



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT JULY 10, 2020



I. Congressional Updates:

- On Tuesday, the House Appropriations Legislative Branch Subcommittee approved by voice vote its Fiscal Year (FY) 2021 bill. The bill appropriates a total of \$4.198 billion, which is 5.2 percent above the FY 2020 enacted level. The bill provides \$752.8 million for the Library of Congress, including the Copyright Office, Congressional Research Service, and National Library Service for the Blind and Print Disabled, an increase of \$27.4 million above the FY 2020 enacted level. This funding level intends to support “urgent information technology needs, the modernization of systems for copyright registration and recordation, and ongoing Library initiatives such as the Veterans’ History Project.” The bill allocates \$91.41 million for the Copyright Office, with \$38 million of that coming from appropriations. Read more [here](#), a bill summary [here](#), and the bill text [here](#).
- On Wednesday, House Energy and Commerce Committee Chairman Frank Pallone Jr. (D-NJ) and subcommittee leaders Reps. Diana DeGette (D-CO), Mike Doyle (D-PA), and Jan Schakowsky (D-IL) sent a letter asking Twitter, Facebook, and Google to produce a monthly report on COVID-19 disinformation on their platforms. The request comes after the European Union asked the big tech companies to provide officials with regular updates on how they are working to combat disinformation last month. The E&C lawmakers raise concern that disinformation, ranging from false statements about certain groups being immune from contracting the virus to unsubstantiated assertions about masks and vaccines, “is dangerous and can affect the health and well-being of people who use this false information to make critical health decisions during the pandemic.” The letter also requests that Twitter, Facebook,

Headlines and Highlights:

- House Appropriations Legislative Branch Subcommittee advances FY2021 bill.
- Maria Schneider and Pirate Monitor Ltd. File Class Action Suit Against YouTube.
- U.S. and Kenya convene trade negotiations in pursuit of an FTA.
- EU lawmakers advance proposal to allow for quicker trade retaliation.
- Nomination period for forthcoming WTO Director-General vacancy closes.
- NMPA calls on the Senate to pass the *CASE Act*.

In the Blogs:

[International Book Piracy: How Canada Got Caught in the 19th Century British-US Copyright Wars](#)
Hugh Stephens Blog
July 1 by Hugh Stephens

[Allen v. Cooper Revisited Part I: State of Play](#)
Illusion of More
June 24 by David Newhoff

and Google brief committee staff on this perceived issue by July 22nd. Read more [here](#) and [here](#).

- On Monday, the House Judiciary Committee issued a press release confirming that the Antitrust subcommittee will hold a hearing with the CEOs of Amazon, Apple, Facebook, and Google, as a part of the subcommittee's ongoing investigation of competition in the digital marketplace. The hearing will take place on Monday, July 27th at 12:00pm. The Committee notice stated that the hearing will take place in Rayburn, although the CEOs are allowed to testify virtually. House Judiciary Committee Chairman Jerry Nadler and Antitrust Subcommittee chairman David Cicilline stated in a joint press release "Given the central role these corporations play in the lives of the American people, it is critical that their CEOs are forthcoming. As we have said from the start, their testimony is essential for us to complete this investigation." Read the press release [here](#).

II. Judicial Updates:

- Late last week, Grammy-winning composer and musician Maria Schneider and Pirate Monitor Ltd. filed a class action complaint against YouTube for copyright infringement in the Northern District of California. The lawsuit alleges that the platform does not offer the plaintiffs, "ordinary creators of copyrighted works," the same opportunity to remove infringing work as larger content creators. The plaintiffs liken YouTube's Content ID, a digital footprint tool that compares videos being uploaded on YouTube to a catalogue of copyrighted material submitted by approved entities, to a "two-tiered system," that "deliberately" leaves smaller and independent creators "out in the cold." Furthermore, the plaintiffs claim that infringing work that is removed from the platform is often reuploaded by users without repercussions. Read more [here](#).
- Late last week, *Bloomberg* reported that the coalition of states conducting a Google antitrust investigation is divided over the best strategy for taking on the internet giant. As the Department of Justice (DOJ) reportedly nears an antitrust lawsuit in a parallel probe, some state attorneys general are apparently advocating to take more time to investigate Google's conduct in other markets to potentially bring a broader case against the company. The disagreement could affect whether states join a DOJ complaint about Google, which one source told *Bloomberg* is on track to be filed this summer. Texas Attorney General Ken Paxton is leading the investigation into Google's conduct in the digital advertising market, while other states, including Utah and Iowa, are focused on internet search. Read more [here](#).

III. Administration Updates:

- The U.S. and Kenya kicked off the first round of virtual negotiations in pursuit of a free trade agreement (FTA) on Tuesday. Kenya hopes to broker a trade deal with the U.S. before the Africa Growth and Opportunity Act (AGOA), which allows sub-Saharan African states to export thousands of products to the United States without tariffs or quotas, expires in 2025. President Trump [announced](#) his intention to seek a trade agreement with Kenya after meeting with President Uhuru Kenyatta in February, and following the congressional consultation framework under the Trade Promotion Authority (TPA), USTR officially [notified](#) Congress of these plans on March 17th. Read more [here](#).

IV. International Updates:

- On Monday, the European Parliament trade committee approved by 32-3 a proposal that would allow the EU to retaliate in trade disputes more quickly. By allowing the EU to take counter-measures if a country imposes illegal trade measures and then blocks settlement of the dispute, the proposal appears to offer a path for the EU to respond to tariffs imposed by President Trump. These disputes would normally be dealt with by the World Trade Organization (WTO), but the Trump Administration froze the Appellate Body by blocking appointments. *Reuters* reports that the proposal could be watered down during negotiations with EU governments. Read more [here](#).
- The nomination period for candidates to succeed Roberto Azevêdo as the next Director General of the World Trade Organization (WTO) closed on Wednesday. The following candidates were nominated: [Mr. Jesús Seade Kuri](#) (Mexico), [Dr. Ngozi Okonjo-Iweala](#) (Nigeria), [Mr. Abdel-Hamid Mamdouh](#) (Egypt), [Mr. Tudor Ulianoschi](#) (Moldova), [Ms. Yoo Myung-hee](#) (Republic of Korea), [Ms. Amina C. Mohamed](#) (Kenya), and [Mr. Mohammad Maziad Al-Tuwaijri](#) (Kingdom of Saudi Arabia), and [Dr. Liam Fox](#) (United Kingdom). The normal process for selecting the director general takes nine months, but members are trying to accelerate the process as Azevedo is stepping down at the end of August.

V. Industry Updates:

- On Tuesday, *Variety* published a guest column written by David Israelite, president & CEO of the National Music Publishers' Association (NMPA), calling on the Senate to pass the *Copyright Alternative in Small-Claims Enforcement (CASE) Act*. Israelite raises concern that, for years, small business music creators have not been able to seek recourse for copyright infringement due to the “massive cost and cumbersome process” involved with bringing these claims to court. The *CASE Act* seeks to reduce these hurdles by allowing copyright owners to represent themselves before a new Copyright Claims Board (CCB) within the Copyright Office. The bill caps damages at \$30,000 under the CCB. Although the *CASE Act* passed the House with resounding support last year, Israelite raises alarm that Senator Ron Wyden (D-OR) has put a hold on the bill in the upper chamber, “acting on behalf of the usual anticopyright tech companies that have enjoyed relative immunity for years and do not want to risk the burden of claims being brought against them or their platforms.” Despite these efforts to block the bill, Israelite points to the recent passage of the Music Modernization Act as evidence that “industry and Congress can come together and fix certain copyright issues where there is an obvious market and legal failure.” Read more [here](#).
- On Tuesday, Nielsen Music/MRC Data published the fifth addition of its survey series *COVID-19: Tracking the Impact on the Entertainment Landscape*, with data collected from June 10th – 14th from over 1,050 U.S. consumers ages 13 and up. *Billboard* broke down some key takeaways from the new survey, namely: after an early-June lull, streaming has risen to “normal” levels again; new video streaming subscriptions fell as some Americans returned to “normal life”; people are willing to attend live events, although crowd size concerns persist; live streams are still popular; and retail is on the rebound. Read more [here](#).