

## CONTENT & TECHNOLOGY POLICY REPORT JULY 29, 2022



### I. Congressional Updates:

- Sen. Klobuchar sent a letter to the FTC last Thursday asking them to investigate Amazon’s proposed \$3.9 billion acquisition of One Medical. Chair Klobuchar indicated that the proposed transaction “raises questions about potential anticompetitive effects related to the pharmacy services business Amazon already owns and about preferencing vendors who offer other services through Amazon.” Read more [here](#).
- On Tuesday, Rolling Stone reported that Congresswoman Rashida Tlaib is looking to establish a new streaming royalty program. Called the Justice at Spotify campaign, she is working with the Union of Musicians and Allied Workers (UMAW) to call for a baseline payout of one-cent-per-stream royalty model. While the aim of the resolution is “to help educate Congress on the issue,” Tlaib said that progress is being made on actual legislation. According to a draft obtained by Rolling Stone, the resolution calls on the federal government to “establish a new statutory royalty program,” saying it’s the government’s duty “to provide musicians, whose recorded work is listened to on streaming music services, like Spotify, reasonable remuneration through a royalty payment earned on a per-stream basis.” Read more [here](#).
- On Wednesday, The Kids Online Safety Act S.3663 (KOSA) and the Children and Teens’ Online Privacy Protection Act S.1628 (COPPA 2.0) were reported out successfully by the Senate Committee on Commerce, Science, and Transportation during an executive session. KOSA was reported out with a unanimous vote of 28-0

### Headlines and Highlights:

- Klobuchar asks FTC to Investigate Amazon’s \$3.9 Billion Move to Acquire One Medical
- Rep. Rashida Tlaib to Propose New Royalty Program for Streaming Music
- Bills to Boost Kids’ Online Safety Advance in Senate
- BREIN Settles With Pirate IPTV Seller After Global Chase
- CHIPS Act Passes both House and Senate
- UK Antitrust Authority Sees No Competition Concerns in Music-Streaming Industry

### In the Blogs:

- Hugh Stephens Blog: [Australia and Canada Tackle the Issue of Requiring Financial Support for Traditional Media from Online Platforms: Will the US Follow?](#)

while COPPA 2.0 advanced by a voice vote. Read more [here](#).

- On Wednesday, Senators Gary Peters (D-MI) and Joni Ernst (R-IA) introduced the AGILE Procurement Act. According to FedScoop, the legislation would require the Office of Management and Budget's Office of Federal Procurement Policy and the General Services Administration to streamline the ability of the federal government to purchase commercial technology and to provide specific training for IT and communications tech acquisition. Commenting on the proposed legislation, Sen. Peters said: "Recent technological advancements have greatly increased the federal government's need to acquire new technologies and retain qualified procurement professionals to effectively serve taxpayers." He added: "This bipartisan legislation will ensure businesses are able to provide innovative solutions to the federal government's most pressing challenges and can compete on a level playing field to win federal contracts." Read more [here](#).

## II. USCO Updates:

- U.S. Copyright Office Releases New Resource for Registering Non-Photographic Databases: On Thursday, the USCO launched a new [web page](#) that provides general guidance for registering automated databases that do not primarily consist of photographs. It also answers frequently asked questions and provides referential information for database applicants. More information about the registration options for non-photographic databases is available on the Copyright Office's [website](#).
- On Friday, the USCO announced that the MLC posted its 2021 Annual Report. The report offers a look into The MLC's first full year of operations, key performance metrics from 2021, a financial summary, and includes information on: The MLC's operational and licensing practices; Budgeting and expenditures, including the collective total costs for the preceding calendar year and projected annual budget, expenses that are greater than 10 percent of the annual budget; and Aggregated royalty receipts and payments. Read the full report [here](#).

## III. Judicial Updates

- Over the weekend, AP reported that T-Mobile has agreed to pay \$350 million to customers affected by the personal data breach of which it is estimated impacted nearly 80 million U.S. residents. Read more [here](#).
- Last week, Reuters reported that Uber settled with U.S. prosecutors to avoid criminal charges by accepting responsibility for failing to report a 2016 data breach to the FTC. The attack affected 57 million passengers and drivers. Read more [here](#).
- News surfaced this week that Dutch anti-piracy group BREIN has reached a €70,000 settlement with a major vendor after information exposed through the court located the person in Brazil. The settlement is with the operator of the now-defunct GoFastIPTV.eu service, a website that offered unauthorized access to movies, TV shows and pay TV channels, plus more than 85,000 on-demand titles. BREIN originally had a hard time tracking down the operator, but was able to secure data that was necessary to track down the operator

after a court ordered Dutch Rabobank to hand over data on the IPTV service last year. BREIN has touted that it has tracked down more than 50 providers of illegal IPTV services since 2017, while shutting down over 300 sites where these subscriptions were on offer. Read more [here](#).

#### **IV. Administration Updates:**

- On Monday, President Biden met with the chief executives of Lockheed Martin Corp, Medtronic PLC, and Cummins Inc. along with labor leaders to emphasize the importance of the CHIPS legislation. "Congress must pass this bill as soon as possible," Biden said. "There is an economic imperative." On Tuesday, the Senate voted 64 to 32 in favor of the motion to invoke cloture on the bill and on Wednesday they voted to pass the bill by 64-33 vote. On Thursday the House voted 243-187 to send the bill to President Biden's desk. Read more [here](#).

#### **V. International Updates:**

- On Tuesday, the U.K.'s Competition and Markets Authority (CMA) released the findings of a nine-month market study into music streaming services. The CMA was tasked with "researching the state-of-play in terms of competition between the various music-streaming players, and their relationships with the so-called "big 3" major record labels — and... whether any of this negatively impacts consumers." Although the report acknowledged that Spotify, Amazon, Google, and Apple account for 95% - 100% of music streaming revenues, and that the three major record labels – Sony, Warner, and Universal – accounted for more than 70% of all streams in the U.K. in 2021, the CMA noted that it saw no evidence that such a concentration among a few labels and music-streaming platforms was "currently causing consumers harm," or that any of the parties were making "sustained excess profits." The CMA's deadline for publishing its final market study report is January 26, 2023. Read the full report [here](#) and the article [here](#).

#### **VI. Industry Updates:**

- On Monday, CMU reported that after failing to agree to terms for a new licensing deal with Meta services, Kobalt will be pulling its songs from the platform in the U.S. CMU noted that Kobalt's memo quickly followed Epidemic Sound's copyright infringement lawsuit against Meta which may signal a trend for social media platforms integrating music without 3<sup>rd</sup> party licensing deals. Read more [here](#).
- Meta announced on Monday that Facebook creators can now monetize videos that use licensed music through a new program called "Music Revenue Sharing" which allows them to earn a share of in-stream ad revenue. According to TechCrunch, "With this new feature, whenever a creator uses licensed music in their videos on Facebook that are 60 seconds or longer, they can earn money on certain videos through in-stream ads. Creators will receive 20% revenue share on eligible videos, with a separate share going to rights holders and to

Meta.” Creators have been able to use licensed music in videos but have not been able to monetize them, until now. Read more [here](#).

- On Tuesday, Meta asked its independent Oversight Board whether Facebook should ease its COVID misinformation policy. Facebook is asking the board to issue an advisory opinion on whether the current policy to remove posts with false claims is appropriate, or whether the platform should address misinformation through other means such as labeling or demoting content. In a blog post announcing the move, Meta President of Global Affairs Nick Clegg explained that the social media platform has removed more than 25 million pieces of content since the start of the pandemic. Read the full blog post [here](#) and more [here](#).