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Legal and Legislative Committee
September 10, 2019

Agenda

Update on CCPA Amendments

Review CA Legislative Efforts re Dynamex

Update on State AG Investigation of Google

Update on DOJ Investigation of Tech Platforms

Update on CCPA Amendments

The last day to amend bills on the floor was September 6.

Upcoming key deadlines:

- September 13 – Last day for each house to pass bills. Interim Study Recess begins at the end of this day's session.
- October 13 – Last day for Governor to sign or veto bills passed by the Legislature on or before September 15 and in his possession after September 15.
- January 1, 2020 – Statutes take effect.

Bills that failed or were pulled are now two year bills that may come up again in January.

Update on CCPA Amendments

In July, the Senate Judiciary Committee heard several key bills to amend CCPA:

- AB 25 (Chau): employee fix – PASSED 8-0 as amended
 - Fix sunsets after one year.
 - Requires employers to disclose the categories of data they collect from their employees and the purposes for which the categories shall be used.
- AB 873 (Irwin): definitions of “personal information” and “deidentified” – FAILED 3-3
 - Committee Chair Jackson objected to the legislation on the grounds that it would weaken CCPA and bill’s author, Assemblymember Irwin, did not accept the Committee’s proposed amendments.
- AB 874 (Irwin): definition of “publicly available information” – PASSED on consent
 - Amends the definition of “publicly available information” to exempt from the definition of PI any information that is lawfully made available from government records.

Update on CCPA Amendments

Efforts led by Senator Hertzberg and others to secure a “grand bargain” on CCPA were unsuccessful.

- Senate Pro-Tem rejected calls to circumvent Jackson by establishing a new Senate committee exclusively focused on privacy.

Nothing of significance expected to move this session – only minor changes before September 13 legislative deadline.

- Most notable CCPA change: Incorporation of “reasonably capable of being associated with” amendments to the definition of personal information into AB 874 with Jackson’s support. This language was previously included in AB 873.
- Previously non-controversial AB 846 (loyalty programs) pulled last week at industry’s request after it was amended in a way that expanded, rather than narrowed, CCPA by using the CCPA definition of “sell.”

Primary focus for remainder of session is AB 5, Assembly-passed legislation that aims to codify the *Dynamex* decision on worker classification.

Bill is expected to pass the Senate, especially after Governor made clear he intends to sign whatever he receives.

Uber and Lyft working on “gig” carveout, backed by threat of expensive ballot initiative campaign to unravel *Dynamex* – remains to be seen if it will get done before session ends Friday.

Other interests continue to seek exemptions in anticipation that bill will pass.

Next Steps:

- Ballot Initiatives
- CA Legislature
- Advocacy

State AGs Announce Investigation of Google

48 States, DC and Puerto Rico announced “investigation”

- 8 State AGs will take lead
- CA and AL AGs not participating at this time
- Initial focus on digital advertising and search

DOJ Investigation of Tech Platforms

DOJ seriously investigating anticompetitive behavior by “big tech platforms”

- Looking for specific examples of behavior
- Likely to file formal complaint in the next several months

DCN Board will be briefed at 9/17 Board meeting. Questions for discussion:

- Examples of anticompetitive behavior
- Remedies

Questions?
