

COPYRIGHT PLUS

A Framework to Protect Australian Creators from AI-Related Harms

Copyright Plus is a model designed to deliver on the Australian Government's promise that no company should use Australian books, music, art, or news to build or train AI without the creative and media workers' control. This document sets out the key features: (1) an AI Operations & Licence Fee; (2) Equitable remuneration scheme supporting direct payments for creator, arts and media workers; (3) a Cultural fund; (4) and Control measures.

Artificial intelligence has transformed, and is continuing to transform, the conditions under which culture is produced, distributed, and experienced. Copyright remains an essential mechanism for protecting creative works. However, it is not capable on its own of addressing the broader economic, cultural, and social consequences arising from AI systems that depend upon the large-scale appropriation of creative and intellectual labour. Government leadership is required to ensure that technological progress strengthens rather than undermines Australia's creative and media industries, cultural diversity and social cohesion.

Copyright Plus recognises that creative and media workers, copyright owners and the public each have distinct interests that must be accommodated within an ethical AI economy. Through equitable remuneration, meaningful worker control, transparency obligations, protection of Indigenous Cultural and Intellectual Property (ICIP) Rights and Indigenous Data Sovereignty, and investment in cultural participation, Copyright Plus provides a practical pathway for ensuring that the benefits of AI are shared more fairly and in the public interest.

A fair AI future starts with a fair go for workers.

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1. The Copyright Plus Model

'Copyright Plus' is a model designed to deliver on the Australian Government's promise that no company should use Australian books, music, art, or news to build or train AI without the creative and media workers' control. Control measures also help protect the Australian public from misinformation and foreseeable harms related to AI use, while providing opportunities for ethical development of AI that strengthen national AI sovereignty.

Copyright Plus recognises that creative and media workers, copyright owners and the public each have distinct interests that must be accommodated within an ethical AI economy. Through Equitable Remuneration (ER), meaningful worker control, transparency obligations, protection of Indigenous Cultural and Intellectual Property Rights (ICIP), Indigenous Data Sovereignty, and investment in cultural participation, Copyright Plus provides a practical pathway for ensuring that the benefits of AI are shared more fairly and in the public interest.

The proposed 'Copyright Plus' framework supplements and supports the *Copyright Act 1968* (Cth) without disrupting the developing licensing markets designed for copyright owners and AI companies, while ensuring that the value of Australian labour is included in the cost of doing business.

1.1 Key Features

1. Recognition that AI relies on public infrastructure, and AI businesses need to contribute to an **AI Operations and Licence Fee**.
2. **Equitable Remuneration (ER) for creators and arts workers** whose works are used, and have historically been used, in training data and to inform Gen-AI outputs, with a payment model able to adapt as ethical technologies develop;
3. **A cultural fund**, designed to strengthen Australian identity, cultural diversity, participation and human connection, directed to mitigating social and economic harm caused by AI and supporting live cultural experiences, community events, and public interest journalism.
4. **Control measures**: effective measures to ensure opt-out is meaningful, respecting artists' economic and moral rights in the context of AI use, recognition of Indigenous Cultural and Intellectual Property (ICIP) and Indigenous Data Sovereignty so that offensive, unauthorised and inaccurate AI content can be taken down when produced without consent.

1.2 The Legal Framework

1.2.1 Australian Standards for AI

Principles informing new transparency and accountability measures and the digital duty of care should, so far as possible, guide industry specific regulation for the creative industries.



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1.2.3 Creative Industry AI code

A *Creative Industry AI code* provides an overarching governance framework that sets out relevant standards, mechanisms, and expectations.

An industry-wide code provides flexibility to accommodate fast-paced technical developments, assess technical competencies, and develop appropriate ethical considerations as technologies and markets continue to develop. Diverse approaches to AI can be accommodated within the overarching governance framework. It is envisaged that existing artist representative bodies, including unions, will provide more specific guidance on fair and ethical AI use as relevant to particular fields, membership, and practices, and to support administration of the code. Established collecting societies have limited experience in negotiating infrastructure design working alongside Australian artists. What is required are responsive organizations which actively engage members and provide a space for diverse approaches to creative practice and technologies.

Participants in the development of the code would include providers of general-purpose AI models, providers of tools and platforms designed for creative workers, as well as relevant unions, civil society organisations, industry, academia, and other relevant stakeholders, such as downstream providers and independent experts.

A nominated certifier would need to approve the code. The code would need periodic review, compliance reporting, and renewal of terms. A peak body is also necessary to support technology providers and facilitate knowledge exchange between workers who may use the same or related AI tools and processes for different ends to those in the creative industries, including those who may be subject to specific AI obligations to manage risk (e.g. architects; engineers; and other accredited consultants).

Support for the Copyright Act 1968 (Cth)

The Copyright Act already incorporates reference to industry codes to assist courts in determining fair and reasonable interpretation of provisions including the scope of copyright exceptions, authorisation and moral rights infringement. Compliance with the *Creative Industry AI code* should also be incorporated into relevant provisions to update the law's application in the context of AI.



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2. Does copyright support jobs in the creative sector?

Traditional copyright is a pipeline model where individual creative expressions are turned into commodities sold by rightsholders, including record labels, publishers, and screen producers, who determine royalty shares. Copyright was never designed to support wages for creators. Copyright's incentives reward investment in distribution mechanisms, not labour.

The creative and media industries are dominated by global companies where it is hard for Australian artists to cut any kind of deal. Individuals struggle to negotiate fair terms or even ensure their works will be made available for a guaranteed period. Studies repeatedly show that the artist's copyright and moral rights are not protected because litigation is not a commercially viable option.

The highly regarded 2023 study *Artists as Workers: An economic study of professional artists in Australia* by Professor David Throsby and Katya Petetskaya found:

- The artistic workforce has not grown at the same rate as the overall labour force, suggesting there are barriers to creative work, with the majority of artists facing an insecure working environment for both their artistic and other work;
- Artists increasingly don't know if their IP has been infringed (30% compared to 3% in 2016). One in five artists report they have suffered copyright infringement (19%);
- Artists working on a freelance or self-employed basis for their creative practice increased from 40% in 2016 up to 59% in 2023, and in non-arts work from 26% in 2016 to 56% in 2023;
- The cost to produce work has increased – from an average of \$10,700 to \$17,000 in 2022 (adjusted for inflation).
- Only a quarter of artists think current economic protections are adequate (27%).

It is harder than ever to maintain sustainable careers.

Creative and media workers' content is being sold by rightsholders to AI companies without permission, due diligence as to chain of title, or remuneration. As a result, AI produces market substitutes for creative works, built upon their original works, without their control or royalties back.

Without Government leadership, things are going to get much worse. Prime Minister Albanese says we can build AI in Australia's Interests. In a recent speech, he told Australians that "An artist's creative endeavour is their work and their property." "It is time to build a system that supports the artist's control of the price and value of their work", he continued. "Anything less, is theft."

But AI Copyright licensing is negotiated without creative and media workers in the room. It does not attach any fair price to creative and intellectual labour. Allowing the substitution of this work for a subscription fee to an AI company is a system that legalises theft. The solution is not more copyright but designing a fairer system that allows the artist a say in how their works are used, and a fair price when it is used by AI.

If we are to secure a fair go for Australian creative and media workers, a Copyright Plus framework built upon equitable remuneration and creator control, is needed. Copyright owner and workers interests are not identical. Workers need to be able to make choices about how and when AI interacts with their work and understand the implications of AI use for their professional practice.



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2.1 The shift in value creation

Copyright Plus accepts that AI involves a fundamental shift in value creation related to the use of creative labour. Copyright Plus understands that with AI, value is created differently. Value is created across the AI stack and the ongoing right to appropriate works at scale is essential. AI cannot exist without the ability to do this. However, seen through the pipeline lens, no value attaches to any single output turned into synthetic data: in training, model refinement, or informing Gen AI outputs. No contract exists with the individuals whose efforts fuel the system. There is no meaningful way of attributing the individualised labour that defines the nature of expressive works. This injustice needs redress, but traditional copyright is not the right tool for the job.

AI models and services have been built on labour under circumstances where AI companies have capitalised on a lack of clarity as to whether or not copyright is technically being infringed under our complicated laws when training takes place overseas and models are subsequently made available and operate here (McCutcheon, 2026; Owens 2026; Yeh 2026). Because the situation unfolded in this way, it is now impossible for Australian creators to exercise control over AI use of their works without intervention by the Australian Government.

Copyright licensing is not the only answer. Creative and media workers and copyright owner interests are both impacted by AI. The Copyright Act does not arm them equally with capacity to respond. Copyright primarily rewards investment in distribution mechanisms for cultural and media products and services. Copyright does not enable negotiation with creators about the design of ethical AI systems upon which their future livelihood will depend. Copyright owners are owed a licence, but copyright is not the right legislation to give artists back some control as AI licensing develops.

Copyright gives large rights holders a significant say in an AI future because rights attached to enormous back catalogues now have a renewed value. These rightsholders are deciding how legacy assets will be used by AI companies and negotiating a share in profits derived from licensing new works. Australian IP law partner Kate Haddock anticipates many lawsuits between copyright holders and AI companies will end in private settlements that may include equity in the AI companies (Bown & Bowrey, 2025). As the interests of copyright owners and AI companies align, some creators are being asked to opt in and sign contractual addendums, with little or no information to help evaluate the offer or understand the consequences for their professional practice.

There is no way promises of one-off payments for AI training uses or for some uncertain share in income generated by AI systems yet to be tested in the market can compensate for the unjust competition that creators now face from AI generated works enabled by reckless free riding on creative labour. A regulatory design that continues to disregard the productive value of creative labour to AI companies will lead to lost jobs and professional careers in Australia and ultimately diminish Australia's cultural life. Australia should not substitute creative and media jobs with payments to AI companies for subscriptions to produce competing works based on original efforts.

Recognition of the value of creative labour and the right of creators to control use of their works in AI systems must be hard wired into Australian governance of AI and inform its further adoption and use by Australians. Anything less than this will violate public expectations of fairness and lawfulness. Anything less will likely further inflame social tensions associated with Australia's AI revolution.



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2.2 How copyright will lock out Australians from AI development

Copyright is already contributing to a huge growth in demand for the proprietary services of Big Tech.

AI development is dominated by Microsoft, Google, Meta, Musk's xAI, OpenAI (backed by Microsoft), and Anthropic (backed by Amazon as primary cloud provider), with Amazon, Google and Microsoft controlling approximately 60% of the cloud market (Brennan et al 2025, 5, 45). In 2025 the ACCC Digital Platform Services Inquiry noted "a tendency for firms to operate at multiple layers of the generative AI stack, a trend exacerbated by ongoing horizontal and vertical integration." Through a combination of financing investment opportunities, acquisitions, and mergers, Big Tech is likely to continue to consolidate control over the development of digital technologies, with investment strategies designed to increase control (Gray Widder & Kim 2025). Australia's copyright laws are likely to exacerbate challenges for Australian developers. The WIPO Patent Landscape Report (2024) also noted that patents are also increasingly impacting the Gen-AI landscape, creating additional barriers to entry.

Big Tech can already leverage copyright and patents to control what can and cannot be done with their services, enforced by licensing and technical measures (which copyright law can make it illegal to circumvent). This impacts the opportunities (and freedom to innovate) of Australian AI developers and system users, leading to Big Tech's priorities dictating the shape of AI innovation and its application to Australian society. While code may be open source, with cloud services the core infrastructure and services are proprietary, meaning the source code for these services is not publicly available for modification or redistribution.

The market concentration that exists across the AI stack poses a real challenge to national sovereignty. Australia has far more restrictive copyright laws than comparator nations including the US, Canada, EU, Singapore, South Korea, Japan, and Israel, which impedes our right to research and to make downstream products and services. At minimum, **there is a need to reform copyright exceptions** to:

- expand the existing fair dealing provision for research to permit pre-market research uses of proprietary models without permission and testing of AI company and network information provided about system operations, content inclusions, and compliance with transparency obligations;
- allow adaptations of existing data compilations to suit Australian needs without the need for a licence;
- expand existing limited rights to engage in security testing and the making of interoperable computer programs.



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3. AI Operations and Licence Fee

Copyright Plus is underpinned by an AI Operations and Licence Fee, working alongside copyright licensing and control measures.

Big Tech companies who own and control AI systems should acknowledge that their existing systems and profit-making potential are built upon essential digital infrastructure — and data extraction from every kind of public and private digital engagement — alongside use of copyright works. The taxpayer should not be expected to bear the entirety of these costs or accept trifling benefits flowing to the public.

AI is already changing how we understand ourselves and radically disrupting the social conditions needed to support cultural expression and human connection. There is already a public perception of a bifurcation between those who bear the costs of AI, and those who benefit. It is imperative that this disparity does not become entrenched through poor public policy. The Stanford University 2026 *AI Index Report* study suggests that only 46% of Australians trust the Government to regulate AI, compared to a global average of 54% (HAI 2026, 380).

Government needs to act to address the implications of AI for social cohesion, national identity, democracy, and our economic future.

It is a fallacy that Big Tech companies function through private contractual arrangements. As artificial legal entities, they are created and empowered by States. Watson (2026) observes that “through incorporation, corporations receive State-like attributes including perpetual existence, legal personhood, capital lock-in, and entity shielding, enabling them to accumulate and organise capital across time and space... They organise markets, define monetisation pathways, and coordinate entire investment ecosystems.” The special status of Big Tech among corporations is recognised in the Government decision to facilitate the development of data centres in Australia.

Assistant Minister for Science, Technology and the Digital Economy, Andrew Charlton, notes supporting data centre development carries with it a significant challenge: *“We can increase our economic dividend from AI by leveraging our strengths to play higher up the value chain.” [But] “unless we take timely action, Australia is on course to be a large and permanent importer of intelligence. This might mean that AI grows the Australian economy, but much of the value flows offshore.”* (Grattan, 2026). This travesty can be avoided by rebuilding the institutional ecology to ensure a more equitable distribution of costs and benefits (Cohen 2019).

Digital services taxes (DST) have now been implemented in the UK, Canada, and across Europe. While challenging to implement in the current geopolitical context, there are discussions about expanding these to support fair remuneration for creators. The Australian Greens DST proposal costed by the Parliamentary Budget Office (2025) expected to increase the fiscal and underlying cash balances by around \$3.0 billion over the 2025-26 Budget forward estimates period. This model was based on a levy on Australian gross revenue for liable entities from specified digital services in excess of AUD \$20 million at a rate of 3.0%. However, a broad-based DST, and equivalents for particular sectors such as the News Bargaining Initiative, do not appropriately link revenue to ethical development of AI, including its economic sustainability. As well as requiring poles and wires, Australian AI operations depend upon our existing telecommunications infrastructure: the NBN and associated telecommunication systems, themselves supported by Australian taxpayers.



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We recommend a more targeted initiative: An AI operations and licence fee that takes into account the extent of the foreign-owned compute and software stack: GPUs, accelerators, storage, networking, model-serving, APIs, orchestration, data pipelines, model weights, and developer tools. The Australian AI content licence calculation can account for the extent to which data centres and AI infrastructure are simply processing data for offshore entities, offering little or no benefit to Australians.

As there is a market for training models, it is difficult to unpack relationships between model originators, AI providers and third-party users of training data sets. Social justice requires redress through payments from all AI providers whose models and tools are placed on the market or put into service in Australia.

A direct fee creating a shared pool is the most efficient pathway to support creative and media workers. This pathway avoids the complication of redesigning the model because of shifting corporate alliances, failures, and takeovers.



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4. The Equitable Remuneration (ER) Fund

There are two components to the ER fund:

- (a) **Direct payments** to workers linked to the use of their works in AI systems; and the
- (b) **Cultural fund** that supports the delivery of live entertainment, public interest journalism, and cultural experiences, as well as local development of AI technologies suitable for Australian artists, recognising that AI's profit-making potential is built upon essential digital infrastructure, alongside use of copyright works.

Equitable remuneration allocations will need to be periodically reviewed by relevant unions, professional organisations, and relevant subject matter experts including copyright lawyers and cultural economists, to assist in determining where additional remuneration is required and so that creators can understand their legal entitlements. Once the scheme is enacted, payments should be distributed annually, with the calculation of the funds pool adjusted once the required technical infrastructure for equitable remuneration is established.

4.1 Payment administration

There is no need for new government bureaucracy or AI companies or to be involved in ER management, beyond providing input and oversight as established in line with the *Creative Industry AI code*. Administration of the fund is best managed closest to the grassroots where creators are located, experimenting and developing new techniques for the arts and industry. Unions and professional organisations are already well situated to co-ordinate this work.

Relevant unions and professional organisations have different capacities and scope. Organisations with relevant memberships, existing or potential regulatory capacity should be consulted about participation in the design of an appropriate artist-centred administration of equitable remuneration schemes. Regulatory design should be guided by the need for greater transparency associated with the governance of collecting societies as recognised in the [Review of Code of Conduct for Australian Copyright Collecting Societies](#) (2018) and outcomes of subsequent [Triennial Reviews](#).

Funding support could be redirected from [Creative Workplaces](#) whose current functions duplicate available sector advice and policy initiatives by artist-focused organisations. This organisation lacks the essential industrial connections and experience working with professional artists to lead policy development of ethical AI and monitor problems impacting diverse professionals.

4.2 Direct payments to creators, media and arts workers

Equitable remuneration requires appropriate payment to workers engaged in cultural production and news gathering. Royalty payments or other distributions of income related to use of AI systems should reflect the extent of human involvement in creation of the output and the user's capacity for free and creative choices. This aligns with international copyright law. It is also reflected in the core pillar of Australia's cultural policy *Revive*, celebrating the *Centrality of the Artist*. Financial incentives are



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required to drive the development of ethical AI in the arts and compliance with best practice in specific fields.

4.2.1 Addressing labour displacement

AI providers need to equitably remunerate Australian creators for the benefits they receive from scraping their creative outputs. It must be noted that AI providers have already benefited from their ingestion of Australian creators' work and that the creative industries have already been impacted.

Substantial labour market disruption has already begun, impacting creative jobs. A study conducted from July 2021 to July 2023 about 1,388,711 job posts from a 'leading global online freelancing platform' noted significant disruption correlating with the advent of popular text- and image-based generative AI tools. After the introduction of ChatGPT, the researchers noted that writing jobs were most affected, suffering a 30.37% decrease in weekly posts; within a year of the debut of popular image-generating AI tools, demand for 'graphic design and 3D modelling freelancers decreased by 17.01%.' (Demirci et al 2025, 8102, 8105).

An enforceable obligation on AI providers to provide equitable remuneration for benefits received through scraping would provide some measure of parity for creators. It would also be aligned with legislated arrangements designed to protect the interests of news media companies in the News Bargaining Incentive (NBI). These AI providers additionally benefit from AI licensing arrangements. Payments should be distributed annually, with the calculation of the funds pool adjusted once the required technical infrastructure for equitable remuneration is established.

Without additional robust support, copyright licensing is not an appropriate remedy for ensuring equitable remuneration for creators. When described as a solution, it obscures the need for ensuring that creators' rights are respected, adhered to, and enforced. It fails to acknowledge that, to use the language of the Australian Prime Minister [USyd speech] theft has already occurred on a mass scale. It conflates the right of individuals to control creative labour and retain value from exploitation and circulation of works into a process which only values conditions of access and use on terms authorised by media owners and platforms.

Companies including Anthropic, Apple, Adobe, Bloomberg, Meta, Microsoft, MidJourney, MiniMax, Nvidia, OpenAI, Salesforce, Stability AI, Suno, and Udio have settled or are currently involved in devising remedies to redress claims of copyright infringement associated with the release of their AI technologies. While existing litigation straddles most areas of the arts, the harm caused to Australian artists cannot be redressed through these actions.

Compensation negotiated overseas under consideration of foreign laws does not reflect Australian values. Copyright class actions are neither sufficiently inclusive of Australian creators nor an appropriate form of remedy for the harm caused to Australians. Many of the most vulnerable creative professionals are not rightsholders of their own output and thus have no say in how their works are licensed. Where creators do retain copyright over exclusive rights with respect to their work, requests to sign contractual addendums suggest that companies have already permitted scraping of databases without due diligence to ensure they hold sufficient rights to allow this. The nature and scale of AI training processes effectively frustrate attempts by individual or small business rightsholders to represent and negotiate rights as an individual or small business rightsholder.

Given the scale of theft already underpinning existing models and uncertainty as to what sources were used, opting out now is of limited value to many artists. Procedures relying on the use of



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technical opt-outs by individual rightsholders have been described as ‘elegant in law but dysfunctional in reality, creating an illusion of control that benefit neither side’ (Havlikova 2026, 145-6. See generally, Hamann 2024). Artists will continue to suffer the consequences of the theft of their works into the future in the form of reduced economic opportunities, as unauthorised digital replicas, substitutes, and other derivatives compete with and undermine the value of human authored works.

4.2.2 Who qualifies for ER payments?

Participating unions and professional organisations will be required to develop a transparent data driven system to fairly remunerate creators.

The proposed system does not require tracing individual uses of specific works by AI systems. Rather, data is used to assist determination of eligible beneficiaries and calculation of direct payments to creators.

All beneficiaries must be a human being

This core principle aligns with the requirement of a human author of original works under current copyright law. The category should include a wider class of creators than those recognised by copyright to support the ecosystem that produces creative works, recognising that many livelihoods are impacted by competition from AI-generated replicas, substitutes, and AI-derivative works.

The priority of protecting human labour precludes the AI provider from claiming revenue for merely providing access to a technological infrastructure. The commercial interests of media companies are already managed through copyright licensing. This process is facilitated by media companies’ copyright ownership, including their industrial rights as makers of sound recordings, cinematograph films, television, and sound broadcasts. These industrial rights are dependent upon the underlying labour of creators; some creators will retain a copyright or right to a royalty percentage for AI licensing, some will not.

Fully human authored productions must receive a higher royalty percentage than AI-assisted productions. Fully AI productions should not receive a royalty.

All beneficiaries must abide by relevant professional codes

Entitlement to benefit from equitable remuneration for AI use and access to new control measures should require adherence to relevant professional codes. Membership of a relevant union or professional organisation incentivises ethical development and use of AI in the creative industries. An integrity measure is essential to prevent bad actors from exploiting remuneration systems by generating works designed to manipulate payment algorithms. Without appropriate safeguards, such systems may become vulnerable to the kinds of gaming, artificial amplification, and fraud that has affected platforms such as YouTube and Spotify to the detriment of original artists.

Enterprise bargaining clauses and codes of conduct already exist for creative practice. Though none, to date, address ethical AI, many enshrine obligations of honesty and commitments to uphold the dignity of the profession and to respect First Nations rights.

Examples include:



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- [Creative Australia](#)
- [NAVA](#)
- [Art Gallery of NSW](#)
- [Public Gallery Association of Victoria](#)
- [Australian Society of Authors;](#)
- [SPA/MEAA Australian Screen Industry Code of Practice](#)
- [MEAA Journalists Code of Ethics](#)
- [AGW Television Writers Code of Conduct](#)
- [Australian Code for the Responsible Conduct of Research](#)
- [Australian Institute of Professional Photographers Code of Professional Practice](#)
- [NSW Architect's Code of Professional Conduct](#) [and similar in other states]

Financial support for periodic member surveys would help alert regulators to both existing challenges and new and emerging problems, which can guide future development of professional standards, distribution of payments and improve the *Creative Industry AI code*.

Entitlement to claim

Claims of entitlement to equitable remuneration can be determined with reference to:

- Participant membership of any relevant union or professional organisation and adherence to professional standards and code of conduct;
- Systems information setting out technical information about AI parameters and operations;
- Training data content information;
- Copyright Licensing Information;
- Copyright Litigation Evidence;
- Consideration of beneficiaries of existing schemes that create non-copyright-based remuneration for artists, separate to payments to copyright owners;
- Consultation with sector experts; and
- An open process where professionals can notify the relevant organisations or regulatory authority of market disruption from AI use.

4.2.3 The data requirement

There are three main data sources required to inform ER calculations:

Data source	Purpose	Indicative data
Systems information	Determine remuneration rates and assess the technical characteristics and capabilities of AI systems	Model size, usage, outputs
Training data content information (including mandatory reporting of copyright licensing arrangements)	Identify affected professionals and works used in training	Dataset summaries, licensing deals



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Metadata attached to AI labelled content and AI use	Identify affected professionals and support distribution of payments	Creator identifiers, TK and BC labels, AI-use labels
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Systems information

National Cabinet discussed the development of Australian Standards for AI at its meeting on 26 August 2026.

There are mandatory models in other jurisdictions that may be instructive in understanding the scope and purpose of specific AI applications.

[Annex XI](#) of the AI Act (EU) provides a foundation to assist in understanding the technical features of AI operations.

Article 53 of the AI Act (EU) requires providers of general-purpose AI models to:

1. (d) draw up and make publicly available a sufficiently detailed summary about the content used for training of the general-purpose AI model, according to a template provided by the AI Office.

Training Data Content information

This is required to ascertain lawful development of Australian AI models. This information is also useful to determine which classes of professionals require equitable remuneration.

California Assembly Bill 2013 (AB 2013), [the Generative Artificial Intelligence: Training Data Transparency Act], mandates developers of generative artificial intelligence (AI) systems or services to disclose detailed information about the datasets they used to train their models. This includes a sufficiently detailed summary of datasets used in development of the system or service including sources or owners, purpose, number and types of data points, IP status, licensing, collection period, first-use dates and synthetic data use.

An Australian A training-data transparency (TDT) requirement is widely anticipated. To appropriately service the creative industries it should extend beyond general-purpose AI models to include AI tools and packages marketed to and used by professional artists, artist communities, and their consumers. If not included in wider AI legislation, it can be included in the *Creative Industry AI code*.

Copyright litigation may also provide relevant information about data inclusions.

While large-scale AI companies make significant claims about their technologies, there is limited or no documentation of their underlying research (Zhou 2026). Information provided must be verifiable through independent research and periodic audit.

Mandatory Reporting of AI Copyright Licensing Deals

Australian creators are entitled to immediate redress for the theft of their labour. There must be **mandatory reporting of copyright licensing deals with AI companies and mandatory disclosure of specific contractual provisions affecting creators** whose works are included in AI data sets. Creators with a copyright interest are not privy to the scope of these negotiations and are unable to advance their interests. Creators without a copyright interest will receive no remuneration for the theft of their labour or the impact on their future earning capacity.



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Content subject to mandatory reporting must include *disclosure of creator rights, duties, entitlements, limitations, exclusions, and distributions contained in AI licensing deals*. Confidentiality should not be permitted to override fair and independent review of the creator's interest where relevant personal details can be sufficiently anonymised to allay privacy concerns.

Metadata attached to AI labelled content and AI use

Over time, this information may assist determination of creators and custodians affected by AI operations and calculation of proportional distributions to individuals.

Relevant data sources may include existing labels developed to support Indigenous Data Sovereignty (e.g. [Indigenous Traditional Knowledge \(TK\) and Biocultural \(BC\) labels](#)).

A no-AI derivative use label (and associated metadata) should be developed so that artists can inform the public that they have opted out of AI use and more reliably trace subsequent engagement with these productions. Applied at the creator's election, this information should not be hidden from the public.

4.2.4 How is a payment triggered?

There are three clear categories of use of original works by AI systems where payments could be triggered:

- (a) the input stage where works form part of training data;
- (b) the output stage where works are generated by AI systems;
- (c) derivative uses and distribution of AI-generated outputs.

A staged time frame would be required to implement this scheme, given adoption and use of relevant labelling and tracing technologies is required. Initially payments would be limited to (a) where creator works form part of training data.

STAGE 1 PAYMENTS

- (a) the input stage where works form part of training data

Information provided by AI providers about training data content and analysis utilising content provenance labelling can be used to determine payments to particular classes of creators.

A rate would need to be negotiated to determine the value of this use. Copyright licensing fees and the News Bargaining Incentive scheme payments to media owners reflect market rates and provide a useful point of reference. Calculation of distributions under these arrangements must be disclosed with sufficient detail to determine the creator's share.

In the [Bartz v Anthropic settlement](#), a default 50:50 allocation between publishers and authors was adopted as a fair and reasonable approach to determining the authors' share of damages for copyright infringement. It would be unconscionable to value media company contributions to AI providers at a higher rate than that of the creators whose labour produced their capacity to generate income.

Professional organisations can advise on the most appropriate method for calculating remuneration within their particular sector.



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STAGE 2. PAYMENTS

As the technological infrastructure and metadata requirements develop, payments should then move to include:

(b) the output stage where works are generated by AI systems

Content provenance information, digital identifiers and associated metadata can help identify where AI derivatives have been generated through file uploads, prompts (e.g. image in the style of) and system-generated responses. Technical features of management systems designed to trace unauthorised trade mark use and copyright infringement could also provide a foundation to trace third party use of the creator's work.

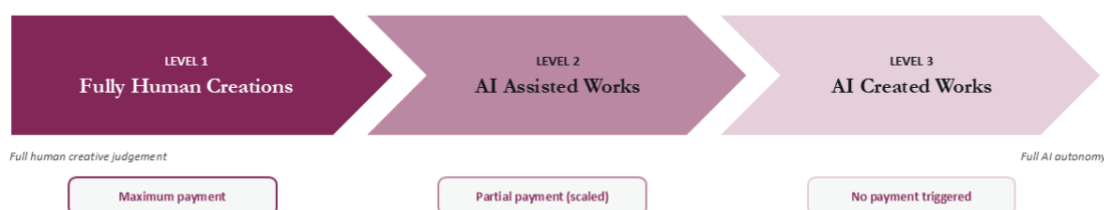
(c) distribution and communication of AI-generated outputs

Content provenance information and digital identifiers associated with AI-generated outputs can assist in tracing the value generated from these outputs through interaction with new distribution methods, as well as distribution and communication of works on traditional media. For example, they could enable an AI-assisted sound recording to be identified and tracked when played on digital radio.

Fairness requires original artists sharing in these income streams as methods for tracing use develop.

4.2.5 AI Payment System classification

AI use by creators is increasingly common. There is a need to establish taxonomies that reflect labour value, as well as to advise creators if copyright subsists in their outputs.



AI Payment System classification

Level 1. Fully human creations

This category values human labour by providing an incentive to produce works that support creative freedom in exercising human judgement, skill, and labour in conceptualisation and execution. These productions warrant award of the maximum payment available, so as to distribute the highest level of reward to the most labour-intensive works.



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Level 2. AI assisted works

Works produced by partly autonomous systems rely on the technology to search for a way to create the work, operating within the confines of training data to edit, modify, or adapt creative choices suggested by the user.

This includes works that, in line with copyright's originality threshold, might be considered as 'co-authored' with the machine. These works warrant less than a full payment, depending on complexity and scope for creative judgement.

Level 3. AI created works

These works are effectively the product of highly autonomous systems capable of producing output with minimal to no user input or where user input is highly constrained by input data options and system parameters (e.g. drop-down menus with limited capacity for tailoring parameters; where production is guided by auto-prompts; automated corrections). The design architecture significantly limits creative judgement being exercised over the desired output. While these outputs may still have significant commercial value for the user and benefit the public, AI created works do not require significant incentivisation to support human creativity and are primarily derivative works of the original works contained in training data.

Professional tools and platforms used by creators

The *Creative Industry AI code* should incorporate expert advice about the capabilities and restrictions of platforms, apps and tools, including evidence about creative practice in different fields (e.g. visual arts; music; writing; filmmaking) to assist with classification of specialist AI models, platforms, apps and software capabilities.

This information is needed to inform creators using different technologies about their technical capacities and the copyright implications of the specific uses for income generation. **This kind of information is already required to assist legal determination of when there is sufficient originality for subsistence of copyright.** Without authoritative information being provided in the *Creative Industry AI Code*, courts will struggle to assess originality and legislative presumptions of subsistence of copyright and authorship will not be able to be relied upon.

Terms and conditions that assign rights and revenues associated with productions made to the technology maker or restrict the economic freedom and moral rights of the creator and thereby impact their right to benefit from commercialisation should be unenforceable (e.g. clauses that restrict export for own reuse; commercialisation outside of the platform; unreasonable limitations on attribution).

4.3 Cultural Fund

AI is based on commodification of the information commons: the heritage of all of us. However, while AI has already disrupted Australian cultural production, reducing jobs and wages for creators, Australian content and our rich cultural diversity are not visible in large-scale AI systems. **AI in Australia's interest** requires serious consideration of how Australians will continue to enjoy Australian cultural content, connect with each other, and support income for Australian creators. The answer is to look beyond AI, so the Australian people continue to have sustainable access to traditional media experiences, live entertainment, libraries, museums, education, community radio, festivals, and public interest journalism to maintain social cohesion.

AI relies on data derived from the digital footprint of all Australians. Data collection is increasingly always-on, in presets in all our digital communications linked through the apps, operating systems and other digital interfaces we need to use to function in society and the workplace. While individual data points are valueless, at national scale this data is incredibly valuable. The Australian public are entitled to compensation for their ongoing donation to large-scale AI corporations of their personal data.

Funded by large AI providers, a cultural fund is required to help build an Australian sense of belonging that AI technologies cannot provide and appropriately value the contribution of all Australians to the new world-building project of AI. It is also needed to enable the arts sector to create, where relevant, non-commercial infrastructures based on public good principles, such as communication and distribution platforms and AI systems.

Empirical research suggests that AI is now ranked among Australia's most ethically challenging technologies (Popovski 2025). Public backlash is understandable when it is hard to see significant benefits for Australians associated with job market disruption and hosting data centres that support the activities of global AI giants whose activities are supported by investment incentives while making no or limited contributions in the form of direct taxation (Bratanova et al 2025).

There are longstanding challenges for Australians creators. Empirical research in journalism (Koskie 2025) and in relation to streaming (Scarlata & Lobato 2025; Streaming Industries & Genres Network 2025) demonstrates the ghostly presence of Australian content and the stifling effect of global media algorithms on content diversity in our cultural diets. Wilding et al (2018) observe that 'new AI services can ameliorate or exacerbate challenges in Australia's media ecosystem.'

Without Government leadership, AI will exacerbate and turbo-charge existing problems: spread divisive misinformation, low quality cultural experiences, and encourage cognitive dissociation. Per Keller (2025, 2):

"AI challenges the very foundations of how societies produce, preserve, structure, and access knowledge and information. AI, in this context, is not simply a tool that enhances the efficiency or reach of existing institutions. Rather, it presents the possibility of displacing them. Foundation models trained on vast troves of publicly available information and other cultural content have the potential to substitute the roles traditionally played by media institutions, libraries, archives, broadcasters, and museums."

But with strong Government leadership, concerns about unethical AI can begin to be addressed. This requires redesigning global AI systems to address past theft and loss of control and requiring equitable remuneration in future. It also requires support for the sustainability of Australian cultural



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production by enabling public access to the rich diversity of Australian arts, entertainment, and ideas in the places where people live.

4.3.1 AI for Australian cultural conditions

In addition, our arts sector needs greater autonomy. Artists are locked into dependencies on the products and services of large, foreign-owned platforms which profiteer from artists' content, restrict autonomy of social interaction between artists and their communities, and can stimulate culturally unhealthy outcomes, exemplified by emerging evidence of such platforms fostering addictive behaviours. Examples include social media platforms, video platforms, streaming services, and ticketing platforms. Much of this infrastructure is technologically simple to implement and yet of vital national importance: not just culturally, but economically and in terms of security. This points to the national benefit of co-investment with strategic partners in the design of digital infrastructures directed to fostering public good.

Sufficient expertise is also needed to oversee the implementation of fair and transparent designs for AI training data attribution and data provenance. This is necessary to deal with new levels of obfuscation about sources, and new complexity in handling appropriate interpretations of intellectual property principles. An independent body comprising academic, industry, and arts sector expertise would proactively measure the state of public and private economic systems' performance against public good outcomes.

Public good digital infrastructure would ideally be non-profit. Algorithms involved in the selection or filtering of content would be community-managed and transparent. Designs would be modular and interoperable. Users would have freedom, for example, to select recommendation algorithms. They would have rights to access or deny access to data in accordance with fair community-agreed principles. They would have the right to choose where to host their data and services. Users of public good infrastructures would in turn need to abide by community-developed public good principles, and this may include controls over content transparency, fair agreements, equitable pay schemes, and cultural safety.

Such public good infrastructures could receive subsidised use of Australian green datacentres and other privileges. Corporate participants would be required to work with Australian cultural interoperability standards, directing value back to the users who create the platform content. The commercial and startup sectors can still be employed to create and maintain this infrastructure.

4.3.2 How to develop a cultural fund

Determining the balance in distribution between direct payments to creators and to the cultural fund cannot be decided without consideration of evidence related to Phase 1 allocations for inclusion in training data.

The Memorandum between the Australian Government and Anthropic on collaboration on AI Opportunities provides an important starting point to progress the National AI Plan's goals of spreading the benefits from widespread AI adoption. The social licence of AI companies operating in Australia requires all large-scale AI firms to contribute a proportion of Australian investment toward a cultural fund that supports creative and cultural production.



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4.3.3 How would distributions support artists?

There is no one existing model to serve as an appropriate foundation to support the full diversity of cultural activities that should be supported. There are, however, existing cultural funds and programs established for more limited purposes. Examples include the Creative Australia Cultural Fund, a cultural fund administered by collecting societies, and State models designed to support live entertainment (See e.g. 10,000 Gigs: The Victorian Gig Fund).

Organisations involved in administration of equitable remuneration, civil society organisations, and subject matter experts should participate in the design of a new model to support the sustainability of Australian public access to music, theatre, books, visual arts, radio, festivals, and events across cities, regional and remote areas, and On Country.

5 Control measures: an obligation to prevent public deception

Natural persons must be able to know when they are interacting with synthetic image, video, audio, or text content and AI systems responsible for generating or manipulating such content. Natural persons have a right to know when they are interacting with synthetic image, video, audio, or text content and AI systems responsible for generating or manipulating such content.

Content provenance transparency is required to enable this and to restore confidence in the market for cultural goods. Allegations of undisclosed AI use will continue to result in increasing instances of cancellation of [prizes](#) and [contracts](#). Similarly, art exhibitions, sales, [art fairs](#) and new releases of [music](#) are increasingly impacted by perceived unfair competition between human authored and AI-generated works, to the detriment of creators, venues, events and the arts workers they employ. Integrity issues must be addressed.

Unauthorised digital surrogates, replicas, and derivatives are forms of unfair competition that damage the market for creative works, infringe the moral rights of creators, and deceive the public. When creators lose control over their works, livelihoods and reputations suffer.

A control measure, similar to existing take-down notices utilised to inform carriage service providers of alleged copyright infringements, is required to empower creators affiliated with recognised professional organisations to remove unauthorised works designed to imitate the image, likeness, voice, and style of arts professionals, as well as inaccurate content attributed to researchers from circulation, so far as this is possible. The obligation to remove content should target the source and all parties engaged in trade and commerce distributing unauthorised material.

Uncontroversial forms of unfair competition that should trigger a take-down include:

- a) Works not labelled as AI generated, or where labels are removed, obscured or digitally altered;
- b) AI-generated work that infringes copyright or overrides an AI opt-out or no-derivative directive;
- c) Works misrepresenting a connection with a human creator; and
- d) Works motivated by fraud.

Examples of how control measures would work to address concerns being raised by creators about AI use of their works are found at the end of this section.

5.1 AI misuse and the gap between moral rights & passing off

The harms caused by unethical use of AI needs more immediate redress than is possible under copyright, passing off or section 18 of the Australian Consumer Law (ACL).

While some AI outputs may infringe the moral rights of attribution, involve forms of false attribution, and breach the right of integrity, the defence of reasonableness may prove a considerable obstacle in cases where offending works were generated by third party systems, that includes licensed content.

The ACL may also apply to some commercial uses of AI generated content. Section 18 embodies the principle that a person must not engage in conduct that is misleading or deceptive or is likely to mislead or deceive the public. However, consumer laws only restrain misrepresentations made in the context of trade or commerce, thus leaving gaps where outputs are circulated for non-commercial purposes. Passing off, as a common law tort, has similar barriers to being an effective means of regulating misattributions and misrepresentations in this context. Passing off requires proof of prior



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goodwill and reputation and may be defeated by a simple disclaimer of AI use. While the principle of regulating the ethical conduct of traders is sound, the remedy on offer has limited application in the arts.

Control measures are needed to operationalise established principles of passing off law and prohibitions against deceptive and misleading conduct under the Australian Consumer Law in the context of AI.

5.2 Understanding AI-generated harms

The connection between the economic value of creators' rights and moral rights was noted in *McCallum v Projector Films Pty Ltd* [2026] FCA 173 at [660]. While, as a matter of principle and legal doctrine, the moral rights of attribution, against false attribution, and the right of integrity are "inalienable", non-transmissible and personal to the author and distinct from the copyright" (as per Shariff J in *McCallum v Projector Films Pty Ltd* [2026] FCA 173 at [673]), Australian legislation reflects industry compromises negotiated between media owners and artist organisations over the last century. Empirical research demonstrates significant disconnect between artist identification of harm and copyright provisions designed to remedy this (Pappalardo & Meese 2017). Although moral rights should be robustly enforced and supported by efforts to educate the sector about them, the existing moral rights scheme alone cannot address the scope of harm potentially caused to the dignity, reputations, and livelihoods of the full range of arts professionals impacted by competition with unauthorised synthetic and manipulated content.

The integrity of scientific knowledge and information is also significantly impacted by AI use, with potential to cause significant public harm as well as reputational damage. The National Tertiary Education Union Assistant Secretary, Gabe Gooding (2026) observes:

"in the age of the algorithm we are seeing publications where the work is not guaranteed to be generated by humans. AI is being used to 'correct' writing, to compile references, to draw conclusions from data and in some cases to generate data to support an idea. Apart from a commitment that the "person" presenting the work for publication has made about the content, there is no guarantee anymore that what we read is presenting us facts based on legitimate data."

Failing to rapidly and publicly flag and correct problematic publications damages others' research careers, wastes future research funds, wastes participants' contributions to research, affects clinical guidelines, damages public trust, and contributes to disinformation. Academic authors need to be able to promptly remove false quotations, false citations, and articles wrongly attributed to them to begin to address corruption of our knowledge ecosystem and reputational damage. Commercial publishers have a poor track record in addressing authorial concerns (Grey et al 2025). There are no commercial incentives to develop a more responsive infrastructure, and the free labour of subject matter experts is relied upon to identify problems and try to correct the record. The integrity of the Australian research system requires a more responsive framework, led by sector advice.

Greater certainty and fairness for Australian creators can be provided by mandating content provenance transparency and empowering relevant professional organisations to instigate the take-down of potentially misleading and deceptive works that are recognised forms of unfair competition. The obligation to remove content should target the source, all parties engaged in trade and commerce distributing the material in Australia, and all Australian public institutions.



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All AI providers and carriage service providers should be required to nominate an appropriate officer to action take-down notices. Take-down decisions should be subject to a simple independent appeal process.

For efficiency, subject matter coverage and procedures need to be straightforward. Expedited presumptive take-down should be subject to counter notice and rapid review.

Additional penalties, as will likely apply in the context of deep fakes, could also be considered for significant breaches.

5.3 Watermarking & Metadata Obligations

Transparency measures are rapidly evolving. It is thus inappropriate to include in legislation detail about technical specifications. Existing industry practice demonstrates that effective technical solutions are already available. For example, Google already uses SynthID to embed watermarks in AI-generated images, audio, text, and video. Meta uses Stable Signature for images. ChatGPT has similar technology but is reported as being reluctant to use it because a significant proportion of users do not want AI use disclosed. An AI label system has been developed by the music industry.

However, industry self-regulation is unlikely to incorporate Australian values and additional technical requirements will need to be mandated. Anthropic, for instance, has admitted that a watermark associated with Claude-generated text only *“indicates that the content may have been processed by Claude.”* It *“is not fully conclusive.”* It *“does not, on its own, confirm the full provenance of the content”* (Edwards 2026). First Nations are already using TK (Traditional Knowledge) and BC (Biocultural) labels to protect Indigenous Data Governance but these are not adequately supported. While new and smaller-scale models may also not currently have the capacity to include robust labelling, there should be no social licence to deploy a model that can deceive the public through generated content without taking responsibility for any harm or deception caused by its use.

The *Creative Industry AI code* must clarify technical specifications of labelling for the Australian creative industries, visibility requirements, and penalties for non-compliance. Support for copyright enforcement, including education and measures facilitating access to justice, is crucial.

5.4 What would trigger a take-down notice?

Uncontroversial recognised forms of unfair competition that should trigger take-down include:

Unfair competition category	Take-down procedure
Works not labelled as AI generated, or where labels are removed, obscured, or digitally altered	Expedited presumptive take-down
Copyright infringing works	Expedited presumptive take-down
Works motivated by fraud	Expedited presumptive take-down
Works misrepresenting a connection with a human creator	Notice and review

5.4.1 Work not labelled as AI generated or where labels are removed, obscured or digitally altered
In line with the requirements for content provenance transparency, once relevant provisions enter into force, non-compliant works should be removed from circulation.

Control measure	Expedited presumptive take-down, subject to counter-notice and rapid review
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5.4.2 Copyright infringing works

Existing piracy in creating AI models has eroded the capacity of Australian creators to meaningful control AI derivatives based on their original creative works. Artists now need the capacity to remove derivative AI works based on piracy.

Unlike jurisdictions with text and data mining exceptions or fair use jurisdictions, there is no copyright exception that would justify inclusion of Australian works in training data without consent of the copyright owner (Alexander et al 2025; McCutcheon 2026). While models may have been trained overseas, it is not legally clear if models contain infringing reproductions under Australian law, especially where many overseas trained models include pirated Australian material. The *Copyright Act 1968* (Cth) covers downstream infringements related to the making of infringing copies. Section 37 says it is a copyright infringement to “import” for sale or hire an infringing copy into Australia if the importer knew, or ought reasonably to have known, that the making of the article would, if the article had been made in Australia by the importer, have constituted an infringement of the copyright. Section 38 is similar, catching distribution of infringing articles on a commercial scale, where “article” means a reproduction or copy of a work or other subject matter, being a reproduction or copy in electronic form. The article need not be a tangible thing. While it cannot be assumed that models do not contain infringing copies or reproduce and communicate works when they operate, users are also uploading copyright material to large language models without permission. In the absence of taking reasonable steps to prevent this, AI providers are likely authorising these infringements every day. **Proposed new licensing solutions, new exceptions or even fair use would not cover this activity.**

Terms and conditions that propose to shift liability to the user should be considered invalid because this deprives creators of any remedy. Broad terms that purport to shift liability to third parties downstream, without the beneficiary of the clause also taking reasonable steps to ensure third party compliance with copyright obligations, were not considered effective in *Australasian Performing Right Association Ltd v Metro on George Pty Ltd* [2004] FCA 1123; (2004) 61 IPR 575.

The piracy of Australian works needs to be corrected by creating the power to limit the harms now caused to creators by wrongful inclusion in training data and AI user instigated infringement.

Many publishers have also since amended contracts with vague and questionable royalty clauses for AI use, signed by creators without legal advice. These clauses would not have retrospective operation. To the extent that addendums to existing and new agreements purport to provide authorial consent to inclusion in training data in return for royalties, mandatory disclosure of these terms is required. Terms need to be evaluated to consider if these are unconscionable clauses that should be prohibited, due to non negotiable terms, where there is no capacity for the author to evaluate the financial benefit of agreeing to such a term: for example, terms providing a 20% royalty for AI use without a definition of “use” or any clarity as to how the pool is created or how many authors will share in this pool.

It is neither fair nor feasible to require Australian creators to engage in litigation to prove lack of consent or copyright infringement. Widespread piracy justifies a reverse onus of proof. This would involve a presumptive expedited take-down process when a creator claims AI copyright infringement. Alleged infringers would retain the right to submit a counter-notice, triggering a rapid review of the claim.

Control measure	Expedited presumptive take-down, subject to counter-notice and rapid review
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5.4.3 Works produced in violation of opt-out directive or No-AI derivative label

Consistent with copyright law, where creators never consented or have expressed a clear intention to exclude AI uses of their works, such as by application of a no-AI derivative label, that decision should be respected and enforceable without the need for creators to engage the support of third parties such as copyright owners to initiate the action. Any dispute should be resolved through a counter-notice and rapid review process.

Control measure	Expedited presumptive take-down, subject to counter-notice and rapid review
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5.4.4 Works motivated by fraud

Uncontroversial forms of fraud should not be tolerated. This includes when AI systems are used to generate works with attributions that assume another’s identity in order to deceive the public; when bad actors may seek to evade detection using technical means to obscure the synthetic origin of works (Dixon & Shufro 2021); and when commercial strategies are used to [divert income from creator pools](#) by gaming algorithms and system principles.

Where there are reasonable grounds to believe a work has been created or distributed for fraudulent purposes, a complaint should trigger an expedited presumptive take-down process. Respondents would have the opportunity to challenge the claim through submitting a counter-notice, with disputed claims determined through a rapid review mechanism.

Control measure	Expedited presumptive take-down, subject to counter-notice and rapid review
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5.4.5 Works misrepresenting a connection with a human creator

Once operational, mandatory content provenance transparency will help identify some forms of deception. However, there is also a significant existing body of wholly AI-generated and AI assisted works now in circulation that can mislead as to the origin or source of the creativity. This category will include AI assisted works that are the result of innocent third party use of AI models and tools. Take-down requests concerning works that could misrepresent a human connection should be subject to a notice process, followed by desk review, with decision-makers able to solicit further details before determining whether removal, relabelling, correction, or no further action is warranted.

Problematic cases include wholly AI produced works where entire works are misrepresented as productions by a human author, as well as AI assisted works that include quotations and references to



non-existent works containing false attributions of authorship. Both categories of misleading works are now competing for recognition alongside works of authentic creators.

Technical information about the tools used to produce the suspect work will help assess the appropriate response. Codes of practice should develop additional criteria to fairly consider and balance the legitimate interests of contributors to Level 2 works (AI-assisted), encouraging negotiation between impacted parties where appropriate. Correction may be a more appropriate response than take-down. However, in some cases, regardless of intention of the user, the AI-assisted work may, on the balance of probabilities, still constitute a copyright infringement.

Rights under passing off law, the Australian Consumer Law, and the *Trade Mark Act 1995* (Cth) should be preserved.

Control measure	Notice and review process, take-down where warranted
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5.5 Take-down procedure

Submissions to the Attorney General’s [Copyright Enforcement Inquiry 2022-2023](#) noted existing challenges faced by creators in responding to copyright infringement due to the way online platforms structure their services (i.e., taking no responsibility for content), where the burden of monitoring these infringements is placed solely on creators.

The Arts Law Centre of Australia’s (Arts Law) submission (2022) supported the introduction of minimum standards for online platforms (whether through an industry code or guiding principles), requiring platforms to take proactive steps to address copyright infringement. AI creates the opportunity to redress both copyright infringement and AI-related harms. Professional organisations engaged in the development of the code of practice for AI use and creators are well-placed to develop effective take-down procedures.

Take-down decisions made under either the expedited presumptive take-down mechanism or the notice and review mechanism can be appealed to an appropriate tribunal.

5.6 Small Claims Tribunal

The current legal system is failing human creators, who are effectively unable to access the courts. Even if they had the financial resources to commence proceedings (which they often do not), the cost of doing so usually dwarfs the value of the claims they are concerned about. This problem has been addressed overseas with the establishment of the Intellectual Property Enterprise Court in the United Kingdom and the Copyright Claims Board in the United States of America.

The Attorney General’s Office has long considered the need for a small claims forum for copyright infringement and related legal disputes due to the inaccessibility of the current legal system to individual creators. Establishment of an appropriate small claims tribunal will provide relief for copyright infringement, including moral rights, and for procedural fairness in reviewing take-down actions affecting individual creators.

Linking copyright and AI harms arbitration is appropriate because of the similarity in the harms with both online and offline elements. For example, infringers often source images online (from an artist’s website or social media account) and then reproduce those images on other websites as well as on printed materials and merchandise (which, in turn, may get re-listed or re-posted on online platforms



for sale or display). In this way, existing online platforms make both forms of infringement more prevalent.

A tribunal should be designed for small claims and self-represented litigants, featuring low fees; flexible, informal procedures; caps on costs awards; and active case management by judges. There should be no option for infringers to opt-out of the process. Effective judicial decision-making will be assisted by the principles set out in *Creative Industry AI Code*.

5.6.1 Legal Education & Advice

Efficient administration of equitable remuneration, including control measures, requires specialist legal education to better inform creators of their rights and obligations and to reduce burdens on the tribunal. AI tools are being developed to provide low-cost delivery of tailored legal advice to individuals and small businesses in other contexts.

A lack of general small business education was repeatedly identified by respondents to the Arts Law Survey, which demonstrated that infringers were unaware that permission was required to use online content (Arts Law 2022). Broader legal education is also essential to reduce administrative burdens and improving ethical uptake of AI technologies.

Annual review of take-down applications will assist in identifying areas that may require improved business and community education.

5.7 Take down examples

Case study 1: AI-labels removed

A producer uses a generative AI system to create thousands of drum recordings in the distinctive style of a famous drummer. The recordings are initially marked with metadata indicating that they are AI-generated. Before distribution, however, the producer removes the AI-origin metadata using widely available metadata-stripping tools.

The recordings are then uploaded to music-sharing platforms and dataset repositories with descriptions implying an association with the drummer whose style they imitate. As the recordings circulate online, they are incorporated into training datasets and rights management databases without reliable provenance information.

Control measure: Works not labelled as AI generated, or where labels are removed, obscured, or digitally altered: expedited presumptive take-down subject to counter-notice and rapid review.

Case study 2: Misattribution of authorship

A scientist who works full-time as a university academic discovers that a publication circulating online has falsely listed them as the author. The paper appears to be credible. It addresses topics within the scientist's key area of expertise, adopts terminology commonly used within the discipline, and cites several of their genuine publications. However, the publication was entirely generated by AI and then published by a predatory journal.

The scientist first becomes aware of this issue when colleagues contact them seeking clarification about unsubstantiated claims made in the paper. They discover that the publication has been indexed



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by search engines and scraped by content aggregators. The scientist is very concerned that if the paper is not immediately removed, they may be falsely quoted in other academic publications, extending the reach of the false attribution and its effects on their reputation.

Limiting ongoing circulation of this harmful output requires institutional action to maintain the integrity of the research record. Liaison with the university and library staff who manage publication records is required.

Control measure: Works misrepresenting a connection with a human creator: notice and review followed by takedown where warranted.

Case study 3: Failure of an AI opt-out

A professional voice actor regularly performs character voices for animation, video games, and audio books. To prevent their recordings from being used to train generative AI systems, they enter into licensing agreements that expressly prohibit AI training. Despite this, copies of the actor's recordings are obtained from third-party websites and included in a training dataset assembled by an AI developer. The developer uses the recordings to create an AI model that mimics the actor's voice, vocal style, accent, pacing, and delivery and can generate unlimited performances on demand. Seeking to reduce production costs, previous commercial clients begin using the AI-generated voice rather than hiring the actor for new recording sessions. The voice actor suffers a significant loss of income.

Control measure: Works produced in violation of opt-out directive or No-AI derivative label: expedited presumptive take-down subject to counter-notice and rapid review.

Case study 4: Fraud

An illustrator seeks to maximise payments under an equitable remuneration scheme. They upload 50 original illustrations to an online portfolio, then generate 10,000 near-identical variations of these images (i.e. slightly different colours, cropped versions, mirrored versions, versions with small filter adjustments) using an AI tool. They then include all 10,050 works in their portfolio, making them available for inclusion in AI training datasets for purposes of triggering an inflated payment.

Control measure: Works motivated by fraud: expedited presumptive take-down subject to counter-notice and rapid review.



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6. Protection of Indigenous Cultural and Intellectual Property and Indigenous Data Sovereignty

Commitments to protect Indigenous Cultural and Intellectual Property (ICIP) Rights and Indigenous Data Sovereignty need to be supported by AI systems so that Aboriginal and Torres Strait Islander knowledge and culture is protected in a culturally appropriate way, led by First Nations People. Offensive and misleading content made and distributed in violation of access and use conditions contained in metadata and as defined in relevant professional codes and protocols should be subject to a simple take-down process, as currently occurs with online copyright infringement.

The Australian Government's principal arts investment and advisory body acknowledges that "Australia does not yet have a law that prevents alteration, distortion or misuse of traditional symbols, songs, dances, performances and story that may be part of the heritage of particular Indigenous language groups" (Dr Terri Janke, [Creative Australia](#)). However, **the sector has moved anyway, developing its own norms, protocols, and governance mechanisms.** Signatories to the [Creative Australia Protocols for using First Nations Cultural and Intellectual Property in the Arts](#), [Indigenous Art Code](#) and adopters of related protocols now govern Indigenous engagement across Australian galleries, museums, libraries, archives, Screen Australia, the Australian Broadcasting Corporation, Special Broadcasting Service, educational institutions, numerous public funders, and the [Australian public service](#).

The Australian Government has committed to upholding Indigenous data sovereignty. While there is some similarity with the need for control measures and to assist consumer identification of any synthetic content for *any content*, specific policies and protocols to protect Indigenous Cultural and Intellectual Property (ICIP) that already exist need to be able to be actioned with respect to AI-generated material that causes offence. Code membership and implementation provide capacity for institutional reporting and honouring obligations entered to assist the First Peoples of Australia to control their ICIP and have Indigenous Data Sovereignty respected.

Commitments to protect ICIP and Indigenous Data Sovereignty should be supported by control measures so that Aboriginal and Torres Strait Islander knowledge and culture is protected in a culturally appropriate way, led by First Nations People and with ongoing consultation across all relevant government departments.

Specific examples of how control measures would work to address concerns being raised by First Nations Peoples about AI use are found at the end of the section.

In addition to the control measures set out in the previous section, additional control measures should be created to remove AI-generated culturally offensive and misleading content. Determinations can be guided by relevant professional codes and protocols, including with reference to access and use conditions indicated in Labels and metadata applied by or for the benefit of Indigenous communities.

The lack of appropriate protection of ICIP and benefits flowing to First Nations Peoples for use of Indigenous art and heritage has been repeatedly recognised in IP policy documents. *Revive* profiles it as the most significant issue requiring redress, placing the matter as *Pillar 1. First Nations First*. In July 2025 the Australian Senate initiated a consultation about *Revive* explicitly soliciting views on any opportunities, risks and challenges for Australia's arts and creative sectors associated with emerging technologies such as AI. Of the 55 public submissions received, 12 explicitly raised concerns about harvesting of Indigenous content by AI companies; a lack of transparency, informed consent and First Nations' governance across the AI lifecycle; no guarantee that the person who input the data had the



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cultural authority to do so or that its perpetual availability or rendering down to parts for algorithmic purposes is consistent with cultural protocols; and undermining of existing initiatives designed by curators, archivists and librarians to ensure respectful treatment of Indigenous content. There was overwhelming support for a law to address these issues.

The need for AI regulation provides an important opportunity to begin to meet sector expectations and strengthen Australian institutional capacity to limit the impact of content created without regard to Australian values and ethics. Australian expectations should also be communicated to foreign actors. Specific take-down powers and processes are required to support respect for ICIP and Indigenous Data Sovereignty.

Take-down processes should be initiated as advised by Indigenous members of relevant professional organisations. The obligation to remove content should target the source, all parties engaged in trade and commerce distributing offensive and disrespectful material, and all Australian public institutions: for example, those in the GLAM sector, the ABC, the SBS, Universities, and Research Institutes.

All AI providers and carriage service providers should be required to nominate an appropriate officer to action take-down notices. Take-down decisions should be subject to a simple independent appeal process.

For efficiency, subject matter coverage and procedures need to be straightforward and uncontroversial. Many of these examples could constitute forms of deceptive and misleading conduct under the Australian Consumer Law or involve breach of contract including a breach of a copyright licensing condition. Expanded criteria could be considered as understanding of AI ethical practice matures.

6.1 What would trigger a take-down notice?

Issues that should trigger take-down include:

Category	Take-down procedure
Work produced in violation of TK & BC label	Expedited presumptive take-down subject to counter-notice and rapid review
Work suggesting a false association with Indigenous community or person	Notice and review
Works that cause cultural offence	Notice and review
Works in violation of research integrity code or condition	Notice and review

6.1.1 Work produced in violation TK & BC Label

[TK & BC Labels](#) support the digital tracing of communication and use of First People’s knowledge and culture. Institutional digital collection policies also make recourse to these sources of information to manage access to their collections. Labels are also being used in North America, Aotearoa New Zealand, and across the South Pacific.

In line with the requirement for content provenance transparency, AI opt-outs and no-AI derivative labels, works produced in violation of the terms applied by First Peoples should be removed from circulation.

Control measure	Expedited presumptive take-down subject to counter-notice and rapid review
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6.1.2 Work suggesting a false association with Indigenous community or person

There is a long history of exploitation of Aboriginal and Torres Strait Islander art and culture, including fraud (Productivity Commission 2022). Though infrequent, there have been successful actions taken by the ACCC over [misleading Indigenous art claims](#). However, problems extend far beyond arts, crafts and souvenirs. Allegations of cultural theft should be actioned without requiring Aboriginal complainants to prove how or why the work is deceptive. If a work is presented or marketed in a manner that would suggest to the reasonable consumer that there is a connection with Aboriginal and/or Torres Strait Heritage that connection should be able to be proven.

There are established processes for establishing Aboriginal and/or Torres Strait Heritage including reference to:

- being of Aboriginal or Torres Strait Islander descent;
- identifying as an Aboriginal or Torres Strait Islander person;
- acceptance as such by the community in which you live, or formerly lived.

Following complaints, purveyors of suspect works should be required to provide provenance information for review to assist in a determination as to whether an asserted cultural connection is valid.

If this information is not forthcoming or is unsatisfactory, the content or item should be removed from circulation.

Control measure	Notice and review
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6.1.3 Works that cause cultural offence

Following extensive public consultation, IP Australia has amended [Australia's Trade Mark assessment](#) to protect the public from signs that contain scandalous content, including Indigenous Knowledge Subject Matter.

This includes consideration of whether signs seeking registration contain connotations that:

- Have religious, spiritual, or cultural significance;
- Are sacred or secret; and/or
- Are derogatory or otherwise promotes intolerance, racism, or violence.
- Where material in a trade mark is of significant cultural, spiritual or religious significance to an Indigenous community, consideration is given as to whether the commercial use of the material in the form of a trade mark would be scandalous, including:
 - The nature of the Indigenous subject matter and its sensitivity to Indigenous people;
 - The context in which the mark is proposed to be used, i.e. the goods and services;
 - Ownership and any other mitigating or aggravating factors identified through research.



These same criteria should be applied to take-down of AI content that Indigenous People identify as offensive.

Control measure	Notice and review
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6.1.4 Works in violation of ICIP protocol, research integrity code or condition

Voluntary codes and contractual obligations should be enforced as set out in the relevant policy or agreement. However, the voluntariness of some of these agreements and privity of contract limit the ability to redress harms caused by transactions with third parties. A review of the relevant policies and agreements, proposed resolution of disputes, and negotiation with the affected party is required before exercise of any take- down power.

Control measure	Notice and review
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6.2 Take-down procedure

So far as is possible, ICIP and Indigenous Data Sovereignty control measures should mirror those for other AI works, with relevant professional organisations assuming responsibility for initiating take-downs with notice to relevant parties.

Legal Education & Advice

Culturally appropriate and effective legal education is required to support the administration of control measures. Annual review of take-down applications will assist in identifying areas that may require improved business and community education.

6.3 ICIP Control Examples

Case Study 1: Violation of TK label

A digital archive contains cultural stories from a particular Indigenous community. Each story is accompanied by a TK Label indicating that adaptations, modifications, and reuse are not permitted without community consent. An AI company uses material from the archive to train a generative AI model. The model subsequently generates a children's book retelling of one of the stories, and the book is published and distributed. The output constitutes an unauthorised derivative work created in violation of the TK No Derivatives label attached to the source material.

Control Measure: Outputs produced in violation of a TK label should be subject to an expedited presumptive take-down, subject to counter-notice and rapid review.

Case Study 2: False association with an Indigenous community



A business uses a generative AI system to create a collection of artworks incorporating designs, symbols, and visual elements associated with, and regulated under Customary Law by a Torres Strait Islander community. Before releasing the collection, the business does not consult with any Traditional Owners or community representatives and does not obtain permission to use, adapt, or commercialise the cultural material. In promoting the collection, the business links the artworks to the community's traditional lands and waters and explains the cultural significance of the motifs. The overall presentation conveys the impression that the business has the cultural authority and/or approval of the relevant community to represent, adapt, and commercialise these cultural expressions.

Control Measure: Artworks implying a false association with a community should be subject to a notice and review process, followed by takedown where warranted.

Case Study 3: Cause offence: use of sacred symbol

A homewares company uses a generative AI system to create a decorative doormat featuring a stylised figure of a Wandjina: a sacred ancestral being that holds deep religious, spiritual and cultural significance to the Worrorra, Ngarinyin, and Wunumbul people. The design is reproduced without consultation with, or permission from, the relevant Traditional Owners. The depiction of a Wandjina on an everyday consumer product is highly offensive.

Control measure: Works featuring sacred cultural material used in an offensive manner without consent should be subject to a notice and review process, followed by a take-down where warranted.

Case Study 4: Cause offence: racist connotation

A local tourism business is creating a marketing campaign to promote visits to regional Australia. To save time on design costs, the marketing manager prompts a generative AI image tool to "create an image showing Aboriginal Australians welcoming tourists."

Several images are generated that draw on outdated stereotypes. The marketing manager selects an image of two Aboriginal people carrying spears, standing on one leg, gazing into the distance in a remote desert setting. The image is used in online advertising and promotional brochures. No Aboriginal people are consulted about the cultural appropriateness of the content.

Control measure: Material that is racist, offensive, stereotypical, or harmful should be subject to a notice and review process, followed by a take-down where warranted.

Case Study 5: Research involving Aboriginal and Torres Strait Islander people and communities

A biotechnology company entered into an agreement with an Aboriginal community to research the chemical properties of native bush foods. The agreement stated that the data generated would only be used for specific research purposes, with community oversight, shared benefits, and restrictions on distribution of the data for non-authorised purposes.

Several years later, the biotechnology company sells the dataset to an AI company developing tools for food innovation and commercial products. The AI company uses the data to train its models and generate insights for paying clients. The Aboriginal community was not consulted and did not give consent for this use of the data. They also did not receive any benefits from the commercial activity.



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The biotechnology company's conduct directly violates its bioprospecting agreement with the Aboriginal community, and breaches both the AIATSIS Ethical conduct in research with Aboriginal and Torres Strait Islander Peoples and communities: Guidelines for researchers and stakeholders 2018 and Keeping research on track II 2018/Australian Code for the Responsible Conduct of Research 2018.

Control measure: subject to review because it involves verification of the original research arrangements (and any funding and consent conditions) and evidence from the affected community.



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