October 26, 2020

Below is our COVID-19 Update for October 26, 2020:

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

**COVID-19 Relief**

* House Speaker Nancy Pelosi (D-CA) commented in an interview Sunday that the two sides have still not reached an agreement on a testing plan, among other outstanding issues. Speaker Pelosi said she sent a list of remaining issues to the Administration on Friday and was awaiting a response. She also commented that agreement and passage of an additional COVID-19 relief package could still be possible in the House this week.
* White House Chief of Staff Mark Meadows also discussed negotiations in an interview Sunday. He did not offer details on the legislation but indicated that he had a commitment from Senate Majority Leader Mitch McConnell (R-KY) to consider the legislation if an agreement is reached, something Majority Leader McConnell has not committed to publicly. He indicated that the amount under discussion for a bill was around $1.9T, and that he was talking to Senate Republicans about the negotiations.
* With just over one week until the election, it remains unlikely that an agreement will be reached until the Lame Duck session of Congress, or after the elections on November 3.
* Senate Appropriations Committee Chairman Richard Shelby (R-AL) commented today that even though House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Steven Mnuchin continue to negotiate, he does not expect any legislative action before the election on an additional COVID-19 relief package.
* As a reminder, the Senate is expected to depart Washington, D.C. tonight after confirming Judge Amy Coney Barrett to the Supreme Court. The House is not expected to return to session until mid-November and the Senate is expected to return the week of November 9.

**Congress**

**Senate**

* The Senate is expected to confirm Judge Amy Coney Barrett to fill the vacancy on the Supreme Court this evening after clearing the final procedural hurdle through a 51-48 cloture vote yesterday. The vote saw Sens. Susan Collins (R-ME) and Lisa Murkowski (R-AK) both vote against cloture, along with all Democrats except Sen. Kamala Harris (D-CA), who did not vote. Sen. Murkowski announced, however, that she will ultimately vote to confirm Judge Barrett, while Sen. Collins is expected to vote against her confirmation.
* As we have reported, the CEOs of Twitter, Facebook, and Google will testify before the Senate Commerce, Science, and Transportation Committee Wednesday regarding online platforms’ Section 230 protections. Other topics that will likely be discussed are data privacy and media consolidation, though the election will certainly also be featured as election day will be less than a week away by the time the hearing is held.
* After the Senate Judiciary Committee authorized subpoenas for Twitter CEO Jack Dorsey and Facebook CEO Mark Zuckerberg last Thursday, the two CEOs agreed to voluntarily testify before the committee on November 17on alleged anti-conservative bias on the platforms and the handling of the controversial New York Post article regarding former Vice President Joe Biden and his son, Hunter Biden.
* Despite the Senate adjourning until after the election, and as we have reported, the Senate Commerce, Science, and Transportation Committee will hold a hearing on Section 230 and related issues on Wednesday. It is expected that most Senators will participate remotely.
* Sens. Susan Collins (R-ME) and Ben Cardin (D-MD) introduced the Home Health Emergency Access to Telehealth (HEAT) Act ([S. 4854](https://www.congress.gov/bill/116th-congress/senate-bill/4854?q=%7B%22search%22%3A%5B%22congressId%3A116+AND+billStatus%3A%5C%22Introduced%5C%22%22%5D%7D&s=1&r=44)) to provide home health agencies with reimbursements through Medicare for their telehealth services delivered during COVID-19.
  + According to a [press release](https://www.collins.senate.gov/newsroom/collins-cardin-introduce-bipartisan-bill-improve-access-home-health-care-furnished), the bill would only apply to telehealth services used appropriately during a public health emergency and when beneficiaries consent to receiving telehealth services.
  + Companion legislation in the House was introduced by Reps. Roger Marshall (R-KS), Terri Sewell (D-AL), Jodey Arrington (R-TX), and Mike Thompson (D-CA).

**House**

* Speaker Pelosi announced that she plans to run for Speaker of the House again next Congress. As a reminder, Speaker Pelosi agreed to limiting her term as Speaker to four years, or two terms, when Democrats took the majority in the House in 2018.
* The top three members vying to lead the Appropriations Committee next year have all proposed plans on how they would lead the Committee. All three prospective Chairs, which include Reps. Marcy Kaptur (D-OH), Debbie Wasserman Schultz (D-FL), and Rosa DeLauro (D-CT), called for the restoration of earmarks.
  + Rep. Kaptur indicated that in addition to focusing on the return of earmarked spending with increased transparency, she would also focus on improving committee collaboration and on member education during the appropriations processes. Rep. Kaptur also mentioned a focus on diversity and attention to the nation’s long-term fiscal health. Rep. Kaptur’s plan can be found [here](https://ustoa.com/r/ustoa-filemanager/source/resources/marcy-kaptur-appropriations-plan.pdf).
  + Rep. DeLauro indicated that she would focus on transparency and inclusivity with respect to drafting the annual appropriations bills and that she would hold retreats for Appropriations Committee members to hear from experts on a host of issues. Rep. DeLauro’s plan can be found [here](https://ustoa.com/r/ustoa-filemanager/source/resources/rosa-delauro-appropriations-plan.pdf).
  + Rep. Wasserman Schultz also said that she would increase the transparency of the appropriations process and that she would take a closer look at the intelligence community’s budget requests. Rep. Wasserman Schultz also [proposed](https://wassermanschultz.house.gov/news/documentsingle.aspx?DocumentID=2513) a plan for a spending panel on equity, diversity, and justice.
* Rep. Deb Haaland (D-NM) introduced the Extending Tribal Broadband Priority Act ([H.R. 8665](https://www.congress.gov/bill/116th-congress/house-bill/8665?q=%7B%22search%22%3A%5B%22congressId%3A116+AND+billStatus%3A%5C%22Introduced%5C%22%22%5D%7D&s=1&r=21)) to expand the deadline for the Federal Communication Commission’s (FCC) Tribal Broadband application by requiring the FCC to open a new 2.5 GHz Rural Tribal Priority Window within 30 days of the bill’s enactment.
  + As stated in a [press release](https://haaland.house.gov/media/press-releases/haaland-warren-introduce-legislation-expand-tribal-broadband-application#:~:text=The%20Extending%20Broadband%20Tribal%20Priority,licenses%20over%20their%20own%20lands.), this bill would give Native American Tribes and Native Hawaiian organizations additional time to submit applications for spectrum licenses to establish internet services in Tribal lands.
  + The Senate companion bill was introduced by Sen. Elizabeth Warren (D-MA).

**General Congress**

* A group of 30 bipartisan and bicameral lawmakers sent a [letter](https://gonzalez.house.gov/sites/gonzalez.house.gov/files/10.22.2020%20Cornyn%20VGonzalez%20POTUS%20Mexico%20Market%20Issues%20Ltr%5B3%5D%202_0.pdf) to President Trump last week arguing that Mexico is in violation of the U.S.-Mexico-Canada Agreement (USMCA) over preferential treatment of state-owned petroleum company Pemex.

**Administration**

* Vice President Mike Pence’s Chief of Staff Marc Short tested positive for COVID-19 over the weekend. However, both Vice President Pence and Second Lady Karen Pence have tested negative.
* The Department of Transportation (DOT) issued a tentative approval [order](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.transportation.gov%2fbriefing-room%2fdelta-westjet-application-antitrust-immunity-order-show-cause&c=E,1,Hok8YH-ZKpJw9XAtGkHR1imYkt-tzqTsLquER7ly9DV6yb3lsGBmG_gMfTYbOA5cS01DCenpOc6wUAs8CoaN81LSroafrl-8gYYoAlz3onTH9s4oag,,&typo=1) for an alliance between Delta Air Lines and Canadian carrier WestJet on Friday. The alliance would allow the two carriers to coordinate “network planning, pricing, and sales activities.” As a condition, the carriers would have to divest 16 slots at New York LaGuardia Airport and remove Swoop, an ultra-low-cost affiliate of WestJet, from the alliance.
* DOT [released](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.transportation.gov%2fbriefing-room%2fair-travel-consumer-report-july-2020-numbers&c=E,1,eQ-cXfMvUxnNvUnJxesvBJ_TrYf1PpIwVpTBcZNIXENoxGyj4wO-4ocj9CmmWhXTWuxPAtYQEuoRULDiH6BMtdpV6kJw2CC5pfBVThlq_Z-0pNRsB7orcg,,&typo=1) air travel consumer data for July. Most notable among the statistics was that there was a 493% increase in complaints to DOT, mostly related to refunds, compared to July 2019. However, the complaint number was actually down from June 2020.
* In a new [report](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fustr.gov%2fsites%2fdefault%2ffiles%2fassets%2ffiles%2finterim-report-on-agricultural-trade-between-the-united-states-and-china-final.pdf&c=E,1,nj-EA92-xbIrYe22e5wHp4BqYb6VJdpDFXA-ktHySAxxCRkoHgnNln3JjNz5qegdTxrk0fnB5thYrAG-zwJKA--LgKUi92KkpaYur4dfy08ck8dFyDC_&typo=1), the Office of the U.S. Trade Representative (USTR) and U.S. Department of Agriculture (USDA) found that China has met 71% of its first- year agricultural commitments as part of the two-year phase one trade deal between the U.S. and China.
* The Department of the Interior is processing an application for seismic oil exploration in the Alaskan National Wildlife Refuge (ANWR) as soon as this December. The application was submitted by the Kaktovik Iñupiat Corporation, formed by members of the local tribe in the ANWR, and the exploration would be the first in the so-called “10-02 area” of the ANWR that was opened for development in the 2017 Tax Cuts and Jobs Act.
* The World Trade Organization’s (WTO) Dispute Settlement Body is expected to automatically sign off on the European Union’s (E.U.) request to retaliate against the U.S. for subsidizing Boeing. As a reminder, the WTO ruled that the E.U. could retaliate against around $4B worth of U.S. goods earlier this month.
* The U.S. filed a formal appeal against the World Trade Organization (WTO) ruling that established President Trump's tariffs on over $350B of Chinese goods as a violation of global trade rules. This appeal is for the ruling in China’s first complaint, which was filed in July 2018.
  + Due to the appeal, a final decision in the dispute cannot be reached unless WTO members create a reform package that removes the U.S. blockade on Appellate Body judge appointments.

**Other News**

* A group of 16 North American business groups from the U.S., Mexico, and Canada wrote a letter to Mexican Members of Congress Friday arguing that a new provision in Mexico’s 2021 budget proposal violates the USMCA. The provision would allow the Mexican government to cut internet services provided by foreign companies if they fail to comply with a new registration requirement under Mexican tax law. The letter is [here](https://ustoa.com/r/ustoa-filemanager/source/resources/10-26-20-business-group-letter-to-mexican-members-of-congress.pdf).
* Chinese drone manufacturer DJI is again working to [counter](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fviewpoints.dji.com%2fblog%2fbusted-five-common-myths-about-dji&c=E,1,ct3xK0oCkpbRo-g9cWnjv7d7xN1MrfuyWplGsQb6cIeNtTjKwMfjR5gSoOEy2co5xqgAqj-PdzVRANGgQSb76nqNd_QPFfeAfOqEhj7W2eRhRZsbKbtXH6PXnTWpiA,,&typo=1) claims that its drones pose a national security threat. As a reminder, the Trump Administration has been working to ban the use of DJI drones by Federal agencies.
* A group of six organizations from the drone industry, and outside the industry, sent a [letter](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fcdn.cta.tech%2fcta%2fmedia%2fmedia%2fadvocacy%2fpdfs%2findustry-group-letter-to-faa-re-sec-2209%2c-10-22-20.pdf&c=E,1,pHDC8jCKUCexEI2RnS7864W_cBD_OL7bAfolMyFVaka6POkaroWJcZ1eB2vRAGAABqiYj4-L5xEVl403ktf0WSo3D24SQmJTJPQK2a4-y7YwWmz2lIRChg,,&typo=1) to Federal Aviation Administration (FAA) Administrator Steve Dickson last week calling for implementation of regulations that were passed as part of the 2018 FAA Reauthorization. The regulations would allow for petitions to the FAA to impose no-fly zones for drones over areas such as airports and critical infrastructure.
* The European Union (E.U.) will pursue a negotiated solution with the U.S. over Boeing subsidies rather than immediately retaliating after the WTO ruled in its favor. In a [statement](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1984?source=email), European Trade Commissioner Valdis Dombrovskis said the E.U. was preparing retaliatory measures but that the “preferred outcome is a negotiated settlement with the U.S.”
  + If a negotiated solution is not reached, the European Commission will continue to finalize the process to use its retaliation rights. Several E.U. diplomats have urged the Commission to refrain from imposing tariffs until after the U.S. elections.

**Federal Register Notices**

* The FAA proposed a new airworthiness directive (AD) for all Sikorsky Aircraft Model S-61L, S-61N, S-61NM, and S-61R helicopters and Sikorsky Aircraft Corporation Model S-61A, S-61D, S-61E, and S-61V restricted category helicopters. The FAA is proposing this AD to address the unsafe condition on these products. Comments must be received by December 10. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f26%2f2020-23466%2fairworthiness-directives-sikorsky-aircraft-and-sikorsky-aircraft-corporation-helicopters&c=E,1,SMeuNdNQLC0v3W3xz1slGG5QUaaRen5IaOd3uSgLOnt6njmLesiUEKG_ckwV8LyX_NhCcoiVRo572cAvWSXXX5je9_YHk23eALtKPC27H8o,&typo=1).
* The Federal Railroad Administration (FRA) announced the charter renewal of the Railroad Safety Advisory Committee (RSAC) for two years. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f26%2f2020-23554%2frailroad-safety-advisory-committee-charter-renewal&c=E,1,GecUAMr0xXaXIs2MjImmf8f9jtm9Jym_upga6KSnwVPOWKH1W6HsAXGpxkAou1nslFOX0kf3Yh7medR2g0s8XOLsLeqMy52X_KaWMXfpwQ,,&typo=1).
* The Department of Homeland Security and Customs and Border Protection submitted the information collection request “Documents Required Aboard Private Aircraft” to the Office of Management and Budget (OMB) for review and approval. Comments must be submitted by November 25. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f10%2f26%2f2020-23580%2fagency-information-collection-activities-documents-required-aboard-private-aircraft&c=E,1,xO0qfahPoHr_vNvXaKyQrwGP_SXXaFmK2QNfioZhetLQJOp2jhM3T_DAe5uqlSfBU3s0lniZwAokSZO2ijQMw2Q6Pr6SvLhdl6E9z7tr-bNPAmA3z7Fkt0rtIs7dAQ,,&typo=1).