October 23, 2020

Below is our COVID-19 Update for October 23, 2020:

**The Senate is in session. The House is in recess.**

**COVID-19 Relief**

* House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Steven Mnuchin continue to negotiate.
  + Speaker Pelosi indicated that she and Secretary Mnuchin have made sufficient progress to begin drafting legislative language for certain provisions. To that end, she indicated that she is waiting for updates from key committees on their efforts to draft parts of the package.
  + Separately, published reports indicate that other members of House Democratic leadership told Speaker Pelosi that they do not want to vote on a relief bill before the election if Senate Majority Leader Mitch McConnell (R-KY) will not allow a vote on the package on the Senate floor.
* While the developments are encouraging, there is no indication that progress has been made on state and local relief and liability protections, the two largest points of contention. Therefore, it remains unlikely that an agreement will be reached before the election.

**Congress**

**Senate**

* The Senate began considering the nomination of Judge Amy Coney Barrett to fill the vacancy on the Supreme Court. Elevate expects a cloture vote on the nomination on Sunday and final confirmation Monday evening or early Tuesday. At that point, we anticipate that the Senate will adjourn until after the election.
  + Majority Leader McConnell continued to advance Judge Barrett’s nomination by proposing the motion to go to Executive Session. Before the vote could occur, Minority Leader Chuck Schumer (D-NY) moved the Senate into closed session, which made all proceedings confidential. Minority Leader Schumer stated that a closed session would allow Senators to speak candidly before advancing the nomination further.
  + The Senate resumed open session and approved the motion to move to Executive Session in a 51-46 vote. The Senate will resume consideration of the nomination tomorrow.
* As we have reported, the Senate Commerce, Science, and Transportation Committee will hold a hearing next Wednesday titled, “Does Section 230’s Sweeping Immunity Enable Big Tech Bad Behavior?” The witnesses will include:
  + Mr. Jack Dorsey, Chief Executive Officer, Twitter
  + Mr. Sundar Pichai, Chief Executive Officer, Alphabet Inc., Google
  + Mr. Mark Zuckerberg, Chief Executive Officer, Facebook
* Sens. Amy Klobuchar (D-MN) and Roy Blunt (R-MO) introduced a bill ([S. 4847](https://www.congress.gov/bill/116th-congress/senate-bill/4847?q=%7B%22search%22%3A%5B%22congressId%3A116+AND+billStatus%3A%5C%22Introduced%5C%22%22%5D%7D&s=1&r=3)) to direct the Secretary of Commerce to conduct a study and submit to Congress a report on the effects of COVID-19 on the travel and tourism industry. Legislative text is not yet available.

**House**

* Reps. Ann Kuster (D-NH) and Anthony Gonzalez (R-OH) are expected to introduce the Protecting our KIDS Act to make it easier to identify predators on social media. Under the legislation, registered sex offenders would be required to provide additional information to the Department of Justice (DOJ) to include identifying information, such as usernames, used on social networks. The legislation would also expand the platforms that are covered by the reporting requirements to not only include platforms that cater mostly to children. A press release on the bill can be found [here](https://kuster.house.gov/news/documentsingle.aspx?DocumentID=2984).

**Administration**

* President Trump issued an [Executive Order](https://www.whitehouse.gov/presidential-actions/executive-order-creating-schedule-f-excepted-service/) (EO) to reclassify workers "in positions of a confidential, policy-determining, policy-making, or policy-advocating character" that are "not normally subject to change as a result of a Presidential transition" into a new category called Schedule F. These Federal workers would be exempt from certain job protections, allowing agencies to hire and fire them more easily and quickly.
  + Agencies have 90 days, until January 19, 2021, to determine which employees fit the description and reclassify them under the new schedule. Agencies must also petition the Federal Labor Relations Authority to prevent union participation.
* The Board of Directors of the Export-Import Bank (EXIM) voted unanimously to notify Congress of a planned aid package for Boeing that would help the company make $21B in export sales.
  + EXIM is considering a 90% repayment guarantee for a $500M loan from Citibank to help Boeing pay its suppliers, which would support 1,900 aviation-related jobs and benefit 1,000 suppliers.
* The International Trade Commission (ITC) announced it will open an investigation into whether major electronic companies are violating patents on digital device screens that Solas OLED says it holds. The investigation will cover screens for smartwatches, laptops, phones, tablets, televisions, and other monitors.
  + Solas OLED alleges that Apple, Dell, Samsung, LG, Motorola, and Sony are all importing devices to the U.S. that include Solas’ patented active matrix OLED displays.
* The Federal Trade Commission (FTC) staff made a recommendation to Commissioners on whether to file an antitrust complaint against Facebook. Published reports indicate that the FTC’s five commissioners met to discuss a potential case yesterday, though a final decision is not expected for several weeks.
* The Environmental Protection Agency (EPA) finalized a rule that modified when power plants and others that emit Clean Air Act pollutants must apply for new federal permits when they make major upgrades. Instead, companies will be able to use “project emissions accounting” to determine if New Source Review is triggered under the Clean Air Act.
* The Transportation Security Administration (TSA) extended the deadline for surface transportation operators to submit a security training program for their workers to March 22, 2021.
  + Operators must submit a TSA-approved training program for higher risk workers at freight railroad carriers, public transportation and passenger railroad agencies, and over-the-road bus companies who perform security-sensitive functions.
* The Treasury Department announced that it is pushing to finish regulations related to the Tax Cuts and Jobs Act by the end of the year. Matters that still need to be finalized include:
  + Carried interest rules
  + A new tax on highly paid executives at tax-exempt organizations
  + A new rule restricting tax-exempt entities from using a loss from one business to offset income from another
  + New limits on taxable employers to prevent them from taking a deduction for providing parking benefits for their employees
  + Regulations regarding changes to like-kind exchanges

**Other News**

* The International Maritime Organization (IMO) approved a draft agreement to limit emissions in the maritime industry. The agreement includes a dual system that grades maritime vessels on their current emissions and also sets engine power reduction goals. The draft agreement does not include enforcement mechanisms but may incentivize ship owners to upgrade as those chartering ships would be more likely to do business with more highly rated ships.
* California Governor Gavin Newsom’s top climate adviser, Kate Gordon, voiced her support for carbon capture and storage but did not commit to using the technology for California’s climate targets.
  + An interagency task force is currently studying engineered carbon removal, which will be further discussed in the California Air Resources Board’s 2022 scoping plan and the California Energy Commission's 2022 building code.
* A coalition of international steel industry associations issued a [statement](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.steel.org%2fnews%2f2020%2f10%2fglobal-forum-steel-excess-capacity&c=E,1,W0gECQQUGUMKDFKyFi0sbgyV5PLiaiT0EZmVh4Ap1bcwjRodp4oR8kgxVAb53akS4QupaHo_7pO-T8E6yUfqSHgCLS2josdx0jPj3yH7prKIVddATFcen6E,&typo=1) calling for actions to curb a global steel glut, which has been made worse by COVID-19. The statement reflects the depth of concern in many steel producing countries about China’s unabated growth in steel production capacity during a time of falling global demand.
  + This request precedes a ministerial-level meeting next week of the Global Forum on Steel Excess Capacity, which was created by G-20 leaders in 2016. China dropped out of the forum last year.

**Federal Register Notices**

* The Environmental Protection Agency (EPA) requested comments on applications from Volkswagen for off-cycle carbon dioxide (CO2) credits under the EPA's light-duty vehicle greenhouse gas emissions standards. Comments must be received by November 23. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f23%2f2020-23464%2falternative-methods-for-calculating-off-cycle-credits-under-the-light-duty-vehicle-greenhouse-gas&c=E,1,oijPPFrcku1my2B0vXNTGR4vViKLBUVFarA-OF5GMOwvAnpCac1gp_tx4RZysoW8DZe4_Zbk4wowkcsHZw1hf6mP4tPN0L2AFEb85h9dZA3aYokDLdoORQ,,&typo=1).
* The Federal Communications Commission (FCC) reformed inmate calling services rates and charges to ensure just and reasonable rates for interstate and international inmate calling services. The FCC determined that it is impractical to separate out the intrastate and intrastate components of ancillary service charges, but when the components may be distinguished, inmate service providers are subject to the FCC's ancillary service charge rules. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f23%2f2020-19951%2frates-for-interstate-inmate-calling-services&c=E,1,PbFPnS9MhaT3lqi-FMOmEcTAvfoaqP8QxuDDJu19B5gNoOlOrXc9f_JJ2VqlK65c0VOT0fVDbePyMUKBcm3ovCNyCEn9FMPuHtp-sBWdSl89p2su0SEqgVE,&typo=1).
* The FCC proposed to lower the current interstate rate caps to $0.14 per minute for debit, prepaid, and collect calls from prisons and $0.16 per minute for debit, prepaid, and collect calls from jails. The Commission also proposed to cap rates for international inmate calling services and to establish a waiver process that would allow providers to seek relief from its rules at the facility or contract level if they can demonstrate that they are unable to recover their legitimate inmate calling services-related costs. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f23%2f2020-19954%2frates-for-interstate-inmate-calling-services&c=E,1,H46zAiQRrSuk9YLtQ7jToux-iV9BBgCSSiOwHQUOIb-P7rMZzc2-bgNggeVh1fLiSWTHvw8p-_OppvaaxCYGjY5oiyg0WocRpMa1M3VbV7Vg&typo=1).
* The FCC announced the three-year approval the information collection associated with rules adopted in the Structure and Practices of the Video Relay Service Program and Implementing Kari's Law and Section 506 of RAY BAUM'S Act. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f23%2f2020-21316%2fimproving-video-relay-service-and-direct-video-calling-implementing-karis-law-and-section-506-of-ray&c=E,1,Y4OKVxkQu7ley3PqIhzxWqCII1sZ-2JfKBrOeCCO9ls6kaRyZtJXhHX0yVAVvkW29nJTF9t0Pgl2ZtiFtkPrM0xkZgtkIPYK0emK26HfrCxj0uC2fg,,&typo=1).
* The Department of Transportation invited eligible and qualified training entities to apply to the Maritime Administration (MARAD) for designation as a Center of Excellence for Domestic Maritime Workforce Training and Education (CoE). Applications are due by December 22. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f23%2f2020-23490%2fcenter-of-excellence-for-domestic-maritime-workforce-notice-of-opportunity-to-apply-for-training-and&c=E,1,ZYsNFfMAiAeWywq71WIOtLH3sTfrsJakM-p0JyM4rCkPWfXWGQhSQI6rT_KePZulgj4l0Da0CkrBJwS-HhZE0foxnwiYifP4fONqtLo0voKZTI8LwKyZo7U,&typo=1).