



AMERICAN CONTINENTAL GROUP

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## CONTENT & TECHNOLOGY POLICY REPORT APRIL 1, 2021



### I. Congressional Updates:

- On Monday, Senate Judiciary IP Subcommittee Chair Leahy (D-VT) and Ranking Member Tillis (R-NC) joined subcommittee members Hirono (D-HI), Coons (D-DE), and Blackburn (R-TN) in a letter asking what steps Facebook, Google, YouTube, Twitter, and Twitch can take as private actors to voluntarily address copyright piracy without the need for additional legislation and federal regulation. The letter explains that the IP Subcommittee's year-long review of the DMCA, combined with the U.S. Copyright Office's report on its Section 512 Study, led the lawmakers to determine that "online copyright piracy has proliferated over the past two decades and present a major threat to the economic health and well-being of American creators and the United States' broader creative economy." The letter asks the Big Tech companies to answer a series of questions on voluntary efforts to combat online piracy by April 29<sup>th</sup>.
- On Wednesday, in an interview with the *Washington Examiner*, House Antitrust Subcommittee Chairman David Cicilline (D-RI) said that his panel will introduce bills to beef up antitrust agency resources and expand its authority, make tech user data portable, and stop unfair product discrimination. These four measures, Cicilline stated, will have bipartisan support, and will be introduced in conjunction with Rep. Ken Buck (R-CO), the ranking member of the subcommittee. Cicilline went on to say that the two parties disagree over bills that would allow the federal government to break up Big Tech companies altogether and anything related to content moderation. Read the entire interview [here](#).

### Headlines and Highlights:

- Senate IP Subcommittee leaders ask Google, YouTube, Twitter, and Twitch what steps they can take as private actors to voluntarily address copyright piracy.
- House E&C Republicans probe Big Tech's potential impact on children's mental health in letter.
- USTR Tai tells reporters that the Biden Administration has no plans to lift tariffs on Chinese imports in near future.
- Chairman Cicilline outlines antitrust bills he intends to introduce in coming weeks.

### In the Blogs:

[Throwing Good Money After Bad: How Canadian Universities Wasted Millions by Not Securing a Copyright Licence](#)

Hugh Stephens Blog

March 22 by Hugh Stephens

[Ethics & Platform Governance – A Conversation with Dr. Michael Katell](#)

Illusion of More

March 23 by David Newhoff

- On Tuesday, House Energy & Commerce Committee Ranking Member Cathy McMorris Rodgers (R-WA) led Communications and Technology Subcommittee Ranking Member Robert E. Latta (R-OH), Consumer Protection and Commerce Subcommittee Ranking Member Gus Bilirakis (R-FL), and Oversight and Investigations Subcommittee Ranking Member H. Morgan Griffith (R-VA) in a letter asking Facebook, Twitter, and Google for data on the impact their products have on children’s mental health. The letter asks for internal research or communications on the potential effects the platform have on children’s mental health by April 16<sup>th</sup>. The lawmakers also asked the Big Tech companies to identify any outside entity they have contracted with to conduct any such research. Read more [here](#).
- This week, President Joe Biden unveiled “The American Jobs Plan,” a proposal to invest \$2 trillion in American infrastructure and climate change efforts. The plan aims to do that, in part, by reversing the decadelong decline in federal spending on science, research and development, and technology, as a proportion of the nation’s overall spending. In particular, it proposes: \$50 billion for the National Science Foundation to focus “on fields like semiconductors and advanced computing”; \$30 billion in research and development aimed at spurring jobs in rural areas; and \$40 billion to upgrade physical infrastructure of research labs in federal and university settings. Read more [here](#).
- On Tuesday, Senators Leahy (D-VT) and Tillis (R-NC), Chairman and Ranking Member, respectively, of the Senate Judiciary Subcommittee on Intellectual Property, sent a letter to President Biden urging him to “prioritize the appointment of intellectual property officials within the Executive Branch over the coming weeks.” In particular, the lawmakers asked Biden to move expeditiously to fill positions such as the Under Secretary of Commerce for IP and Director of the U.S. Patent and Trademark Office, the Intellectual Property Enforcement Coordinator and the Chief Innovation and Intellectual Property Negotiator within the Office of the U.S. Trade Representative.

## II. Judicial Updates:

- *Reuters* reports that Google and the federal government’s lawyers tangled at a status hearing on Tuesday over how many documents related to the Department of Justice’s (DOJ) antitrust lawsuit against the search and advertising giant should be turned over, and how fast. Kenneth Dintzer with the DOJ said that Google had balked at delivering documents dating back to the early 2000s and other third parties had delayed responding to government subpoenas until they got a subpoena from Google. Arguing on behalf of the search giant, John Schmidlein said that Google had produced some 250,000 documents, the equivalent of 1.4 million pages, with another 200,000 on their way. Judge Amit Mehta of the U.S. District Court for the District of Columbia said that he could jump in to address specific disagreements, but asserted that the two sides would need to resolve the larger issues. Read more [here](#).

## III. Administration Updates:

- In her first interview since taking office, United States Trade Representative (USTR) Katherine Tai told *The Wall Street Journal* that the Biden Administration has no plans to lift tariffs on Chinese imports in the near future but might be open to trade negotiations with Beijing. “I have heard people say, ‘Please just take these tariffs off,’” Ms. Tai said. But “yanking off tariffs,” she warned, could harm the economy unless the change is “communicated in a way so that the actors in the economy can make adjustments.” Read

more [here](#).

- On Monday, the U.S. Copyright Office announced that, at the request of the Copyright Royalty Board, it is extending the deadline for the Board's initial determination in the Web V webcaster rate setting proceeding by sixty days, to June 14<sup>th</sup>. The Judges have assured the Register that the further extension will not delay other matters pending before them. More info. [here](#).

#### **IV. International Updates:**

- On Monday, Facebook Canada's head of policy, Kevin Chan, testified before a parliamentary committee regarding a Canadian government plan to force Google and Facebook to pay publishers for news that surfaces on their platforms. Chan said that any law that compels Facebook to pay publishers each time their news content is shared on its platform "fundamentally breaks the premise of how a free and open internet works." When asked whether Chan thought it was a fair tactic to pull news from Facebook like it did in Australia, he said "it is never going to be something that we would ever want to do, unless we really have no choice." Read more [here](#).
- Isabelle de Silva, the head of France's competition watchdog, told POLITICO that the U.S. Department of Justice and Federal Trade Commission "have done tremendous work in cases concerning the platforms," adding that U.S. and European regulators were on the same page in "80 to 90 percent of what we think and do." De Silva specifically cited the positive ongoing antitrust work from U.S. congressman David Cicilline, as well as the appointment of Tim Wu to the White House's National Economic Council and the nomination of Lina Khan to the FTC. Read more [here](#).

#### **V. Industry Updates:**

- On Tuesday, Spotify announced that it has acquired Betty Labs, the company behind the live audio app Locker Room. Locker Room launched in October as a sports-focused platform for live audio conversations, but the music platform said it plans to "evolve and expand" the app "into an enhanced live audio experience for a wider range of creators and fans." The acquisition comes amidst a surge of interest in live audio following the rise in the app Clubhouse. The financial terms of the deal were not disclosed. Read more [here](#).
- Late last week, ahead of Twitter and Square CEO Jack Dorsey's appearance before the House Energy and Commerce Committee, the RIAA, the Recording Academy, Songwriters of North America, and others criticized the Twitter for "engaging in piracy at an industrial, massive scale." The authors emphasized that the music industry had sent "over 2 million infringement notices to Twitter" in 2020. "Twitter does nothing to proactively find and address these accounts, leaving it to artists, songwriters and their label and publishers [*sic*] partners to do all the work," the organizations penned. "And while commercially established artists and their representatives can sometimes fill in the gaps, smaller acts, new bands, and non-commercial creators are left with no meaningful recourse at all." Read more [here](#).