ADA Live!
Episode 72: Emerging Transportation Options and the ADA

Broadcast Date: September 4, 2019
Speakers: Paul Simmons, ADA Information Specialist - Rocky Mountain ADA Center
Geoffrey Ames, Accessibility Implementation Executive Consultant at Meeting the Challenge, Inc.
Host: Beth Harrison, Director of Knowledge Translation – Southeast ADA Center

Paul: Hi I'm Paul Simmons with Rocky Mountain ADA Center.

Geoff: Good Morning and I'm Geoff Ames with meeting the challenge and you are Listening to ADA live.

[Music] On a Roll.

Beth: Good afternoon! On behalf of the Southeast ADA Center, the Burton Blatt Institute at Syracuse University and the ADA National Network, welcome to Episode 72 of ADA Live.

Hello everyone I am Beth Harrison with the Southeast ADA Center. Before we move on listening audience, you may submit your questions about the ADA at any time at adalive.org.

Welcome Geoff and Paul. We are so happy to have you on the show today. Also, Listening audience, we are fortunate to have with us two of the best sign language interpreters in Colorado Springs Colorado, ensuring that we meet the ADA effective communication requirement. We would also like to point out that sign language interpreters are not only for the deaf person. They are here to help everyone communicate easily.

Paul and Geoff we know that lack of access of all transportation affects all aspects of life and is a predictor of quality of life it can make the difference between a life of inclusion or one of isolation. Both public and private transportation are covered under the A.D.A. of

1990 title 2 and therefore public transportation may be mostly accessible for people with disabilities However coverage under the A.D.A. for emerging technology may be a bit murkier. Before we get into some of these emerging transportation options can you give us a bit of context about the history of providing accessible transportation?

Geoff: Yes, I think it would be difficult to talk about the history of transportation and the ADA and access to transportation without speaking to one of the seminal moments of the disability rights movement, which was in July 5th and 6th, 1978 in Denver when the gang of 19 as they came to be known basically surrounded a couple of public transit buses at Colfax and Broadway in downtown Denver in their wheelchairs and refused to let them go as a protest to say they should be entitled to use public buses just like anybody else would. Of course at that time, public buses were not accessible to people who use wheelchairs. They didn't have lifts on them, they didn't have ramps and in many cases individuals who use wheelchairs would try to literally crawl onto buses and pull their wheelchairs on board with them, were arrested for trespassing and the solution offered at the time by the transit industry and the American Public Transit Association was essentially—the use of separate and unequal transportation using short buses which were seldom available on a regular basis.

For instance in Denver I believe they had maybe a couple of dozen buses to serve the entire population of the Denver region so there were not very acceptable means of transportation. So this is public transportation at that point in time. At that same point in time I'm sure that for somebody with a disability accessing taxis or other services it was virtually impossible. The stories of people with guide dogs being essentially ignored by cab drivers because they were blind and couldn't tell the driver has left them or whatever these things are not just urban myths these are things that really happened and in some ways what we're going to be talking about today is the way that history continues as we look at some of the alternatives to transportation we have today.

Paul: And I wanted to add to Geoff's comment, The Civil Rights **Act of 1964** was passed and it involved a lot of people including people with disabilities. They made it unlawful to discriminate against people based on race, color, religion, gender, national origin. However, they never said anything about people with disabilities until the Rehab Act that was passed in 1973 and that applied only to federal funded entities. So any entity receiving federal money it was illegal for them to discriminate It didn't say anything about the state or local level and then you had the ADA passed in 1990 so that gives you a little bit of background.

Beth: Thank you for that brief history it really is hard to believe that those kinds of things happened. In fact I'm here in Kentucky and I remember a separate transportation service

because public transportation was not available. It seems like we have come a long way in some respects.

As you know lots of new transportation options have appeared in recent years and one of these is the use of "sharing economy vendors" or "third party vendors". What are these?

Paul: Well, sharing economy, think of them also as third party vendors, and it covers a range of services. Lots of programs that are available on-line and there's many examples of these: food services, delivery services, so on and so forth. In this situation, we are actually focusing on transportation ride sharing like Uber and Lyft who are leading this third party vendor system. So, that's what a sharing economy is.

Geoff: I think it is important to understand that this sharing economy with relation to Uber and Lyft tries, in many ways, to disengage themselves from the process of even being considered as transportation organizations.

Uber insists that they are just, you know, peer to peer platform. I had a Lyft driver explain to me the other day that he sees himself as a customer of Lyft and I'm a customer Lyft and all they're doing is connecting me and him so that I can get a ride someplace. So there's a lot of confusion. We're going to talk a little bit about whether drivers are regarded as employees or contractors and this was something that was essentially new to me. This conversation I had with a driver the other day, he says I'm neither and employee or a contractor, I'm a customer. The fact that he's getting paid for that through this organization kind of makes me question that definition but, you see, is a very murky area and very difficult to tie ADA requirements into this.

Paul: Especially when Title II of the ADA covers government programs. In the past, public transportation was run by local and state governments. Now, with the advent of Uber and Lyft, they are private businesses, so they would fall under Title III of the ADA, in that case. So, that's where the confusion begins.

Geoff: That's at least a part of it, yes. Even though the Department of Transportation, which is typically covering Title II entities covers these organizations like they would cover taxi services and so on, that is a kind of Title III coverage where the premise is a place of public accommodation not being able to discriminate on the basis of disability in the provision of their good and services.

Beth: So some of the murkiness that is coming in is because we're not really sure what to call these folks, are they really transportation or like you were saying customer the customer. It's almost as if the options are moving almost too fast for us in some ways.

One of the other questions I have along these lines are what are some of the good and bad points of using a 3rd party vendor for people with disabilities?

Paul: Well as a deaf person in the past, especially when I was in a large city for example. I couldn't hail a taxi because I couldn't speak and I was unable to communicate with the driver where I wanted to go.

Now with Uber and Lyft I can use my smartphone. And I just open the app, put in where I want to go, and I get a ride very easily. It's been a positive impact for people with disabilities, like myself, as far as independence. Not having to rely on other people, having autonomy. I use Uber often. I've had three drivers who've had mobility issues, so it's great for people with disabilities and it's needed because it's hard, still, for people with disabilities to find employment.

Geoff: It's kind of ironic that Paul has found drivers who have mobility issues who are fortunate that they can find a job through Uber/Lyft.

On the flip side of that, in many cases people with particular mobility impairments who use mobility devices, such as wheelchairs or particularly if they use bigger devices which are much heavier, they can't simply be transferred to a seat and have the device put in the trunk of the vehicle. The number of accessible vehicles as a percentage of the vehicles that are available through these rides share services is very, very small. So for people with those kinds of disabilities access to transportation is certainly a challenge. I had an interesting conversation the other day with a friend of mine who was blind and I was describing a situation that I had recently and asked her how she would have dealt with it.

This happened at O'Hare Field in Chicago and I was finding a Lyft to get a ride to the suburbs. I flagged a Lyft and then it tells me proceed to the ride share pick up zone by the black sign on the next on the upper level. So first of all, I've never left O'Hare that way before, so I was trying to figure out where I had to go. I had to go back into the terminal and I followed all the signs to the ground transportation, before I even punched in a request for a ride. I find out I'm in the wrong place. I have to go back into the airport and find an escalator up to the next level and then walk about 200 yards down the sidewalk to where the Lyft pick up area was and there was a sign there that could be seen quite clearly to somebody who has vision that this is the ride share pick up zone. This is in the dark, it's at night and there are dozens of cars pulling up with their lights shining, people standing there, everybody waiting for their ride, people running out to cars, 2 or 3 cars away from the curb, trying to get in and I'm thinking, if I were blind how would I figure out which one of these cars is mine? It's hard enough as a sighted person when you're looking at nothing [but] lights coming at you, you can't read license plate numbers, you can't see the color of the vehicles and identify which ride is which. I said, "How would you

do this?" and she says, "Well basically I hope that I'm standing there with my white cane and that somebody who knows that I'm blind is going to look over and figure out that it's me." I mean, that is probably maybe one of the worst circumstances, but there's always a situation for somebody who's blind trying to make that connection with the ride. Even in paratransit, it is part of a public service, quite often a paratransit bus will pull up at the wrong end of a parking lot at someone's apartment complex. For somebody who is blind, they're depending on hearing that vehicle, or the driver, and the vehicle is at the other end of the parking lot and if the driver doesn't know where to look for them, they can't find his vehicle. So, there's a lot of issues that come up for people with disabilities in terms of accessing the services. Granted, by using a phone a person who's blind can do the same as Paul does, they can pre request a ride and they can put in the address where they want to go. But when you consider some of the challenges that have come up, I know there have been instances of people being picked up by somebody who wasn't their actual driver and terrible consequences of those events. For somebody who's blind, there is certainly a high level of trust necessary to access this kind of service.

Beth: There are certainly a lot of issues in terms of the good and the bad points and you all touched on quite a few. I didn't think about the aspect of employment perhaps for people with mobility impairments and I never thought about the difficulty perhaps making that connection once you've ordered the ride so thank you for sharing those insights. What about self-driving cars? This is something that is really of interest to me and I think to a lot of folks. What effects might they have for people with disabilities and for ADA compliance?

Geoff: I tend to be very optimistic about future possibilities I mean technology has done a lot of incredible things. But I also feel like in a lot of ways technology has ignored the needs of people with disabilities as much as it's done to compensate for the barriers that are already there. I think the classic example of that is that the advent of Windows and the G U I [graphical user] interfaces on computers in the 90s. Something that was in a DOS environment with text in many areas in computing people who were blind had had fairly good access and the next day they went to the to work and they said, "We've updated you to Windows." I just point [and] click these icons on the screen which for somebody who is blind essentially said, "You can't use your computer anymore." So, as far as technology goes it can take people to better places but it can also take them totally away from the things they may need to do. My goal, I hope, would be that, as automated vehicles are brought on line, number one, that we would have legislation that would require each and every one of them to be fully accessible, level boarding capabilities for people who use mobility devices and to have means of providing effective communication both for people who are blind and people who are deaf or people who are deaf blind or for people who have impaired speech that they would be able to communicate successfully and get to where they're going. Certainly, the capability of

providing vehicles in times and places, as we collect information as we get data about where people ride and when they ride I think that the capability of having networked self-driving vehicles would be a substantial improvement. You know human beings might not want to hang around certain places at certain times for the rare ride they're going to pick up there, whereas you can deploy self-driving vehicles to those locations and just have them wait for those rides when they come up and I think this would be really important in rural parts of the country. So I'm very optimistic. Also I'm sure there are some disadvantages and I think that even though there are these general concepts that we have and these intentions of the ADA about not discriminating, most of the implementation of the law is from direct regulatory requirements. So, we look at physical access, we look at architectural standards for access, and we talk about how steep can a ramp be or how wide does the opening of a door have to be, but at this point in time, we only have some vague guidelines which are recognized as best practices, perhaps, but we don't really have any black and white rules that tell people what they have to do at a minimum to make digital access available to people with disabilities and, every time that environment evolves, every upgrade every change in technology presents new issues, things that maybe make things better for somebody who has sight and better for somebody who has hearing, may, in fact, create barriers for people who don't have sight or hearing.

Beth: Well, that is a lot of information. And you all really kind of encompassed the technology of self-driving cars into the greater discussion. of the access of all technology for people with disabilities, so it's a lot to think about. And a lot to just think about in terms of ADA compliance and where that takes us. ADA Live! listening audience, if you have questions about this month's topic or any of our other ADA Live! topics, you can call us at 404-454-9001 or contact us through our website www.adalive.org. Let's pause for a word from our featured organization.

The Rocky Mountain ADA Center is one of a network of 10 regional technical assistance centers across the United States the Rocky Mountain ADA Centers mission is to provide information guidance and training on the Americans With Disabilities Act daily to meet the needs of individuals and organizations in Colorado Montana North Dakota South Dakota Utah and Wyoming their vision is to bring the 88 full implementation they accomplish this by providing training technical assistance materials development and research you can find out more about the important work of the Rocky Mountain A.D.A.'s center at www.RockyMountainADACenter.org.

Meeting the Challenge (or M.T.C.) is a national information services consulting firm that serves individuals and organizations with rights and responsibilities for compliance under federal disability laws. M.T.C. has the broad based knowledge resources and affiliate

network to provide clients with solutions to solve the disability law compliance challenges and increased access for people with disabilities meeting the challenge offers a variety of services for helping to make businesses or buildings compliant with the ADA, including self-evaluations and transition plans accessibility audits architectural plan reviews website accessibility audits and training and consultation you can find out more about the important work meeting the challenge at mtcaccessibility.com.

Beth: Welcome back. We are speaking with Geoff Ames, Accessibility Implementation Executive Consultant at Meeting the Challenge, Inc. and Paul Simmons, ADA Information Specialist, Rocky Mountain ADA Center.

With things changing so rapidly on the transportation scene, how are we keeping up with accessibility requirements? How do we even know where to begin?

Geoff: Well, I think, first of all, there is a significant divide between the reality of how transportation is provided today and the way the regulations were written.

Fundamentally, I think that the concepts that developed public transportation practices in the 90s have led us to a real quagmire in terms of how public transit services are delivered as well as these issues with ride shares and private transportation. Historically, the Department Transportation put a great delay even on providing transportation through specified public transit which is like Greyhound and services like that there is private bus services. And most of the inner city transit that's available by bus is outside of the public model for transit and those kinds of services were not required to be accessible for a long time.

The biggest issues, I think, in terms of how we look at the ADA regulations and accessible transportation is the fact that a lot of this is based on the acquisition rules that are written into the regulations. So, when and where and why and how many accessible vehicles are required to be purchased by different types of transportation providers is really the baseline for whether or not we're going to have accessible -of all vehicles for people who need accessible vehicle. That's one side of the situation. Obviously for people who use wheelchairs or particularly, people who use the larger powered wheelchairs and scooters, the lack of accessible vehicles is perhaps the single greatest barrier to being able to use any kind of transportation system so that's a significant factor.

As far as the other aspects that we're talking about here with ride share services, the closest thing we have to regulations covering ride share services are those for taxi services and most of what's written there implies more about what vehicles need to be purchased and based on the number of passengers a vehicle holds whether somebody buys a van or something other than a standard passenger vehicle. And there is also the equivalent service standard which requires these entities to provide access even if they don't own the

vehicles or have drivers to do it to provide equivalent service through you know subcontractors or whatever. These issues are very complicated and I think that we would have to argue that even regular taxi companies are not providing a very good level of transportation service for people with disabilities. So now we get into the ride share and as I mentioned earlier if drivers think of themselves as a customer of a system or if Uber considers their drivers to be contractors and not employees, then they really can't dictate a certain amount. Obviously, an individual driver who owns their vehicle can't really be compelled under the existing regulations to purchase an accessible vehicle so the only hope is to go to Uber or Lyft and compel them to provide a certain percentage of vehicles that are accessible. Which is, in and of itself, going to take a lot of litigation it's going to take the courts making certain decisions. I honestly believe that until we write some new laws and you know actually put some specific regulations on how and where these types of services are going to be required to provide an accessible vehicle and strictly make it very clear to these drivers that they have an obligation not to discriminate, whether they are private individuals operating a business or employees of a ride share service, however they see themselves at the point where they pick somebody up and they get into their car they're providing transportation service and I believe that it's fairly clear in the intent of the ADA, that Congress did not intend people who are operating a business providing transportation for people would be able to discriminate against people with disabilities. Whether they own one car or 100,000 cars should not make any difference. But I think this is going to take Congress and the courts stepping up at this point in time and realizing we're not in the 20th century anymore we're far down the road with technology and other concepts that we need to deal with.

Beth: It sounds like there are many layers to whether these emerging transportation vendors and how they may or may not become maybe ADA compliant.

Let's go ahead and switch gears just a little bit. What about cell phone applications for ride share services being accessible? Is there anything in particular you might say about cell phone applications for ride share services?

Paul: The ADA does not directly address and require cell phone applications to have accessibility, but Section 255 of the Telecommunications Act of 1996 requires communication products and services to be accessible for people with disabilities. So, therefore, the services accessibility needs to be readily achievable, meaning something easily accomplished without much difficulty or expense. And, personally, I've seen some modifications and provisions but they are not compliant. And, in addition to that, I have some personal concern because I'm seeing more and more technology becoming geared toward audio and speech activation. So, for example when people who are deaf, using sign language to communicate or a person with a speech disability wants to use the application, how do they access that? I'm not sure about what recourse they have

available for accessibility for people with hearing or speech difficulties when they're using apps that require speech activation.

Beth: You know, it's almost as though we are so application dependent sometimes today and it's going to be interesting to watch where it goes, accessibility for people with disabilities. Geoff and Paul, where do you see us headed in the future with these emerging transportation options?

Paul: I think the world of tomorrow will be even more accessible for everyone. However, with the rise of medical technology and searching for a cure for a variety of people with disabilities, I wonder if the accessibility requirements are even going to matter?

Geoff: You know, I wonder because, I'm not sure, Paul, whether you would want to hear. I know a lot of people in deaf culture who don't want to hear.

Paul: No, no, you're right.

Geoff: What I see is, we keep building things that are flawed for certain people. Looking back at history, nobody really considered, say, 100 years ago whether the stairs that led to the courthouse were going to be a barrier to some members of society. We sort of discounted those people. We regarded them as less than people, I guess. When you look at that from our perspective today, hoping we're a little bit more enlightened, we would say, the perception there was there were certain people who were flawed and, therefore, shouldn't have access, it wasn't our problem to provide them with access. I think today we have to look at it and say, no, no, that model is entirely wrong. It's the things we have built that are flawed. We need to build new buildings that are accessible to everyone. We need to provide new transportation vehicles accessible to everyone, we need to provide technology from the ground up that's accessible to everyone. I work with people and in the technology field and web design and creating applications and it is so much easier to consider accessibility as one of the key features from square one, before you even start. You know, figure out your total design schematic you have to consider accessibility whether you're putting up a building or designing a website. It has to be built-in from the ground up and that's what I hope going into the future we're going to see is we don't you know we don't think about things as well how is this individual going to bridge this gap between what we're building and their need to access it we need to think how are we going to bridge that gap to people and make it accessible to everyone.

Paul: Yes, and, in addition to that, I look forward to a barrier free world, one where Universal Design is the norm and that there is no debate, there is no controversy about what you do, what you should not do, what is, or what is not, accessible. I'm looking forward to a barrier free world and that is what we should all be aiming for.

Geoff: And certainly, there's going to be challenges in this.

Paul: Oh, yeah!

Geoff: We'd like to have, I guess, this Utopian future where we fix everything for everyone.

Paul: (chuckle) Yeah!

Geoff: I know in many of the things that I look at, where we make something more accessible for somebody with one limitation, we, in the process, create a barrier for somebody else. The classic example that I give of this is when we had a world with curbs every street corner for somebody using a white cane was pretty clear when they were in a step off the curb and they were going into the street. But that wasn't very accessible for people who use wheelchairs. So, once we put the curb cut in and we put a ramp there, all of a sudden that clear delineation, you know, of where the sidewalk ends and the street begins is no longer there for the person who's blind. So, we need, we came up, with these devices, we called them detectable warnings, for people to identify that they are at that curb line. But, in so many ways, we always have to be thoughtful and think in 360 degrees all the way around for every ability what we're doing for one person might not work for another.

Beth: Thank you. Thank you, Geoff and Paul, both.. Geoff, I feel your pain with Echo or Alexa, sometimes she listens and sometimes she doesn't. Paul, I appreciate your presentation of the fact that Universal Design would help to head off a lot of the issues we've been talking about. We are about out of time, Geoff and Paul, are there any final thoughts you'd like to share with us?

Geoff: Thank you for giving us an opportunity to discuss this. I think it's really critical for us to raise these questions going forward to understand that there are going to be challenges as new technologies come on line whether it's ride share or, you know, VRBOs or Alexa whatever we're dealing with in terms of technology we need to be fully cognizant of the unintended consequences in the places where we think we're making something so much better for one person in our society and in the same stroke we're creating a barrier for somebody else and this is going to require us to be, especially those of us in this field, to be always diligent and observant of what's going on and keep on raising the questions and making people who are designing these new products see that they have to serve everyone.

Paul: Yes, and also, I would really like to thank the interpreters, as well, that made this accessible for everyone. It really makes a difference.

Geoff: Yes. It's just wonderful for Paul and I to be able to work like this together. Without interpreters, this would be really difficult.

Beth: Absolutely. Thank you to both of our interpreters, and thank you Geoff and Paul. Our guests for this episode have been Geoff Ames, Accessibility Implementation Executive Consultant at Meeting the Challenge, Inc. and Paul Simmons, ADA Information Specialist, Rocky Mountain ADA Center. As always, we thank you for joining us for this episode of ADA Live!

[Music]

[End of Transcript]

Disclaimer: The contents of this publication are developed under a grant from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR grant #90DP0090-01-00). NIDILRR is a Center within the Administration for Community Living (ACL), Department of Health and Human Services (HHS). The contents of this publication do not necessarily represent the policy of NIDILRR, ACL, HHS, and you should not assume endorsement by the Federal Government.

The information, materials, and/or technical assistance provided by the Southeast ADA Center are intended solely as informal guidance and are neither a determination of your legal rights or responsibilities under the Act, nor binding on any agency with enforcement responsibility under the ADA. The Southeast ADA Center does not warrant the accuracy of any information contained herein.

Any links to non-Southeast ADA Center information are provided as a courtesy, and are neither intended to, nor do they constitute, an endorsement of the linked materials. The Southeast ADA Center provides these links as a courtesy and does not endorse, take responsibility, or exercise control of the organization nor vouch for the accuracy or accessibility of the contents of the link destination. The information is intended solely as informal guidance and is neither a determination of legal rights or responsibilities under the ADA, nor binding on any agency with enforcement responsibility under the ADA.

Contact for More Information or Assistance:
Southeast ADA Center
Email: ADAsoutheast@law.syr.edu
Phone: 404-541-9001