

LEGAL AND PRIVACY

Association of National Advertisers set for new legislative challenges

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By **Dan Jaffe**

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As we reflect upon the past year, the Association of National Advertisers (ANA) is very proud to have ended 2017 on a high note with an important victory for the advertising industry: the preservation of advertising deductions in the Tax Cuts and Jobs Act.

ANA worked to ensure that these critical deductions continue to allow businesses to effectively market their goods and services and would not be undermined during the legislative process in any version of the bill.

The full deductibility of advertising costs has been seriously threatened in recent years in Congress, and ANA continuously and successfully fought to make sure such misdirected proposals were dismissed, and the advertising industry would be able to continue driving economic activity in the U.S.

In 2018, **ANA** will remain highly vigilant and continue to protect advertisers' constitutional rights.

In 2017, ANA not only fought to maintain the full deductibility of advertising expenses but also **fought mandatory disclosure ordinances** and an unprecedented number of overly burdensome Internet privacy bills at the state and local levels.

This year, Congress is gearing up to enact legislation to answer growing privacy challenges and ANA is committed to actively monitoring and mitigating any changes that would threaten overregulation of the marketing community and American consumers.

On December 14, the FCC voted to reverse Obama-era regulations by repealing net neutrality rules.

While **ANA is in favor of a regulatory framework** that puts ISPs and edge providers under the same regulatory jurisdiction of the Federal Trade Commission, ANA will be quick to oppose any efforts of companies that try to take advantage of consumers by restricting their ability to access content in a cost-effective and efficient manner.

Moreover, in the absence of FCC's net neutrality scheme, Rep. Marsha Blackburn (R-Tenn.) and Sen. Edward Markey (D-Mass.) independently introduced disparate major pieces of online privacy legislation in the 115th Congress to fill

what they claim is a regulatory void.

Ms. Blackburn's **BROWSER Act** essentially allows users to opt-in or opt-out of approval rights based on the sensitivity of the data, whereas Mr. Markey's proposed bill would essentially restore the 2015 Obama Administration's Internet privacy rules. Barely a week into the New Year, Congress is reportedly eyeing debate of privacy rules in this legislative session.

In whatever way the net neutrality issue shakes out at the federal level, 2018 will certainly see privacy advocates push for highly restrictive Internet privacy rules in the states.

In 2017 alone, **there were a total of 22 states that crafted overly prescriptive privacy laws**, vowing to enforce their own versions of net neutrality that would restrict ISPs. We defeated or delayed consideration of these bills but many are certain to resurface.

Specifically, ANA, in collaboration with the State Privacy and Security Coalition and the California Chamber of Commerce, **worked to oppose AB 375**, California's broadband privacy bill. And while that bill was shelved for the duration of the legislative calendar, proponents of AB 375 are likely to pick up where they left off this month.

In fact, some are threatening to introduce a statewide ballot initiative that is more far reaching than AB 375.

In this instance, ANA would work with state legislators and members of Congress to highlight the potential harm of such regulation not only to the industry, but to consumers and the digital marketplace at large.

In addition, cyber-security concerns and data security are certain to be a major increased point of focus of the Congress and the Trump Administration this year.

Beginning on May 25, 2018, the GDPR the European Union's General Data Protection Regulation will be fully enforceable and pose new substantial regulatory hurdles for advertisers.

ANA will actively monitor the accountability and breach notification requirements, as well as other data privacy implications that could have an adverse impact on members with operations in both the E.U. and the U.S.

WITH BROAD TAX reform now in the rearview for the time being, we remain committed to working with our members and policymakers around the country to implement common-sense solutions to the ever-evolving challenges that advertisers face today.

And while we remain proud of ANA's great achievements in 2017, we also stand ready, as the leading advocate for the industry, to face whatever 2018 has in store.

Note: ANA will cover these and a number of additional, pressing industry issues at its upcoming ANA Advertising Law and Public Conference March 15-16 in Washington. For more information on the conference and to register, click [here](#).

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