

DOJ Requires Movie Theaters to Provide Access For Disabled

By Janis Reyes, Assistant Chief Counsel

The Department of Justice (DOJ) finalized a rule that would require movie theaters to accommodate people with disabilities. The rule requires that movie theater auditoriums provide a minimum number of accessibility equipment such as closed movie captioning or audio description when showing digital movies. Digital theaters must comply with this rule by June 2, 2018.

DOJ has been working on this rule for six years, and released an Advanced Notice of Proposed Rulemaking in 2010 and a Proposed Rule in 2014. DOJ has worked closely with Advocacy to get small business feedback throughout the regulatory process. In Sept. 2014, Advocacy held a Small Business Roundtable attended by small theater owners and representatives from 18 states. Advocacy staff also visited multiple movie theaters speaking to owners and staff and testing accessibility equipment. Small theater owners were primarily concerned that this rule would have a significant economic impact on their businesses, particularly because it comes after most theaters have recently completed the costly renovation to digital theaters. Advocacy submitted a public comment letter recommending many small business alternatives that would minimize these compliance costs.

In its final rule, DOJ adopted many alternatives recommended by Advocacy and the small business community. For example, DOJ significantly lowered the scoping requirements, or the amount of accessibility equipment that would

have to be purchased by movie theater owners. For mini-plexes with two to seven auditoriums, the final rule requires six closed captioned devices as opposed to 12 required in the proposed rule. Each of these devices is estimated to cost \$450-\$1,250 per unit. Advocacy commented that the proposed number of required devices exceeded the demand reported by small theaters. Additionally, Advocacy expressed concern that the requirements would be based on the number of seats in an auditorium, which may not reflect attendance rates and need for devices. One historic theater reported having 600 seats, but low attendance records. In the final rule, DOJ based the scoping requirements on the number of auditoriums in a movie theater.

DOJ extended the compliance date for all digital theaters to comply with this rule. DOJ also followed Advocacy's recommendations to not impose any specific requirements on purchasing accessibility equipment for analog theaters. Movie studios have announced that they will no longer produce analog films and Advocacy recommended that DOJ defer action until the status of these theaters was clarified. Finally, DOJ provided more guidance to small businesses on what types of movie theaters were covered by this regulation and other definitions in the regulation.

For more information about this rule, visit ada.gov/regs2016/movie_captioning_qa.html or contact Janis Reyes at Janis.Reyes@sba.gov.

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Advocacy's Chief Counsel Darryl L. DePriest (pictured below) goes "beyond the Wall" with his Final Farewell column 3



Office of Advocacy Participates in the Annual Meetings of the Southern Economic Association

By Daniel Wilmoth and Victoria Williams, Economists

Some say that imitation is the sincerest form of flattery. People imitate what they see succeeding. Harvard economist Andrei Shleifer says that imitation is why the education of entrepreneurs drives economic growth.

Shleifer spoke at the 2016 annual meetings of the Southern Economic Association, held from Nov. 19-21 in Washington, D.C. He showed that the education of a population is a good predictor of how fast their economy will grow. He argued that the relationship between education and economic growth is driven primarily by the education of innovators like entrepreneurs. Education for a typical employee will improve the productivity of that employee. Education for entrepreneurs will improve the productivity of many employees as entrepreneurs find better ways to do things. Imitation of those innovations throughout the economy will then create significant economic growth.

Also presenting at the meetings was Office of Advocacy Research Economist Daniel Wilmoth. Wilmoth discussed methods for analyzing the impacts of potential regulations.

A dollar today is worth more than a dollar in one year, because a dollar that is invested today will yield more than a dollar in one year, Wilmoth explained. Payments that occur in the future must be discounted before comparing them to earlier payments. In the same way, regulatory impacts that occur in the future must be discounted before comparing them to earlier impacts.

The net benefits of potential regulations are typically positive for some discount rates but negative for other discount rates, and economists are uncertain about the right

discount rate. Some economists recommend that the uncertainty be addressed through a complicated approach to discounting that involves using a different discount rate for every period. Wilmoth demonstrated that the complicated approach introduces serious practical problems. Under that approach, a regulation with impacts in the future can have both positive and negative net benefits, with the sign changing as the impacts get closer.

Businesses also deal with uncertainty. Wilmoth showed how an approach to discounting commonly used by businesses, discounting with hurdle rates, can be adapted for regulatory analysis. He argued that hurdle rates can be used to address uncertainty about the right discount rate without introducing the practical problems created by the complicated approach.

Office of Advocacy Research Economist Victoria Williams also attended the conference. Meetings attended by Office of Advocacy economists addressed many issues relevant for small businesses, including lending, immigration, entrepreneurship, and regulatory barriers to entry.



Research Economist Daniel Wilmoth, Ph.D.

Small Business Alerts

Advocacy recently issued the following regulatory alerts pertaining to small businesses. They include:

The United States Citizenship and Immigration Services (USCIS) released a revised version of Form I-9, Employment Eligibility Verification that must be used by all employers by Jan. 22. Form I-9 is used for verifying the identity and employment authorization of citizens and non-citizens hired for employment in the United States. The new form includes more prompts to ensure the information is entered correctly, allows the ability to enter information on preparers and translators and a dedicated area for including additional information. For more information on how to complete the new form, call 888-464-4218 or visit their website at <https://www.uscis.gov/i-9-central>.

Nov. 30, 2016: IRS Proposes Rules on LIFO Pooling. Read more at <https://www.sba.gov/node/1551076>. Advocacy contact is Dillon Taylor Dillon.Taylor@sba.gov.

Dec. 6, 2016: Consumer Product Safety Commission Seeks Comment on Its Notice of Proposed Rulemaking on Safety Standards for Portable Generators. Read more at <https://www.sba.gov/node/1551606>. Advocacy contact is Prianka Sharma at Prianka.sharma@sba.gov.

“And Now His Watch is Ended”

By Darryl L. DePriest, Chief Counsel for Advocacy

Those who have read George R.R. Martin’s “A Song of Ice and Fire,” or followed its HBO adaptation, “Game of Thrones,” will recognize the title of this farewell message as the customary finish to the eulogy for a fallen member of the Night’s Watch. For the uninitiated, in Mr. Martin’s fictional world, the Night’s Watch is a military order dedicated to holding the Wall, the immense fortification on the northern border of the Seven Kingdoms, which protects the lands south of the Wall from the dangers that lurk beyond it. Those who join the Night’s Watch take a vow that starts, “Night gathers, and now my watch begins.”

Like the Night’s Watch, Advocacy “holds the Wall” against regulations that have a disproportionate impact on small entities by monitoring compliance with the Regulatory Flexibility Act, and observes and studies how economic trends effect small entities.

Since my watch began 13 months ago, Advocacy has conscientiously performed its duties. Advocacy has issued comment letters, participated on SBREFA panels, conducted roundtables and outreach events in Washington, D.C. and throughout the country, attended Executive Order 12866 conferences, and published several economic studies and reports. Through these activities I met with small business owners and their representatives, and heard their views on how regulations affect small business.

Three events representing Advocacy’s past, present, and future stand out. Representing the past is the Advocacy Anniversary Symposium, which simultaneously commemorated the 40th anniversary of Advocacy’s creation, 35 years of the RFA, 20

years of SBREFA, and 15 years of Executive Order 13272. I consider the panel that featured five of the six former Chief Counsels: Frank Swain, Thomas Kerester, Jere W. Glover, Thomas M. Sullivan, and Winslow Sargeant, the day’s highlight. They discussed Advocacy’s foundations and its evolution as an independent agency addressing how federal and state policies affect small businesses and entrepreneurship.

The revamping of Advocacy’s publications, led by the Offices of Economic Research and Public Affairs and Information, represents the present. The 2016 Small Business Profiles for the States and Territories included new data visualizations and graphics, were completely revised to be fully transparent and reproducible by public users, and can be updated between releases. In 2017, OER intends to roll out these new user interfaces, and make them web and mobile phone compatible as well. In addition, OER is also working to make the Statistics of U.S. Businesses (SUSB) data more user-friendly for both regulatory agencies and small business stakeholders, and is completely revamping and updating the Small Business GDP report using the same principles regarding data, reproducibility, and transparency.

The Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), signed by President Obama last February, represents the future. Under TFTEA, whenever the President notifies Congress of the intention to enter into international trade negotiations, the Chief Counsel must convene an Interagency Working Group (IWG); comprised of representatives from the Departments of Commerce, Agriculture, and the Office of Trade Representative, and

conduct small business outreach in the manufacturing, services, and agriculture sectors to gather input on the trade agreement’s potential economic effects. With this information, the IWG is to report to Congress on the most important priorities, opportunities, and challenges affecting these industry sectors, and provide (1) an analysis of the economic impact on various industries, (2) information on state-owned enterprises, (3) recommendations to create a level playing field for U.S. small businesses, and (4) information on federal regulations that should be modified in compliance with the potential trade agreement. Congress’ decision to make Advocacy a key player on international trade exemplifies Advocacy’s reputation as the independent agency within the federal government that speaks for small business.

All of Advocacy’s achievements during my watch were due to its amazing staff; to them I owe a special debt of gratitude. It has been a distinct pleasure to work alongside such an outstanding group of bright, dedicated, professional, and incredibly skilled individuals.

In closing, I thank President Obama for the confidence in my abilities he demonstrated by making this appointment. I thank my family for the sacrifices they made that allowed me to serve as Chief Counsel. Finally, I thank Advocacy’s extended family of stakeholders for their support of me and the Office. Advocacy deeply appreciates the help of its friends in small business organizations, trade associations, congressional offices, and executive branch agencies. I hope that the connections we made during this time live on. *But for now, my watch is ended.*

Advocacy Welcomes New Staff Members



Victoria Carlborg joined the Information Team in September as a writer/editor. Spending several years at community newspapers and for an Associated Press bureau provided the “OJT” that inspired Carlborg to be a voice for the voiceless. For the last decade, Carlborg worked in health communications advocacy for non-profit, government-funded anti-drug coalitions in three states. She is a 1997 graduate of the California State University, where she earned a Liberal Studies degree with a Communications minor. **Emily Theroux** re-joined the Information Team in October as the Public Affairs Assistant. She was previously an intern in summer 2015. Theroux earned her Communication degree in December from George Mason University in Fairfax, Va., with

a concentration in Interpersonal and Organizational Studies. She also earned a minor in Business with a focus in Entrepreneurship. She develops public affairs and website content and collateral materials and products. **Elizabeth Glass** joined Advocacy in October. She is an Economic Research Fellow. Glass is an economic policy and international development professional with more than six years of experience working in the United States and abroad. Glass comes to Advocacy from the United Nations Human Settlements Program in Nairobi where she was a consultant on municipal finance and urban economy. She earned her Master’s Degree from The New School’s International Affairs and Economic Development program where she was a recipient of the Paul D. Coverdell Fellowship. **Prianka P. Sharma** joined Advocacy’s Interagency’s Team as an Assistant Chief Counsel in October. An experienced attorney, Sharma’s last position was as a judicial law clerk to Magistrate Judges Albert and Rook with the Superior Court of the District of Columbia. Prior to her clerkship, she served as a Litigation Law Fellow with the D.C. Volunteer Lawyers Project, where she litigated domestic relations cases in Superior Court. Sharma earned her Juris Doctor from the American University Washington College of Law and her Bachelor of Arts in International Studies and Spanish at Illinois Wesleyan University.

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The Small Business Advocate

The Small Business Advocate newsletter is published by the U.S. Small Business Administration’s Office of Advocacy. It is distributed electronically to 35,000 subscribers.

The Office of Advocacy is the independent voice for small business in the federal government. The office is the watchdog of the Regulatory Flexibility Act (RFA) and the source of small business statistics. Advocacy advances the views and concerns of small business before Congress, the White House, the federal agencies, the federal courts, and state policymakers.

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