



**Australian Information Industry Association**  
**Submission on**  
**the Copyright and AI Consultation Paper**

**11 December 2025**

## About the AIIA

The Australian Information Industry Association (AIIA) is the nation's peak body for those in the digital ecosystem, leading strategic policy and advocacy to shape a thriving digital sector. Through strong engagement with government, industry, and the broader community, the AIIA ensures the voice of its members informs decision-making on technology, innovation, and digital capability.

Membership provides direct access to influential networks, premium events, and opportunities to collaborate on initiatives with the sector's best and brightest to drive industry growth, improve productivity, and secure Australia's place as a global technology leader. AIIA members access real collaboration, real connections, and real outcomes.

## Introduction

The Australian Information Industry Association (AIIA) welcomes the opportunity to provide input to the Attorney-General's Department's Copyright and AI Consultation. In line with Australia's National AI Plan goal to remove cumbersome regulatory barriers and attract AI investment,<sup>1</sup> the AIIA advocates for balanced copyright settings that enable AI development and fairly compensate rightsholders. Achieving this balance is essential not only for fostering local research, talent, and commercialisation but also for attracting global investment in AI infrastructure and capability. In this context, copyright law must provide legal certainty for both rightsholders and developers, while preserving the space for market-based innovation.

This submission outlines our positions on the consultation's policy options and questions, focusing on legal avenues for using copyright material as AI inputs and the treatment of AI-generated outputs.

## Executive Summary

### Licensing Options

The AIIA supports a voluntary licensing model (Option A) as the most effective and future-ready approach for managing the use of copyright material in AI training. It offers flexibility, scalability, and legal certainty for both rightsholders and developers, and is already delivering results through commercial agreements across various sectors. The AIIA opposes Options B and C, which involve statutory or extended collective licensing, as they risk disrupting developing licensing markets, imposing inflexible structures, and deterring investment.

### Status of AI Outputs

The AIIA recommends that the Government confirm, through formal guidance, that Australian copyright law protects works created by humans using AI tools, where those works involve sufficient human authorship. This clarification would provide confidence to

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<sup>1</sup> Department of Industry, Science and Resources (Cth), Australia's National Artificial Intelligence Strategy (Report, November 2021) <https://www.industry.gov.au/sites/default/files/2025-12/national-ai-plan.pdf>.

creators and innovators that the use of AI does not undermine their legal rights, reinforcing AI's role as a tool that supports, rather than replaces, human creativity.

## Part 1 - Legal Avenues for AI Training Inputs

The consultation paper outlines three primary options for managing the use of copyright material in AI training:

- **Option A:** Retain the status quo (voluntary licensing as the primary mechanism).
- **Option B:** Create a new compulsory statutory licensing scheme.
- **Option C:** Create a new extended collective licensing scheme.

This section examines the current regulatory landscape, highlights the emerging role of voluntary licensing arrangements, and considers how different models may affect Australia's ability to foster a competitive and rights-respecting AI ecosystem.

### Option A: Voluntary Licensing (Status Quo)

The purpose of Australia's copyright system is to incentivise the creation and dissemination of original works while enabling beneficial use. The voluntary licensing framework already provides a lawful and flexible avenue for the use of copyright-protected material in AI development within Australia.

The market for AI data licensing is evolving rapidly. Technology companies and publishers are already negotiating licences enabling the use of a diverse range of materials. These commercial arrangements take several forms, such as direct bilateral licences, scalable marketplace models designed to streamline access and compensation, and data-access frameworks developed by content owners themselves. Together, they allow developers to obtain lawful access to valuable content while supporting new revenue models for rightsholders.

Early examples illustrate how these approaches are taking shape. OpenAI has secured content partnerships with major news organisations including News Corp (The Wall Street Journal, The Times),<sup>2</sup> the Financial Times,<sup>3</sup> TIME,<sup>4</sup> and Axel Springer (Politico, Business Insider).<sup>5</sup> These agreements provide OpenAI with access to current and archival content for use in generative AI, while ensuring attribution and enabling new monetisation pathways for rightsholders. Amazon has likewise signed a deal with The New York Times,

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<sup>2</sup> OpenAI, 'News Corp and OpenAI Announce Global Partnership' (Press Release, 22 May 2024) <https://investors.newscorp.com/node/15946/pdf>.

<sup>3</sup> Financial Times, 'Financial Times announces strategic partnership with OpenAI' (Press Release, 29 April 2024) [https://aboutus.ft.com/press\\_release/openai](https://aboutus.ft.com/press_release/openai).

<sup>4</sup> OpenAI, 'OpenAI and TIME Announce Multi-Year Content Agreement' (24 June 2024) <https://openai.com/index/strategic-content-partnership-with-time/>.

<sup>5</sup> Axel Springer, 'Axel Springer and OpenAI Enter Global Partnership' (Press Release, 13 December 2023) <https://www.axelspringer.com/en/ax-press-release/axel-springer-and-openai-partner-to-deepen-beneficial-use-of-ai-in-journalism>.

allowing its content to be used in Alexa and to train Amazon’s foundation models.<sup>6</sup> Beyond traditional publishing, licensing activity is expanding to new media and platforms. Microsoft has launched its Publisher Content Marketplace and is piloting direct revenue-sharing arrangements with outlets like People Inc and USA Today.<sup>7</sup> These developments confirm that the voluntary licensing market is functional, growing, and capable of supporting AI innovation and rightsholder interests in parallel.

These models are still emerging, and their long term development depends on a stable regulatory environment. Signalling clearly that Australia will rely on voluntary licensing rather than statutory mechanisms will encourage investment in scalable solutions, including rights-information technology, standard contract models, and new licensing marketplaces that support efficient and transparent transactions between AI developers and rightsholders.

Other jurisdictions, including the United States and Canada, have similarly signalled support for voluntary, market-based approaches to AI training inputs:

- **United States:** U.S. policymakers and regulators have so far favored a market-driven approach for AI training data. In a May 2025 report, the U.S. Copyright Office explicitly declined to recommend any statutory or compulsory licensing at this time, instead urging that voluntary licensing be allowed to develop further without government intervention.<sup>8</sup> The Copyright Office concluded that while questions remain about scaling up licensing for AI, compulsory licenses should be a last resort, to be considered only in exceptional cases if specific market failures emerge.<sup>9</sup> This stance effectively endorses the status quo of individual negotiations, rather than imposing a new blanket scheme. It aligns with the view that innovation in AI can continue alongside a growing licensing market, and that government intervention would be premature absent clear market breakdowns.
- **Canada:** Recent Canadian discussions also reflect support for voluntary licensing. In early 2024, the Government of Canada held a consultation on copyright and AI; the resulting “What We Heard” report noted that many stakeholders favored a voluntary licensing model over any “opt-out” or statutory regime.<sup>10</sup> Stakeholders

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<sup>6</sup> Jaspreet Singh, ‘New York Times partners with Amazon for first AI licensing deal’, *Reuters* (online, 30 May 2025)

<https://www.reuters.com/business/retail-consumer/new-york-times-amazon-sign-ai-licensing-deal-2025-05-29/>

<sup>7</sup> Microsoft, ‘Introducing Microsoft Marketplace: Thousands of Solutions, Millions of Customers, One Marketplace’, Microsoft Blog (online, 25 September 2025)

<https://blogs.microsoft.com/blog/2025/09/25/introducing-microsoft-marketplace-thousands-of-solutions-millions-of-customers-one-marketplace/>

<sup>8</sup> US Copyright Office, *Copyright and Artificial Intelligence: Part III – Copyright Issues Raised by the Training of Artificial Intelligence Models* (Report, 30 August 2025)

<https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-3-Generative-AI-Training-Report-Pre-Publication-Version.pdf>

<sup>9</sup> *Ibid* 106.

<sup>10</sup> Innovation, Science and Economic Development Canada, *Consultation on Copyright in the Age of Generative Artificial Intelligence: What We Heard Report* (Report, 2025)

<https://ISED-ISDE.CANADA.CA/site/strategic-policy-sector/sites/default/files/documents/2023-12/2023-consultation-paper-en.pdf>

cautioned against heavy-handed regulation, suggesting there was no evidence that rights-holders and AI developers cannot strike voluntary licensing agreements on their own, and warned that introducing new compulsory measures could hinder Canada's competitiveness in AI.<sup>11</sup>

AIIA sees multiple advantages in the proposed Option A:

- **Flexibility and Efficiency:** Voluntary licensing is highly flexible, allowing parties to craft licenses to fit the context (bespoke agreements, open licenses, non-commercial use allowances, etc.). This avoids the one-size-fits-all approach of a statutory or collective scheme. Where large datasets are needed, industry consortia or clearinghouses can emerge organically. Where individual negotiations are more appropriate, those can occur directly. There is also efficiency in direct deals for those parties that frequently collaborate. While some have raised concerns that negotiating many licenses could be administratively complex for AI developers, the tech industry is adept at creating platforms and standard terms to streamline licensing (for example, Creative Commons licenses or music licensing hubs).
- **Existing Precedents and Tools:** The tech and media sectors are already developing practical tools to facilitate voluntary arrangements. For example, major AI companies have started to provide opt-out mechanisms for web content. OpenAI recently announced that website operators can block the OpenAI GPTBot crawler via *robots.txt* to prevent their site from being scraped for AI training.<sup>12</sup> This gives publishers a straightforward way to exclude their content from AI datasets if they haven't licensed use. It builds on early community initiatives like DeviantArt's "NoAI" tag to signal a desire not to be included in generative AI training. Likewise, the International Press Telecommunications Council (IPTC) has published best-practice guidelines for publishers to express data-mining opt-out preferences using standard web technologies and metadata.<sup>13</sup> These developments show that in a voluntary regime, rights holders are not left powerless. They have tools to enforce their preferences, and AI developers are responding by honoring those signals or seeking licenses.
- **Rights Holder Choice and Reward:** Crucially, Option A respects the fundamental principle that creators have the first say over uses of their works. This encourages an environment where content creators and AI firms become partners in innovation. The alternatives (Option B or C) would force content owners into licensing schemes regardless of their preference.

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<sup>11</sup> Ibid 7.

<sup>12</sup> OpenAI, GPTBot (Web Page, 2023) <https://platform.openai.com/docs/bots>.

<sup>13</sup> International Press Telecommunications Council, *IPTC Generative AI Opt-Out Best Practice Recommendations*, Version 1.1 (25 August 2025) <https://iptc.org/std/guidelines/data-mining-opt-out/IPTC-Generative-AI-Opt-Out-Best-Practices.pdf>.

In light of these considerations, AIIA believes Option A provides the most balanced framework for AI inputs. It encourages fair, voluntary transactions that reward creators and enable innovation. We acknowledge that voluntary licensing is not without challenges, negotiations take time and not every content owner will engage, but the solution is to encourage more collaboration, rather than to impose a statutory scheme.

### **Limitations of Options B and C**

The AIIA does not support the implementation of Option B (Statutory Licensing) or Option C (Extended Collective Licensing), as both are poorly suited to the current stage of AI development and risk undermining investment, innovation, and practical rights management.

The landscape of AI development and content licensing is still nascent and evolving. Rightsholders and developers are actively negotiating terms and experimenting with diverse licensing models. Introducing a government-mandated regime at this early stage risks disrupting a thriving, flexible market that is still forming its norms. Prescriptive intervention would disincentivise collaboration and innovation, substituting organic evolution with rigid legal structures.

While statutory licensing theoretically provides access under set terms, it effectively displaces commercial negotiation with government-imposed conditions. Developers and rightsholders would be incentivised to engage in adversarial lobbying over rates and usage parameters, rather than building practical partnerships. This dynamic undermines investment certainty, particularly for smaller players who cannot afford prolonged regulatory disputes or tribunal processes. Statutory licensing would freeze innovation in a contest over pricing, rather than foster the creation of new AI capabilities that could benefit all stakeholders.

Neither Option B nor Option C offers a viable or future-proof model for AI development in Australia. Both frameworks reduce legal and commercial flexibility, and offer little practical benefit to creators or developers.

## **Part 2 - Copyright Status of AI-Generated Outputs**

The AIIA recommends that the Government affirm that copyright protection extends to works created with the assistance of AI, provided a human author has made an original creative contribution. The use of AI as a tool in the creative process is analogous to the use of other sophisticated creative technologies and does not alter the statutory criteria for subsistence of copyright, which require an original work of authorship created by a natural person.<sup>14</sup> The critical element remains the presence of human creativity, direction, and control in the expression of the output.

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<sup>14</sup> Copyright subsists in "original" works of authorship created by a natural person (Copyright Act 1968 (Cth) ss 10(1), 32, 35). The High Court has confirmed that originality requires "independent intellectual effort" in the expression of the work: *IceTV Pty Ltd v Nine Network Australia Pty Ltd* (2009) 239 CLR 458, [33]–[36].

The AIIA considers it essential to provide clarity that the use of AI as a tool to support human creativity does not deprive a work of copyright protection. Where a human directs an AI system through prompts, selections, edits, or other inputs so that the output reflects that person's creative choices, the resulting work should be treated as the human's own expression, in the same way that copyright applies when a creator uses technologies such as cameras, digital editing tools, or design software.

A similar approach has been taken in other jurisdictions, with the United States Copyright Office issuing guidance that human authors can claim copyright in AI-assisted works to the extent of their own contributions, whereas purely autonomous AI-generated content, with no creative input by a person, is not protectable.<sup>15</sup> This approach focuses on isolating what the human created versus what the machine generated without direction.

Modern creative processes frequently involve a mix of human and machine inputs; drawing a bright line to exclude any work with AI input from protection would be an extreme step backward. It would discourage artists and developers from using legitimate tools that can enhance productivity and innovation. Historically, copyright has never demanded that works be made "by hand" or without assistance. Photographers use complex cameras, musicians use electronic synthesisers, architects use CAD software, yet the human author is still recognised. AI is a more autonomous tool, but when used under human guidance, it falls in the same conceptual space.

Given the above, the AIIA recommends that the Government confirm, through formal guidance, that Australian copyright law protects works created by humans using AI tools, where those works involve sufficient human authorship. This approach preserves the foundational principle that copyright subsists in original human expression, regardless of the tools used.

## Conclusion

Australia has a critical opportunity to position itself as a leader in AI development by adopting copyright settings that encourage investment, innovation, and fair outcomes for creators. The AIIA supports a principled approach that maintains the flexibility and incentive structures of the current framework, while fostering greater clarity and collaboration between AI developers and content owners.

We thank the Attorney-General's Department for the opportunity to contribute to this consultation and remain available to assist in developing future guidance or frameworks that align copyright principles with technological progress. Should you require further

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<sup>15</sup> U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence* (16 March 2023), Federal Register Vol 88, No 51 <https://www.federalregister.gov/documents/2023/03/16/2023-05321/copyright-registration-guidance-works-containing-material-generated-by-artificial-intelligence>; U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2 - Copyrightability* (2025) <https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf>.

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Thank you for considering our submission.

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