

CONTENT & TECHNOLOGY POLICY REPORT JUNE 4, 2021



I. Congressional Updates:

- On Wednesday, House Judiciary Committee Chairman Jerry Nadler (D-NY) and House Judiciary IP Subcommittee Chairman Hank Johnson (D-GA) sent a letter to Spotify Founder and CEO Daniel Ek requesting information on the platform's "Discovery Mode" feature, which allow artists and record labels to identify particular songs that they would like to prioritize in Spotify's recommendations in exchange for agreeing to be paid a lower, "promotional" royalty rate. In their letter, the Members wrote, "At a time when the global pandemic has devastated incomes for musicians and other performers, without a clear path back to pre-pandemic levels, any plan that could ultimately lead to further cut pay for working artists and ultimately potentially less consumer choice raises significant policy issues." Read more [here](#).
- On Tuesday, June 8th at 2 p.m. the House Energy and Commerce Consumer Protection and Commerce Subcommittee will hold a hearing on the FY2022 budget request for the Commerce Department. Secretary of Commerce Gina Raimondo will be the sole witness.

II. Judicial Updates:

- A California federal court ruled last week that Matthew Storman, the owner and operator of pirate site RomUniverse, must pay Nintendo \$2.1 million after he was found guilty of uploading and distributing pirated Nintendo games. The lawsuit, originally filed in 2019, said that RomUniverse made things worse by profiting from these copyright infringements by selling paid premium accounts that allowed users to download as many games as they wanted. Nintendo requested more than \$15 million in

Headlines and Highlights:

- Former congressman Joe Crowley named Chairman of musicFIRST Coalition.
- WSJ reports EU pushing back hard against TRIPS waiver.
- European Commission releases policy paper defining scope of Article 17 of Copyright Directive.
- CEO of CreativeFuture urges ALI members to reject Copyright Restatement.
- Reps. Nadler and Johnson send letter to Spotify CEO Daniel Ek seeking information on the platform's "Discovery Mode" feature.
- Commerce Secretary to appear before Congress to discuss Commerce Department budget.

In the Blogs:

[Appeal Against Canada's First Successful Pirate Site-Blocking Order Is Dismissed: Good News for Copyright Protection in Canada](#)
Hugh Stephens Blog
June 1 by Hugh Stephens

damages, but the court valued the infringements at a substantially lower number. Read more [here](#).

III. Administration Updates:

- On Tuesday, the U.S.-China Economic and Security Review Commission released its 2020 Annual Report to Congress and stated, among other things, that the U.S. Commerce Department is failing to do its part to protect national security and keep sensitive technology out of the hands of China's military. The report accuses the Commerce Department of being slow to identify U.S. technologies that should be scrutinized before export to China. The Commerce Department, entrusted to strengthen U.S. export control laws, "has, to date, failed to carry out its responsibilities," said the report, titled, "Unfinished Business: Export Control and Foreign Investment Reforms." Read more [here](#).

IV. International Updates:

- *The Wall Street Journal* reported on Thursday that the European Union is pushing back hard against U.S.-backed calls to temporarily waive intellectual property rights for COVID-19 vaccines. Instead, the EU is preparing an alternative plan that would safeguard drug companies' patents and examine ways to boost supplies for developing nations. The European proposal would allow for subsidies to be paid to expand production and calls on the WTO to remove requirements for countries to negotiate with patent holders. "Instead of negotiations which will not lead anywhere, it makes more sense to look at the options we have available on which everybody can agree," said an EU official. Read more [here](#).
- On Friday, the European Commission released a policy defining the scope of the revised copyright rules they adopted last year. The copyright directive is intended to provide fair compensation for the EU's creative industry. A central provision of the rules, Article 17, would require large platforms like YouTube and Google to install filters to prevent users from uploading copyrighted materials without permission. The new policy paper makes clear that Article 17 should not apply to caricature, parody, criticism, review and quotation. Read the paper [here](#).

V. Industry Updates:

- On Wednesday, Ruth Vitale, CEO of CreativeFuture, a nonprofit coalition devoted to promoting the value of creativity in the digital age, penned an op-ed in *The Hill* urging American Law Institute (ALI) members to reject the organization's "Restatement of Copyright" during their upcoming meeting. Restatements are typically used to clarify, modernize, and otherwise improve the law and are Judges around the country rely on them to inform their court decisions. Vitale writes that this Restatement differs from others as it is ALI's first attempt to publish one in an area that is governed entirely by statutory law. Vitale also expresses concern that the authors leading this effort have expressed a desire to weaken copyright law in the past. Read more [here](#).
- On Wednesday, Lyor Cohen, Global Head of Music at YouTube, reported that the company paid \$4 billion to the music industry in the last 12 months. Cohen said that this revenue came from both premium music content and user-generated content. Read more [here](#).

- Late last week, a coalition of internet accountability groups, including the Center for Digital Democracy and Color of Change, sent a letter to President Biden warning the administration against including liability protections for tech companies in future trade agreements. The organizations said including a legal shield in trade deals like the 2018 U.S.-Mexico-Canada Agreement “reflects a broad effort by the big tech platforms to use ‘trade negotiations’ to limit domestic policy options.” Read the entire letter [here](#).
- Last week, former congressman Joe Crowley, now a Senior Policy Advisor at Squire Patton Boggs, [announced](#) he would become the first Chairman of the musicFIRST Coalition. The musicFIRST Coalition was founded in 2007 by a broad spectrum of organizations representing musicians, recording artists, managers and performance rights advocates to rally support of fair pay for music creators. Following his announcement, Crowley penned an op-ed in the *The Hill* titled “[It’s time to respect artists](#)” in which he urged Congress to pass a law requiring terrestrial radio stations to pay artists when they play their songs. Under current law, AM/FM stations only need to pay the songwriters and composers of the song, not the performers. Massive corporations like iHeartRadio “make billions in advertising dollars off the commercials that are played in between songs,” Crowley writes. “It’s the worst form of corporate welfare: massive corporations protected by outdated law that enables them to profit at the expense of hard-working individuals.”