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CISAC Comments to the Australian Select Committee
on Adopting Artificial Intelligence (AI)

The International Confederation of Societies of Authors and Composers ("CISAC") submits this comment to the Select Committee on Adopting Artificial Intelligence ("Committee") to assist the Committee in reaching the most comprehensive understanding of the issues generated at the intersection of AI and Copyright, particularly in the interest of creators who are currently affected by the rise of AI technologies in society.

CISAC is the leading worldwide organisation of authors' societies, representing more than 5 million creators from all geographic areas and all artistic repertoires (including music, audiovisual, drama, literature, and visual arts) through our 225 member organisations. The diversity of our membership, along with our longstanding history of safeguarding the interests of creators internationally, permits us to advocate on behalf of the interests of a significant number of affected parties in the search for consensus on pressing copyright and authors' rights issues. We provide below four statements which may serve as guideposts for the Committee in its current inquiry.

1.   Unregulated or under-regulated AI technologies pose significant risks to creators.

The rapid rise of AI technologies in our society has been unprecedented. In the creative sector, AI has opened up many new avenues for enhancing creativity, as creators can now use widely accessible AI tools to augment their creative capacities, experiment with new ideas, and refine their craft. AI can also significantly simplify artists' workflows, eliminating repetitive tasks through automation. Yet, although AI can rightly be viewed as a catalyst for a new wave of creativity in society, we believe it is essential that the application of this revolutionary technology is properly balanced with the interests of human creators.

Particularly, the risks posed by unregulated development of AI technologies, especially its potential impact on the creative sector, should not be understated. The reality is that the widespread use of AI carries with it numerous risks with the potential to damage the livelihoods of creators. Artists relying on their unique repertoires of work to establish their careers are particularly at stake; there is an alarming ease in the process of an average user instructing an AI software to replicate the characteristics, style, and elements of existing works. At present, artists are also unaware of whether or not their works are being used to train AI models, as the process of gathering data on their works is often not disclosed, collected through automated processes such as web scraping and database extraction. Such unauthorised uses of works do not respect copyright, nor the moral and fundamental rights guaranteed to creators, as recognised for decades under existing international and national law.

Therefore, we recommend that, alongside all the identified risks that unregulated AI may pose in society, the Australian government duly considers the significant risks that AI technologies may pose to creators. Without awareness or ability to negotiate with AI developers for the use of their works, artists will be left to compete with an influx of AI-generated works, which were created using their work as training material. This outcome would be detrimental to the creative ecosystem, and would place human creators in an unsustainable position.

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2.   AI developers must be held accountable through transparency and oversight measures.

As mentioned above, creators should be informed if an AI developer seeks to use their works for training purposes, and should be able to provide – or withhold – consent for such use. So far, AI developers in Australia are under little obligation to ensure that the data they gather and use for training purposes is cleared of any copyright issues, placing users of such technologies at risk of infringing the IP rights of others.[1]

The Australian government currently has the ability to create a regulatory framework capable of resolving this situation and promoting a culture of responsible innovation, and this can be accomplished through applying long-held institutional principles of transparency and oversight. In particular, we suggest the introduction of measures which oblige AI developers to disclose their training data to public authorities, with reference to provisions included in the EU AI Act (Art 53(1)(d))[2] and the proposed "Generative AI Copyright Disclosure Act" in the U.S.[3] Mandatory disclosure would provide much-needed transparency and facilitate voluntary licensing of copyrighted works for training purposes.

3.   Australia's copyright framework is already fit-for-purpose to establish fair licensing practices.

Many companies having significant investments in AI have voiced concerns regarding the feasibility of licensing copyrighted content for training purposes. Licensing solutions, however, can be developed to meet the very specific needs of this market, and ample precedent exists for this conclusion. As has been the case with the adoption of many revolutionary technologies – Xerox machines, VCRs, Streaming— copyright law has proven time and again to be able to accommodate new uses (and new licensing arrangements) within its existing framework, including in Australia, where all these technologies have been successfully licensed.

CISAC is particularly well-placed to comment on the feasibility of developing new licensing and rights management solutions due to its long history supporting collective management and performing rights organisations in developing universally accepted standards[4] for accurately tracing and tracking royalties owed to creators. Collective licensing of creative works in the context of their use to train AI is feasible and may provide new opportunities for collaboration and cooperation between all involved stakeholders. Such licensing efforts must be universally adopted to ensure a sustainable future for creators and innovators alike. This can be effectively implemented through existing infrastructures used for managing rights which are already present across all creative sectors.

Ultimately, **AI developers should be required to obtain proper authorization and licenses for the use of copyrighted works for training purposes, and should pay fairly for that authorization.** This would ensure in the short and long term that creators maintain control over the use of their works and receive market-value compensation for their contributions to AI development.

4.   Fostering a culture around responsible AI in Australia requires government-led action.

In launching these initiatives to re-examine the existing legal framework around innovation and copyright, Australia is well-positioned to be at the forefront of designing a regulatory framework which does not sacrifice the livelihoods of creators in pursuit of innovation.

Moving forward, the dangers of unregulated or underregulated AI development can be addressed through cultivating a culture around responsible innovation. This can be accomplished in many ways, but at least requires coordinated efforts and meaningful collaborations at the governmental level between AI developers, creators, and the public to find the most workable solutions for all.

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[1] Referencing "Australia's 8 Artificial Intelligence (AI) Ethics Principles", so far compliance with these principles is voluntary. https://www.industry.gov.au/publications/australias-artificial-intelligence-ethics-framework/australias-ai-ethics-principles

[2] European Commission, "EU Artificial Intelligence Act," Text adopted on 19 April 2024. Available at: https://www.europarl.europa.eu/doceo/document/TA-9-2024-0138-FNL-COR01_EN.pdf

[3] U.S. House of Representatives, "Generative AI Copyright Disclosure Act of 2024" presented at the 118th Congress, 2nd Session. Available at: https://schiff.house.gov/imo/media/doc/the_generative_ai_copyright_disclosure_act.pdf

[4] For example, International Standard Musical Work Code (ISWC) and International Standard Recording Code (ISRC), Interested Party Information (IPI), among numerous other technical standards currently accepted industry-wide. CISAC, "Information Services", https://www.cisac.org/services/information-services.

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We firmly believe that **a more robust creative marketplace for human creators can coexist with, rather than undermine, innovation in the field of AI.** Richer and more diverse data sources are the key to the development of better AI models, and, in turn, robust copyright protection human authors – creators of the very works that may be used in AI training – with the ability and incentives to make a living from their creative endeavours. When human creators are able to fully benefit from uses of their works, innovation can be promoted ethically and sustainably.

As the global community searches for direction in the field of AI regulation, Australia is well-positioned to maintain its leadership within the Indo-Pacific region by promoting high regulatory standards, which can adequately safeguard the creative sector. By continuing its commitment towards preserving the interests of creators, Australia can ensure that its cultural sector will continue to flourish in the AI age.

CISAC appreciates the opportunity to submit these comments and looks forward to working with the Committee on these issues in the future.