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AMERICAN CONTINENTAL GROUP

CONTENT & TECHNOLOGY POLICY REPORT AUGUST 6, 2021



I. Congressional Updates:

- On Wednesday August 4th, the Senate Commerce Committee will markup [S. 1790 \(117\)](#), the Secure Equipment Act of 2021, legislation aimed at protecting U.S. telecommunications networks from companies deemed to be a national security risk — particularly Chinese companies such as Huawei, Hikvision and Dahua. The legislation would direct the FCC to clarify that it will no longer review or approve applications from companies on the agency’s “covered list,” closing a loophole that previously allowed Chinese companies a way into U.S. networks. The House Energy and Commerce Committee approved companion legislation last month, and lawmakers are optimistic about the Senate bill’s prospects.
- The Homeland Security Committee, will mark up the [S. 2559 \(117\)](#) Deepfake Task Force Act, on Wednesday, which would create a task force within the Department of Homeland Security tasked with producing a plan to reduce the spread and impact of deepfakes, digitally manipulated images and video nearly indistinguishable from authentic footage. The bill would build on previous legislation, which passed the Senate last year, requiring DHS to conduct an annual study of deepfakes. The deepfake bill has drawn accolades from tech companies, including Microsoft and Adobe, which say they want to work with the government to address this new and complex form of disinformation.
- The Homeland Security Committee, on Wednesday, will also markup [S. 2551 \(117\)](#), the AI Training Act, which would require the Office of Management and Budget to create an educational program focused on artificial intelligence for government workers.

Headlines and Highlights:

- Senate Commerce Committee will markup [S. 1790 \(117\)](#), the Secure Equipment Act of 2021
- Funding for New Broadband Equity, Access and Deployment Program
- FTC Tweaking Merger Reviews to Account for Surge in Filings
- Senate Committee on Energy and Natural Resources held a hearing on “The Role of and Programs within the Department of Energy’s Office of Science.”
- The USCO and the USPTO are hosting an October 26, 2021, conference entitled Copyright Law and Machine Learning for AI: Where Are We and Where Are We Going?

In the Blogs:

- Hugh Stephens Blog: [Supreme Court of Canada Decision Undermines Canada’s Collective Licensing System: A Parliamentary Fix is Needed](#)

- President Joe Biden originally pledged that his infrastructure plan would focus on boosting municipal broadband networks, propping up smaller competitors to the telecom giants. But the final version of the infrastructure package does not focus on municipal broadband, and it's unclear how exactly the money will be doled out. The bill sets aside \$42.5 billion for a new Broadband Equity, Access and Deployment program, which will be allocated across each state, as well as \$14.2 billion for an affordable connectivity benefit program and a \$250 million grant program to help states fund digital inclusion efforts.
- On Thursday, the Senate Judiciary Committee met for an executive session. The State Antitrust Enforcement Venue Act of 2021 (S. 1787) was on the agenda but was held over. Sens. Lee (R-UT), Klobuchar (D-MN), Hawley (R-MO), Blumenthal (D-CT), Leahy (D-VT) are cosponsors of the bill, which seeks to ensure that state attorneys general are able to remain in the court they select rather than having their cases moved to a court the defendant prefers. Read more [here](#).
- On Thursday, August 5th, 2021 from 10:00 AM – 12:30 PM, the Senate Committee on Energy and Natural Resources held a hearing on “[The Role of and Programs within the Department of Energy’s Office of Science](#).” Witnesses to the hearing included: [Dr. J. Stephen Binkley](#) (Acting Director and Principal Deputy Director at the Office of Science in the Department of Energy); [Dr. Thomas Zacharia](#) (Director of the Oak Ridge National Laboratory); and [Dr. Edward Seidel](#) (President of the University of Wyoming). The hearing focused on the role of the Department of Energy’s Office of Science and its responsibilities and programs. The senators and witnesses generally discussed the funding, functions, and applications of the national laboratories the Office oversees. The essential nature of these laboratories and the impact of the work they do was a recurring topic and frequent justification for the funding of the Office of Science.

II. USCO Updates:

- The U.S. Copyright Office and the U.S. Patent and Trademark Office are hosting an October 26, 2021, conference entitled Copyright Law and Machine Learning for AI: Where Are We and Where Are We Going? The event will comprise three one-hour sessions and is expected to run from 10:00 a.m. to 2:30 p.m. Panels will explore machine learning in practice, how existing copyright laws apply to the training of artificial intelligence, and what the future may hold in this fast-moving policy space. The Office will post the event agenda and registration information for both the online and on-site options on its website as they become available.

III. Judicial Updates:

- In a Friday update on a lawsuit filed by DOJ and states that accused Google of abusing its place at the forefront of the online search market, lawyers for Google claimed that Microsoft was stalling on handing over millions of documents about its efforts to compete with Google’s search engine. Google argued that Microsoft — which has been identified as

Google’s “most significant competitor in online search” by DOJ and the states, and which Google referred to as the “central” third party in the case — has “slow-walked” producing documents from 19 former and current Microsoft employees about whether Google’s dominance “restrained” Microsoft from competing with it, “or whether [Microsoft] simply failed to compete successfully on the merits,” according to the subpoena. Read more [here](#).

IV. Administration Updates:

- The Federal Trade Commission (FTC) said Tuesday that it is tweaking merger reviews to account for a surge in filings. In the first seven months of 2021, companies reported more than 2,000 mergers to the FTC and Justice Department for antitrust review — roughly the same number as the agencies reviewed during all of 2020. Holly Vedova, Acting Director of the Commission’s Bureau of Competition said that, due to capacity constraints, the FTC will send warning letters when the agency hasn’t finished its review of a merger within the statutory deadline, telling the companies that if they proceed with their merger prematurely, they “do so at their own risk.” Read more [here](#).

V. International Updates:

- The *Financial Times* reports that London’s High Court has dismissed Oatly’s trademark infringement case against a family farm over its PureOaty drink. Judge Nicholas Caddick dismissed Oatly’s claims that Cambridgeshire-based Glebe Farm Foods infringed Oatly’s trademarks by using the Swedish company’s brand name and pack design to pass off as the Oatly beverage. Judge Caddick said that the visual similarity of the names were “very modest” and decided that there was no evidence that consumers were confused about the two products. Oatly announced that it fully accepted the court’s decision and would not file an appeal. Read more [here](#).

VI. Industry Updates

- On Thursday, Sept. 2, the Library of Congress will host a virtual public forum to provide an update on the latest enhancements to Congress.gov and to gather feedback about the site, which serves as the official, authoritative source for federal legislative information. The virtual public forum is free and open to the public and will take place from 1 – 4 pm ET on Thursday, Sept. 2. You can [register here to participate](#).
- The temporary leader of the U.S. Patent and Trademark Office on Monday denied the first two requests he received seeking review of Patent Trial and Appeal Board decisions since the U.S. Supreme Court’s *Arthrex* ruling gave him that power in June. Read more [here](#).