

A weekly roundup from ANA's Government Relations team

June 26, 2020

# WASHINGTON



## We Need Your Input!

ANA has developed a survey to gather information from our members regarding possible comments to the FTC on their Health Breach Notification Rule. That survey can be accessed [here](#).

The FTC has filed a Request for Comment regarding proposed changes to its Gramm-Leach-Bliley Act (GLBA) Safeguards Rule. ANA has developed draft comments and your input is critical. The comments can be accessed [here](#).

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#### News of Interest

- [Apple Expands its Undermining of Publishers and App Developers; New Actions Will Reduce Diversity of Content, Products and Services, Burden Consumers, ANA & 4A's Joint Press Statement, June 24, 2020](#)
- [EU pushing ahead with digital tax despite U.S. resistance, top official says, Politico, June 23, 2020](#)
- [Constitutional Concerns Remain as CCPA Enforcement is Set to Begin, Dan Jaffe's Regulatory Rumbblings, June 26, 2020](#)

#### Word on the Street

- [From Time Magazine: 45 New Books You Need to Read This Summer](#)

#### Save the Date

- [Government Relations Committee Meeting \(Virtual\) – July 29, 2020 @ 1PM](#)
- [ANA/BAA Marketing Law Conference – November 11 – 13, 2020 in Chicago](#)

## Federal Affairs

### Section 230 in the Spotlight in Senate Judiciary

On Wednesday, Sen. Brian Schatz (D-HI) [announced](#) that, along with fellow Senate Commerce Member Sen. John Thune (R-SD), he has introduced the [Platform Accountability and Consumer Transparency Act](#) (PACT Act). Among other provisions, the press release noted that the PACT Act would: (1) require platforms to reveal content moderation practices; (2) require quarterly reports on content moderation statistics; (3) establish a National Institute of Standards and Technology (NIST) voluntary framework for best practices; (4) require “large” online platforms to establish a “defined compliant system” that takes no longer than 14 days to process complaints; and (5) require “large” online platforms to remove, within 24 hours, “court-ordered” illegal content or activity. The press release stated that smaller platforms will have increased “flexibility” with content moderation responses. According to the press release, the PACT Act would grant state attorneys general enforcement power over online platforms and would hinder platforms from using Section 230 as a defense on cases with federal regulators. Please contact us with any questions.

Additionally, on Thursday, the Senate Committee on the Judiciary convened an [Executive Business Meeting](#) to discuss [S. 3398](#), the EARN IT Act, among other topics. In his opening statement, Senate Judiciary Chair Lindsey Graham (R-SC) stated that the bill was put on hold, and he added that members of the Senate Committee on Commerce, Science, and Transportation have also introduced bipartisan legislation related to Section 230.

### House Oversight Committee Announces Bicameral Information Request Related to Location Data Investigation

On June 24, the House Committee on Oversight and Reform issued a [press release](#) stating that Committee Chair Carolyn Maloney (D-NY) and Rep. Mark DeSaulnier (D-CA) along with Sens. Elizabeth Warren (D-MA) and Ron Wyden (D-OR) sent a [letter](#) to a “data broker” regarding an investigation into the company’s collection and sale of mobile phone location data. The press release noted that a contact-tracing application had allegedly shared location data with third parties. According to the press release, the Members requested a response to the letter by July 8, 2020.

### FTC Submits Two Required Reports Related to Consumer Privacy and Data Security to Congress

On June 19, the Federal Trade Commission (FTC) [announced](#) the submission of two reports required by the 2020 fiscal year spending bill to Congress. The press release noted that the [first report](#) highlighted how the FTC utilizes its authority to “protect consumer privacy and data security.” According to the press release, the [second report](#) analyzes how the FTC utilizes its resources to “protect consumer privacy and data security,” and what additional resources are necessary for increased efforts.

### Summary of House Energy and Commerce Joint Subcommittee on Hearing on Disinformation Online

On June 24, the House Committee on Energy and Commerce’s Subcommittees on Consumer Protection and Commerce and Communications and Technology convened a [joint hearing](#) on “A Country in Crisis: How Disinformation Online is Dividing the Nation.” Among other topics, witnesses and Committee Members discussed the following: (1) advertising; (2) data privacy agency; (3) Section 230 of the Communications Decency Act liability protections; (4) algorithms; (5) Section 230 reform next steps; and (6) the European Union’s (EU) General Data Protection Regulation (GDPR) and misinformation. The hearing’s witnesses were: (1) Neil Fried, Former Chief Counsel for Communications and Technology, Energy and Commerce Committee, Principal, DigitalFrontiers Advocacy; (2) Brandi Collins-Dexter, Senior Campaign Director, Color of Change;

(3) Spencer Overton, President, Joint Center for Political and Economic Studies, Professor of Law, George Washington University; and (4) Hany Faird, Professor, University of California, Berkeley. A summary of the hearing can be found [here](#).

## **Highlights of Senate Commerce Committee Hearing on "Oversight of the Federal Communications Commission"**

On June 24, the Senate Committee on Commerce, Science, and Transportation convened a hearing entitled "Oversight of the Federal Communications Commission." During the hearing, witnesses and Committee Members discussed topics including, among others: (1) Section 230 of the Communications Decency Act and President Trump's recent Executive Order on Preventing Online Censorship; and (2) telehealth programs. Hearing witnesses included all five FCC Commissioners: (1) Ajit Pai, Chairman, FCC; (2) Michael O'Rielly, Commissioner, FCC; (3) Brendan Carr, Commissioner, FCC; (4) Jessica Rosenworcel, Commissioner, FCC; and (5) Geoffrey Starks, Commissioner, FCC. Highlights from the hearing can be found [here](#).

## **State Affairs**

### **ANA Sends Letter to CA Gov Lodging Concern About the CCPA**

On Thursday, the ANA delivered a [letter](#) to California Governor Gavin Newsom (D) to express concerns over the California Attorney General's rulemaking process regarding CCPA, as well as concerns over the authority of the CA AG to undertake the rulemaking. The letter urged the Governor to take action to fix the multiple problems with CCPA's regulations and delay enforcement to allow time for businesses to comply.

### **CPRA Qualifies for November Ballot**

On Wednesday, the California Secretary of State issued a [memorandum](#) announcing that the California Privacy Rights Act has qualified for the November 3 ballot. The memo states that Alastair Mactaggart, the ballot initiative's proponent, and man behind the CCPA, has "filed more than 623,212 valid signatures with the counties. Therefore, pursuant to Elections Code section 9033, the initiative measure is eligible for the November 3, 2020, General Election ballot and all further signature verification can be terminated."

ANA will continue to monitor this ballot initiative as it is highly likely to pass in November leading to further complication of the privacy landscape both in California, and nationwide.

### **Hawaii Senate Committee Amends Privacy Bill**

On Thursday, Hawaii HB 2572 was favorably [amended](#) and reported out of the Commerce, Consumer Protection, and Health (CPH), and Technology (TEC) committees with a "do pass" recommendation. The amendments to the bill were offered by a broad coalition of companies and trade associations, and supported by ANA, to narrow the scope of the bill and to make it more workable.

ANA previously sent a [letter](#) in opposition to the committees highlighting concerns that provisions of the bill would constrain the availability of data and compound the economic strain on the state during the COVID-19 crisis. The bill will be heard next by the Senate Judiciary committee and action on the legislation is expected next week.

ANA will continue to monitor this bill.

## **State Legislative Weekly Tracker**

Click [here](#) for a summary report of this week's legislative activity in the states. To schedule a tutorial provided by a member of the team at Leonine Focus please contact Travis Frazier ([tfrazier@ana.net](mailto:tfrazier@ana.net)).

## Contact Us

If you have questions on any of the issues mentioned in the ADviser, please feel free to contact ANA's Government Relations team in Washington, D.C.:

- Dan Jaffe, Group Executive Vice President, Government Relations ([djaffe@ana.net](mailto:djaffe@ana.net))
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You can also reach the D.C. office at any time at 202.296.1883

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