

WASHINGTON



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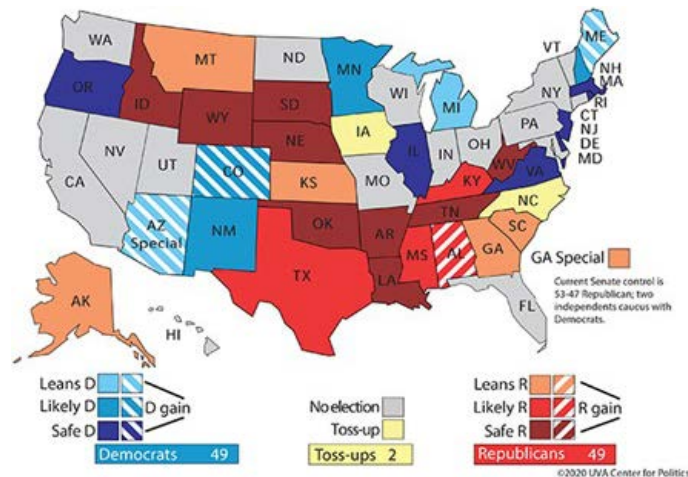
- California AG Announces Third Set of Proposed Modifications to Text of CCPA Regulations
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News of Interest

- If the Democrats win the Senate, Big Tech better be ready for a bigger fight, *MarketWatch*, October 10, 2020
- Andrew Yang: If CPRA Passes, 'It'll Sweep The Country', *AdExchanger*, October 9, 2020
- Supreme Court Allows Trump Administration To End 2020 Census Early, *NPR*, October 13, 2020

Word on the Street

With under 3 weeks until Election Day, the tightest battle seems to be for control of the Senate. Republicans are defending 23 seats compared to 12 for the Democrats. According to the nonpartisan Larry Sabato's Crystal Ball, Senate control could come down to races in Iowa and North Carolina.



Source: UVA Center For Politics

Democrats must gain a net of 3 seats if they win the White House, and 4 seats if they do not, to gain control of the Senate.

Save the Date

- Brand Activation Legal Committee Meeting (Virtual) - October 22, 2020
- Legal Affairs Committee Meeting (Virtual) - November 4, 2020
- ANA/BAA Marketing Law Conference (Virtual) – November 10-12, 2020

Federal Affairs

Senate Commerce Committee Hearing with Tech CEOs Scheduled

On October 15, 2020, the Senate Committee on Commerce, Science, and Transportation [tweeted](#) that tech CEOs will appear before the Senate Commerce committee on October 28, 2020. The tweet follows an October 1, 2020 [authorization](#) of subpoenas for the heads of Google, Twitter, and Facebook.

Also on October 15, 2020, Sen. Josh Hawley (R-MO) [announced](#) plans to subpoena Mr. Zuckerberg of Facebook and Mr. Dorsey of Twitter to appear in front of the Senate Committee on the Judiciary to discuss online censorship related to the upcoming election. Sen. Hawley [tweeted](#) that Senate Judiciary plans to vote on Mr. Dorsey's subpoena on Tuesday, October 20, 2020.

FCC Chair Ajit Pai Announces Rulemaking Examination of Section 230 Liability Shield Protections

On October 15, 2020, Federal Communications Commission (FCC) Chairman Ajit Pai [announced](#) that the FCC will examine Section 230 of the Communications Decency Act's liability shield in response to President Donald Trump's May [Executive Order on Preventing Censorship Online](#). Chairman Pai stated the FCC's examination intends to clarify any ambiguities in Section 230's meaning. He highlighted "serious concerns" about the current interpretation amongst all branches of federal government, citing U.S. Supreme Court Justice Clarence Thomas' October 13 [statement](#) regarding the extent of Section 230 protections. FCC Commissioner Brendan Carr issued a [statement](#) in support of Chair Pai's announcement.

Justice Thomas Issues Statement on Section 230 Liability Shield Protections Following Software Company Court Case

On October 13, 2020, U.S. Supreme Court Justice Clarence Thomas issued a [statement](#) on U.S. Supreme Court case no. 19-1284 Malwarebytes Inc. v. Enigma Software Group USA, LLC regarding Section 230 of the Communications Decency Act's liability shield as applied to technology platforms. In his statement, he expressed support for a narrow interpretation of Section 230, stating that lower courts have defined the law "broadly to confer sweeping immunity" (p. 1) for tech companies. The statement was in response to a [petition](#) to review a lower court order enabling Enigma Software Group USA LLC to sue Malwarebytes Inc. over its filtering tool, which purportedly flags Enigma's products as potentially harmful software. The U.S. Supreme Court declined to review with the issuance of Justice Thomas' statement. Justice Thomas noted that there should be an examination of Section 230 interpretation in an "appropriate" case, adding that the current case was insufficient for U.S. Supreme Court review. Justice Thomas stated that Section 230 could be harmful to consumers if it goes beyond its "natural reading" (p. 10). Sen. Josh Hawley (R-MO) [tweeted](#) support for Justice Thomas' statement. Federal Communications Commission (FCC) Commissioner Brendan Carr also [tweeted](#) about how Justice Thomas' statement questioned expansion of Section 230 protections to "Big Tech."

State Affairs

California AG Announces Third Set of Proposed Modifications to Text of CCPA Regulations

California Attorney General Xavier Becerra has [announced](#) a "Notice of Third Set of Proposed Modifications to Text of Regulations" regarding the California Consumer Privacy Act (CCPA) Regulations. Text of the proposed modified regulations can be found [here](#).

ANA will review the proposed modified regulations and alert our members to any important developments. Additionally, ANA asks that our members inform us as to how this new set of proposed modified regulations will impact your businesses.

According to the notice, the comment period on the proposed modified regulations will continue through October 28, 2020.

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).

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.:

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You can also reach the D.C. office at any time at 202.296.1883

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