

Global watch on culture and digital trade

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CULTURE, REGULATION ISSUES AND DIGITAL PLATFORMS

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Analytical report, September 2024

The September report begins with the entry into force of the European Union (EU) Artificial Intelligence (AI) Act and the criticisms coming from Meta and Spotify that EU privacy regulations around AI are holding back innovation. The report also highlights that Apple changed its policy toward Apple Store to bring Apple in line with key aspects of the new EU Digital Markets Act (DMA). Moreover, the report focuses on the introduction of an updated edition of the NO FAKES Act in the US Senate, as well as on the South African “Fair Share” initiative which seeks to exert pressure on the large traffic generators, such as Netflix and YouTube, to pay some costs associated with underpinning networks. Finally, the report emphasizes new partnerships and business plans in the platform-based economy, focusing on Meta, Merlin, Universal Music Group (UMG), Netflix, and Disney Plus.



Regulation issues, digital trade and culture

Meta and Spotify criticize European AI regulations

Meta and Spotify have criticized EU regulations surrounding open-source AI, saying the continent risks falling behind because of complex rules. In joint statements published by both companies' respective websites end of August, Meta CEO Mark Zuckerberg and Spotify CEO Daniel Ek complained that EU privacy regulations around AI are holding back innovation. The CEOs said the tech industry in Europe faces "overlapping regulations and inconsistent guidance on how to comply with them" instead of clear rules. In addition, Meta's blog post warned that "in the short term, delaying the use of data that is routinely used in other regions means the most powerful AI models won't reflect the collective knowledge, culture, and languages of Europe—and Europeans won't get to use the latest AI products".

Meanwhile, as TechCrunch mentioned, Spotify pointed "to its early investment in AI technology as a reason its streaming service became so successful in the first place, as it developed a personalized experience for each individual user", adding that "as we look to the future of streaming, we see tremendous potential to use open-source AI to benefit the industry. This is especially important when it comes to how AI can help more artists get discovered. A simplified regulatory structure would not only accelerate the growth of open-source AI but also provide crucial support to European developers and the broader creator ecosystem that contributes to and thrives on these innovations".

It is worth mentioning that on 1 August 2024 the EU AI Act entered into force. The Act aims to foster responsible AI development and deployment in the EU. Proposed by the Commission in April 2021 and agreed to by the European Parliament and the Council in December 2023, the AI Act addresses potential risks to citizens' health, safety, and fundamental rights. It provides developers and deployers with clear requirements and obligations regarding specific uses of AI while reducing administrative and financial burdens for businesses.

Besides, unlike the position of large digital conglomerates, a broad coalition of European associations in cultural sectors has already welcomed the approval of the EU AI Act, by highlighting the key implications of the new legislation for culture, as the AI Act contains "articles about marking AI-generated content and copyright requirements for the use of data to train AI".

Spotify vs Apple

Mid-August, [Apple](#) changed its policy around allowing how developers making apps for Apple devices can communicate with customers in the EU. This small revision is intended to bring the platform in line with key aspects of the new DMA. The new policy allows developers to place links to websites within their iOS app without accepting Apple's current rules. [The Verge](#) mentioned that Spotify will begin "showing in-app pricing information for iPhone users in the European Union starting today, following a yearslong legal battle against Apple". Even though promotional offers and subscription tier pricing can now be viewed in-app, iPhone users still cannot link directly to external payment options. As such, Spotify and other critics argue that the changes fail to address the fundamental issues and continue to disadvantage developers.

United States: NO FAKES Act

The US Senate's bill called the [NO FAKES Act](#) is an acronym that stands for the Nurture Originals, Foster Art, and Keep Entertainment Safe Act of 2004 and has bipartisan sponsorship from four members of the Senate Judiciary Committee. End July, an updated edition of the bill was introduced in the Senate. The goal of the bill is to "give people a federal property right to approve the use of their voice, appearance or likeness—and expose those who create or distribute an unauthorized replica to legal liability". With the arrival of the negotiated update of the bill, an international network called the [Human Artistry Campaign](#) - which includes membership among 180 organizations of 34 nations, among them Italy, Finland, Australia, Brazil, Canada, Chile, Sweden, Argentina, and the United States— has issued its own endorsement of the four senators' bill, writing that it "sets a strong federal baseline protecting all Americans from the invasive AI-generated deepfakes flooding digital platforms today". In addition, the [bill](#) has received backing from many music industry companies, such as [Warner Music Group](#) and UMG. Warner Music CEO Robert Kyncl pointed out that "the [NO FAKES Act](#) strikes the right balance to propel the next wave of technology-powered creativity while safeguarding every American's right to control the use of their own image and voice in the age of AI".

South Africa: streaming platforms must pay their fair share

In [South Africa](#), network operators have opened a contentious debate: over-the-top (OTT) service providers - like Netflix and YouTube - should pay telcos for using their infrastructure. The claims come from "Fair Share", an initiative aimed at exerting pressure on the [large traffic generators](#) in order to pay their fair share and to shoulder some costs associated with underpinning networks.



The Association of Communications and Technology (ACT), with contributions from various industry experts, argues that “OTT firms heavily rely on the framework provided by network operators. Telcos heftily invest in building and upgrading networks that take streaming to end users. Reliance creates an imbalance, where operators bear the brunt of the costs. At the same time, streaming platforms rake in revenue without proportionately contributing to sustaining the networks”. Suggestions for implementing Fair Share agreements include creating a shared fund that “serves its purpose outside of the commercial competitive dynamics of all network operators”.

Worldwide activities of online platforms

New business plans and geographical expansion

According to The Verge, Meta, home to Facebook, Instagram, WhatsApp and more, and UMG, the world’s largest music company, are refreshing their licensing agreements to expand the use of UMG’s content on more Meta social apps. The new agreement announced mid-August includes licensed media in content like shortform videos on Threads and WhatsApp as well as Facebook, Instagram, Messenger, and Meta Horizon. TechCrunch mentioned that “what’s most notable about the new agreement is that it states that the two companies are addressing “unauthorized AI-generated content.” This refers to songs being scraped by AI systems, often without the consent of the original creators. In 2017, UMG became the first major music company to license its recorded music and music publishing catalogs across Facebook’s platforms. Meta and UMG have had agreements since 2017, back when Meta was Facebook. That agreement “allowed users to upload videos and content using music from UMG on platforms like Instagram and Oculus to address copyright infringement issues”.

Mid-June, Meta has renewed its “strategic partnership” with Merlin, the digital music licensing representative for independent music companies. The licensing agreement covers Meta properties, including Instagram, Facebook, and Messenger. Merlin’s membership includes prominent independent companies. It claims to represent 15% of the recorded music market.

According to Variety, the premium video-on-demand (VOD) market in Southeast Asia saw revenues grow by 11% in the first half of this year. Netflix’s share of category viewership reached 50%. Netflix was “dominant in Malaysia, Philippines, and Singapore but faced strong local competition and more complex category dynamics in Indonesia and Thailand”.



Mid-August, [Netflix](#) announced the launch of the Netflix Fund for Creative Equity in Mexico. This fund is part of an initiative [launched in 2021](#). With its introduction in the country, Netflix seeks to continue promoting what is made in Mexico and develop future Mexican audiovisual talents. In an initial stage, the fund will support the following programs: New Frontiers of Audiovisual Production in Mexico, Program with the Centro de Capacitación Cinematográfica, 2nd Film Project Development Lab for Indigenous and Afro-descendant Filmmakers from Latin America.

According to [The Verge](#), Disney Plus will soon no longer let subscribers share their password with people outside their household. Disney CEO Bob Iger said the crackdown will kick off “in earnest” this September.

Additional readings for the September report:

- A world-first law in Europe is targeting artificial intelligence. Other countries can learn from it, [The Conversation](#), 14 August 2024, [Link](#).
- Spotify’s audiobook bundle has reduced music royalties. The music industry is fighting back , [The Conversation](#), 1 July 2024, [Link](#).

Indicative sources :

- Meta and Spotify CEOs criticize AI regulation in the EU, TechCrunch, 23 August 2024, [Link](#).
- Apple relents and approves Spotify app with EU pricing, The Verge, 14 August 2024, [Link](#).
- NO FAKES Act will make likeness and voice rights non-assignable, cap licensing duration, CMU, 31 July 2024, [Link](#).
- 'Fair Share': Should Netflix pay to play in South Africa?, TechCentral, 30 July 2024, [Link](#).
- Meta, Universal Music Group address AI music in new licensing agreement, TechCrunch, 12 August 2024, [Link](#).
- Premium Video approaches 50 million subscribers in Southeast Asia, as Netflix dominates viewing time, Variety, 14 April 2024, [Link](#).
- Disney's password-sharing crackdown starts 'in earnest' this September, The Verge, 7 August 2024, [Link](#).

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