



AMERICAN CONTINENTAL GROUP

1800 M Street NW | 5th Floor | Washington D.C. 20036  
Tel: (202) 327-8100 | Fax: (202) 327-8101

## CONTENT & TECHNOLOGY POLICY REPORT JANUARY 29, 2021



### I. Congressional Updates:

- On Tuesday, the Senate Commerce, Science, and Transportation Committee held a [confirmation hearing](#) on Rhode Island Governor Gina Raimondo to be Commerce Secretary. During her [opening remarks](#), Governor Gina Raimondo outlined three areas she will focus on as Commerce Secretary. First, Governor Raimondo declared that the U.S. must immediately address the economic damage caused by the pandemic. She expanded on this point by stating that as Commerce Secretary, she would “scale and deploy additional resources to businesses and workers – with a focus on regions and communities that have often been left behind – to help them bounce back and grow stronger than ever.” Second, she emphasized the need to bolster American manufacturing competitiveness in the global economy. Specifically, she highlighted her intention to have the U.S. invest in innovation and technology and also take aggressive trade enforcement actions to combat China’s unfair trade practices. Further, she said she would work to reshore jobs that have gone overseas by “deploying the full resources of the agency to keep the American worker at the center of U.S. trade policy.” Lastly, in her opening statement, Governor Raimondo spoke of the need to address climate change. She declared that “climate crisis poses an existential threat to our economic security, and we must meet this challenge by creating millions of good, union jobs that power a more sustainable economy.” Of note, during the Q&A portion of the hearing, Governor Raimondo said that she thinks Section 230 reform is needed and said she would tap the National Telecommunications and Information Administration to “convene stakeholders, convene industry, consult ... members of Congress to figure out the details of that reform.” Read a summary on the hearing [here](#).

### Headlines and Highlights:

- Senate Commerce Committee holds nomination hearing for Governor Gina Raimondo to be Commerce Secretary.
- Senator Portman announces that he will not seek reelection.
- President Biden considers Big Tech nemesis Lina Khan for top antitrust role.
- EU urges President Biden to help draft rule book to rein in Big Tech.
- EU lawmakers ask Big Tech CEOs to testify at Feb. 1<sup>st</sup> hearing.
- DCC launches new website.

### In the Blogs:

[Yes, Let’s Cancel Some “Culture” Illusion of More](#)  
January 26 by David Newhoff

[Google Reaches a Deal on News Content with French Publishers but Goes to the Brink in Australia](#)  
Hugh Stephens Blog  
January 24 by Hugh Stephens

- On Monday, Senator Rob Portman (R-OH) announced that he will not seek another six-year term in the U.S. Senate when his current term expires in 2022. In a statement, Senator Portman explained that the increasing partisan gridlock contributed to his decision to not seek reelection. Read his full statement [here](#).
- Incoming Senate Judiciary Antitrust Subcommittee Chair Amy Klobuchar (D-MN) said this week that she is eager to advance antitrust legislation to address the power amassed by large technology companies. “With a new administration, new leadership at the antitrust agencies, and Democratic majorities in the Senate and the House, we’re well positioned to make competition policy a priority for the first time in decades,” Klobuchar said on Wednesday. “We need to start by working to strengthen antitrust enforcement and making it more effective.” Read more [here](#).
- In a memo obtained by *Axios* this week, House Energy & Commerce Committee Ranking Member Cathy McMorris Rodgers (R-WA) outlined her vision for holding Big Tech accountable. Of note, she urged her Republican colleagues to work with Democrats on an agreement to sunset or establish a reauthorization date for Section 230 of the Communications Decency Act (CDA). The plan includes other areas of action that could potentially garner bipartisan support, including exploring the power e-commerce giants exert in online marketplaces and making content moderation decisions more transparent. Read more [here](#).

## II. Judicial Updates:

- On Wednesday, Disney filed a motion to dismiss a copyright case brought by Jeffrey Scott claiming that company’s reboot of *Muppet Babies* misappropriates elements of the original series production bible that he created and because he pitched a reboot to Disney in 2016. Disney argued that the California federal court where Scott filed the complaint lacks jurisdiction because Scott lacks standing and did not state a claim. Disney also claims that Scott cannot claim ownership of the copyright because he failed to disclose it as an IP asset in his 2003 bankruptcy. Finally, Disney insists that Scott’s claims fail on the merits because none of his “contributions to the underlying intellectual property are original, copyrightable, and non-trivial, or substantially similar to the *Muppet Babies* series of 2018.” Read more [here](#).

## III. Administration Updates:

- News surfaced this week that Lina Khan, an antitrust expert who served as legal counsel in the House Judiciary Antitrust Subcommittee’s investigation into Amazon, Facebook, Google and Apple, is being eyed to fill one of the open commissioner positions at the Federal Trade Commission (FTC). Commissioner Rohit Chopra has reportedly been advocating for Khan to fill his seat when he leaves the Commission to run the Consumer Financial Protection Bureau (CFPB). Khan burst into antitrust circles in 2017 when she released the legal paper “Amazon’s Antitrust Paradox,” which argued that current antitrust doctrine is ill-suited to rein in internet giants like the e-commerce website. Read more [here](#).
- On February 17<sup>th</sup>, from 1:00 – 2:30 p.m. ET, the U.S. Copyright Office is hosting a virtual event to celebrate the enduring copyright legacy of Justice Ruth Bader Ginsburg. Register online [here](#).

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

- In a speech to the Davos World Economic Forum delivered on Tuesday, European Commission President Ursula von der Leyen urged President Biden to help draw up a common rule book to rein in the power of Big Tech companies. “The business model of online platforms has an impact and not only on free and fair competition, but also on our democracies, our security and on the quality of our information,” von der Leyen said. “That is why we need to contain this immense power of the big digital companies.” Von der Leyen said that the digital economy rule book could encompass areas such as data protection, privacy rules, and security of critical infrastructure. Read more [here](#).
- This week, EU lawmakers asked the CEOs of Amazon, Apple, Facebook, and Alphabet to testify at a hearing in Brussels on February 1<sup>st</sup>. The European Parliament is preparing input into proposals by the European Commission to force the tech giants to play fairly with rivals and fine those that do not sufficiently mitigate fake news or harmful content. “The purpose of the planned hearing is to have an exchange with the chief executive officers of the four globally leading platform companies to learn about their current business models and future concepts as they face the challenges of altering market conditions,” the invitation explained. “The event will contribute to preparing the members of the European Parliament for the upcoming discussions on potential new regulation for the digital sector.” Read more [here](#).

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

- Late last week, the Digital Creators Coalition (DCC) launched a new website featuring economic data, policy positions, and the latest international IP and trade policy news in support of promoting strong protections for the U.S. creative community around the world. DCC is a group of associations, companies and organizations that represent individual creators, independent producers, small-and-medium-size enterprises, large businesses, and labor organizations from the American creative communities. Find the new website [here](#).
- On Wednesday, over 70 progressive groups sent a letter to Congress urging lawmakers to proceed with caution if they intend to reform CDA Section 230. The letter, which was signed by groups such as Fight for the Future, Public Knowledge, and UltraViolet, claimed that “Gutting Section 230 would make it more difficult for web platforms to combat the type of dangerous rhetoric that led to the attack on the Capitol.” Specifically, the letter claims that repealing the decades-old statute would make it “even harder for platforms to engage in good faith moderation of hateful speech and disinformation.” They encourage lawmakers to pursue other avenues to mitigate Big Tech’s perceived undue influence, such as through a federal data privacy law or antitrust enforcement. Read more [here](#).