



15.6.2026

Submission to the European Commission – Call for Evidence

Overall Summary

The current application of the CDSM Directive, particularly Articles 3 and 4 on text and data mining, is inadequate for the realities of generative AI, creating legal uncertainty and enabling large-scale use of protected works without authorisation or remuneration.

The European Parliament has clearly recognised these shortcomings and called for a supplementary legal framework to clarify licensing and ensure transparency and fair compensation for authors and rightholders. The existing opt-out model is ineffective and undermines both the right to property and the sustainability of Europe's creative sectors. A revised framework must introduce enforceable transparency obligations and establish scalable licensing solutions, including collective mechanisms. When technology is impossible to track collective bargaining might be our only viable option.

Prompt legislative action is necessary to restore legal certainty, safeguard creators' rights, and enable a well-functioning market for generative AI in Europe.

Targeted initiative for a better copyright environment for European creativity and innovation

We welcome the Commission's initiative to gather evidence on the functioning of the CDSM Directive in light of rapid technological developments, particularly the emergence of generative artificial intelligence (GenAI). This consultation comes at a critical juncture, where the gap between the existing legal framework and technological realities has become increasingly evident.

The experience from the music sector demonstrates that the current application of the Directive, and in particular its provisions on text and data mining under Articles 3 and 4, is no longer fit for purpose. In practice, there is no effective way to identify or verify which works are used in AI training datasets, nor is there a meaningful possibility for authors and rightholders to exercise control over such uses. The opt-out mechanism introduced in Article 4 has proven ineffective at scale, both technically and legally.

This assessment is consistent with the European Parliament's position. In its resolution on copyright and generative artificial intelligence (A-10-2026-0019), the Parliament concludes that the application of the current framework remains ambiguous in the context of generative AI and that existing copyright rules are insufficient to address the challenges of licensing copyrighted material for AI training. It therefore calls for the establishment of a supplementary legal framework to clarify licensing rules and ensure compliance with copyright principles.

[\[howtheyvote.eu\]](https://www.howtheyvote.eu)

The supporting analysis by the European Parliamentary Research Service further highlights the structural nature of these challenges. It underlines that legal uncertainty persists regarding the authorisation and remuneration of rightholders in connection with AI training and explicitly acknowledges both the weakening of rightholders' bargaining position and the existence of widespread infringements in current market practices. [\[europarl.europa.eu\]](https://www.europarl.europa.eu)

Against this backdrop, it is evident that the current interpretation and implementation of Articles 3 and 4 have created regulatory gaps that risk undermining fundamental principles of European copyright law. These include the right to property, as enshrined in Article 17 of the Charter of Fundamental Rights of the European Union, as well as the obligations stemming from the Berne and Rome conventions. The broad and insufficiently defined nature of the TDM exceptions has enabled large-scale use of protected works without prior authorisation, remuneration, or effective oversight.

In the music sector, this is not a theoretical concern but a practical reality. Generative AI systems systematically rely on extensive datasets that include copyrighted works by European composers, both past and present. These works are used without licensing, without transparency, and without compensation. This situation reflects precisely the concerns identified by the European Parliament, which has stressed the need for transparency, consent, and fair remuneration as core elements of any future framework. [\[nicfab.eu\]](https://www.nicfab.eu)

The economic consequences of this gap are significant. Conservative estimates indicate that collective management organisations may face revenue losses of up to 30% over a ten-year period, amounting to approximately €300 million in Norway only. Such losses would have a direct impact on the sustainability of Europe's creative sectors and their ability to generate new cultural content. This is particularly concerning in light of the EU's broader policy objectives to strengthen cultural diversity and strategic autonomy in the digital economy.

At the same time, it is important to recognise that access to data is essential for innovation. A forward-looking framework should therefore strike a balance between enabling technological development and safeguarding the rights of creators. In this regard, the European Parliament has provided clear political guidance by supporting licensing-based approaches, including

collective licensing mechanisms, as a means to ensure lawful access to high-quality training data while guaranteeing fair remuneration and effective enforcement. [\[europarl.europa.eu\]](https://europarl.europa.eu)

We therefore support a differentiated and pragmatic approach. Certain categories of content, such as out-of-commerce works, could be made available for AI training under appropriate conditions. However, this must be contingent on the establishment of licensing systems that ensure both remuneration and transparency. Cultural heritage is not a free resource; it is the result of sustained creative investment and must be treated as such in the digital environment.

In light of these considerations, there is a clear need for legislative and political action at European Union level. The current framework should be revised to provide legal certainty, restore trust, and enable the development of a well-functioning licensing market for generative AI. In line with the European Parliament's resolution, this should include the clarification of the legal status of AI training activities, the introduction of effective transparency obligations, and the development of licensing infrastructures that can operate at scale.

Particular attention should be given to the role of collective management organisations. CMOs are uniquely positioned to facilitate efficient, scalable, and fair licensing solutions across sectors and borders. Strengthening their role would not only improve market functioning but also ensure that creators retain a meaningful position in the value chain.

The Commission is therefore encouraged to act without undue delay. As the European Parliament has clearly stated, the current legal uncertainties are not sustainable and risk undermining both innovation and the protection of fundamental rights. A targeted revision of the CDSM Directive, in particular of Articles 3 and 4, combined with the development of a complementary framework for generative AI, is necessary to ensure that Europe remains both a leader in technological innovation and a stronghold for cultural and creative industries. [\[howtheyvote.eu\]](https://howtheyvote.eu)

In conclusion, a modernised copyright framework must reaffirm a simple principle: the use of protected works in commercial AI systems requires authorisation, transparency, and fair remuneration. Only on this basis can a balanced and future-proof ecosystem for European creativity and innovation be achieved.