



FAST FIVE

Public Policy Insights

North America

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Featured

1. **Senator Klobuchar Introduces Bill to Effectively Ban Acquisitions.** Late last week, Senator Amy Klobuchar (D-MN) introduced the “Competition and Antitrust Law Enforcement Act.” The legislation would impose a presumption that any acquisition by a company with assets or revenue in excess of \$100 billion would be presumptively anticompetitive, requiring the company to muster considerable legal and factual support to justify the acquisition. According to backers of the bill, this provision effectively bans “large” companies (300 to 400, depending on the markets) from merging with or acquiring smaller companies. In addition, the bill specifies that to prove exclusionary conduct, the plaintiff need not account for both sides of a two-sided market. This would add litigation risks, in addition to policy and regulatory concerns. The bill has little backing in Congress now and the Biden Administration is largely silent on the merits.
2. **NAM Public Policy Team Meets with CFIB on Acceptance.** This week, Mastercard Canada team members, led and organized by NAM Public Policy, met with the Canadian Federation of Independent Business (CFIB) President, Dan Kelly, and team. With enhanced pressure, this was a good opportunity to do a proper check-in and understand their members’ pain points. We were able to identify partnership opportunities to help SMEs better manage their cyber defenses as they transition to digital, in the face of the pandemic. We also strengthened our relationship with the most prominent small business organization in Canada. The CFIB is the preeminent and most visible champion of small business in the country.
3. **Legislative Attempts to Cap Credit Interest at 36% Continue.** During the reconciliation process, there have been multiple attempts to extend the Military Lending Act to all credit interest rates—including the 36% all-in rate for credit cards. This would likely force tens of millions of consumers from the credit card market and adversely affect many Mastercard customers. Our trades are working now to ensure the 36% rate cap does not become a part of the final House language. If they fail, it will be an uphill climb to remove it from the final bill in the Senate, but hardly impossible.

Future Five

1. **Senators Warner, Hirono, and Klobuchar Seek to Reform Section 230.** Recently, Senators Mark Warner (D-VA), Mazie Hirono (D-HI) and Amy Klobuchar introduced legislation to amend Section 230 platform liability protections (“Safeguarding Against Fraud, Exploitation, Threats, Extremism, and Consumer Harms (SAFE TECH) Act”). Broadly, it would allow social media

companies to be held accountable for enabling targeted harassment and discrimination on their platforms. If passed, Section 230 wouldn't apply to ads or other paid content, "ensuring that platforms cannot continue to profit as their services are used to target vulnerable consumers with ads enabling frauds and scams." It would also ensure Section 230 isn't a bar to injunctive relief, "allowing victims to seek court orders where misuse of a provider's services is likely to cause irreparable harm."

2. **Reconciliation Process to Reveal Narrow Majorities in Congress.** Currently, it's widely accepted President Biden's \$1.9 trillion COVID relief bill will pass in mid-March. Despite narrow majorities in Congress, Democrats should be able to garner a bare majority in both chambers. We're working diligently with our allies to monitor this process for any "extraneous" provisions that could adversely affect Mastercard and its customers. Currently, there are few indications that regulatory provisions unrelated to the budget will be included, but the odds are still non-zero.
3. **Lawmakers Introduce Bicameral Bill on Data Privacy.** Senators Catherine Cortez Masto (D-NV) and Deb Fischer (R-NE), as well as Representatives Haley Stevens (D-MI) and Anthony Gonzalez (R-OH) introduced the "Promoting Digital Privacy Technologies Act" in both the Senate (S. 224) and House (H.R. 847). This legislation would require the National Science Foundation to promote research into privacy enhancing technologies (PET) and develop standards for integration of PETs into public and private sector data use. The legislation also integrates this mission with the NSF's Computer and Network Security Program. It would require the National Institute of Standards and Technology to work with academic, public, and private sectors to develop and establish voluntary consensus standards for the integration of PET into business and governmental applications.
4. **House Committee Scrutinizes Cyber Threats.** This week, the House Homeland Security Subcommittee heard from a range of cyber experts on how to improve U.S. resiliency. In addition to Chris Krebs, former Director of the Cybersecurity and Infrastructure Security Agency, the Subcommittee heard from the President of the Cyber Threat Alliance and a former Deputy Director from Office of the Director of National Intelligence. During the hearing, Subcommittee Chair Congressman Bennie Thompson (D-MS) noted it will take months to fully understand the scope and impact of the SolarWinds compromise and eradicate bad actors from our networks. Going forward, Thompson stressed the government must work to raise the baseline cybersecurity posture across government entities and the private sector to reduce avoidable, opportunistic attacks.
5. **Senate Advance Mayorkas Nomination, USTR on Tap.** On a narrow, mostly party-line vote of 56-43, the Senate confirmed the nomination of Alejandro Mayorkas to serve as Secretary of Homeland Security. Mayorkas' nomination is the first to receive major Republican opposition, although five Republicans did back him during the final vote. The next major confirmation vote will be for Katherine Tai, to lead USTR. We expect her nomination to pass through the Senate easily and will stay engaged with policymakers and staff to advance our public policy objectives.