LEVEL
access

G3ict
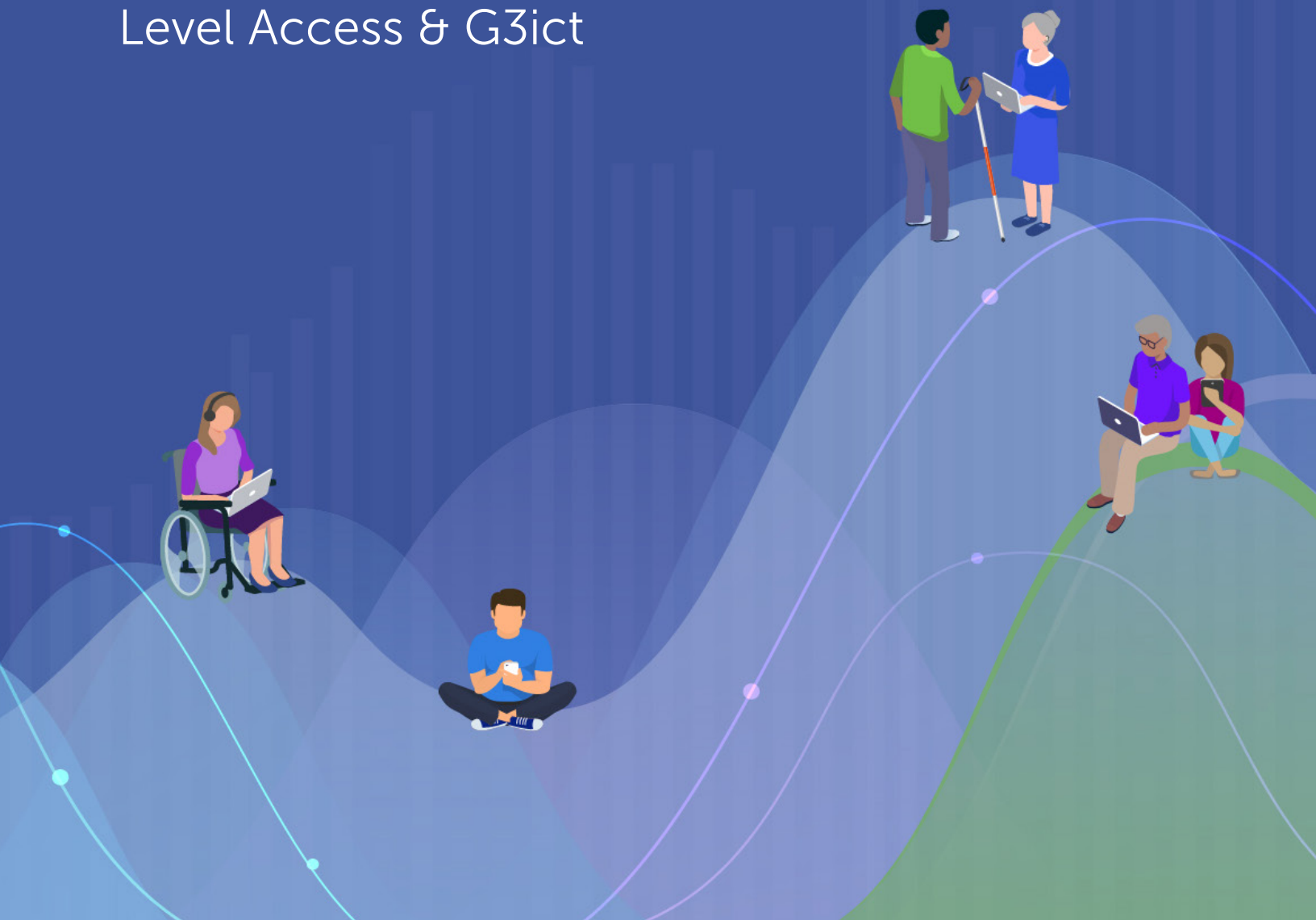
The State of Digital Accessibility 2019

Presented by

Level Access & G3ict

We live in a great and wondrous time in the era of digital accessibility. Twenty years ago, when I got started in this business, digital accessibility was barely an idea, WCAG 1.0 was a new thing and Section 508 was just getting rolling. Fast forward twenty years. We now see active consideration of digital accessibility throughout development lifecycles, awareness around the issue of digital access and equality and robust enforcement of the rights of people with disabilities online.

At Level Access we are excited to have a chance to put this report together for practitioners in the industry. As a leader in the digital accessibility space for over twenty years we've long felt that our industry is best served by hard data and that data can be used to inform and justify digital accessibility investments. Our belief is that we, as an industry, do something good but also something that is defensible as an investment on its own. Our work in this field should be able to stand up to the robust scrutiny all technology investments face. This report is one of our contributions to that in support of the long term maturation of our industry. Our hope is that it provides a set of tools you can use to benchmark your program and understand where and how investments in digital accessibility can have their largest impact. Doing that ensures the investments we make have the biggest impact for users and real people benefit from the access they provide. In turn that supports our organizations ability to optimally fulfill their legal and moral requirements.

This report is not the beginning but it is a beginning. We hope this report, and other activities like it, can serve as the end of the beginning of our industry and move us into the next phase of maturity in our art and practice. I look forward to journeying with all of you as we grow and mature together over the coming years and decades. As a group of practitioners we can help achieve the goal of enabling all people to live their best lives through access to technology.

– Timothy Stephen Springer,
CEO of Level Access

Foreword by Axel Leblois, President, G3ict*

Our sincere appreciation to the 550 professionals from organizations of all sectors who took the time to respond in great details to this survey launched by Level Access in cooperation with G3ict on the current state of accessibility in their organizations: this exceptionally high number of responses shows the considerable interest for trends in accessibility implementation.

For G3ict constituents, including IAAP members, those results are very encouraging: a majority of respondents confirm that their organization has a dedicated professional overseeing accessibility – 72% among organizations with more than 5,000 employees. And from our perspective, while 31% already ask their employees to be IAAP certified, 47% more would consider it.

Accessibility drivers among respondents' organizations are also fast evolving in positive ways: for the first time in such a survey, we see respondents put compliance with accessibility standards in their industry and inclusivity as a core value of their organization slightly ahead of the importance of lowering their legal risks. We encourage you to go through the detailed results of the survey and compare them to your own experience and hope that those results will help advance your own endeavors and the accessibility profession at large.

On a side note, an overwhelming majority of respondents would be favorable to the Americans with Disabilities Act being updated to include specific regulations for digital accessibility – a strong consensus reflecting the fast and positive evolution of attitudes towards accessibility requirements among all sectors.

Our sincere appreciation goes to the management and research team at Level Access for having taken the initiative of this research. Its results will provide most useful insights to accelerate the development of the accessibility profession.

*G3ict – the Global Initiative for Inclusive ICTs promotes digital accessibility for persons with disabilities on five continents. Its activities include the International Association of Accessibility Professionals (IAAP), the M-Enabling Summit, the Global Alliance for Accessible Environments and Technologies (GAATES), SmartCities4All.org, the DARE Index, Buyict4All.org, the G3ict Advocacy and Capacity Building division and Global Policy Center.

Table of Contents

Introduction

Welcome to the first State of Digital Accessibility Report, presented by Level Access and G3ict. The 2019 Report draws on the data gathered in the State of Digital Accessibility Survey. Insights into overall trends in the industry and the digital accessibility programs of organizations large and small will be provided.

The 2019 report will cover the following themes:

The Legal Climate

According to Seyfarth Shaw, LLC, there were 2258 digital accessibility lawsuits in 2018, nearly triple the amount of the previous year. In the survey, people in legal and compliance roles were asked how the upward trend in litigation influenced their accessibility program. A review of the major legal developments of last year is also included.

Challenges for Accessibility Programs

For each group surveyed (product, UX, legal, marketing), the top five challenges were ranked. For those struggling with their accessibility program, the survey participants will find that they are not alone! If your development team does not do accessibility testing as part of continuous integration, some data in this report may change your mind.

Product Development & Design

The majority of people who took this year's survey identified themselves as being responsible for the design or development of websites, apps, or other digital assets. Insight about tools, training, WCAG 2.1 adoption, user testing by people with disabilities, and more will be presented.

Marketing

Digital accessibility is not limited to code; it's vital for the marketing department of any organization as well. All content published digitally—blog posts, emails, webinars, social media images—needs to be accessible to people with disabilities.

To learn more about digital accessibility, visit the Resources page at Level Access – levelaccess.com/resources.

Over 85% of survey respondents in legal or compliance-based roles said they want the Americans with Disabilities Act updated **to include specific regulations for digital accessibility.**

Lawsuits Nearly Triple in 2018

The past year saw 2258 lawsuits regarding digital accessibility, a 177% increase over the previous year.(*) If your organization is not committed to creating an inclusive experience for all users, it is no longer a question of if you will be sued, but when. Here are some of the major legal news stories of 2018.

January 2018

Section 508 Refresh (Finally) Published
The Section 508 revised standards bring harmonization with international standards, most notably the Web Content Accessibility Guidelines 2.0 (WCAG 2.0), which are incorporated by reference. (Read More)

February

House of Representatives Approves Bill to Limit Suits under the ADA
In a vote of 225-192, the House of Representatives passed the ADA Education and Reform Act. The bill—also known as H.R. 620— would limit the ability to raise claims under Title III of the ADA. (Read More)

March

Mass Filer Rule Instituted
Under the changes to the OCR's Case Processing Manual, the OCR can dismiss complaints brought by anyone who has filed multiple complaints against multiple organizations, regardless of the merit of those complaints. (Read More)

43 Senators Express Opposition to HR 620
In a letter written by Senator Tammy Duckworth (D-IL) and signed by 42 of her colleagues, the Senators express their opposition not just to H.R. 620, but to "any legislation that would repeal or weaken rights under Title III of the Americans with Disabilities Act." (Read More)

April

New Peoples Bank Case Dismissed for Lack of Standing

The judge in *Carroll v. New Peoples Bank* noted that the closest branch of the bank was 300 miles from the plaintiff, making that the plaintiff's stated intent of visiting NPB's physical locations implausible. (Read More)

May

Advocacy Groups Sue Department of Education

The National Federation of the Blind (NFB), NAACP, and the Council of Parent Attorneys and Advocates (COPAA) challenged the DOE Office for Civil Rights' March 2018 amendments to its Case Processing Manual on the grounds that they were adopted in violation of the Administrative Procedure Act. (Read More)

June

Representatives Ask the DOJ to Curb ADA Lawsuits

In a letter to Attorney General Jeff Sessions, 103 Representatives asked the DOJ to "state publicly that private legal action under the ADA with respect to websites is unfair and violates basic due process principles" in the absence of clear regulations. (Read More)

Court Rules Existing Settlements Do Not Protect Against Lawsuits

The Eleventh Circuit Court of Appeals in Atlanta overturned the dismissal of a website accessibility lawsuit against Hooters, allowing the case to proceed. The decision calls into question the ability of organizations to block suits under the ADA on the basis of prior settlements. (Read More)

July

State Attorneys General Ask DOJ for Website Accessibility Rules

The Attorneys General of 18 states and the District of Columbia have sent a letter to United States Attorney General Jeff Sessions requesting the DOJ draft web accessibility regulations under the ADA. (Read More)

Court of Appeals Allows ADA Lawsuit Against Dunkin' Donuts to Proceed

The Eleventh Circuit Court of Appeals in Atlanta recently overturned a lower court's dismissal of a website accessibility lawsuit against Dunkin' Donuts, allowing the case to proceed to trial. The decision will likely make it more difficult for businesses with physical locations to have those lawsuits dismissed. (Read More)

August

Federal Court Decision Highlights Importance of Choosing an Experienced Accessibility Expert

In *Gomez v. General Nutrition Corp*, the judge granted in part a motion to exclude the opinions and testimony of GNC's expert on questions of web accessibility because the person did not meet the requirements of an expert witness. (Read More)

September

DOJ Reaffirms Position that ADA Applies to Websites

In a letter to members of Congress, the DOJ clarified that it believes that Title III of the ADA applies to the websites of public accommodations, even in the absence of affirmative regulations. (Read More)

Court of Appeals Rules Plaintiff Not Required to Exhaust Remedies under CVAA Before Bringing ADA Suit

In the case *Sierra v. City of Hallandale Beach, Florida*, the Eleventh Circuit Court of Appeals ruled that plaintiffs may file an ADA or Rehabilitation Act suit alleging lack of closed captioning on streaming video without first filing a CVAA complaint with the FCC. (Read More)

November

DOE Rescinds "Mass Filer" Rule

In late November, the Department of Education (DOE) Office for Civil Rights (OCR) released a revised Case Processing Manual that reversed the controversial "Mass Filer" rule from March 2018. (Read More)

"Separate-But-Equal" Airline Sites Do Not Comply with ACAA

Scandinavian Airlines System (SAS) agreed to cease and desist from providing a separate assistive website, to bring its primary website into compliance with WCAG 2.0 Level AA requirements, and to pay $200,000 in civil penalties. (Read More)

January 2019

Ninth Circuit Reverses *Robles v. Dominos Pizza LLC*

The judges held that ADA Title III applies to websites when there is a connection between the website and a physical place and that the lack of official web accessibility regulations does not raise due process concerns. (Read More)

The past year saw 2258 lawsuits regarding digital accessibility, a **177% increase over the previous year.**
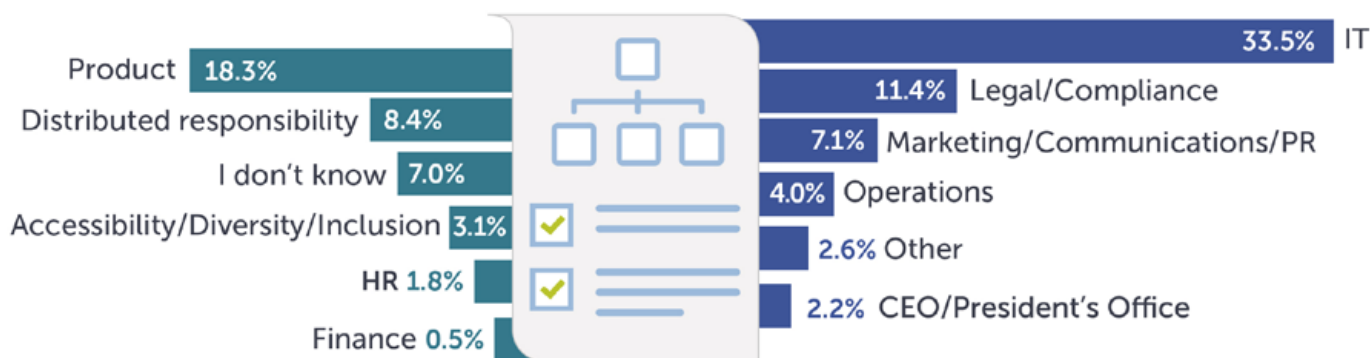
Laws & Standards Compliance

Survey participants with legal or compliance responsibilities had a variety of job titles, including external counsel, corporate counsel, C-suite executives, compliance officials, and operations.

IT is Usually Responsible for Digital Accessibility

Accessibility is everyone's responsibility, but it helps to have a single point of contact for overall compliance. According to the survey, the responsibility for digital accessibility compliance most often falls to the IT department (34%). Only 3.1% of survey respondents stated that they had a department solely responsible for issues of accessibility, diversity, or inclusion. Finally, 11.4% of organizations had a legal or compliance department in charge of accessibility.

What business unit in your organization is responsible for ensuring digital accessibility compliance?

Product 18.3%
Distributed responsibility 8.4%
I don't know 7.0%
Accessibility/Diversity/Inclusion 3.1%
HR 1.8%
Finance 0.5%

33.5% IT
11.4% Legal/Compliance
7.1% Marketing/Communications/PR
4.0% Operations
2.6% Other
2.2% CEO/President's Office

Compliance is a Key Driver

Over 65% of survey respondents stated that it was very important for them to be compliant with accessibility standards in their industry. This lines up with the competitive market in the most frequently-represented industries in the survey: Education, Technology & Telecommunications, Government, and Healthcare.

Updated Regulations are Wanted

Over 85% of survey respondents in legal or compliance-based roles said they want the Americans with Disabilities Act (ADA) updated to include specific regulations for digital accessibility. Updated regulations would reduce the uncertainty about whether a digital property is legally accessible. In the meantime, 54.6% of participants said they are accelerating their accessibility plans due to the current litigation trends.

For Now, WCAG 2.1 is Here

Since it is generally assumed that updates to the ADA would incorporate the Web Content Accessibility Guidelines (WCAG), for now, accessibility experts recommend compliance with WCAG 2.0 AA.

An update to WCAG was released in 2018 and nearly 28% of those surveyed reported that they are already adopting the 2.1 guidelines and 36% reported that they are planning to adopt 2.1 in the near future.

54.6% of legal & compliance officials surveyed said they are **accelerating their accessibility plans** due to the current litigation trends.

Challenges for Accessibility Programs

A thriving accessibility program does not appear fully formed and perfected; every program has its challenges. Survey respondents were asked to identify the challenges faced by their accessibility programs and five common threads were found.

1) Incorporating accessibility earlier in the development lifecycle

For those involved in the creation of digital properties—product, UX, engineering, etc.—this challenge ranked number one. When digital accessibility is only considered after a product is developed, remediation takes more time and energy. It is much more cost-effective to be thinking about inclusive design at the first stages of planning a new product or a new feature for an existing product.

2) Budget for accessibility program

Budget was a top challenge for nearly every role surveyed, whether it was developers wishing they had more budget to outsource manual testing to accessibility specialists (especially testers with disabilities themselves) or marketers who would like to hire someone to ensure their email templates, presentations, and cutsheets are accessible.

3) Training

Every role listed training in their top three challenges. The majority of development teams rated their accessibility expertise as elementary and many marketers were unaware of their role in digital accessibility compliance, such as adding alt text to images on social media.

4) Too many content creators – can't monitor everything

Whether content creators are writing code or sharing documents, the never-ending stream of new content can be hard to manage from an accessibility standpoint. This especially rang true for those in higher education who have professors and teaching assistants uploading documents and videos for classes daily.
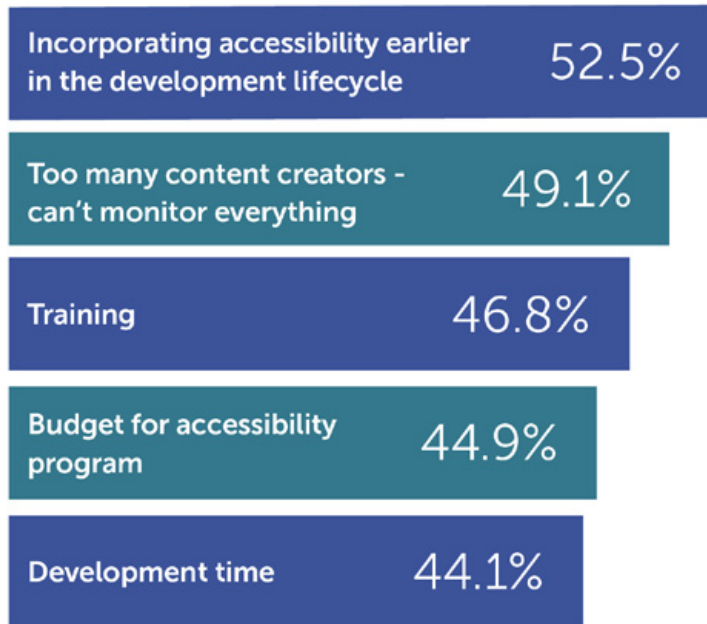
5) Development time

Time to develop an accessible product — or remediate an inaccessible one — is a common challenge. Developing accessible digital properties can be done on a tight schedule, but only with the proper planning, training, and tools.
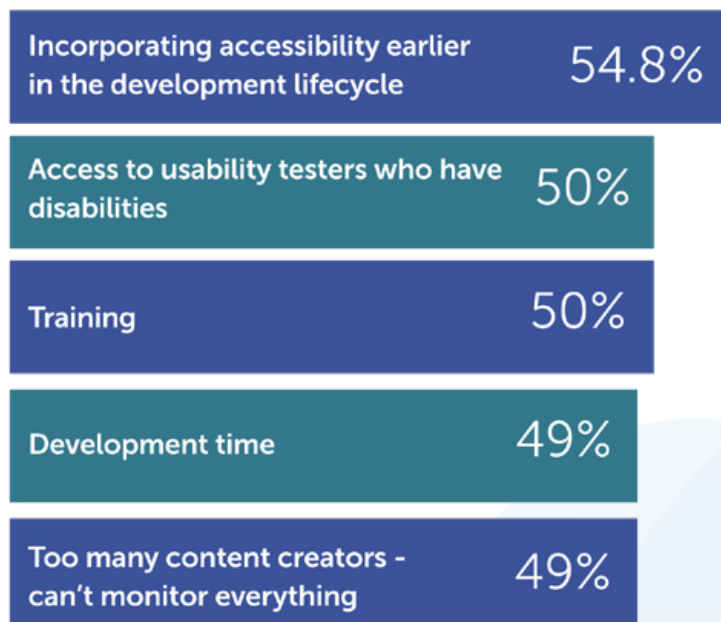
When do you test for accessibility? Development teams that test during the continuous integration process found it much easier to monitor content for accessibility.
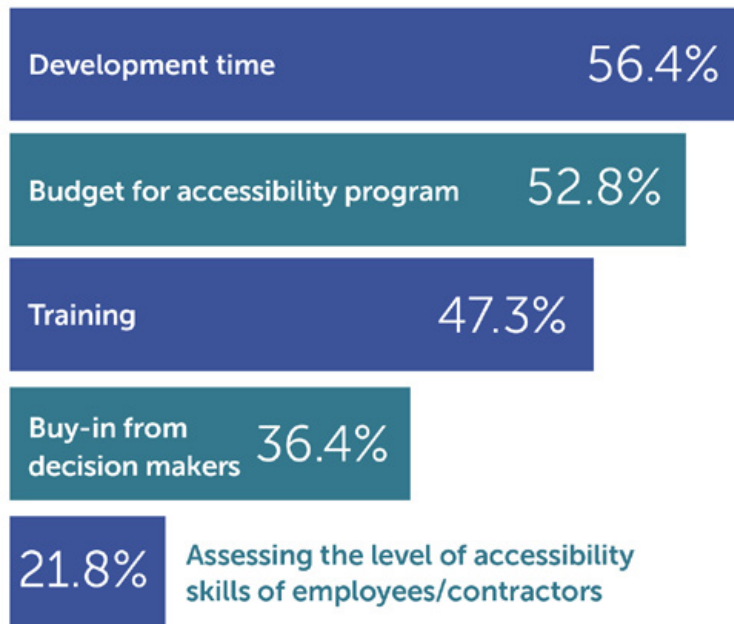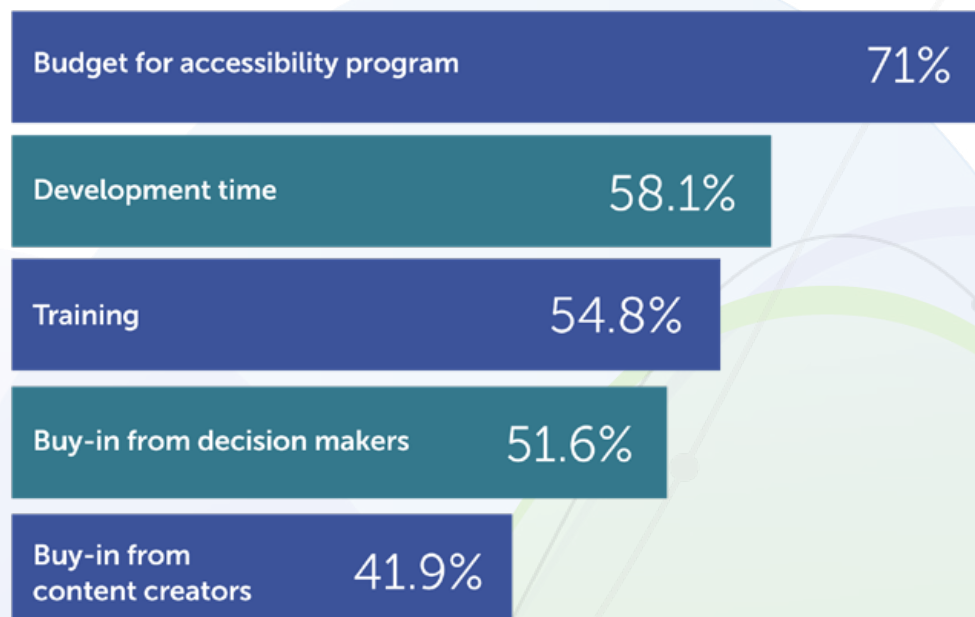
Challenges for Product Development

Challenge	%
Incorporating accessibility earlier in the development lifecycle	52.5%
Too many content creators – can't monitor everything	49.1%
Training	46.8%
Budget for accessibility program	44.9%
Development time	44.1%

Challenges for UX/Design

Challenge	%
Incorporating accessibility earlier in the development lifecycle	54.8%
Access to usability testers who have disabilities	50%
Training	50%
Development time	49%
Too many content creators – can't monitor everything	49%

Challenges for Legal/Compliance

Challenge	Percentage
Development time	56.4%
Budget for accessibility program	52.8%
Training	47.3%
Buy-in from decision makers	36.4%
Assessing the level of accessibility skills of employees/contractors	21.8%

Challenges for Marketing

Challenge	Percentage
Budget for accessibility program	71%
Development time	58.1%
Training	54.8%
Buy-in from decision makers	51.6%
Buy-in from content creators	41.9%

Nearly half of product development teams surveyed do **<u>not</u>** conduct usability testing by people with disabilities.

Product Development: **Testing Tools**

The survey provided developers an open text box and asked them to describe everything about the accessibility testing tools they used—the good, the bad, and the ugly. Here's what they said in their own words.

What Developers Love about Accessibility Testing Tools

An intuitive and easy-to-learn user experience, robust automated testing, quick results, and detailed reports were the most frequently mentioned positives.

1) Easy to use/learn

"Easy to implement and usable by a broad audience."

2) Educational

"Showing where the error is within the code, links to follow-up documentation."

3) Automated testing

"Repetitive testing can be completed quickly and thoroughly."

4) Reporting

"Breaks down a lot of information into detailed reports."

5) Fast results

"Quick preview of potential violations."

What Developers Do Not Like about Accessibility Testing Tools

On the flip side, here are the pain points for those who do not like their organization's accessibility testing tools.

1) Insufficient testing

"They only catch less than 50% of the accessibility issues, still require extensive manual testing."

2) False positives

"They often tag insignificant technical issues that do not affect users with disabilities."

3) Hard to use/learn

"It's hard to know how an experienced user would use it. We just have to guess what makes sense."

4) Inconsistent

"I need to use multiple tools across the same page to ensure I'm finding as many noncompliant items as possible because it seems no one tool finds all of them."

5) Reporting features
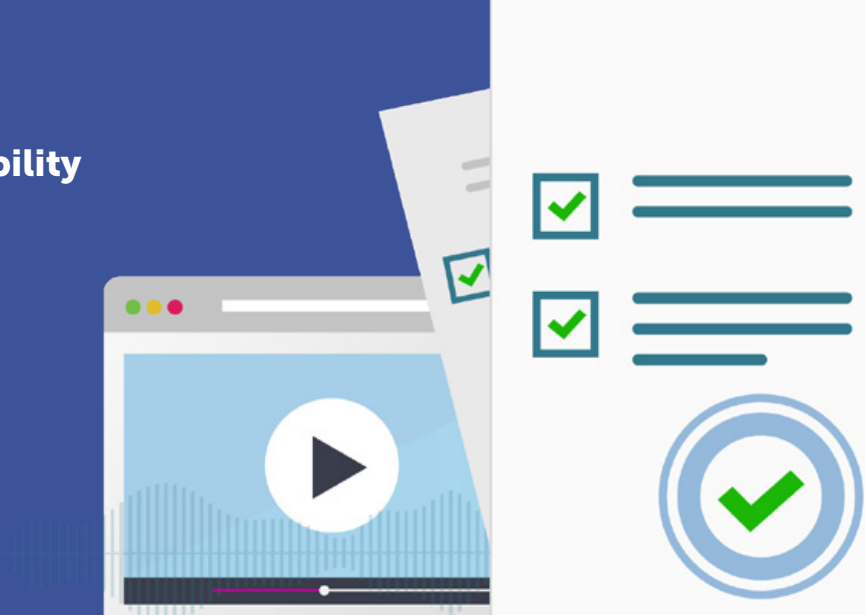
"Hard to compile consistent understandable reporting."

Product & Design Teams on Accessibility
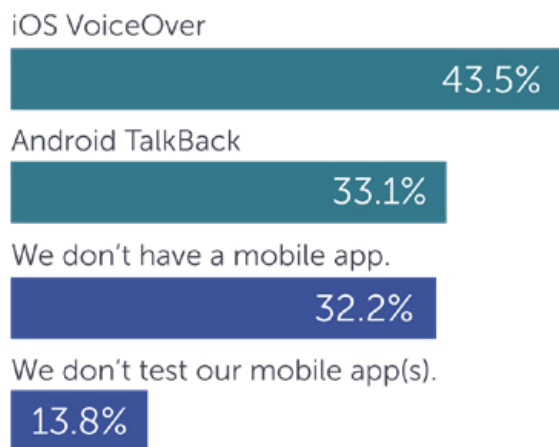
Outsourcing

Regardless of company size, the top three tasks organizations usually outsource are:

1) video & audio captioning,

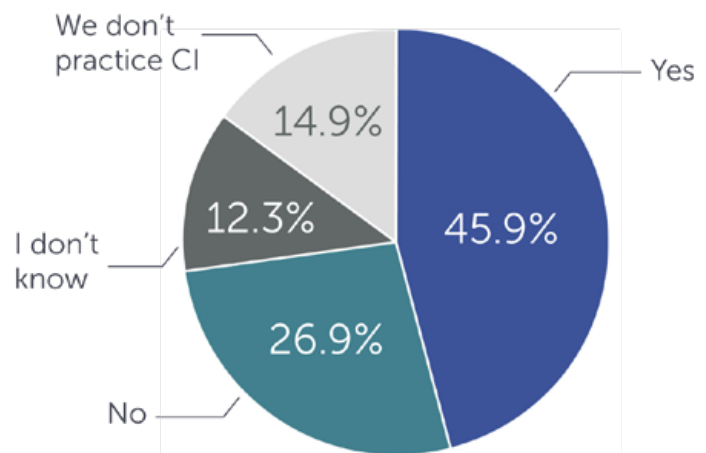**2)** document accessibility, and

3) manual testing.

Mobile Apps

The vast majority of mobile apps are tested using the native screen reader.

iOS VoiceOver
43.5%

Android TalkBack
33.1%

We don't have a mobile app.
32.2%

We don't test our mobile app(s).
13.8%

Continuous Integration

Product development team members were asked if accessibility testing was a part of the CI process.

We don't practice CI — 14.9%

Yes — 45.9%

I don't know — 12.3%

No — 26.9%

UI Component Library Accessibility

The survey asked UX/Design team members about their UI component library.

Our most frequently used components are accessible.
39.6%

We don't have a UI component library.
22.6%

We are updating it as we learn about accessibility.
20.8%

The components are not accessible.
6.6%

I don't know.
10.4%

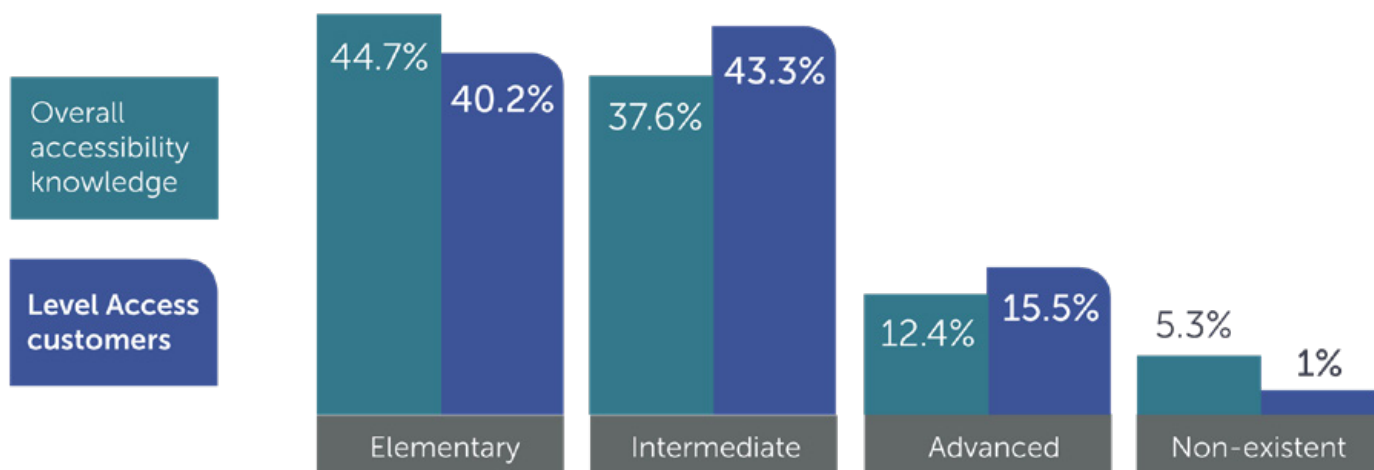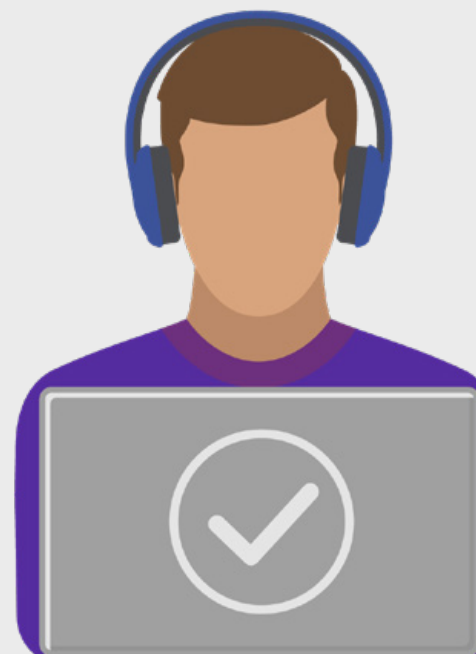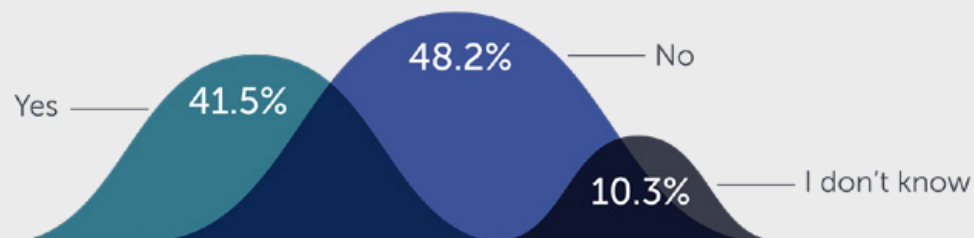## Knowledge & Training

Level Access customers rated their overall accessibility knowledge higher than non-customers. They reported that the partnership with an accessibility firm and the educational features within AMP (such as the best practices and code examples) helped them level up their knowledge.

Overall accessibility knowledge

Level Access customers

Elementary	Intermediate	Advanced	Non-existent
44.7%	37.6%	12.4%	5.3%
40.2%	43.3%	15.5%	1%

Testing by People with Disabilities

Nearly half of the respondents do not perform testing by people with disabilities. While automated and manual testing can identify many barriers to accessibility, the best way to ensure an inclusive experience is to involve people with disabilities in the testing process. Their experience is an invaluable part of the development process.

Yes — 41.5%

48.2% — No

10.3% — I don't know

WCAG 2.1 Adoption

Over 64% of survey respondents indicated that they are either already adopting or planning to adopt WCAG 2.1. The update adds 17 new success criteria: five level A, seven level AA, and five level AAA. The success criteria primarily address items related to mobile (small screens and touch screens) that accommodate users with motor and dexterity disabilities, users with low vision, and users with cognitive disabilities. In addition, there are success criteria that benefit users of voice input, users with vestibular disabilities, and users of screen readers.

Marketing & Accessibility

In today's content-driven world, it is important for organizations of all sizes to have accessible marketing materials. While there is a low probability an organization will be sued for social posts lacking alternative text, having accessible marketing materials sends a message that the organization values inclusion.

Document Accessibility

Digital documents have their own set of best practices to ensure accessibility. For those using Microsoft Office, the Accessibility Checker does a great job identifying errors and walking the user through remedying them. PDFs are not as straightforward and can pose challenges, especially issues of reflow for screen reader users. In the survey, 22.6% of marketers admitted that they do not tag their PDFs to make them accessible.

Yes
- 16.1% We outsource PDF tagging.
- 22.6% We do it in the marketing department.
- 16.1% We have another department in our organization do it.

No 22.6%

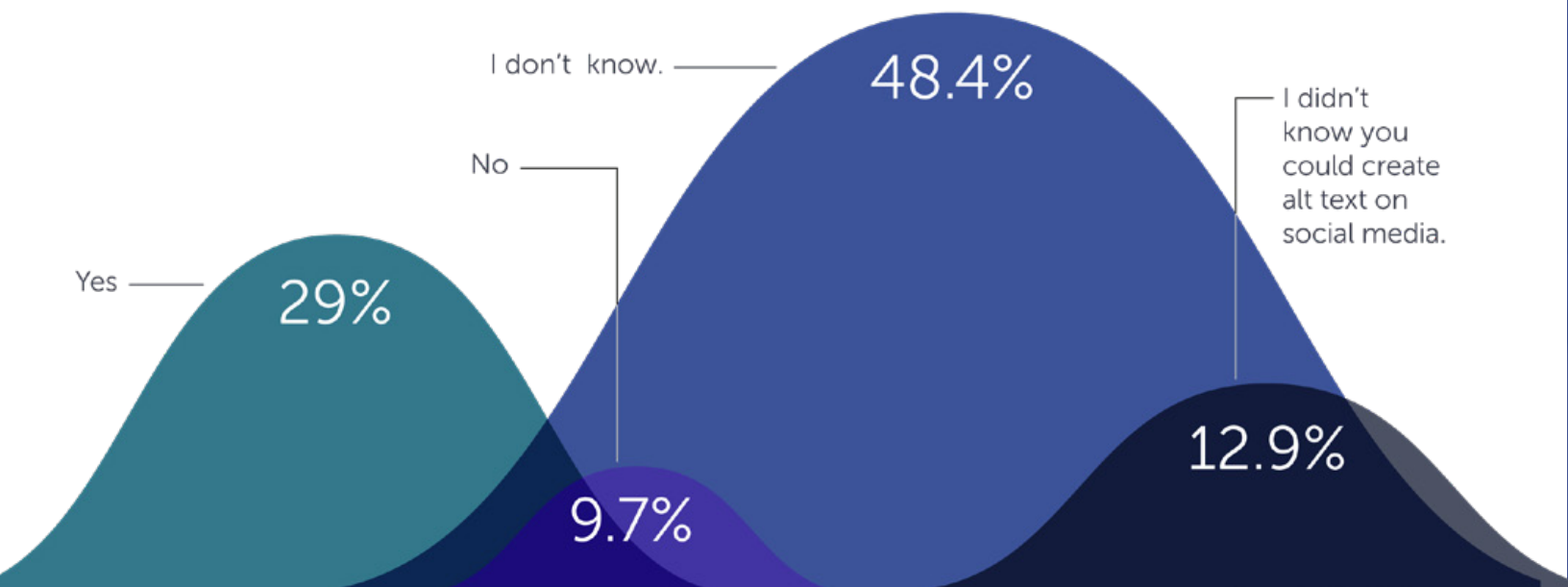**16.1%** I don't know.

6.5% We don't produce PDFs.

Video & Audio Captioning

Everyone knows that captions are important for those who are deaf or hard of hearing, but did you know they are also helpful to those with cognitive disabilities or English language learners? (That's not even mentioning how many hearing people view videos with their device muted!) Our survey found that 87.1% of marketers caption their video content, with 29% of them choosing to outsource the task.

Social Media

The survey uncovered a gap in accessibility knowledge when it comes to social media. Alternative (alt) text is available for use on Facebook, Twitter, and Instagram, but nearly 13% of marketers did not know about this capability. Nearly half (48.4%) did not know if their social media images had alt text.

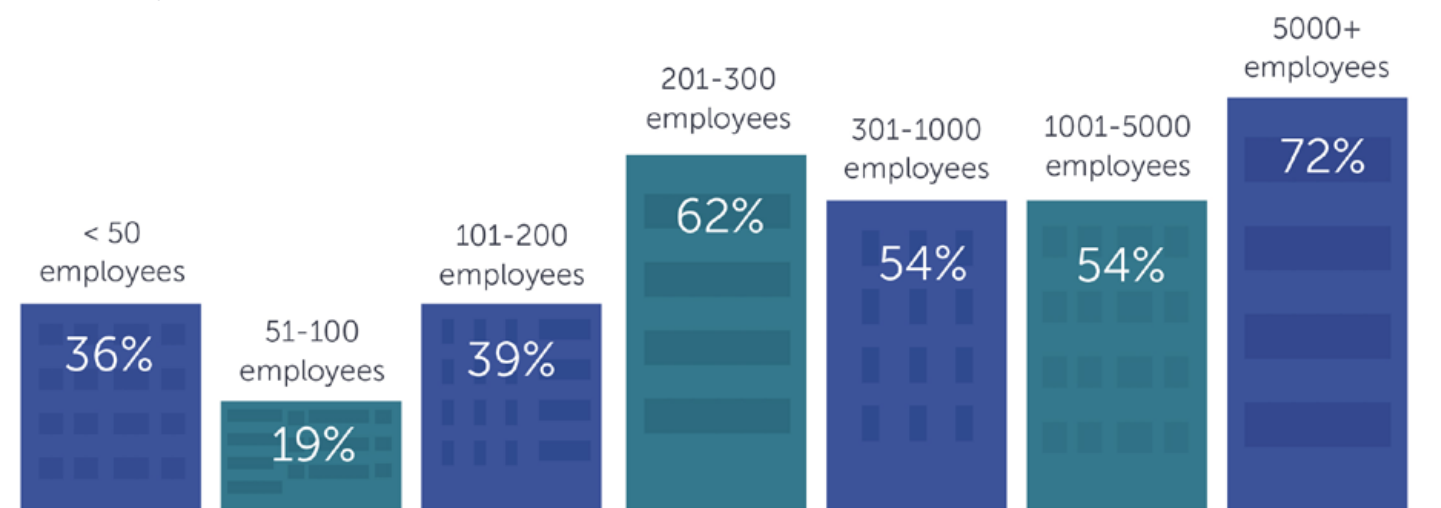**Do you use alt text on social media?**

I don't know. — 48.4%

No —

Yes — 29%

I didn't know you could create alt text on social media.

9.7%

12.9%

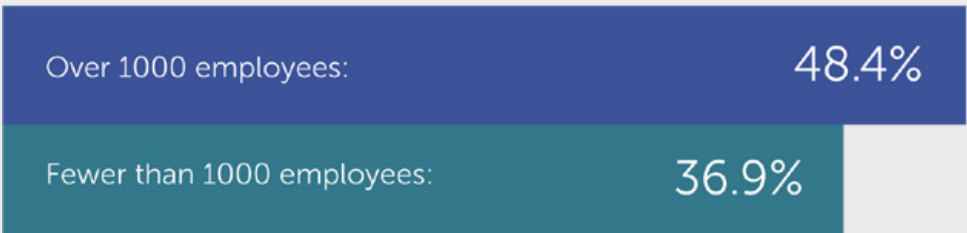**Fewer than 3 in 10 marketers are using alternative text** on social media images.
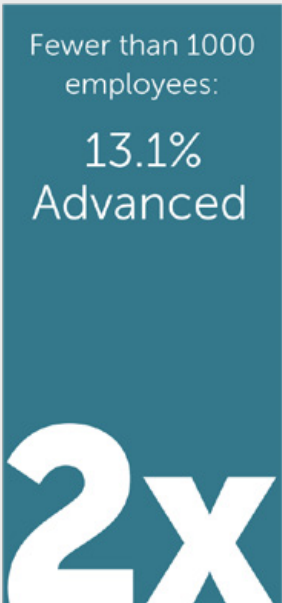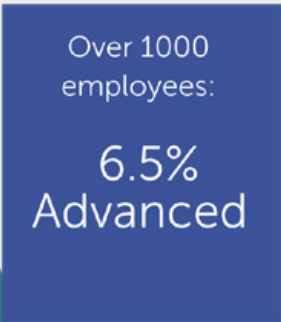
Does Organization Size Affect Accessibility Programs?

Larger organizations are more likely to have a single person whose full-time job is to manage digital accessibility compliance.

< 50 employees
36%

51-100 employees
19%

101-200 employees
39%

201-300 employees
62%

301-1000 employees
54%

1001-5000 employees
54%

5000+ employees
72%

Larger organizations are more likely to do usability testing by people with disabilities.

Over 1000 employees: 48.4%

Fewer than 1000 employees: 36.9%

Those at smaller organizations are twice as likely to rate their product team's overall accessibility knowledge as Advanced.

Fewer than 1000 employees:
13.1% Advanced

Over 1000 employees:
6.5% Advanced

2x

About The Survey

About The Survey Participants

550 people participated in the State of Digital Accessibility 2019 survey. Here is a little more about them.

The principal industries represented in the survey were:

Education

Technology (including Telecommunications)
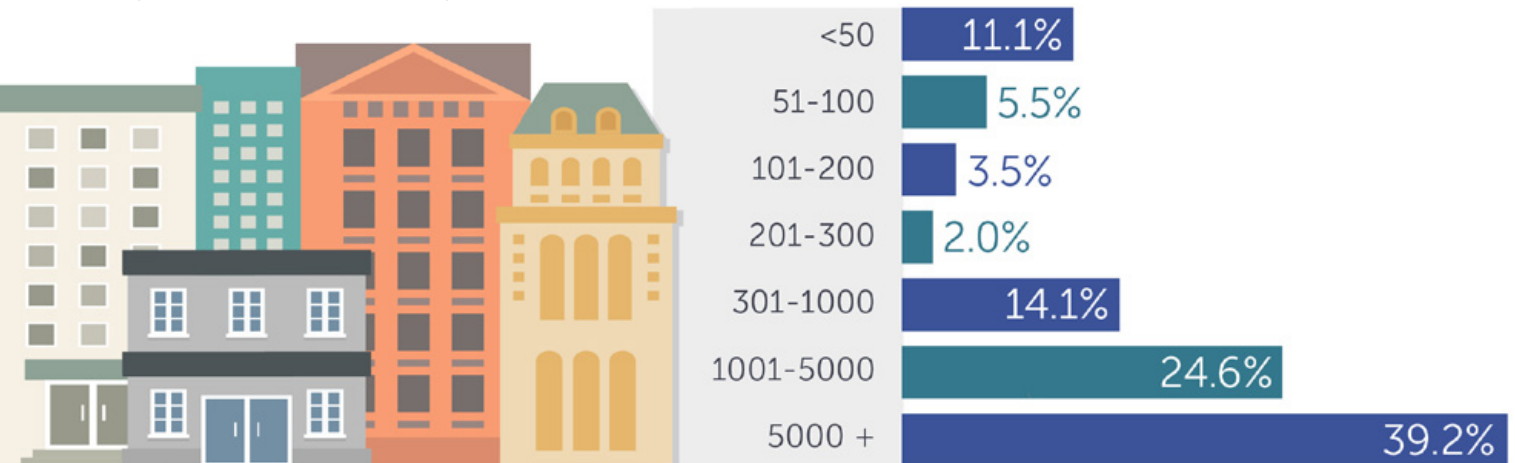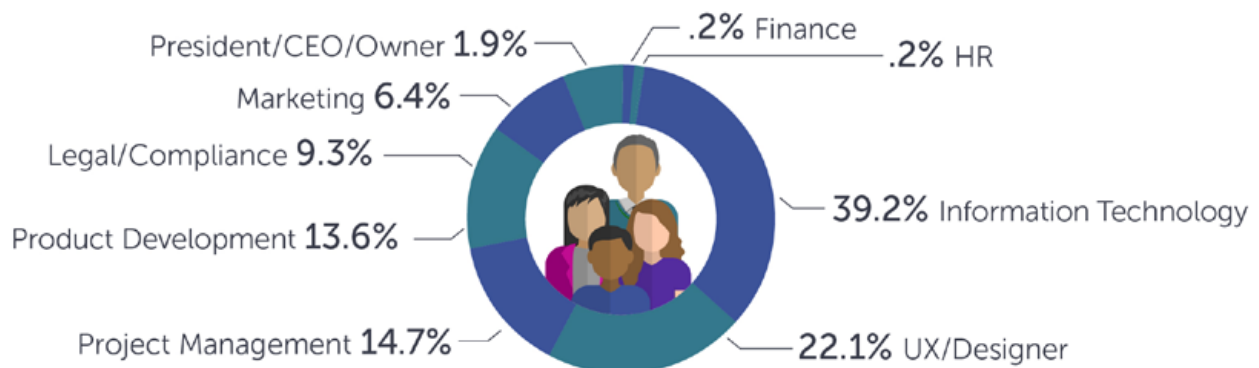
Finance & Financial Services

Government

Healthcare & Pharmaceuticals

Organization Size (Employees)

Size	Percentage
<50	11.1%
51-100	5.5%
101-200	3.5%
201-300	2.0%
301-1000	14.1%
1001-5000	24.6%
5000 +	39.2%

Roles of Survey Participants

- President/CEO/Owner 1.9%
- .2% Finance
- .2% HR
- Marketing 6.4%
- Legal/Compliance 9.3%
- Product Development 13.6%
- 39.2% Information Technology
- Project Management 14.7%
- 22.1% UX/Designer

"**Accessibility is an outcome. Inclusive design is a process.** If we don't include people with disabilities in the process, we can't call it inclusive design."

— Derek Featherstone,
CXO of Level Access

Level Up Digital Accessibility Programs

- Research new automated testing tools, especially those that can be used as part of continuous integration.
- Include people with disabilities in your user testing.
- Invest in training opportunities like those offered by organizations like Level Access and G3ict.
- Bring your marketing department and other content creators on board to create a fully accessible digital experience.

For more information about making your digital properties accessible to people with disabilities, please visit Level Access's Resources at LevelAccess.com/resources.

About Level Access

Level Access provides industry-leading and award-winning digital accessibility solutions to over 1000 corporations, government agencies, and educational institutions. Our mission is to achieve digital equality for all users by ensuring technology is accessible to people with disabilities and the growing aging population.

Why partner with Level Access?

- Over 20 years in digital accessibility and only digital accessibility – an unparalleled history in helping customers achieve and maintain compliance.
- A comprehensive suite of software, consulting services, and training solutions.
- Experienced testers, including many with disabilities who use assistive technologies.

Learn more about digital accessibility products and services at levelaccess.com or 800-889-9659.

About G3ict

G3ict's objectives and global outreach are aligned with the dispositions of the Convention on the Rights of Persons with Disabilities (CRPD) on the accessibility of Information Communication Technologies (ICTs) and Assistive Technologies.

What does G3ict do?

- Promote awareness of digital accessibility and of effective public policies, private sector initiatives, and accessibility standards;
- Support advocates and policy makers with capacity building programs, policy development tools and benchmarking;
- Facilitate and share good practices and innovation in accessible and assistive technologies;
- Foster harmonization and standardization to achieve lower costs and interoperability on a global scale;
- Define and promote the accessibility profession through networking, education and certification.

Learn more about G3ict, IAAP, and the M-Enabling Summit at g3ict.org.