

Kopioisto ry
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Commission's Call for Evidence

SUBMISSION TO THE EUROPEAN COMMISSION

EXECUTIVE SUMMARY

Kopioisto is a Finnish collective management organisation representing over 100,000 Finnish authors, performers, and publishers in the fields of text and images, publishing, and audiovisual works. It provides licences for the use of copyrighted content across sectors such as education, public administration, and business, based on mandates from rightholders and supported by extended collective licensing provisions under Finnish copyright law. Kopioisto enables the lawful and efficient use of large repertoires of works while ensuring fair remuneration for rightholders and contributing to the distribution of licensing revenues.

The initiative provides a timely opportunity to ensure that EU copyright law remains fit for purpose in a rapidly evolving technological environment. Copyright should be understood as an enabling framework for sustainable innovation, ensuring that creators, publishers and other rightholders can continue to invest in content production and dissemination.

The European Parliament Resolution of 10 March 2026, together with the Danish Presidency's questionnaire on licensing in the age of AI and its summary of Member States' contributions, provides important guidance for future policy development. The Danish Presidency's work on licensing in the age of AI identified significant challenges relating to transparency, bargaining power and the practical licensing of large-scale uses of protected content. These findings support consideration of scalable collective licensing mechanisms, including cross-border extended collective licensing (ECL) solutions, as a means of ensuring legal certainty and fair remuneration in AI-related uses.

- The Commission should clarify that Articles 3 and 4 of the DSM Directive do not cover the full generative AI training process. These provisions must not be interpreted as permitting large-scale use of protected works for training generative AI models, and Article 3 must not be used, even indirectly, for commercial AI training.
- Copyright policy should be grounded in licensing and fair remuneration. Scalable collective licensing solutions, including Extended Collective Licensing (ECL), should be promoted as a practical mechanism for large-scale uses of protected content.
- EU law should enable the cross-border application of ECL in digital environments to overcome current territorial limitations and support efficient and legally certain licensing markets.
- A lack of transparency is a key obstacle to licensing and enforcement. The Commission should assess the introduction of a rebuttable presumption of use to address evidentiary asymmetries and improve enforceability of rights.
- The effectiveness of Article 15 of the DSM Directive is undermined by imbalances in bargaining power and lack of access to essential data. Dispute resolution mechanisms, such as mediation or arbitration, should be considered to ensure fair negotiations and remuneration.
- The Commission should refrain from introducing new mandatory copyright exceptions for research purposes. Access challenges are better addressed through licensing solutions. The costs arising from secondary publication or self-archiving should be borne by the entities that require or mandate such open access or self-archiving, such as research organisations, universities, or funding bodies.
- The EU should establish harmonised rules to protect individuals against unauthorised commercial use of their image, voice and likeness in AI contexts.

- Copyright enforcement must be strengthened, particularly against large-scale online piracy, through effective, proportionate and harmonised enforcement tools.

COPYRIGHT AND GENERATIVE AI

Generative AI systems rely on large-scale use of protected content, such as text, image and audio. Although both the DSM Directive and the AI Act establish certain safeguards, rightsholders still encounter significant challenges when trying to enforce their rights in practice. The core issue lies not in the lack of legal rights, but in the practical difficulty of exercising them effectively. Rights reservation mechanisms under Article 4 are hard to track and enforce, and the existence of divergent technical standards leads to fragmentation and legal uncertainty. Above all, insufficient transparency prevents rightsholders from understanding whether their works have been used, in what manner and to what extent, whether their opt-outs have been honoured, and whether there are viable opportunities for licensing.

The review – and any targeted measures – should therefore focus on improving the practical enforceability of the existing framework. It should be made explicit that where rights have been effectively reserved, commercial actors cannot rely on the exception and must obtain authorisation from the relevant rightsholders. It should also be clarified that the scope of the Article 3 exception is limited to genuine scientific research and cannot be invoked, directly or indirectly, in support of commercial AI development.

It should be clarified that Articles 3 and 4 of the DSM Directive (text and data mining exceptions) **are not intended to cover the training of generative AI models**, the use of protected works in AI tools, language models, services or applications, nor the creation and provision of datasets for such purposes. Under the DSM Directive, text and data mining refers to the automated analytical technique aimed at analysing text and data in digital form to generate information such as patterns, trends and correlations. The uses described above go beyond such analytical purposes and instead involve the large-scale reproduction and exploitation of protected works for model training and related downstream uses and therefore fall outside the scope of the TDM exceptions and require authorisation from rights holders. Articles 3 and 4 explicitly refers only to reproduction and extraction as covered acts. Consequently, other acts at any stage—such as making the AI tools, language models or any sort of AI applications or outputs generated by these applications available to the public—fall outside the scope of the exceptions. Article 3 strictly covers only scientific research and cannot be used, either directly or indirectly, to facilitate any commercial uses, such as AI development. The Commission should also make it clear, through targeted measures, that the use of out-of-commerce works under Article 8 cannot be interpreted as consent to commercial AI training or other AI-related uses.

The Commission should also clarify that AI models placed on the EU market must comply with EU copyright law throughout their value chain, **irrespective of where training or other upstream activities take place**.

Where protected content is used, the starting point of the regulatory framework should be that such use is organised through **licensing and remuneration**. This reflects both the structure of copyright as an exclusive rights regime and the practical need to ensure functioning markets for large-scale digital uses of protected works. The Commission should support the development of licensing infrastructures capable of operating at scale and across sectors, including collective licensing arrangements, sector-specific frameworks, and technological tools that facilitate rights identification and management.

As also reflected in the European Parliament's position of 10 March 2026, voluntary collective licensing agreements by sector can play a key role in facilitating lawful access to training data, ensuring both fair remuneration for rights holders and efficient access for AI providers. The EP further emphasises that such licensing frameworks should be accessible to all stakeholders, including individual creators and SMEs, and should ensure transparency, good-faith negotiation, and respect for rightsholders' opt-out or refusal to authorise the use of their content for training purposes.

Kopiosto has recently introduced a licensing solution covering the use of copyrighted content in AI prompts, offering a practical and scalable framework for lawful access to protected works in AI contexts.

The licence is designed to enable the responsible use of content while ensuring that rightholders receive appropriate remuneration. It demonstrates that workable, market-based solutions are already emerging to facilitate the lawful use of copyrighted material in AI-driven environments.

The regulatory focus should be placed on developing scalable licensing mechanisms capable of addressing mass digital uses in a legally certain and economically efficient manner. In this respect, extended collective licensing has been identified in the legal literature as a particularly suitable framework for AI-related uses of protected content ([Mattila, Tuomas: *Extended Collective Licensing and Artificial Intelligence: Towards a Scalable Copyright Framework for Data-Driven Innovation*. 2025](#)). Under the current EU framework, as reflected in the DSM Directive, ECL is recognised as a lawful licensing mechanism, but a key challenge, however, relates to the territorial limitation of extended collective licensing. As reflected in Recital 46 of the DSM Directive, Article 12 mechanisms are in principle limited to the territory of the Member State unless otherwise provided by EU law. This territorial design reflects the traditional organisation of collective rights management in Europe, but it creates structural limitations in the context of digital services that are inherently cross-border in nature, such as AI training and other large-scale online uses of protected content. This restricts the ability to offer cross-border licences, even in situations where such licences would be necessary and efficient.

In light of this, EU law should be developed to explicitly enable **the cross-border application of ECL** in clearly defined digital contexts (Salmela, Kirsi: [Extended collective licence in cross-border digital use](#). NIR 2/2023). Allowing cross-border use of national repertoires under appropriate safeguards would significantly enhance the effectiveness of the system, particularly in digital and cross-border contexts.

The Commission should therefore consider legislative clarification or targeted reform to enable cross-border ECL within the EU copyright framework for AI and other large-scale digital uses. Such a reform would ensure that the territorial structure of copyright law does not impede the functioning of licensing markets in the internal market. It would also provide a coherent alternative to both fragmented individual licensing and overly broad exceptions, ensuring legal certainty for users, sustainable remuneration for rightholders, and a functioning licensing infrastructure for AI development in the EU. Such a model would strengthen both the creative economy and the competitiveness of European digital and AI markets by providing predictable, scalable and legally secure mechanisms for the use of protected works.

TRANSPARENCY, PRESUMPTION OF USE AND ENFORCEMENT

Effective licensing markets and enforceable rights depend on a level of transparency that allows rightholders to understand and verify how their works are used in AI systems. Currently the transparency does not work properly. Rightholders do not get to know if their works are used or not and therefore licensing and enforcement of their rights are not possible. Rightholders would be willing to license and there are available licenses, but AI developers and providers are not interested to acquire licenses.

All relevant information regarding the use of protected works in training datasets and model development is exclusively held by AI providers. In the absence of effective disclosure or discovery mechanisms under EU law, rightholders face significant evidentiary barriers in establishing whether and how their works have been used, even where such use is economically substantial.

The Commission should assess the recent French proposal concerning the introduction of **a rebuttable presumption of use** in AI training contexts. A rebuttable presumption of use would therefore function as a corrective evidentiary mechanism addressing this persistent information asymmetry. It would shift the burden of proof in situations where use is likely but cannot be verified due to lack of transparency, while preserving the substantive scope of copyright protection and allowing providers to rebut the presumption with evidence. This approach has been justified in policy discussions as necessary to ensure the practical enforceability of copyright in environments where transparency obligations alone do not guarantee access to the underlying factual information required for enforcement.

A presumption of use would also strengthen the functioning of licensing markets by enabling rightholders to identify and substantiate relevant uses of their works, thereby facilitating negotiations and reducing the risk of systemic under-licensing driven by informational opacity rather than legal

entitlement. In this sense, the presumption of use should be understood as an enforcement complement to transparency obligations under EU law, rather than as a substantive expansion of exclusive rights.

ARTICLE 15 DSM DIRECTIVE AND BARGAINING POWER

Kopioisto is the collective management organisation responsible for administering and licensing press publishers' neighbouring rights under Article 15 of the DSM Directive in Finland and therefore has direct experience of the practical challenges related to their enforcement. From Kopioisto's perspective, the main obstacle to the effective implementation of Article 15 is the persistent refusal of search engines, online platforms and other service providers to engage in licensing negotiations, combined with their failure to provide essential information, including data on revenues generated in the Finnish market.

Without access to such information, rightholders are unable to assess the value of the use of their content or negotiate fair remuneration. This not only undermines the functioning of collective licensing but also runs counter to the very objectives of Article 15.

The recent CJEU Meta judgment confirms that platforms may be required to disclose information necessary for rightholders to enforce their rights and determine appropriate remuneration. This principle is of fundamental importance and should be effectively reflected in the implementation of the DSM framework.

In practice, significant asymmetries in both bargaining power and access to data continue to hinder the functioning of press publishers' neighbouring rights. Press publishers are often in a structurally weaker negotiating position in relation to large online platforms, particularly where access to audience data, traffic attribution and information on actual use remains limited. These imbalances restrict the ability of rightholders to effectively enforce and monetise their rights under Article 15. Comparable concerns have also been reflected in recent policy and legislative developments in France aimed at strengthening publishers' rights and negotiation frameworks. Experiences in several Member States, including Italy and Belgium, further demonstrate the need to address these structural imbalances through targeted dispute resolution and enforcement mechanisms that support effective negotiations.

At the same time, the largest technology platforms have little economic incentive to enter meaningful licensing negotiations. The current legal and regulatory framework therefore fails to ensure effective transparency, enforceable access to relevant data, or fair remuneration. Consequently, no properly functioning market for licensing press content has emerged at scale, despite the willingness of publishers and collective management organisations such as Kopioisto to offer simple, comprehensive and economically viable licensing solutions.

Against this background, the Commission should assess whether **dispute resolution mechanisms**, such as mediation or arbitration, could enhance the effectiveness of Article 15 where negotiations fail. Such mechanisms could incentivise good-faith negotiations, mitigate information asymmetries, reduce transaction costs, and improve legal certainty, while ensuring fair remuneration outcomes. The objective would not be to regulate prices, but to ensure that the rights granted under Article 15 can be exercised effectively in practice. In this context, consideration should be given to establishing an EU-level arbitration or mediation mechanism that can be triggered by rightholders where platforms refuse to negotiate, fail to engage in genuine and constructive negotiations, or where agreement on fair remuneration cannot be reached. Participation in such proceedings should be mandatory for the relevant service providers, and the outcome should be binding.

Such a mechanism should be designed to be efficient, transparent and accessible, ensuring swift and cost-effective procedures, clear timelines, and appropriate reporting. It should also ensure that rightholders have access to the information necessary to determine fair remuneration, and that platforms cannot undermine negotiations, for example by limiting content visibility during the process. Furthermore, the mechanism should be available to parties acting individually or through representative collective management organisations, in compliance with EU competition law.

RESEARCH AND SECONDARY PUBLISHING RIGHTS

The Commission should **refrain from introducing new mandatory copyright exceptions for research purposes**. Arguments for further harmonisation of text and data mining exceptions and a mandatory EU-wide research exception are primarily based on concerns about fragmentation of national regimes, the need to facilitate cross-border research within a European Research Area, and the objective of enhancing EU competitiveness in data-driven innovation and artificial intelligence. While these objectives are legitimate, the underlying access issues are often overstated. In practice, barriers to large-scale research use are less related to the absence of exceptions than to the lack of scalable licensing infrastructures that can operate efficiently across borders and sectors. These challenges can be more effectively addressed through collective licensing solutions, including Extended Collective Licensing (ECL), rather than through the expansion of mandatory exceptions. Member States should therefore retain flexibility to achieve research access objectives through licensing and collective licensing mechanisms, including ECL models.

As stated in the [Economic analysis of options for improving EU legislative and regulatory frameworks with impact on access and reuse of publicly funded R&I results and of publications and data for scientific purposes \(2026\)](#), in secondary licensing markets, all copyright-exception-related policy options are expected to reduce demand for permissions to some extent, since certain acts of reuse that currently require licences would become permitted under the exception. As noted in the aforementioned study, these effects are likely to be most pronounced for scientific publishers and collective licensing schemes whose revenues rely on permissions for research-related copying, sharing, extraction or storage.

The study emphasises that reduced licensing revenues for publishers do not necessarily result in corresponding losses for authors. In academic publishing, many of the largest and most costly licences generate no remuneration for authors. However, in certain sectors, authors do receive income through collective licensing or statutory remuneration schemes, particularly in relation to reprography and other secondary uses. To the extent that such mechanisms partly rely on research-related uses, broader exceptions could diminish some secondary revenue streams. For instance, in Finland authors get grants funded by remuneration collected from collective licensing in education and research sectors: in 2024, the authors in these sectors received a total of EUR 2.5 million in grants.

According to the study, a new mandatory copyright exception concerning research purposes or a secondary publishing right could potentially ensure broader access to publications and their reuse, while also strengthening legal certainty and thereby supporting the European research and innovation system. However, the study clearly notes that the introduction of a copyright exception or a secondary publishing right would involve adjustment pressures, in addition to affecting different stakeholder groups in different ways. According to the study, measures appear likely to increase benefits for users of copyright protected content such as research organizations, which are often also universities who should acquire licenses and access into the scientific publications, while at the same time increasing risks and adjustment burdens for parts of the publishing sector and the wider rightsholder community.

Proposals for mandatory secondary publishing rights are largely based on assumptions derived from large international publishing markets and do not adequately reflect the realities of smaller linguistic and national ecosystems, where scientific publishing is sustained through subscription revenues, licensing income, and publishing activities organised by scientific societies and non-profit publishers. Domestic scholarly publishing also plays a key role in maintaining scientific vocabulary in national languages, supporting academic discourse within national research communities, and ensuring that research remains accessible and societally relevant at national level. In these systems, revenues from collective licensing schemes and reproduction rights—often channelled through national collective management organisations—play a significant role in sustaining publication infrastructure. These revenues are already under pressure due to parallel policy developments promoting open access and mandatory or quasi-mandatory self-archiving (secondary publication), which reduce the availability of licensing-based income streams.

Mandatory secondary publishing rights therefore risk accelerating the erosion of existing funding structures without ensuring equivalent alternative financing mechanisms. **Where secondary publication is**

mandated, the costs should be borne by the entity requiring such dissemination, such as universities or research funding bodies, rather than by publishers alone. At a minimum, this should include a mandatory embargo period of at least 12 months before secondary dissemination is permitted.

In addition, such measures may negatively affect individual researchers. Mandatory secondary publication requirements can limit researchers' ability to negotiate publication terms, reduce the value and control of the rights they hold in their own works, and potentially weaken their position in relation to established scientific publishers. This may, in turn, affect publication opportunities, academic merit-building, and the practical freedom of researchers to decide how and where their work is first disseminated.

Secondary Publishing, open access and related dissemination policies should be recognised as cost-incurring policies rather than cost-neutral reforms. Scholarly publishing requires sustained investment in peer review, editorial processes, digital infrastructure, archiving, and long-term preservation. Where subscription and licensing revenues are reduced through mandatory dissemination requirements, equivalent and sustainable funding mechanisms must be put in place to avoid undermining the viability of existing publishing ecosystems.

From a broader legal perspective, mandatory secondary publication rights also raise questions in relation to the protection of intellectual property, freedom of contract, freedom of expression, and academic freedom. Any EU-level intervention should therefore carefully balance access objectives with the need to safeguard these fundamental rights and the diversity of European research and publishing ecosystems.

Existing collective licensing systems demonstrate that broad access to scholarly content can be achieved while maintaining sustainable publishing markets. Such licensing-based approaches provide a balanced framework that ensures lawful access to knowledge, fair remuneration for rightsholders, legal certainty for users, and the continued viability of national and sector-specific publishing ecosystems.

PROTECTION OF IMAGE, VOICE AND LIKENESS

The Commission should develop **harmonised EU rules protecting individuals against unauthorised commercial exploitation of their image, voice, and likeness**. In line with the European Parliament resolution of 10 March 2026, such protection should be adapted to address the specific risks posed by generative AI systems, which enable highly realistic synthetic reproductions capable of misleading consumers and facilitating unauthorised commercial use of personal identity attributes.

The framework should ensure enforceable rights for individuals, effective remedies against misuse, and clear obligations for providers of AI systems regarding the prevention and removal of infringing synthetic outputs.

ONLINE PIRACY AND ENFORCEMENT

The Commission should further strengthen enforcement against large-scale online piracy, which continues to undermine the functioning of legitimate licensing markets. Effective copyright frameworks require not only the availability of lawful licensing mechanisms but also **robust and harmonised enforcement tools** to prevent systematic commercial exploitation of protected works without authorisation.

In this context, the functioning of Article 17 of the DSM Directive should also be closely assessed. While the provision has strengthened the position of rightsholders, its effectiveness is limited by inconsistent compliance among Online Content Sharing Service Providers (OCSSPs). Shortcomings remain in the speed and effectiveness of takedown procedures, in preventing the reappearance of infringing content (stay-down), and in ensuring that enforcement obligations are applied consistently across platforms.

Although the EU's copyright framework is generally adequate, differences in how it is applied across member states can limit effective enforcement at the national level. The Commission should assess the potential for greater EU-level harmonisation of **dynamic injunctions** and other expedited enforcement measures to ensure consistent and effective cross-border application.

Rapid and flexible enforcement is essential, as IPTV and especially illegal sports streaming services are constantly increasing. These illegal services also frequently shift between domains and providers. The Commission's proposed measures¹—such as rapid handling of notices, use of dynamic injunctions, and involvement of all relevant intermediaries—are appropriate. The focus should be on improving and consistently applying these tools rather than creating entirely new ones. For example, dynamic injunctions are not yet available in Finland.

Existing blocking measures should adapt accordingly. Any targeted EU action on live piracy should be quick, technologically neutral, and cover all relevant intermediaries, without imposing burdensome procedural or evidentiary requirements that would slow enforcement. New measures should complement, not weaken, current legal frameworks. All intermediaries—such as hosting providers, ISPs, domain registrars, payment services, and advertisers—play a key role, as they have the technical ability to prevent infringements.

As stated by the Finnish Copyright Information and Antipiracy Centre's (CIAPC), the most effective tool is **a fast notice-and-takedown system**: in cases of live piracy, content should be removed immediately, ideally within 30 minutes. Providers should also prevent the content from reappearing. To ensure effective enforcement, it should also be clarified that content subject to a notice or dispute should remain unavailable while any review, complaint or redress procedure is ongoing. Although the Digital Services Act ('DSA') supports these actions, its implementation varies between countries. National Digital Services Coordinators are in a key position and Commission should address them.

Access to accurate domain registration data (Whois) is also critical, and authorities should ensure that the articles 27 and 28 of NIS2-directive are implemented effectively and that the right holders' entitlement to information is upheld.

With regard to the above, we refer to the statement issued by the Finnish Copyright Information and Antipiracy Centre's (CIAPC).

¹ [Recommendation on combating online piracy of sports and other live events | Shaping Europe's digital future](#)