



AMERICAN CONTINENTAL GROUP

1800 M Street NW | 5th Floor | Washington D.C. 20036  
Tel: (202) 327-8100 | Fax: (202) 327-8101

## CONTENT & TECHNOLOGY POLICY REPORT NOVEMBER 16, 2018



### I. Congressional Updates:

- On Wednesday, House Republicans, Senate Republicans, and Senate Democrats all held internal leadership elections. Rep. Kevin McCarthy (R-CA) was elected Minority Leader by a vote of 159-43, defeating challenger Rep. Jim Jordan (R-OH). Republicans elected Rep. Steve Scalise (R-LA) as Minority Whip. Senate Republicans reelected Sen. Mitch McConnell (R-KY) as Majority Leader and Sen. John Thune (R-SD) will be the Majority Whip after Sen. John Cornyn (R-TX) left the post in accordance with Senate GOP rules imposing a three-term limit on top positions. Senate Democrats reelected Sen. Chuck Schumer (D-NY) and Sen. Dick Durbin (D-IL) as Minority Leader and Minority Whip, respectively. The House Democrats will hold their internal elections on Nov. 28<sup>th</sup>. Read more [here](#).
- On Friday, Sen. Grassley (R-IA) officially announced he would trade his Senate Judiciary Committee gavel to lead the Finance Committee next year, a move that would leave Sen. Graham (R-SC) in line to replace him as chairman.
- Following his election to the Majority Whip position, Sen. John Thune (R-SD) will be forced, due to Senate GOP rules, to relinquish his Chairmanship of the Senate Commerce Committee. Sen. Roger Wicker (R-MS) is next in line on the Committee and is seen as the favorite to become the next Chairman. Read more [here](#).
- Nasim Fussell will take over as chief international trade counsel for Republicans on the Senate Finance Committee, replacing Shane Warren, who will be leaving after five years on the panel, a Finance spokesman told

### Headlines and Highlights:

- Sen. Grassley announces intent to trade Judiciary gavel to lead Finance Committee.
- Helen Smith, Executive Chair of IMPALA, rebuts YouTube CEO claim that Article 13 would harm creative ecosystem.
- House Republicans, Senate Republicans, and Senate Democrats hold internal elections.
- Sen. Thune relinquishes Commerce Committee Chair, Sen. Wicker next in line.

### In the Blogs:

[Canada's Notice and Notice Regime: The End of Speculative Invoicing \(It Won't be Missed\)](#)

Hugh Stephens Blog  
November 12 by Hugh Stephens

[Walt Whitman Championed Democracy and Fought for Copyright—Part II](#)

Illusion of More  
November 14 by David Newhoff

[So Long Facebook \(Mostly\)](#)

Illusion of More  
November 14 by William New

POLITICO Morning Trade. Fussell has previously served as trade counsel on the House Ways and Means Committee. Read more [here](#).

## II. Judicial Updates:

- On Monday, Jacob Mathias, owner of the now-defunct sites LoveROMS and LoveRETRO, agreed to pay a \$12 million judgment in favor of Nintendo as Mathias admitted to both direct and indirect copyright and trademark infringement. Mathias's website allowed users to download and play unauthorized copies of more than 100 Nintendo titles. Read more [here](#).

## III. Administration Updates:

- Reports this week indicate that Secretary of Commerce Wilbur Ross could be pushed out of his position as early as January 2019. Mick Mulvaney, currently the head of the Office of Management and Budget, is seen as a leading candidate to replace Ross. Other names circulating for the position are Small Business Administration Administrator Linda McMahon and Karen Dunn Kelly, undersecretary for economic affairs at Commerce. Read more [here](#).

## IV. International Updates:

- This week, the Internet Association (IA), the lobbying firm that represents tech companies such as Facebook, Google, Amazon, and Twitter, announced it is opening an office in London. Daniel Dyball, the man selected as executive director of the new office, said its goal is to "constructively engage with the internet public policy debate in the UK." In tandem with the announcement, IA released a 12-page paper highlighting the industry's economic achievements in the country. Read more [here](#) and [here](#).
- On Friday, Helen Smith, Executive Chair of the Independent Music Companies Association (IMPALA), wrote an op-ed in *The Financial Times* responding to YouTube CEO Susan Wojcicki's recent op-ed claiming Article 13 would threaten the creative ecosystem. The directive, Smith writes, "clarifies that responsibility cannot lie only with the user and the owner of the content, but also with the platforms which give access to the works." Smith also pushes back against the claim that the directive will destroy YouTube's business model. "This should not be about protecting one platform's business model. YouTube's recent figures are designed to dazzle, but our members' own revenue results show that for every €1 from YouTube, Spotify pays €10." Read more [here](#).

## V. Industry Updates:

- Late last week, Robert Levine, contributor at *Billboard*, wrote an article titled "Blue Wave or Not, the Midterms Are Good for Music." Levine writes that the Democrats taking back the House means Rep. Jerry Nadler (D-NY), a strong ally of the music industry, will become Chairman of House Judiciary Committee. Additionally, he writes, Marsha Blackburn's (R-TN) victory in the Tennessee Senate election adds another strong pro-copyright voice to the Senate. Read more [here](#).
- On Friday, Ashley Friedman, Senior Director of Global Policy at ITI, an association representing 70 of the lead technology companies, including Google and Amazon, gave

testimony at the U.S. International Trade Commission's Investigation of the USMCA. Friedman said that while ITI was pleased with many aspects of the agreement, they remain concerned about the "lack of balanced copyright language." The copyright language in USMCA, according to Friedman, is a "deviation from the compromise formed in Trans-Pacific Partnership" and challenges "the fair use doctrine and balanced treatment found in U.S. law." Read more [here](#).