



## **Making Europe's copyright framework work for innovation**

Targeted initiative for a better copyright environment for European creativity and innovation: Call for Evidence  
24 June, 2026

### **Introduction**

Allied For Startups (AFS) welcomes the opportunity to contribute to the review of the Copyright in the Digital Single Market (CDSM) Directive and the development of a potential targeted initiative for a better copyright environment for European creativity and innovation. As a network representing startup ecosystems across Europe, AFS brings the perspective of the innovators and founders who are building the next generation of AI-driven products and services, and who depend on a sound, predictable copyright framework to do so.

AI is not merely a technological development; it represents a new dimension for the creative and knowledge economy. Far from displacing human talent, AI amplifies it, giving artists, researchers, and creators tools to experiment, accelerate their work, and reach audiences in ways previously unimaginable. This transformative potential benefits rightsholders and innovators alike, and the two interests are far more complementary than they are in conflict. Realising this potential, however, requires a legal environment that supports both: one that preserves incentives for content creation while enabling the broad, lawful data access on which AI innovation depends.

The EU has already established a regulatory framework governing copyright and AI through the CDSM Directive's text and data mining (TDM) provisions and the AI Act. While these instruments have created important legal reference points, their implementation has also revealed areas of complexity, fragmentation, and uncertainty that continue to affect startups across Europe. The priority now should be to ensure that the existing framework functions in a predictable, coherent, and innovation-friendly manner, through effective,

harmonised implementation and clear guidance, rather than introducing additional layers of regulation. AFS therefore urges the Commission to focus this review on improving legal certainty, reducing fragmentation, and strengthening the practical operation of existing rules, rather than creating new obligations that risk increasing complexity and undermining Europe's competitiveness in AI.

## **Maintaining a functional TDM framework for AI innovation**

The TDM exceptions established under Articles 3 and 4 of the CDSM Directive are indispensable to Europe's research and innovation ecosystem. For startups in particular, which lack the legal and financial resources to negotiate large-scale licensing agreements, these exceptions are not a convenience but a precondition for participation in the AI economy.

The practical importance of TDM exceptions is wide-ranging and concrete. In the health sector, they enable the large-scale analysis of biomedical data that underpins the development of new medicines and therapies. In cybersecurity, they support AI systems capable of detecting phishing, malware, and fraud at scale. In finance, they make possible the real-time analysis of market data and credit risk. Across all of these domains, TDM allows researchers and startups to identify patterns in large datasets, reduce bias, and generate insights that drive both scientific progress and commercial innovation. These activities would not be possible without TDM exceptions.

For startups, the alternatives simply are not viable. Licensing at scale is economically prohibitive: negotiating with the thousands of rightsholders whose works appear in representative training datasets would impose costs that no early-stage company could absorb. Public domain datasets are frequently too limited, outdated, or unrepresentative to support reliable AI. Synthetic data cannot substitute for the diversity and richness of real-world material. Without TDM exceptions, European startups would be unable to train AI models that are accurate, fair, and competitive, and the most capable AI development would simply move elsewhere.

Despite this, the current implementation of TDM exceptions falls short of its potential. Startups face persistent barriers: technological protection measures that block access even where it is lawful; restrictive and opaque contractual terms that override statutory rights; opt-out mechanisms that are inconsistently defined and often not machine-readable; and fragmented national implementation that creates legal uncertainty across the Single Market. Some Member States have introduced more restrictive versions of the exceptions

than the Directive requires. This kind of fragmentation directly harms startups trying to operate across borders and must be addressed as a priority.

There is also a damaging ambiguity regarding the application of TDM exceptions to AI training and generative AI. This ambiguity is legally unfounded: Articles 3 and 4 of the CDSM Directive define TDM as any automated analytical technique aimed at analysing text and data in digital form to generate information, a definition that plainly covers AI training. Recital 105 of the AI Act explicitly reaffirms this. Nevertheless, conflicting interpretations and restrictive licensing practices continue to create a chilling effect that discourages innovation.

AFS therefore calls on the Commission to reaffirm unambiguously that TDM exceptions apply to AI training and generative AI. The Commission should also monitor and address divergent national implementations, ensure that publicly accessible data remains free from technical protection measures or crawler restrictions that effectively nullify statutory TDM rights, and work to clarify and standardise opt-out mechanisms so that they are machine-readable, clearly defined, and practically workable. Above all, the Commission should prioritise legal certainty, coherence, and the effective functioning of the existing framework, ensuring that any future measures support innovation and avoid introducing unnecessary complexity or fragmentation.

## **Facilitating public-private research and knowledge transfer**

The current distinction in the CDSM Directive between commercial and non-commercial research is an increasingly poor fit for the realities of how research and innovation actually happen in Europe. Today, scientific discovery rarely occurs in purely academic settings. It takes place in public-private partnerships, university spin-offs, and mixed-funding environments where the boundary between research and commercial application is not a fixed line but a continuum. A project may begin as a non-commercial academic inquiry and evolve into a market-ready product or a new company.

This is precisely the dynamic that Europe needs to encourage if it is to address what is sometimes called the “European paradox<sup>1</sup>”: the persistent gap between world-class research output and its translation into globally competitive technology and industry. Yet the commercial/non-commercial distinction in the TDM framework creates legal uncertainty at precisely this interface, making it harder for research institutions to partner

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<sup>1</sup> Senftleben, M, Szkalej, K, Sganga, C et al. Towards a European Research Freedom Act: A Reform Agenda for Research Exceptions in the EU Copyright Acquis. IIC 56, 1329–1358 (2025).

with the private sector and for researchers to commercialise their discoveries without losing the legal protection they need.

AFS supports removing this distinction from the CDSM Directive, so that the TDM scientific exception applies to all genuine research regardless of institutional form, funding model, or potential downstream commercial application. This would bring EU law closer to the approaches of many leading innovation economies, including the United States, Japan, Singapore, Canada, and South Korea<sup>2</sup>, that do not impose this constraint. It would reduce compliance costs, eliminate legal ambiguity for organisations operating across the research–industry interface, and make it genuinely easier for European research to become European innovation. Strengthening public–private partnerships in this way is not only beneficial for startups and research institutions, but also for the European economy as a whole.

### **Ensuring a coherent and innovation–friendly copyright framework**

As part of the ongoing discussion on the future of Europe’s copyright framework in the context of AI development, several policy options have emerged, including mandatory licensing schemes for AI training and a rebuttable presumption that copyrighted works have been used in training where transparency requirements are not fully met. AFS considers that these approaches would not improve legal certainty or support a balanced innovation ecosystem, and therefore does not support their introduction.

On mandatory licensing, compulsory remuneration schemes for AI training would fundamentally distort the functioning of the voluntary licensing market, create asymmetric competitive conditions relative to jurisdictions without such obligations, and make it commercially unattractive to develop and deploy AI models in Europe. The existing framework already provides adequate mechanisms for rightsholders to monetise their content, including through direct licensing agreements and the opt–out mechanism under Article 4. A mandatory remuneration model would fail to reflect the different economic characteristics of different types of content and would impose disproportionate costs on startups and smaller AI developers, who lack the resources that large, well–capitalised companies can bring to bear on compliance. Licensing should remain voluntary, proportionate, and non–discriminatory, with direct contractual arrangements between rightsholders and AI developers remaining the primary mechanism where both parties have the capacity to engage.

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<sup>2</sup> Mendis, D, White, B, & Hong, D. Copyright and Open Norms in Seven Jurisdictions: Benefits, Challenges & Policy Recommendations. (2024) Knowledge Rights 21 / Centre for Intellectual Property Policy and Management, Bournemouth University.

On the rebuttable presumption of use, this mechanism, which would assume that copyrighted works had been used in AI training if transparency obligations are not fully met, effectively shifting the burden of proof onto developers, poses serious risks for startups and research organisations. Many such actors operate with limited legal resources and may face genuine compliance difficulties without any intent to infringe. The presumption would disproportionately penalise smaller EU AI developers while larger, well-resourced organisations would be better placed to absorb the compliance burden. It would create legal uncertainty that discourages the use of data and risks introducing bias into research results. AFS urges the Commission to reject this approach.

More broadly, the interaction between the AI Act's training data transparency requirements and the TDM exception framework under the CDSM Directive, including the interface between the AI Act Code of Practice and existing opt-out mechanisms, creates areas of legal uncertainty that must be actively resolved through implementation guidance and regulatory coordination. Obligations under one framework must not inadvertently constrain the lawful exercise of rights under the other. Coherence between these instruments is essential, and the Commission should prioritise this before considering any further legislative intervention.

Finally, regulatory fragmentation resulting from divergent national implementations of the CDSM Directive is a growing obstacle for companies operating across the EU. Where Member States have introduced additional national requirements or restrictions beyond what the Directive requires, the result is a patchwork of jurisdiction-specific rules that increases compliance costs, undermines the Single Market, and creates legal uncertainty for startups trying to operate at scale. AFS urges the Commission to make harmonisation a central priority of this review, ensuring consistent implementation across all Member States and preventing national divergences from conflicting with EU-level instruments.

## **Conclusion**

The review of the CDSM Directive is an opportunity to ensure that Europe's copyright framework serves its full range of purposes: supporting creators, enabling research, and empowering the startups and innovators who are building Europe's AI future. AFS believes these goals are complementary. A framework that preserves robust TDM exceptions, removes the outdated distinction between commercial and non-commercial research, avoids disproportionate new obligations, and ensures consistent implementation across the Single Market will strengthen both the innovation ecosystem and the creative economy. Europe has built the foundations of a balanced and forward-looking legal framework. The task now is to make it work.