Technology

With Republicans taking control of the House while Democrats retain control of the Senate, organizations interested in technology policy need to prepare for the realities of divided government, narrow majorities and changes in leadership. There remains interest among both congressional Democrats and Republicans to act on technology policy across a broad set of issues, though that does not mean there is bipartisan alignment. Priorities for the 118th Congress will include regulating ecommerce, moderating online speech and censorship, supporting U.S. investments in tech research and development (R&D), strengthening cyber defenses and maintaining America's global leadership and competitiveness. Efforts to enact bipartisan legislation on antitrust and data privacy ran into challenges in the 117th Congress; the new Congress will have to start over in January.

AREAS OF POTENTIAL BIPARTISANSHIP

- Consumer data privacy protections
- Emerging technologies R&D, including AI, quantum computing and 6G
- Broad oversight and regulation of the technology sector
- Broadband access and minimum speeds

LIKELIHOOD OF POTENTIAL LEGISLATIVE AND REGULATORY ACTIONS

Based on National Journal's industry impact summaries, the outlook for a number of high-profile actions under a Republican-controlled House and Democrat-controlled Senate is as follows:

- Enact a national data privacy framework: **Likely**
- Investments in STEM education and workforce development: **Likely**
- Digital trade provisions included in any new U.S. trade agreements: **Likely**
- New export controls on U.S. and foreign companies selling technology to China: **Likely**
- Restrict business deals between U.S. and Chinese tech firms: **Likely**
- Legislation focused on protecting children online: **Likely**
- Increase domestic minerals and processing of critical materials for the clean tech sector: **Likely**
- Controls on or banning the TikTok social platform: **Possible**
- Enact antitrust laws to regulate tech platforms, if not achieved in 2022: **Possible**
- Reform Section 230: **Possible**
  Note: A decision by the U.S. Supreme Court in Gonzalez v. Google LLC in its current term could reform this provision.

COMMITTEE LEADERSHIP

SENATE COMMERCE, SCIENCE AND TRANSPORTATION

Chair:
Maria Cantwell (D-Wash.)

Ranking Member:
Ted Crux (R-Texas)

SENATE HOMELAND SECURITY

Chair:
Gary Peters (D-Mich.)

Ranking Member:
Ron Johnson (R-Wis.)

HOUSE ENERGY AND COMMERCE

Chair:
Cathy McMorris Rodgers (R-Wash.)

Ranking Member:
Frank Pallone (D-N.J.)

HOUSE SCIENCE, SPACE AND TECHNOLOGY

Chair:
Frank Lucas (R-Okla.)

Ranking Member:
Zoe Lofgren (D-Calif.)

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CONSIDERATIONS FOR ORGANIZATIONS

Organizations following tech policy should have the following considerations in mind as they prepare to engage on these issues during the 118th Congress:

- **Be prepared: congressional activism on tech sector regulation and oversight will continue.** Tech CEOs will be required to testify at hearings and be targeted by both Democrats and Republicans who agree on the importance of regulating tech, even if they may not be aligned on how to do so. Given the complexity of fast-evolving tech issues, there is a need for companies to educate and engage with members on how to regulate the sector responsibly.

- **Congress needs to strike the right balance regulating the tech sector** and not do so at the cost of the United States ceding its innovation leadership to other markets.

- **Biden-appointed regulators will continue to advance the administration's tech agenda, with an eye on antitrust, privacy, cybersecurity and competitiveness.** The Federal Trade Commission (FTC) and Department of Justice (DOJ) are both seeking to broaden their antitrust enforcement with a focus on large tech companies, though congressional Republicans may seek to reign them in. The FTC is also considering its own national data privacy rule, as some in Congress are warning this issue is their jurisdiction. A national cybersecurity strategy is forthcoming, while the administration, under Commerce Secretary Gina Raimondo, implements the CHIPS Act to incentivize domestic semiconductor investment and R&D.

- **Be cautious and mindful of tech policy reforms' implications for other policy areas.** Reproductive rights, voting rights, diversity, equity and inclusion (DEI) and racial justice, LGBTQ+ protections, trade policy and economic growth all intersect with elements of technology policy.

- **Tech companies – and the trade groups they fund – are among Washington's most active lobbyists.** The largest tech companies have ramped up both their government relations budgets and campaign contributions and they are now among the most active industry groups seeking to shape high-stakes legislation and regulation. Expect this to continue in the 118th Congress, alongside scrutiny of political contributions.