CONTENT & TECHNOLOGY POLICY REPORT
JANUARY 27, 2023

I. Congressional Updates:

- Last week, House Judiciary Committee Chairman Jim Jordan (R-OH) announced the Republican representatives who will serve on the Committee during the 118th Congress. Of note, the following Republican members will be new to the Committee: Reps. Ben Cline (R-VA), Lance Gooden (R-TX), Jeff Van Drew (R-NJ), Barry Moore (R-AL), Troy Nehls (R-TX), Russell Fry (R-SC), Harriet Hageman (R-WY), Wesley Hunt (R-TX), Kevin Kiley (R-CA), Laurel Lee (R-FL), and Nathaniel Moran (R-TX). More info. here.

- On Tuesday, the Senate Committee on the Judiciary held a hearing titled "*That's the Ticket: Promoting Competition and Protecting Consumers in Live Entertainment*." The hearing focused on competition regarding the $12 billion live music entertainment market, prompted by November's cancellation of public sales for a Taylor Swift tour. The cancellation followed a website crash amid massive demand. The Committee hosted President & CEO of LiveNation, Joe Berchtold, alongside six other witnesses including, Jack Groetzinger, CEO of rival, SeatGeek, singer-songwriter Clyde Lawrence, and multiple antitrust experts. Senators had the opportunity to question LiveNation directly regarding claims of market monopolization demonstrated in the form of excessive control of concert venues and the structure of ticket prices and service fees. DOJ is in the process of probing Live Nation and Ticketmaster over antitrust concerns, but the question is if policy reforms by Congress alone are enough to address the perceived issue. Full hearing coverage from ACG can be provided upon request.

Headlines and Highlights:

- Senate Judiciary Holds First Hearing of the 118th Congress

- Congressman Lieu Introduces Resolution Written Entirely by ChatGPT

- Justice Department Sues Google for Monopolizing Digital Advertising Technologies

- NIST Issues its First AI Risk Management Framework

- Copyright Office "Accidentally" Cancels Registration for AI Graphic Novel

- Copyright Royalty Board Seeks Input on Public Broadcasting Rates

- World's Largest Academic Publisher says ChatGPT cannot be Credited as an Author

In the Blogs:
- Hugh Stephens Blog: Where do US interests lie when It comes to Canada's Online News Act?

- On Thursday, the Senate Democrats released their rosters for the 118th Congress. The following members will serve on the Senate Judiciary Committee: Chairman Durbin (D-IL) and Sens. Feinstein (D-CA), Whitehouse (D-RI), Klobuchar (D-MN), Coons (D-DE), Blumenthal (D-CT), Hirono (D-HI), Booker (D-NJ), Padilla (D-CA), Ossoff (D-GA), and Welch (D-VT). More info. here.

- On Thursday, Rep. Ted Lieu (D-CA) introduced a nonbinding measure that would direct the House to take a look at artificial intelligence. Interestingly, the bill he is introducing was written entirely by the AI language model ChatGPT by responding to the prompt "You are Congressman Ted Lieu. Write a comprehensive congressional resolution generally expressing support for Congress to focus on AI." The resolution specifically states Congress' "responsibility to ensure that the development and deployment of AI is done in a way that is safe, ethical, and respects the rights and privacy of all Americans." Congressman Lieu is also advocating for a nonpartisan commission that would provide recommendations on how to regulate AI. "The rapid advancements in AI technology have made it clear that the time to act is now to ensure that AI is used in ways that are safe, ethical and beneficial for society," ChatGPT wrote in an op-ed Lieu published in The New York Times this week. "Failure to do so could lead to a future where the risks of AI far outweigh its benefits." Read a press release from the Congressman's office here and more here.

III. Judicial Updates

- Last year, Irving Azoff's performing rights organization Global Music Rights (GMR) sued Red Wolf Broadcasting Corp. and One Putt Broadcasting for alleged copyright infringement, claiming that the stations "have performed GMR compositions without obtaining a license in violation of copyright laws." Prior to last week's settlement, GMR sought maximum statutory damages of $150,000 for each copyright infringed, and a portion of the radio stations' profits derived from the performance of the songs. GMR said both radio stations agreed to enter into long-term licenses as part of the settlements. Read more here.

IV. Administration Updates

- On Tuesday, the Department of Justice (DOJ) filed a civil antitrust suit against Google for monopolizing multiple digital advertising technology products in violation of Sections 1 and 2 of the Sherman Act. The complaint alleges that Google monopolizes key digital advertising technologies, collectively referred to as the "ad tech stack," that website publishers depend on to sell ads and that advertisers rely on to buy ads and reach potential customers. "The complaint filed today alleges a pervasive and systemic pattern of misconduct through which Google sought to consolidate market power and stave off free-market competition," said Deputy Attorney General Lisa O. Monaco. "In pursuit of outsized profits, Google has caused great harm to online publishers and advertisers and American consumers. This lawsuit marks an important milestone in the Department's efforts to hold big technology companies accountable for violations of the antitrust laws." In 2020, the Justice Department filed a civil antitrust suit against Google for monopolizing search and search advertising, which are different markets from the digital advertising technology markets at issue in the lawsuit filed today. The Google search litigation is scheduled for trial in September 2023. Read more here.

- On Tuesday, *TechCrunch* reported that the National AI Research Resource's [final report](#) recommended a new multibillion-dollar research organization to improve capabilities and accessibility of artificial intelligence (AI). The report's executive summary states, "To realize the positive and transformative potential of AI, it is imperative to harness all of America's ingenuity to advance the field in a manner that addresses societal challenges, works for all Americans, and upholds our democratic values… A widely accessible AI research cyberinfrastructure that brings together computational resources, data, testbeds, algorithms, software, services, networks, and expertise, as described in this report, would help to democratize the AI research and development (R&D) landscape in the United States for the benefit of all." In order to fund this new project, Congress would have to allocate nearly $750 million every two years over a six-year period, totaling $2.25 billion. According to the article, it would then require $60 to $70 million for yearly operating costs. Read more [here](#).

- On Thursday, the National Institutes of Standards and Technology issued its first AI Risk Management Framework, which it hopes will provide federal agencies and lawmakers rules of the road to govern the use of AI technology. The document sets out four keys to building responsible AI systems — govern, map, measure and manage — that are designed to be adopted by "any organization of any size" while providing a rights-focused approach to the technology. Deputy Secretary of Commerce Don Graves said the new framework will allow the United States and other countries to manage the risks associated with AI while promoting innovation. Read the framework [here](#) and a *FedScoop* article [here](#).

V. USCO Updates:

- On Tuesday, *IPWatchdog* reported that the U.S. Copyright Office officially cancelled the registration for a graphic novel made with AI text-to-image tool Midjourney. As of Wednesday afternoon, the Copyright Office issued a statement saying the published registration cancellation notice was a mistake and that the office has not issued an official decision. This would have been a reversal from the office as they previously registered the graphic novel last September. The office has stated that in order to be copyrightable, a work has to have substantial human involvement. The graphic novel's author, Kristina Kashtanova has said that she spent two weeks directing the AI system Midjourney to get the artwork for the graphic novel which some believe is enough human involvement to be granted copyright registration. This is the beginning of what many believe to be a litany of upcoming lawsuits aimed at the copyrightability of AI generated works. Read more [here](#) and [here](#).

VI. Industry Updates:

- On Wednesday, *Bloomberg Law* reported that the Copyright Royalty Board is soliciting comments on potential rates and terms for the use of copyrighted works connected with noncommercial television and radio broadcasting from 2023-2027. The announcement was published in the federal register notice on Thursday which can be found [here](#). Comments will be due in 30 days and can be submitted by docket number 21-CRB-0002-PBR (2023-2027), online through eCRB at https://app.crb.gov. Read more [here](#).

- On Thursday, *The Verge* reported that Spring Nature, the world's largest academic publisher, announced this week that AI writing tools, such as ChatGPT, cannot be credited as an author in papers published in its journals. However, they conceded that they do not have an issue with the use of AI writing tools to help write or generate ideas for research as long as it is properly disclosed. "We felt compelled to clarify our position: for our authors, for our editors, and for ourselves," Magdalena Skipper, editor-in-chief of Springer Nature's flagship publication, *Nature*, tells *The Verge*. "This new generation of LLM tools — including ChatGPT — has really exploded into the community, which is rightly excited and playing with them, but [also] using them in ways that go beyond how they can genuinely be used at present… Our policy is quite clear on this: we don't prohibit their use as a tool in writing a paper. What's fundamental is that there is clarity. About how a paper is put together and what [software] is used. We need transparency, as that lies at the very heart of how science should be done and communicated." Read more here.