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# Targeted consultation on a potential initiative for a better copyright environment for European creativity and innovation

Fields marked with * are mandatory.

## Introduction

The Commission is considering targeted changes to the EU's copyright framework to enhance the resilience and competitiveness of Europe's cultural and creative sectors and to facilitate research and innovation, as announced in the Call for evidence published in May 2026.

Building on the feedback received in the context of the Call for evidence, this targeted consultation aims at gathering stakeholders' views on specific issues and challenges related to the use of copyright-protected content* in the context of Artificial Intelligence (AI), research, the fight against online piracy, and the use in the EU of the sound recordings of third country nationals. The consultation will gather stakeholder input on assessing whether there is a need for potential future measures on the different issues, and possible policy options.** The outcome of this consultation will feed into the preparation of a targeted initiative for a better copyright environment for European creativity and innovation.

The questionnaire is structured in different sections, addressing different topics relevant for copyright. You may choose to reply to questions in certain sections only and therefore limit your contribution to the areas of relevance to you. Even when selecting specific sections, you are free to skip any individual questions that you cannot or do not wish to answer.

The questionnaire is structured as follows:

1. Identification (mandatory)
2. Copyright and generative AI
3. Online piracy of time-sensitive copyright-protected content, including live events
4. Use in the EU of the sound recordings of nationals of non-EU countries

5. Copyright and research

You will also have the opportunity to upload a document to support your answers to this questionnaire. These documents may include, for example, additional data or evidence on the impact of the options presented in this questionnaire, or more detailed technical explanations of mechanisms or approaches you suggest in your contribution to this questionnaire. In case these additional documents should be considered as confidential, please mark these documents as such.

The consultation will remain open until **10 November 2026** (end of day), following an extension of the original deadline of 3 November 2026.

** For ease of reading, this questionnaire refers to "copyright-protected content". This term should be understood as covering both works protected by copyright, and other subject matter protected by related rights, unless the context or wording of a question indicates otherwise.*

***Disclaimer: The options referred to in this questionnaire are included for the purpose of structuring the consultation and facilitating stakeholder's feedback on a range of possible approaches that have been mentioned in the public debate, as well as in the European Parliament report on Copyright and generative artificial intelligence (2025/2058(INI)) and in the discussions with Member States. Their inclusion should not be understood as indicating that the European Commission has taken a position in favour of a particular option, nor that the options listed constitute an exhaustive or final set of measures under consideration.*

# Identification

* Language of my contribution

- (●) English
- ( ) French
- ( ) German

* First name

Aku

* Surname

Toivonen

* Email (this won't be published)

aku.toivonen@musiikintekijat.fi

* I am giving my contribution as

- (○) Individual user
- (○) Individual author
- (○) Performer / performer representative organisation
- (○) Other rightholder (e.g., publisher/producer, broadcaster)
- (○) Collective management organisation or independent management entity
- (●) Other organisation representing the interests of the cultural and creative sectors
- (○) Sports rights owner/ event organiser / league / federation
- (○) AI provider (e.g. general purpose AI model provider, AI system provider)
- (○) Intermediary service provider (e.g. online platform, hosting service provider, internet access provider, cloud service provider, etc.)
- (○) Other commercial entity (e.g. data aggregator, anti-piracy solutions provider, etc.)
- (○) Public authority
- (○) Public research performing or funding organisation
- (○) Private research performing or funding organisation
- (○) Researcher/academic
- (○) Consumer organisation
- (○) Non-governmental organisation
- (○) Other

* Organisation name

*255 character(s) maximum*

Enter 'not applicable', if not applicable

Finnish Music Creators

* Size of organisation, if applicable

- (●) Small and medium (1 – 250 employees)
- (○) Large (251 – 1000 employees)
- (○) EU-headquartered organisation (>1000 employees)
- (○) non-EU headquartered organisation (>1000 employees)
- (○) Not applicable (not an organisation)

* Country of origin

Please add your country of origin, or that of your organisation.

*This list does not represent the official position of the European institutions with regard to the legal status or policy of the entities mentioned. It is a harmonisation of often divergent lists and practices.*

- (○) Afghanistan
- (○) Djibouti
- (○) Libya
- (○) Saint Martin

- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau

- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Tonga
- Trinidad and Tobago
- Tunisia
- Türkiye
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

Transparency register number, if applicable

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

* My contribution covers the following types of copyright-protected content:

- [ ] Audiovisual works
- [ ] Books and publications
- [x] Music
- [ ] Video games
- [ ] Software

- [ ] Visual art works
- [ ] Other

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For reasons of transparency and openness, your views may, in principle, be published on the European Commission's digital strategy website, in the form of a summary report.

The Commission only publishes your identity if you consent to the publication.

* **Contribution publication privacy settings**

The Commission may publish a summary of the responses to this consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- ( ) **Anonymous**
  Only organisation details may be published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.
- (•) **Public**
  Organisation details and respondent details may be published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name may also be published.

[x] I have read the privacy statement for this targeted consultation

Privacy_statement_targeted_consultation_copyright.pdf

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* I would like to reply to the questions in the following sections
*(please select all that apply)*

- [x] Copyright and generative AI
- [ ] Online piracy of time-sensitive copyright-protected content, including live events
- [ ] Use in the EU of the sound recordings of nationals of non-EU countries
- [ ] Copyright and research

# Copyright and generative AI

The rapid advancement of generative AI presents the cultural and creative sectors and industries with promising opportunities for enhanced creativity and new business models, while also posing a number of challenges.

The 2019 Directive on copyright and related rights in the Digital Single Market (DSM Directive) lays down exceptions for text-and data mining (TDM). The exception included in Article 3 covers TDM that is carried out for the purpose of scientific research while the TDM exception included in Article 4 has a broader scope, but

applies only to the use of works and other subject matter protected by copyright and related rights (referred to as “protected content”) where the rights have not been expressly reserved by rightholders. The challenges related to the implementation of the TDM exception including the opt-out mechanisms are being assessed in the context of the ongoing DSM Directive review process.

Creators and other rightholders that have reserved their rights under Article 4(3) DSM Directive are facing difficulties in enforcing their rights, licensing their protected content and in being remunerated for the use of such protected content. On the other hand, providers of generative AI systems and models need legal certainty with regard to the applicable legal framework and access to large amounts of high-quality data, including protected content, to develop, provide or deploy quality and innovative AI products and services in the EU.

Copyright-protected content may be used at different stages of the AI lifecycle and for a wide range of copyright-relevant purposes. This can include the use of protected works in the training of generative AI models, during inference such as retrieval-augmented generation and other forms of grounded generation, and in AI-generated outputs.

In addition to the DSM Directive, the AI Act provides a complementary framework to facilitate the exercise of rights in cases where AI models are trained on copyright-protected content. The AI Act requires providers of general-purpose AI models to put in place a policy to comply with EU copyright law and to publish a summary of the data used in the training of their models (Article 53 (1) c and d of Regulation (EU) 2024/1689). These obligations apply regardless of whether the models have been trained inside or outside the EU, thus ensuring a level playing field. To support the effective implementation of these obligations, a Code of Practice for General Purpose AI Models, including a dedicated chapter on copyright, and a Commission template for the training data summary have been adopted. The effective implementation of these aforementioned obligations is an important priority for the Commission, which is responsible for supervising compliance and which has already deployed its investigatory powers in this respect. In case of non-compliance, the Commission can impose administrative fines of up to 3% of the provider's worldwide annual turnover.

At the same time, challenges still remain to ensure the effective implementation of the existing provisions and to create a competitive and vibrant EU market for licensing copyright-protected content. Rightholders encounter difficulties to conclude licensing agreements and to get remunerated for their investments in creative content. AI providers also face difficulties to access high-quality data stemming from the EU's rich creative ecosystem, which is essential to unlock the full potential of AI innovation in Europe. Particular challenges are faced by SMEs and start-ups that lack resources to navigate the complexities around the use of copyright-protected content for AI. It is essential that these challenges are addressed to make Europe an attractive place for AI innovation and development and deliver the EU's ambition to make Europe an AI Continent with frontier and sovereign AI capabilities, while ensuring that the EU copyright legal framework is balanced, innovation-friendly, and provides legal certainty for both rightholders and AI model and system providers.

As explained in the Commission’s call for evidence published in May 2026, the Commission is therefore exploring ways to facilitate the licensing and enforcement of copyright and related rights in the AI context and

improve the conditions for creators' remuneration, while enabling AI model and system providers, including start-ups, to lawfully access copyright-protected content and use it for AI innovation.

The questions below aim at gathering stakeholders' views on the challenges related to the use of copyright-protected content in the context of generative AI, both for rightholders and AI providers, and the possible ways to address them.

A complementary workstream is the parallel development of an AI Strategy for the Cultural and Creative Sectors, for which a call for evidence was published in July 2026. The strategy will set out an overarching strategic vision for the use of artificial intelligence (AI) in the cultural and creative sectors and industries.

# Copyright and generative AI: licensing and enforcement of copyright and related rights

**1.** What are in your view the three most pressing issues regarding the use of copyright-protected content in the context of AI that need to be addressed?
*(please select up to three options and **rank them** in order of priority, with 1 being the highest priority)*
*at most 3 answered row(s)*

| | 1 | 2 | 3 |
|---|---|---|---|
| Legal uncertainty on the applicable copyright rules, including with regard to the application of the text-and data mining exception | ◉ | ○ | ○ |
| Practical challenges in expressing, identifying, and respecting rights reservations, including lack of standardised opt-out technical protocols that can be operationalised at scale | ○ | ○ | ○ |
| Differences in the applicable copyright rules that lead to competitive disadvantages an an uneven playing field between AI providers in the EU and providers operating in other jurisdictions | ○ | ◉ | ○ |
| Difficulties in enforcing exclusive rights provided under EU copyright law due to limited transparency on the use of copyright-protected content by AI model or system providers | ○ | ○ | ○ |
| Limited licensing and remuneration opportunities for creators and creative industries | ○ | ○ | ◉ |
| Limited access to quality copyright-protected data for AI training and development, including access to large-scale datasets necessary for building advanced AI | ○ | ○ | ○ |
| SMEs' and start-ups' lack of resources and limited bargaining power to conclude licenses | ○ | ○ | ○ |
| Use of protected content without authorisation, where no exception or limitation apply | ○ | ○ | ○ |
| Other - please explain | ○ | ○ | ○ |

**2a. As a rightholder, have you faced difficulties in enforcing and/or licensing your rights for AI uses (e.g. for training, or other types of uses)?**

- (●) Yes
- ( ) Partly
- ( ) No
- ( ) Not applicable

**2b. As an AI provider/data aggregator/research organisation/other user, have you faced difficulties related to the application of the existing EU copyright rules, for example in relying on relevant exceptions for AI training or obtaining authorisation or licenses for the use of copyright-protected content (e.g. for training your models, or other types of uses)?**

- ( ) Yes
- ( ) Partly
- ( ) No
- (●) Not applicable

**3a. As a rightholder, what are the main barriers or obstacles you have encountered in enforcing and /or licensing your rights?** (please select maximum 5 options and rank them in order of priority, with 1 being the highest priority)

*at most 5 answered row(s)*

| | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|
| Legal uncertainty on the applicable copyright rules, including with regard to the application of the text-and data mining exception | (●) | ( ) | ( ) | ( ) | ( ) |
| Fragmentation linked to national rules or jurisprudence across the EU | ( ) | ( ) | ( ) | ( ) | ( ) |
| Difficulty in obtaining detailed information about the use of copyright-protected content as evidence to support licensing negotiations or infringement claims, including in courts | ( ) | ( ) | (●) | ( ) | ( ) |
| Limited bargaining position in licensing negotiations | ( ) | ( ) | ( ) | (●) | ( ) |
| Counterparties are unwilling to engage in licensing | ( ) | ( ) | ( ) | ( ) | ( ) |
| Difficulties in establishing or agreeing on the economic value of works or other subject matter for AI uses | ( ) | ( ) | ( ) | ( ) | ( ) |
| Unclear responsibility regarding the clearance of rights across the AI value chain (dataset vendor vs. model/system provider vs. deployer) | ( ) | ( ) | ( ) | ( ) | ( ) |
| Difficulties to express reservation of rights (opt-out) under the TDM exception | ( ) | ( ) | ( ) | ( ) | ( ) |
| Difficulty to verify the respect of the reservation of rights (opt-out) under the TDM exception | ( ) | (●) | ( ) | ( ) | ( ) |

| | | | | | |
|---|---|---|---|---|---|
| Insufficient transparency on the activities on web crawlers with regard to copyright-protected content | ○ | ○ | ○ | ○ | ◉ |
| Litigation or dispute-resolution costs | ○ | ○ | ○ | ○ | ○ |
| Transaction costs related to licensing | ○ | ○ | ○ | ○ | ○ |
| Other | ○ | ○ | ○ | ○ | ○ |

**4a. As a rightholder, how do you assess the impacts of the barriers identified under question 3a?** (select all that apply)

- ☑ Loss of revenues or licensing opportunities
- ☑ Market substitution and erosion of primary markets for copyright-protected content
- ☑ Reduced incentive to create, produce, or invest within the EU
- ☐ Reduced competitiveness of affected businesses or sectors
- ☐ Negative impact on the quality/performance of AI models or systems (e.g. lack of access to high-quality diverse or specific content, leading to low quality, output and worse model performance)
- ☐ No significant effects
- ☐ Other: please specify

**Please explain your answer to question 4 (impact of barriers)**

*1000 character(s) maximum*

The substitution of human-created works by AI-generated content is detrimental to music business as a whole. The market erosion for copyright-protected works affects the whole ecosystem and thus indirectly weakens conditions of those creators whose works are not in direct competition with AI-generated content.

Moreover, the proliferation of AI-generated music on streaming platforms
dilutes the royalty pool destined to music authors, and affects negatively the discoverability of human-created works.

Finally, untransparent licensing deals between record labels and AI companies risk privileging master rights over publishing rights. This leads to revenue losses for music composers, and reduces investment in new works regardless of genre, causing a stagnation in European music culture.

**5. In your view, what would be the most appropriate approach at EU level to tackle the challenges linked to the use of copyright-protected content for generative AI?**

- ○ Maintain the status quo: continue enforcing the existing rules, with no changes to the regulatory framework
- ○ Enhance voluntary cooperation among market players, through soft law instruments (at national or EU level)
- ○ Introduce non-legislative measures to support access and use of copyright-protected content for AI
- ◉ Introduce new binding measures under EU copyright law
- ○ Other: please specify

**6. In your view, which mechanism(s) would be the most appropriate to support enforcement of copyright and related rights related to AI uses?**

(please **rank** the options in order of appropriateness, with 1 being the most appropriate)

*Note that you should only rank the options you deem appropriate - you may remove a selection by clicking the selected button*

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| Operationalising the existing opt-out mechanism under the TDM exception via a common vocabulary, EU standards for opt out protocols, and an EU-level registry for opt-out | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Clarify the application of EU copyright rules (including territorial application) for use of copyright-protected content for AI training and other AI uses | ◉ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Imposing an obligation on web crawlers and AI agents used to crawl content online to disclose identity and purpose | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Introducing an obligation on AI providers / dataset providers / data collectors of record-keeping and retention of information about use of copyright-protected content (e.g. clearance/licensing, verification of opt-out, etc.) for a defined period | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Imposing an obligation on AI providers / dataset providers / data collectors of independent audit /certification on use of protected content | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Imposing an obligation on AI providers to provide information under NDA about use of protected content upon a substantiated request from CMOs/rightholders and under certain conditions, as an alternative to the public disclosure of the top 10% of the top domain names of the websites crawled as required in the Commission template for the public summary of training content under the AI Act | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Providing for the possibility for courts / administrative authorities to impose disclosure obligations under certain conditions in the context of legal proceedings or mediation/arbitration | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Introducing a rebuttable presumption of use of copyright-protected content by AI providers, subject to specific conditions, e.g. where AI providers do not fulfill the existing transparency obligations provided for in the AI Act | ○ | ◉ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| No need for additional mechanisms | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |
| Other: please specify | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ | ○ |

**Please explain your answer and share your views on the mechanisms listed above, including on possible considerations and conditions of application:**

*1500 character(s) maximum*

(1) Clarification of EU copyright rules: The current legal framework has not been effective in protecting the rights of authors in the context of AI.
The application of commercial text and data (TDM) exception (Art. 4 CDSM Directive) to AI is debatable, including whether it complies with the three-step test.
The principle of appropriate and proportionate remuneration of authors and performers as well as the principle of transparency in its Arts. 18-19 has not been implemented successfully.
Moreover, although EU law should apply also to companies placing their services on the EU market, US based generative AI companies such as Suno have exploited massive volumes of protected works without any respect for the principles of
authorisation, remuneration, and transparency. This proves that the current legal framework doesn't protect the composers as it should.

(2) Rebuttable presumption of use would empower authors to enforce their rights in court. Retrieving evidence of the use of protected works is difficult, despite common knowledge that AI services have exploited virtually all musical works available online.

**7. In your view, how would these different options impact your business/activity?**

*Note that you may choose not to answer any option on which you have no opinion by leaving the relevant boxes unticked.*

| | Strong negative impact | Moderate negative impact | Neutral | Moderate positive impact | Strong positive impact |
|---|---|---|---|---|---|

| | | | | | |
|---|---|---|---|---|---|
| Operationalising the existing opt-out mechanism under the TDM exception via a common vocabulary, EU standards for opt-out protocols, and EU-level registry for opt-out | ○ | ○ | ○ | ○ | ○ |
| Clarify the application of EU copyright rules (including territorial application) for use of copyright-protected content for AI training and other AI uses | ○ | ○ | ○ | ○ | ◉ |
| Imposing an obligation on web crawlers and AI agents used to crawl content online to disclose identity and purpose | ○ | ○ | ○ | ○ | ○ |
| Obligation on AI providers/dataset providers/ data collectors of record-keeping and retention of information about use of copyright-protected content (e.g. clearance/licensing, verification of opt-out, etc.) for a defined period | ○ | ○ | ○ | ○ | ○ |
| Imposing an obligation on AI providers / dataset providers / data collectors of independent audit/certification on use of protected content | ○ | ○ | ○ | ○ | ○ |
| Imposing an obligation on AI providers to provide information under NDA about use of protected content upon a substantiated request from CMOs/rightholders and under certain conditions, as an alternative to the public disclosure of the top 10% of the top domain names of the websites crawled as required in the Commission template for the public summary of training content under the AI Act | ○ | ○ | ○ | ○ | ○ |
| Providing for the possibility for courts / administrative authorities to impose disclosure obligations under certain conditions in the context of legal proceedings or mediation/arbitration | ○ | ○ | ○ | ○ | ○ |

| | | | | | |
|---|---|---|---|---|---|
| Introducing a rebuttable presumption of use of copyright protected content by AI providers, subject to specific conditions e. g. where AI providers do not fulfill the existing transparency obligations provided for in the AI Act | ○ | ○ | ○ | ○ | ◉ |

**Please explain your answers to the question above**

*1000 character(s) maximum*

(1) Clarification of EU copyright rules would ensure that composers (and their licensees/assignees) can effectively enforce their rights in the context of AI exploitations of their works. This needs to include measures ensuring the territorial application of EU copyright law as stipulated in recital 106 of the AI Act.

(2) Rebuttable presumption of use: A presumption of use would shift the burden of proof, making it easier for composers to enforce their rights.

**8. In your view, which mechanisms would be the most appropriate to facilitate licensing and access to and use of copyright-protected content in the different phases of the AI lifecycle?** (fill out a maximum of 3 rows)

In order to take into account the different types of uses of copyright-protected content, the table below makes a distinction between

- (i) uses related to the training of generative AI models (where rightholders have opted out from the TDM exception),
- (ii) uses taking place at inference time (use of content by an AI system after training, including for the purpose of responding to user inputs, retrieving copyright-protected content, providing context, grounding outputs, augmenting generation, or otherwise supporting the operation of the system during deployment), and
- (iii) other uses related to AI-generated output (such as production, creation, adaptation, or summarisation of content by an AI system based on content or prompts).

*at most 3 answered row(s)*

| | For training of generative AI | For inference-time use | For output |
|---|---|---|---|
| Supporting the development of a marketplace for licensing copyright protected content for AI uses, for example through technical solutions for automated licensing at scale | ☑ | ☑ | ☑ |
| Develop model contractual clauses for licenses covering AI uses | ☐ | ☐ | ☐ |

| | | | |
|---|---|---|---|
| Imposing an obligation on rightholders and AI providers to conduct negotiations in good faith | ☐ | ☐ | ☐ |
| Introducing a structured mediation or arbitration mechanism involving an independent body which could, under certain conditions, require the parties to share information, negotiate and assist in the determination of the remuneration | ☐ | ☐ | ☐ |
| Promoting collective licensing, in particular through the use of extended collective licensing (ECL), if and where appropriate | ☑ | ☑ | ☑ |
| Introducing a fair compensation obligation for the uses falling under the exception in Article 4 DSM which have not been reserved by the rightholders | ☐ | ☐ | ☐ |
| Introducing a remuneration right for certain uses of copyright-protected content by generative AI models/systems providers or other relevant actors | ☐ | ☐ | ☑ |
| No need for additional measures | ☐ | ☐ | ☐ |
| Other - please explain | ☐ | ☐ | ☐ |

**Please explain your answer and share your views on the mechanisms listed above, including on the conditions of application**:

*1500 character(s) maximum*

**9. In your view, how would these different options impact your business/activity?**

*Note that you may choose not to answer any option on which you have no opinion by leaving the relevant boxes unticked.*

| | Strong negative impact | Moderate negative impact | Neutral | Moderate positive impact | Strong positive impact |
|---|---|---|---|---|---|
| Supporting the development of a marketplace for licensing copyright protected content for AI uses, for example through technical solutions for automated licensing at scale | ○ | ○ | ○ | ○ | ◉ |
| Develop model contractual clauses for licenses covering AI uses | ○ | ○ | ○ | ◉ | ○ |
| Imposing an obligation on rightholders and AI providers to conduct negotiations in good faith | ○ | ○ | ○ | ◉ | ○ |

| | | | | | |
|---|---|---|---|---|---|
| Introducing a structured mediation or arbitration mechanism involving an independent body which could, under certain conditions, require the parties to share information, negotiate and assist in the determination of the remuneration | ○ | ○ | ○ | ◉ | ○ |
| Promoting collective licensing, in particular through the use of extended collective licensing (ECL), if and where appropriate | ○ | ○ | ○ | ○ | ◉ |
| Introducing a fair compensation obligation for the uses falling under the exception in Article 4 DSM which have not been reserved by the rightholders | ○ | ○ | ◉ | ○ | ○ |
| Introducing a remuneration right for certain uses of copyright-protected content by generative AI models/systems providers or other relevant actors | ○ | ○ | ○ | ○ | ◉ |

**Please explain your answer:**

*1000 character(s) maximum*

We consider extended collective licensing the most important way forward. It would benefit music creators more than any other option. To ensure creators receive appropriate remuneration, it should be complemented by a statutory remuneration right for AI outputs.

# Copyright and generative AI: AI-generated imitations of performers

Technologies such as generative AI allow for the creation of content which makes use of people's personal characteristics ('impersonifications'), including image, voice, and likeness. The dissemination of impersonifications can affect the person's privacy rights, generate disinformation, and impact the trust in the media. Addressing these issues can respond therefore to a series of different public interest considerations which are the object of legislation in areas other than copyright.

At the same time, in the creative sectors the use of digitally generated imitations of persons engaged as performers (e.g. actors, singers, musicians, dancers, etc.) has given rise to complex questions, concerning their ability to control the commercial exploitation of their digital likeness, which can have consequences on their image, remuneration, and employment opportunities. Some of these issues extend beyond copyright protection.

For an AI model or system to digitally generate an imitation of the likeness of a performer, these need to have

been trained on fixation of performances and/or fed biometric data, or motion-capture scans pertaining to the individual performer. At EU level, copyright law grants performers the right to authorise and prevent the reproduction and making available of a fixation of their performance. Usually, performers' rights are transferred to producers, with a view to exploit the works more efficiently. Rightholders can opt to exclude from AI training their works and subject matter, including fixations of performances, under Article 4(3) of the Directive 2019/790 on copyright and related rights in the Digital Single Market. The questions in section 2A above concerning enforcement and licensing in relation to generative AI uses are relevant in this regard. Rightholders can also exercise their exclusive rights to prevent AI-generated content that makes available (parts of) fixed performance.

In addition to the economic rights harmonised under the EU legal framework, performers have the moral rights to object to any distortion, mutilation or other modification of performances that would be prejudicial to their reputation (Article 5 of WIPO Performances and Phonograms Treaty).

However, copyright law does not provide protection specifically against the AI generation of imitations of the performers' likeness. This is because copyright protects expression, therefore its object are the works of creativity (such as books and other written works, cinematographic works, musical compositions, etc) and the subject matter that is related to them, such as performances of actors and musicians, sound recordings, broadcasts.

Certain legislation may be applicable to protect performers, and persons in general, against the use of their impersonifications: At EU level, the use of performers' personal characteristics, such as their voice or likeness, are harmonised under GDPR (General Data Protection Regulation 2016/679), where such characteristics can be attached to and identify an individual. The controller needs a valid legal basis to process the personal data such as informed consent (in which case the individual must have the ability to withdraw their consent at any time) or legitimate interest (in which case the individual has the right to object to the processing). Furthermore, the AI Act (Regulation (EU) 2024/1689) introduces transparency requirements that may apply to AI-generated imitations of performers. Providers of AI systems generating synthetic content including audio, image, video, or text content are required to ensure that the outputs are marked in a machine-readable format and detectable as artificially generated or manipulated. In addition, where AI-generated or manipulated image, audio, or video content constitutes a 'deep fake' (i.e. it resembles an existing person and would falsely appear to a person to be authentic or truthful), deployers are required to disclose that the content has been artificially generated or manipulated. These obligations may therefore apply to certain AI-generated imitations of performers, including imitations of their image or voice. At national level, the use of digital likeness may be further addressed by e.g. legislation on personality rights, image rights, unfair competition, criminal law sanctions.

In this context, the questions below aim to identify challenges posed by the use of AI impersonifications of performers and also seek to explore whether possible solutions should be considered in copyright legislation, having regards to its purposes, scope, and potential implications.

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**1. In your view, how can AI be used to support creative processes, including through the use of digitally generated imitations of performers, in a balanced and fair manner?**

*1000 character(s) maximum*

**3. Do you have any experience with regard to AI-generated impersonification and/or how the relevant rights and interests of performers impersonated have been taken into account?**

*1000 character(s) maximum*

**4. Do you consider that there is a need for specific rules at EU level, to address the use of performers' likeness in AI-generated content?**

- Yes
- No, the existing protection is sufficient
- No opinion

**5. Taking into account the rationale, nature and scope of copyright protection, do you think that EU copyright legislation would be appropriate to address these issues or that this issue should be addressed through other legal means?**

*1000 character(s) maximum*

## Additional documents

**You may upload a document on the subject of this consultation, as additional background reading to better understand your position and/or to provide concrete evidence (e.g. quantification of impact, technical explanations of options suggested). Confidential documents and information should be marked as such.**

Only files of the type pdf,doc,docx,odt,txt,rtf are allowed

## Submit your contribution

Please complete the verification/CAPTCHA below and click “Submit” to send your contribution.

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If you are redirected to the first page of the survey, the verification was not successful and you will need to try again before your response can be submitted. Your replies will not be lost; simply return to this page using the tabs above the survey and complete the verification below again.

## Background Documents

Privacy statement

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