



**Australian Writers' Guild
Authorship Collecting Society Australia Aotearoa**

Submission to Joint Select Committee on Artificial Intelligence
9 September 2026

The Australian Writers' Guild acknowledges we live and work on Aboriginal land. We pay our respects to Elders past and present. We thank them for their custodianship of land and waterways, stories, and song, and pay our respects to the oldest storytelling civilisations in the world.

WHO WE ARE

The Australian Writers' Guild (**AWG**) represents Australia's performance writers: playwrights, screenwriters for film and television, showrunners, podcasters, comedians, game narrative designers, dramaturgs, librettists, and audio writers. We represent 2,800 performance writers in Australia. Established by writers for writers, the AWG is a democratic organisation run by its members, who each year elect a National Executive Council and State Branch Committees. Our members work together to represent their fellow writers across the industry in a number of committees such as the Theatre, Television and Games committees to negotiate for fair pay and conditions, advocate to government, and serve members' professional needs.

The Authorship Collecting Society Australia Aotearoa (**ACSAA**), previously known as the Australian Writers' Guild Authorship Collecting Society (AWGACS), is a not-for-profit collecting society for screenplay authors. With more than 2,600 members and 34 partnerships with overseas collective management organisations, ACSAA has collected more than \$35 million in secondary royalties and distributed the monies owed to screenwriters from Australia, New Zealand and around the world. ACSAA continuously advocates for the rights of authors to ensure they are fairly remunerated for the secondary exploitation of their works. Since its inception, ACSAA, the secondary royalty collection society for Australian and New Zealand screenwriters and authors, has collected and distributed over \$35 million to creative workers.

Executive summary

The basis of generative artificial intelligence technology (**AI**) is mass infringement of copyright, moral rights and – in the case of First Nations’ artists – Indigenous Cultural and Intellectual Property. AI is built on the stolen property of Australian screenwriters, playwrights, authors, artists, composers and musicians, all knowingly infringed by bad-faith actors.

We look forward to working with the Office of AI and Australian Standards to ensure that our cultural sovereignty is protected and that the theft of Australian creative work by foreign tech companies is addressed.

Our concerns regarding AI – for our industry and for the arts more broadly – have been articulated most recently in our submission to the new National Cultural Policy inquiry. The sections of that submission that relate directly to AI have been submitted as an attachment (**Attachment A**). In this submission, we focus on what we consider to be the key legal reforms that Government should consider in developing standalone AI legislation or amending to the *Copyright Act* 1968 (Cth) (**Copyright Act**).

Our view has always been that Australian copyright laws, to the extent that they deal with copyright infringement, are fit for purpose. The problem is that foreign tech companies have flaunted those laws without penalty. Australian creative workers are unable to afford legal action against the likes of Google, Meta and Amazon. This is purely a problem of resource rather than a flaw of our legal system that needs to be fixed with new laws. It is the enforcement of existing copyright laws that should be Government’s priority.

In terms of regulating AI platforms in Australia moving forward, there are gaps in our copyright framework for which we propose targeted reform. These reforms will empower creative workers to negotiate with big tech companies. It is essential that artists have an inalienable right to prevent third parties from using their artistic work to train an AI model. They should have the right to consent to that exploitation too, provided they are equitably and proportionately compensated. Therefore, in this submission (as with our previous submissions) we discuss the introduction of a new **economic right** covering the use of a copyrighted work to train an AI model, and a new **moral right** giving authors the right to refuse consent for that training.

We reiterate the urgent need for **standalone legislation regarding First Nations cultural assets and expressions**. This reform is long overdue, and AI presents a particularly acute risk to First Nations creative workers and the Traditional Owners of cultural assets. There is a pressing need to close these gaps.

We support the **extension of the copyright framework to include creative works and activities that are not currently protected by copyright** (e.g. the style and technique of a screen editor or cinematographer, a make-up artist or production designer). These works are still being scraped and exploited without workers’ consent, and AI still has the effect of shifting market demand away from those creative workers. We also suggest that Government turn to developments in the EU, particularly in Denmark, where creators, as well as ordinary citizens, can **own and license their voice, face, and likeness**.

Finally, we urge **federal and state funding agencies to deny funding to any creative projects that use AI technology** as a replacement (in whole or in part) for work that has traditionally been done by a creative worker.

In addition to our public National Cultural Policy submission, we made two confidential submissions including one submission discussing the operation of an AI royalty and regulatory framework submitted to the Attorney-General's Department in our capacity as a member of the Copyright and AI Reference Group (**CAIRG**). We are prepared to share these submissions with the committee on a confidential basis.

Claire Pullen

Group CEO

Australian Writers' Guild

Authorship Collecting Society Australia Aotearoa

A. Regulation of ‘ingestion’ of creative works by AI developers

First Nations works and Indigenous Cultural and Intellectual Property (**ICIP**) must be respected. There is currently no standalone legislation regarding First Nations ‘cultural assets’ and expressions and the need for legal recognition is particularly urgent with the advent of AI. Government must engage in careful consultations with First Nations Traditional Owners and introduce regulations protecting the use of ICIP. Permission to use and access ICIP will look different depending on the nature of the cultural asset.

Until these issues are resolved, AI companies must ensure their models do not contain ICIP, and are not trained on ICIP. To that end, AI companies must have specific transparency obligations around the use of ICIP, particularly around what ICIP has already been used to train their models. Information on the forecast future uses of ICIP would be particularly useful in developing this regulation.

AI models that have been trained on ICIP (i.e. in the form of images, transcriptions, and the like) without the permission of the relevant Traditional Owners should be forced to disgorge that training data. The AI companies responsible must have obligations to provide evidence that this disgorgement occurred.

More broadly, AI platforms that have been trained on unlawfully obtained content should be prohibited in Australia. If the access would be considered unlawful in Australia, it must not be a part of any model accessible in Australia.

Examples of unlawful training data include:

- transcribing audio-visual content and inputting the transcript;
- pirated content;
- content scraped without permission, whether behind a paywall or not;
- content purchased from a third-party broker that includes pirated content, or content obtained without permission.

As with ICIP, AI companies must have a positive duty to remove unlawfully obtained content from their models, and make appropriate disclosures to the regulator demonstrating ongoing compliance (with strict statutory penalties for non-compliance).

B. Economic and moral rights

Authors and creators should have an inalienable and continuing relationship to their work that persists, despite whatever commercial relationships are entered into along a supply chain. For authors – as the term is broadly used in the Copyright Act – this means extending inalienable authorship rights (sometimes called the neighbouring rights or the right to equitable remuneration) which are rights cannot be sold or alienated and always belong to the author or creator. Furthermore, authors must be equitably and proportionately remunerated for the sale or exploitation of their economic rights.

We have argued that affirming the rights for authors and creators can be done through minimal amendments to the *Copyright Act* to establish both new economic and moral rights, provided that these new rights cover all existing works.

(i) The economic right to train a computational system

Under s. 31(1)(a) of the *Copyright Act 1968* (Cth), copyright in relation to a literary or dramatic work entails the exclusive right to do any or all of the following acts:

- i. to reproduce the work in a material form;*
- ii. to publish the work;*
- iii. to perform the work in public;*
- iv. to communicate the work to the public; and*
- v. to make an adaptation of the work.*

The right to communicate the work to the public was introduced in March 2001, via the *Copyright Amendment (Digital Agenda) Act 2000* (Cth). Under s. 10 of the CA, “Communicate” means “[to] make available online or electronically transmit ... a work”.

The introduction of the new right was the government’s response to new and changing technology – i.e. the rise of digital media – that has now become an essential part of the way we consume media content.

We propose a similar reform, for similar reasons: the inclusion of “(vi) to train a computational system” in section 31(1)(a) of the *Copyright Act*.

By establishing this new right, there would be clarity about where in the production value chain the right to ‘train’ for AI purposes falls, and make clear which parties need to seek permission and offer payment. In our view no legal uncertainty exists about the ownership of these rights, but if big tech advocates are to be taken seriously and such uncertainty *does* exist, then an amendment like the one proposed here would resolve all ambiguity.

For the avoidance of doubt, we are not suggesting that tech companies should escape liability for infringement of existing economic rights (i.e. unauthorised reproduction, unauthorised communication to the public).

(ii) A moral right against ‘training’ any software model without the author’s consent.

Under Australian law, authors are granted personal and inalienable “moral rights” in connection with their original works. These rights cannot be sold, and they can be exercised by the author even if copyright is owned by someone else. These rights include the right of attribution under s 193 (the right of an author to be credited as the author of their work), the right not to have authorship falsely attributed under s 195AC-195AH, and the right of integrity under s 195AI-195AL (which is the author’s right not to

have their work subjected to derogatory treatment). We note many of our members have put the view the ingestion of their work into AI models is derogatory treatment in and of itself.

We support the introduction of a new moral right prohibiting the copying of an author's original work to 'train' any software model without the author's consent.

Alternatively, we propose that the definition of "derogatory treatment" of a work under the moral rights framework is broadened. "Derogatory treatment" is defined in the Copyright Act as any act "that results in a material distortion of, the mutilation of, or a material alteration to, the work that is prejudicial to the author's honour or reputation". In our view, the act of training an AI system using an artist's work and to produce an output based on that work, without the artist's consent, is a distortion or mutilation of that work. It is offensive to the artist and devalues their work. It diminishes the artistic process and the years of research and training it may have taken to produce the original work. It is disrespectful to the 'integrity of the creative endeavour' which these provisions were introduced to protect.

From our surveys of our members it remains a strongly held view that incorporation into an AI model constitutes derogatory treatment. This is particularly true now as publicly available LLMs have begun providing 'answers' to queries that include paid advertising and thus artists are exposed to potentially having their works adjacent to products or services to which they are opposed.

(iii) Protection of creative works and activities that are not protected by copyright

Companies that develop AI have the capacity to 'train' their models on audio-visual content including films and television series available online to stream. This means that these companies have scraped the copyrighted works of screenwriters, directors, and composers (screen authors for copyright purposes). AI models can also 'learn from' and copy the work of any member of the production team, post-production team, or cast and anyone else involved in the production of that film or series whose creative work is communicable visually or auditorily: e.g. the style and technique of a screen editor or cinematographer, a make-up artist or production designer.

These aspects of an audio-visual production are not currently protected by copyright because they are not considered 'works' under the Copyright Act. Yet, AI companies still copy that creative work and the development of AI platforms trained on that creative work has the effect of shifting market demand away from creative workers.

It is critical that **all** creative workers whose output – which is a product of their individual effort, creative aspirations and skill – has been copied by AI companies should be fairly compensated even if the current copyright framework does not consider their creative work to be a 'work' or

'subject matter' for the purposes of copyright subsistence. We support, at minimum, the expansion of the doctrine of moral rights to cover creative workers who do not own copyright in any of the Part III literary, dramatic, artistic or musical works that a Part IV subject matter (i.e. a feature film, an episode of a television series) is comprised of. In this way, the special connection that each worker has to their creative output, services, or skill and expertise is recognised, even if they do not themselves hold any economic rights in the "work" itself. AI companies would need to seek the creative worker's consent to breach their moral rights and (assuming the creative worker is willing to grant that consent) pay them equitable and proportionate remuneration for the exploitation of their work.

C. Success in Australia

Big tech has reparative work to do in obtaining a social licence from Australians. This reparative need relates to how Australian creators and the public have been treated by big tech overseas and Australia. Australian creators have had their works unlawfully accessed overseas through piracy and other unlawful access, or accessed under schemes which diminish their rights. Australians recognise this and mistrust of AI is widespread among the general community.

In our view, any AI regulation must include reparative payments to creators and rightsholders whose rights have been infringed. These payments are ongoing and collected by the relevant Collective Management Organisation (**CMO**) that directly represents a class of creative worker: for audio-visual works this includes ACSAA, ASDACS (for directors), and APRA-AMCOS (for musicians and composers).

Taxpayer money cannot be used to fund replace creative workers with AI. Federal and state arts funding agencies should deny funding to any creative projects that use AI technology as a replacement (in whole or in part) for work that has traditionally been done by a creative worker. AI companies should provide financial support for government creative bodies to ensure that they can deliver AI compliance work as it relates to funding and grants.

D. Strengthening democracy and protecting Australian citizens

Every Australian should be given ownership of their voice, face, or likeness. Their voice, face and likeness cannot be used in training or outputs without express permission.

We suggest that Government turn to developments in the EU, particularly in Denmark, where creators, as well as ordinary citizens, can own and license their voice, face, and likeness.

This expanded copyright framework should also contemplate the specific exclusion of artists' names as prompts, and full and ongoing transparency around input data so artists can have confidence they are not being infringed or taken from.

When an AI company is made aware that their platform has been used to impersonate a real person, or where personal data has been used as part of a training data set, that AI company must have a strict deadline to remove that content (e.g. 24 hours).

Whenever media content or advertising that has used to AI technology in its development or production is communicate to the public, it should be accompanied by a warning that AI technology has been used. Services that use AI to make recommendations to users must warn users that they are doing so and give users the opportunity to opt-out. This includes any streaming service or media content device that uses AI technology to tailor recommendations to users.