



▶ JUNE 2024 | N°45

Global watch on culture and digital trade

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DIGITAL TRADE, CULTURE AND REGULATION ISSUES

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Analytical report, June 2024

The June report begins with the discussions about the initiative of the Australian government to introduce a new regulation dealing with local content requirements for streaming services. The key concern is about the compliance of the new regulation with the Australia-US Free Trade Agreement (AUSFTA). The report also highlights the letter coming from a US bipartisan group of House lawmakers, which called on US Trade Representative to address “trade barriers” for the US based music industry stemming from the Canada’s Online Streaming Act. In addition, the report focuses on the confrontation between Apple and Spotify regarding the implementation of the European Union (EU) Digital Markets Act. Moreover, the report focuses on debates toward the use of artificial intelligence (AI) by tech companies and copyright issues looking at Sony Music and TikTok. Finally, the report emphasizes new partnerships in the platform-based economy, focusing on HBO Max and streaming services in Southeast Asia.



Regulation issues, digital trade and culture

Australia: investment obligations on streaming platforms

An Interim Report of the Senate Environment and Communications References Committee [Inquiry](#) into Australia's National Cultural Policy recommended to the government to prioritize the introduction of its legislative reforms for local content requirements for streaming services. According to [Deadline](#), the Australian government has pledged to introduce streaming regulation on 1 July, but is yet to table a motion in Parliament, leaving producers in limbo over what shape it will take — if it indeed comes to pass. The [Screen Producers Australia](#), which represents most of Australia's main producers, raised concerns, stressing “[w]e are deeply concerned that US-based streaming businesses are exerting political pressure on the Australian government by weaponising the Australia-US Free Trade Agreement behind the scenes. The heavy involvement of DFAT [Department of Foreign Affairs and Trade] in this policy development, which was confirmed in the Senate hearing on 16 April 2024, and a media report in *The Australian* newspaper in February points to the AUSFTA as one of the likely causes of the delay”. In addition, the Screen Producers Australia mentioned that streamers are campaigning for a “loose” definition of “Australian content” that would allow them to declare their spend through several banks of investment that doesn't ultimately benefit local producers. This was part of an intentional play to “muddy the waters between what is genuinely Australian content and what is international”. The [Screen Producers Australia](#) calls for a 20% revenue investment obligation to be applied to streaming services, along with a clear definition of Australian content.

According to [Capital Brief](#), the Australia New Zealand Screen Association (ANZSA), which represents global entertainment studios including Sony Pictures and Warner Bros. Discovery, wrote in its response to the government's proposal late last year that it had seen legal advice regarding the AUSFTA. With respect to the AUSFTA, this legal advice concludes that the government's proposition regarding investment obligations has “the same discriminatory effects and thus suffer from the same inconsistencies (with additional flaws) that cause them to violate the same provisions of the AUSFTA”. It is worth noting that, in March, the Arts Department told the Senate committee that it had [received legal advice](#) from the DFAT about the impact of the [AUSFTA](#) on the proposed content regulation, but declined to outline what that advice was. Finally, according to the [New Daily](#), investment in new Australian screen projects has seized up as the industry waits on local content quotas for streaming services.



Concerns about the Canadian streaming bill

According to [Inside US Trade](#), a US bipartisan group, composed of 19 House lawmakers, called on US Trade Representative [Katherine Tai](#) to address “trade barriers” for the US based music industry stemming from a new Canadian law dealing with streaming services. According to the [May 16 letter](#) to Tai, “Canada’s *Online Streaming Act*, which is currently being implemented by Canadian regulators, brings music streaming services under the regulatory framework of Canada’s *Broadcasting Act*. The *Broadcasting Act* was designed for the terrestrial broadcasting era. It requires Canadian radio broadcasters to program about 35% of their airtime with Canadian music as part of the government's efforts to ensure the availability of Canadian content. We are concerned that under the new law, Canada will apply the logic of quotas designed for terrestrial broadcasters to modern music streaming services. Global online streaming services are not the same as domestic broadcasters, and we believe these provisions clearly discriminate against American content, interfere with consumer choice, and harm American artists and rights holders. The new law also gives the regulator power to condition market access for music streaming services on making financial contributions into certain government-linked funds intended for the domestic music industry, which, if put in place, would constitute new non-conforming measures restricting cross-border digital trade”.

It is worth noting that early June, the Canadian Radio-television and Telecommunications Commission ([CRTC](#)) took a major step forward in the implementation of the *Online Streaming Act*. The CRTC is requiring “online streaming services to contribute 5% of their Canadian revenues to support the Canadian broadcasting system. These obligations will start in the 2024-2025 broadcast year and will provide an estimated \$200 million per year in new funding”.

Apple vs. Spotify over Digital Markets Act

According to [TechCrunch](#), [Spotify](#) has accused Apple of once again defying the EU law regarding the App Store rules on signposting alternative payment options within an app. The streaming service says that Apple has refused to approve updates to its iOS app which were made in response to the EU ruling “unless we pay Apple a new tax”. It then added, “Apple’s disregard for consumers and developers is matched only by their disdain for the law”. The music streamer announced that it submitted an update for Apple's approval that would allow [Spotify](#) to display "basic pricing and website information" on its app in Europe and “the bare minimum outlined under the European Commission's ruling in its music streaming case”. Within a few hours, Apple had rejected the update.



It is worth reminding that early March, the European [Commission](#) issued a historic fine of 1.84 billion euros over Apple's anticompetitive practices and "unfair trading conditions" in the streaming music market.

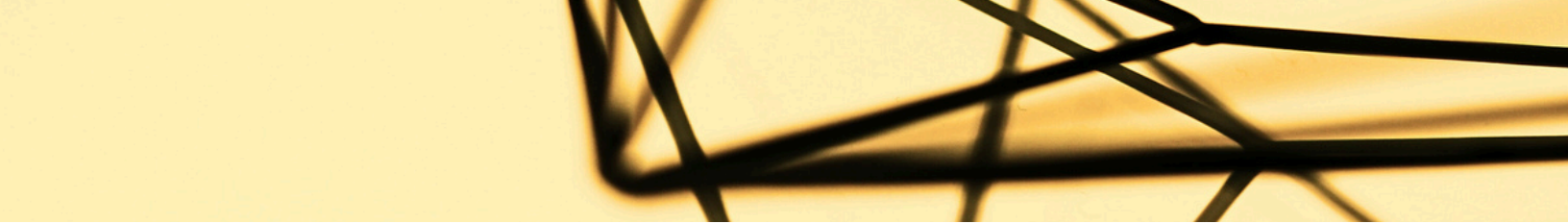
Worldwide activities of online platforms

New business plans and struggle for subscribers

According to [Bloomberg](#), Sony Music, one of the world's biggest record labels, sent letters to hundreds of tech companies, such as AI companies and music streaming platforms, and "warned them against using its content without permission". Sony Music, whose artists include Beyoncé, Billy Joel, Celine Dion and Bruce Springsteen, sent letters to more than 700 companies in "an effort to protect its intellectual property". The record label explicitly said that "unauthorised use of Sony Music content for AI systems denies the label and artists control and compensation of their work", by calling out the "training, development or commercialisation of AI systems that use copyrighted material, including music, art and lyrics". In addition, [Sony Music](#) said it has "reason to believe" that hundreds of firms may already have made unauthorized uses of its music. The label has reportedly given firms a deadline to respond and said it will enforce its copyright policy to "the full extent permitted by applicable law".

Early May, TikTok announced that it will flag "users who upload artificial intelligence-generated content to the video-sharing site from other platforms". [The Guardian](#) mentioned that "the company will begin using digital watermarks created by the cross-industry group Coalition for Content Provenance and Authenticity (C2PA) to identify and label as much AI generated content as it can. This [technology](#) will allow users to see "when, where and how the content was made or edited". Moreover, [Forbes](#) pointed out that TikTok has partnered with Mediawise "to release a dozen videos about media literacy throughout the year and will be launching a separate campaign about AI labelling and misleading content".

Early April, a group of more than 200 high-profile musicians signed an open [letter](#) calling for protections against the predatory use of AI that mimics human artists' likeness, voices and sound. More explicitly, the [letter](#) explicitly stressed that artists "must protect against the predatory use of AI to steal profession artists' voices and likeness, violate creators' rights and destroy the music ecosystem".



According to [The Guardian](#), the letter, which was issued by the Artist Rights Alliance advocacy group, “makes the broad demand that technology companies, platforms and digital music services pledge not to develop AI tools that undermine or replace the human artistry of songwriters and artists or deny artists fair remuneration for their work”. The letter was signed by a high number of artists and music bands, such as REM, Pearl Jam, Billie Eilish, Aerosmith, Elvis Costello, Katy Perry, and Jon Bon Jovi.

New partnerships and geographical expansion

According to a new study released from [Variety](#), the video-on-demand (VOD) streaming sector in Southeast Asia delivered record subscription numbers and subscription revenues in the first quarter of the year. The study focuses on five Southeast Asian countries - Singapore, Thailand, the Philippines, Indonesia, and Malaysia. Total paying subscriptions reached 48.5 million. Netflix has 10 million subscribers, followed by Viu with 9.1 million paying customers, as well as by Disney+ and the Indonesian streaming service Vidio. Across the region, Korean dramas “continued to reign supreme as the leading content category, capturing nearly 30% of total premium VOD viewership in the first quarter of 2024, closely followed by U.S. content”. Besides, according to [Deadline](#), Disney+ and Prime Video have both “completely cut their originals teams in Southeast Asia, opting instead for licensing US content, while Netflix remains the only major American streamer still commissioning across the region”.

End of May, [Warner Bros. Discovery](#) announced that its streaming service Max is officially live and available in 20 countries in Europe, such as Bulgaria, Croatia, the Czech Republic, Denmark, Finland, Hungary, Kosovo, Moldova, Norway, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, and Sweden. In addition, by early July, [Max](#) streaming service will launch in France, Poland, the Netherlands, and Belgium. In total, this launch will make Max available across 25 countries in Europe and 65 countries and territories globally. It is worth noting that “[Max](#) will be the only platform to stream all live coverage of the Paris Olympic Games later this year”.

Finally, among non-English content streamed on [Netflix](#) during the second half of 2023, Korean shows were watched the most. Titles in Korean (9%), Spanish (7%) and Japanese (5%) captured the largest shares of viewership outside of English.

Additional readings for the June report:

Are we bugs? The Geopolitics of Netflix's '3 Body Problem', *The Diplomat*, 5 April 2024, [Link](#).

Scarlett Johansson's complaint to OpenAI is a new benchmark in the development of the machine, *The Conversation*, 23 May 2024, [Link](#).

Indicative sources :

- House lawmakers urge Tai to raise concerns about Canadian streaming bill, *Inside US Trade*, 17 May 2024, [Link](#).
- Australian screen industry body demands global streamers pay content levy, *Deadline*, 16 April 2024, [Link](#).
- Apple rejects Spotify's update with pricing information for EU users, *TechCrunch*, 24 April 2024, [Link](#).
- Sony Music warns companies to stop training AI on its artists' content, *Bloomberg*, 16 May 2024, [Link](#).
- TikTok to auto-flag AI videos – even if created on other platforms, *The Guardian*, 9 May 2024, [Link](#).
- Video streaming subscriptions reach record levels in Southeast Asia, representing rebound - report, *Variety*, 6 May 2024, [Link](#).
- Max launching in Europe on May 21, *Deadline*, 21 March 2024, [Link](#).

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