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CONTENT & TECHNOLOGY POLICY REPORT APRIL 23, 2021



I. Congressional Updates:

- On Wednesday, the Senate Judiciary Antitrust Subcommittee held a hearing titled “Antitrust Applied: Examining Competition in App Stores.” The hearing featured testimony from the two big app store platforms—Google and Apple— and three companies who have banded together to critique the tech platforms' market power in the mobile software market. The predominant focus of the hearing was the app stores of Google and Apple and the alleged “gatekeeper” role they play in allowing other companies to reach consumers on their mobile phones. Specifically, the hearing covered the app companies’ and senators’ concerns over alleged anticompetitive behavior, including their payment processing fees, retaliation by Apple and Google, data privacy, and self-preferencing. Witnesses at the hearing included [Kyle Andeer](#) (Chief Compliance Officer, Apple), [Wilson White](#) (Senior Director Public Policy & Government Relations, Google Inc.), [Horacio Gutierrez](#) (Head Of Global Affairs & Chief Legal Officer, Spotify), [Mr. Mark Cooper, Ph.D.](#) (Director Of Research, Consumer Federation of America), [Kirsten Daru](#) (General Counsel, Tile, Inc), and [Jared Sine](#) (Chief Legal Officer & Secretary, Match Group, Inc.). During her opening statement, Chairwoman Amy Klobuchar (D-MN) indicated that she is particularly focused on the app store's payment processing policies which can come with a 30% digital transaction fee. Klobuchar said that she is concerned that payment processor commissions for digital services could suppress competition when they raise the cost of app developers that directly compete with Apple or Google. Watch the full hearing [here](#).
- On Tuesday, the Senate Commerce Committee held a hearing titled “Strengthening the Federal Trade

Headlines and Highlights:

- Senate Judiciary Antitrust Subcommittee considers competition in app stores at hearing.
- Senate Commerce Committee holds hearing on strengthening the FTC’s authority to protect consumers.
- Senate Judiciary tech subpanel to hold hearing on algorithms next week.
- UK musicians call on Boris Johnson to reword 1988 Copyright Act.
- EU proposes new AI rules.
- Instagram unveils new anti-harassment tools.
- CSIS to hold event on implications of Google vs. Oracle for software innovation next Thursday.

In the Blogs:

[The 2021 Global IP Index Report: Implications for Copyright](#)
Hugh Stephens Blog
April 19 by Hugh Stephens

Commission’s Authority to Protect Consumers.” The hearing focused on the Commission's consumer redress authority; the Commission’s efforts to fight fraud during the pandemic, including its new first-time civil penalty authority for COVID-related scams; and the Commission's tools and capabilities in the information age, including \$30.4 million in funding for consumer protection matters that Congress provided in the American Rescue Plan Act. Testifying on behalf of the Commission, Acting FTC Chairwoman Rebecca Kelly Slaughter along with Commissioners Noah Joshua Phillips, Rohit Chopra, and Christine S. Wilson [detailed](#) the FTC’s work to protect consumers through law enforcement actions and consumer and business education aimed at dispelling misinformation and warning about the latest COVID-19-related scams. The Commissioners also urged lawmakers to ensure the agency has the authority it needs to prohibit illegal conduct and return money to consumers who have been victims of unlawful conduct. Watch the full hearing [here](#).

- Next Tuesday, April 27th, at 10:00 a.m. ET, the Senate Judiciary Privacy and Technology Subcommittee will hold a hearing on “Algorithms and Amplification: How Social Media Platforms’ Design Choices Shape Our Discourse and Our Minds.” No witnesses have been listed yet. More info. [here](#).
- On Wednesday, seven House Republicans announced that they are no longer accepting donations from major tech companies or their top executives. House Judiciary Antitrust Subcommittee Chairman Ken Buck (R-CO) led the pledge, which was also signed by Reps. Chip Roy (R-TX), Greg Steube (R-FL), Dan Bishop (R-NC), Ralph Norman (R-SC), Andy Biggs (R-AZ), and Burgess Owens (R-UT). In a letter announcing the move, the lawmakers claimed that the major tech companies had limited the reach of conservative voices and abused their market power. Read more [here](#) and [here](#).

II. Judicial Updates:

- On Thursday, in a unanimous opinion delivered by Justice Stephen Breyer, the U.S. Supreme Court ruled that Section 13(b) of the FTC Act does not authorize the agency to seek monetary relief for violations of the law. The high court noted that the statute does not explicitly authorize the FTC to obtain such a remedy, but instead allows the federal agency to seek a “a permanent injunction” pending administrative proceedings. FTC Chairwoman Rebecca Slaughter decried the ruling in a statement, claiming that the Supreme Court “ruled in favor of scam artists and dishonest corporations, leaving average Americans to pay for illegal behavior.” Read more [here](#).

III. Administration Updates:

- In recognition of World IP Day, on April 26th at 12:00 p.m. ET, the U.S. Copyright Office is hosting a briefing titled “The Creative Business: Celebrating World IP Day and Taking Your Ideas to Market.” Panelists will discuss the importance of small and medium businesses in copyright, the economy, and our culture. Featured panelists include Hakim Draper, Executive, Founder, Manager, Author, Speaker Strategist, and Consultant, The Boogie Shack, Sunil Iyengar, Research & Analysis Director, National Endowment for the Arts, and Laura Zabel, Executive Director, Springboard for the Arts. Register online [here](#).
- The Copyright Office will host its twelfth public modernization webinar on April 28th from 1:00 to 2:00 p.m. ET. The webinar will focus on the Scaled Agile Framework and the Enterprise Copyright System (ECS) development. More info. [here](#).

IV. International Updates:

- In an open letter to Boris Johnson this week, 156 musicians, including Paul McCartney, Kate Bush, and Chris Martin, called on the UK Prime Minister to reword the 1988 Copyright Act to bring royalty payments more in line with how those in radio are paid. Such a change in the law would require streaming companies to make “equitable remuneration” to artists via a rights collection company. “For too long, streaming platforms, record labels and other internet giants have exploited performers and creators without rewarding them fairly. We must put the value of music back where it belongs – in the hands of music makers,” the letter asserts. The letter comes in the wake of the government inquiry into the economics of streaming, which ran from November until March. Read more [here](#).
- On Wednesday, the European Union’s executive arm proposed a bill that would create a list of high-risk uses of Artificial Intelligence (AI) that would be subject to new supervision and standards for their development and use. Areas that would be subject to the new standards include critical infrastructure, college admissions, and loan applications. Other practices would be banned outright, including AI systems that use “subliminal techniques” or take advantage of people with disabilities to “materially distort a person’s behavior” in a way that could cause physical or psychological harm. Officials have insisted that most uses of AI, such as videogames and spam filters, would have no new rules under the bill. In order to become law, the proposal would need to be approved by both the European Council and the European Parliament, a process that could take years. Read more [here](#).

V. Industry Updates:

- Next Thursday, April 29th, from 12:30 – 1:30 p.m. ET, the Center for Strategic & International Studies (CSIS) will hold a webinar titled “Google vs. Oracle: Implications for Software Innovation?” The following panelists are slated to participate in the event: Shira Perlmutter, Register of Copyrights and Director, U.S. Copyright Office; David Nimmer, Of Counsel, Irell & Manella LLP; and Peter Menell, Professor of Law & Co-Director, Berkeley Center for Law & Technology. More info. [here](#).
- On Wednesday, Instagram unveiled a new feature to help users filter out harassment in their direct messages. Users will have the option to proactively block a new set of words, phrases, and emojis that might signal abusive content, including common misspellings of those key terms, from their message requests. Users will also have the ability to block people even if they try and contact the user in question from a new account. Instagram will start rolling out the feature in the U.K., France, Germany, Ireland, Canada, Australia, and New Zealand in a few weeks’ time, adding more countries in the next few months. Read more [here](#).