

Submission to Joint Select Committee on Artificial Intelligence

September 2026

Introduction

Our 42,000 members – primarily writers, artists and publishers – have welcomed the ongoing commitment, from across the Australian Parliament, to 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.

Our submission addresses the following terms of reference:

- (i) the adequacy of Australia's existing laws and regulatory frameworks as they apply to AI and whether there are any gaps that warrant reform
- (j) the interaction of AI with existing intellectual property and copyright laws, including the use of Australian creative, cultural and media content in the training of AI models

AI development in Australia

Australia's clear and reiterated position on copyright 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 US court cases should not be a consideration for how they are required to operate in Australia, under Australian law. The Australian Government should not be providing AI developers with any assistance with the US cases, particularly given that the developers have used Australian content creators' works without permission or payment.

The Government needs to reiterate to AI developers, particularly multinational companies, that the social licence to develop and deploy AI in Australia includes licensing arrangements for the use of other people's content.

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 both unnecessary, and strongly opposed 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.

Non-regulatory measures to facilitate licensing

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 to facilitate licensing. Examples could be funding requirements for Government-supported AI development, procurement requirements, the Government's commitment to be an exemplar for AI adoption, and infrastructure support.

Infrastructure to facilitate content supply for AI development

Deals that enable the use of other people's content for AI-related activity usually require content access/supply arrangements in addition to a licence. While these can be well-established for large content organisations, they can be more difficult for smaller content organisations. The Government's aspiration for

AI to deliver revenue to local content organisations requires additional infrastructure to enable efficient content supply (with associated metadata) by smaller content creators, so that they have opportunities to participate in the emerging markets. The Government should provide funding to assist the development of that infrastructure.

Condemnation for the destruction of books for AI training

The Committee will be aware of recent reports of very large numbers of books being scanned and destroyed to create new datasets for AI training. This appears to be based on a belief that that is allowed under US law.

We ask the Committee to unequivocally condemn this practice, irrespective of whether or not it may be legal under US law (and that is not currently clear, despite claims by some that it is). It is emblematic of the scant regard by some AI developers for the broader societal consequence of their actions.

Scanning of books by or on behalf of AI developers in Australia is clearly prohibited by Australian law. The Committee should clearly rule out any suggestion that datasets of scanned books could be brought to Australia for AI development or deployment here.

Apart from the ugly spectre of books being destroyed, there are licensing pathways that are available to AI developers for the content of books. The developers are choosing to not pursue those pathways, despite the Government's very clear policy intent. They should not be rewarded for that refusal.

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 undermine the social licence for AI development and deployment 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 Indigenous Cultural and Intellectual Property (ICIP). 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.