



**APRA
AMCOS**

12 September 2025

SUBMISSION

Productivity Commission

Harnessing Data and Digital Technology Interim Report Response

About APRA AMCOS

As the largest music industry body in the region representing the rights of over 124,000 songwriters, composers and music publishers across Australasia, APRA AMCOS submits this response to the Productivity Commission's interim report on harnessing data and digital technology, with particular focus on the proposed Text and Data Mining (TDM) exception to Australia's Copyright Act.

APRA AMCOS is the Australasian Performing Right Association and the Australasian Mechanical Copyright Owners Society. APRA AMCOS collects and distributes performance and mechanical royalties on behalf of Australian and international songwriters, composers and music publishers. Licensee stakeholders include all major broadcasters and video on demand and music streaming services, as well as businesses such as background music suppliers, venues and events.

APRA AMCOS regularly works in partnership with governments at all levels to support development and career paths in music through the cornerstones of live music, digital platforms, screen music, interactive games, local venues, education and global exports. We are one of the leaders of a broad coalition of creative industry organisations that includes representative bodies from music, literature, screen, media, design, as well as First Nations cultural organisations.

This submission is made on behalf of APRA AMCOS. While it reflects the policy position of the organisation, it does not purport to represent the individual views of every member.

Summary

The Productivity Commission's interim report projects \$116 billion in productivity benefits from AI adoption over ten years, which forms a central justification for the proposed TDM exception. The report provides no comprehensive explanation of how this figure was calculated, what assumptions underlie it, or what degree of uncertainty surrounds it. For a projection of this magnitude that was repeated constantly through the media, the absence of supporting methodology renders the figure essentially meaningless as a basis for policy development.

In particular, the projection lacks sufficient rigour given the major legal changes proposed by the Commission to Australia's Copyright Act. International evidence suggests TDM exceptions provide limited benefits while creating substantial risks to creator livelihoods. Licensing and market solutions are emerging globally that demonstrate more viable alternatives to copyright exemptions that are well positioned to leverage Australia's world-leading licensing expertise and inform more balanced approaches to AI development.

Rather than undermining copyright protections, the Commission should explore investment incentives that could attract genuine AI development to Australia while maintaining appropriate creator protections. Tax benefits and offsets for companies committing to transparent, licensed AI development would create positive economic opportunities without sacrificing the rights of Australian creators.

Australia has successfully implemented licensing frameworks for previous technologies that initially faced copyright challenges, from photocopying throughout educational institutions to peer-to-peer file sharing platforms like Napster, with both statutory and voluntary licensing arrangements emerging to balance technological innovation with creator rights. AI platforms are simply not seeking these established licensing pathways in respect of the relevant emerging technology.

We note that the proposal for a TDM exception is inconsistent with the Commission's 2022 report into Aboriginal and Torres Strait Islander visual arts and crafts which recommends new cultural rights legislation and protections against unauthorised commercial use of Indigenous Cultural and Intellectual Property.¹

The Commission appears oblivious to the global litigation crisis surrounding AI companies' illegal copying of copyrighted material. As of September 2025, 50 copyright lawsuits have been filed against AI companies in the US, with major cases involving newspapers, authors, music companies, and other creators.² On 27 August, one case (*Bartz v. Anthropic*) between author plaintiffs that filed a class action complaint against Anthropic alleging Anthropic infringed their copyrights by using their copyrighted books to train its Claude LLMs has a proposed and sizeable out of court settlement that is ongoing.³

There are court cases against AI platforms in China⁴, UK, India, Mexico and Canada, courts in Korea have ruled against platforms for misusing personal data⁵, Japanese media groups are suing AI search engine platforms⁶, publishers in Brazil have filed lawsuits against OpenAI⁷, and countries in the EU are experiencing growing legal challenges to AI companies' copyright practices including France, Germany, Netherlands and Czech Republic.

This wave of international litigation demonstrates that AI companies are engaging in systematic copyright infringement, yet the Commission proposes to retroactively legitimise these practices through blanket exemptions. The application of such exemptions, if enacted, would undoubtedly be tested in Australian courts, resulting in protracted litigation and potentially significant negative economic impact for AI companies wanting to do business in the Australian market.

Moreover, it is inaccurate for the Commission and tech lobby groups to characterise US law as supporting AI ingestion of works. US-style fair use provides no broad copyright exception and only provides for case-by-case exceptions. It is also inaccurate for the Commission and the tech lobby to claim Australia's copyright regime is a global outlier. Australia's copyright framework is entirely conventional by international standards and follows the same fundamental principles as other OECD economies: protecting original works, requiring permission for reproduction, and providing exceptions for legitimate purposes.

As part of the Productivity Commission's consultation only one creator group was interviewed. Australian Government departments including Creative Australia and Screen Australia were also not included. However, Commissioners met with more than ten tech businesses and advocacy groups including Amazon, Australian Computer Society, Australian Information Industry Association, Business Council of Australia, Digital Industry Group Inc, Google, Meta, Microsoft, OpenAI and the Tech Council of Australia.

¹ Productivity Commission, Aboriginal and Torres Strait Islander Visual Arts and Crafts, Report no. 99, Canberra, 2022.

² Chat GPT Is Eating the World, Latest Map of copyright suits v. AI companies, 8 September 2025

³ Tentative Agreement Reached in Anthropic Copyright Lawsuit, Publishers Weekly, 27 August 2025

⁴ Thomson Reuters Practical Law, 2025 China Chapter AI Generated Content and Copyright, 20 March 2025

⁵ The Korea Herald, Korean top court rejects Meta's appeal over user data sharing fine, 13 March 2025

⁶ Financial Times, Japanese media groups sue AI search engine Perplexity over alleged copyright infringement, 26 August 2025

⁷ Daniel IP, Brazil's First Generative AI Copyright Dispute: Folha de S.Paulo v. OpenAI, 27 August 2025

We recommend the Commission:

- reject the proposed TDM exception
- support alternative frameworks that foster AI innovation through market-based licensing mechanisms
- conduct comprehensive economic analysis of any future proposals affecting creative industries
- address the serious knowledge gap at the Commission regarding how creative industries operate and contributes to the economy
- ensure policy consistency with proposals for the protection of Indigenous Cultural and Intellectual Property in arts and crafts
- strengthen stakeholder engagement processes to include meaningful creative industry participation.

Economic Analysis

The Productivity Commission's interim report uncritically accepts AI productivity projections without acknowledging the tech industry's established pattern of inflated promises. From the dot-com bubble to blockchain to the metaverse, technology companies routinely promise revolutionary productivity gains that take much longer to materialise, if ever.

The interim report extensively references the speculative \$116 billion benefit of AI on the Australian economy over ten years but provides no analysis of costs to Australia's \$67 billion creative industries. This represents not merely an analytical gap but a fundamental breach of cost-benefit analysis principles. The Commission acknowledges "considerable uncertainty" about AI's productivity effects yet proceeds to recommend significant legal changes based on these uncertain and unsupported projections.

The report's international comparisons focus primarily on potential benefits while giving limited attention to jurisdictions that have experienced challenges with similar policies. Recent developments in the UK and EU suggest more nuanced outcomes than the report indicates, with several jurisdictions retreating from broad copyright exceptions after understanding their limitations and unintended consequences.

International evidence also demonstrates that AI systems trained on professional work create systematic downward pressure on wages across affected sectors.⁸ The Commission provides no analysis of these wage suppression effects, which would disproportionately impact Australian creative industry workers competing against AI systems trained on their own professional inputs.

Other research shows that the relationship between regulation and innovation is complex.⁹ Several developed economies successfully maintain strong intellectual property protections while advancing AI capabilities, including Nordic countries that combine robust copyright frameworks with high innovation rankings, Germany which demonstrates how creator protections can coexist with technological advancement, and South Korea which has developed competitive AI and entertainment industries through complementary policy approaches. Data centre capacity in territories that don't have TDM exceptions such as Malaysia are significantly outpacing jurisdictions like Singapore which does have a TDM exception but has high environmental standards and high power and water costs¹⁰.

This evidence suggests that the Commission's framing of a necessary trade-off between copyright protection and innovation and AI development is flawed and not supported by international experience.

⁸ Oxford Economics, AI and Employment Displacement Study, 2024

⁹ Blind, K. & Münch, F., The interplay between innovation, standards and regulation in a globalising economy, Journal of Cleaner Production v224, 15 March 2024

¹⁰ Reuters, Malaysia data centres battle higher power costs, unclear pricing, 1 July 2025

International Obligations

Australia's obligations under the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions provide additional context that calls the proposed TDM exception into question. The Convention recognises that "cultural products and services are part of the economic sector but also convey identities, values and meaning" and establishes principles for protecting cultural diversity.¹¹

Australia's commitments include supporting sustainable governance systems for culture and achieving balanced flows of cultural goods and services. The proposed TDM exception would undermine governance frameworks for protecting Australian cultural expression, create imbalanced flows favouring foreign commercial exploitation of Australian cultural works, and fail to integrate culture appropriately in sustainable development policies as required by the Convention.

A July 2025 European Parliament study on Generative AI and Copyright confirms that a TDM exception facilitating generative AI training would not comply with the Berne Convention, to which Australia is a signatory¹². The study demonstrates that generative AI training constitutes "reproduction, not just analysis" because during training "the entirety of the content, including stylistic and structural elements, is encoded" in ways that "facilitate synthetic reproduction."¹³

The Convention framework suggests that cultural policy decisions should consider international coordination and reciprocity. The proposed exception would make Australia an outlier pursuing an approach that other territories are retreating from and violating binding international obligations to protect both cultural diversity and copyright.

Recent global developments in AI and copyright policy provide concerning context for Australia's policy consideration. Big tech has significantly increased their lobbying spend in the last year, with Google, Microsoft, Meta, and major tech firms spending over US\$60 million in 2024 in the US and €67 million in the EU on lobbying related to AI and copyright issues using identical arguments to those appearing in the Commission's report.¹⁴ In the US alone, these companies employed nearly 300 lobbyists in 2024, one for every two members of the US Congress.¹⁵

This concentration of corporate influence aligns with broader concerns about tech platform power. As Nobel laureate Maria Ressa warned at the National Press Club in September 2025, "Australia has a choice to make. You can be leaders in defending democratic values and building the information infrastructure that humanity needs, or you can watch them erode while hoping it won't happen here."¹⁶ The proposed TDM exception would further concentrate power in these same platforms by legitimising their appropriation of cultural content without creator consent or compensation.

This global policy context suggests that decisions in Australia will be made within a broader international environment where multinational corporations are actively seeking to influence copyright frameworks to serve their commercial interests. Understanding these dynamics is essential to ensure that Australia's approach serves genuine national interests rather than simply reflecting global corporate priorities disguised as policy analysis.

¹¹ UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, 2005, ratified by Australia 2009.

¹² European Parliament, Directorate-General for Citizens' Rights, Justice and Institutional Affairs, Generative AI and Copyright, July 2025

¹³ Lucchi, N., "Generative AI and Copyright: Training, Creation, Regulation," European Parliament Policy Department for Justice, Civil Liberties and Institutional Affairs, PE 774.095, July 2025.

¹⁴ Euronews, Big tech, banking, energy: Who are the biggest spenders on EU lobbying?, February 2025

¹⁵ Technology industry lobbying expenditure on AI and copyright issues based on US lobbying disclosure reports and industry analysis, 2023-2025. OpenSecrets.org analysis of 2024 lobbying disclosure forms.

¹⁶ Ressa, M., The Guardian, 'Big tech is a weapon of mass destruction to democracy. Here are three ways Australia can fight back.' 1 September 2025

International Approaches

Recent policy developments demonstrate that the international regulatory landscape around AI and copyright is more complex than the Commission's report indicates, with several jurisdictions adopting more cautious approaches to copyright exceptions after experiencing their limitations.

Notably, while a limited number of countries have either adopted or considered implementing specific exceptions for TDM, there has been no new legislation to address TDM since 2021. Countries that have adopted exceptions to allow TDM, such as the EU and Japan, have done so under specific conditions.

In various jurisdictions that have contemplated such TDM exceptions, the idea has been abandoned due to concerns about potential legal and commercial harm to the industry. The UK government shelved the proposal in 2023 due to differing views and a lack of support for the reform.

Contrary to arguments that copyright protections prevent AI development, legitimate licensing markets are developing globally without need for legislative intervention. Reddit and Google have established an annual licensing agreement for AI training data, while the Associated Press has partnered with OpenAI for content access. Multiple news organisations are negotiating similar licensing arrangements, demonstrating that market mechanisms can provide workable alternatives to blanket legislative exceptions. In the music industry, AI audio company ElevenLabs has just entered into licensing agreements with Merlin and Kobalt with terms and conditions that protect creators' rights.¹⁷

Furthermore, it is a mischaracterisation of US fair use law to justify a TDM copyright exception. US copyright law is highly litigious and requires courts to conduct an analysis regarding fair use as an affirmative defence against copyright infringement.

It is also misleading for the Commission and the tech lobby to claim Australia's copyright regime is a global outlier. Australia's copyright framework is entirely conventional by international standards and follows the same fundamental principles as other OECD economies: protecting original works, requiring permission for reproduction, and providing exceptions for legitimate purposes.

Australia has successfully implemented licensing frameworks for previous technologies that initially faced copyright challenges, from photocopying throughout educational institutions to peer-to-peer file sharing platforms like Napster, with both statutory and voluntary licensing arrangements emerging to balance technological innovation with creator rights. Australia's world-leading licensing schemes have proven capable of handling even the most trivial licensing requirements efficiently and fairly.

AI platforms are simply not seeking established licensing pathways in respect of the relevant emerging technology. Recent claims by tech industry representatives that Australia's copyright framework represents a "showstopper" for data centre investment are demonstrably false and represent a brazen attempt to pressure government into abandoning creator protections for their own profit.

The Commission's analysis also fails to acknowledge that technology companies' arguments about needing access to "data" for AI training obscure their true objectives. While they frame the debate around accessing narrow uses of materials, what AI companies really seek is unfettered access to the highest quality creative content produced by our members. This professionally created content represents the most valuable training material for AI systems, enabling them to compete directly with human creators. A TDM exception would legitimise this appropriation of premium creative content under the guise of general data access, allowing AI companies to build commercial products using the life's work of professional creators without consent, credit or compensation.

¹⁷ Music Business World, Eleven Music, new AI rival to Suno, launches with Kobalt, Merlin deals – and warnings for users who want to infringe copyrights, 5 August 2025

Indigenous Cultural Intellectual Property

The Productivity Commission's 2022 report on Aboriginal and Torres Strait Islander Visual Arts and Crafts provides a framework that reveals serious consistency problems with the proposed TDM exception. The 2022 report strongly recommended legal protections against unauthorised commercial use of Indigenous cultural expressions, noting that such use "deprives artists of income and disrespects cultures" and requires "legal action where protected cultural assets are used without the authorisation of traditional owners."

If unauthorised commercial use of Indigenous cultural expressions "deprives artists of income," this principle logically applies to all forms of cultural expression regardless of how they are created or distributed. The Indigenous IP report emphasises the importance of "authorisation of traditional owners," yet the TDM proposal would eliminate consent requirements for AI training on works available on digital platforms. The 2022 report identifies "disrespect for cultures" as a key concern, but treating creative works on these platforms as free training data for commercial AI systems shows identical disrespect.

These contradictions create legal and policy problems. The Commission cannot coherently apply different legal standards based solely on the mode of creation and dissemination rather than any principled distinction about the nature or value of cultural expression itself. The same creative work could receive different legal treatment depending on arbitrary classifications about how it was made or distributed, creating an administratively impossible dual system.

This inconsistency raises serious legal questions about why identical cultural expressions deserve different levels of protection based purely on their method of creation or dissemination rather than their inherent cultural or economic value. It also conflicts with Australia's intellectual property treaty commitments, which are based on consistent application of protection principles rather than arbitrary distinctions about creative processes.

Rather than implementing a policy that creates such fundamental contradictions, the Commission should advocate for consistent frameworks that protect cultural expression across different contexts while enabling appropriate technological development through market-based mechanisms that respect creator rights and cultural sovereignty.

Industry Impact Assessment

Australia's creative industries have expressed significant and well-founded concerns about the proposed TDM exception that warrant serious consideration given their substantial contribution to the Australian economy. APRA AMCOS' own AI and Music Report identified potential economic effects including reduced revenue opportunities for Australian creators, competitive disadvantages relative to creators in jurisdictions maintaining stronger protections, and investment disincentive effects in local content production.¹⁸

The scale of copyright infringement by AI companies is unprecedented. The International Confederation of Music Publishers (ICMP), representing 90% of the world's commercially released music, has compiled extensive evidence showing that major tech companies including Google, Microsoft, Meta, OpenAI and X have scraped copyright-protected music to train AI systems. ICMP describes this as "the largest IP theft in human history," with evidence showing songs by The Beatles, Michael Jackson, Beyoncé, Ed Sheeran and Bob Dylan among those illegally used for training purposes. The investigation reveals a systematic pattern where these companies demand licenses for access to their own content while simultaneously appropriating creators' works without permission or payment.¹⁹

¹⁸ APRA AMCOS and Goldmedia GmbH, AI and Music Report, 19 August 2024

¹⁹ Billboard, 'The Largest IP Theft in Human History': Breaking Down The Years-Long Investigation Into How AI Firms Are Stealing Music, 2 September 2025

A critical concern overlooked by the Commission's interim report is the competitive displacement effect of AI-generated content on original creators. Research from French based digital service provider Deezer has found that fully AI-generated music now constitutes almost thirty per cent of all tracks uploaded to the platform each day.²⁰ The proposed TDM exception would facilitate large-scale production and distribution of AI-generated works that directly compete with human-created content on digital platforms. This creates a market distortion where AI systems, trained without consent or payment on creators' works, generate competing content that reduces both visibility and earnings opportunities for the original creators whose work enabled the AI training.²¹

The economic impact extends beyond direct substitution to algorithmic disadvantage, as platforms optimised for engagement may favour rapidly produced AI content over human creativity, creating a systematic bias against authentic cultural expression. This displacement effect represents a fundamental market failure that the Commission's analysis fails to acknowledge or quantify.

The cultural and creative industries contribute \$63.7 billion annually to the Australian economy and employ almost 300,000 Australians across multiple sectors.²² These industries have developed substantial expertise in managing the intersection of technology and culture, having successfully adapted to previous technological disruptions while maintaining creator protections and economic viability. This expertise should inform policy development rather than being dismissed in favour of untested approaches that benefit foreign corporations at the expense of Australian creators.

The TDM proposal represents the latest chapter in three decades of Productivity Commission recommendations to government that work to dismantle local creative industries:

- 1995 - Book Bounty Elimination: Recommended ending subsidies supporting local printing, leading to industry collapse from multiple competitors to just two remaining companies - exactly the market concentration the Commission claims to prevent.
- 2009 - Parallel Importation Restrictions: Successfully campaigned to remove the 90-day exclusive distribution window, reducing investment in Australian authors and content as industry predicted.
- 2016 - Copyright Term Reduction: Proposed slashing copyright terms from 70 years after death to just 15-25 years after creation, as well as the dismantling of Australia's world-leading Fair Dealing copyright scheme.
- 2025 - AI Training Exception: Now proposes allowing AI companies to use Australian copyrighted works without permission or payment, explicitly benefiting overseas interests.

Taxpayer Costs

The Commission's analysis fails to account for the hidden cost of AI development and the taxpayer infrastructure expenses required to subsidise the activity of overseas tech platforms. Recent US research demonstrates that data centre expansion for AI is imposing significant costs on ordinary residents.

The State of Virginia found that unconstrained data centre growth could require a 41% increase in generation and transmission charges.²³ The US Department of Energy also reports that data centre electricity demand has tripled over the past decade and is projected to double or triple again by 2028, with AI applications being a primary driver.²⁴ This exponential growth requires massive public

²⁰ Music Business World, Nearly a third of tracks uploaded to Deezer now fully AI generated, 11 September 2025

²¹ APRA AMCOS, AI and Music Report, August 2024, conducted by Goldmedia GmbH: Report available at apraamcos.com.au/AlandMusic.

²² Bureau of Communications, Arts and Regional Research, Highlighting the value of our cultural and creative activity, 12 December 2024

²³ Virginia State Corporation Commission, Data Centre Load Forecast Study, 2024

²⁴ US Department of Energy, Data Centre Energy Usage Report, 2024

investment in grid infrastructure, transmission lines, and generation capacity that is ultimately funded by consumers and businesses.

Beyond electricity costs, data centres impose substantial water infrastructure burdens. The International Energy Agency reported in April 2025 that data centres now consume more than 560bn litres of water annually, possibly rising to 1.2 trillion litres a year by 2030.²⁵ These infrastructure demands require significant public investment ultimately funded by consumers.

It is incumbent on tech companies to identify which electorates in Australia will be burdened with these new heavy energy and water use data centres, so that the Australian public is provided with transparent information on the impact on local communities and environments.

The employment arguments advanced by the tech sector for data centre construction are particularly misleading and will exacerbate Australia's housing crisis.²⁶ Data centre construction involves short-term employment lasting typically 12-18 months, contributing to pressure on construction workers and materials needed for housing. Once operational, data centres require relatively minimal ongoing employment compared to their infrastructure investment and footprint. The claimed employment benefits from construction are temporary and come at the expense of more urgent housing construction needs, while the permanent job creation is modest compared to the massive public infrastructure investment required.

By contrast, Australia's creative economy employs 300,000 people across tens of thousands of businesses ranging from individual creators to major companies. These are sustainable, ongoing employment opportunities that cannot be automated or relocated offshore. The proposed TDM exception would undermine this substantial employment base to facilitate minimal job creation in highly automated facilities that primarily benefit foreign corporations.

The proposed TDM exception would enable companies to extract Australian creative content without payment, train AI systems using Australian-subsidised energy and water infrastructure and capture the resulting commercial value offshore. This represents a double transfer of wealth from Australian creators and consumers to foreign corporations.

A genuine cost-benefit analysis would need to account for increased utility costs, grid infrastructure investment, environmental impacts, and opportunity costs of public resources directed toward supporting foreign AI development rather than domestic economic priorities.

AI Sovereignty

The Commission's analysis fails to consider alternative models of AI development that could deliver greater productivity benefits to Australia while respecting creator rights and maintaining national economic sovereignty.

Recent geopolitical developments demonstrate the importance of maintaining sovereign AI capabilities rather than creating dependency on foreign systems. Current AI development is concentrated among US and Chinese technology companies, creating potential vulnerabilities if access to these systems becomes restricted due to geopolitical tensions or national security considerations.

Switzerland's public LLM initiative, led by ETH Zurich and EPFL, demonstrates how ethical AI development can achieve technological advancement without the extractive practices the Commission seeks to legitimise.²⁷

Switzerland's model provides a stark contrast to the Commission's approach. The Swiss initiative respects web crawling opt-outs and copyright protections while maintaining competitive performance,

²⁵ International Energy Agency, AI is set to drive surging electricity demand from data centres while offering the potential to transform how the energy sector works, 10 April 2025

²⁶ ABC, Construction workforce issues contributing to national housing target shortfall, 19 February 2025

²⁷ ETH Zurich and EPFL Swiss AI Initiative, "Ethical Large Language Model Development: A Public Infrastructure Approach," 2024

demonstrating that ethical data sourcing does not compromise AI capability. The model's development on public infrastructure ensures that economic benefits flow to Swiss institutions and researchers rather than concentrating wealth in foreign corporations.

This approach offers superior productivity outcomes for national economies compared to the extractive model the Commission advocates. Under Switzerland's framework, local institutions retain control over AI capabilities, training can be customised for national needs and languages, economic benefits remain within the domestic economy, and ethical standards are maintained throughout development. In contrast, the Commission's proposed TDM exception would create a wealth transfer mechanism where Australian creative content subsidises foreign AI development, with resulting economic benefits concentrated in a small number of US technology companies.

The Swiss case study reveals that the Commission's framing of productivity benefits is fundamentally flawed. True productivity gains from AI adoption require domestic capacity building, not dependence on foreign systems trained on appropriated local content. Switzerland's investment in sovereign AI infrastructure will generate ongoing economic returns, skilled employment, and technological capabilities that remain under national control. The Commission's approach would instead create economic dependence while undermining Australia's substantial creative economy.

Policy Alternatives

Rather than pursuing a destructive approach that undermines creator rights, the Commission should consider investment incentives that could position Australia as a leader in ethical AI development. Tax benefits, research and development offsets, and other fiscal incentives could attract companies willing to invest in transparent AI development that respects copyright frameworks.

Such incentives could specifically target companies that commit to comprehensive licensing arrangements for training data, transparent disclosure of content sources, and revenue-sharing mechanisms with rights holders. This approach would create genuine economic opportunities for Australia while maintaining the integrity of copyright protections that support the \$63.7 billion creative economy.

International examples demonstrate that countries can attract AI investment without sacrificing creator rights. The Swiss model shows how public investment in ethical AI development can achieve technological advancement while respecting copyright. Australia could establish similar incentives for private companies willing to operate within appropriate legal frameworks, creating a competitive advantage through ethical practices rather than a race to the bottom through rights erosion.

Investment incentives tied to licensing compliance would generate multiple benefits: attracting genuine AI development investment, creating employment in high-value technology sectors, establishing Australia as a leader in responsible AI governance, and ensuring creators receive appropriate compensation for their contributions to AI systems. This positive approach would leverage Australia's existing strengths in licensing and copyright management while fostering innovation within sustainable legal frameworks.

The current proposal from the Commission represents a false choice between innovation and creator protection. Government investment incentives could demonstrate that these objectives are complementary, positioning Australia to capture the economic benefits of AI development while maintaining the legal and economic foundations that support cultural creativity and expression.

Recommendations

APRA AMCOS respectfully submits that the methodological deficiencies identified in this submission are sufficiently serious to warrant rejection of the Commission's proposed TDM exception. However, we recognise legitimate interests in supporting AI development and recommend exploring approaches that can achieve these objectives while maintaining creator protections.

Any future proposals should include comprehensive quantitative analysis of impacts on Australia's \$63.7 billion cultural and creative economy, including effects on employment, investment, multiplier

effects, and export earnings. Given the emergence of successful licensing models internationally, policy development should prioritise facilitating these market mechanisms rather than creating blanket exceptions that undermine creator protections and existing licensing negotiations.

Rather than proceeding with the proposed TDM exception, we recommend the Commission explore approaches that achieve legitimate AI development objectives while maintaining creator protections. Government should support technology solutions that preserve rights while enabling innovation. This includes fostering efficient licensing mechanisms that reduce transaction costs for both AI developers and rights holders. Additionally, investment incentives such as tax benefits and R&D offsets could attract companies committed to transparent, licensed AI development while positioning Australia as a leader in ethical AI governance.

The Commission severely lacks demonstrated expertise in creative industries or cultural economics necessary to find sustainable and innovative ways that would balance technological advancement with cultural protection solutions. There are also serious misunderstandings at the Commission about how copyright works. It is imperative the Commission expand their consultation process to broaden their engagement with creative industry representatives and policy experts to explore more sustainable solutions.

Australia can foster AI innovation through positive policy mechanisms that respect creator rights rather than pursuing destructive approaches that undermine the foundations of cultural creativity while primarily benefiting foreign corporations.

Conclusion

APRA AMCOS appreciates the Commission's ongoing work examining digital technology policy. However, our analysis identifies fundamental deficiencies in the proposed TDM exception that warrant its immediate rejection.

The evidence presented in the interim report demonstrates that the Commission's economic methodology contains serious analytical gaps that undermine the case for the proposed exception. International experience suggests TDM exceptions provide limited benefits while creating substantial risks to creator livelihoods. Market-based licensing solutions are emerging globally, demonstrating viable alternatives to blanket copyright exemptions. The proposal creates inconsistencies with the Commission's own Indigenous IP protection recommendations. Australia's cultural and creative industries, contributing \$63.7 billion annually, face disproportionate risks from the proposed approach.

APRA AMCOS therefore recommends that the Commission reject the proposed TDM exception and instead focus on developing market-based frameworks that can support AI innovation while maintaining appropriate protections for creators.

The emergence of licensing solutions internationally demonstrates that innovation and creator protection are complementary rather than conflicting objectives. Australia has the opportunity to lead in developing balanced approaches that support both technological advancement and cultural protection. We believe the creative industries' expertise in managing technology-culture intersections, combined with Australia's strong innovation capabilities, can produce world-leading solutions that serve our national interests better than adopting failed approaches from other jurisdictions.

APRA AMCOS stands ready to work collaboratively with government and technology sectors to develop these balanced solutions but cannot support the current proposal given its fundamental analytical and policy deficiencies.