



## **Connect Europe views on the Copyright in the Digital Single Market Directive revision**

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The European Commission is seeking a targeted revision of the 2019 Copyright in the Digital Single Market Directive. Through this revision, the Commission's goal is to strengthen the resilience and competitiveness of European cultural and creative sectors. The use of generative AI raises various issues for rights holders, particularly regarding fair remuneration. The European Parliament has called on the Commission to legislate on this matter. This is also the intention of some Member States, such as France. **Any such revision should remain targeted and proportionate, avoiding a broader reopening of the copyright framework that could create legal uncertainty for digital services and users of AI systems.**

### **Concept of "presumption of use"**

The European Parliament, in its Report on copyright and generative artificial intelligence by MEP Voss, refers to the need for a "rebuttable presumption that any relevant copyright-protected work or other protected subject matter has been used for the purposes of training, inferencing or retrieval-augmented generation". Such a principle is also cited in the summary of the consultation with Member States launched by the Danish Presidency of the Council of the European Union on the implementation of the 2019 directive provisions related to copyright and AI.

However, without waiting for the adoption of European regulation, **France intends to legislate on the subject by establishing a presumption of use of cultural content by AI providers within its national law.**

For French authorities, the envisaged mechanism would be limited to providing a specific evidentiary regime for infringements of copyright and related rights, without modifying the rules and principles used to characterize such infringements. It would be one procedural means of legal recourse aimed at safeguarding rights derived from Union law, which is within the competence of Member States to establish.

Nevertheless, **this mechanism will have consequences beyond judicial procedures.** Therefore, the presumption would not merely be a litigation tool. The stated objective of the parliamentarian behind the bill adopted by the French Senate is to "foster the emergence of an ethical and competitive market, balancing support for innovation and cultural preservation, outside of litigation, through the simple incentive effect of the rule."



According to the explanatory statement of the French bill, "through this legislative proposal, the French legislator aims to be a pioneer and to encourage its European partners to rebalance the power dynamics between rights holders and AI providers."

Thus, it seems that the mechanism France wishes to introduce fully falls within the scope of the 2019 directive. **To be truly effective, such a reform must be harmonized across the EU and all Member States.** The primary challenge is to address non-European AI actors, which requires coordinated action among all Member States.

However, **any presumption of use should be carefully calibrated to reflect that AI training does not necessarily involve copyright-protected works and that, where protected works are used, the relevant provider may have obtained the necessary authorization or relied on lawful licensing arrangements.** Any reform should therefore preserve and respect the licensing framework established under copyright law and should not undermine lawful uses of content.

Additionally, **one of the issues identified by telecom operators in implementing a presumption mechanism is the scope of its application.** If the goal of national or European authorities is to regulate generative AI models that rely on large-scale data for training and to establish a protective regime for rights holders, it is necessary to restrict its scope to model providers only and exclude downstream actors such as system providers, deployers, integrators and operators that rely on these models but do not determine their training, architecture or datasets.

In this regard, the Munich Regional Court, in a judgment of November 11, 2025 (GEMA v. OpenAI), held that only the model provider is responsible for the architecture of the models and the storage of training data, as it is their models that significantly influence the results. The model owner cannot shift responsibility onto other actors in the value chain.

### **Conclusions & way forward**

***The European AI sector is still under development. An overly broad and unjustified scope of application that encompasses all European actors using an AI system would hinder the sector's growth and threaten our digital sovereignty.***

***Therefore, a targeted revision of the European directive to introduce a protective regulation for rights holders, which we support, should in any case refer only to model providers as defined by the AI Act.***