

Submission to Senate Environment and Communications References Committee: Artificial intelligence and data centres

September 2026

Introduction

Our 42,000 members – primarily writers, artists and publishers – have welcomed the ongoing commitment, from across the Australian Parliament, for an Australian copyright framework that enables fair payment to people who create and invest in the content that is an essential input to AI development and deployment. AI developers pay for all other inputs, including compute and their staff, and there is no justification for their use of other people's content to be free. AI developers need to acknowledge the importance of other people's content to the value of AI models and tools, and that their failure to pay for the content will destroy the 'virtuous circle' of investment in new human-created content that will be critical for future AI development.

AI development in Australia

Australia's strong stance has removed any 'uncertainty' that AI developers claimed that they faced. Licensing arrangements for the use of other people's content is a clear and unequivocal requirement for AI development and deployment in Australia.

Despite this, AI developers are not willing licensees. They are generally not taking steps to put licensing arrangements in place for AI development in Australia, under Australia's copyright framework. Their concerns about defending themselves in more than 100 court cases in the US should not be a consideration for how they are required to operate in Australia, under Australian law.

The copyright system remains the most effective way for developers to use other people's content for AI development in an ethical manner and for rightsholders to be fairly compensated for the use of their work. The Government should resist suggestions, including those coming from the global technology sector, that copyright should be replaced with another system. This is not only unnecessary but likely to be resisted by people working in the creative industries, particularly if it shifts control over use of their work into the hands of developers and the Government.

In addition to maintaining regulatory settings that are conducive to licensing for Australian AI development, the Australian Government should also look to non-legislative measures such as funding requirements for Government-supported AI development, procurement requirements, and the Government's commitment to be an exemplar for AI adoption.

Use in Australia of AI models developed overseas

There needs to be separate consideration for the use in Australia of AI models developed overseas, that were developed using unlicensed content of Australians, including datasets of pirated books. The Australian copyright framework does not provide a straightforward solution, as it applies to activities in Australia. It remains very difficult for Australians whose works have been used for AI development overseas to get payment, despite the models being available in Australia. If this issue is not addressed, it will continue to erode trust and confidence in AI and will ultimately undermine the social licence necessary for data centres to operate in Australia.

Other issues

There are many other issues relating to the use of Australian creators' work that fall outside the reach of copyright law but need to be addressed in order to maintain the social licence for AI in Australia. For example, special consideration must be given to issues relating to ICIP and the Government should consult with First Nations groups. Also, regard should be given to the Codes of Conduct and best practice guidelines for organisations representing workers in the creative sector.

About Copyright Agency

We are a not-for-profit organisation manages collective licensing arrangements that allow the use of vast numbers of works from a large range of rightsholders, both local and from overseas (including via reciprocal arrangements with similar organisations in other countries). We negotiate, collect and distribute copyright fees from these arrangements, primarily to writers, artists and publishers.