

NEWS MEDIA EUROPE

Contribution to the Call for Evidence on a targeted initiative for a better copyright environment for European creativity and innovation

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Introduction:

News Media Europe (NME) is the voice of the progressive news media industry in Europe, representing over 2,700 news brands in print, online, radio and TV, through national associations from thirteen countries. Together, we defend key principles which are vital to us: protecting the freedom of the press, championing the digital future of our industry, and ensuring that the value of content is properly protected.

NME welcomes the opportunity to provide feedback to the Commission's Call for Evidence on the review of the Copyright in the Digital Single Market Directive (the DSM Directive) and the targeted initiative for a better copyright environment for European creativity and innovation. NME's response will focus on three of the areas examined in the Call for Evidence: (1) artificial intelligence (AI), (2) the scientific research exception, and (3) remuneration rights for music.

Europe's democratic resilience, information integrity, and AI ambitions, all depend on reliable, pluralistic, high-quality journalism. A strong news media sector is part of the democratic infrastructure essential to the European Union, playing a key role in maintaining and enhancing both democracy and the EU's strategic sovereignty. Its importance in the AI era is equally clear: news content has proven to hold considerable value for large language models, hence contributing to EU's AI ambitions.

Press publishers invest heavily in journalists, editorial standards, factchecking, technology and innovation to produce press content that is indispensable to citizens, public debate and the development of trustworthy AI. By offering centralised access to and licensing of high-quality training data, press publishers could support and facilitate the growth of responsible, compliant AI, on terms that also would safeguard investments in producing independent journalism. In the long term, only licensing-based AI development is sustainable. But to achieve this, press publishers must regain control of their content and their investment.

The pressure on the press sector and journalism is heightened given the structural shift of advertising revenue away from publishers and towards global online platforms. Information society service providers (ISSPs) have built highly profitable digital ecosystems around the discovery, aggregation, ranking, and reuse of professional news content. All while press publishers continue to bear the costs and risks of producing journalistic content. Generative AI is now accelerating this imbalance to a degree that is existential for journalism and the entire news media industry. AI systems are fast becoming a mainstream means of accessing information: ChatGPT reached nearly 800 million users in just three years, a growth rate noted to outpace the web's initial rise. This shift in consumption patterns will only intensify, with impact on how audiences discover and engage with news content, posing far-reaching risks for European citizens.

Balanced AI development requires that publishers regain control over their journalistic content. Today, that content is used for AI training, despite publishers having duly reserved their rights through appropriate opt-out mechanisms. By making unauthorized use of this content, AI systems threaten to disintermediate users from press publishers' websites, striking at the very financing of sustainable, independent journalism, while press publishers have no means to establish, let alone prove, that their content has been ingested.

Copyright and neighbouring rights are the most important safeguards for publishers' investments in independent journalism. If they fail to function in the AI era, the basis for investing in journalism disappears, with consequences that could compromise democracy and citizens' freedoms in Europe. The stakes are high. NME calls on the Commission to ensure that no gaps or shortcomings remain in the EU copyright framework that could be exploited by AI-powered business models built, directly or indirectly, on press publishers' news content.

NME considers the current framework, primarily under the DSM Directive, to be robust but lacking the guardrails and effective enforcement needed in the age of AI. We believe the Commission should pursue the changes necessary to ensure that the EU framework is effective and strikes a fair balance between market parties: one that gives press publishers control over their investments, making rights enforceable against misconduct, and keeps the framework fit for purpose amid technological and market developments. This calls for practical, legally certain and timely outcomes: meaningful transparency, respected opt-outs and other rights reservations, functioning licensing markets, and effective enforcement. Sending publishers down a legal route with procedures that last more than a decade is no remedy at all; it inflicts irreparable harm on the production of sustainable, independent journalism.

Moreover, our submission addresses two further areas examined in the Call for Evidence. On the scientific research exception, we urge the Commission to preserve clarity and resist any broadening that would weaken the market for licensing press content or open a fresh route for commercial AI to bypass authorisation. On remuneration rights for music, we call for a clear EU-level solution based on material reciprocity, so that European performers and producers are not denied equivalent remuneration by third countries following the RAAP judgment.

Where these objectives can be achieved through targeted measures and new legislative proposals, without reopening the DSM Copyright Directive, that route should be considered first. It is also important to note that, given the overlapping nature of current developments, these objectives cannot be achieved through copyright alone. They must also be addressed in areas such as AI governance, platform regulation, competition, and cybersecurity policy.

1. Artificial Intelligence

On artificial intelligence, NME focuses on the following themes and asks the Commission to take them duly into account to ensure the protection of press publishers' investments in producing sustainable, independent journalism. These topics would feed into and strengthen European democracy, its citizens' freedoms, and ultimately Europe's sovereignty:

- The opt-out mechanism including recommendations on opt-out mechanisms, transparency, licensing markets and enforcement;
- Artificial Intelligence and Competition;
- Press publisher's right and AI licensing.

1.1 The Opt-Out Mechanism:

1.1.1 Legal Basis and Practice:

The vast majority of publishers have for years reserved their rights against text and data mining for all purposes, including through clear "all rights reserved" notices in their terms and conditions. Article 4(3) of the DSM Copyright Directive states that "the exception or limitation provided for in paragraph 1 shall apply on condition that the use of works and other subject matter referred to in that paragraph has not been expressly reserved by their right holders *in an appropriate manner*, such as machine-readable means in the case of content made publicly available online." The Directive does not mandate the use of technically advanced protocols to exercise a lawful reservation of rights. It solely requires that the validity of natural-language reservations must be recognised, not least for rightsholders with limited technical means.

Publishers typically rely on robots.txt and on the TDM Reservation Protocol, but crawlers do not adhere to these reservations, instead they change their settings, and proliferate. The evidence of unauthorised use is concrete. The *Bartz v. Anthropic* case revealed that books from European publishers had been ingested for training. The 2024 study from the Utrecht University¹ confirmed that press publisher content appears in ChatGPT's training data, and was subsequently replicated in Belgium, Denmark, Sweden, Poland, Ireland and Finland. Separately, NDP Nieuwsmedia, the Dutch trade organisation of private press publishers, conducted a study that found that robots.txt opt-outs were not respected at all.

1.1.2 The Transparency Gap:

These findings and developments show that determining whether press publishers' content sits in a language model is costly and actively obstructed by the technical measures that the platforms put in place. Because it is therefore virtually impossible to know what content a

¹ <https://lrec.elra.info/lrec2026-main-473>

language model has used unless the provider discloses it, and because no effective disclosure obligation exists, providers continue to operate as black boxes. Claims that such disclosure is technically impossible are not grounded in fact, and the argument that training data constitutes a genuine trade secret ignores the available solutions that could give publishers insight into whether their data has been used.

The May 2026 summary report on the stakeholder consultation supporting implementation of Article 53(1)(c) of the AI Act and Measure 1.3 of the GPAI Code of Practice's Copyright Chapter highlights this crucial point: across rightsholders, concerns remain about non-compliance with opt-out mechanisms, since for most protocols it is impossible to track whether a reservation has been respected. While all valid rights-reservation mechanisms must be respected, press publishers are particularly concerned that the current approach overemphasises the technical form of opt-outs while leaving the more fundamental problem unaddressed: the absence of meaningful transparency obligations.

This concern was highlighted at the European Commission workshop of 2 June 2026, where, despite over a year of discussions on technical standards and the application of the TDM exceptions since 2021, AI providers maintained that available protocols, including TDM-Rep, are not yet sufficiently developed. This position is hard to reconcile with the DSM Directive's obligation to respect appropriate reservations.

NME therefore calls for transparency requirements, without which, rightsholders cannot detect infringements by AI providers or hold them to the opt-outs they are bound to respect.

1.1.3 Opt-Out Circumvention in Practice:

Finally, this issue is compounded by the existence of illicit websites that scrape, duplicate, and republish press publishers' paywalled content without authorisation.

NME underlines to the Commission that news media publishers are extremely concerned by the existence of websites that scrape, duplicate, and republish press publishers' paywalled content without permission. This is one of the relevant ways in which publishers' journalistic content leaks to tech companies and AI developers. It has become a major problem.

Even where a press publisher has exercised its right to opt-out and placed its content behind a paywall, that same content may be freely available on illegal websites that observe no reservations at all. AI providers can then train on the duplicate copies while never directly crawling the publisher's own domain. This underlines, why technical opt-outs alone are insufficient: without transparency as to the actual sources of training data, a rightsholder cannot detect ingestion that occurs. It is also important to note that a dynamic register of sites providing illicitly scraped content will not be effective: for every site taken down or excluded by bots, an abundance of illicitly collected content will pop up at new websites, the whack-a-mole effect.

For these reasons, the opt-out mechanism cannot bear the weight currently placed upon it. A right that can be circumvented through copies on illicit websites, offers rightsholders the appearance of control without its substance. Addressing this requires action on two fronts: meaningful transparency obligations that allow rightsholders to identify when and from what sources their content has been ingested, and concrete steps by the Commission to curb the illicit websites through which protected content escapes into the training pipeline. Without both, the right to opt-out risks becoming a formality that AI developers and deployers can satisfy on paper while continuing to benefit from publishers' journalism in practice.

1.1.4 Recommendation on Opt-Out Mechanisms:

The Commission needs to take action to ensure that press publishers' opt-outs, and other rights-reservations, are respected and the burden of proof should be on the AI providers, not on the rightsholders. The Commission also needs to ensure that AI agents are required to identify themselves and respect opt-outs.

NME supports the introduction of a rebuttable presumption of use of copyright-protected content in the context of the development and deployment of AI systems, an approach that has been proposed in the JURI Committee INI Report on copyright and generative AI,² in the Danish expert group's report,³ and in the recent French legislative proposal.⁴ In line with the French approach, unless proven otherwise, there should be a presumption that the copyrighted content has been exploited by an AI system where an indication relating to the development or deployment of that system, or to the result generated by it, makes such exploitation plausible. Crucially, such a presumption would not amount to an automatic finding of infringement; it would simply ensure that, where credible indications of use exist, the burden shifts to the AI provider to demonstrate that the content was not used.

This would facilitate the transparency that is necessary for opt-outs to be effective: without insight into whether their content has been used, rightsholders cannot know whether their reservations of rights have been respected, let alone enforce them. A reversal of proof closes that gap, turning the opt-out from a formal right into one that can be meaningfully exercised.

1.1.5 Recommendation on Transparency:

The current measures⁵ remain insufficient for press publishers as rightsholders to determine if and how their work has been used, preventing effective enforcement of their rights. Without

² https://www.europarl.europa.eu/doceo/document/A-10-2026-0019_EN.html

³ February 2024 report Boundaries for big tech's development and use of AI (point 3.1, page 22), and in a second Danish expert group's September 2025 report Recommendations from the Expert Group on Copyright and Artificial Intelligence.

⁴ https://www.assemblee-nationale.fr/dyn/17/textes/l17b2634_proposition-loi

⁵ For example, the final [Transparency Template](#) reflects the interests of major AI providers far more than those of European press publishers' and other creative sectors.

meaningful insight into the data used, rightsholders cannot assess compliance, enforce their rights, and negotiate fair licenses, which creates a highly unbalanced bargaining environment.

The Commission should ensure transparency is practical and accessible.

In line with the language in the recently adopted European Parliament report, NME calls for:

- Itemised disclosure of all copyright-protected content used to train GenAI models and systems,
- The same transparency obligations to apply to subsequent uses of that content, including inference, retrieval-augmented generation, and fine-tuning,
- An obligation to keep detailed records of use of copyrighted content,
- Crawlers to identify themselves to website operators, including operators used by the press publishers,
- A clear recognition that simply identifying third-party content used does not amount to the disclosure of trade secrets,
- These obligations to apply to both providers and deployers of AI systems, and
- These obligations to apply regardless of where the relevant acts of copyright use take place, so that EU rules apply once GenAI models and systems are placed or made available on the EU market.

1.1.6 Recommendation on Licensing Markets:

Europe needs a licensing environment in which lawful access to, and use of protected content is workable at scale. A prerequisite for such a development is that publishers regain control of the journalistic content, that opt-outs are respected by AI providers, and that transparency is granular and meaningful. The Commission should furthermore support a framework in which voluntary licensing operates as a predictable and reliable pathway for publishers to secure fair value for the use of their content under terms safeguarding journalism, while allowing AI and digital services to operate on a more stable and trustworthy basis.

NME strongly opposes any mandatory licensing scheme that would compel publishers to license content regardless of editorial or strategic considerations. Crucially, a functioning licensing market must prevent retaliation⁶ against press publishers that seek to enforce their rights or refuse unfair terms.

A well-functioning licensing market should ensure that publishers' content is properly authorised, discoverable and in case of generative AI and related services duly cited whenever

⁶ In line with the Digital Markets Act (DMA), which prohibits retaliation by gatekeepers against business users under Article 5(6), and further expanded on in Recital 102, publishers should be protected from retaliatory practices by large tech platforms on which they depend for the discoverability of their content in search, ranking and recommendation systems.

journalistic content is used, with rules applied coherently across the EU, so that all press publishers enjoy equal rights and protections.

Given the importance of high-quality press content for GenAI performance, the Commission should prioritise the facilitation of a functioning licensing market framework in the EU. NME members have experience in building copyright-proof and GDPR-compliant LLM training datasets, offering a strong model for a responsible and technologically sovereign AI ecosystem.⁷

Licensing markets should, in line with publishers' choices and national practices, facilitate both individual and various collective licensing models, including extended collective licensing, enabling separate arrangements for AI training and use cases that do not commercially or ethically endanger investments in and production of sustainable, independent journalism by the publishers in Europe. While individual licensing should remain possible, the framework must recognise that purely individual negotiations, particularly with dominant players, can weaken bargaining power and erode licensing value, making voluntary collective licensing an important option for ensuring fair remuneration.

1.1.7 Recommendation on Enforcement:

Finally, rules that exist on paper must operate in practice; the current framework should be adapted to deliver an *effet utile* for press publishers. It must enable rights to be asserted and upheld in a meaningful, timely, and proportionate way, rather than relying on slow, costly, and fragmented enforcement pathways to make basic copyright protection effective.

Stronger obligations are essential and must be supported by a robust enforcement and legal consequences. The enhanced transparency requirements should be backed by a presumption of use, establishing that copyrighted works were used for training, inference, or retrieval-augmented generation. This would prevent placing a disproportionate burden of proof on rightsholders, while still allowing AI providers and deployers to demonstrate compliance. Non-compliant models should not be allowed on the EU market.

Moreover, publishers must regain full control over the digital use of their content, including through de facto enforceable, respected, and sufficiently granular TDM opt-outs that do not shift the burden onto the rightsholders.

Most importantly, to reinforce this, the use of European content by AI providers must remain subject to EU law, even when such use takes place outside of the EU.

Where necessary, press publishers should have access to an effective arbitration mechanism in licensing negotiations, particularly on remuneration and when dealing with large tech

⁷ <https://www.tno.nl/nl/digitaal/data-sharing/generative-ai/gpt-nl-versterkt-nederlandse-autonomie/>

platforms.⁸ It should be available at the request of individual publishers, rather than mandatory, and tailored to national legal and market contexts. Thereby addressing refusals to negotiate and serious imbalances in bargaining power, while helping to build a fair, enforceable, and sustainable licensing market.

Europe's democratic resilience and strategic sovereignty depend on the continued availability of reliable, pluralistic, high-quality journalism. The EU must therefore safeguard the protection of journalistic and other copyrighted content, by facilitating meaningful transparency, effective licensing markets, and robust enforcement mechanisms. Only then can the EU strike the balance between its AI innovation ambitions and the preservation of Europe's cultural and creative sectors.

1.2 Artificial Intelligence and Competition:

The challenges posed by artificial intelligence cannot be addressed through copyright alone. Copyright is the foundation for protecting press content, but publishers' practical ability to exercise those rights is increasingly challenged by market structure and platform dependency. Any initiative aimed at improving the copyright environment for European creativity and innovation must therefore also address the competition implications of AI tools, considering that AI systems and bots are increasingly integrated into search engines, browsers and other gateways to online information.

The emergence of AI-powered search and browsing marks a structural shift in how users access information. AI summaries, conversational search interfaces and AI-integrated browsers no longer merely point to third-party websites; they position the AI system itself as the primary interface between users and the information sphere. Search engines and browsers thereby shift from neutral access points to closed answer environments, where journalistic content may be used, summarised, ranked or substituted without any corresponding return of traffic or remuneration.

1.2.1 Case Studies: Spain & Denmark:

Evidence from market research company GfK Spain, recently presented to the European Parliament's LIBE Committee⁹, illustrates the scale of AI adoption and its impact on press publishers. AI adoption has been exceptionally rapid: by December 2025, 52% of the Spanish population had used at least one "native" AI tool in the previous month, excluding AI use

⁸ In Australia for instance, the threat of arbitration led to the successful conclusion of 30 agreements in the first year following legislation.

⁹ https://multimedia.europarl.europa.eu/en/webstreaming/committee-on-civil-liberties-justice-and-home-affairs-ordinary-meeting_20260302-1500-COMMITTEE-LIBE 17:28

within search. Critically, the referral benefit to publishers is negligible: only around 1 in 434 AI sessions results in a visit to a publisher's site, meaning roughly 99.7% remain within the AI platforms. This is compounded by the rise of "zero-click" search, with the share of searches leading to no external site climbing from about 62% in January 2024 to about 72% in October 2025, an increase linked to the introduction of AI Overviews in Spain in May 2025 and AI Mode later that year.

A more recent analysis¹⁰ by Danske Medier and DPCMO, based on almost 1.8 billion internet sessions in Denmark between January 2024 and January 2026, points the same way. It found that Google AI Mode refers zero percent of users onward to media websites, even though Google accounts for around 13% of total traffic to Danish media and up to 24% for several local and regional outlets. Over the same period, time spent on AI services rose by more than 600%, and time on zero-click searches at Google more than doubled after the launch of AI Mode.

These commercial effects are not merely a matter of revenue allocation. A recent European Parliament briefing¹¹ on the impact of Google's AI summaries on press publishers concludes that AI Overviews represent a shift in how citizens access public-interest information. As a result, the effect then draws attention and commercial value away from the original source and towards the platform, making this at its core a media-pluralism and democratic-resilience problem. Notably, at the CJEU hearing in the Like Company v Google case on 10 March 2026, Google itself relied on the fact that Gemini "hallucinates" content as part of its defence, which underlines the risks of citizens' growing reliance on AI to access information. Moreover, the European Parliament briefing highlights the need to address significant gaps in the existing EU framework: the AI Act does not provide inference-stage transparency, the text-and-data-mining opt-out system is fragmented and difficult to use in practice, and there is no meaningful way for publishers to control the use of their news media and other content in AI-generated summaries.

1.2.2 AI-Powered Search and Browsing

While Google's AI Overviews aims to function as summaries designed to provide quick information, oftentimes unreliably, AI Mode is designed to lure users into sustained interactions, making users spend on average twice as much time, as they do with AI Overviews. This deeper engagement means that AI Mode has even greater capacity to divert attention away from publishers, suppress click-through rates, and fundamentally change user approach to the 'browsing' experience.

These concerns are only a starting point. The shift from AI Overviews to AI Mode amplifies the risks and demands urgent attention from the Commission. This is all the more pressing given

¹⁰ <https://danskemedier.dk/aktuelt/googles-ai-tjeneste-sender-ingen-trafik-videre-til-danske-medier/>

¹¹ [https://www.europarl.europa.eu/RegData/etudes/BRIE/2026/787211/IUST_BRI\(2026\)787211_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2026/787211/IUST_BRI(2026)787211_EN.pdf)

Google's announcement on 19 May 2026 of the biggest change to its search box in 25 years: the box now channels queries directly into an AI-generated summaries and a conversational, bot-style exchange with AI Mode.

In October 2025, OpenAI has rolled out ChatGPT Atlas, a web browser built around the ChatGPT large-language model. The browser integrates ChatGPT directly into the browser interface, allowing users to either enter a URL or to pose questions and receive AI-generated summaries in place of traditional search results. Atlas replaced the neutral bar search with a ChatGPT-style prompt, that delivers full AI-generated responses to user queries. The experience steers users towards AI-produced summaries rather than encouraging users to click, browse and explore the page. As OpenAI puts it 'chat comes everywhere you go on the web', encouraging users to rely on AI to digest and summarise content for them.

These new tools alter the fundamentals of the browsing experience by making AI the primary point of interaction with the reader of news media and other journalistic content, rather than the press publisher and its online press publications. A dependence of this scale on third-country technology to mediate information would substantially erode the European Union's democratic sovereignty.

1.2.3 Recommendation on Competition:

The integration of AI assistants, browser memory and agentic functions into the browsing experience may further entrench the market power of large AI intermediaries, while reducing the ability of publishers to compete based on brand, quality, editorial trust and direct engagement with readers. This development would be extremely detrimental to the production of sustainable, independent journalism and other financing of news in Europe.

Competition law must therefore support the objectives of robust copyright policy as well as goals of the European Democracy Shield. The Commission's competition policy related actions need to ensure that the publishers will regain control over their own investments in production of sustainable independent journalism, and in that way also safeguard and strengthen democracy in the EU.

A functioning licensing market cannot emerge where publishers are forced to negotiate with companies on which they depend for visibility, traffic and advertising revenue. The Commission should therefore ensure that any new copyright-related legislative proposal is accompanied by competition safeguards that prevent retaliatory practices, self-preferencing, discriminatory ranking, bundling, opaque source selection and the leveraging of dominance from search, browsers or advertising markets into AI-mediated information access. Several of these concerns fall within the scope of the Digital Markets Act, and its obligations on gatekeepers. As such, enforcement must be swift and decisive, with remedies that go beyond fines to include the suspension of non-compliant services.

1.3 Press Publishers' Right and AI Licensing

The Copyright DSM Directive Article 15 sets a very important principle about the value of press publications and was intended to bring platforms and publishers to the negotiation table. The neighbouring right recognises that journalistic material is expensive to produce and that its digital use by other companies needs to be paid for. Article 15 was meant to facilitate a mutually beneficial relationship: platforms receive greater user traffic, data and advertising revenue thanks to press articles, while publishers receive remuneration in return.

1.3.1 Article 15 Practical Experience

In practice, the right has largely been a commercial failure. Licensing income from the press publishers right has been very small to date. As the Press Database and Licensing Network (PDLN) estimates, a country of five million inhabitants with a united press organisation that had secured agreements with both Microsoft and Google might receive in the order of €1.25 million per year combined, which, after costs and shared across a thousand titles, can amount to as little as around €1,000 per title, against potentially substantial legal costs. This is not the outcome publishers were promised in 2019.

Big platforms have used their power, wealth and political influence to stop, slow and minimise licensing. Recurring tactics include:

- **Devaluation:** Remuneration is bundled with commercial products such as Google News Showcase, creating confusion between IP rights and commercial partnerships and pushing publishers to accept unreasonably low neighbouring-right payments. Making statutory remuneration dependent on participation in Showcase was declared illegal and sanctioned by the French competition authority, which fined Google up to €500 million in July 2021.
- **Selective Licensing:** Platforms prefer to negotiate one-to-one with the biggest publishers, creating a race to the bottom effect, to the detriment of smaller publishers.
- **Delay and higher legal costs for rightsholders:** the brevity of Article 15 DSM and many of its national transpositions has given ISSPs room to contest its underlying notions¹², delaying and complicating actual licensing discussions.
- **Opacity:** The lack of transparency about platforms' use of press content makes it virtually impossible to obtain reliable data on usage, impressions, clicks, referrals or revenues. This is a serious obstacle to effective enforcement.

¹² For example; what constitutes a snippet, whether a given service is eligible for press publishers' rights fees, which titles in a portfolio hold the right, and whether the right applies to publishers whose titles are not text-only, such as broadcasters.

1.3.2 Danish Presidency Conclusions on Article 15:

These examples are further supported by the summary of Member States' contributions to the Policy questionnaire regarding lessons learned on Article 15 of the Copyright DSM Directive and on fostering a well-functioning framework for licensing in the age of AI, as prepared by the Danish Presidency.¹³ It records that, across the EU, licences have predominantly been granted on individually negotiated terms with no publicly available standard offers. Oftentimes these were standard contracts offered by the ISSPs. Moreover, several Member States report that either no agreements have been concluded or no approved CMOs have been established. Member States and their stakeholders point to structural imbalances in the negotiation process, a lack of effective enforcement, and certain ISSPs refusing to share the data needed to determine fair remuneration.

In its stocktaking paper,¹⁴ the Danish Presidency concluded that Member States had set out their views on possible new initiatives to strengthen the effectiveness of the press publishers' right. Among the adjustments identified were:

- introducing EU-level minimum standards on enforcement
- clarifying the scope of the terms "ISSP" and "press publication", which are perceived as ambiguous;
- clarifying what constitutes an act of reproduction and the definition of "very short extracts";
- and introducing obligations to disclose the data or other criteria needed to qualify what should be paid for the online use of press publications.

1.3.3 Recommendation on Press Publishers Right:

Press publishers continue to appreciate the value of Article 15 and the recognition, in EU copyright law, of the contribution made by the press sector. This recognition continues to constitute an important achievement with the underlying principle of the press publishers' right remaining fit for purpose. The experience of implementation, on the other hand, as reflected in the Danish paper, demonstrates that legal recognition is not sufficient. While the framework is robust in principle, it does not yet provide the practical enforcement mechanisms required to ensure that the right can be exercised effectively against the platforms it was intended to address. A right that cannot be enforced in practice cannot deliver meaningful transparency, fair remuneration, and a balanced bargaining power. The central objective of this initiative should therefore be to address this enforcement gap.

We refer also to our recommendations above regarding recommendations on opt-out mechanisms, transparency, licensing markets and enforcement in Sections 1.1.4-7 above.

¹³ <https://data.consilium.europa.eu/doc/document/ST-15147-2025-REV-1/en/pdf>

¹⁴ https://www.parlament.gv.at/dokument/XXVIII/EU/49220/imfname_11552891.pdf

2. Scientific Research Exception

The scientific research exception calls for clarity and should not be broadened.

We stress that press publishers promote science and understand that data is crucial to the advancement of knowledge and for example AI-related scientific research. Still, the Copyright DSM Directive exception in Article 3 for scientific research should not be broadened, restated or aligned across Member States in any way that weakens the market for licensing press content or opens a fresh route for commercial AI to bypass authorisation.

NME points out to the Commission that recent experiences from the text and data mining debates demonstrates that narrowly intended exceptions are readily exploited by commercial players. It is of utmost importance that scientific research operates under Article 3 exception and its results, or its end-products or other outputs do not end up to the market, i.e. these outputs should remain in scientific research use only unless commercial use and availability in the market have been agreed by licensing and set terms and conditions and remuneration. We therefore urge the Commission to maintain a clear separation between the need to facilitate scientific enquiry on the one hand and the building, training, refinement or rollout of general-purpose or commercial AI systems on the other.

There is a serious risk that journalistic content undertaken in reliance on a wider scientific research exception, or in a case of scholarly articles on a secondary publication right, will later be repurposed as a foundation for training general-purpose AI models or genAI systems that are then made freely available online and therefore also for commercial use. An exception framed around scientific research must not function as a sourcing mechanism for AI developers and technology companies. It should not permit commercial AI operators to draw press content via universities, public research organisations, cultural heritage bodies, government departments, libraries, national archives or publicly funded language datasets where the underlying aim is to develop or enhance commercial models.

A concrete illustration of how the scientific research exception is being exploited comes from Estonia. The Estonian Language Institute (EKI), a state research and development institution under the Estonian Ministry of Education and Research, created a language corpus (data sets totalling some 4 billion words) without the permission of press publishers or other rightsholders. EKI then made this corpus publicly available and forwarded it directly to multiple recipients, including Meta. To date, no authorisation has been sought or granted. This is precisely the scenario set out above: content assembled under the banner of scientific research escaping into general availability and into the hands of commercial AI developers.

The Estonian National Library (RaRa) has so far resisted attempts by universities, EKI and others to gain full access to the data sets it has built from the preservation copies that Estonian press publishers are required by law to deposit with it. EKI and the universities are pressing

hard for access to these extensive holdings for their scientific research, ostensibly under Article 3 of the DSM Directive, with the stated intention of then making the outputs, including LLMs, freely available to the public under a Creative Commons licence. Such an outcome would strip press publishers of any ability to license their content in a normal licensing market, converting a research exception into a direct route to royalty-free commercial availability.

Circumventing press publishers copyright and neighbouring right protection by acquiring content through national libraries or governmental institutions such as cultural heritage institutions is a widely spread misinterpretation of the scientific research TDM exception. The Commission should consider this issue and close any gaps in the EU copyright framework that could endanger protection of investments in production of sustainable independent journalism in the EU.

NME reminds that a principle of proportionality is one of the key principles of EU regulation and it should be taken duly into account by the Commission. Its application in this scientific research and AI context means that one fundamental right, such as the freedom of scientific research, should not overrule copyrights and neighbouring rights as a primary protection of production of sustainable journalism. Moreover, consideration must be given to the compliance with the three-step-test, under which exceptions and limitations to copyright may only be applied in certain special cases, provided they do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the rightsholder.

A proper balance must be struck between these societal interests: on one side, democracy, sustained by the production of independent journalism and non-fiction literature; on the other, scientific research and the innovation it drives.

3. Music Rights Remuneration: RAAP judgment

NME encourages the Commission to introduce legislative measures on rules of international application and reciprocity for copyright and neighbouring rights in relation to third countries. Since the RAAP judgment, performers and producers from third countries may receive remuneration from EU Member States even though European performers and producers receive no corresponding remuneration for the use of their work in those countries. This therefore creates an economic imbalance for the EU. The *Kwantum* judgment of October 2024 (C-227/23) worsens the problem, confirming that competence to set reciprocity rules lies with the EU alone and, in our view, risks severely undermining the EU's bargaining power and international trade policies. It is within the Commission's power to ensure fair competition in the EU, while encouraging those countries to introduce equivalent rights. By doing so, thereby,

safeguarding a level playing field, as reflected in the economic foreign policy ambitions of the Political Guidelines for 2024-2029.

NME suggests that the Commission would propose a clear EU-level legislative solution based on material reciprocity. The Commission's clear EU-level legislative solution based on material reciprocity could:

- restore the possibility to apply reciprocity in relation to third countries that do not grant equivalent remuneration rights to EU performers and producers;
- safeguard the interests of European authors, performers, producers, broadcasters and users of phonograms;
- prevent disproportionate revenue transfers from European music ecosystems to third-country rightsholders where no equivalent rights are granted to Europeans;
- encourage third countries to introduce equivalent remuneration rights;
- avoid double payment, retroactive uncertainty and unnecessary administrative complexity for licensed broadcasters; and
- ensure transparency in the collection, allocation and distribution of remuneration.

Alternatively, if a fully harmonised EU-level reciprocity rule is not pursued, the EU should at minimum allow the EU Member States sufficient flexibility to maintain or introduce reciprocity-based mechanisms in relation to third countries. This would give the EU Member States a clear legal basis to avoid unilateral treatment where equivalent remuneration rights are not granted to European performers and producers.