

SOP - NATO FAQ on Reserved Seating and the ADA

To: All NATO Members
From: Esther Baruh, Director, Government Relations
Re: FAQ on Reserved Seating Sales and the ADA

With the movie theater industry transitioning to reserved seating sales, theater owners should be aware of the ADA issues affecting reserved seating. NATO has prepared the attached FAQ to assist exhibitors in exploring issues surrounding the sale of wheelchair spaces and companion seating. This FAQ is not exhaustive and does not address every detail of reserved seating. Theater owners considering this system should consult with legal counsel to determine how best to adopt reserved seating sales.

With any questions, please do not hesitate to contact me at erb@natodc.com or 202-962-0973.

Thanks,

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ADA MATTERS RESERVED SEATING SALES

Introduction

With the movie theater industry transitioning to reserved seating sales, theater owners should be aware of the Americans with Disabilities Act (ADA) issues affecting reserved seating. This Frequently Asked Questions (FAQ) document is intended to explore issues surrounding the sale of wheelchair spaces and companion seating. **This FAQ is not exhaustive and does not address every detail of reserved seating. Theater owners considering this system should consult with legal counsel to determine how best to adopt reserved seating sales.**

The documents referred to in this FAQ are the 2010 ADA Title III regulations, with Department of Justice (DOJ) guidance; the 2010 ADA Standards for Accessible Design (“2010 Standards”); and a supplemental document also published by the DOJ in 2010 that clarified requirements regarding ticket sales under the 2010 regulations. This document, which will be referred to here as the “2010 Ticketing Guidelines,” addresses how a covered entity must treat sales of wheelchair spaces and companion seats.

These documents can be found in their entirety at these links:

2010 ADA Title III regulations, with DOJ guidance:

https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm

2010 Standards:

<https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm>

2010 Ticketing Guidelines:

https://www.ada.gov/ticketing_2010.htm

FAQ

1. [How many wheelchair spaces and companion seats does an auditorium need?](#)
2. [Can I sell wheelchair spaces and/or companion seats to anyone, or only to people who require their use?](#)
3. [Does this mean that I can't sell wheelchair spaces and companion seats online unless an auditorium is sold out?](#)
4. [How do I guarantee that tickets for wheelchair spaces and/or companion seats are sold only to people with a disability and/or their companion?](#)
5. [What if someone buys a companion seat and he or she doesn't require that seat, but another patron arrives who does require the use of the seat?](#)
6. [Our theater is implementing premium priced seating sections within auditoriums. Does this affect the placement of the wheelchair spaces and companion seats required in the auditoriums?](#)
7. [Do the same restrictions apply to aisle seats with retractable or removable arm rests?](#)

1. How many wheelchair spaces and companion seats does an auditorium need?

The 2010 Standards require public assembly areas to provide the following number of wheelchair spaces:

Number of Seats	Minimum Number of Required Wheelchair Spaces
4 to 25	1
26 to 50	2



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51 to 150	4
151 to 300	5
301 to 500	6
501 to 5000	6, plus 1 for each 150, or fraction thereof, between 501 through 5000
5001 and over	36, plus 1 for each 200, or fraction thereof, over 5000

At least one companion seat per wheelchair space is required.

Section 36.302(f)(4) of the 2010 ADA Title III regulations addresses the number of additional tickets that must be available for purchase by someone who is purchasing a ticket for a wheelchair space. There, the regulations stipulate that a public accommodation shall make available for purchase three additional tickets to an individual who is purchasing a ticket for a wheelchair space. These seats are required to be contiguous with the wheelchair space, but if the contiguous seats have already been sold or are unavailable, the venue must offer other seats as close as possible to the wheelchair space.

The regulatory language leaves open the question of whether or not a theater must hold back from sale to the general public one companion seat per wheelchair space or three seats per wheelchair space. Legal counsel should be consulted as to how to answer this question and for a complete understanding of the details associated with selling tickets for accessible seating.

2. Can I sell wheelchair spaces and/or companion seats to anyone, or only to people who require their use?

Section 36.302(f)(1) of the 2010 ADA Title III regulations defines “accessible seating” as both wheelchair spaces and companion seats. Accessible seating is meant to be sold only to people who require its use or to someone purchasing the seats on behalf of an individual who requires accessible seating. The 2010 Ticketing Guidelines list people who are eligible to purchase accessible seating:

- People who use wheelchairs
- People who use other mobility devices
- People who cannot climb steps or walk long distances because of significant arthritis or severe respiratory, circulatory, or cardiac conditions
- People who, because of their disability, cannot sit in a straight-back chair
- People whose service dogs cannot fit under a non-accessible seat or lie safely in the aisle

The 2010 Ticketing Guidelines clarify that people with disabilities who do not require the specific features of accessible seating, but merely have a preference for them, are not entitled to purchase accessible seats. Please see the answer to Question 7 for a potential method of accommodating such patrons.

If possible, a theater should wait for an auditorium to sell out of all other seats before releasing wheelchair spaces and companion seats to the general public. Please see the answer to Question 4 for further details on how a theater may consider handling the sales of wheelchair spaces and companion seats.



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3. Does this mean that I can't sell wheelchair spaces and companion seats online unless an auditorium is sold out?

No. A theater must sell wheelchair spaces and companion seats online, even if an auditorium is not sold out. Otherwise, patrons with disabilities would not be able to buy reserved seats along with the rest of the public. However, measures should be taken to ensure that those seats are only sold to people with disabilities and their companions.

4. How do I guarantee that tickets for wheelchair spaces and/or companion seats are sold only to people with a disability and/or their companion?

According to the 2010 Ticketing Guidelines, theaters cannot require proof of a disability as a condition for purchasing these seats. However, theaters and third-party ticketing sites may ask patrons to state that they require the features of an accessible seat, or are purchasing tickets on behalf of someone who requires such features.

Purchases of Wheelchair Spaces: Many theaters and third-party ticketing websites have pop-up disclaimers that appear when a patron selects a wheelchair space. These disclaimers remind the patron of the nature and restrictions of the seat and require the patron to click a button confirming knowledge and acceptance of such terms of use before they may continue with the transaction.

Sample wheelchair space disclaimers:

"This is a wheelchair space. It is not a seat. By accepting, you are confirming that you understand this."

"This is a wheelchair space; there are no seats here. Do you, or a member of your party, have a mobility disability or disability requiring the use of the features of the accessible location?"

"You have selected a wheelchair accessible space. Seats adjacent to wheelchair accessible areas are reserved for companion seating. Guests not in need of such accommodations may be asked to relocate if necessary. Please confirm your seating with the box office staff upon your arrival. Thank you."

Purchases of Companion Seats: Exhibitors need to be mindful of the abilities and limitations of various ticketing platforms. Some may enable restrictions on ticket sales, while others may not. Because of the ambiguity in the law concerning sales of companion seats in reserved seating auditoriums, exhibitors may want to consider the ability to restrict such sales absent purchase of an associated wheelchair space, or if not possible, providing notice to any such purchasers as to the nature and restrictions associated with companion seating. For example, if such sales cannot be restricted, consider the option of using pop-up disclaimers warning the patron that he or she may be asked to move in the event that someone who needs the companion seat arrives. As with the wheelchair space disclaimers, if possible, require customers to click a button confirming knowledge and acceptance of such terms of use before they may continue with the transaction.

Sample companion seat disclaimers:



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“This seat is meant for a companion to a disabled person who is occupying the adjacent wheelchair space or for a person with a disability who requires the accessible features of the companion seat. If you are neither disabled nor a companion to a disabled guest, you will have to vacate your seat upon request. By accepting, you are confirming that you understand this.”

“Warning: This is a seat designed for a companion to a disabled person or for a disabled person who requires the accessible features of this seat. If you do not meet these criteria, you may be asked to move in the event that this seat is needed for a companion or a disabled individual. If this occurs, the theater shall have no obligation to provide alternate seating. By clicking ‘Confirm’ below, you accept the terms and conditions of this seat.”

“This is a companion chair for the neighboring wheelchair space. Only individuals accompanying someone using the wheelchair space or a person with a disability who requires the accessible features of this seat may purchase a ticket for this seat. A ticket holder may be asked to move from this seat if he or she does not meet these criteria. By clicking ‘OK,’ you confirm that you accept the terms of this seat.”

5. What if someone buys a companion seat and he or she doesn’t require that seat, but another patron arrives who does require the use of the seat?

In that instance, a theater must ask the first patron—who does not require the use of a companion seat—to change seats so that the companion may make use of the seat. Theaters can decide what policies to adopt if there are no more seats left in the auditorium.

6. Our theater is implementing premium priced seating sections within auditoriums. Does this affect the placement of the wheelchair spaces and companion seats required in the auditoriums?

It may. With exhibition’s expansion of food and beverage options, some movie theaters are implementing specialty sections that receive additional service not received by the remaining seats in the auditorium.

Section 36.308 of the 2010 ADA Title III regulations require that assembly areas provide accessible seating in each seating area with distinct services or amenities. However, if it is not “readily achievable” for a venue to place accessible seating in each specialty seating area, the venue must provide those same specialty services to individuals with disabilities and their companions at other designated accessible locations at no additional cost. The number of wheelchair spaces and companion seats provided in these areas shall be included in, rather than in addition to, the number of wheelchair spaces and companion seats required in the assembly area.

For example, a movie theater with an auditorium of 300 seats is required to provide at least five wheelchair spaces and five companion seats for a total of at least ten accessible seats. The theater charges \$10 per seat for all seats in the auditorium. The theater decides to designate the rear five rows of the auditorium for wait service and increases the price of those seats to \$15 each. Of the ten accessible seats the auditorium must have, some of these wheelchair spaces and companion seats must be placed within the specialty seating area that receives wait service. If, however, it is not readily achievable for the theater to place accessible seating in that area, the theater must offer the amenities offered in the specialty



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seating area—i.e., wait service—to disabled patrons and their companions at the available accessible seating, but cannot charge those patrons the higher \$15 price.

In its guidance on the 2010 ADA Title III regulations, the DOJ warned that this “readily achievable” provision “does not obviate the obligation to comply with applicable requirements for new construction and alterations, including dispersion of accessible seating.”

Theaters considering premium priced specialty seating areas should consult with legal counsel on this matter.

7. Do the same restrictions apply to aisle seats with retractable or removable arm rests?

The 2010 Ticketing Guidelines do not place any sales restrictions on aisle seats with retractable or removable arm rests. However, it is important to note that per the ADA regulations, auditoriums are required to have at least 5% of all aisle seats accessible and equipped with retractable or removable arm rests such that those with mobility impairments may easily access same. In addition, in those instances when an individual desires to purchase a companion seat, but does not desire or need a wheelchair space, you may direct them to such accessible aisle seats if such seats will reasonably accommodate their mobility limitations.

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