

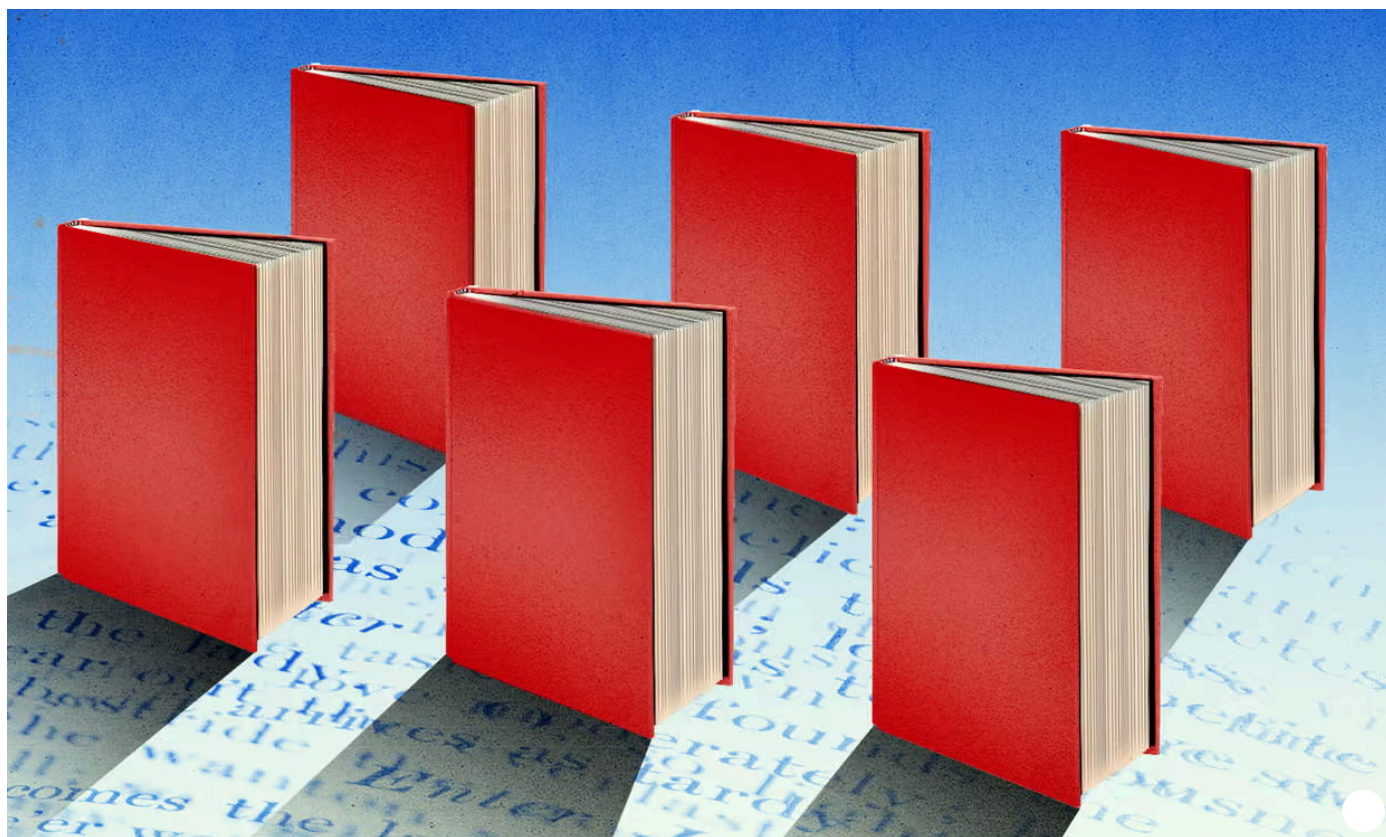
## Opinion

## Tech companies are stealing our books, music and films for AI. It's brazen theft and must be stopped

Anna Funder and Julia Powles

If we don't refuse and resist, not just our culture but our democracy will be irrevocably diminished

Wed 10 Sep 2025 16:59 AEST



Today's large-scale AI systems are founded on what appears to be an extraordinarily brazen criminal enterprise: the wholesale, unauthorised appropriation of every available book, work of art and piece of performance that can be rendered digital.

In the scheme of global harms committed by the tech bros - the undermining of democracies, the decimation of privacy, the open gauntlet to scams and abuse - stealing one Australian author's life's work and ruining their livelihood is a peccadillo.

But stealing *all* Australian books, music, films, plays and art as AI fodder is a monumental crime against *all* Australians, as readers, listeners, thinkers, innovators, creators and citizens of a sovereign nation.

The tech companies are operating as imperialists, scouring foreign lands whose resources they can plunder. Brazenly. Without consent. Without attribution. Without redress. These resources are the products of our minds and humanity. They are our culture, the archives of our collective imagination.

If we don't refuse and resist, not just our culture but our democracy will be irrevocably diminished. Australia will lose the wondrous, astonishing, illuminating outputs of human creative toil that delight us by exploring who we are and what we can be. We won't know ourselves any more. The rule of law will be rendered dust. Colony indeed.

Tech companies have valorised the ethos "move fast and break things", in this case, the law and all it binds. To "train" AI, they started by "scraping" the internet for publicly available text, a lot of which is rubbish. They quickly realised that to get high-quality writing, thinking and words they would have to steal our books. Books, as everyone knows, are property. They are written, often over years, licensed for production to publishers and the rental returns to authors are called royalties. No one will write them if they can be immediately stolen.

## ■ Why would you work if your work can be stolen, degraded and made available for free?

Copyright law rightfully has its critics, but its core protections have enabled the flourishing of book creation and the book business, and the wide (free but not “for free”) transmission of ideas. Australian law says you can quote

a limited amount from a book, which must be attributed (otherwise it's plagiarism). You cannot take a book, copy it entirely and become its distributor. That is illegal. If you did, the author and the publisher would take you to court.

Yet what is categorically disallowed for humans is being seriously discussed as acceptable for the handful of humans behind AI companies and their (not yet profit-making) machines.

To the extent they care, tech companies try to argue the efficiency or necessity of this theft rather than having to negotiate consent, attribution, appropriate treatment and a fee, as copyright and moral rights require. No kidding. If you are setting up a business, in farming or mining or manufacturing or AI, it will indeed be more efficient if you can just steal what you need - land, the buildings someone else constructed, the perfectly imperfect ideas honed and nourished through dedicated labour, the four corners of a book that ate a decade.

Under the banner of progress, innovation and, most recently, productivity, the tech industry's defence distils to “we stole because we could, but also because we had to”. This is audacious and scandalous, but it is not surprising. What is surprising is the credulity and contortions of Australia's political class in seriously considering retrospectively legitimising this flagrantly unlawful behaviour.

The Productivity Commission's proposal for legalising this theft is called “text and data mining” or TDM. Socialised early in the AI debate by a small group of tech lobbyists, the open secret about TDM is that even its proponents considered it was an absolute long shot and would not be taken seriously by Australian policymakers.

Devised as a mechanism primarily to support research over large volumes of information, TDM is entirely ill-suited to the context of unlawful appropriation of copyright works for commercial AI development. Especially when it puts at risk the [5.9% of Australia's workforce](#) in creative industries and, speaking of productivity, the [\\$160bn national contribution](#) they generate. The net effect if adopted would be that the tech companies can continue to take our property without consent or payment, but additionally without the threat of legal action for breaking the law.

Let's look at just who the Productivity Commission would like to give this huge free-kick to.

Big Tech's first fortunes were made by stealing our personal information, click by click. Now our emails can be read, our conversations eavesdropped on, our whereabouts and spending patterns tracked, our attention frayed, our dopamine manipulated, our fears magnified, our children harmed, our hopes and dreams plundered and monetised.

The values of the tech titans are not only undemocratic, they are inhumane. Mark Zuckerberg's empathy atrophied as his algorithm expanded. He has [said](#), “A squirrel dying in front of your house may be more relevant to you right now than people dying in Africa.” He [now openly advocates](#) “a culture that celebrates aggression” and for even more “masculine energy” in the workplace. Eric Schmidt, former head of Google, has said, “We don't need you to type at all. We know where you are. We know where you've been. We can more or less know what you're thinking about.”

The craven, toadying, data-thieving, unaccountable brologarchs we saw lined up on inauguration day in the US have laid claim to our personal information, which they use for profit, for power and for control. They have amply demonstrated that they do not have the flourishing of humans and their democracies at heart.

And now, to make their second tranche of fortunes under the guise of AI, this sector has stolen our work.

Our government should not legalise this outrageous theft. It would be the end of creative writing, journalism, long-form nonfiction and essays, music, screen and theatre writing in Australia. Why would you work if your work can be stolen, degraded, stripped of your association, and made instantly and universally available for free? It will be the end of Australian publishing, a \$2bn industry. And it will be the end of us knowing ourselves by knowing our own stories.

Copyright is in the sights of the technology firms because it squarely protects Australian creators and our national engine of cultural production, innovation and enterprise. We should not create tech-specific regulation to give it away to this industry - local or overseas - for free, and for no discernible benefit to the nation.

The rub for the government is that much of the mistreatment of Australian creators involves acts outside Australia. But this is all the more reason to reinforce copyright protection at home. We aren't satisfied with “what happens overseas stays overseas” in any other context - whether we're talking about cars or pharmaceuticals or modern slavery. Nor should we be when it comes to copyright.

Over the last quarter-century, tech firms have honed the art of win-win legal exceptionalism. Text and data mining is a win if it becomes law, but it's a win even if it doesn't - because the debate itself has very effectively diverted attention, lowered expectations, exhausted creators, drained already meagerly resourced representatives and, above all, delayed copyright enforcement in a case of flagrant abuse.

So what should the government do? It should strategise, not surrender. It should insist that any AI product made available to Australian consumers demonstrate compliance with our copyright and moral rights regime. It should require the deletion of stolen work from AI offerings. And it should demand the negotiation of proper - not token or partial - consent and payment to creators. This is a battle for the mind and soul of our nation - let's imagine and create a future worth having.

Anna Funder is the author of the prize-winning international bestsellers *Stasiland*, *All That I Am* and *Wifedom: Mrs Orwell's Invisible Life*. Julia Powles is a law professor and executive director of the Institute for Technology, Law & Policy at the University of California Los Angeles and former contributing editor and policy fellow at The Guardian

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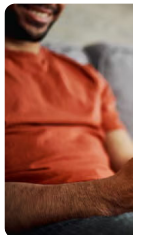


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