

CONTENT & TECHNOLOGY POLICY REPORT MAY 24, 2024



I. Congressional Updates:

- Last week, the FY25 Appropriations markup schedule and FY25 subcommittee allocations were 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: (1) Thursday May 23: Legislative Branch Subcommittee Markup, (2) Wednesday June 12: CJS Subcommittee Markup, (3) Thursday June 13: Full Committee Markup Legislative Branch, and (4) Tuesday July 9: Full Committee Markup CJS.
- While some industry voices praised last week's publication of the Senate AI report and its recommendations, with some exceptions, civil society reactions indicated disappointment. In comments provided to *Tech Policy Press*, Dr. Alondra Nelson, who led the creation of the Biden-Harris administration's Blueprint for an AI Bill of Rights in 2022 as acting director of the White House Office of Science and Technology Policy, said "A year-long, closed-door process on one of the most urgent policy priorities Americans have ever faced has produced a product stripped of our shared values of public benefit, corporate accountability, and protections of our fundamental rights and liberties. The bipartisan Roadmap for AI Policy starts where many attempts at landmark legislation end: stripped of a robust vision for a fairer future, whittled down by compromise." Alexandra Reeve Givens, President & CEO, Center for Democracy & Technology stated, "The Roadmap

Headlines and Highlights:

- FY25 Appropriations Markup Schedule Released
- Senate AI Report Draws Criticism
- Senators Call on DOJ and FTC to Investigate Formula 1
- New Democrat Coalition backs slate of AI bills
- FTC Chair Says AI Models Could Violate Antitrust Law
- NMPA Calls on Congress for Copyright Act Overhaul
- OpenAI News Corp Strike Content Deal
- Google Announces Support for Several AI Bills

In the Blogs:

- **Hugh Stephens Blog:** [Canada is not the United States when it comes to Copyright](#)
- **The Hill:** [‘That’ll cost you, ChatGPT’ — copyright needs an update for the age of AI](#)
- **WIRED:** [AI Is a Black Box. Anthropic Figured Out a Way to Look Inside](#)

rightly acknowledges key risk areas that AI experts have warned about for years. But after a year of work, Congress needs to do more than acknowledge those issues; it needs to act. It's not enough to focus on investments in innovation, as the Roadmap does in detail – we also need guardrails to ensure the responsible development of AI.” Read more responses from experts and civil society groups [here](#).

- On Tuesday, May 21, *NBC News* reported that a bipartisan group of senators sent a letter to the Department of Justice (DOJ) and the Federal Trade Commission (FTC) to investigate Formula 1 over its decision to reject Andretti Global from joining which may be in violation of US antitrust law. The letter was led by Sen. Amy Klobuchar (D-MN) and Sen. Mike Lee (R-UT). Cosigners include Senators Gary Peters (D-MI), Debbie Stabenow (D-MI), Todd Young (R-IN), Mike Braun (R-IN), and Alex Padilla (D-CA). “Last year, F1 hosted three races in America, in [Miami](#), [Las Vegas](#), and [Austin](#), while no other country hosted more than a single race,” the letter states. “Clearly there is a financial incentive to adding an American team to F1’s roster, and there is no reason they should be blocked unless [Formula 1 management] is trying to insulate its current partners from competition.” Formula 1 is owned by Liberty Media, an American company, bringing US antitrust law into the equation. Andretti Global praised the senators for their letter Tuesday saying they are pleased members of Congress have called for an investigation into the practices of Liberty Media. Read more from *NBC* [here](#) and the full letter [here](#).
- On Tuesday, May 21, the Senate Committee on the Judiciary held a hearing entitled, “Ensuring Affordable & Accessible Medications: Examining Competition in the Prescription Drug Market.” Overall, the hearing focused on bipartisan concerns over high drug prices and perceived patent abuses. Participants identified several factors contributing to the issue, including product hopping, patent thickets, pay-to-delay settlements, pharmacy benefit managers (PBMs), international pricing disparities, and regulatory barriers. Witnesses Arti Rai, William Feldman, and David Mitchell emphasized patent abuses as a primary cause of high drug costs, while others such as Adam Mossoff and Jocelyn Ulrich primarily blamed PBMs. Several solutions were discussed, including the following bills: *Interagency Patent Coordination and Improvement Act* ([S. 79](#)), the *Affordable Prescriptions for Patients Act* ([S. 150](#)), the *Stop Significant and Time-Wasting Abuse Limiting Legitimate Innovation of New Generics (Stop STALLING) Act* ([S. 148](#)), and the *Preserve Access to Affordable Generic and Biosimilars Act* ([S. 142](#)), among others. Participants also discussed the Biden administration’s proposed framework on march-in rights under Bayh-Dole, with some expressing steep concern for its implications on the patent system overall and others speaking in support of the framework. Full coverage from ACG can be provided upon request.
- On Wednesday May 22, 2024, the House Energy and Commerce Committee Subcommittee on Communications and Technology held a legislative hearing titled “Legislative Proposal to Sunset Section 230 of the Communications Decency Act.” The hearing examined the impact of Section 230 on the current legal landscape and the effect it has had on users of social media. Members of the committee, for the most part, agreed that Section 230 needs to be addressed and reformed in some way. Many voiced their support for the draft legislation to sunset Section 230, while others said reform is needed but believe the draft legislation is not the answer. The hearing delved into several key topics surrounding the reform of Section 230 of the Communications Decency Act. Concerns were raised about the responsibility of tech companies for their platforms' content, the potential impact of reforming Section 230 on

accountability, and the necessity of revisiting the law given the magnitude of harm. Members also explored the strategies platforms use to push harmful content to children and highlighted the potential consequences of a full sunset of Section 230. Some members inquired about the original intent of Section 230 and criminal activities it facilitates, the need for increased privacy protections, the applicability of Section 230 to AI, and Section 230's role impact on the discovery process. A full summary from ACG can be provided upon request.

- On Thursday, May 23, the House Committee on Appropriations Legislative Branch Subcommittee held a markup of the FY25 appropriations bill. The Legislative Branch Appropriations Bill provides a total discretionary allocation of \$7.125 billion, which is \$375 million (5.6%) above the Fiscal Year 2024 enacted level and over \$130 million below the Fiscal Year 2025 request. The bill provides \$883.4 million for the Library of Congress, which is \$31.3 million above the FY24 enacted level including \$617 million for salaries and expenses, which is \$24.6 million above the FY24 enacted level and \$59.7 million for the Copyright Office, which is \$2.2 million above the FY24 enacted level. The bill was reported favorably to the full committee which can be watched [here](#).
- On Thursday, May 23, 2024, The House Energy & Commerce Subcommittee on Innovation, Data, And Commerce held a markup of H.R. _____, American Privacy Rights Act discussion draft (Rep. Rodgers), H.R. 7891, Kids Online Safety Act (Reps. Bilirakis, Bucshon, Castor, Houchin, Schrier), and H.R. 8449, AM Radio for Every Vehicle Act (Reps. Bilirakis and Pallone). Watch the full markup here. All three bills passed by voice vote and were forwarded to the full committee. A full summary from ACG can be provided upon request.
- On Thursday, May 23, Senator Maria Cantwell (D-WA) Chair of the Senate Committee on Commerce, Science and Transportation, and Senator Jerry Moran (R-KS) a senior member of the Commerce Committee, introduced the *NSF AI Education Act of 2024*. The bill aims to expand scholarship and professional development opportunities to study artificial intelligence and quantum with support from the National Science Foundation (NSF) by authorizing the NSF to award undergraduate and graduate scholarships in AI, quantum hybrid, and quantum, including scholarships focused on the use of AI in agriculture, education and advanced manufacturing. The bill would also create fellowships for professional development for those already in the STEM and education workforce and would require NSF to work with educators and academics to create guidance to introduce AI skills and education in K-12 classrooms, and create Centers of Excellence at community colleges. Read the bill text [here](#) and the summary [here](#).
- On Thursday, May 23, *The Hill* reported that the New Democrat Coalition endorsed 10 bipartisan AI bills “Artificial Intelligence is the next great frontier of technological innovation, presenting both revolutionary opportunities and new, unique challenges. To safely and effectively harness the promise of AI, Congress must play a role in educating and preparing the workforce, consumers, and the economy at large,” said Rep. Derek Kilmer (D-Wash.), the chair of the coalition’s AI working group, in a statement. “The bills we are endorsing today aim to do just that. The 10 bipartisan New Dem-led bills address consumer protection and privacy concerns, risks to our democracy, threats to the workforce, and more,” Kilmer added. The ten bills are: (1) *H.R. 3369– Artificial Intelligence Accountability Act* (2) *H.R. 4498– Jobs of the Future Act of 2023* (3) *H.R. 4755– Privacy Enhancing Technologies Research Act* (4) *H.R. 5077– Creating Resources for Every American to Experiment with*

Artificial Intelligence Act of 2023 (CREATE AI Act) (5) H.R. 5808– Preventing Deep Fake Scams Act (6) H.R. 6791– Artificial Intelligence Literacy Act of 2023 (7) H.R. 7123– Quashing Unwanted and Interruptive Electronic Telecommunications (QUIET) Act (8) H.R. 8309– Global Internet Freedom Act (9) H.R. 8353– Preparing Election Administrators for AI Act (10) H.R. 8384– Protect Elections from Deceptive AI Act. Read the full statement from the coalition [here](#) and see a summary of each of the ten bills [here](#).

II. Administration Updates

- This week, USTR Katherine Tai is hosting her Canadian and Mexican counterparts in Phoenix Arizona for the fourth USMCA Free Trade Commission meeting. This meeting will aim to address the current deal’s implementation progress ahead of a formal review scheduled in 2026. There are multiple unresolved disputes that threaten to derail the conversation such as (1) An auto trade dispute brought by Canada and Mexico against the United States. (2) A corn dispute brought by the U.S. against Mexico. (3) A dairy dispute brought by the U.S. against Canada. (4) U.S. concerns about Mexico’s energy policies. (5) Canada is expected to adopt a digital services tax despite U.S. objections. Read more from *POLITICO* [here](#).
- On Wednesday, May 22, United States Trade Representative (USTR) Katherine Tai released the following statement concerning the statutory review of the tariff actions in the Section 301 investigation of China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation: “Today, I am following through on my commitment to stand up to the People’s Republic of China’s unfair trade practices by issuing a formal proposal to modify the tariff actions. The President has directed me to make substantial tariff increases on targeted, strategic products, and this is an important step to carry out that vision. The President and I will continue to fight for American workers, and for our economic future and national security.” The Federal Register Notice (FRN) establishes the framework for an exclusion process for machinery and proposes temporary exclusions for 19 tariff lines for solar manufacturing equipment. The FRN also establishes a 30-day period for public comment on these modifications. All comments must be submitted through the online portal [here](#). For further information contact Philip Butler and Megan Grimball, Chairs of the Section 301 Committee at (202) 395-5725. Read the full FRN [here](#).
- On Wednesday, May 22, *The Hill* reported that FTC Chair Lina Khan stated that companies training AI models on data from news websites, artists’ creations or people’s personal information could be in violation of antitrust laws. “The FTC Act prohibits unfair methods of competition and unfair or deceptive acts or practices,” Khan said at the event. “So, you can imagine, if somebody’s content or information is being scraped that they have produced, and then is being used in ways to compete with them and to dislodge them from the market and divert businesses, in some cases, that could be an unfair method of competition... “We’ve also seen a lot of concern about deception, about unfairness, if firms are making one set of representations when you’re signing up to use them, but then are secretly or quietly using the data you’re feeding them — be it your personal data, be it, if you’re a business, your proprietary data, your competitively significant data — if they’re then using that to feed their models, to compete with you, to abuse your privacy, that can also raise legal concerns,” she said. Read more [here](#).

- On Thursday, May 23, *POLITICO* reported that the White House has decided to pull the nomination of Nelson Cunningham to be a deputy U.S. trade representative after Democrat opposition in the Senate. *POLITICO*'s Doug Palmer reports that Cunningham will be joining the State Department as a senior advisor to Jose Fernandez, the undersecretary of state for economic growth, energy, and the environment.
- On Thursday, May 23, USTR announced that the United States, Canada, and Mexico have signed an addendum to the United States-Mexico-Canada Agreement (USMCA) Free Trade Commission (FTC) Decision No. 5 on North American Competitiveness that will strengthen coordination across all three countries on emergency response. "The COVID-19 pandemic underscored how important it is to have established procedures for coordination before an emergency situation," said Ambassador Tai. "This agreement is the next step to strengthen North American competitiveness and resilience and reflects our steadfast commitment to work together under the USMCA to deliver for our workers and businesses." FTC Decision No. 5 established a trilateral Sub-Committee on Emergency Response under the USMCA North American Competitiveness Committee to coordinate North American efforts to maintain regional trade flows during emergency situations. Read the full addendum to [here](#).
- On Thursday, May 23, *Reuters* reported that the DOJ and over two dozen states have sued to break up Live Nation, arguing that they along with Ticketmaster illegally inflate concert ticket prices, hurting artists. "It is time to break up Live Nation," said U.S. Attorney General Merrick Garland. Live Nation called the lawsuit a possible "PR win for the DOJ in the short term," but said the entertainment company would prevail in court. The lawsuit "won't solve the issues fans care about relating to ticket prices, service fees, and access to in-demand shows." Read more [here](#).

III. USCO Updates:

- On Thursday, May 23, the U.S. Copyright Office (USCO) released a report on the impact of COVID-19 on copyright-reliant industries. The report titled, Resilience of Creativity: An Examination of the COVID-19 Impact on Copyright-Reliant Industries and Their Subsequent Recovery, examines the impact and subsequent recovery from the COVID-19 pandemic in terms of employment, revenues, and creative outputs in copyright-reliant industries. It uses data from the Bureau of Labor Statistics, U.S. Census, and U.S. Copyright Office pertaining to eighteen industries that produce the types of works registered with the U.S. Copyright Office. The report reveals that (1) As a whole, copyright-reliant industries experienced a substantial downturn resulting from the COVID-19 pandemic, but the effect was decidedly smaller than that on the broader U.S. economy. (2) Copyright-reliant industries, as a whole, recovered from the pandemic-induced downturn substantially quicker than the broader U.S. economy, and (3) The pandemic impact on employees was substantially larger than the impact on copyright-reliant firms' revenues. Read the full report [here](#).
- On Thursday May 30, the U.S. Copyright Office (USCO) will hold its next 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 issued a notification of inquiry seeking public comments regarding its periodic review of the designations of the mechanical licensing collective and digital licensee coordinator. Initial submissions from the existing designees must be received on April 1, 2024. Initial public comments must be received on May 29, 2024. Reply public comments must be received on June 28, 2024. Reply submissions from the existing designees must be received on July 29, 2024. More details are available on the rulemaking's webpage [here](#).

IV. Industry Updates:

- On Monday, May 20, *POLITICO* reported that the US, EU, Australia, Canada, France, Germany, Italy, Japan, South Korea, Singapore and the United Kingdom all signed a document issued by the European Commission which pledges “common dedication to fostering international cooperation and dialogue on artificial intelligence (AI) in the face of its unprecedented advancements and the impact on our economies and societies,” and re-affirms principles laid out in the Bletchley Park Declaration that that “AI safety, innovation, and inclusivity are inter-related goals.” The pledge will be made publicly at the global AI safety summit in Seoul this week. Read more [here](#) and [here](#).
- This week, after the release of ChatGPT 4.0, actress Scarlett Johansson revealed that OpenAI asked her to be the voice behind the new system “Sky” — but that when she declined, the company went ahead and created a voice that sounded just like her. “Last September, I received an offer from Sam Altman, who wanted to hire me to voice the current ChatGPT 4.0 system,” Johansson wrote in a statement released to *NPR*. On Monday OpenAI announced that they would temporarily suspend the use of “Sky”. In a statement provided to *The Verge*, OpenAI CEO Sam Altman said, “The voice of Sky is not Scarlett Johansson’s, and it was never intended to resemble hers. We cast the voice actor behind Sky’s voice before any outreach to Ms. Johansson. Out of respect for Ms. Johansson, we have paused using Sky’s voice in our products. We are sorry to Ms. Johansson that we didn’t communicate better.” Johansson seems to be looking for an explanation and transparency into how “Sky” so closely resembled her voice. She concluded her public statement saying, “In a time when we are all grappling with deepfakes and the protection of our own likeness, our own work, our own identities, I believe these are questions that deserve absolute clarity. I look forward to resolution in the form of transparency and the passage of appropriate legislation to help ensure that individual rights are protected.” Following the news, Rep. Don Beyer (D-VA) urged the House to consider his *AI Foundation Model Transparency Act* saying, “Anyone who believes their voice is used without their permission would ask the same questions Scarlett Johansson is asking now. The *AI Foundation Model Transparency Act* would ensure that those questions are answered. Scarlett Johansson’s is not the first case of this kind and will not be the last, but it is a high-profile example of the growing need for transparency in AI models. Congress can help solve this problem by requiring creators of AI foundation models to share key information with regulators and the public, which is exactly what my bill would do. I will continue to urge my colleagues to pass AI transparency legislation and will bring up the utility of the *AI Foundation Model Transparency Act* for cases like Scarlett Johansson’s at the next meeting of the House

Task Force on Artificial Intelligence.” Read more from Rep. Beyer [here](#) and more from *The Verge* [here](#).

- On Tuesday, *Billboard* reported that the National Music Publishers Association (NMPA) sent a letter to both the House and Senate Judiciary Committees asking for the overhaul of the statutory license in section 115 of the Copyright Act, which “prevents private negotiations in a free market” for mechanical royalty rates for songwriters and music publishers in the U.S. Music publishers and songwriters are unable to negotiate for their U.S. mechanical royalty rate privately because of section 115 of the Copyright Act, which places songs under a compulsory license of which the Copyright Royalty Board (CRB) judges set the rate. On the flip side, record labels that work with “sound recording” copyrights, not “musical works,” are able to freely negotiate their rates. In the letter, NMPA’s President and CEO David Israelite proposes a solution for abolishing the current system, saying: “Congress should allow rightsholders the *choice* to license through the MLC using the statutorily set royalty rates or to withdraw from the MLC and operate in a free market if they meet certain conditions.” Read more from *Billboard*, including the full text of NMPA’s letter, [here](#).
- On Tuesday, May 21, the Worldwide Independent Network (WIN) published guidance on the use and development of generative AI from the perspective of independent music businesses. WIN’s guidance highlights five key principles: (1) AI development is subject to copyright, (2) Prioritizing a human-centered approach, (3) Safety of creators, fans, consumers, and the public, (4) Transparency as a fundamental element and, (5) Ethical AI development hand-in-hand with music. WIN CEO Noemí Planas stated, “These principles for generative AI are the result of extensive consultation with independents around the world and align with our recently published Global Independent Values. With these principles provided as a compass, we look forward to collaborating with responsible AI developers and inspiring policymakers around the world.” Read more [here](#).
- On Wednesday, May 22, *The Verge* reported that OpenAI and News Corp have agreed to a licensing deal that could be worth over \$250 million in the next five years. According to the article, the multi-year agreement gives OpenAI access to current and archived articles from News Corp publications for AI training and to answer user questions. "This landmark accord is not an end, but the beginning of a beautiful friendship in which we are jointly committed to creating and delivering insight and integrity instantaneously," News Corp Chief Executive Robert Thomson said in a statement. Read more [here](#).
- On Thursday, May 23, United States Trade Representative Katherine Tai, Canadian Minister of Export Promotion, International Trade and Economic Development Mary Ng, and Mexican Secretary of Economy Raquel Buenrostro issued a joint statement following the fourth meeting of the USMCA/CUSMA/T-MEC (Agreement) Free Trade Commission (FTC). The Ministers reaffirmed their commitment to enhance North American competitiveness and inclusive growth. Key outcomes included strengthening cooperation in sectors such as biotechnology, textiles, and Small and Medium-Sized Enterprises (SMEs) and emphasizing the integration of women and Indigenous-led SMEs into supply chains. The Ministers also focused on environmental sustainability, workers' rights, and eliminating forced labor in supply chains. They also highlighted the importance of workforce development in the semiconductor sector. Read the full statement and press release [here](#).

- On Thursday, May 23, *POLITICO* reported that the Federal Communications Commission (FCC) proposed fines against Texas-based Lingo Telecom and political consultant Steven Kramer in response to the January robocall scandal where a fake Joe Biden discouraged New Hampshire voters from going to the polls. Lingo faces a \$2 million fine for violating caller ID authentication rules, while Kramer, who has also been indicted for felony voter suppression and misdemeanor impersonation in New Hampshire, faces a \$6 million fine for using call-spoofing technology. These actions reflect growing concerns about AI's role in deceptive political ads and misinformation ahead of the November elections. However, the proposed fines are just allegations of violating the law, and are not final actions, allowing Lingo and Kramer to negotiate with the FCC.
- On Thursday, May 23, *The Hill* reported that the NCAA along with the commissioners of Atlantic Coast Conference, Big Ten, Big 12, Pac-12 and Southeastern Conference, confirmed that they agreed to terms that will settle a series of antitrust claims against them. Although the terms were not released, multiple media outlets reported the settlement is equal to about \$2.77 billion set to be distributed over 10 years to more than 14,000 former and current college athletes, who were unable to profit from sponsorship and endorsement deals dating back to 2016. Read more [here](#).
- On Thursday, May 23, during a fireside chat with *Punchbowl News*, Google's VP of Government Affairs and Public Policy for the U.S. and Canada, Mark Isakowitz, spoke about how AI can enable economic opportunity and announced Google's support for several pieces of AI legislation currently in Congress. Isakowitz specifically mentioned (1) [Future of Artificial Intelligence Innovation Act of 2024](#), (2) [AI Grand Challenges Act](#), (3) [Workforce DATA Act](#), (4) [CREATE AI Act](#), and (5) [Small Business Technological Advancement Act](#) saying that policymakers need to embrace AI and regulate it while also making it work for everyone. "AI is too important not to regulate, and too important not to regulate well." Watch his comments on AI [here](#) and the full conversation [here](#).