WG 1 - Transparency and copyright-related rules: Provide your feedback to the second draft of the General-Purpose AI Code of Practice

Fields marked with * are mandatory.

Provide your feedback to the second draft of the general-purpose AI Code of Practice!

Thank you for your continuous support and participation in the drawing-up of the **first general-purpose AI Code of Practice.**

As participants of Working Group 1, upon receiving the **second draft**, you are encouraged to express your comments on the content via this survey for **Section II of the draft (Working Group 1), deadline Wednesday 15 January 2025, 12:00 CET**.

As for the first round, your feedback is essential in tailoring the Code of Practice to meet diverse stakeholder needs to achieve a final Code of Practice that best reflects the different submissions. This will lead to a proper application of the rules of the AI Act for general-purpose AI models. Please be aware that the survey does not cover Art. 53(1)(d) issues.

The survey is structured per commitments, measures and KPIs, and it presents three types of questions:

1. **Opinion ratings** (close-ended feedback): express the level of agreement with the content of the commitments, measures and KPIs choosing among different options.
2. **Open-ended questions**: to provide suggestions on how to improve the commitments, measures and KPIs.
3. **Additional specific open-ended questions** (where applicable).

For the ease of engaging with the survey, please have the Code of Practice open for reference.

You have the option to respond to all questions if you wish, however, you do not have to. Each stakeholder can only **submit one answer** to this survey. **If you forward the link, it will be possible for others to edit or download your response.**

Your responses will be kept confidential in accordance with the Vademecum.

The AI Office is looking forward to this inclusive and transparent process!

Stakeholder information

Please provide your name, surname, email address, and the name of your organisation (if applicable). Please note that if your contact information does not correspond to an eligible participant or to the organisation's Point of Contact, your response will be discarded.

	Name	Surname	Email address	Organisation (if applicable)
Stakeholder	Teresa	Nobre	teresa@communia-association. org	COMMUNIA Association for the Public Domain

* Which stakeholder category would you (or your organisation) consider yourself in?

- ○ Academia (in a personal capacity)
- ● Civil society organisation
- ○ Downstream provider of an AI system based on general-purpose AI models, or acting on behalf of such providers
- ○ EU Member State representative
- ○ European or international observer
- ○ Other independent expert (in a personal capacity)
- ○ Other industry organisation, or acting on behalf of such organisations
- ○ Other organisation with relevant expertise
- ○ Other stakeholder organisation
- ○ Provider of a general-purpose AI model, or acting on behalf of such providers
- ○ Rightsholder organisation

Section II: [Working Group 1] Commitments by providers of general-purpose AI models

Commitments/Measures/KPIs Specific Feedback on Section II: [Working Group 1] Transparency

In this section you are asked to provide your overall opinion on the commitments, measures and KPIs included in the second section of the Code of Practice related to *Transparency*.

Transparency, Commitment 1: Documentation

To what extent do you agree with this commitment? (Commitment 1)

- ○ The commitment should be removed in its entirety
- ○ The commitment should be substantially edited and/or further clarified
- ○ The commitment should be lightly edited and/or further clarified
- ○ The commitment is close to where it needs to be

Please explain your rating and suggest improvements (Commitment 1)

3000 character(s) maximum

[ ]

Transparency, Measure 1.1: Drawing up, keeping up-to-date and providing the relevant information

To what extent do you agree with this measure? (Measure 1.1)

- ○ The measure should be removed in its entirety
- ○ The measure should be substantially edited and/or further clarified
- ○ The measure should be lightly edited and/or further clarified
- ○ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 1.1)

3000 character(s) maximum

Transparency, Measure 1.2: Ensuring quality, integrity and security of information

To what extent do you agree with this measure? (Measure 1.2)
- ○ The measure should be removed in its entirety
- ○ The measure should be substantially edited and/or further clarified
- ○ The measure should be lightly edited and/or further clarified
- ○ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 1.2)

3000 character(s) maximum

Elements of Commitment 1 Table Specific Feedback - Section II: [Working Group 1] Transparency

In this section you are asked to provide your opinion on each element of the table provided in Commitment 1 in the second section of the Code of Practice related to *Transparency*.

Commitment 1 Table, Annex XI §1 1. and Annex XII 1.: General Information

To what extent do you agree with this element? (Item 1)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 1)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 1.(a) and Annex XII 1.(a): Intended tasks and type and nature of AI systems in which it can be integrated:

To what extent do you agree with this element? (Item 2)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified

○ The item should be lightly edited and/or further clarified

○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 2)

3000 character(s) maximum

[ ]

Commitment 1 Table, Annex XI §1 1.(b) and Annex XII 1.(b): Acceptable use policies applicable

To what extent do you agree with this element? (Item 3)

○ The item should be removed in its entirety

○ The item should be substantially edited and/or further clarified

○ The item should be lightly edited and/or further clarified

○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 3)

3000 character(s) maximum

[ ]

Commitment 1 Table, Annex XI §1 1.(c) and Annex XII 1.(c): Date of release and methods of distribution

To what extent do you agree with this element? (Item 4)

○ The item should be removed in its entirety

○ The item should be substantially edited and/or further clarified

○ The item should be lightly edited and/or further clarified

○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 4)

3000 character(s) maximum

[ ]

Commitment 1 Table, Annex XII 1.(d): Interaction of the model with external hardware or software

To what extent do you agree with this element? (Item 5)

○ The item should be removed in its entirety

○ The item should be substantially edited and/or further clarified

○ The item should be lightly edited and/or further clarified

○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 5)

3000 character(s) maximum

Commitment 1 Table, Annex XII 1.(e): Versions of relevant software where applicable

To what extent do you agree with this element? (Item 6)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 6)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 1.(d) and Annex XII 1.(f): Architecture and number of parameters

To what extent do you agree with this element? (Item 7)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 7)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 1.(e) and Annex XII 1.(g) and 2.(b): Modality and format of inputs and outputs

To what extent do you agree with this element? (Item 8)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 8)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 1.(f) and Annex XII 1.(h): Licence

To what extent do you agree with this element? (Item 9)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 9)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 2.(a) and Annex XII 2.(a): Technical means for integration into AI systems

To what extent do you agree with this element? (Item 10)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 10)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 2.(b): Design specifications of the model and training process

To what extent do you agree with this element? (Item 11)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 11)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 2.(c) and Annex XII 2.(c): Information on data used for training, testing and validation

To what extent do you agree with this element? (Item 12)

- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 12)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 2.(d): Computational resources

To what extent do you agree with this element? (Item 13)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 13)

3000 character(s) maximum

Commitment 1 Table, Annex XI §1 2.(e): Known or estimated energy consumption

To what extent do you agree with this element? (Item 14)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 14)

3000 character(s) maximum

Commitment 1 Table, Article 53 (1)(a): Testing process and results thereof

To what extent do you agree with this element? (Item 15)
- ○ The item should be removed in its entirety
- ○ The item should be substantially edited and/or further clarified
- ○ The item should be lightly edited and/or further clarified
- ○ The item is close to where it needs to be

Please explain your rating and suggest improvements (Item 15)

3000 character(s) maximum

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Additional Feedback on Section II: [Working Group 1] Transparency

Please provide additional feedback on the content of the Code of Practice second section related to *Transparency* by answering the following questions.

With which items in Measure 1.1 (as per current draft) are you satisfied?
3000 character(s) maximum

_____

With which items in Measure 1.1 (as per current draft) are you dissatisfied, and why? Please explain your dissatisfaction on a per-item basis.
3000 character(s) maximum

_____

For which items in Measure 1.1 (as per current draft) do you consider an unnecessary cost imposed upon providers and how should this cost be reduced?
3000 character(s) maximum

_____

For which items in Measure 1.1 (as per current draft) do you see the goals of transparency not being fully realized and how should this be rectified?
3000 character(s) maximum

_____

Do you feel Measure 1.1 (as per current draft) is satisfactory overall? If not, please provide your single greatest concern.
3000 character(s) maximum

_____

Do you feel Measure 1.1 (as per current draft) must be adjusted to differentiate different types of models or model providers (e.g. model modalities, model release strategies, commercial business models, business size)? If so, please provide the specific items that should have a differentiated approach and why they should be differentiated.
3000 character(s) maximum

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Commitments/Measures/KPIs Specific Feedback on Section II: [Working Group 1] Copyright

In this section you are asked to provide your overall opinion on the commitments, measures and KPIs included in the second section of the Code of Practice related to *Copyright.*

Copyright, Commitment 2: Copyright policy

To what extent do you agree with this commitment? (Commitment 2)
- ○ The commitment should be removed in its entirety
- ○ The commitment should be substantially edited and/or further clarified
- ○ The commitment should be lightly edited and/or further clarified
- ● The commitment is close to where it needs to be

Please explain your rating and suggest improvements (Commitment 2)
3000 character(s) maximum

Copyright, Measure 2.1: Draw up and implement an internal copyright policy

To what extent do you agree with this measure? (Measure 2.1)
- ○ The measure should be removed in its entirety
- ○ The measure should be substantially edited and/or further clarified
- ○ The measure should be lightly edited and/or further clarified
- ● The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.1)
3000 character(s) maximum

Copyright, KPI 2.1.1

To what extent do you agree with this KPI? (KPI 2.1.1)
- ○ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ● The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.1.1)
3000 character(s) maximum

Copyright, KPI 2.1.2

To what extent do you agree with this KPI? (KPI 2.1.2)

- ○ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ● The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it?(KPI 2.1.2)
3000 character(s) maximum

Copyright, KPI 2.1.3

To what extent do you agree with this KPI? (KPI 2.1.3)

- ○ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ● The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.1.3)
3000 character(s) maximum

Copyright, Measure 2.2: Publish a summary of the internal copyright policy

To what extent do you agree with this measure? (Measure 2.2)

- ○ The measure should be removed in its entirety
- ○ The measure should be substantially edited and/or further clarified
- ● The measure should be lightly edited and/or further clarified
- ○ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.2)
3000 character(s) maximum

While due consideration should be taken of the need to protect trade secrets and confidential business information, the Code must ensure that the Signatories commit to publicly disclose information that is essential to facilitate parties with legitimate interests, including right holders, to exercise and enforce their rights under Union law.

Therefore, we recommend turning this measure and measure 2.8 into a single public disclosure measure and include a list of mandatory elements that the Signatories are required to publicly disclose in the summary. See our comments to measure 2.8 for a list of elements that the Signatories should commit to make publicly available.

The publication of the summary on the Signatory's website should be included in the measure itself, and not merely on the KPI.

Copyright, KPI 2.2.1

To what extent do you agree with this KPI? (KPI 2.2.1)
- ○ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ● The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.2.1)
3000 character(s) maximum

> We welcome that the KPI requires the publication of the summary on the Signatories' websites.

Copyright, Measure 2.3: Make reasonable efforts to assess the copyright compliance of third-party datasets

To what extent do you agree with this measure? (Measure 2.3)
- ○ The measure should be removed in its entirety
- ○ The measure should be substantially edited and/or further clarified
- ○ The measure should be lightly edited and/or further clarified
- ● The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.3)
3000 character(s) maximum

> We welcome the introduction of distinct due diligence obligations for private, non-publicly accessible datasets, on the one hand, and publicly accessible datasets, on the other. By placing the obligation to assess the copyright compliance of publicly accessible datasets exclusively on the model providers, the measure takes into account the specificities of such datasets, thus removing the concerns we had with this measure in the previous draft.

Copyright, KPI 2.3.1

To what extent do you agree with this KPI? (KPI 2.3.1)
- ○ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ● The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.3.1)

3000 character(s) maximum

Copyright, KPI 2.3.2

To what extent do you agree with this KPI? (KPI 2.3.2)
- ○ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ● The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.3.2)

3000 character(s) maximum

Copyright, Measure 2.4: Ensure lawful access to copyright-protected content

To what extent do you agree with this measure? (Measure 2.4)
- ● The measure should be removed in its entirety
- ○ The measure should be substantially edited and/or further clarified
- ○ The measure should be lightly edited and/or further clarified
- ○ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.4)

3000 character(s) maximum

This is not an accurate re-statement of Article 4(1) of the CDSM directive and it risks introducing an inconsistent and conflicting interpretation of what "lawfulness" means. The directive allows reproductions of "lawfully accessible" works, whereas the proposed measure would require Signatories to commit to make "reasonable and proportionate efforts to ensure that they have lawful access".

The concept of "lawfully accessible" works, established by the EU legislator as a special condition for the enjoyment of the general purpose TDM exception, is surrounded by legal uncertainty and it has yet to be interpreted by EU courts.

Arguably, the condition imposed by the CDSM Directive can be satisfied simply by not employing illegal means to access the content, whereas the proposed measure introduces a new requirement to proactively ensure that one has lawful access to such content. This would result in a more restrictive framework, raising the compliance costs.

In sum, adding interpreting elements via a code of practice risks further expanding the scope of exclusivity and reducing the effectiveness of the TDM exceptions, potentially going against the scope of protection offered by the CDSM Directive. These elements should therefore be deleted.

Copyright-related, KPI 2.4.1

To what extent do you agree with this KPI? (KPI 2.4.1)
- ● The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ○ The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.4.1)

3000 character(s) maximum

See our comments above.

Copyright, Measure 2.5: Do not crawl websites making available copyright-infringing content

To what extent do you agree with this measure? (Measure 2.5)
- ○ The measure should be removed in its entirety
- ○ The measure should be substantially edited and/or further clarified
- ○ The measure should be lightly edited and/or further clarified
- ● The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.5)

3000 character(s) maximum

We welcome the deletion of the reference to the Commission Counterfeit and Piracy Watch List. We also appreciate that Signatories are no longer encouraged to comply with exclusion lists published by public authorities, but are only encouraged to take those lists into account when taking measures to exclude "piracy websites" from their crawling activities. Finally, we support the drafters decision to narrow down the concept of "piracy websites" to those that are "widely known" for making available to the public copyright-infringing content "on a commercial scale" and "have no substantial legitimate uses".

Copyright, KPI 2.5.1

To what extent do you agree with this KPI? (KPI 2.5.1)
- ◯ The KPI should be removed in its entirety
- ◉ The KPI should be substantially edited and/or further clarified
- ◯ The KPI should be lightly edited and/or further clarified
- ◯ The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.5.1)
3000 character(s) maximum

Unless this information is publicly disclosed, this KPI will not be a meaningful measure from the perspective of the parties (mostly right holders) that have a legitimate interest in knowing if the Signatories are crawling so-called "piracy websites". Therefore the KPI should be re-drafted to require Signatories to disclose this information not only in the copyright policy, but also in the public summary of the internal policy.

Copyright, Measure 2.6: Respect Robot Exclusion Protocol

To what extent do you agree with this measure? (Measure 2.6)
- ◯ The measure should be removed in its entirety
- ◯ The measure should be substantially edited and/or further clarified
- ◉ The measure should be lightly edited and/or further clarified
- ◯ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.6)
3000 character(s) maximum

As mentioned in our comments to the first draft, the Robot Exclusion Protocol (REP) has a number of conceptual shortcomings that make it unsuitable as an expression of rights reservations (e.g. REP has limited usefulness for types of content that are not predominantly distributed via the open internet, such as music and AV content). While the REP is currently the only technical solution used at a large scale, we expect that the relevant stakeholders will agree on rights reservation standards other than the REP. In fact, measure 2.7 encourages Signatories to engage in those standardization efforts.

Under the current draft, any standards other than the REP will automatically be subject to a lower level of commitment than that required for the REP. By giving REP with all the above shortcomings an elevated position the Code risks further entrenching a solution with known limitations, when other standards may emerge that are more effective at expressing rights reservation than the REP.

Therefore, we highly recommend introducing changes to the text to future-proof measures 2.6 and 2.7. While it may be sensible at this time to introduce the minimum requirement defined by this measure, Signatories must also commit to comply with all standardized machine-readable means to express rights reservations that may emerge over time. In order to provide further legal certainty, it should be considered the option of attributing to the AI Office the responsibility for maintaining an up-to-date list of such standards.

Copyright, KPI 2.6.1

To what extent do you agree with this KPI? (KPI 2.6.1)
- ○ The KPI should be removed in its entirety
- ● The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ○ The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.6.1)
3000 character(s) maximum

This KPI does not appear to be aligned with the commitments under measure 2.8, which requires Signatories to make public, at a minimum, the name of all crawlers used by the Signatories.

Unless this information is publicly disclosed, this KPI will not be a meaningful measure from the perspective of the parties (mostly right holders) that have a legitimate interest in knowing if the Signatories are respecting rights reservations expressed in accordance with the Robot Exclusion Protocol (REP).

Therefore the KPI should be re-drafted to require Signatories to disclose the name and purpose of all crawlers that they deploy (and not only of "new or modified" crawlers) in the public summary of the internal policy (and not only in the copyright policy).

Copyright, Measure 2.7: Identify and comply with other appropriate expressions of rights reservations

To what extent do you agree with this measure? (Measure 2.7)
- ○ The measure should be removed in its entirety

○ The measure should be substantially edited and/or further clarified

○ The measure should be lightly edited and/or further clarified

○ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.7)

3000 character(s) maximum

> The code should apply the same level of commitment to all standardized machine-readable means to express rights reservations. While the Robot Protocol Exclusion Protocol (REP) is currently the only technical solution used at a large scale, we expect that the relevant stakeholders will agree on rights reservation standards other than the REP. In fact, measure 2.7 encourages Signatories to engage in those standardization efforts.
>
> Under the current draft, any standards other than the REP will automatically be subject to a lower level of commitment than that required for the REP. Yet, they may be more effective at expressing rights reservation than the REP, which as explained in our previous submission is well known for having a number of conceptual shortcomings that make it unsuitable as an expression of rights reservations.
>
> Therefore, we highly recommend introducing changes to the text to future-proof measures 2.6 and 2.7. In our view this should be done by simply requiring Signatories to commit to comply with the REP and all standardized machine-readable means to express rights reservations. In order to provide further legal certainty, it should be considered the option of attributing to the AI Office the responsibility for maintaining an up-to-date list of such standards.

Copyright, KPI 2.7.1

To what extent do you agree with this KPI? (KPI 2.7.1)

○ The KPI should be removed in its entirety

● The KPI should be substantially edited and/or further clarified

○ The KPI should be lightly edited and/or further clarified

○ The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.7.1)

3000 character(s) maximum

> Unless this information is publicly disclosed, this KPI will not be a meaningful measure from the perspective of the parties (mostly right holders) that have a legitimate interest in knowing if the Signatories are respecting rights reservations expressed in accordance with other solutions for expression of rights reservation. Therefore the KPI should be re-drafted to require Signatories to disclose this information not only in the copyright policy, but also in the public summary of the internal policy.

Copyright, KPI 2.7.2

To what extent do you agree with this KPI? (KPI 2.7.2)

○ The KPI should be removed in its entirety

○ The KPI should be substantially edited and/or further clarified

○ The KPI should be lightly edited and/or further clarified

◉ The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.7.2)

3000 character(s) maximum

Copyright, Measure 2.8: Publish information on rights reservation compliance

To what extent do you agree with this measure? (Measure 2.8)

○ The measure should be removed in its entirety

◉ The measure should be substantially edited and/or further clarified

○ The measure should be lightly edited and/or further clarified

○ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.8)

3000 character(s) maximum

As mentioned in our comments to measure 2.2., this measure and measure 2.2 should be combined into a single public disclosure measure. In line with in our comments to KPIs 2.5.1, 2.6.1 and 2.7.1, the Signatories should commit to include in the publicly available summary of the copyright policy, at least, the following elements: 1) list of so-called "piracy websites" excluded from crawling, 2) list of all crawlers deployed by the Signatories, 3) list of other solutions for expressions of rights reservations honoured by the Signatory including information on the period of time as of which these solutions have been honoured by the Signatory.

The publication of the summary of the up-to-date internal copyright policy on the Signatory's website should be included in the measure itself, and not merely on the KPI.

Copyright, KPI 2.8.1

To what extent do you agree with this KPI? (KPI 2.8.1)

○ The KPI should be removed in its entirety

○ The KPI should be substantially edited and/or further clarified

○ The KPI should be lightly edited and/or further clarified

◉ The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.8.1)

3000 character(s) maximum

We welcome that the KPI requires the publication of this information on the Signatories' websites.

Copyright, Measure 2.9: Prevent copyright-related overfitting

To what extent do you agree with this measure? (Measure 2.9)
- ◉ The measure should be removed in its entirety
- ○ The measure should be substantially edited and/or further clarified
- ○ The measure should be lightly edited and/or further clarified
- ○ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.9)

3000 character(s) maximum

We welcome the deletion of the copyright compliance obligations foreseen in sub-measure 3.3 of the first draft that would have required downstream system providers to introduce system-level measures to prevent output similarity, threatening users rights and fundamental freedoms.

This being said, this model-level measure still aims to prevent output similarity and, due to the intricate language used, it is not clear if the measure is targeting a) similar outputs on the condition that they are infringing on copyright or b) any similar outputs, incorrectly assuming that they are necessarily copyright-infringing outputs.

We stress that a similar output can only be qualified as an infringing output if 1) the output triggers the application of copyright law, which is not always the case (e.g. stylistic similarity has no copyright relevance, since artistic style is not protected), 2) the copyright-relevant output does not qualify as an independent similar creation and 3) no copyright exception or limitation (e.g. quotation, caricature, parody and pastiche) applies to the similar output.

Although model-level measures to prevent output similarity do not entail the same risks to end-users as system-level measures, they may still prevent the lawful development of models that could support substantial legitimate uses. Therefore, they are not advisable.

Most importantly, these measures go beyond the scope of protection of Article 53(1)(c) of the AI Act. In fact, the risk of copyright infringement at the output level is not targeted by this provision. This means that these measures have no place in the code of practice and, thus, should be removed.

Copyright, KPI 2.9.1

To what extent do you agree with this KPI? (KPI 2.9.1)
- ◉ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ○ The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.9.1)

3000 character(s) maximum

See our comments above.

Copyright, Measure 2.10: Prohibit copyright-infringing uses of the model

To what extent do you agree with this measure? (Measure 2.10)

- ⦿ The measure should be removed in its entirety
- ⦾ The measure should be substantially edited and/or further clarified
- ⦾ The measure should be lightly edited and/or further clarified
- ⦾ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.10)

3000 character(s) maximum

> This measure should be removed because its scope goes beyond the scope of protection of Article 53(1)(c) of the AI Act: the risk of copyright infringement at the output level is not targeted by this provision.
>
> The measure further assumes that all Signatories are simultaneously system providers and that all Signatories can introduce usage restrictions through acceptable use policies, which is certainly not the case of open source model providers.

Copyright, KPI 2.10.1

To what extent do you agree with this KPI? (KPI 2.10.1)

- ⦿ The KPI should be removed in its entirety
- ⦾ The KPI should be substantially edited and/or further clarified
- ⦾ The KPI should be lightly edited and/or further clarified
- ⦾ The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.10.1)

3000 character(s) maximum

> See our comments above.

Copyright, Measure 2.11: Designate a point of contact

To what extent do you agree with this measure? (Measure 2.11)

- ⦾ The measure should be removed in its entirety
- ⦾ The measure should be substantially edited and/or further clarified
- ⦾ The measure should be lightly edited and/or further clarified
- ⦿ The measure is close to where it needs to be

Please explain your rating and suggest improvements or provide further detail on relevant KPIs (Measure 2.11)

3000 character(s) maximum

Copyright, KPI 2.11.1

To what extent do you agree with this KPI? (KPI 2.11.1)
- ○ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ● The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.11.1)
3000 character(s) maximum

Copyright, KPI 2.11.2

To what extent do you agree with this KPI? (KPI 2.11.2)
- ○ The KPI should be removed in its entirety
- ○ The KPI should be substantially edited and/or further clarified
- ○ The KPI should be lightly edited and/or further clarified
- ● The KPI is close to where it needs to be

Please explain your rating i.e., if something is unclear to you in this KPI, how would you clarify it? (KPI 2.11.2)
3000 character(s) maximum

Additional Feedback on Section II: [Working Group 1] Copyright

Please provide additional feedback on the content of the Code of Practice second section related to *Copyright* by answering the following questions.

Other opt-out standards: "Which machine-readable means to appropriately express a rights reservation at source or work level pursuant to Article 4(3) of Directive (EU) 2019/790 in the case of content made publicly available online do you consider to be widely used industry standards?"
3000 character(s) maximum

Open source: "Are the proposed measures feasible, effective and proportionate for free and open-source general-purpose AI models (see recital 103 AI Act)?"
3000 character(s) maximum

See our comments to measure 2.10. Measure 2.1 may also be unworkable for open source model providers, since these models can be copied and re-distributed by multiple parties.

SMEs: "According to Art. 56(5) 2nd sentence and recital 109 2nd sentence of the AI Act, key performance indicators and reporting commitments shall reflect differences in size and capacity between various participants of the Code of Practice in order to avoid an excessive cost and not discourage the use of general-purpose AI models. Does the draft adequately reflect this?"

3000 character(s) maximum

Contact

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