

Generative AI, Authors' Right and Collective Management

What's next?

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What's there to look at?

- 1. AI Act and what it brought for authors' rights**
- 2. Substantive copyright law considerations**
Input - Output
- 3. Next steps to consider?**



1. AI Act and authors' rights

AI Act is a horizontal Regulation but not a Copyright Act:

- **Sufficiently detailed summary of training data, incl. for protected works**
 - To allow exercise and enforcement of rights
 - Respecting trade secrets and confidential commercial information
 - A work by work reporting not required
 - AI Office to provide templates
- **Compliance with EU laws on copyright**
 - For all GPAI operating in the EU
 - Even if training (protected act) took place abroad
 - In particular for TDM reservations but also for copyright law in general
- **Why are these important for CMOs and how can they change the current practice?**



2. AI and EU Copyright Law (I)

Input – Use of protected works in (generative) AI training/development

- GAI creates content through foundation models built on ML, incl. using TDM of the content, scraped from entire Internet + other sources
- CDSM Directive has an exception for TDM, unless reserved by RH
- Does TDM exception cover full process of GAI (from scraping to content generation)?
 - What does it matter?
 - TDM exception vs Excl. right OR TDM reservation = Excl. right
- **It is time to make it work!**



2. AI and EU Copyright Law (II)

Input – TDM Reservation and Exercise of rights:

- **What authors' CMOs currently do?**
 - Several announcements of reservation
 - Direct contact with licensees and AI companies
- **Form of expression**
 - Every way possible
 - How technical should it be?
 - Focus on effective exercise, and not further limitations
- **Giving effect to the expression**
 - Responsibility of DSPs
 - Not to use works for TDM (terms may apply)
 - Not to let 3rd parties to scrape/TDM
- **Use cases – (Gen)AI developers:**
 - Respect the choices (exclusive rights)
 - Clear a licence to use the works
 - Ensure the value for the use



2. AI and EU Copyright Law (III)

Output

- **Legal status of AI-generated output**
 - with/without identifiable pieces of original works
 - responsibility of platforms
- **Registration of AI-assisted works** at CMOs
- **How to get the value from the AI-generated output market** that develops by using original works?



3. What's next now?

- **Implementation of AI Act**
 - Functioning of AI Office
 - Templates for reporting
 - Application in time and other potential loopholes
- **Exercise/Enforcement of copyright and reservation rights**
 - Enforcement of rights to services based outside the EU
 - Verification of time of use and application of reservation rights
 - National rules to better enforce the rights against AI companies
 - The business model for authors around GenAI market
- **AI Civil Liability Directive**
 - Shifting burden of proof
 - Presumption of fault
- **Do we need a new copyright overhaul?**

