

To: Department of Justice, Civil Rights Division
From: International Health, Racquet & Sportsclub Association
Submitted by: Turner D. Madden, Esq.
Thomas G. Richards, Esq.
Re: Advance Notice of Proposed Rulemaking, Question 7
Date: 10/24/05

WHAT IS THE DEFINITION OF TYPE?

REGULATION

ADA Section 236 (paraphrased) - At least one of “each type of exercise machine and equipment” shall have a clear floor space (30’ X 48’) positioned for transfer or for use by an individual seated in a wheelchair.

IHRSA RECOMMENDATION

Given that specific muscle groups coordinate specific physical motions, determinations of “type” should be based on the physical motion performed by the user of the machine. For example, a chest press designed to build pectoral muscles by employing mechanical press arms attached to cables¹ would be considered the same type of machine as a chest press utilizing handles attached directly to cables,² provided that the motions performed by the users of each machine are substantially similar.

DISCUSSION

The recommendation accounts for the similarities of equipment from different manufacturers. Competing equipment manufacturers often sell products that allow users to perform substantially similar motions. For example, a typical fitness center³ might purchase six chest press machines – each made by a different manufacturer – which allow users to exercise their pectoral muscles by performing substantially similar motions.

The recommendation balances accessibility vs. the need for adequate floor space.

Clear floor space requirements reduce the amount of space available for exercise equipment. Because exercise equipment is the industry’s most valuable asset, a reduction of equipment has serious consequences for a fitness facility. In fact, nearly 90% of health club members indicate that the existence of “plenty of equipment” is either a primary or secondary consideration when choosing a health club.⁴ Similarly, research indicates that overcrowding⁵ may be the number one club-related reason for membership attrition.⁶

¹ For example: Life Fitness – Chest Press

² For example: Freemotion – Selectorized Chest

³ As used in this document, “fitness center” refers to a fitness facility with an aerobics/dance exercise studio and/or fitness center – but without racquet sport courts. They may, or may not, have additional facilities, such as a gymnasium, swimming pool, etc.

⁴ Source: IHRSA/Ketchum Research, *A Look at How Many Americans Exercise*. 2004.

⁵ As used in this document, “overcrowding” refers to high usage rates of equipment – typically resulting in lines for equipment.

⁶ Source: IHRSA, *Why People Quit*. 1998.

The recommendation preserves the delicate financial stability of the health club industry. A typical fitness center operates with high fixed costs and low profit margins,⁷ while relying on membership sales to generate nearly eighty percent of its revenue.⁸ Naturally, the pursuit of member satisfaction drives the industry. The slightest decrease in member satisfaction – due, for example, to overcrowding caused by a lack of equipment – often means the difference between solvency and insolvency.

WHAT IS READILY ACHIEVABLE?

REGULATION

ADA Sec.36.304 - A public accommodation shall remove architectural barriers in existing facilities...where such removal is readily achievable, i.e., easily accomplishable and able to be carried out without much difficulty or expense.

IHRSA RECOMMENDATION

What is considered “readily achievable” should be based on a company’s size, financial condition, competitive environment, reasonable business expectations, and the existing site conditions. The removal of free standing exercise equipment from a facility should not be considered a “readily achievable” solution for barrier removal.

DISCUSSION

Removing exercise equipment from a health club – even one piece – can have a major impact on the financial stability of a club. (See Spreadsheet). Exercise equipment is the inventory of the health club industry. A reduction of equipment, therefore, can have a dramatic impact on revenue.

Many health clubs, especially those in urban and corporate environments, operate in very limited spaces. Requiring the removal of exercise equipment from these facilities will make them less attractive to consumers. The decrease in consumer interest will likely result in fewer health clubs operating in these areas.

The Checklist for Readily Achievable Barrier Removal (version 2.1) suggests rearranging equipment to provide access to goods and services, rather than removing equipment.

ALTERNATIVE TO EQUIPMENT REMOVAL

Allow health clubs to provide accessible routes to the type of equipment requested by a member with a disability, without providing accessible routes to the equipment not requested by the member. For example, if a member with a disability develops an exercise program using five different types of machines, then the club would be required to provide accessible routes to those types of machines, but not be required to provide accessible routes to the machines excluded from the exercise program.

⁷ In 2003, the pretax earnings of fitness centers, as a percentage of revenue, equaled 5.4%. Source: IHRSA, *Profiles of Success*. 2004.

⁸ Source: IHRSA, *Profiles of Success*. 2004.

CLUB MEMBERSHIP CAPACITY

The following details the formula distributed to IHRSAs clubs for determining the membership capacity of a health club. The accompanying spreadsheet will calculate the formula and determine the estimated revenue for a club operating at club membership capacity. By entering various equipment amounts (strength & cardio), it's possible to determine the approximate financial impact of removing equipment from a club operating at club membership capacity. It should be noted that the formula may not be appropriate for all clubs.

Club Membership Capacity = (Base Membership Capacity) + [(Base Membership Capacity) multiplied by (Low-use Variance)] + [(Base Membership Capacity) multiplied by (Seasonal-Use Variance)]

Base Membership Capacity = (Maximum Accommodation) multiplied by (Membership Cycles Per Day)

Low-use Member Variance (to account for the low-usage rates of some members) = 3%

Seasonal-Use Variance (to account for the variable use rates of equipment depending on the season) = 5%

Maximum Accommodation = Usage Rate + Locker Room Capacity

Membership Cycles Per Day = (Daily Hours of Operation) divided by (Average Length of Member Visit)

Average Length of Member Visit = 1.5 Hours

Usage Rate = [(Number of Pieces of Strength Training Equipment) divided by 2] + (Number of Pieces of Cardiovascular Equipment) + (Number of Spaces Available on Aerobics Floor)

Locker Room Capacity = Usage Rate divided by 2

Daily Hours of Operation = Variable

Number of Pieces of Strength Training Equipment = Variable

Number of Pieces of Cardiovascular Equipment = Variable

Number of Spaces Available on Aerobics Floor = Variable

* For clubs that offer other services (aquatics, racquet sports, etc.), simply add the maximum number of members these areas will accommodate to the in-usage figure, adjust the locker-room number accordingly, and then apply the formula. Of course, the formula can only provide an estimate.

