



THE GROWTH OF PRIVACY LEGISLATION: STATE AND FEDERAL IMPLICATIONS

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February 24, 2021

2021 Outlook:

- Major threats to data collection, tracking, and targeting consumers.
- Substantially more stringent regulatory environment.
- Dramatic growth in state and federal privacy initiatives.
- Tightening EU privacy enforcement.
- Apple & Google are challenging tracking models:
 - Google calls for the end of third-party cookies. Apple pushes IDFA app tracking restrictions.
- Rarely has there been as big a challenge to ad industry business models.



New Administration

- President Joe Biden and VP Kamala Harris inaugurated on January 20th.
- This new Administration means more emphasis on regulation at the FTC, FCC, and other regulatory agencies, evidenced by his choice to lead the CFPB (Rohit Chopra).
- Biden has laid out an ambitious agenda that includes numerous policy areas.



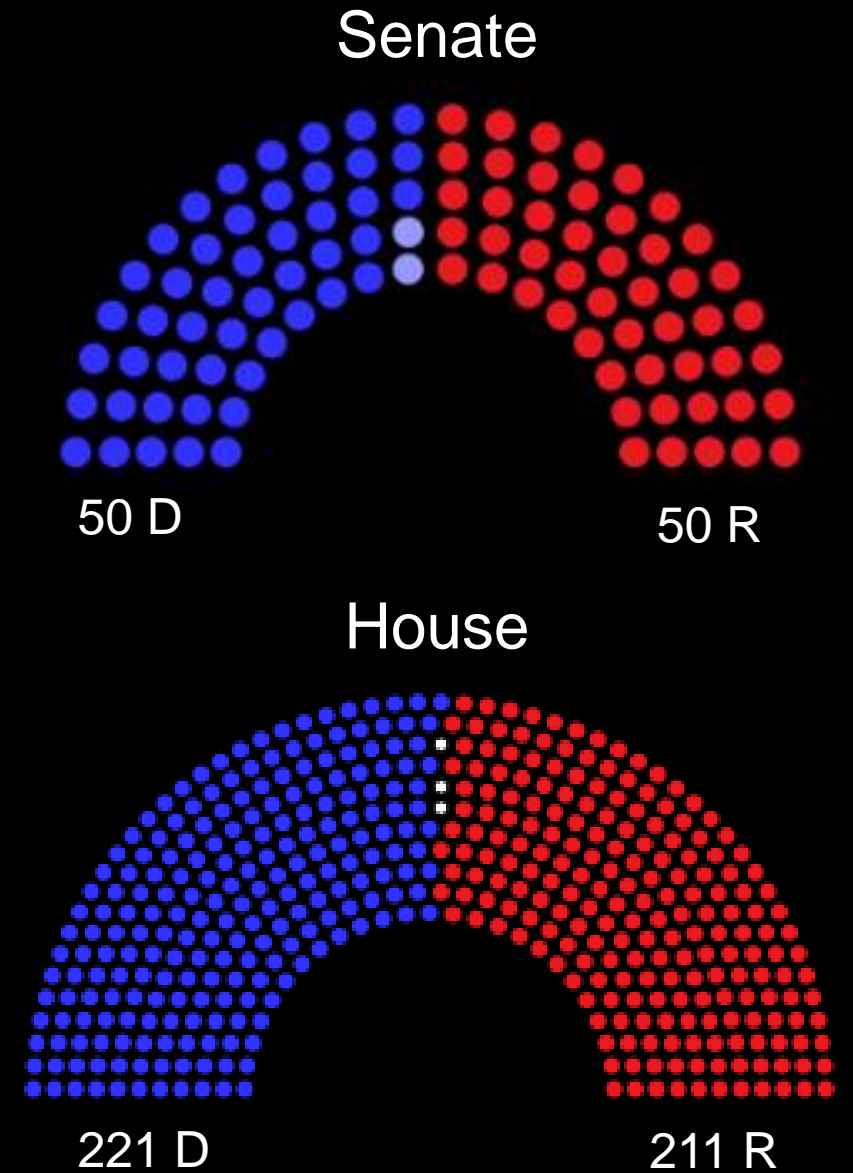
Déjà Vu ... All Over Again?



- Democrats have unified control of government for the first time since 2009-10, leading to a much more business skeptical environment.

Tight Margins

- Democratic majorities in the House and Senate are very narrow.
- The Senate is 50/50 with VP Harris breaking ties.
- Dems hold a 10-seat majority in the House which will be tightened further with some members going to the Biden Administration.



Power Rests With a Few

- A tied Senate means any one Dem. Senator has the power to block a bill they don't like.
- Moderates like Senators Manchin, Collins, Kelly, Sinema, & Murkowski could have increased power.



New York, New York

- The incoming Senate Majority Leader, Chuck Schumer, is also New York's senior Senator.
- He has in the past been a friend of advertisers given their importance to the New York economy.



Turnover at the Regulatory Agencies



- **“Is there really much benefit to targeted advertising?”** – Acting FTC Commissioner Slaughter at a past ANA event.
- This business skeptical attitude is spreading across every regulatory agency and applies to every business sector.

Privacy Explosion



Tech in the Cross Hairs



Section 230 worked after the insurrection, but not before: How to regulate social media

BY MICHAEL H. LANZA, OPINION CONTRIBUTOR — 01/16/21 07:00 PM EST
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

545 COMMENTS

TECHNOLOGY · Published 15 hours ago

Conservatives, Trump officials quietly meet in Las Vegas to discuss 'woke tech'

Chief Technology Officer Michael Kratsios, Texas Attorney General Ken Paxton, and conservative legal scholar John Eastman were among the event's high-profile speakers, according to Protocol.

The Biden Agenda

Biden inherits bipartisan momentum to crack down on large tech companies' power

Capitol violence adds fresh urgency to the question of whether to break up tech titans.

The Biden Agenda

Silicon Valley braces for tougher regulation in Biden's new Washington

The Democratic Party's calls for regulation have grown more urgent in the days since Biden's presidency, his party took control of the House and the Senate — and Trump and his allies face the risks of a largely unregulated Web.

yahoo/finance

Capitol Hill attack could end Section 230 as we know it

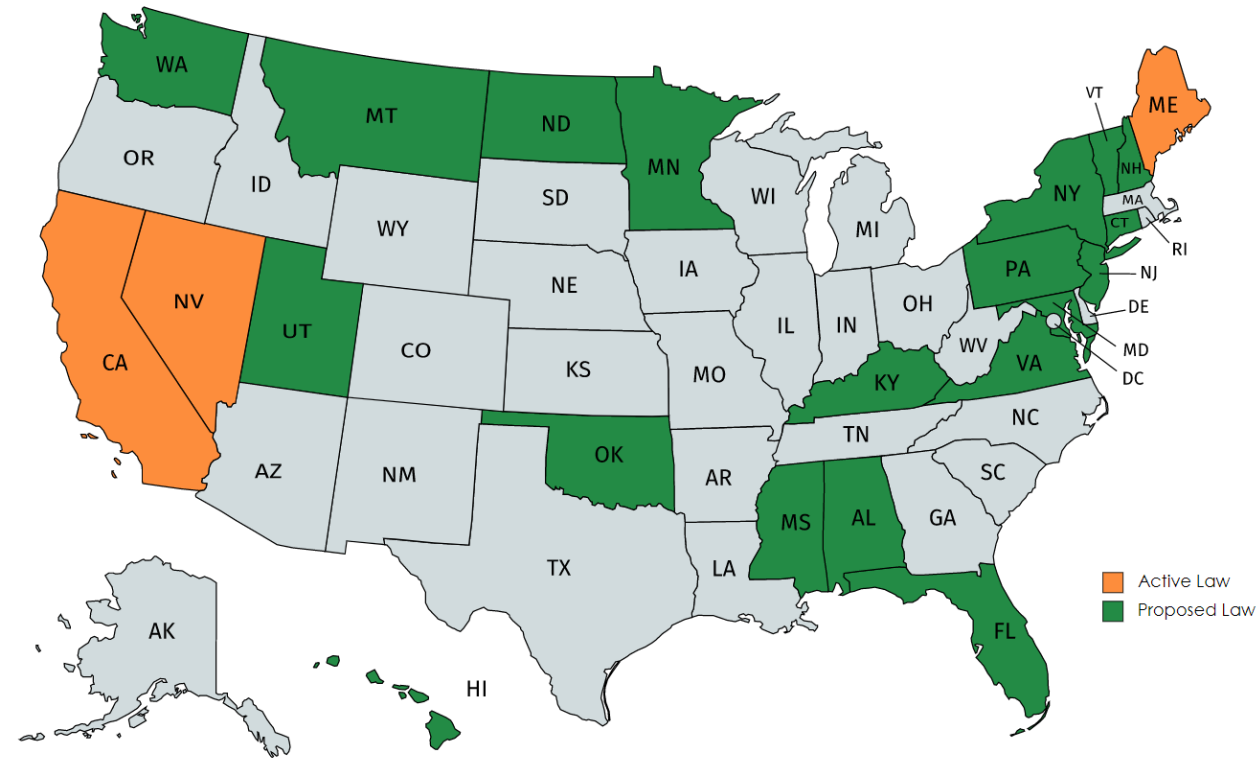


Section 230 Under Attack

- President Biden has said that Section 230 should be revoked.
- There is bipartisan support for changes (though for different reasons in each party) to Section 230 and lawmakers will continue to discuss such reform in the 117th Congress.
- While there is bipartisan support for reform, there is disagreement as to what such reform should entail. After the January 6, 2021 riots on Capitol Hill, there is a growing interest amongst lawmakers to re-examine Section 230.
- Senator Cantwell is expected to address Section 230 in the Senate Commerce Committee and we've heard that this issue may take thoughtful consideration for the duration of the 117th Congress.
- Sen. Mark Warner (D-VA) has introduced a bill that would extensively overhaul Section 230.

Multitude of Bills in the States

- States in orange have privacy legislation that has become law including CCPA and CPRA.
- States in green already have proposed privacy, or privacy related, bills for 2021.



Compliance Costs Are Rising

RUNNING ON EMPTY



- More privacy laws mean more \$ to hire lawyers and other experts to help with compliance.
- The total cost of initial compliance with the California Consumer Privacy Act (CCPA) is estimated at \$55 Billion, according to an economic impact assessment from the CA DOJ
- This number will multiply exponentially with CPRA and the proposed bills in other states.

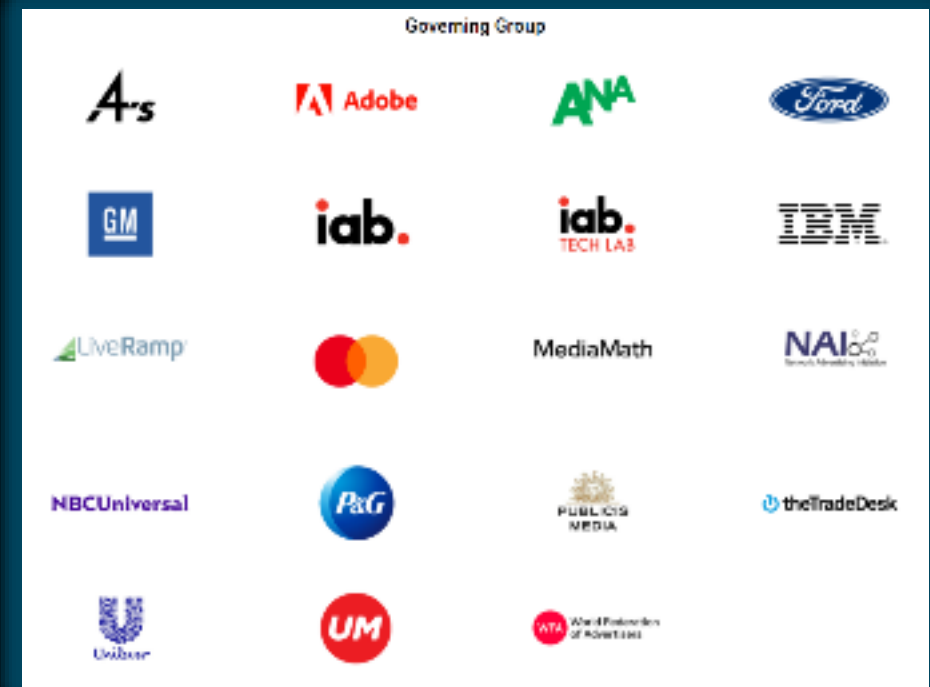
Privacy for America



- Creating one national standard has become even more important. We need everyone to become a part of the P4A effort.

PARTNERSHIP FOR **RESPONSIBLE ADDRESSABLE MEDIA**

- “The Partnership for Responsible Addressable Media (PRAM) is a collaborative effort of the leading advertising trade associations and companies representing every sector of the global advertising industry to advance and protect critical functionalities like customization and analytics for digital media and advertising, while safeguarding privacy and improving consumer experience.”

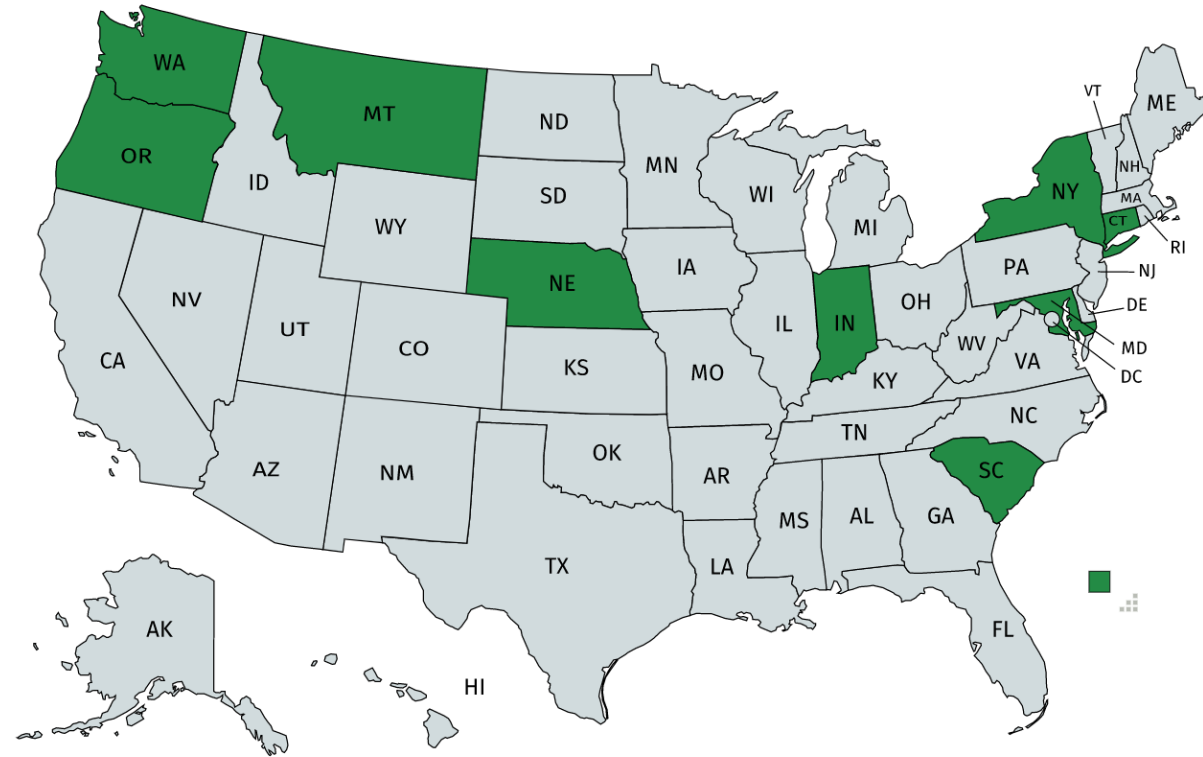


Advertising Taxes Multiply

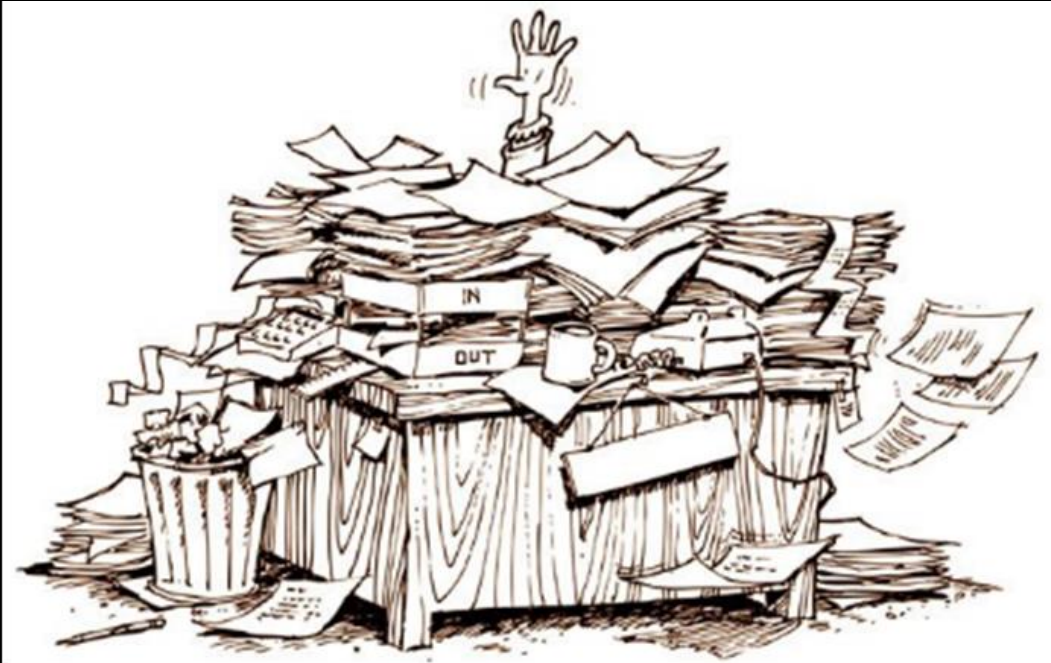


Threat Increases

- Advertising taxes are currently pending in New York, Indiana, Oregon, Nebraska, Connecticut, and Maryland. Washington State had a proposed bill, but it has been tabled.
- ANA has continued to lead a growing coalition of companies to combat these proposals. We host meetings every Thursday at 12pm ET. If you or others in your company are interested in joining please contact me (djaffe@ana.net) or Travis Frazier (tfrazier@ana.net).
- In addition to the threat at the state level, we have also already seen a bill introduced in the Senate that would remove the deduction for advertising related to prescription drugs.



Other Issues for Another Time



- Postal
- Food Advertising
- Price Disclosures for Prescription Drug Advertising
- Green Marketing
- Data Security

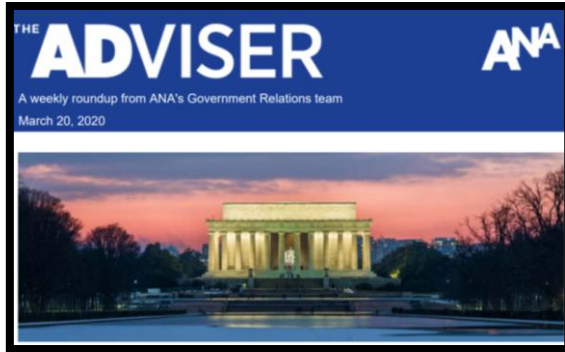
ANA Needs You

- Specific input on how legislation/regulation will harm your company's business.
- A willingness to step forward to fight these proposals.
- Lines of communication between us and your government relations & legal teams.
- Support for our PAC efforts.
- Support P4A and PRAM



ANA Needs You!

Get Involved



Webinar	March 27, 2020	1:00 pm	Issues to Watch for in Washington & the States	Webinar
Webinar	March 27, 2020	2:00 pm	Email Marketing During Trying Times	Webinar
Webinar	March 30, 2020	1:00 pm	Insights from "The Most Quoted Man in Advertising"	Webinar
Webinar	March 30, 2020	3:00 pm	Crisis Communication Strategy (The Business of Marketing in the COVID-19 Age)	Webinar
Webinar	March 31, 2020	1:00 pm	COVID-19 Legal Impact on Brand Advertising and Marketing	Webinar
APRIL 2020				
Webinar	April 1, 2020	1:00 pm	Internal vs. External Agencies: Bridging the Divide (In-House Agency Series)	Webinar
Webinar	April 2, 2020	1:00 pm	Advertising and Media Will Help Lead Us Through This; Trust and Transparency Will Be Key	Webinar
Webinar	April 6, 2020	3:00 pm	How To Realign Your Marketing Budget (The Business of Marketing in the COVID-19 Age Series)	Webinar
Webinar Series	April 7, 2020	1:00 pm	Brand Activation Legal Webinar: April 2020	Chat with a Researcher



- State Legislative Tracking by Leonine FOCUS
- Our Weekly Newsletter – *The ADviser*
- Legal and Regulatory Webinars
- Podcasts
- Dan Jaffe’s *Regulatory Rumbblings* Blog
- Legal Affairs and Government Relations Committees
- Email the Washington Office anytime at washington@ana.net. Please reach out to setup one-on-one meetings with the ANA DC Office.
- Follow Group EVP Dan Jaffe on LinkedIn
- Daily Webinars from different departments in the ANA
- ANA.net which includes The Marketer’s Guide to Coronavirus Response, The Marketing Knowledge Center, ANA’s Ask the Expert, and More.
- Follow us on Twitter @ANAGovRel
- Legal Services - 43rd ANA/BAA Marketing Law Conference/Brand Activation Monthly Committee meetings/Brand Activation Legal webinars/Legal COE



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Thank You