

A weekly roundup from ANA's Government Relations team

January 22, 2021



New! A more detailed version of our state legislative report. See below to check it out!

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News of Interest

- [Silicon Valley braces for tougher regulation in Biden's new Washington, *Washington Post*, January 18, 2021](#)
- [GDPR Fines Surge 39% Over Past Year Despite #COVID19, *InfoSecurity*, January 19, 2021](#)
- [Democrats planning budget blitz to pass Biden agenda, *Roll Call*, January 20, 2021,](#)

Word on the Street

- [Highlights from President Biden's Inauguration](#)

Save the Date

- [Legal Affairs Committee Meeting \(Virtual\)](#) - January 27, 2021 at 2:00 PM

Federal Affairs

Major Changes at the FTC

On January 19, 2021, Federal Trade Commission (FTC) Chairman Joseph Simons announced his resignation from the FTC effective January 29, 2021. The press release noted that Chairman Simons has served as FTC Chairman since May 1, 2018, following his nomination by President Trump. According to the press release, FTC Bureau of Consumer Protection Director Andrew Smith is among others departing.

After being sworn in, President Biden announced that Commissioner Kelly Slaughter has been designated as Acting Chairwoman of the FTC. The press release noted that Acting Chairwoman Slaughter has been a FTC Commissioner since 2018 and served as Chief Counsel for Sen. Chuck Schumer (D-NY) prior to joining the FTC. Biden will be nominating at least two new members of the FTC following the resignation of Simons and appointment of Commissioner Chopra to lead the CFPB.

Biden Announces FTC Commissioner Chopra as CFPB Director Nominee

On January 18, 2021, then President-elect Joe Biden announced the nomination of Federal Trade Commission (FTC) Commissioner Rohit Chopra to be the Consumer Financial Protection Bureau (CFPB) Director. Commissioner Chopra was nominated to serve as an FTC Commissioner by President Donald Trump in 2018. He served as an Assistant Director at the CFPB under the Obama Administration from 2010 to 2015. The press release noted that in his previous time at the CFPB, he oversaw student loans. Chopra was considered by many observers to be the most liberal and regulatory minded of the FTC Commissioners.

President Biden Names FCC Commissioner Rosenworcel as Acting Chairwoman

The Federal Communications Commission (FCC) has announced that Commissioner Jessica Rosenworcel has been selected by President Biden to serve as Acting Chairwoman of the FCC. Acting Chairwoman Rosenworcel has served at the FCC since 2012. In her time on the Commission, she has been a supporter of net neutrality.

117th Congress House Energy and Commerce Subcommittee Leadership Finalized

House Committee on Energy and Commerce Chairman Frank Pallone (D-NJ) announced the Democratic majority rosters for the Committee's six subcommittees in the 117th Congress. The press release noted that Subcommittee on Communications and Technology Chairman Mike Doyle (D-PA) and Subcommittee on Consumer Protection and Commerce Chair Jan Schakowsky (D-IL) would be appointed to retain their Subcommittee Chair positions from the 116th Congress. Rep. Anna Eshoo (D-CA) will lead the Subcommittee on Health.

The House Committee on Energy and Commerce (Committee) Republicans have also announced subcommittee leadership positions. Their press release noted that Rep. Gus Bilirakis (R-FL) will be the Ranking Member of the Subcommittee on Consumer Protection and Commerce (CPC

Subcommittee), replacing Rep. Cathy McMorris Rodgers (R-WA) who now serves as Committee Ranking Member. According to the press release, Rep. Robert Latta (R-OH) will maintain his role of Ranking Member of the Subcommittee on Communications and Technology. Rep. Brett Guthrie (KY) will serve as ranking member of the Subcommittee on Health.

Senate Commerce Chairman Wicker Sends Letter to Big Tech CEOs on Purported Censorship Practices

On January 15, 2021, the Senate Committee on Commerce, Science, and Transportation announced that Committee Chairman Roger Wicker (R-MS) had written [letters](#) to the Chief Executive Officers of major online platforms regarding alleged censorship of conservatives on their platforms. The press release noted that the letters sought to seek information about the platforms' decision to ban conservative leaders and content including questions about: (1) the timing of such removals; (2) coordination between platforms; and (3) timeline of such removals. The letters highlighted that the CEOs appeared before the Committee in October 2020 to discuss potential reform to Section 230.

Senator Maria Cantwell (D-WA) will become Chair of the committee when reorganization of the Senate is complete but the focus on tech issues will undoubtedly remain.

State Affairs

ANA State Legislative Report

Advertising & Data Taxes

Nebraska LB 422, sponsored by Sen. Tom Briese of Albion, was referred to the Revenue Committee on January 20. The bill would impose the state sales tax on the gross income received for providing a service. A service would be presumed taxable unless specifically exempted. The sales tax rate would be set at five percent beginning October 1, 2022 but the rate would be recalculated each of the following four quarters.

Washington HB 1303, sponsored by Rep. Shelley Kloba, D-Kirkland, was referred to the House Finance Committee on January 19. The bill would impose a 1.8 percent tax on the gross income of any business that sells personal data or exchanges personal data for consideration.

Data Privacy

Connecticut SB 156, sponsored by Senate Majority Leader Bob Duff, D-Norwalk, was referred to the Joint General Law Committee on January 15. This placeholder bill specifies that the general statutes should be amended to require businesses to disclose the proposed use of any personal information, give consumers the right to discover what information a business possesses and the opt out of the sale of such information, and create a private right of action for violations.

Oklahoma HB 1130, sponsored by House Technology Committee Chair Logan Philips, R-Mounds, was prefiled and will be considered when the legislature convenes on February 1. The bill would require a business that retains a customer's personal information to make specified disclosures at or before the point of collection including:

- The categories of personal information it will collect.
- The categories of sources from which the personal information is collected.
- The business or commercial purpose for collecting or selling the personal information.
- The categories of third parties with whom the business will share personal information.
- A description of the process for a consumer to review and request changes to their personal information that is collected.

Oklahoma HB 1602, sponsored by Rep. Collin Walke, D-Oklahoma City, was prefiled and will be considered when the legislature convenes on February 1. The bill would specify that a consumer is entitled at any time to opt out of the sale of the consumer's personal information. The bill would also require specified notices to consumers to be placed on the business' internet home page including that information could be sold and the pro rata value of the consumer's personal information. A third party, which has been sold the personal information, would not have the right to sell the information further unless the customer receives explicit notice of the potential sale and has opted in. The bill would provide a private right of action for consumers.

Washington SB 5062 was heard in the Senate Environment, Energy and Technology Committee on January 14. The bill was also scheduled for an executive session in the same committee on January 21; information from that hearing was not immediately available. The bill, to be known as the Washington Privacy Act, would grant a consumer the right to:

- Confirm whether a controller is processing their personal data and access that data.
- Correct inaccurate personal data, taking into account the nature of the personal data and the purposes of the processing of that data.
- Delete their personal data.
- Obtain their personal data from a controller in a way that allows the consumer to transmit the data to another controller.
- Opt-out of the processing of their personal data for the purposes of targeted advertising, the sale of personal data or profiling in furtherance of decisions that produce legal effects concerning a consumer.

Controllers would be required to:

- Provide consumers with a meaningful privacy notice.
- Limit collection of personal data to what is required or relevant for a specified purpose.
- Establish and implement data security practices.
- Prohibit processing that violates state or federal law.
- Obtain consumer consent in order to process sensitive data.

The bill would require controllers to provide consumers with a secure and reliable way to submit a request to exercise a consumer's right. It would apply to entities that conduct business in Washington that controls or processes the data of 100,000 consumers or more or derives over 25 percent of its gross revenue from the sale of personal data and processes the data of 25,000 consumers or more. The bill would not apply to nonprofit corporations until July 31, 2026. The bill does not contain a private right of action except for specific provisions relating to contact tracing.

A similar bill, **Virginia SB 1392**, sponsored by Sen. David Marsden, D-Burke, was referred to the Senate General Laws and Technology Committee on January 13.

Virtual Coffee?



The ANA Government Relations team would like to invite you to join us for virtual coffee in order to better get to know you and the issues you face everyday. To schedule your virtual coffee please reach out to Travis Frazier (tfrazier@ana.net) or any of the ANA DC Staff.

- Dan Jaffe, Group Executive Vice President, Government Relations (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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