



the global trade body for independent music publishers

IMPF Response to MyIPO's Public Consultation on Proposed Amendments to the Copyright Act 1987

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Introduction

IMPF is the global trade and advocacy body for independent music publishers. IMPF works 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.

Independent music publishers support technological development and responsible artificial intelligence. However, innovation must be built on respect for copyright, meaningful transparency and fair licensing arrangements that enable creators and rightsholders to participate in the economic value generated from their works.

As the current consultation presents high-level policy objectives rather than draft legislative provisions, IMPF's comments focus on the principles that should guide the next stage of the reform process. IMPF would welcome the opportunity to participate in the forthcoming topic-specific stakeholder sessions.

Executive summary

IMPF respectfully recommends to:

1. Preserve the exclusive rights of authors, composers and music publishers in relation to AI training and text and data mining.
2. Reject any broad exception permitting commercial AI systems to use copyrighted works without prior authorisation.
3. Promote voluntary, market-led licensing for the use of protected works by AI developers.
4. Require meaningful transparency regarding the works and datasets used to develop AI models.
5. Ensure that reforms affecting collective management organisations and the Copyright Tribunal remain proportionate and do not interfere unnecessarily with contractual freedom or legitimate licensing practices.

Artificial intelligence and text and data mining

IMPF is concerned by the consultation's apparent distinction between the computational analysis of works and uses involving human consumption or enjoyment.

AI training is not a purely technical or non-consumptive activity. It generally requires the copying, extraction, processing and retention of large volumes of protected material. These activities engage the exclusive rights of authors and other rightsholders and can support the development of commercial products capable of generating content that competes directly with the works on which they were trained.

The fact that a work is processed by a machine rather than consumed directly by a person does not remove its creative or economic value. Musical works are selected for AI training precisely because of the expression, structure, patterns and creative choices they contain.

IMPF therefore recommends not introduce a broad text and data mining or AI-training exception, particularly for commercial purposes. Any such exception could undermine existing and emerging licensing markets, reduce remuneration for creators and transfer value from Malaysian and international rightsholders to technology companies.

The development of AI should instead be supported through voluntary, market-led licensing. Licensing provides legal certainty for AI developers while allowing rightsholders to determine how their works are used and to negotiate appropriate terms and remuneration.

Any permitted exception should be strictly confined to clearly defined, genuinely non-commercial scientific research conducted by qualifying public-interest institutions. It should not apply where licences are reasonably available, should not permit the development of commercial models or services, and should include robust safeguards against onward use or access by commercial entities.

A growing international consensus is emerging that broadly drafted text and data mining exceptions risk producing an unbalanced outcome for rightsholders. Reflecting these concerns, both the United Kingdom and Australia have decided not to introduce broad commercial TDM exceptions.

The United Kingdom's experience is particularly instructive. Following extensive public consultation, the UK Government abandoned its original proposal for a broad commercial text and data mining exception that would have permitted AI training on any lawfully accessed content, subject only to an opt-out by rightsholders. The proposal was withdrawn after sustained opposition from the creative industries. The outcome demonstrated not simply that the proposal required refinement, but that the opt-out model itself was considered fundamentally flawed by many stakeholders.

Australia has reached a similar conclusion. The Australian Government has declined to introduce a broad commercial text and data mining exception and has instead reaffirmed the importance of copyright as the foundation of its AI policy. Most recently, Prime Minister Anthony Albanese reiterated the Government's commitment to supporting Australia's creative industries and ensuring that copyright remains central to the country's approach to artificial intelligence.

In China, the National Copyright Administration of China (NCAC) has considered introducing a TDM exception as part of revisions to the Implementing Regulations of the Copyright Law.

However, no such provision appeared in the most recent draft regulations released for public consultation.

Taken together, these developments demonstrate that the legitimacy, scope and design of text and data mining exceptions remain the subject of significant international debate. They also suggest a growing recognition that AI innovation should be supported through balanced copyright frameworks that protect and remunerate creators, rather than through broad exceptions that risk undermining creative markets.

IMPF also cautions against replacing the exclusive right of authorisation with a compulsory licence or statutory remuneration right. A right to compensation after works have already been used is not equivalent to the right to provide or withhold prior authorisation.

Transparency and accountability

A functioning AI licensing market requires AI developers and service providers to be transparent about the works they use.

IMPF therefore recommend to introduce a requirement for providers of general-purpose and generative AI systems to:

- maintain sufficiently detailed records of the works and datasets used for training, fine-tuning and retrieval;
- publish meaningful and accessible information about the sources of their training material;
- disclose relevant information directly to rightsholders upon a substantiated request;
- establish contact points and procedures through which rightsholders can raise copyright concerns;
- retain information necessary to demonstrate that training material was lawfully acquired and used; and

A general statement that an AI system was trained on “publicly available data” would not provide adequate transparency. Public availability does not mean that a work is free from copyright or available for unrestricted commercial reuse.

The burden should remain on AI developers to demonstrate that they have obtained the necessary permissions. Rightsholders should not be expected to identify their works within undisclosed datasets or opt out of uses that would otherwise require prior authorisation.

IP enforcement

IMPF supports measures that improve the speed and effectiveness of enforcement against online copyright infringement.

Dynamic injunctions can be an important tool against services that evade enforcement by moving to mirror, clone or successor domains. The legislation should allow injunctions to address technically related services while incorporating appropriate judicial oversight and safeguards against erroneous blocking.

IMPF also supports:

- stronger prohibitions on the circumvention of technological protection measures;

- effective remedies against devices and services primarily designed to facilitate circumvention;
- stronger protection against the removal or alteration of rights-management information;
- effective notice-and-takedown procedures;
- obligations to prevent the repeated reappearance of material already identified as infringing; and
- proportionate measures against domains primarily used for large-scale copyright infringement.

Notice-and-takedown procedures should be rapid, accessible and available to rightsholders of all sizes. Any safe-harbour protection should be conditional on service providers acting expeditiously after obtaining knowledge of infringement and taking reasonable measures against repeat infringers.

Collective management organisations

IMPF supports transparent, accountable and efficient collective rights management. Collective management organisations (CMOs) should operate in the interests of the rightsholders they represent and provide accurate, timely information concerning licensing income, deductions and distributions.

At the same time, regulation should be proportionate and should recognise that CMOs differ in repertoire, mandate, membership and operating model.

Any new governance requirements should:

- be developed in consultation with rightsholders and CMOs;
- avoid unnecessary administrative burdens that reduce distributions to rightsholders;
- respect the contractual relationship between a CMO and its members;
- protect commercially sensitive licensing information;
- distinguish between governance failures and legitimate commercial decisions; and
- provide reasonable implementation periods.

International obligations and next steps

Any reforms should remain consistent with Malaysia's international obligations, including the Berne Convention, the TRIPS Agreement and relevant WIPO treaties. Limitations and exceptions must remain confined to certain special cases that do not conflict with the normal exploitation of works or unreasonably prejudice the legitimate interests of rightsholders.

Draft legislative language should be published with sufficient time for meaningful stakeholder review before the proposals are finalised.

Conclusion

IMPF supports Malaysia's objective of developing a modern and effective copyright framework. Strong copyright protection and technological innovation are complementary rather than competing objectives.

Malaysia can support responsible AI development by encouraging licensed access to high-quality creative works, providing legal certainty and ensuring that creators and rightsholders share in the value generated by new technologies.

IMPF therefore urges MyIPO to preserve the exclusive rights of authors and music publishers, reject any broad commercial text and data mining exception, introduce meaningful transparency obligations and ensure that reforms to collective licensing remain balanced and proportionate.

IMPF would welcome the opportunity to participate in subsequent stakeholder sessions and to provide more detailed comments once draft legislative provisions are available.



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