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CONTENT & TECHNOLOGY POLICY REPORT NOVEMBER 10, 2023



I. Congressional Updates:

- On November 8, 2023, the House Committee on Oversight and Accountability Subcommittee on Cybersecurity, Information Technology, and Government Innovation held a hearing titled “[Advances in Deepfake Technology](#)”. The hearing discussed the potential benefits and dangers of artificial intelligence (AI) and deepfake technology. Chair Nancy Mace (R-SC) highlighted the misuse of AI in creating harmful content, while Ranking Member Gerry Connolly (D-VA) emphasized the need for AI image-detecting tools and collaboration to combat deepfakes. Witnesses discussed the rapid development of deepfake technology, its potential misuse, and the need for legislation and regulation. The panel also discussed the need for transparency and authenticity in digital content, and the potential for deepfake technology to disproportionately impact women and communities of color. A full summary from ACG can be provided upon request.

II. Administration Updates

- On Tuesday November 7, *Bloomberg Government* reported that some tech companies such as Meta, Apple, and Google, could see additional regulation surrounding digital wallets. Platforms that offer digital wallets and payment apps may fall under the Consumer Financial Protection Bureau (CFPB) under a newly proposed rule. According to the article, companies handling more than 5 million transactions per year would be subject to the same regulations that banks, credit unions, and other financial

Headlines and Highlights:

- House Oversight Holds AI Deepfake Hearing
- CFPB Looks to Regulate Digital Wallets
- FTC Raises AI-related Competition and Consumer Protection Issues to USCO
- OpenAI Offers to Pay for ChatGPT Customers’ Copyright Lawsuits
- Historic Actors Strike Ends

In the Blogs:

- **Hugh Stephens Blog:** [Chided by the Canadian Federation of Library Associations for Defending Authors: What an Honour!](#)
- **The Verge:** [AI companies have all kinds of arguments against paying for copyrighted content](#)
- **Ars Technica:** [Artists may “poison” AI models before Copyright Office can issue guidance](#)
- **Washingtonian:** [Why Is Dallas on the Cover of This DC Guidebook?](#)

institutions are subjected to under the supervision of the CFPB. “Today’s rule would crack down on one avenue for regulatory arbitrage by ensuring large technology firms and other nonbank payments companies are subjected to appropriate oversight,” CFPB Director Rohit Chopra said in a statement. The proposal’s main target is functions such as Apple Pay and Google Pay. Comments on the regulator’s proposal are due by January 8. Read the CFPB’s press release [here](#) and the Notice of Proposed Rulemaking [here](#).

- Last week, the Federal Trade Commission (FTC) submitted written comments to the US Copyright Office in response to the Notice of Inquiry on AI. In their comments, the FTC identified several issues raised by AI and noted their role in monitoring the impact of generative AI and vigorously enforcing the law as appropriate to protect competition and consumers. “The manner in which companies are developing and releasing generative AI tools and other AI products . . . raises concerns about potential harm to consumers, workers, and small businesses,” the Commission’s comments stated. “The FTC has been exploring the risks associated with AI use, including violations of consumers’ privacy, automation of discrimination and bias, and turbocharging of deceptive practices, imposters schemes and other types of scams.” Read more from the FTC’s official press release [here](#).

III. USCO Updates:

- On October 19, the US Copyright Office published a notice of proposed rulemaking in the ninth triennial proceeding under section 1201 of Title 17. Based on the renewal petitions received and the lack of sufficient opposition, the Office intends to recommend re-adoption of all but one existing exemption. In addition, the notice outlines seven newly proposed classes of exemption and initiates three rounds of public comment. Comments from those who proposed new exemptions and those supporting adoption of a proposed exemption, as well as comments that neither support nor oppose an exemption, are due December 22, 2023. Comments in opposition are due February 20, 2024. Reply comments from supporters of a proposed exemption and parties who neither support nor oppose an exemption are due March 19, 2024. Additional background information about section 1201 is available [here](#).

IV. Industry Updates:

- Next week on November 15, the Open Markets Institute is holding an event titled AI and the Public Interest which will be a wide-ranging discussion about how to understand the promise, threats, and practical regulatory challenges in managing the advent of large-scale AI. The event will bring together leading policymakers, law enforcers, technologists, entrepreneurs, writers, musicians, policy experts, and academics, from both the United States and Europe. Some of the confirmed participants include Alvaro Bedoya - Commissioner, Federal Trade Commission; Doha Mekki - Principal Deputy Assistant Attorney General, Department of Justice Antitrust Division; Tim Wu - Professor at Columbia Law School, former special assistant to the President for technology and competition policy; Ashley Irwin – President of the Society of Composers & Lyricists; and many more. Read more and RSVP for the event [here](#).

- On Monday November 6, *The Guardian* reported that OpenAI has offered to pay ChatGPT customers' copyright lawsuit legal fees. OpenAI's CEO Sam Altman stated, "We can defend our customers and pay the costs incurred if you face legal claims around copyright infringement and this applies both to ChatGPT Enterprise and the API." The announcement comes after multiple well-known authors filed suit against Open-AI for copyright infringement. The plaintiffs include Jonathan Franzen, John Grisham, Michael Chabon, George RR Martin, Jodi Picoult and the Authors Guild. Read more [here](#).
- This week, the musicFIRST Coalition launched a new Music Fairness Action campaign aimed at garnering support for the American Music Fairness Act (AMFA) which would introduce a royalty from the broadcast of sound recordings on AM and FM radio stations in the US. The campaign's spokesperson, Dionne Warwick, said in a statement, "Everyone deserves to be paid for their work. Period. No ifs, ands, or buts about it. That's a bedrock American value that most people in this country stand by. And that's why artists across genres and generations - from Frank Sinatra to Common to Randy Travis, Becky G and so many others - have been speaking out in support of fair pay for AM/FM radio plays for decades." Co-Chair of the musicFIRST Coalition, former senator Mark Pryor, said of the new campaign: "The United States is the only democratic country in the world where artists are not paid when their music is played on AM/FM radio. We're currently lumped in with the likes of Iran and North Korea when it comes to perpetuating this injustice - and that's not the type of company that America ever wants to keep", he goes on. Read more [here](#).
- On Wednesday, November 8 *Mix* reported that the value of music copyright has hit a new record of \$41.5 billion, a 14% increase over 2021 which totaled \$36.4 billion. According to the article, consumer spending on music is more than twice that of the global movie box office and just under half of the online video streaming market. Read more [here](#).
- On Wednesday, *Wired* reported that after 118 days on the picket lines, the longest such strike in Hollywood's history, the Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) reached a deal with the Alliance of Motion Picture and Television Producers. According to *The Hill* the main takeaway of the deal is minimum pay increases, and consent and compensation provisions related to the use of artificial intelligence. While many details are still not public, SAG-AFTRA touted the contract as "valued at over one billion dollars." Additional details are expected to be released in the coming days. Read more from *Wired* [here](#) and *The Hill* [here](#).