

These solutions are still emerging in Australia, as the opportunities for ethical AI development emerge. Those activities will likely be different to the training of first-generation general-purpose AI models that has occurred overseas. In addition to maintaining regulatory settings that are conducive to licensing for Australian AI development, the Australian Government should also look to non-legislative measures such as funding requirements for Government-supported AI development, procurement requirements, and the Government's commitment to be an exemplar for AI adoption.

The copyright system remains the most effective way for developers to use other people's content for AI development in an ethical manner and for rightsholders to be fairly compensated for the use of their work. The Government should resist suggestions, including those coming from the global technology sector, that copyright should be replaced with another system. This is not only unnecessary but likely to be resisted by people working in the creative industries, particularly if it shifts control over use of their work into the hands of developers and the Government.

Each country's copyright legislation applies to activities connected to that country. This means that it is difficult for Australians to seek redress for AI activities that use their content in other countries, such as training AI models. The situation is exacerbated by the laws in other countries, particularly the US, being uncertain and subject to legal challenge. There are now more than 100 court cases relating to AI in the US, that will take years to resolve.

The Government needs to consider mechanisms to address the immediate harms to people working in Australia's creative industry sector resulting from uses of their content in other jurisdictions without payment. There is a strong case for the Government to introduce temporary measures to financially support creators, who are some of the most vulnerable workers, in this time of enormous disruption while licensing develops.

Australian educational resources for Australian students

Australia's education publishing industry is part of the creative sector. It produces Australian content for Australian students, and employs and commissions Australian writers and illustrators.

The current copyright framework provides important infrastructure for Australian educational publishing. This includes the education statutory licence scheme, which both facilitates access to content for Australian students, including in low socio-economic areas, while at the same time contributing to the ongoing production of Australian educational resources. Under the scheme, Australian teachers can copy and share any content for their students, without the permissions that would usually be required. Content creators cannot refuse permission, but are entitled to fair compensation for the copying and sharing of their work. This compensation is mostly paid by State education departments, leaving teachers free from the administrative burden of copyright compliance that would otherwise apply.

The Government's commitment to Australia's copyright framework should include commitment to continuation of fair compensation to creators of Australian education resources, both via the legislative settings and in practice.

Artists' resale royalty scheme to Australia's artists

Australia's artists remain grateful to the Government for its ongoing commitment to the artists' resale royalty scheme, including the outcomes from the Government's extension of the scheme to enable Australian artists to receive royalties from overseas, and its funding of new infrastructure to support the scheme.

We understand that the scheme is not currently under review, but we wanted to take this opportunity to outline some aspects of the scheme that could be reviewed in the future:

- whether the scheme could apply to first resales of artworks acquired before the commencement of the scheme (June 2010)
- the circumstances in which artists and estates can elect to collect a royalty themselves

- the treatment of a royalty for which a recipient cannot be found from a proportionate search
- the threshold resale price that requires payment of a royalty
- measures that may assist compliance with scheme by art market professionals, sellers and buyers
- sanctions for non-compliance with the scheme by an art market professional, seller or buyer

Indigenous Cultural and Intellectual Property

We reiterate our strong support for mechanisms, including legislative, that require acknowledge of, and respect for, Indigenous Cultural and Intellectual Property (ICIP). This is particularly important when considering the impact of generative AI and the relevant legislative settings for it.

We work with a lot of art centres and First Nations artists, as well as First Nations writers and their representatives. We have had a Reconciliation Action Plan since 2015, and our Board directors include Dr Terri Janke, an international authority on ICIP.