

## CONTENT & TECHNOLOGY POLICY REPORT JUNE 28, 2024



### I. Congressional Updates:

- Last week, the Senate passed the ADVANCE Act which would speed up permitting and authorizing new research initiatives for advanced nuclear reactor technologies. The bill is currently waiting for President Biden’s signature after passing by a nearly unanimous vote. “We are determined to build a world-class nuclear industry in the United States, and we’re putting our money where our mouth is,” Secretary of Energy Jennifer Granholm said at a ceremony last month celebrating the opening of a new nuclear plant in Georgia’s Burke County. The U.S. is among more than 20 countries that pledged last year to triple their nuclear output by 2050. According to *Reuters*, “The U.S. nuclear industry has struggled to expand in recent decades due to soaring costs and complex permitting requirements, and as advanced nuclear technologies prove difficult to fund and develop.” Read more [here](#).
- On Tuesday, June 25, the House Energy and Commerce Committee held a hearing titled, “[Examining Anti-Doping Measures in Advance of the 2024 Olympics](#).” Michael Phelps, the most decorated Olympian in history, and Allison Schmitt, a ten-time Olympic medalist, highlighted concerns about the effectiveness of current anti-doping measures and the integrity of international sports competitions. They emphasized the necessity of a level playing field for all athletes, free from banned performance-enhancing drugs. Their testimony also coincided with recent controversies, including reports that 23 Chinese swimmers had tested positive for a banned substance before the 2021 Tokyo Olympics but were allowed to compete after claims of contamination. They also shared their personal experiences, testing hundreds of times, and never having a positive. An

### Headlines and Highlights:

- House Admin Holds USCO Modernization Hearing
- House Judiciary Holds Hearing on Radio Music and Copyrights: 100 Years of Inequity for Recording Artists
- USTR Releases 2024 Biennial Report on Implementation of AGOA
- USCO to End Pandemic-Era Accommodation
- Major Labels Sue AI Music Services for Copyright Infringement
- Book Authors Get A Startup to Help Them Deal with AI Companies

### In the Blogs:

- **Hugh Stephens Blog:** [Two Hundred Years of Copyright History in Canada: What a Journey!](#)
- **The Hill:** [Paris Hilton, Michael Phelps and Randy Travis to meet with lawmakers — on 3 different causes](#)
- **The Illusion of More:** [The American Music Fairness Act Gets a New Hearing](#)

intertwined theme was the impact of unfair competition on their (and all athlete's) mental health, as both Phelps and Schmitt are active mental health advocates. Travis Tygart, CEO of the U.S. Anti-Doping Agency, also testified, fielding many detailed questions about process, protocol, funding, and the intersection of US athletes testing on American soil versus overseas by USADA and World Aquatics. Witold Bańka, president of the World Anti-Doping Agency, was invited but did not attend. The hearing aimed to scrutinize the World Anti-Doping Agency's track record and identify areas for improvement to ensure fair competition at the upcoming Paris Olympics. Chairs and members from both parties expressed disappointment in WADA's lack of transparency and accountability, criticizing its decision-making process and the influence of external parties like the Chinese Communist Party. A summary from ACG can be provided upon request.

- On Wednesday, June 26, the House Committee on Administration held a hearing entitled, “The U.S. Copyright Office: Customers, Communities, and Modernization Efforts.” You may watch the full hearing [here](#). The hearing featured testimony from one witness, Shira Perlmutter (Register of Copyrights and Director, U.S. Copyright Office) and focused on several key themes concerning the U.S. Copyright Office (USCO) and its efforts to modernize and address emerging challenges. Chairman Bryan Steil (R-WI) highlighted the need to simplify the copyright registration process, address widespread copyright infringement, and develop IT and AI policies. Ranking Member Joe Morelle (D-NY) acknowledged the USCO's progress with the Enterprise Copyright System (ECS) and emphasized the importance of timely guidance on AI-generated content and the use of copyrighted materials in AI training. Representatives raised various issues, including the importance of local journalism, cybersecurity, right to repair exemptions under the Digital Millennium Copyright Act (DMCA), the USCO's digitization project, and international collaboration on AI. A full summary from ACG can be provided upon request.
- On Wednesday, June 26, the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet held a hearing entitled, “Radio, Music, and Copyrights: 100 Years of Inequity for Recording Artists.” The hearing addressed disparities in copyright laws affecting U.S. radio music broadcasts, particularly the lack of performance rights that denies royalties to performers when their creative works are played by non-subscription terrestrial radio stations. View the full hearing and all written witness testimonies [here](#). Throughout the hearing, participants discussed the *American Music Fairness Act of 2023 (AMFA)*, which would implement a public performance right for non-subscription terrestrial radio broadcast transmissions. Artificial intelligence and the *No AI FRAUD Act* were mentioned during the hearing, but the primary focus was on AMFA. Witnesses, including musicians and broadcasting representatives, debated the potential financial burden on broadcasters versus the fairness of compensating artists, reflecting the complex balance between preserving traditional radio's benefits and adapting to modern copyright standards. Mr. Randy Travis, assisted by his wife Mary, testified on the urgent need for the American Music Fairness Act to ensure artists are compensated for their work on terrestrial radio, contrasting this with the modern digital landscape where radio often bypasses direct artist interaction. He highlighted his personal reliance on music royalties due to health issues, and urged Congress to pass AMFA to align the U.S. with global standards and protect artists' rights against emerging challenges like artificial intelligence. Mr. Michael Huppe, President and CEO of SoundExchange, testified in support of the American Music Fairness Act (AMFA), emphasizing the need for fair compensation for artists and highlighting that U.S. radio stations generate \$15 billion annually without paying royalties to artists. He urged Congress to pass AMFA to align U.S. copyright law with global standards, address

economic injustices, and ensure artists receive fair compensation, noting the bill's accommodations for small radio stations and the bipartisan support for performance rights. Overall, Chairman Darrell Issa (R-CA) highlighted ongoing bipartisan efforts to support AI and copyright advancements, noting broadcasters' alignment with these goals. He questioned if broadcasters would consider paying to resolve the issue and challenged the National Association of Broadcasters' (NAB) negotiation stance, emphasizing the lack of net revenue offers to performers. Chairman Issa underscored the potential benefits of streaming to terrestrial radio and encouraged fair engagement with audiences across all platforms. He urged NAB to consider modest concessions to resolve the issue, warning of potential consequences if broadcasters fail to engage in meaningful discussions to find a solution. A full summary from ACG can be provided upon request.

- On Thursday, June 27, the House Energy and Commerce Committee abruptly cancelled a markup of 11 bills which included, among others, the *American Privacy Rights Act*, the *Kids Online Safety Act* and the *AM Radio for Every Vehicle Act*. House Majority Leader Steve Scalise (R-LA) told *The Hill* on Wednesday that “for months” there have been “a lot of concerns expressed about different parts of the bill [*American Privacy Rights Act*].” In a Thursday statement, Speaker Mike Johnson (R-La.) said he was “committed to working to build consensus in the House on a data privacy bill.” A spokesperson for McMorris Rodgers declined to comment as to why the full markup was canceled for all of the bills. The chair only released a statement regarding the American Privacy Rights Act after the markup was canceled. Read more from *The Hill* [here](#).
- The FY25 Appropriations markup schedule and FY25 subcommittee allocations have been released. Non-defense programs will be cut effectively by 6%, and those cuts are not evenly distributed. Some subcommittees, such as Labor-Health and Human Services-Education, Financial Services-General Government, and State-Foreign Operations, will receive significant cuts of 10-11%. Other subcommittees will have smaller non-defense cuts, reflecting Republican priorities across the bills. Important dates to watch: Tuesday July 9: Full Committee Markup CJS.

## II. Administration Updates

- This week, *Axios* reported that the Department of Homeland Security (DHS) has made its first 10 hires for its new AI Corps, a 50-person team modeled after the U.S. Digital Service, to leverage AI across DHS's portfolio. This team will focus on areas such as countering fentanyl trafficking, combating online child sexual exploitation, and enhancing cybersecurity. Homeland Security Secretary Alejandro Mayorkas highlighted the significant interest and the need for expertise to lead safe and responsible AI deployment. The initial hires include Sadaf Asrar, a former AI tech expert for the National Center for Education Statistics; Zach Fasnacht, previously a senior product manager at PricewaterhouseCoopers (PwC); Pramod Gadde, a founder of several health care-related startups, including AI startup Confidante; Sean Harvey, former lead for YouTube's trust and safety team, focused on global elections and misinformation; Jenny Kim, a principal product manager at McKinsey & Co. and an alumna of the DHS Digital Service; Babatunde Oguntade, a senior principal data scientist at CACI International, which supported agencies like the National Geospatial-Intelligence Agency; Christine Palmer, former chief technology officer of the U.S. Naval Observatory; Stephen Quirolgico, who has worked on advanced technology projects at DHS, NIST and DARPA;

Raquel Romano, a senior director of engineering at Fora and a U.S. Digital Service alumna; and Robin Rosenberger, a director in the Pentagon's Chief Digital and Artificial Intelligence Office. Read more [here](#).

- On Friday, June 28 the Office of the United States Trade Representative (USTR) released its [2024 Biennial Report](#) on the Implementation of the African Growth and Opportunity Act (AGOA) Report. “AGOA has helped to grow Africa’s extraordinary economic potential and has made a difference for many Africans, but we have an opportunity to make it even better,” said Ambassador Katherine Tai. “A lot has changed on the continent and in the global economy over the last two decades. This Report provides a starting point for the Administration, Congress, our African partners, and stakeholders to examine how we can improve utilization rates for smaller economies and make the program more effective and relevant to today’s challenges—like growing inequality, supply chain fragility, and the climate crisis.” Last year, African countries eligible for AGOA leveraged the program’s preferences to export nearly \$10 billion in goods to the United States. Read the full report [here](#).
- During the May 30 [Promoting Competition in AI](#) workshop that was hosted at Stanford University in Stanford, CA, the Department of Justice (DOJ) invited comments from the public on the topics covered. A recording of the workshop is available on the University’s [event webpage](#). Those interested in sharing comments may email them to [ATR.2024AIworkshop@usdoj.gov](mailto:ATR.2024AIworkshop@usdoj.gov) by July 15.

### III. USCO Updates:

- On Thursday, June 27 the U.S. Copyright Office announced it will retire its Deposit Ticket Declaration Form, a temporary measure from the COVID-19 pandemic. This form allowed electronic submission of works due to building closures and telework. With the staff now back on-site, physical copies of works are once again required. Claims will not be examined until physical copies are received, and these must be sent with a printed shipping slip from the electronic registration system. Detailed instructions for generating the shipping slip are available in the Office's tutorial video on YouTube.
- On July 25, the U.S. Copyright Office will hold a webinar to keep the public updated on the Office’s optimized [Recordation System](#). Separate from the Office’s [registration application](#), the new recordation module allows users to electronically transfer their copyrights to someone else. The webinars will “cover announcements about the module, important reminders, frequently asked questions, and a live Q&A session.” Anyone interested in attending may join the session. For additional information and to register, please click [here](#).
- In January, the U.S. Copyright Office (USCO) published a [notification of inquiry](#) required by the Music Modernization Act regarding whether the existing designations of the Mechanical Licensing Collective (MLC) and Digital Licensee Coordinator (DLC) should be continued. This is the first of the review processes that the Copyright Office is statutorily required to conduct every five years. Written initial public comments were due by May 29. If you wish to submit reply comments they must be submitted by June 28. Reply comments by the currently designated MLC and DLC must be submitted by July 29. Additional information is available [here](#).



#### IV. Industry Updates:

- Earlier this month, the National Education Association (NEA), America's largest education labor union, proposed a policy emphasizing the irreplaceable nature of interpersonal interaction between students and educators. The NEA's nearly 60-page report asserts that teachers should remain central to learning, with AI serving to enhance, not replace, the educational experience. It calls for ethical AI development, strong data protection practices, equitable access to AI, and ongoing education on AI tools. The report critiques the phrase "keeping humans in the loop" as inadequate, stressing the importance of authentic educator-student relationships. The policy statement will be voted on July 5. A link to the full report can be found [here](#).
- On Monday, June 24, the Recording Industry Association of America (RIAA) filed two copyright-infringement cases against the AI music services Suno and Udio based on what it describes as "the mass infringement of copyrighted sound recordings copied and exploited without permission by two multi-million-dollar music generation services." According to the announcement, the cases seek: (1) declarations that the two services infringed plaintiffs' copyrighted sound recordings; (2) injunctions barring the services from infringing plaintiffs' copyrighted sound recordings in the future; and (3) damages for the infringements that have already occurred. The RIAA's complaints state, "Given that the foundation of [these businesses] has been to exploit copyrighted sound recordings without permission, [they have] been deliberately evasive about what exactly [they have] copied. This is unsurprising. After all, to answer that question honestly would be to admit willful copyright infringement on an almost unimaginable scale." Furthermore, "Of course, it is obvious what [these services are] trained on. [They] copied Plaintiffs' copyrighted sound recordings en masse and ingested them into [their] AI model[s]. [These] product[s] can only work the way [they do] by copying vast quantities of sound recordings from artists across every genre, style, and era." RIAA Chairman and CEO Mitch Glazier said, "The music community has embraced AI and we are already partnering and collaborating with responsible developers to build sustainable AI tools centered on human creativity that put artists and songwriters in charge. But we can only succeed if developers are willing to work together with us. Unlicensed services like Suno and Udio that claim it's 'fair' to copy an artist's life's work and exploit it for their own profit without consent or pay set back the promise of genuinely innovative AI for us all." Read more [here](#).
- Late last week, *Digital Music News* reported that after switching 97% of its long-time Premium subscribers to its bundled offering, Spotify has now launched a music-only subscription. Read more [here](#).
- On Tuesday, June 25, *Bloomberg Law* reported that the compromise between musicians and streaming services over songwriters' royalties is eroding six years after the Music Modernization Act (MMA) aimed to redefine music copyright law. Spotify's March reclassification of its premium service sparked a lawsuit, legislative push, and FTC complaint from the music publishing industry. Trust is eroding as songwriters, publishers, and streaming services vie for larger shares of a maturing market, with insufficient revenue to satisfy all parties. The National Music Publishers Association (NMPA) has demanded legislative changes, including allowing songwriters to opt out of the blanket license and negotiate rates independently, a move that could disrupt the current system. While opting out of the blanket

license would improve songwriters' control over streamers, this change may not equally benefit both major players and smaller entities, said Rick Carnes, president of the Songwriters Guild of America. “Unless it’s one of the giant music publishers, this won’t work for independent creators, because we don’t have any leverage to make outside deals with them,” Carnes said. Meanwhile, indie songwriters criticize the Mechanical Licensing Collective (MLC) for its handling of royalties, though some industry groups support its re-designation. The MLC, operating since 2021, faces scrutiny over its effectiveness and transparency in distributing unmatched royalties. Read more [here](#).

- On Tuesday, June 25, *Axios* reported that a startup called Created by humans aims to help book authors license their work to AI companies. Co-founded by Trip Adler, CEO of Scribd, Created by Humans aims to help broker deals between authors, publishers, and AI companies through a new proprietary framework for AI rights, targeting smaller creators without the scale to negotiate independently. The company plans to expand into music and video rights. This week, Created by Humans announced raising over \$5 million in seed funding from investors including Craft Ventures, Floodgate, and Walter Isaacson, who joins as a creative adviser and "founding author." Isaacson highlighted the company's role in addressing authors' challenges with AI, such as control over usage, accuracy of outputs, and compensation. Read more [here](#).
- On Thursday, June 27, *CNN* reported that a jury ordered the National Football League (NFL) to pay more than \$4.7 billion for antitrust violations surrounding its “Sunday Ticket” package. Due to the antitrust nature of the case, the initial verdict could be tripled if upheld which would cost the NFL over \$14 billion in damages. According to the article, the case was first brought in 2015 and “focused on the NFL’s package of games outside of a local market that are not shown nationally on other networks. Attorneys for the plaintiffs in the class action suit argued that by restricting broadcasts of those “out-of-market” games to the “Sunday Ticket” package, the NFL is forcing customers who just want to watch one team or a small group of teams to pay more.” On Thursday, the NFL released a statement saying, “We are disappointed with the jury’s verdict today in the NFL Sunday Ticket class action lawsuit. We continue to believe that our media distribution strategy, which features all NFL games broadcast on free over-the-air television in the markets of the participating teams and national distribution of our most popular games... is by far the most fan friendly distribution model in all of sports and entertainment. We will certainly contest this decision as we believe that the class action claims in this case are baseless and without merit.” Read more [here](#).