines and kiosks where the screen is not seen by some, cannot be seen by someone who is blind or visually impaired.

Now, most people who are blind or visually impaired have some useful vision.

Sufficient magnification or color enhancement may make the display accessible.

However, a small display would still be a problem and there would need to be controls to enable the user to scroll through the magnified or enhanced information.

Speech output to me seems to be the better approach. It is accessible to all except those who are Deaf and blind.

If we provide universal speech access, it would be not too much more of a stretch to provide Braille access to folks who are deaf/blind.

So examining accessible ATMs seems a good place to start. All the user needs is a standard inexpensive head phone.

Plugging in the head phone activates the speech interface which immediately provides verbal instructions.

ATMs already had a tactile keypad so controlling the device did not require any special hardware. Now any equipment could add a head phone jack, but to integrate the technology to internally convert the information to speech may be expensive.

Equipment must also have accessible controls. Tactile buttons are always very good.

But there is a trend to provide touch screen controls.

Now, apple has an alternative technique for selecting controls on the touch screen such as the iPhone or iPad or iPods where you drag your finger across the screen and the device tells you what you are touching.

And when you find what you want, you either double tap or you tap with a different finger.

Now incorporating this kind of touch technology into all equipment may also be expensive.

So what are we to do?

Now I imagine such an interface might already exist, but my thoughts are that we specify some sort of standardized jack simpler than a USB plug that provides two-way text-data transmission.

I envision a 3 by 4 telephone keypad for specifying input.

Then similar to the national library service digital book readers, you can provide at no cost to the user this keypad and head phone that interfaces to the standardized jack.

The text-to-speech is converted inside the free device.

The equipment manufacturer then only has to transmit data for the instructions and status to the jack and receive data from it.

I think this might be an affordable way to provide access to all computer-controlled devices, and I thank you for your attention.

>> JOHN WODATCH: Thank you very much.

And I hope you pursue some of these ideas yourself and maybe help develop them?

>> WILLIAM BIEWLASKI: All right.

>> JOHN WODATCH: Our next commenter is Gabby Carol.

The floor is yours.

^M04:16:46:00

>> GABY CARTROLL: Hi.

^M04:16:54:00

I want to start by introducing myself.

My name is Gabby Caroll.

I'm a big advocate in the disabled community.

^M04:17:12:00

It was, I was born with CP in 1980, so now everyone knows how old I am.

And they were right to testify two things.

^M04:17:36:00

The first thing is curb cuts.

One of my friends, Jackie, was up here earlier and she was talking about her having CP. I also have CP.

And when you have CP, you're very klutzy and you don't pay attention to things very much.

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So one of these suggestions I have is to make a bright yellow line on the curb so people can see that they need to step down off the curb before they fall and break their legs or ankles or necks.

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Earlier, I heard from someone who said I didn't think of that. Well, when you're not disabled, you don't notice these things.

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The second thing is Pace, which is a Para-transit bus, they're never, ever on time. I was waiting for my ride yesterday, and they were really late.

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And the person who was driving me said that she tried to change my ride and they couldn't do that.

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And, also, they have wheelchair ramps on the vans, so sometimes when you're getting in the bus and a wheelchair is there, you have to squeeze through the wheelchair and the gate,

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and they also don't tell you to watch out for the straps on the floor of the bus with the wheelchair.

Thank you.

^M04:21:40:00

>> JOHN WODATCH: Thank you very much.

We appreciate you waiting through the afternoon and testifying with us.

And next we're going to hear from Babette Peyton.

^M04:21:52:00

>> BABETTE PEYTON: Thank you very, very much. Wow, Civil Rights division of the United States Department of Justice.

^M04:22:01:00

Wow.

I want to first say thank you to the lady from the University of Illinois that sent me the email about this and to Access Living for here hosting it for all the other organizations that are part of the coalition to help people with disabilities and all kinds of abilities.

And, I wanted to share a couple of things. First of all, I saw from the park district, they have a lot of equipment. And they need more.

I think all of your park districts, hi Dan, need to have equipment to help people with disabilities. I've been able to get into a pool where they have a lift.

And, you know with the thing around my waist. I'm not able to use my left side.

And that's great to go into the aerobics pool and I do as much as I can. I've been able to participate in the Para-Olympics. I'm a disabled veteran. And I've learned how to do archery with the bow and put the thing, arrow in my mouth and shoot it and still get bull's eyes, praise God.

How you doing?

I want to say a special thank you also for RIC.

Rehab Institute of Chicago because they do a marvelous job with all the programs that they have and the gym and stuff to make things accessible.

But everybody needs more.

At the VA hospitals, they need to all have something.

You got many people going around in wheelchairs, amputees, blind and the like.

And they just really need to have that, they say well some hospital like Hines has more adaptations for people that need adaptive sports. I bowl there with Dive Heart which is a great organization that helps people to scuba dive.

They have a special program for veterans to scuba dive. And although I'm only able to use my right side, I get under that water and it's like I'm swimming with the fish.

We need more money for programs like this.

I horseback ride.

They have a lift with brave hearts.

They take me out of the wheelchair, pick me up, put me on the horse.

And people on the sides.

There bowling, they have a stand where you can put the bowling ball on there and you can just with one hand push it down.

What I'm saying is that what's so important about having things like this for sports?

Because sports is both competitive in the world and it brings nations together.

Sports is also good for one's personal self-esteem where you just competing for yourself to show what you can do.

And people in the adaptive sports community, most of them are very kind and loving and they show you what to do.

They make you feel like there's nothing you can't do.

And that transfers to you having more self-esteem.

Because there is so many people out here telling you what you'll never be able to do this. You're not going to be. So many negative things. This then helps you to lift your self-esteem. So we need more of that.

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As I was listening to one of the speakers talking about the curb, you just got finished talking about the curbs. In some places in Chicago, you can't even get down. You get all the way to the end of the street and then you got to go back down the block because they have no way to get down.

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And that's a problem.

With the ADA back in 1990, I was a consultant at that time with the national minority contractors association to help write training for contractors around the country to make things friendly, customer-friendly instead of just sanctions.

And I just think that right now as we look at some of the things they talked about, the computers. And I guess that little bell went off because I'm supposed to shut up. So I won't, I was trying to listen to that.

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But in traveling, a thing about hotels. A hotel I went to, I had to have somebody to travel with me. You call and say is it accessible?

Yes.

And once you go some place and you find that you get there and it's not accessible, they just got some bars up there and you have to run outside to the bathroom all the time because your wheelchair won't fit in the bathroom.

And by the way, all of the government buildings that have the signs for the wheelchairs, not all of them you can push a button to get in.

That's something minimal.

If you can't get in the bathroom without somebody coming to help you, you are in bad shape.

And then some of them are so narrow here, they should have people coming, do you know what?

I used to have an elevator company. Okay. And what elevators help people get people up and down, elevators, escalators, stair lifts, wheelchair lifts. And I just submit to you we could create some jobs immediately if we have people in wheelchairs, we have people who are visually impaired, we have people, you know, to go in and not be inspectors but just be surveyors to go into these buildings and identify ways, this is the barriers to access.

And put this on the budget because do you know what?

Anything could happen to anybody at any time.

And I was at a building one time where this guy would not even with somebody putting up money to put an elevator in there he refused to have an elevator put in that building.

And guess what?

He had a car accident and became a paraplegic.

And rather than put an elevator in there, because he lived in the building, he sold the building.

Now, you know that's a shame.

I want to thank you for your time and I want to just ask you to if people just start thinking, if we had a big campaign and an award ceremony for people to start looking around, what's accessible?

Let's get somebody out there using this not just because of the laws that came before.

I had a bigger chair than this before. I could not even get into some of the bathrooms. Could not get into the bathroom.

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Even if somebody opened the door. Can you imagine being at a wedding and you have to go and you can't go?

Or at a funeral and you can't go? So if we just had a big campaign to promote this accessibility. Every-day people do not go to a tall building and look for the stairs.

They go to the elevator. So if you think anybody and you see something, you take it for granted. So I want to thank you for giving me Babette Peyton an

opportunity. And I want to say thank you to everybody that is making a big difference.

Right now I'm also in the archery program at Chicago state with RIC looking forward to going to the Para-Olympics to the winter sports camps with the disabled American veterans, the paralyzed American veterans to the wheelchair games.

And I just want to suggest that the Department of Justice needs to give some money to these Para-Olympic games to Veterans Serve.

And when you do that, a lot of times you have these sports programs, it costs money.

And they put more money there, they could help lift spirits and people that still have the ability, you don't have to necessarily have the physical ability, but any kind of speech impairments or anything, you have a lot to contribute to society.

I thank you.

I love you.

And thank you for allowing me to come and say something.

This is, I hope something that's going on.

And if you need me to come in and take a look at something, I would more than happy.

If you pay my way there.

My caretaker.

Come and give some input and make sure I get an accessible wheelchair.

God bless you.

Love you all.

Thank you.

>> JOHN WODATCH: Thank you very much.

We appreciate your comments.

>> MAZEN BASRAWI: And thank you for your service to our country.

>> JOHN WODATCH: We have a few more minutes before we have to end.

I think that is the end of the number of people who have officially signed up.

I know there are some people in this room who are here and have been listening and haven't testified.

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If someone would like to testify for up to five minutes, we have one or two slots left.

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>> MALE: I would, sir.

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>> JOHN WODATCH: Then please come forward and identify yourself and we'll add your comments.

Here is fine.

>> LARRY LABIAK: I am Larry Labiak, the disability policy officer for the Chicago park district.

^M04:30:49:00

I came with no prepared comments but Babette's shyness inspired me to say a few words this afternoon.

It is particularly on fitness equipment and the vast need that exists for integrated, accessible fitness equipment in gymnasiums and centers across the country.

In the Chicago park district, we currently have 70 fitness centers.

35 of which I will say have some kind of equipment that we would denote as accessible to people with disabilities.

However, it is difficult without standards to know if we are purchasing equipment that long-term is going to be appropriate to the needs with people with variable disabilities, not only people with physical disabilities but more specific people with visual impairments or those who are blind.

I think on the whole, the manufacturers think they're doing a fair job, but in reality, some are and some are not.

When someone puts a yellow control on a piece of equipment or a swing-away seat, they think that they are producing equipment that is fully accessible.

And we all know that that is just the tip of the iceberg.

It's difficult for us as a public entity, having spent about a quarter of a million dollars in the past two years to make our fitness centers more accessible, to know that we are spending our money wisely when there are not bona fide standards across-the-board that we can purchase with confidence and know that we're not throwing good money after bad equipment.

So that's the difficulty.

And we're very anxious and excited about the opportunities to make our fitness centers more accessible for people with disabilities, but that is a problem that exists currently.

So I'm very excited about the upcoming, hopeful standards for fitness equipment.

Also, one of the things about accessible golf carts, if I may say.

I think it's very important that all golf courses have at least one.

In my own experience at this point in time, being one of a kid of 1 in 10 in the family, in a very modest environment in Chicago, I tend to on a personal level undersell the need.

But I really think that a golf cart that can be used by people with physical disabilities at each and every golf course is a lofty but a very important goal.

We have six in the Chicago park district.

We have six courses.

And I can honestly say that they're not used yet as much as I would like to see them used, but I think it's important to also say the better awareness that we provide for our constituents and the better job we do marketing will increase the demand.

And of course with our aging population and myself among the 78 million baby boomers who will become 65 and beyond in the next 15 years, it even makes that more important.

So I thank you for the opportunity.

And I think, again, I'm going to echo one of the previous testifiers, Richard M. Daley and Tim Mitchell is the superintendent of the park district, I'm proud to say I'm the first person in the country in a major city who has a director's level position to deal with these kinds of issues.

It just reflects the importance of how our city administration views these issues.

And I thank you and have a good afternoon.

^M04:34:27:00

>> JOHN WODATCH: Thank you. We appreciate you coming forward.

Is there anyone else who would like to add their, if not, I think we are close enough to the end of the day for, to, we were going to have some closing remarks by Mr. Basrawi.

You will probably do it from here.

^M04:34:50:00

>> MAZEN BASRAWI: Yes.

^M04:34:52:00

Well, thank you, John.

This hearing has been a tremendous opportunity for us.

We've heard today from advocates, from public servants and representatives of advocacy organizations as well as individuals with disabilities who testified as to their own experience.

The testimony we've heard today has been extraordinarily valuable.

We look forward to a similarly productive hearing in Washington and San Francisco coming up over the next few weeks.

And as always, we asked for your written comments if there are any additional comments from anybody who testified today, we'd be happy to receive those from now until January 24th.

I'd like to thank first Access Living once again for hosting us today and being very generous with their time and staff.

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(applause.)

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I'd like to thank all of the volunteers who helped us today from our federal partners at HHS, Department of Education and the EEOC.

And, finally, I would like to thank Zita Johnson Betts and her team at the disability rights section for putting on a fantastic hearing.

All right.

Thank you very much.

^M04:36:28:00

>> JOHN WODATCH: And the hearing is adjourned.

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