Association for Competitive Technology

25 June 2026

Feedback of

Association for Competitive Technology

(Transparency Reg. # 72029513877-54)

Square de Meeûs 35,

1000 Brussels, Belgium

to the

European Commission

regarding the

Consultation on the review of the Copyright in the Digital Single Market Directive

Square de Meeûs 35
1000 Bruxelles, Belgium

+32 2 792 4750 www.ACTonline.org/EU /EU-ACT @ACTonline

I. Introduction

The Association for Competitive Technology (hereafter 'ACT') welcomes the opportunity to submit comments to the European Commission's consultation on the review of the Copyright in the Digital Single Market Directive.

ACT is a policy trade association for the small business technology developer community. Our members are entrepreneurs, innovators, and independent developers within the global app ecosystem that engage with verticals across every industry. We work with and for our members to promote a policy environment that rewards and inspires innovation while providing resources that help them raise capital, create jobs, and continue to build incredible technology. Today, the ecosystem ACT represents—which we call the app economy—is valued at approximately €95.7 billion and is responsible for more than 1.4 million jobs in the European Union (EU).[1]

II. Copyright in the Digital Single Market Directive

ACT strongly agrees that the two objectives, protecting rightsholders and enabling AI-driven innovation, must be pursued in genuine balance. However, we are concerned that the policy options currently under consideration risk tilting significantly towards the former at the expense of the latter, with disproportionate consequences for smaller market participants.

Generative AI development depends on access to large, diverse training datasets. For startups and small and medium-sized enterprises (SMEs), the cost of licensing content at scale, were such licensing to become a blanket legal requirement, would be prohibitive in ways that it is not for well-capitalised incumbents. The unintended consequence of poorly calibrated intervention could be to entrench large players, reduce competitive dynamism, and push European artificial intelligence (AI) developers to operate under more permissive legal environments elsewhere. The Commission should be explicit that any measures it adopts will not produce this outcome.

The text and data mining exceptions in Articles 3 and 4 of the Copyright in the Digital Single Market Directive represent a carefully negotiated balance. This framework was designed with technological development in mind and remains broadly fit for purpose. ACT urges the Commission not to treat generative AI training as categorically outside the scope of these provisions.

The question of whether training on lawfully accessed content constitutes infringement remains unsettled across Member States, and that legal uncertainty is itself a competitive harm. The Commission should use this initiative to provide clear, authoritative guidance or, if necessary,

[1] *See* 220912_ACT-App-EU-Report.pdf.

targeted legislative clarification, confirming that training on lawfully accessed content falls within the scope of the Article 4 exception unless the rightsholder has validly opted out.

Where rightsholders exercise the Article 4 opt-out, ACT supports their ability to do so. However, opt-out mechanisms must be technically standardised and practically implementable. Diffuse, inconsistent, or retroactive opt-out signals create compliance uncertainty for AI developers who have no reliable means of auditing training data at the granularity required. The Commission should mandate or facilitate a harmonised, machine-readable opt-out standard, building on work already underway around the robots.txt protocol and emerging AI training signals, such as the W3C Text and Data Mining Reservation Protocol (TDMRep), so that both sides of the market can operate with confidence.

Some stakeholders have called for mandatory licensing regimes covering AI training use, including collective licensing or extended collective licensing schemes. ACT urges the Commission to approach such proposals with considerable caution. Mandatory licensing at scale may create structural advantages for large AI companies that can absorb transaction costs and compliance infrastructure, while imposing barriers that may be insurmountable for startups. If the Commission pursues facilitated licensing options, these should be voluntary, operationally simple, and accompanied by rigorous impact assessments specifically addressing effects on small and medium-sized enterprises. Where the Commission does facilitate licensing, any scheme should include a safe harbour or a presumption of compliance for developers acting in good faith on the available machine-readable signals, so that a startup is not exposed to liability for failing to honour an opt-out it had no practical means to detect.

Finally, ACT supports transparency obligations that help rightsholders understand how their content is used, provided these obligations are proportionate in scope and do not require small and medium-sized enterprises to maintain disclosure infrastructure at a cost exceeding the practical benefit. Any transparency measures should be calibrated to the scale and resources of the disclosing entity, with lighter-touch regimes for smaller developers and appropriate phase-in periods.

We note that the AI Act already introduces transparency obligations relevant to copyright, including a requirement that providers of general-purpose AI models publish a detailed summary of the content used for training using a template issued by the AI Office. The Commission should carefully assess the interaction between any new copyright transparency measures and existing AI Act obligations before introducing additional layers of compliance. Duplication and inconsistency across legal instruments impose real costs that hit companies without dedicated legal teams particularly hard.

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Should the Commission's review also address the status of AI-assisted outputs, or liability for them, ACT reiterates that the Commission should prioritise clarity in applying existing copyright and liability rules over layering on AI-specific obligations. We further recommend:

- The Commission should not impose mandatory output-filtering obligations. Reliable filtering at the point of generation remains technically unsettled and costly to operate, and a blanket duty would fall hardest on small firms while adding little to the protection that existing infringement rules already provide.
- The Commission should not impose output-side liability presumptions that reverse the burden of proof. Shifting this burden onto developers would expose good-faith actors to litigation risk out of proportion to their role and assumes a legal and compliance capacity that small businesses and startups do not have.
- The Commission should reinforce that content generated without meaningful human creative input does not attract copyright protection. Without this clarity, smaller developers risk speculative claims over machine-generated output, and the public domain erodes as automated content is wrongly fenced off.

III. Conclusion

In conclusion, ACT urges the Commission to keep the following principles central to the targeted legislative initiative:

- **Legal certainty first.** The most urgent need for AI developers and the single measure most likely to benefit small and medium-sized enterprises is a clear, authoritative statement of how existing copyright rules apply to AI training. Uncertainty itself is a competitive harm.
- **Proportionality for small and medium-sized enterprises.** Any new obligations whether in licensing, transparency, or remuneration must be subject to genuine impact assessment and must include scaled or tiered compliance pathways. A one-size-fits-all approach will entrench incumbents.
- **Preserve the text and data mining framework.** Articles 3 and 4 of the Copyright in the Digital Single Market Directive were designed to support innovation. They should be clarified and operationalised, not bypassed by treating AI training as a separate category of use requiring entirely new legal architecture.
- **Avoid cumulative compliance burdens.** Before introducing new copyright measures, the Commission should map their interaction with the AI Act and other applicable instruments and explain why existing provisions are insufficient.

- **Build on evidence.** The Commission's own review process is ongoing. ACT urges that any targeted legislative proposal await the findings of the Copyright in the Digital Single Market review study and the targeted economic study, so that policy responds to demonstrated market failures rather than to advocacy pressure from any single stakeholder group. Measures under discussion, including in the European Parliament's resolution of 10 March 2026, such as itemised disclosure of training content, a rebuttable presumption of infringement, and centralised opt-out registries should not be advanced ahead of the collection and analysis of evidence the Commission's own studies will provide for.

ACT looks forward to continued engagement with the Commission and stands ready to contribute further evidence and expertise as the process develops.

Sincerely,

Mike Sax
Founder and Chairperson

Maria Goikoetxea
Senior Policy Manager

Giulia Cereseto
Policy Manager