



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT MARCH 2, 2018



I. Congressional Updates:

- On Tuesday afternoon, the House passed H.R. 1865, the Fight Online Sex Trafficking Act (FOSTA), by a 388-25 vote. The legislation would amend Section 230 of the Communications Decency Act to allow criminal and civil actions against a website if its conduct violates federal sex trafficking laws. Sen. Portman (R-OH), one of the lead sponsors of the Senate version of FOSTA, released a [statement](#) applauding the House and urging the “Senate to quickly pass this bipartisan bill and send it to the president’s desk so we can allow trafficking survivors to get the justice they deserve but have long been denied.” While Sen. Wyden (D-OR) has placed a hold on the Senate version of SESTA, he has yet to put one on the House version. Read more [here](#).
- On Tuesday, March 6th at 10 a.m. the Senate Finance Committee will hold a hearing titled “Protecting E-commerce Consumers from Counterfeits.” Read more [here](#).
- POLITICO reported on Monday that Rep. David Cicilline (D-RI), Ranking Member of the House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law, will introduce a bill next week called the Journalism Competition and Preservation Act of 2018. The legislation would “let news publishers use collective leverage with the tech companies that capture much of digital advertising money.” News Media Alliance CEO David Chavern [endorsed](#) the idea in a Wall Street Journal op-ed on Sunday. Read more [here](#).
- In an interview with POLITICO on Tuesday, Todd Womack, Chief of Staff for Sen. Corker (R-TN), said his

Headlines and Highlights:

- House passes FOSTA-SESTA bill, Senate expected to vote on it in mid-March.
- White House releases 2018 Trade Policy Agenda and 2017 Annual Report.
- Sen. Corker will not run for reelection after reconsidering his retirement, aide tells POLITICO.
- SiriusXM CEO calls CLASSICS Act “seriously flawed.”
- Senate Finance Committee to hold hearing on counterfeits in E-commerce.

In the Blogs:

[Why this Copyright Blogger likes Fair Use and Fair Dealing](#)

Hugh Stephens Blog
February 27 by Hugh Stephens

[Important Win for Rights Holders in TVEyes v. Fox](#)

Illusion of More
February 28 by David Newhoff

[Happy Idea/Expression Dichotomy Week](#)

Illusion of More
February 26 by David Newhoff

boss will not run for reelection after reconsidering his decision last fall to retire. “He’s always believed and served as though he were only going to be in the Senate for two terms,” Womack said, adding that he “was willing to listen to folks but he really believes the decision he made in September was the right one and is going to be leaving the Senate at the end of the year.” Read more [here](#).

- Mississippi State Rep. Steve Holland, who served as Sen. Thad Cochran’s (R-MS) state political director in 1980, told the *Daily Journal* this week that “reliable sources” told him Cochran will retire sometime after March 1st. Holland went on to say that those same sources indicated that Mississippi House Speaker Philip Gunn is in line to be appointed by Mississippi Governor Phil Bryant to fulfill Cochran’s remaining term. Sen. Cochran currently serves as the Senate Appropriations Chairman and his retirement would likely mean that Sen. Richard Shelby (R-AL) would be next in line to assume the chairmanship. Read more [here](#).
- At an Axios event on Wednesday, Rep. Greg Walden (R-OR), Chairman of the House Energy and Commerce Committee, said that if large tech companies are not responsible then he will look to regulate them through legislation. Walden raised multiple areas for possible regulation, including the anti-sex trafficking legislation that just passed the House, digital political advertisements, privacy as it related to the data collected by online platforms, and net neutrality. Read more [here](#).
- On Tuesday, March 6th at 10 a.m. the House Energy and Commerce Communications and Technology Subcommittee will hold a hearing on “Oversight of the National Telecommunications and Information Administration.”

II. Judicial Updates:

- On Tuesday, February 26, the United States Court of Appeals for the Second Circuit published its decision in the long-awaited Fox News Network v. TVEyes case, reversing the lower court’s holding that TVEye’s use of Fox News and other TV and radio stations’ content constituted fair use under the Copyright Act. The Court found that while the use was slightly transformative, other elements counted against the finding of fair use. Read more [here](#).

III. Administration Updates:

- Julia Friedman has joined the House Ways and Means Committee Democrats’ trade staff as counsel, POLITICO reports. Friedman previously served as Director for Innovation and Intellectual Property at the Office of the United States Trade Representative (USTR).
- On Wednesday, the White House sent its 2018 Trade Policy Agenda and 2017 Annual Report to Congress outlining the Administration’s trade priorities. In renegotiating the North American Free Trade Agreement (NAFTA), the Administration stated that it has two primary goals: to update NAFTA with modern provisions representing a high standard agreement for the 21st century—including strong provisions on digital trade and intellectual property, amongst others. Second, the Administration wants to “rebalance NAFTA”, specifically that they believe the agreement “encourages” companies serving the U.S. market to put their facilities elsewhere. Read more [here](#) and [here](#).

- On Thursday, Roberta S. Jacobson, the U.S. Ambassador to Mexico, announced her plans to resign her post in May of this year. “I have come to the difficult decision that it is the right time to move on to new challenges and adventures,” Mrs. Jacobson wrote in her resignation letter. “This decision is all the more difficult because of my profound belief in the importance of the U.S.-Mexico relationship and knowledge that it is at a crucial moment.” The Trump Administration has yet to name a replacement for Jacobson. Read more [here](#).

IV. International Updates:

- On Wednesday, March 7th the Ripon Society will hold a discussion on “The New NAFTA” at the Capitol Hill Club, featuring Ambassadors Geronimo Gutierrez Fernandez of Mexico and David MacNaughton of Canada as well as Rep. Will Hurd (R-TX) and Sen. Jerry Moran (R-KS). More info [here](#).

V. Industry Updates:

- On Monday, Sheryl Sandberg, Chief Operating Officer at Facebook, announced that Facebook would support the amended H.R. 1865, Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) after one of the bill’s sponsors, Rep. Walters (R-CA), announced her intention to add language from the Senate version of the bill. “Sex trafficking – particularly of young girls and boys – is one of the most heinous acts that takes place anywhere in the world,” Sandberg wrote in a post on her [Facebook page](#). “That’s why we at Facebook support efforts to pass amended legislation in the House that would allow responsible companies to continue fighting sex trafficking while giving victims the chance to seek justice against companies that knowingly facilitate such abhorrent acts.”
- On Monday, SiriusXM CEO Jim Meyer wrote an op-ed in *Billboard* in which he called the CLASSICS Act—legislation that would require digital services to pay a performance royalty for use of sound recordings before 1972—seriously flawed and a “massive subsidy...to terrestrial radio.” “SiriusXM has been, and hopes to always be, clear about its position -- all artists should be compensated by all users of sound recordings under federal law,” writes Meyer. “What we oppose is the massive subsidy that the CLASSICS Act gives to terrestrial radio -- the industry that has benefited the most and longest from the efforts of working artists.” Read more [here](#).
- *Axios* [reported](#) on Tuesday that the News Media Alliance, which represents over 2,000 newspapers in the U.S., is launching a Political Action Committee (PAC) to petition Congress for an antitrust safe harbor against Google and Facebook. Read more [here](#).