



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT FEBRUARY 19, 2021



I. Congressional Updates:

- On Sunday, Senate Democratic Whip Dick Durbin (D-IL), Chair of the Senate Judiciary Committee, and Senator Chuck Grassley (R-IA), Ranking Member of the Senate Judiciary Committee, announced the establishment of the Subcommittees for the 117th Congress, and the assignment of Chairs and Ranking Members to these Subcommittees. Senator Patrick Leahy (D-VT) will Chair the Subcommittee on Intellectual Property and Senator Thom Tillis (R-NC) will serve as its Ranking Member. Senator Durbin also reestablished the Privacy and Technology Subcommittee “to focus on timely legal issues in the Judiciary Committee’s jurisdiction.” Senator Chris Coons (D-DE) will Chair that subpanel and Senator Ben Sasse (R-NE) will serve as its Ranking Member. Read more [here](#).
- On Wednesday, the House Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law announced that, starting next week, it will hold a series of hearings to consider legislative proposals to address the rise and abuse of market power online and to modernize the antitrust laws. The first hearing on “Reviving Competition, Part 1: Proposals to Address Gatekeeper Power and Lower Barriers to Entry Online” will take place on February 25th at 10:00 a.m. ET. According to a statement announcing the hearings, they will focus on: addressing the rise, entrenchment, and abuse of gatekeeper power; lowering barriers to entry and ensuring the survival of trustworthy sources of news online; modernizing and strengthening the tools available to police illegal mergers and monopolization, as well as other anticompetitive conduct; and other improvements to the antitrust laws, current enforcement levels, and congressional oversight as identified by the [Majority Staff Report and](#)

Headlines and Highlights:

- Senate Judiciary Subcommittees announced.
- House Judiciary Antitrust Subcommittee announces hearing series to consider modernizing antitrust laws.
- Congressional Democrats and White House discuss strategies for regulating Big Tech.
- News Corp and Google strike deal on multi-year partnership.
- Facebook restricts news sharing in Australia.
- Former Obama White House official Mona Sutphen to join Spotify Board.

In the Blogs:

[Google’s Tussle Over Payment for News Content in Australia: Microsoft Scrambles the Cards—With Positive Implications for Canada and Others](#)

Hugh Stephens Blog
February 15 by Hugh Stephens

[IP Rights & the Bernie Meme Illusion of More](#)
February 1 by David Newhoff

[Recommendations](#) released last year. Read more [here](#).

- *The Washington Post* reports that Facebook CEO Mark Zuckerberg, Google CEO Sundar Pichai, and Twitter CEO Jack Dorsey are slated to testify before the House Energy & Commerce Committee on March 25th. Democrats on the panel raised concern on Thursday that the social media companies had allowed misinformation to spread with “real-life, grim consequences for public health and safety.” Read more [here](#).

II. Judicial Updates:

- News surfaced this week that Cox Communications has appealed the \$1 billion copyright infringement verdict that a jury levied against the ISP in December 2019. The jury found that the Atlanta-based company was liable for both vicarious and contributory infringement on 10,017 works and attached \$99,830.29 fee to each of the alleged infringements. The appeal comes six weeks after a federal court upheld the ruling and about three weeks after Cox moved to delay making the substantial payment. Read more [here](#).

III. Administration Updates:

- Congressional Democrats have reportedly been in talks with the White House about the best way to approach regulating the tech industry, according to congressional aides and Representative Tom Malinowski (D-NJ), who say that topics so far have included Section 230 and antitrust enforcement. The talks are the first signal that the White House is actively engaged in efforts to tackle Big Tech. Read more [here](#).
- The Senate Finance Committee will consider the nomination of Katherine C. Tai to be the United States Trade Representative (USTR) during an executive session at 10:00 a.m. ET on Thursday, February 25th. More info. [here](#).
- On Friday, the U.S. Copyright Office issued an interim rule amending its regulations governing the registration of copyright claims in secure tests and secure test items in order to address a temporary disruption caused by the COVID-19 pandemic. The interim rule, which took effect the same day the rule was published, allows for examination of these claims via secure videoconference during the national emergency. More info. [here](#).

IV. International Updates:

- On Thursday, News Corp announced that it reached an agreement on a three-year partnership with Google to provide journalism from its news sites around the world in return for “significant” payments by Google. News Corp Chief Executive Robert Thomson said the deal would have “a positive impact on journalism around the globe as we have firmly established that there should be a premium for premium journalism.” The following News Corp publications will be joining Google News Showcase: The Wall Street Journal, Barron’s, MarketWatch, and the New York Post; in the UK: The Times and The Sunday Times, and The Sun; and in Australia: The Australian, news.com.au, Sky News, and multiple metropolitan and local titles. Under the deal, the companies will also enter into an ad revenue-sharing agreement, develop a subscription platform, and YouTube will invest in video journalism. The deal comes as the Australian government considers legislation to require online platforms such as Google and Facebook to pay news outlets for displaying and

linking to their content. Read News Corp's full statement on the deal [here](#).

- Meanwhile, in response to Australia's proposed Media Bargaining law, on Thursday Facebook began restricting the sharing of certain news on the social media platform. Specifically, the social media company blocked users in Australia from sharing news stories and stopped users globally from sharing articles from Australian publishers. Australian users raised concern that some non-news websites, such as government platforms for coronavirus information, were blocked, but Facebook said it would restore pages that may have been "inadvertently impacted." The social media company is using machine learning software to help identify news, which Facebook estimates constitutes four percent of the posts users see on their feeds. The software will search for "news-specific signals like timeliness, presence of bylines, and attributed sources." Rep. David Cicilline (D-RI), Chairman of the House Judiciary Antitrust Subcommittee, took to [Twitter](#) to criticize the decision, insisting that "Threatening to bring an entire country to its knees to agree to Facebook's terms is the ultimate admission of monopoly power." Read Facebook's statement on the policy change [here](#) and more [here](#).
- In the latest effort to ensure that digital platforms adequately compensate news companies for their content, on Wednesday a Canadian Senator introduced a bill that would revise the country's copyright law to enable media organizations to collectively negotiate with certain platforms, such as Google and Facebook. "It's not fair in a system where somebody takes your work, free, and is using it to make money," the bill's sponsor, Conservative Senator Claude Carignan, told the *Toronto Star* in an interview. The bill would also allow digital platforms and publishers to appeal to the Copyright Board for a ruling if the two sides cannot strike a deal. The Liberal government has been mulling new rules to ensure media companies are paid by digital platforms and is expected to introduce its own framework this year. However, Senator Carignan accused the government of dragging its feet in this effort and insisted that legislative reform will deliver the urgent change Canada's media industry needs. Read more [here](#).

V. Industry Updates:

- News surfaced this week that Tribune Publishing, the publisher of major metropolitan dailies such as The Chicago Tribune and The Daily News, has agreed to give complete ownership of the company to the hedge fund Alden Global Capital. Alden was already a 32 percent stakeholder in Tribune Publishing and agreed to buy the remaining shares for \$17.25 a piece, putting the company's valuation at \$630 million. The transition is expected to be completed in the second quarter this year, although it still requires approval by the shareholders who own the other roughly two-thirds of Tribune Publishing stock. Of note, the final agreement stipulates that The Baltimore Sun, one of Tribune Publishing's major papers, will go to a nonprofit formed by Maryland hotel executive Stewart Bainum Jr. Read more [here](#).
- On Tuesday, Spotify announced that it would add Mona Sutphen, who served as deputy chief of staff for policy for then-President Obama from 2009 to 2011, to its board in April. "Mona has built a career in both the private and public sectors advising leaders on international and U.S. domestic policy, technology, macroeconomics and trade, and human rights ... and that's just the tip of the iceberg," said Spotify founder, CEO and chairman Daniel Ek. "Mona will bring a new and highly valuable perspective to the board as we focus on driving our strategy forward during this time of exceptional change around the world." Read more [here](#).