

Are Accessibility Overlays Overbaked?

WECO ACCESSIBILITY MEETUP

JANUARY 25, 2021

TRANSCRIPT PROVIDED BY

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Welcome everybody. We're excited you are with us tonight. We have a good group together. It's a great topic.

Andy Emerson: We have a few more minutes. But we're all very excited.

Lynn Wehrman: Hi Lisa Yang.

Andy Emerson: Looks like it's 5:30. We can get started. Thank you for making it to this month's meetup. We're very excited to be presenting on the topic of accessibility overlay. The title of this evening's event is are accessibility overlays overbaked?

We would like to thank UnitedHealth Group and WeCo accessibility services.

A few housekeeping items. Schedule was posted to the meet up page for remaining dates of the year. We try to hold our events on the last Monday every other Monday. There is one change to that - main meetup will take place first Monday of June due to memorial day holiday. Otherwise, looking at the last Monday of the month.

Go ahead and go to the Twin Cities meetup page.

Second item, we made an update to our member dues. With everything moving virtual, a lot of costs have been reduced and removed. We passed that savings along and made it a nominal amount of five dollars per year.

Anyone that you think that might be interested, feel free to invite them. They can enjoy a 60 day free trial which allows access to at least one meetup.

Topic for March meetup was chosen. We'll discuss accessibility part three. This is a series of we've been going with talking with different accessibility professionals about their experiences with accessibility and learning along the way. This next meetup in March, we'll have Debbie Hylay talk about her time of working at deluxe and learning about accessibility.

More to come on that, we'll be posting more details in the event page later this week. Hope everyone can make it there.

Moving onto tonight's event, I would like to introduce Lynn Wehrman. Founder and President of WeCo accessibility services. I will hand it over to you, Lynn.

Lynn Wehrman: Thanks. Can we turn off the chimes?

Andy Emerson: I will work on that now. Thank you.

Lynn Wehrman: Great. Welcome everyone. We're so excited to have you with us at the first meet up of the year. Thank you to Andy for getting us set up. My name is Lynn Wehrman. Founder and president of WeCo accessibility services. Cosponsor of the Twin Cities meetup. Fast becoming accessibility meetup, not just Twin Cities. People from around the world joining.

Really pleased to be working with Optum Health who cosponsors this. And Bill Tyler who presents once in a while with us. We're happy to be here tonight.

Next slide... Without further ado, we'll jump into the meet. We are really excited to have Charles Hall back. He was with us this fall when we had a discussion that drifted into overlay and accessibility tools. So we thought of him right away when we knew we wanted to present on this topic.

He's a senior accessibility designer with CVS health. Part of the CAG's working group at silver task force.

Chari of W3C inclusive design. And member of Frensdale advisory committee.

He's been a really good friend to our meetup. Gracious to volunteer his time and knowledge. Gracious to have him back.

We also v WeCo's accessibility specialists. Our team is led by director of accessibility services, Ann Rodridguz. Jenn Hertz. Dane Dunham. And a few new specialists you may have not met yet - Jenny Monelo and Casey Matthews. They'll be around.

Great thing about our team, they all live with different disabilities so can bring some expertise. Next slide.

What we'll do is actually a unstructured topic on my end. Charles will bring the structure. We'll talk about overlay... Why not? Bring in experience. And then round it out with legal research on how overlays are impacting how people are doing business if they're being sued, et cetera.

Without further ado, I will hand this over to Charles.

Charles Hall: Thanks for the introduction. I actually don't have a lot of structure. I would like to pause for opportunity to answer any questions along the way. Feel free to interrupt. I would like to keep it conversational.

I am going to read from some material that I have written on this topic in the past as well as share some thoughts that I've added along the way.

I don't have anything to present necessarily. Just information on the topic broadly. First to level set, what it is we're actually talking about here.

Because this product in space that it resides in has actually had several names thanks to the various organizations that create them and promote them and inherit them and use them.

The idea of standardizing the term overlay to best describe them. This is what the product does. We're talking about essentially a code driven - usually entirely javascript - extension to a website. Draw a line of javascript, injects stuff into the document. And then that allows a panel to sit alongside or over the top of the website which intends to provide a menu of features that claim to improve the accessibility. And the experience of the site.

Some of those features are the ability to change contrast, font size, turn images off to better read text content. All well intended to provide a method of customizing the display of screen by putting a panel of tools alongside the tools.

The market of this is known as overlays.

The number one thing that all of these products claim to be able to do is fix the website. In other words, to detect and then re mediate issues that are failing various WCHG criteria. And that's possible. The claim is blatantly false.

Any of us that work in the field of doing evaluations for websites or digital products if they comply with various laws - it's relatively familiar with the fact that software can't detect the overwhelming majority of WCHG criteria. If you take the conformance as the standard, you have 56 success criteria. Only 19 can be detected by software, let alone fixed.

The claim they can fix issues is false.

But the claims of how they do it tends to get murky and makes things worse. So one of the ways that the most popular product on the market claims to do this is through the use of AI which stands for artificial intelligence.

Basically when you have software that can evaluate something and make decisions based on a model it learned from. Then take action on the decision it made. The only feature that comes close to being an artificial intelligence is image content evaluation and providing of automated image descriptions.

Similar to how automated captions are done for video.

So, at best you are going to get a very limited machine driven interpretation of the content of an image and describe it. For example, if you have a picture of a cat doing something special. And the special thing is what you want to convey, the automated description you are going to get is cat. Not informative nor conforming to standards.

So the claim that they are using AI to automatically detect and remediate these things is also false. Even those that come close to using an AI service for that image description are leveraging third party APIs that exist out there from larger players like Google.

So the gist of all of this is that there are a number of products on the market that claim to be able to provide this service of automatic detection and remediation. Those are false. And they represent a mis direction. And that mis direction is basically the fact that they're using the marketing of this claim of compliance to convince organizations to invest in a recurring subscription fee to a software as a service platform. And that investment diverts funds from accessibility issues. And deprioritizes other forms of investment in making sure web and other digital content is actually accessible.

In my opinion and others in the field, these are worse than snake oil. Because not only do they not live up to their claims but take away from any true effort to make the web accessible.

They also introduce issues of their own. They are javascript based essentially. Javascript is loading another application on top of your website.

At the very least, performance should come to mind. You have a number of things loading and happening and listening on top of what you have already produced and delivered with your website. Going and grabbing all the third party content to do the same.

Events can be blocking. So there is introduced an unexpected latency on top of those performance issues.

And there are a number of other access issues in actually attempting to utilize the product.

So, one of the other topics that we'll get to later is the legal landscape. One of the things happening within that landscape is sites that have deployed some of these overlay products are still receiving complaints and demand letters and lawsuits against them in the United States. That volume is increasing. Now we see lawsuits against sites because they have these overlay products on them. Because the product itself is introducing accessibility issues.

There is a recent case where we have a professional appear in our industry, Carl Groves who works for Tenant. He has produced a number of articles against these overlay products. Has produced a very comprehensive document as an exhibit of evidence within a case against a website using one of these overlay products.

In that document of evidence in this case he has not only outlined all the reasons accessibility overlays can't fulfill their claims. But also goes on to demonstrate the new issues that this overlay product introduces.

One of those is discovering the thing in the first place. In order to activate this overlay product, the challenge is the path to it is behind activating a button whose label is accessibility feedback and statement.

That button label tells you nothing about the fact that there are features intended to help you behind the button. And activating the button only produces a document which you have to peruse to activate the thing in the first place.

Once you have done that and determine that behind all of this feedback and statement is a service intended to help you, then the product includes things like a language selector. The language selector has buttons in it to activate individual languages. Those are inaccessible.

It's just astonishing, the amount of evidence that the accessibility design and development communities as well as the disability community has produced to invalidate all the claims these overlay products make. And now we have additional court introduced documented evidence of the issues that they add instead of remove from a website.

I know I just rambled on and meandered across some core issues. But I would like to get back to just WBCAG for a second.

So, we know that detecting issues is something software has a challenge with. Overwhelming amount of tools out there we probably all are familiar with and use and rely on in conducting evaluations of things.

And we know what the limitations of those tools are. We know that those results come back to us basically saying these are issues that are known errors that software can detect. Issues that might be errors that we need a human to verify. And possible issues on the page the human should go and evaluate on their own.

Among those things that software can't detect are really critical things. Like the ability to pause, stop, and hide. Ability to have audio control.

Whether or not captions and transcripts for audio content and videos exists on the page. That's because there is a number of methods to implement those. Can't detect audio description or keyboard traps or focus management or error prevention and handling. Can't detect content that relies on sensory characteristics or reading levels. That's a short list of things software can't detect.

So obviously among those are some very important things.

So, if the overlay product vendor is out there claiming they can automatically make a website conform to WCAG and comply with law - it's blatantly false. It's not possible. It's not responsible. It's not what the intent of accessibility is.

And I think I should pause there and see if we have any questions so far. I can't monitor the chat at the same time. So maybe Lynn.

Lynn Wehrman: We have a lot of blog entry sharing. I'm going to just put out the one that our team just out yesterday titled the same thing as this presentation. Are there any questions from anyone?

Charles Hall: I also have articles published over the years.

Lynn Wehrman: We'll make sure we get those into the membership page afterwards so everyone can access those. I'm wondering if I can ask a question of the group. I'm wondering is there anyone here tonight because you feel like this was the thing you were going to be able to do to really make accessibility work? But you are hesitant? If anyone wants to share why they came or what they are wondering about with overlays?

Marsha Schwanke: I work for a regional center. Grant funded. Provide information training on ADA and web accessibility. We get a quite calls on overlays. And you know, obviously we can't point out vendors. Try to steer them to the information. But I did have this call and the gentleman said I spoke to this vendor's president who assured me all these things.

And I just said, here is the information and things you might want to consider. But sometimes you have to tread the line about getting the information out. That's where I try to provide as much information as I can. But tread that line in providing the best technical assistance I can.

They see it as a quick fix, like you say. They don't see that on the long run it's hurting their bottom line. Like putting lipstick on a pig.

Lynn Wehrman: I will jump in quick Charles. I think there are a lot of companies that think they are helping. But they have not taken the time to understand the needs of users that live with disabilities. They look at it from a narrow perspective.

It's not necessarily that there are tons of people out there being opportunists. Just aren't looking at the entire problem. Charles?

Charles Hall: Yes... I will go backwards to the comments and segue from what we just said. That's a really fair and important observation. Some of the organizations out there who are providing the software as a service product actually are well intentioned.

And they have good products among their suite of offerings in addition to unfortunately also offering overlays. I'm trying hard to not name them.

But there is one out there that is a plague on our field. And I'm guessing and hoping that many of you are familiar with having come across the name. Trying to avoid using the name. But if you search on google for accessibility related information... Anytime in the past 18 months... About half of the page one results you will get come from this organization.

Reason is they are heavily funded. That funding has basically monopolized search marketing. And the dis information we have to overcome is overwhelming. Small and medium businesses are coming across this organization and believing it. Even large organizations. Simply because they are owning the search results at the moment.

So when people are entertaining or we have friends/partners/allies considering using one of these product, the first thing that will help is addressing the mis information. So, one of the most reliable ways to address mis information is to redirect to better sources of information.

And one that we have is the web accessibility initiative from W3C. If we could say take your attention from this shiny object over here that's buying all the search marketing and claiming this thing. And shift it over here to the reason why we want things to be accessible in the first place, maybe we can better have that conversation. And help inform people on why you would want to avoid this kind of solution.

There was something else in the comment that I felt was worth addressing. I lost it along the way. I think it's probably also relevant to consider why someone wants to become accessible.

If an organization is newly inquiring about accessibility and becoming accessible. One of the events that has most likely driven them to that point is they have received a demand letter or complaint. Or something has gone wrong. And now they are interested in becoming accessible.

That is a particularly important moment o make sure that the mis information does not enter the realm of consideration. Because if someone is pointing out they have encountered a barrier on

your website or digital product, the response you want to provide is we're happy to help you. Not slap a plug on it and make the problem go away.

Lynn Wehrman: I would like to re direct the discussion a bit. I know the team at WeCo has had - I remember our introduction to overlay was when we were hired by a client who had bought one and did not believe it. We got hired to vet it. It was very early on when these were first released.

We were really surprised. Suanne, I'm wondering if I can call upon you to describe what's happened in the work you have done with overlays. And I'm sure Charles will have things to add along with that too.

Sue Ann : I will ask Dane if he will begin that conversation.

Lynn Wehrman: We won't be mentioning clients.

Dane Dunham: I see these overlays - I usually either disable them or don't use them. Unless we're directed to. They tend to - well, they can sometimes create an issue. Like we talked about earlier how sometimes the controls for the overlays are inaccessible themselves. I use a screen reader so I can't use them.

So I tend to avoid them rather than use them. If I do use them, usually they create more problems than they solve. Like what was said with alternative text for pictures... Descriptions of pictures is another thing that can really cause issues if they are not clear enough.

So that's what I would start with. Kind of seconding what has already been said for the most part.

Sue Ann : Along with that, the testing we have done for clients regarding overlays - what Charles was talking about. There are 59 success criterion. And I believe Charles mentioned only 19 of those are "fixed" or accessible when overlays are used. I know that for the testing we have done with overlays for clients, we have found that it does fix some issues. I believe that we found it fixes more of the hanging lower fruit type of issues.

These more complex ones - I'm trying to recall a couple of them. Keyboard accessibility in particular especially for the ones that include any kind of area code and all the - had a hard time fixing those related issues.

So, just a few little instances of that.

Lynn, does that help in what you were wanting the access team to talk about?

Lynn Wehrman: Yes. And I think if you guys would not mind speaking to the fact of the thing that I found really interesting - being a visual user and not using overlays or encountering them in the same way - was the forced use.

You know what I'm talking about?

Sue Ann : That's a really good point. Thank you for bringing that up. I too use a screen reader. With those overlays, either they can detect that I'm using some type of software or keyboard. Because when I go to a website - I've experienced this professionally for testing but also in my personal life.

I was just at one too... But there's an alert that keeps popping up. Saying to make this webpage accessible, hit this combination of keys. It's really annoying. And that message won't stop until you - they also give you another option. Like if you want these reminders to stop, hit this combination of keys.

I think that's really a nuisance of having to force the user or continually encouraging or notifying the user to activate.

Can we hear from you, Casey? Do you want to speak on that? Anything we haven't talked about yet?

Casey Mathews: Yes, my experience has been somewhat similar. I'm also a screen reader user. A lot of times I'll encounter these sites. And you know, to me it's - every time you go to a new page, you get another pop up to try and use the feature. it's really hard to navigate a website.

And you know, even if you activate it, it doesn't always solve the issues. Usually doesn't solve anything. But if you don't activate it, you get a barrage of notifications.

Sue Ann : Once you do activate it, so hard to deactivate it. It's a process.

Lynn Wehrman: That's where when I say the people that create these don't understand what people living with different disabilities and how they cope everyday. At WeCo, a lot of the folks on our team have their own screen reader software. Because they tune it the way they need it.

They understand what they need. And so, when you have to abandon using your screen reader and use a tool because something is bleeping at you all the time, that's a new learning curve.

I will stop there and go back to Charles. He looks like he wants to say something.

Charles Hall: There are things I would like to circle back to time permitting. Very important point you just made. People who use assisted technology are generally proficient at it.

If you look at industry evidence like the web (inaudible) survey, we have a significant population of people who use screen readers who are proficient or expert users. Versus novice. You really on it in order to navigate anything. That's the tool and software that you learn.

By putting an overlay onto a website, you have to learn a new product just to operate the current website you are on. And then you navigate to something else, and you are back to operating it the way you are familiar with using your own software. It gets in the way. Additional learning curve.

And what it's intending to do - again intentions don't always equate to outcomes - is provide a bunch of features that allow people to customize the web experience in different ways that may suit them.

But if you rely on navigating that overlay using a keyboard or voice assistant or some other technology, you have to learn the entire product offering in order to get through it to discover a feature that might benefit you to enable that feature and turn it on.

It's just an overwhelming amount of additional content on top of a website that someone has to sift through to find something use potentially.

Not to say that aren't useful things in it. For example, some of these overlay products provide a feature that allows someone to easily toggle the display mode into more of a reading mode. Most browsers already offer that. But not everyone is familiar with that feature.

So it's another way to turn on a feature to isolate text content.

There are other ways to provide that than a software as a service that sticks an overlay with a bunch of other features on the page.

I get asked questions like this a lot. Toggling text size and contrast modes. Things that are visually impactful.

There is overwhelming consensus in the community that isn't a bad thing to provide someone that level of flexibility and customization while they are looking at a website.

What is mandatory is the default setting has to be accessible. If you are providing a toggle to a contrast mode, the default mode also has to be accessible.

You are providing an additional customizable way to view the content.

You can do that without one of these complicated overlays injecting code onto a site.

Something that was mentioned also that I wanted to get back to was the evaluation process itself.

So, some of us who do accessibility evaluation to determine whether or not a site is accessible use various products and tools and other software to supplement that process. There is always a human evaluation that's mandatory. But we also use software to conduct of that evaluation.

The leading vendor of these overlay products - the one who is monopolizing search marketing - has gone out of their way to disable that tool. To disable a tool within their source code so that the evaluation that a popular evaluation software is normally able to provide is prevented from providing.

So, the overlay is basically saying we know we can't pass your evaluation software. So we're going to create additional software to disable yours.

I can't think of anything more shady.

Lynn Wehrman: That is amusing.

Charles Hall: And again I'm trying to avoid naming product names. These are very big name tools.

Lynn Wehrman: A lot of good comments. Since we're getting down to the last 10 minutes. I will present the legal slides then open up for free discussion. I'm the research geek.

I really love legal websites. A really good one is Lainey Feingold. Is there a silver bullet for accessibility? I grew up with a disability in a family of sisters we all had cognitive disabilities. Everyone in our company has a disability. We would love if there is a switch we could flip to test it and tell you it's great.

But I thought this was an important quote here: (Reading slide)

And that's stated August 10, 2020. Fairly recent.

Charles Hall: I was going to point out - the date this was from August. That has escalated dramatically since that time.

Lynn Wehrman: It has. Next slide. A few things that Lainey also added to her website.

Overlays focus on websites. What about applications, internal workplace tools, et cetera. This is something as I'm old enough to have lived through the text only website phase... We were going to develop a separate website without pictures. That rapidly came to something that wasn't a good idea.

In a way, really a widget is forcing someone to have a separate experience of your website. That's not legally responsible nor socially responsible. Especially in our woke era. It really is not a good idea to be treating customers, taxpayers, stakeholders as separate because of their ability level.

The legal trends.. I found that we had a sharp uptick in lawsuits in 2019. Accessibility overlays are mentioned frequently. There is a little dip in website filings because of COVID but they have rebounded for 2020. I could not find 2020 year end statistics. So you have any to share, Charles?

Charles Hall: Not handy. But the easy way to convey the overwhelming volume of ADA title three cases in the United States is that there are over one per hour.

Lynn Wehrman: Wow. That's a lot. Did I have another slide? This is interesting. Quotes that were pulled from actual lawsuits.

(Reading slide)

That's from an actual lawsuit.

So those are actual recent lawsuits. So, with that, we'll open it up to questions and comments.

Charles Hall: They already know their software can't do anything about the overwhelming majority of pages on the web because they are using invalid markup. Part of this legal claim and contestation and why these products are now being included in suits is this underlying fact. They are making blatantly false claims. Their consumers are not reading the terms of service and understanding the complexity of complying with the standards and law.

Lynn Wehrman: Hard for a lot of people to accept about any market, certainly accessibility. I said we're living through a wild west of accessibility right now. There are people in organizations out there that will make up in sheer volume of sales what they'll be sued for. And they don't care about you or your company or organization. They know they will get sued and they are hedging a bet.

And there is no real consumer protection against these people right now.

Charles Hall: There's a silver lining to that. Rather startling stat of at least one ADA title three lawsuit per hour is the repeat offenders. If you ever had a claim against you in the past, you are 50% more likely to have another filed against you in the future.

Lynn Wehrman: Andy, do we have any questions coming in?

Andy Emerson: I have not seen anything.

Maureen: I have two questions. For people trying to sell something as a business. I was going to buy something, was at a site with overlay. I'm a screen reader user. I hit the keys. It started talking at the same time as my screen reader. People need to know it's driving away potential customers. I went somewhere else.

The other comment is - could be a risk to site security.

Charles Hall: Excellent point. Javascript running this third party application is also on a third party server. Has to apply to origin rules and additional privacy and security considerations.

Like any software, it's including analytics tracking of its own. Absolutely there are privacy and security concerns.

Lynn Wehrman: Anyone else? Speak up. Anything you have wondered about.

Julia: I'm new to development. Trying to attend as many of these informational seminars. I work for Minneapolis institute of art.

We need to make sure we're coding. (inaudible) we just did a huge push to start putting descriptions in all our catalogue images. Now I'm concerned maybe the descriptions don't fit accessibility standards. All really a lot of information to digest and take in. Thank you. So informational. I never heard of an overlay.

To think they don't work. Kind of a bummer.

Charles Hall: They come by many names. Overwhelming amount of information out there. Especially when getting started. Want to make sure not all of it is true and accurate and useful. Really important that when you are learning about accessibility, you learn from trusted and vetted resources. Not from random Google searches.

Lynn Wehrman: We did get a question. Recommended tools when doing manual audits. Talking to us, you will hear that technologists that live with disabilities are very well equipped to do manual audits. They understand and they will give you insight instead.