the global trade body for independent music publishers

IMPF response to Stakeholder Consultation on Copyright and Artificial Intelligence with Creators /Content Industry Stakeholders in India

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IMPF is the global trade and advocacy body for independent music publishers, helping to stimulate a more favourable business environment in different territories and jurisdictions for artistic, cultural, and commercial diversity for songwriters, composers, and music publishers everywhere.

We are engaged in international AI related policy discussions, and have submitted to enquiries in the United States, the European Union ("AI Act"), the United Kingdom, Australia and Canada. In October 2023, we published ethical guidelines on generative Artificial Intelligence welcoming technological developments in as far as they improve our business and the capacity to assist the writers we represent. These guidelines are aimed at enhancing the relationship between the creative side, in our case writers and music publishers, and AI service providers. This should ultimately enable transparent collaboration for the benefit of all stakeholders including AI developers. Given the rights we represent our comments concern musical and literary works only.

IMPF welcomes the opportunity to respond to the public consultation relating to Copyright and Artificial Intelligence in India.

Independent music publishing continues to assert its critical role within the global music industry, showcasing steady growth and cultural significance, as important partners, key agents of cultural diversity and custodians of songs.
Independent publishers captured a 26.3% global market share in 2023. The global value of independent music publishing reached €2.57 billion in 2023, representing a 5.7% year-over-year growth. This marks an impressive 105.6% increase since 2018[1].

This continued growth demonstrates the value independent music publishing delivers on both a local and international level supported by a healthy copyright framework.

[1] Please find the full IMPF Global Market View Report from April 2025 here: https://www.impforum.org/wp-content/uploads/2025/03/IMPF-Global-Market-View-Independent-Music-Publishing-April_2025.pdf

Independent music publishers are present in almost every country in the world, and their existence makes them active agents for cultural diversity, for multiple reasons:

- Their businesses are deeply rooted in the local economic, social and cultural fabric of their countries.
- They hire and train local staff, sign local talent, build IT networks to process royalty flows, participate in the life of the local collective management organisations, and pay local taxes, among other activities.
- They develop a network of like-minded partners around the world to sub-publish their catalogues and provide more opportunities for the talent they represent.
- They help expose talent they have signed locally and globally.
- They contribute to the economic growth of their respective countries and, when they achieve international success, it has a positive cultural and economic effect in their home base.

Music has entered a new era with AI, which will have a transformative impact on many levels. Whilst it can enhance royalty management and offer creative tools, GenAI also poses unprecedented challenges. We have to be clear that this is a different kind of disruption and therefore effective policies and guardrails that empower rather than replace songwriters and composers and their music publishers will be essential. We therefore respectfully suggest that discussions should focus on how AI can strengthen and support the growth of the cultural and creative sector.

Prime Minister Narendra Modi recently made a compelling case for India as a global creative powerhouse. Indeed India has strong and vibrant cultural and creative industries, driving economic growth and employment. India's industry growth is valued at $28 billion and projected to hit $100 billion, clearly underscoring India's creative potential[2].

This continued growth is supported by a healthy copyright framework, the cornerstone of innovation. It empowers creators and their industry representatives to take risks and experiment, knowing their work is protected and their efforts will be rewarded. Copyright transforms ideas into investments.

The first ever global study measuring the economic impact of AI in the music and audiovisual sectors calculates that GenAI will enrich tech companies while substantially jeopardising the income of human creators in the next five years. According to a PMP Strategy study conducted at global level, potential consequences are laid out clearly highlighting that 24% of music creators and 21% of audiovisual authors' revenues are at risk by 2028[3].

[2] India: A Rising Hub for Global Creativity and Cultural Exchange

[3] https://www.cisac.org/Newsroom/news-releases/global-economic-study-shows-human-creators-future-risk-generative-ai

AI innovation and copyright protection are however not opposing forces but can - and must - reinforce each other in support of the development of a competitive, ethical[4], and human-focused AI ecosystem. This must be paired with robust transparency obligations, including detailed disclosure of training data sources and processes. A transparency-first, license-based approach will ensure AI's success is built on respect for human creativity, not its exploitation.

i) Do you see the use of copyrighted materials in the AI training, as infringement? If yes, how?

Copying musical works without permission in the absence of an exception constitutes copyright infringement.

GenAI models depend on massive datasets, often sourced by scraping copyrighted materials such as lyrics, compositions, and recordings. These models are trained without permission, payment, or even disclosure, effectively by-passing the foundational mechanisms that enable the cultural and creative sector, including music publishers and the songwriters and composers they represent, to function.

ii) If it is infringement, how should the policy strike the right balance between protecting copyrighted content and enabling its use for AI training? *- In your view, where does this balance lie?*

A legally, politically, and commercially successful AI ecosystem depends upon all relevant parts working in tandem for this common goal: Coexistence of human created and AI generated works, competing on a level playing field, a fair market. The fundamental starting point for the maintenance of a fair market is the compliance with the law in the jurisdiction AI service providers operate, in our case mainly copyright law but also other rules such as data protection and contractual obligations.

The AI products are expected to generate billions, even trillions, of dollars for the companies that are developing them. If using copyrighted works to train the models is as necessary as the companies say, they will figure out a way to compensate copyright holders for it (Kadrey v Meta).

So copyright is not an obstacle to the wide access to high-quality material to drive development of leading AI models. Licensing musical works for AI training is for AI developers simply a cost to their business, which they try to avoid in order to increase their profit margins at the expense of rightsholders.

[4] See also IMPF ethical guidelines for the development of AI: https://www.impforum.org/wp-content/uploads/2023/10/IMPF-Ethical-Guidelines-on-generative-AI-docx.pdf

There is no evidence to the claim that changes to copyright will contribute to a success of AI developers.

iii) Why should a blanket TDM exception for AI training (for commercial purposes) not be introduced in India, in order to help India take a lead in AI innovation? Would it hurt the content industry? If yes, how?

Exceptions to copyright are justified in light of a greater social purpose, such as providing visually impaired persons with accessible format copies. This is not the case if the exception only reduces the financial burden for AI developers who continue to get away with not paying for licences to the detriment of right holders.

Furthermore, exceptions at national level have to comply with the so called three-step test as included in the TRIPS Agreement accompanying the UK membership to the World Trade Organisation. This test is mandatory for all WTO members. In a nutshell, this test requires any new exception introduced by a WTO member to be limited to special cases without interfering with the normal exploitation. Using the whole Internet as data source certainly does not constitute a special case. Normal exploitation occurs through licensing of musical works for AI training (which, by the way, is already happening); an exception obviously interferes with this normal exploitation.

Introducing such an exception allegedly balancing the commercial interests of AI developers with the protections of rightsholders is consequentially legally wrong.

The fair use exception in the United States is subject to several legal challenges; it is incorrect to imply that fair use applies to AI training; and that as a consequence AI developers prefer the United States. To the contrary, a judge in the recent case Thompson Reuters v Ross Intelligence opined that the copying in the machine learning process is not fair use, it is not transformative and competes with the market of the original work.

In Kadrey v Meta, the US court held that “Because the performance of a generative AI model depends on the amount and quality of data it absorbs as part of its training, companies have been unable to resist the temptation to feed copyright-protected materials into their models—without getting permission from the copyright holders or paying them for the right to use their works for this purpose. This case presents the question whether such conduct is illegal. Although the devil is in the details, in most cases the answer will likely be yes”.

The court continues that “the doctrine of “fair use,” which provides a defence to certain claims of copyright infringement, typically doesn’t apply to copying that will significantly diminish the ability of copyright holders to make money from their works (thus significantly diminishing the incentive to create in the future). Generative AI has the potential to flood the market with endless amounts of images, songs, articles, books, and more. People can prompt generative AI models to produce these outputs using a tiny fraction of the time and creativity that would otherwise be required. So by training

generative AI models with copyrighted works, companies are creating something that often will dramatically undermine the market for those works, and thus dramatically undermine the incentive for human beings to create things the old-fashioned way." "And here, copying the protected works, however transformative, involves the creation of a product with the ability to severely harm the market for the works being copied, and thus severely undermine the incentive for human beings to create. Under the fair use doctrine, harm to the market for the copyrighted work is more important than the purpose for which the copies are made".

iv) How do you view a text and data mining (TDM) model with an opt-out mechanism? *Does this model adequately address the concerns of content owners' rights? If not, why?*

Combining such exception with a rights reservation, i.e. forcing the rightsholder to opt out of the exception, will not reduce the negative impact of the exception. If rights reservations are effective and accessible, rightsholders will simply opt out; this might enable them to engage in licensing discussions with AI developers at a commercial level but we don't understand why the upending of the opt in based copyright system is required. If rights reservations are not effective and accessible, they have no value for rightsholders. In discussions on rights reservations in particular at European Union level, many challenges have been identified, mainly the required standard of a rights reservation; the relevant forum for a rights reservation; the format and scope of rights reservation (in addition to being machine-readable); the relevant person declaring a rights reservation (individual creators, rights holders, and/or collective management organisations or platform providers). Most importantly, rightsholders as it stands have no possibility of verifying whether rights reservations have been respected. We refer the government of India to the ongoing discussions about the required nature of rights reservations at European Union level, which led to uncertainty.

v) Given the scale, direct licensing has some challenges. What alternative licensing framework would be most appropriate for India's AI ecosystem? *- Are there global models India could adapt effectively?*

There is no challenge to direct licensing at scale. Rightsholders across the creative industry have a track record of successfully licensing copyrighted works at scale; e.g. for the streaming market.

AI developers frequently claim it is "impractical" to license content at scale. Yet, they have entered into licensing deals when pressured, demonstrating that where there is a will, there is a way.

Transparency obligations are key for a fair, competitive market; they underpin a level playing field between rightsholders in the music industry and AI developers. Transparency obligations are indeed essential and should be introduced in order to ensure licensing negotiation are taking place at level playing field.

Transparency obligations should include data about the use of specifically listed works in training during a specific period (including the relevant meta data); the data capture mechanism used (web crawlers, or other means), the manner in which rights reservations were considered.

Transparency obligations need to be accompanied by deterrent remedies in case of infringement.

vi) What are your concerns, if any, with introducing a statutory licensing model for AI training purposes? - *How might these concerns be mitigated through legal or technical safeguards?*

Please refer to answer above. There is at this stage no requirement to introduce a statutory licensing model.

vii) What is your view on the copyrightability of AI generated works?

viii) What is your view on authorship of AI generated works? Who should be copyright owner of AI generated works? What should be the liability structure?

Whatever the copyright status of AI generated works, we are working on mechanisms to ensure that rightsholders participate in the economic value of the downstream exploitation of our works as rightsholders of the original works used for the generation of a new output