



AI AND COPYRIGHTS

The Danish Rights Alliance's recommendations to safeguard copyright in relation to the development and use of artificial intelligence

Since the launch of ChatGPT and subsequent AI services, The Rights Alliance has worked actively to try to control and protect content from being used illegally in connection with the training and use of artificial intelligence (AI). We can state that, as of today, it is neither possible to control nor protect the use of content in relation to the development and use of AI. Therefore, the Rights Alliance supports several recommendations for measures that will help protect content and rights from being violated in connection with the development and use of artificial intelligence.

The development calls for an update of legislation. But also the existing copyright regulations can prevent the extensive, unauthorized use of content that takes place. This requires action to address infringements and effectively put an end to the illegal use of content found at all stages of the development and use of AI. This is not a task that rightsholders can undertake alone. Nor is it a task that can solely be addressed through the legal system, with years-long cases – and years of unclear legal positions – as a consequence.

The Danish Rights Alliance's recommendations are described in the following.

1. Comprehensive transparency about the training of AI models

Rightsholders should have access to review AI training dataset or, alternatively, have comprehensive information that allows them to obtain relevant details about works and creations in these datasets.

The Rights Alliance recommends that Danish authorities and policymakers work actively to ensure that the implementation of transparency requirements in the AI Act is as effective as possible.

2. Reversal of the burden of proof

New legislation on the reversal of the burden of proof should be introduced in Danish law to ensure that rightsholders genuinely have the opportunity to enforce the illegal use of their works and creations.

In cases where rightsholders do not have access to comprehensive information, it should therefore be presumed that their content has been used for training.

3. Text and data mining – and reservations

The use of content for the development and training of AI is far from limited to text and data mining. Therefore, equating text and data mining with AI is misleading.

There is a need for authorities to guide Danish institutions and businesses on situations where text and data mining may be conducted, when reservations must be respected, and in which cases agreements must be made with rightsholders for the use of content to train AI.

A dialogue should be established between authorities, rightsholders, distributors, and users of text and data mining about how reservations are best handled in practice and how to ensure they are respected.

4. Content recognition tools in the same style as "DSM Article 17 tools"

Some of the AI services today function as online content-sharing platforms, where users of the AI service can upload protected works and creations to the service, after which these are made available to the public.

Danish authorities should work to ensure that AI services incorporate content recognition and enforcement tools that can filter illegal content.

5. Regulation of personality rights

Legislation should be introduced to ensure that the personality rights are regulated when it comes to digitally generated content. The legislation should apply broadly and cover all individuals' voices, images, and personal characteristics.

Campaigns and educational materials should be developed to inform about the rules in this area and to encourage the lawful use of AI.

6. Effective tools to block and stop the distribution of deepfakes including voice clones on online platforms

It must be ensured that online platforms provide effective tools to stop and remove illegal AI-generated content distributed that is distributed on these platforms.

Clear requirements should be set for online platforms regarding the authorities' expectations for blocking and stopping this type of illegal content.

7. Information and guidance on AI and copyrights

Major informational initiatives should be launched as soon as possible to enhance users' (businesses, institutions, and individuals) understanding of what is right and wrong regarding the use of copyright protected material in the context of generative AI. Funding should be allocated for this purpose.

8. Resources for police and prosecutors

Dedicated resources should be allocated for the police and prosecution office to deal with these issues and it should be considered if there should be a higher degree of public prosecution in cases involving the spread of illegal material on online platforms.

Authorities in Denmark should, to a much greater extent than is currently the case, monitor and ensure that Danish laws are respected on online platforms.

/The Danish Rights Alliance