



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT MAY 15, 2020



I. Congressional Updates:

- On Tuesday, House Democrats released the *HEROES Act*, a \$3 trillion economic relief package. Find the bill text [here](#), a section-by-section summary [here](#), and a one-pager [here](#). Nearly \$916 billion would go to state and local governments to deal with lost revenue. Other core areas include: \$100 billion for emergency rental assistance; \$10 billion to cover increased participation in the food stamps program; \$5.5 billion to emergency home internet and creation of wi-fi hotspots; \$100 billion for hospitals for pandemic-related costs and another \$75 billion for virus testing; an expanded unemployment insurance benefit of \$600 per week extended through January 2021; \$200 billion “Heroes Fund” for “essential workers” hazard pay; and another round of direct payments up to \$1,200 per adult and \$1,200 per dependent up to three dependents (credit starts phasing out after \$75,000 of adjusted gross income). The bill also expands eligibility for the Paycheck Protection Program (PPP) to television and radio broadcasters, as well as newspapers. This comes after [reports suggest](#) that more than 80% of the newspaper industry by circulation do not qualify for the small business forgivable loan program as currently administered. The House is expected to pass the bill on Friday, although it will likely stall in the upper chamber as Senate Republicans contend that not enough time has passed since the *CARES Act* was enacted to determine whether additional relief is necessary. Nevertheless, Senate Minority Leader Charles Schumer (D-NY) [said](#) he will fight to make sure the fix for newspapers and radio and television stations remains in any bill that advances in the upper chamber. Senator Maria Cantwell (D-WA) [introduced legislation](#) in the Senate this week with language mirroring the House proposal.

Headlines and Highlights:

- House unveils \$3 trillion economic relief package, *HEROES Act*.
- In a letter to leadership, Chairman Nadler and Judiciary Committee Democrats advocate for relief for the creative community in any future COVID-19 package.
- Facebook agrees to pay \$52 million to content moderators to compensate them for mental health issues they developed on the job.
- French parliament passes a law that allows regulators to fine social media companies if they fail to remove “manifestly illicit” content within 24 hours.

In the Blogs:

[WIPO Helps in the Fight Against Online Piracy](#)

Hugh Stephens Blog

May 11 by Hugh Stephens

[Georgia v. Public Resource: Much Ado About Very Little](#)

Illusion of More

May 9 by David Newhoff

- On Tuesday, House Judiciary Committee Chairman Nadler (D-NY) led fellow House Judiciary Democrats Jeffries (D-NY), Chu (D-CA), Johnson (D-GA), and Lieu (D-CA) in a letter to Speaker of the House Pelosi (D-CA) and Leader McCarthy (R-CA) depicting the struggles of American creators and urging leadership to consider the creative community in any future relief package. The Democrats raise concern that the *CARES Act* and PPP have left “particularly vulnerable” categories of “jobs and types of industries that do not always operate under the rubric of traditional employer-employee relationships.” The House Democrats point out that “[e]ntertainment, music, and other creative industries, for example, feature many work arrangements involving self-employment and individual contractors and project-based work, such as recording, movie, or television productions, concerts, performances, or theater shows.” The Judiciary Democrats urge leadership to consider the following three issues in a future coronavirus relief bill: “(1) Ensuring that Pandemic Unemployment Assistance (PUA) makes whole those who derive income from project-based work, (2) Making the Paycheck Protection Program (PPP) work for self-employed individuals and independent contractors, and (3) Modifying the Small Business Administration’s (SBA’s) restrictive implementation of Economic Injury Disaster Loan (EIDL) awards, which penalizes sole proprietors.”
- On Tuesday, the Senate Judiciary Hearing held a hearing on “Examining Liability During the COVID-19 Pandemic.” The following witnesses offered testimony: [Mr. Kevin Smarrt](#) (Chief Executive Officer, Kwik Chek Convenience Stores), [Mr. Anthony “Marc” Perrone](#) (International President, United Food and Commercial Workers International), [Ms. Rebecca Dixon](#) (Executive Director, National Employment Law Project), [Mr. Leroy Tyner, Jr.](#) (General Counsel, Texas Christian University), [Professor David Vladeck](#) (A.B. Chettle Chair in Civil Procedure, Georgetown University Law Center), Ms. Helen Hill (Chief Executive Officer, Explore Charleston). The hearing produced a collective agreement on the existence of conflicting guidance from Federal, State, and local authorities. Members also discussed the need for the federal government, including the Occupational Safety and Health Administration (OSHA) and the Centers for Disease Control and Prevention (CDC), to issue safety protocol guidance across industries. Ranking Member Dianne Feinstein (D-CA) declared that Congress should not provide businesses with protection from liability without the federal government enacting workplace guidelines to protect employees. To that point, Chairman Lindsey Graham (R-SC) signaled support for a framework which ties limited liability for employers to compliance with OSHA safety protocols. Chairman Graham emphasized that “the primary goal following this hearing is to get standards in place” and stressed that such “standards need to be out there, so people can know what's expected of them, so if they do what's expected, then they don't have to worry about being sued.” Watch the full hearing [here](#).

II. Judicial Updates:

- As reported by *The Verge*, Facebook has agreed to pay \$52 million to current and former content moderators to compensate them for mental health issues they developed on the job. Under a preliminary settlement filed in San Mateo Superior Court, 11,250 moderators will receive a minimum of \$1,000 and will be eligible for additional compensation if they are diagnosed with post-traumatic stress disorder or related conditions. In the settlement, Facebook also agreed to roll out changes to its content moderation tools to reduce the impact of viewing harmful images and videos to 80 percent of moderators by the end of the year and 100 percent by 2021. Moderators who view graphic and disturbing content on a daily basis will also be eligible for weekly, one-on-one coaching sessions with a licensed mental health

professional. The preliminary settlement covers moderators working in California, Arizona, Texas, and Florida from 2015 until now. Read more [here](#).

III. Administration Updates:

- The eCO Registration System will be offline from 6:00 p.m. ET on May 16th until 6:00 a.m. ET on May 17th to accommodate Pay.gov maintenance.

IV. International Updates:

- On Wednesday, France's National Assembly passed a law that allows regulators to fine social media companies up to \$1.36 million if they fail to remove "manifestly illicit" content within 24 hours. Effective July 1st, the law also gives France's audiovisual regulator the right to audit companies' systems for removing such content and fine them up to 4% of their global annual revenue in case of serious and repeated violations. French President Emmanuel Macron has pushed the proposal as part of a broader effort to reset the balance for how much responsibility tech companies should assume for illegal or harmful content. During the debate on Wednesday, Cédric O, France's junior minister for digital affairs, said the law "is the first brick in a new paradigm of platform regulation." Read more [here](#).
- On Thursday, World Trade Organization (WTO) director-general Roberto Azevêdo told officials in Geneva that he will step down a year before his term ends in September 2021. Instead of appointing a deputy to serve as acting director-general after he departs, Azevêdo suggested that the WTO should begin the selection process for a full-time replacement as soon as possible. *POLITICO* reports that the selection process "is very likely to lay bare stark international fault lines," as the trade world monitors whether candidates are aligned to heavyweights like the U.S., China, and the EU. President Trump has been a fierce critic of the WTO and has paralyzed the trade court by blocking the appointment of new judges. Nevertheless, United States Trade Representative Lighthizer said that the U.S. "looks forward to participating in the process of selecting a new director general." Read more [here](#) and [here](#).

V. Industry Updates:

- The Berkeley Center for Law and Technology is co-hosting a series of short webinars with the U.S.-China Business Council on China's ongoing judicial reforms, the real-world impacts of the Phase 1 U.S.-China Trade Agreement, and current issues in the development of China's IP law including patentability, pharmaceutical IP issues, trade secret issues, licensing, and antitrust. Session 3 on May 20th is titled, "Following the Data: What the Latest Research Says about China's Legal and IP Environment," and registration is free. More info. [here](#).
- On Tuesday, the *Washington Post* reported that Facebook is helping launch a new political advocacy group that would "combat U.S. lawmakers and regulators trying to rein in the tech industry." The organization, called American Edge, reportedly "aims through a barrage of advertising and other political spending to convince policymakers that Silicon Valley is essential to the U.S. economy and the future of free speech." Per the *Washington Post*, in December, American Edge formed as a nonprofit and last month it registered an accompanying foundation in Virginia. The *Washington Post* reported that Facebook "is viewed as a critical, primary driver" in the launch of American Edge, but is not the sole

driving entity. The group's board is reportedly set to include "Susana Martinez, the former Republican governor of New Mexico; Bradley Smith, a former Republican commissioner on the Federal Election Commission; and Chris Carney, a former Democratic congressman from Pennsylvania who's now at a consulting firm." Read more [here](#).