

OPINION

Three steps tech companies can take today to prepare to ride a blue wave in 2026.

BY MATTHEW F. FERRARO AND SHARMI DAS

A shift in congressional control after the 2026 midterms could bring intense scrutiny of AI, cybersecurity practices, and ties to the Trump administration.

For ten months, President Trump and Republican majorities in Congress have exercised nearly free reign in Washington, DC. A year from now, the situation may look much different if the Democrats win the House of Representatives in the midterm elections. A flip in the control of one of the chambers on Capitol Hill (and possibly even both), coupled with recent off-year election Democratic wins in Virginia, New Jersey, and elsewhere would herald substantial changes to the political balance of power.

With command of important state houses, a branch of Congress, and the chairs of congressional committees, the Democrats would wield strong investigatory tools, including the power to hold hearings, call witnesses, and issue subpoenas.

A shakeup in the status quo would likely yield increased congressional oversight of corporate America, including technology companies, on topics that have not earned substantial real estate on committee agendas under current leadership. Subjects of oversight would vary by committee and members' priorities, though contenders for top billing would likely include arti-

ficial intelligence, cybersecurity, online safety, labor and employment practices, and government business. House Democrats would attempt to exercise oversight over the administration and seek information from companies that have been dealing with it, believing them to be a more fruitful, and in some cases even preferable, source of information than the executive branch.

For all the extraordinary technological breakthroughs of the past three years, the midterm elections will also coincide with rising, bipartisan concerns that are especially relevant to technology companies, and we can expect oversight to continue in those areas where there is agreement across the aisle. These concerns include the impacts of AI on the American workforce, energy costs, the environment, and children's mental health.

"Distrust and worry about AI is the new bipartisan issue," Axios recently reported. Axios cited a poll in which a plurality of voters in several swing states said they harbor an unfavorable impression of the AI industry and that increased use of the technology will worsen their lives. There is also common concern over cyberattacks in the United States, which now cost on average \$10 million a data breach, double the global average, according to a recent House Committee on Homeland Security report.

Prudent firms should prepare for a new

political reality that could dawn twelve months hence. While each company should assess the specifics of its circumstances and plan accordingly, businesses can take three steps to prepare today.

First, technology companies should document and articulate how their innovations will lead to concrete improvements in the lives of Americans and support the growth of high-paying jobs. Costs remain stubbornly high, the labor market is softening, and consumer sentiment is cautious. While commentators debate whether AI is responsible for recent job losses, we can expect lawmakers to scrutinize the connection in state houses and on Capitol Hill.

For example, Sen. Bernie Sanders (I-VT) recently released a report that claimed AI and automation could eliminate nearly 100 million jobs over the next decade. And, in November, Sens. Josh Hawley (R-MO) and Mark Warner (D-VA) introduced a bill that would require publicly traded companies to report to the U.S. Department of Labor quarterly on the layoffs, hires, and retraining attributable to AI.

Technology companies should be able to explain the benefits of their inventions—not just the amazing capabilities of their tools, but the new jobs, higher wages, and lower costs that will result from their development and use.

Second, organizations that have had the

greatest engagement or highest-profile dealings with the Trump Administration, including by donating to political causes, funding construction projects, or engaging in novel deal structures, should prepare for an inquiring letter from Congress. Comments by ranking members currently in the minority are a good indication of likely areas of focus, should Democrats assume the majority. Democratic leadership seeking to conduct robust oversight of the Trump Administration may well request extensive information on private-public deals—with more levers at their disposal than they have now. Thus, such companies should develop robust processes that include the proper internal stakeholders to handle congressional inquiries, streamline document collection procedures for records

relating to these engagements, and mark documents to preserve whatever legal privileges may apply.

Although Congress generally takes the view that it need not recognize certain common-law privileges, companies should protect them to prepare for potential future negotiations with congressional committees or to preempt arguments that they waived their privileges by disclosing material to Congress.

Third, industry should engage early and often with elected officials. Policymakers are rarely technologists. Taking the opportunity to introduce them to cutting-edge inventions, far-sighted founders, and world-changing applications can pay dividends when the same lawmakers hold hearings or write laws. That is true in both Washington and state houses, where state

lawmakers have passed dozens of laws regulating AI, biometric information, data privacy, and the like and show every intention of continuing with their push to monitor advanced technologies.

Shifting political currents pose challenges but also opportunities for the companies inventing the future. Proper preparation and open engagement can make all the difference, whether that change comes a year from now or in a future election cycle.

Matthew F. Ferraro, former senior counselor for cybersecurity and emerging technology to the Secretary of Homeland Security, and Sharmi Das, former deputy chief of staff for policy at the Department of Homeland Security, are partners at Crowell & Moring.