IMPF

the global trade body for independent music publishers

IMPF Submission to the European Commission's Call for Evidence: Review of the Copyright in the Digital Single Market Directive and Targeted Initiative for a Better Copyright Environment for European Creativity and Innovation

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Executive summary

IMPF is the global trade and advocacy body for independent music publishers. We work to stimulate a more favourable business environment across territories and jurisdictions, supporting artistic, cultural, and commercial diversity for songwriters, composers, and music publishers worldwide. Independent music publishing continues to assert its critical role within the global music industry, as an important partner for songwriters and composers, a key agent of cultural diversity, and a custodian of songs.

According to the IMPF Global Market View 2025 , Independent publishers captured a 26.3% global market share in 2024 and generated revenues of €2.7bn, an increase of 5.1% year-on-year. This reflects both robust market fundamentals and the expanding role of independents as active contributors to creativity, cultural diversity and economic value worldwide, supported by a healthy copyright framework.

This submission is made in the context of the European Commission's consultation, Targeted initiative for a better copyright environment for European creativity and innovation, concerning the review of Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (the DSM Directive). It addresses the areas of the Directive most directly relevant to independent music publishers and the songwriters and composers they represent.

The existing EU legal framework provides a sound foundation, but targeted legislative reinforcement is now required to address the specific market conditions created by generative AI. Incremental adjustment to existing measures will not close the structural gaps now visible across the AI value chain.

IMPF calls on the European Commission to:

1. Confirm that EU copyright law applies to all generative AI services offered within the EU, regardless of where training occurred.
2. Establish enforceable, copyright-specific transparency obligations as a condition of market access.
3. Introduce a rebuttable presumption of use where AI providers refuse transparency or licensing engagement.
4. Ensure that the copyright framework continues to guarantee full protection for human authors and rightsholders, including in circumstances where AI-generated content competes with, substitutes, or economically displaces human-authored works.
5. Reject proposals for expanded TDM exceptions, opt-out registries, or procedural delay mechanisms that would weaken rightsholders' rights without delivering enforceable benefits.

IMPF remains available to provide further evidence, data, or technical input to DG CNECT, and to participate in the targeted consultation activities to follow this call for evidence. We look forward to working constructively with the Commission to ensure that the EU's copyright framework enables a generative AI market that is innovative, competitive, and fair to the authors and rightsholders on whose work it depends.

PART I: Review of the DSM Directive - IMPF's assessment

The DSM Directive was a significant step forward for copyright in the digital environment. IMPF provides the following assessment of the Directive's key provisions as they affect independent music publishers, in the context of the Commission's review under Article 30.

1. Platform accountability: Article 17 and Online Content-Sharing Services - overall impact and legal development

Article 17 has had a broadly positive impact on the music publishing sector. By creating a distinct liability regime for online content-sharing service providers (OCSSPs) and narrowing the availability of the Article 14 E-Commerce Directive safe harbour, the Directive has led to more structured licensing discussions and clarified that certain platforms require authorisation for user-uploaded content.

The scope of Article 17 continues to be shaped by CJEU case law. C-401/19 (Poland v Parliament and Council) confirmed the compatibility of Article 17 with the Charter of Fundamental Rights, emphasising proportionality and safeguards for lawful uses. C-

442/22 (AKM v Canal+ Luxembourg) confirmed that Article 17 governs both the reproduction right and the communication-to-the-public right for reproductions inherent in user uploads, operating as a lex specialis. National courts in Germany, France, and the Netherlands are currently testing the thresholds for 'best efforts', the proportionality of filtering, and user-rights safeguards. However, its practical effectiveness is being eroded by new technological developments - most notably the proliferation of AI-generated content on platforms.

i. Impact on licensing and revenues

From a licensing perspective, Article 17 has had a tangible, if uneven, effect. By placing the burden of authorisation squarely on the OCSSP, the Directive created a clearer legal imperative to license. This has brought some platforms to the negotiating table that had previously relied on passive defences, and has contributed to the conclusion of licensing agreements in the music sector that might not otherwise have been reached. In that respect, Article 17 has functioned as intended: it has reframed the question from whether a licence is needed to what terms are acceptable.

ii. Transparency and informational asymmetry

The most significant structural deficiency in the current Article 17 framework is informational. Negotiations take place in conditions of significant asymmetry: platforms retain detailed, real-time data on consumption, engagement, monetisation, and algorithmic treatment of musical works that rightsholders cannot independently access or verify. Royalty statements are frequently aggregated, delayed, and presented in formats that make meaningful analysis difficult, and the methodologies underlying payment calculations are rarely disclosed in sufficient detail to allow rightsholders to identify errors or challenge undervaluation.

Transparency is not a peripheral concern in this framework - it is a precondition for the licensing market to function properly. Without mandatory, standardised disclosure obligations on OCSSPs covering content usage, revenues, filtering performance, and complaint outcomes, rightsholders will remain unable to verify compliance or negotiate on equal terms. The legal architecture of Article 17 is more robust than what preceded it; the informational architecture that would make it effective in practice has yet to be built.

Streaming fraud and AI - Article 17's continued relevance

A further area where Article 17 could have practical impact is streaming fraud, including fraud involving AI generated works. Some OCSSPs have taken steps to address such fraud. Deezer has announced tools to identify and tag AI-generated tracks and adjust recommendation systems. Spotify has purportedly updated its platform rules to address impersonation, synthetic vocals, and certain forms of AI-generated catalogue. In IMPF's assessment these responses lack detail to assess their impact. In future. At the moment they seem insufficient.

The Directive's explicit "best efforts" obligations could give rightsholders a firmer basis for requiring platforms to address manipulative behaviour and to prevent unauthorised or synthetic content from distorting usage and revenues. IMPF considers this an area where greater regulatory clarity and enforcement consistency would be beneficial.

2. Text and Data Mining (TDM) and rights reservation (Articles 3–4) - legal uncertainty and structural gaps

The TDM exceptions under Articles 3 and 4 of the DSM Directive have not delivered legal certainty. In our view they do not apply to generative AI training. TDM exceptions were never designed to authorise large-scale AI training. They permit researchers to access and analyse information contained in protected text by making temporary copies, and such extracted data (facts, patterns, correlations) is not itself protected by copyright. This is fundamentally different from the wholesale copying of musical works, sound recordings, and other protected content into AI training datasets in data form.

i. Rights reservation

IMPF members have taken steps to reserve rights under Article 4 of the DSM Directive. In practice, publishers rely on a combination of technical, contractual, and collective measures operating in parallel: machine-readable opt-outs on digital copies (robots.txt exclusions, metadata signals), contractual prohibitions in licensing agreements and updated terms of use, API restrictions, and blanket declarations filed through collective management organisations.

These mechanisms are insufficient in practice. Technical measures such as robots.txt are either excessively broad or insufficiently precise: suppressing automated access also undermines legitimate search visibility and the marketing and licensing functions on which publishers depend. Contractual prohibitions provide limited deterrence against large-scale scraping, since they assume voluntary adherence by AI developers who are not parties to the relevant agreements. Collective Management Organisations' declarations introduce administrative order but depend on developers consulting and honouring registries for which no binding obligation exists.

An additional structural problem is the timing of any purported reservation. As the German case Kneschke v. LAION illustrates, it is difficult to see how rightsholders could have opted out 'appropriately' before 2021, when the DSM Directive had not yet been fully implemented across Member States, no harmonised opt-out mechanism existed, and it was not even settled whether the Directive's TDM provisions applied to AI-driven scraping at all. The expectation that rightsholders should have deployed a compliant reservation before the legal framework was defined creates a retrospective compliance burden that bears no relation to the practical realities of how large-scale training datasets were assembled.

The music sector faces a further structural complexity not present in other creative industries: the fragmented nature of rights ownership. A single recorded song typically involves multiple layers of rights - the musical work (composer and lyricist) and the sound recording (artist and producer) - administered by different CMOs, publishers and labels under different contractual and territorial arrangements. Even a rightsholder acting in good faith to assert an opt-out may do so incompletely, leaving other rights exposed. No opt-out registry can cure this underlying fragmentation or guarantee that a reservation by one rightsholder will be recognised as effective across the full bundle of rights in a given work.

Transparency also remains a serious gap. There is no practical means for rightsholders to verify whether any opt-out has been observed. Once downstream copies of datasets have been created and circulated through multiple intermediaries and without traceable provenance or metadata, it becomes impossible to determine whether a reservation has been honoured in practice.

ii. Impact on Licensing and Enforcement

The TDM exceptions have had a direct and damaging effect on IMPF members' licensing and enforcement practices. AI model providers routinely assert exceptions - the EU TDM provisions, the idea-expression dichotomy, and in some cases the US fair-use doctrine, which has no relevance in the EU - to justify a position that no licence is required. The commercial effect is straightforward: the provider asserts the exception, declines to seek permission, and leaves rightsholders to challenge a use that has already taken place at scale and without transparency.

The United Kingdom's experience is instructive. After extended public consultation, the UK moved away from the opt-out model it had initially proposed. The UKIPO's 2023 consultation floated a wide TDM exception permitting AI training on any lawfully accessed content subject only to a rightsholder opt-out. That proposal was abandoned following sustained opposition from the creative industries. The UK's conclusion was not merely that the details needed refinement, but that the opt-out model was structurally flawed. Further afield, the Australian Government has taken a similar approach rejecting a broad exception.

A more positive development is the growing recognition on both sides of the Atlantic that AI service providers previously confident in broad exceptions are now being incentivised by legal action to reconsider. Providers are increasingly inclined to seek licences, and rightsholders continue to make such licences available. The litigation triggered by non-licensing has become the main driver pushing providers toward the licensing framework they initially sought to avoid.

iii. Impact on the remuneration of rightsholders

The impact of generative AI on the remuneration of songwriters and composers is already significant and is likely to intensify as these tools become more deeply embedded in the creative economy. Musical works are among the most systematically ingested categories of content in AI training datasets, and the remuneration frameworks designed to ensure rightsholders share in the exploitation of their works are being structurally bypassed.

The central problem is not that generative AI exists, but that the dominant commercial practice has been to train on protected content without seeking licences, without paying remuneration, and without any transparency as to what has been used. This reflects a deliberate posture: assert an exception, avoid negotiation, and present rightsholders with a fait accompli. By the time a model is trained and deployed commercially, the use has already occurred at scale, the value has been extracted, and the rightsholder is left to pursue litigation rather than receive payment.

The transparency dimension compounds this significantly. Article 19 of the DSM Directive requires contractual counterparties to provide authors and performers with up-to-date information on the exploitation of their works at least annually. But where no licence has been sought and no contractual relationship exists, which is precisely the position AI companies have engineered, the transparency framework has nothing to bite on. There is no contract, no reporting obligation, and no mechanism through which a songwriter can discover whether their work was used, in what quantity, for what purpose, or with what commercial effect.

There is also a structural market distortion requiring explicit recognition. Where AI-generated music - produced using models trained on the works of human songwriters without payment - is made available on streaming platforms, in sync licensing contexts, or through commercial subscription services, it competes directly with music created by those same rightsholders under licensing arrangements that carry cost and negotiation. This displacement effect is already being experienced across the sector.

iv. TDM exception and generative AI: the broader design question

TDM exceptions were conceived to support academic and scientific research: they permitted the analysis of content to extract facts, patterns, and correlations, the outputs of which are not themselves copyright-protected. What has occurred in practice is categorically different: the wholesale commercial ingestion of protected works into training datasets used to build systems that generate outputs competing directly with the ingested works.

The exceptions were a narrow carve-out; they have been applied as a broad licence. This interpretive expansion has generated a structural asymmetry that existing enforcement mechanisms were not designed to address. Any review of the DSM Directive must re-confirm that large-scale commercial AI training does not fall within the scope of Articles 3 and 4.

The European Parliament's 2025 Study on 'Generative AI and Copyright' notes persistent ambiguity over whether generative AI training qualifies as TDM at all, and stresses that the AI Act's Article 53 references to Article 4 are procedural only and do not validate the lawfulness of TDM-based training. A significant number of EU Member States have themselves told the Council that generative AI training uses go beyond the TDM exception's scope.

A detailed German legal opinion commissioned by Initiative Urheberrecht argues that the TDM exception does not apply to training generative models because training entails multiple acts of reproduction and memorisation that exceed mere 'mining for information'. The European Copyright Society's 2025 Opinion reaches a similar conclusion: Articles 3–4 may cover some narrow operations but 'certainly not all stages' of generative AI development.

The question is now before the Court of Justice of the EU in Case C-250/25 (Like Company v Google Ireland), where the referring Hungarian court asks specifically whether training and operating an LLM-based chatbot involves acts of reproduction and communication to the public, and whether Article 4 TDM exception applies to such uses. This referral itself confirms that the existing framework does not provide sufficient clarity.

3. **Fair remuneration, transparency, and contractual balance** (Articles 18 – 22)

i. Remuneration structure in music publishing

The contractual relationship between songwriters and publishers differs fundamentally from that between artists and labels, and this distinction is material to the operation of the DSM Directive's remuneration provisions. In the publishing context, concerns about disproportionate remuneration arise far less frequently, because the prevailing model is percentage-based: the writer receives an agreed share of revenue, which is by definition proportionate to the actual exploitation of the work. CMOs play a central role in the administration of streaming income, and their distribution rules further reinforce proportionality.

ii. The buyout problem

Lump-sum payments are not a standard feature of music publishing remuneration and their prevalence has not materially changed since 2019. However, IMPF draws the Commission's attention to a related and growing concern: the increasing use of buyout contracts - arrangements under which a writer is paid a single upfront fee in exchange for a full or partial transfer of rights, with no ongoing participation in revenues generated by the work. IMPF is firmly opposed to the proliferation of buyout models, which it regards as structurally incompatible with the principles of fair and proportionate remuneration that underpin the DSM Directive. The buyout model removes the writer from any share in the long-term value of their work, and this is particularly damaging in the music publishing context, where the commercial life of a composition can span decades and where the value of a work often appreciates over time rather than diminishing. Given the different uses of music, a range of licensing approaches exists for publishers. In production music, buy-outs are often more common and commercially convenient, particularly where both the master and the publishing rights are supplied together. Likewise, when a catalogue is acquired from another rights holder, a buy-out structure may be necessary to secure clean rights and avoid legacy complications.

iii. Transparency obligations: Article 19 in practice

Publishers and CMOs already provide detailed and transparent information to writers through established reporting systems and online portals - mechanisms that were in place well before the DSM Directive became applicable. In this respect, Article 19 has not required structural adjustments to existing practices. Information is available continuously through publisher and CMO portals, providing writers with up-to-date exploitation data to the extent permitted by available technology.

Operating under Article 19 has, however, sharpened awareness of a significant gap in the current framework: the transparency obligations run vertically through the contractual chain between publishers, authors, and CMOs, but they do not extend horizontally to the relationships between rightsholders and the platforms that exploit their works. OCSSPs and streaming services are not subject to equivalent disclosure obligations in their dealings with rightsholders. Platforms hold granular, real-time data on consumption, monetisation, and algorithmic treatment of musical works that rightsholders cannot independently access or verify. Royalty statements are frequently aggregated, delayed, and presented in formats that make meaningful analysis difficult.

This platform-side transparency gap is a structural problem that must be addressed if the DSM Directive's broader remuneration objectives are to be achieved. The legal architecture of Article 17 creates clearer licensing obligations; without mandatory, standardised platform reporting obligations, rightsholders remain unable to verify compliance or challenge undervaluation.

iv. Contract adjustment and revocation

IMPF is not aware of claims for additional remuneration under Article 20 within its membership. This is consistent with the percentage-based structure of publishing agreements, which automatically adjust remuneration to actual exploitation. It is important to note that remuneration is only one element of the writer-publisher relationship: term, options, the publisher's network and advocacy capacity, and the overall working relationship are equally significant factors that a solely remuneration-focused assessment would overlook.

On the Article 22 revocation mechanism, IMPF's overarching concern is that a statutory right framed around short-term exploitation metrics risks systematically undervaluing long-term publishing relationships and the investment strategies that sustain them. Music publishing investment - in catalogue development, synchronisation pitching, playlist placement, neighbouring rights advocacy, and artist development - often operates over extended time horizons that do not correspond to annual exploitation cycles. A publisher may be actively developing a work across multiple channels without those efforts having yet materialised into quantifiable income, and a revocation right that does not accommodate this reality risks penalising publishers for the inherent unpredictability of creative markets.

The mechanism also introduces business uncertainty throughout the rights chain. Downstream commercial users - sub-publishers, synchronisation partners, and licensees - require legal certainty regarding the repertoire they acquire and the duration of the rights they hold. If works can be revoked retrospectively, the onward licensing value of catalogues is materially affected. This chilling effect on investment ultimately harms the very authors whose interests the revocation mechanism is designed to protect, by reducing the incentive for publishers to invest in works that may not generate immediate returns.

Any revocation mechanism must therefore be contextual, taking into account the nature of the work, the terms of the original agreement, the publisher's documented efforts across all relevant exploitation channels, and the reasonable timeframes applicable to the specific genre or market. Procedural safeguards - including meaningful notice periods, structured dialogue requirements before revocation can be exercised, and clear evidentiary standards for establishing non-exploitation - are essential to ensure that the mechanism operates as a last resort.

PART II. The need for a targeted initiative - addressing the generative AI challenge

1. AI innovation and copyright are complementary, not competing

Independent music publishers support responsible technological innovation, including the lawful development of generative AI. However, the current AI market is being built on the systematic extraction and monetisation of copyright-protected musical works - without transparency, consent, or remuneration for the rightsholders whose works make these systems possible.

According to a 2024 global economic study by PMP Strategy commissioned by CISAC, 24% of music authors' revenues are at risk by 2028 as a consequence of generative AI displacement. For independent publishers, this is not an abstract concern: it is producing measurable economic harm today.

AI innovation and copyright protection are not opposing forces. On the contrary, a sustainable, ethical, and competitive AI ecosystem depends on respect for copyright, transparency, and licensing. Weakening copyright protections will not accelerate innovation; it will simply transfer value from rightsholders to technology developers.

2. The existing framework requires targeted reinforcement

The EU copyright framework provides a sound legal foundation, but some structural gaps are preventing it from operating as intended in the AI context.

Neither reopening the DSM Directive nor amending the EU AI Act in isolation would be sufficient to address the full range of issues that generative AI raises for copyright and authors' rights. A new, purpose-built legislative initiative is required: one that tackles these questions comprehensively, provides genuine legal certainty for all parties, and ends the widespread infringement of authors' rights that has characterised the AI training landscape to date.

i. Transparency as a condition of market access

AI providers do not generally disclose which musical works were used in training, from which sources, whether opt-outs were respected, or how works continue to be used during model operation and fine-tuning. Transparency is not a secondary compliance issue. It is the prerequisite for any functioning licensing market. Without transparency, there can be no basis for licensing negotiations, no mechanism for verifying rights compliance, and no infrastructure for remuneration systems to operate fairly.

Current EU AI Act implementation measures do not provide sufficient copyright-specific information to enable licensing negotiations, rights verification, or royalty distribution systems. Any AI service made available in the EU should be required to provide:

- Meaningful disclosure of training data sources in sufficient granularity, including specific identification of copyrighted repertoires incorporated into AI systems;

- Information on the mechanisms used to obtain or verify lawful access, and whether any rights reservations were identified and respected;
- Ongoing operational reporting suitable for collective licensing administration and individual rights enforcement;
- Mechanisms allowing collective management organisations and independent rightsholders to verify compliance through auditing processes.
- Claims of trade secrecy cannot justify systematic non-compliance with copyright law. Licensing agreements across the music sector already routinely incorporate confidentiality protections. The same approach can and should apply in the AI market, with appropriate audit rights for collective management organisations.

ii. A rebuttable presumption of use

Independent publishers cannot be expected to meet impossible evidentiary burdens when AI providers maintain total informational control over their training datasets and model architectures. Where transparency is absent, cooperation is refused, or licensing engagement is systematically avoided, EU law should establish a rebuttable presumption that copyright-protected repertoire has been used.

This is necessary because:

- The widespread use of music in AI training is publicly acknowledged by AI developers themselves and documented in litigation disclosures in multiple jurisdictions;
- Direct proof of use remains inaccessible without provider cooperation, making enforcement effectively impossible for independent SMEs;
- Current procedural realities make rights enforcement impractical for publishers lacking litigation resources.

The presumption should be rebuttable through meaningful disclosure and demonstrable compliance - creating a clear incentive for AI providers to engage constructively rather than obstruct. This is not a radical departure: analogous presumptions apply in other areas of IP enforcement. Without this mechanism, copyright remains theoretically recognised but practically unenforceable for the vast majority of rightsholders. AI developers will also benefit from the certainty provided by a licensing based approach.

iii. The output market must also be addressed

The policy debate cannot be limited to training data. Independent music publishers face significant and growing economic harm from the downstream effects of AI-generated music competing directly with licensed repertoire in commercial markets.

Commercial users are already substituting commissioned compositions, production music, background music, sync repertoire, and catalogue licensing with low-cost AI-generated alternatives. These alternatives derive their commercial utility directly from the copyright-protected works used to train the systems that produce them.

A sustainable framework requires remuneration mechanisms addressing both:

- The use of copyright-protected works as AI training inputs; AND
- The commercial exploitation of AI-generated outputs that substitute or displace human-created music in the marketplace.

Effective measures are urgently needed to ensure the continuous remuneration of rightsholders from the use of AI-generated content. Without them, the substitution effect risks cannibalising the very market for original works - undermining the economic foundations of professional creation, weakening incentives to produce the original repertoire on which AI systems themselves depend, and ultimately eroding the cultural diversity and human creative heritage that both the DSM Directive and broader EU cultural policy are designed to protect.

Significantly, this issue has already attracted political attention at the EU level. The Danish Presidency Summary Report identifies 'remuneration for AI output' as a priority for legislative adjustment; the Voss Report returns repeatedly to the substitution effect and the need to tackle it at EU level.

IMPF stands ready to engage constructively with policy-makers to explore the available options and identify the most appropriate instrument at EU level to achieve this objective

3. What the targeted initiative should avoid

IMPF cautions against several approaches that would shift compliance burdens onto rightsholders while leaving AI provider conduct unaddressed.

i. Expanded TDM exceptions

Expanded commercial TDM exceptions would distort the intended balance of EU copyright law and further weaken rightsholders' negotiating positions, serving primarily the interests of large AI operators at the expense of European rightsholders.

ii. Centralised opt-out registries

Centralised opt-out registries would impose unworkable obligations on authors and rightsholders, fail to reflect the reality of how music circulates online, and provide false legal certainty to AI developers while undermining the foundational principle that copyright protection is automatic. Independent music publishers, and the songwriters they represent, cannot monitor every format, upload, or online use of their works. The EU should not legislate to make rightsholders responsible for enforcing their own automatic rights by registering to retain them.

iii. Mediation and arbitration as substitutes for substantive rights

Procedural delay mechanisms such as mediation or arbitration frameworks cannot substitute for substantive legal clarity and enforceable rights. Without clear obligations and meaningful liability on AI providers, such processes risk becoming instruments of delay rather than routes to compliance. IMPF does not oppose mediation as a supplementary tool, but it must complement, not replace, clear legislative obligations.

Conclusion

Europe faces a fundamental policy choice. Generative AI can develop within a lawful, competitive, and culturally sustainable framework - or it can continue to develop in conditions that the existing framework was not designed to address, conditions that targeted reinforcement can correct. IMPF and its members are not opposed to AI innovation. Innovation that creates new creative tools, new licensing revenue streams, and new ways for music to reach audiences represents a genuine opportunity for the sector.

But innovation that depends on the systematic weakening of authors' rights, the erosion of licensing markets, and the transfer of value away from songwriters is not a model Europe should endorse. The permanent weakening of the economic foundations that allow professional songwriting and independent music publishing to exist would impoverish Europe's cultural landscape in ways that cannot be undone by future legislative correction.

IMPF remains available to provide further evidence, data, or technical input to DG CNECT and to participate in the targeted consultation activities to follow this call for evidence. We look forward to working constructively with the Commission to ensure that the EU's copyright framework enables a generative AI market that is innovative, competitive, and fair to the rightsholders on whose work it depends.

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