

**Position – ATMIA opposes federal legislation under the 2004 revised guidelines implementing the Americans With Disabilities Act of 1990 (“ADA”) and Architectural Barriers Act of 1968 (“ABA”) mandating that all free-standing ATMs strictly comply with ADA requirements, including accommodations such as audio, tactile improvements, and height accessibility, without a “grandfather” clause or other similar exemption for free-standing ATMs in operation at the time the 2004 ADA guidelines are officially adopted and in full force.**

The ADA guidelines, as currently revised in July 2004, will have far-reaching effects in the business world and everyday workplace that may involve significant investment and expenditure by private businesses as well as state and federal governments. The ATM industry, and specifically free-standing ATMs, will be affected as well. While, the ATMIA and the ATM industry are sensitive to the needs of those individuals who suffer from a disability, as defined under the ADA, it is important the Department of Justice understand and consider the financial and logistical burdens to be borne by all businesses, state and local governments and, eventually, consumers when implementing further compliance mandates.

ATMs have been in the American marketplace for over 35 years, even before the initial ADA guidelines were introduced and implemented. Many of these older ATMs are still in service all over the country. Moreover, tens of thousands of ATMs have been manufactured, sold and installed throughout the country since that time and all of them have been compliant under existing laws. Therefore, while free-standing ATMs yet to be designed and manufactured may be able to have additional technological modifications to provide audio-assistance or tactical improvements for disabled consumers, free-standing ATMs currently in operation most likely cannot. In fact, most currently existing free-standing ATMs would have to be replaced altogether if federal legislation required such modifications on all free-standing ATMs, without a “grandfather” clause or other exemption-based consideration for existing free-standing ATMs being a part of such legislation.

The cost of such compliance would be staggering, not only to the ATM industry but also to all of the businesses within which these ATMs are currently in service as well as to the consumers and other individuals who use the ATMs. First, for those businesses that would have to purchase “new” free-standing ATMs, the increased cost would have to be defrayed by charging customers higher fees. On the other hand, as many businesses would simply not purchase the “new” ATMs because of the high cost, consumers would lose the availability of such ATMs and, consequently, the diminished convenience factor for millions of consumers would have widespread negative impact on business confidence and on the flow of cash through the economy, and the retail sector, in particular.

ATMIA supports the right of consumers to have full access to ATMs wherever they may be in service. However, while technological changes over the past few years has allowed for the ATM industry to produce ATMs more accommodating to individuals who may suffer from disabilities related to sight and sound, such accommodations are not without a

cost that eventually is passed onto the consumers and other individuals who utilize the ATMs. For example, most free-standing ATMs do not, by themselves, pose a barrier to individuals who suffer from disabilities confining them to wheelchairs or other similar mobility devices. However, depending upon the place of business in which the ATM is installed, barriers may exist due to the physical constraints of the building, the style and make-up of the business itself, or a host of other factors out of the control of ATM manufacturers and the ATM industry.

Another consideration is the cost and manageability associated with enforcing compliance with the new ADA guidelines. New legislation must always review the cost-benefit impact on law enforcement and this situation is no different. Consider the complexities involved for imposing upon local law enforcement officials, or even federal law enforcement agencies, the additional job requirement of inspecting free-standing ATMs in their respective jurisdictions to ensure the machines are ADA compliant.

Finally, the ATM industry is ever evolving and it is largely consumer driven. As a result, each successive generation of free-standing ATMs has improved technologically and is more secure, easier to use, and, in most cases, less expensive to produce and maintain, thereby reducing the costs associated with owning an ATM and reducing usage fees for consumers. As more and more individuals who suffer from disabilities, as defined by the ADA, have increased access to the marketplace and the business world as a result of improved mobility through technological assistance, medical breakthroughs, and public awareness, the demands of this growing sector of economy are being met by private enterprise, like the ATM industry, without overburdensome federal mandates.

### **Concluding Position**

For the above reasons, ATMIA opposes any federal legislation under the new 2004 ADA guidelines mandating that all free-standing ATMs must be in strict compliance without a grandfather clause or other similar exemption for free-standing ATMs in operation at the time the 2004 ADA guidelines are officially adopted and in full force.