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

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			X
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		X	
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	X		

Other: please explain 200 character(s) maximum

Sustainability of the public information ecosystem and license restrictions to AI/TDM activities performed by library users

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

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			X		
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

Greater transparency regarding web crawlers and AI agents may help address concerns about deceptive automated access to online content. However, a general identification obligation raises public-interest concerns, particularly for scientific research and other legitimate crawling activities that may require anonymity. Any new obligations should therefore be carefully assessed to avoid creating disproportionate compliance burdens or chilling lawful uses. Before introducing horizontal requirements, the Commission should prioritise enforcing existing transparency obligations under the AI Act. In particular, the mandatory training-content transparency template could require GPAI model providers to identify the crawlers they use to collect training data. This targeted approach would improve accountability where it is most relevant, without imposing blanket identification requirements on all web crawling activities.

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).*

	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 specify	X		

Other: please specify 200 character(s) maximum

Establish an information ecosystem fund financed via a levy or equivalent mechanism applied to commercial AI systems deployed within the EU, which have been trained on publicly available information.

Please explain your answer and share your views on the mechanisms listed above, including on the conditions of application: 1500 character(s) maximum

Generative AI relies on a vast information commons comprising public domain materials, openly licensed content, and other publicly available information. Its continued production and stewardship depend on creators, libraries, archives and community projects.

Meanwhile, large scale AI activities impose substantial infrastructure costs on institutions, while AI services increasingly replace visits to original sources, reducing their continued visibility and opportunities for participation, contributions and support.

An information ecosystem fund financed through mandatory contributions from commercial AI providers could sustain the broader information ecosystem, including cultural heritage institutions, scientific repositories and open-knowledge projects, while ensuring equitable access to training materials. The obligation should be triggered by the commercial supply on the EU market of AI models trained on publicly available content, or systems and services incorporating such models.

AI-generated imitations of performers

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

EU copyright legislation is not the appropriate framework for addressing the misuse of individuals' personal characteristics through AI-generated deepfakes. Copyright and related rights are designed to protect original creative expressions in order to support markets for creative works and incentivise further creative activity. Extending such protection to personal features such as one's voice and likeness does not align with this rationale and would undermine the coherence of copyright law. A general personality rights framework, protecting individuals' autonomy and self-determination, is better suited to addressing these harms. Where existing protections prove insufficient, the EU should strengthen enforcement mechanisms, including effective notice-and-action procedures under the Digital Services Act.

Online piracy of time-sensitive copyright-protected content, including live events

1. Based on your experience or knowledge, are the remedies currently available at EU level to fight the piracy of time-sensitive copyright-protected content, including live events, sufficient to ensure effective enforcement?

- Yes
- No
- I don't know

2. In your view, what would be the most appropriate approach at EU level to tackle the challenges linked to the online piracy of time-sensitive content, including live events?

- Maintain the status quo: continue applying the existing rules, with no changes to the regulatory framework
- Enhance voluntary cooperation among market players through soft law measures
- Introduce new binding measures at EU level
- Other: please explain

4. In your view, what would be the impact of each of the following options on your business/activities? 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
Providing a forum for discussion and exchange of best practices among market players					
Strengthening voluntary cooperation between intermediaries and rightholders					
Requiring treatment of notices regarding live and/or time-sensitive content by hosting service providers within a specific timeframe	X				
Requiring hosting providers to provide to the relevant rightholders technical means enabling them to block access to or remove unauthorised live and/or time-sensitive copyright-protected content	X				
Enabling rightholders to apply in each Member State for dynamic injunctions in case of unauthorised use of time-sensitive		X			

copyright-protected content, including live events					
Requiring Member States to exchange information, notably on decisions issued by relevant bodies (courts/authorities) relating to piracy of time-sensitive copyright-protected content, including live events					

Please explain your answers: 1000 character(s) maximum

While we understand that the unauthorised retransmission of time-sensitive content such as live events is an issue, counter-measures must be proportionate. Some of the suggested measures in practice frequently undermine fundamental rights and are prone to overblocking of lawful content.

Short timeframes for processing notices risk encouraging removal without adequate verification, particularly where providers lack resources to assess claims quickly. Dynamic injunctions can likewise cause extensive overblocking, especially when targeting IP addresses shared by unrelated services. Both require robust safeguards to prevent and promptly remedy errors.

Requiring hosting providers to give rightholders direct technical means to block or remove content would further increase these risks by placing enforcement in the hands of interested parties. This would undermine procedural safeguards and disproportionately interfere with providers' business operations and users' access to lawful content.

5. If measures were to be taken at EU level with regard to dynamic injunctions applicable to time-sensitive copyright-protected content, including live events, what relevant safeguards (e.g. related to the update of blocked websites by rightholders, duration of the injunction, etc.) do you consider should accompany them? 1000 character(s) maximum

Any such measure must protect users, businesses and intermediaries from overblocking. Article 17's substantive and procedural safeguards offer a starting point: protecting lawful content, including uses under copyright exceptions, prohibiting general monitoring, and ensuring effective, expeditious complaint and redress mechanisms for all affected parties.

Blocking should target specific fully qualified domain names, not IP addresses, which may be shared by unrelated websites and services. Blocks must be strictly time-limited to the period necessary to protect the time-sensitive content. Rightholders' updates to blocking lists must be supported by evidence, subject to clear criteria and independent oversight, and open to swift challenge. Measures must also include prompt notification of affected parties, transparent reporting on blocks and errors, rapid unblocking of wrongly targeted services or where unrelated websites are affected, access to judicial review (including mechanisms allowing collective redress), and sanctions and enforcement mechanisms to address rightholders' abuse (including damage claims).

Copyright and research

1. Have you experienced specific challenges or barriers related to the use of copyright-protected content for scientific research activities, including across borders?

- Yes
- No
- Not applicable

2. Do you think that the existing copyright exception for scientific research provided for in Article 5(3)(a) of Directive 2001/29/EC is fit-for-purpose to support research in the digital and cross-border environment?

- Yes
- No
- I don't know

Please explain your answer: 1000 character(s) maximum

Article 5(3)(a) provides a broad and technologically neutral basis for scientific research, but its optional nature has resulted in fragmented and restrictive national implementations. This creates legal uncertainty and undermines cross-border research collaboration. Researchers face barriers to remotely accessing and sharing protected materials, including datasets and research results needed for verification, replication and dissemination. The non-commercial purpose requirement further complicates public-private research partnerships. Moreover, the exception can be overridden by contracts, while technological protection measures may prevent its effective exercise. These shortcomings hinder open science and the European Research Area.

3. In your view, what would be the most appropriate approach at EU level to tackle the challenges and barriers related to the use of copyright-protected content for scientific research, including cross-border research collaboration?

- Maintain the status quo: no changes to the copyright regulatory framework
- Work on increasing awareness on allowed uses and developing guidelines
- Changes to the regulatory framework at the EU level
- Other: please explain

Other: please explain 1000 character(s) maximum

We support making Article 5(3)(a) a mandatory, harmonised EU-wide scientific research exception, removing the non-commercial purpose restriction to facilitate public-private partnerships. The exception already covers all copyright-relevant acts necessary for research, including reproduction, distribution and communication to the public, enabling researchers to remotely access and share protected materials and research results for collaboration, verification, replication and dissemination. The exception is technologically neutral and sufficiently flexible to accommodate evolving research methods, benefit both institutional and independent researchers. Crucially, the exception must have a cross-border effect and must be protected against contractual overrides, including through choice-of-law clauses, and technological protection measures, with mechanisms ensuring timely access to protected

resources. Institutions should not be liable for damages where they reasonably believed that their activities were lawful and relied in good faith on the mandatory exception.

3a. In your view, what are the changes related to the research exception under the Infosoc Directive which could be considered at EU level? (select all that apply)

- Making the exception mandatory for all Member States
- Clarifying the beneficiaries of the exception
- Clarifying the purpose of the exception, scope of permitted use and conditions of applicability
- Removing the non-commercial condition attached to the existing exception
- Allowing cross border uses of protected content under the exception
- Ensuring that technological protection measures do not prevent beneficiaries from uses under the exception
- Ensuring that the exception cannot be overridden by contracts
- Other: please specify

Other: please specify 200 character(s) maximum

Establishing that the exception constitutes an overriding mandatory rule applicable to activities carried out within the Union, regardless of the governing law chosen in a licence agreement.

4. Considering possible changes to the EU copyright regulatory framework (research exception under the Infosoc Directive), what would be in your view the impacts of the following options on your business, innovation, research and/or other activities? 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
Making the exception mandatory for all Member States					X
Clarifying the beneficiaries of the exception		X			
Clarifying the purpose of the exception, scope of permitted use and conditions of applicability		X			
Removing the non-commercial condition attached to the existing exception				X	
Allowing cross border uses of protected content under the exception					X
Ensuring that technological protection measures do not prevent beneficiaries from uses under the exception					X

Ensuring that the exception cannot be overridden by contracts					X

Please elaborate your answer: 1000 character(s) maximum

The optional nature of the current exception has resulted in fragmented national rules that hinder cross-border research. We call for a mandatory, harmonised EU-wide exception with cross-border effect covering all copyright-relevant acts necessary for research, without a non-commercial purpose restriction. Effective safeguards are essential: contractual terms restricting uses permitted under the exception must be unenforceable, and the exception should constitute an overriding mandatory rule to prevent choice-of-law clauses from circumventing EU protections. Technological protection measures must not obstruct lawful research. Where such measures restrict access or use, rightsholders should be required to provide the necessary means to exercise the exception without undue delay, backed by effective enforcement mechanisms. These safeguards would ensure that researchers can exercise their rights in practice.

5. Have you faced issues in sharing your own work or accessing others' works produced in the context of publicly funded research (e.g. scientific publications, such as articles, books, conference papers)?

- Yes
- No
- Not applicable

6. In your view, what would be the most appropriate approach to tackle the challenges related to the sharing and accessing of scientific publications / works produced in the context of publicly funded research?

- Maintain the status quo: no changes to the copyright regulatory framework
- Issuing recommendation and/or guidance to Member States to encourage and support open access to publicly funded research results
- Introducing a harmonised secondary publication right in EU copyright legislation
- Other: please explain

Other - Please explain: 1000 character(s) maximum

Beyond introducing a harmonised EU-wide secondary publication right, we advocate establishing a secondary publication obligation for publicly funded research. While a right would empower authors to make their work openly accessible, an obligation would ensure that research outputs funded with public resources are systematically made available to the public. Researchers and their institutions should be required to deposit publicly funded research outputs in open access repositories immediately upon publication, without embargo, under appropriate open licences that enable reuse. This obligation should cover all forms of scholarly output, including the version of record, and apply regardless of the proportion of public funding received.

7. In your view, which of the following statements best describe the added value and/or risks related to the possible introduction of an EU-wide secondary publication right? (select all that apply)

- It will be easier for researchers to share their research publications more widely.
- It will be easier for researchers to access publicly funded research publications and use them for the benefit of further research
- It will strengthen the position of scientific authors when transferring rights to publishers
- It will facilitate the commercial exploitation of research publications (e.g. accelerating their route to market, supporting the faster adoption of research results into products and services)
- It will disrupt existing publishing models, potentially affecting journal operations and quality of scientific publications overall, and reducing the incentives for investment in publishing
- It will make it more difficult for researchers to publish their works in journals
- It will have no additional effects as currently available open access routes are sufficient to share and access scientific publications
- It is not possible to estimate the effect of its introduction
- Other: please explain

8. Considering possible changes to the EU copyright regulatory framework (introduction of an EU-wide secondary publication right), what would be in your view the impacts of the following options on your business, innovation, research and/or other activities? Please note that in the options below the EU-wide secondary publication right (SPR) would apply only to the making available of publications or works resulting from publicly funded research (receiving at least 50% public funding). Note that you may choose not to answer any option on which you have no opinion by leaving the relevant boxes unticked.

SPR Scenario	Strong negative impact	Moderate negative impact	Neutral	Moderate positive impact	Strong positive impact
The SPR would apply only to scientific journal articles and would allow authors to make publicly accessible the author accepted manuscript after an embargo period			X		
The SPR would apply only to scientific journal articles and would allow authors to make publicly accessible the author accepted manuscript without embargo period				X	
The SPR would apply to scientific journal articles and all forms of scholarly output that enjoy copyright protection and would allow authors to make publicly accessible				X	

the author accepted manuscript without embargo period					
The SPR would apply to scientific journal articles and would allow authors to make publicly accessible the author accepted manuscript without embargo, and the version of record (VoR) after an embargo period				X	
The SPR would apply to scientific journal articles and all forms of scholarly output that enjoy copyright protection and would allow authors to make publicly accessible the author accepted manuscript without embargo, and the version of record (VoR), after an embargo period					X

Please elaborate your answer: 1000 character(s) maximum

An EU-wide secondary publication right would help remove legal barriers to open access, accelerate scientific progress and prevent taxpayers from paying twice for publicly funded research. However, its impact depends on its scope. Embargo periods delay access, while limiting the right to journal articles excludes valuable scholarly outputs. We therefore favour an unwaivable, inalienable right covering all publicly funded research outputs, including the version of record, without embargo. We further caution that a right alone is insufficient: it should be complemented by an obligation on funding recipients to ensure immediate open access under appropriate open licences. Together, these measures would maximise the public benefit of research funding.

9. Would your responses to the previous question change if any amount of public funding would allow for the SPR provision to come into effect? If so, please elaborate how and what percentage of public funding you would find adequate. 1000 character(s) maximum

No. Our assessment would remain unchanged. We support an EU-wide secondary publication right that applies to all publicly funded research outputs, regardless of the proportion of public funding received. Any amount of public funding should be sufficient to trigger the right, without imposing a minimum percentage threshold. Such thresholds would introduce unnecessary complexity and legal uncertainty, particularly for research involving mixed public and private funding. This approach would maximise the public benefit of research investment and support the EU's open science objectives.