A Copyright Framework in Australia's Interest

November 2026



MINDEROO FOUNDATION

Safe AI

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- Clayton Utz, led by Timothy Webb (Partner, Head of IP & Co-Head of Digital) and Sharon Segal (Special Counsel)
- Stephen Peach of Persica Consulting

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- Professor Ed Santow, Clare Brennan and Kai Graylee at UTS, Human Technology Institute
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Executive Summary

When content is used to train AI, creators should have control of their work and get paid when it is used.

Australian books, music, journalism and other creative work are currently being used to train artificial intelligence (AI) models, largely without permission or payment.

Much of this training takes place overseas, outside of the reach of Australian law, including copyright law, leaving Australian creators with uncertain and costly avenues for recourse.

We currently have a window of opportunity to address this unfairness, with AI companies looking to build critical AI infrastructure in Australia, drawn in part by our natural advantages and political stability. Securing that investment, particularly in AI model training, would bring these activities within reach of Australian law and unlock the levers to hold companies to our expectations on safety and fair compensation for rights owners and creators.

Australian creators must be at the centre of the solution, but the solution must also be workable for responsible AI companies.

Whilst licensing frameworks exist for most commercial copyright-based content including music, film and publishing, the same is not true for the millions of individual owners of websites, blogs, podcasts. Even if direct deals are done in respect of the 'organised' copyright sector, there is presently no practical way for AI developers to licence, or for rights holders to be paid for, the 'unorganised' sector - what is referred to as the 'long tail'.

A system that requires AI developers to negotiate millions of individual deals with dispersed rights holders is not pragmatic, and is not a workable foundation for AI training at scale, which means they may simply keep training on Australian work overseas and Australian creators will continue to go unpaid.

Australia currently has an opportunity to update its existing copyright system to deliver a fair, workable system for Australia, one that secures payment and meaningful control for rights holders whilst also giving responsible AI developers clear, practical rules for training in Australia.

This report outlines a potential solution. It draws on legal, economic and technical expertise and consultation across the creative sector, unions, civil society and industry.

The proposed framework is a limited, remunerated statutory permission for qualifying AI training, with meaningful rights-holder control. Government could apply that permission broadly to all copyright material, or tighten its scope to the long tail of works not within the repertoire of a relevant Australian collecting society. These are two variations in scope of the same framework. Both would operate alongside existing voluntary direct licensing and require:

- → **Fair remuneration to rights holders[1] from AI developers through both direct and collective arrangements.**
- → **Greater legal and investment certainty for responsible AI developers through a limited statutory permission to train on lawfully accessed copyright material, subject to rights holder exclusion.**
- → **Accreditation for AI developers, who must keep auditable records of the material they use and be transparent about the data used to train their models.**
- → **Transparency requirements for AI developers, through a training data transparency requirement in the Australian Standards for AI, requiring a public summary of training datasets, detailed records available for confidential oversight review, and disclosure of copyright compliance processes.**

If the proposal overall was favoured by government, then the choice between those two options is a policy decision for government. One solution offers broad coverage whilst letting rights holders, particularly in the 'organised' sector, reserve their rights, whilst the other keeps direct licensing intact for that sector and addresses only the long tail by way of a statutory scheme. A separate Fund could, and Minderoo recommends should, be added to either.

Getting these settings right also presents an economic opportunity. Preliminary modelling estimates that AI training alone could add about $9 billion to Australia's annual GDP by 2035, depending on the framework adopted, alongside anticipated productivity gains from adoption of AI in our economy.

However, AI developers assert that, without a workable copyright framework covering AI training, investment may go elsewhere. More importantly, such an outcome could significantly limit the influence Australia could have over the AI systems we use and the world uses, and the control and compensation that Australian rights holders could receive.

Updating the existing copyright rules in this targeted way can deliver a fair, workable system for Australia, supporting creators, responsible AI development and our national interest.

1 *In this report, "rights holders" means the owners or controllers of copyright in a work. A rights holder may be the creator, or a person to whom the creator has assigned or licensed their rights, such as a book publisher or record label. Payments under a statutory permission would be made to rights holders. Creators who no longer hold copyright would not have a direct claim on the statutory fee, but will derive their benefit through their arrangements with rights holders and, if adopted, potentially through a separate Fund.*

About the partners

About Minderoo Foundation

Our work focuses on backing community-led change, building a liveable future and keeping people safe as technology advances. We drive lasting change by working alongside those closest to the challenge, advocating for reform, building evidence for what works and developing solutions when none exist.

For 25 years, Minderoo has supported Australia's creative sector, including the arts, journalism and public interest media, and helped more Australians, particularly children, access cultural experiences that strengthen communities.

About SafeAI

Building on almost a decade of work on global technology and artificial intelligence policy, Minderoo Foundation convened SafeAI, bringing together evidence and research, international expertise, civil society and decision makers to advance a balanced approach to AI policy that protects people and enables responsible innovation.

SafeAI's work includes advocating for Australia to increase our influence over how AI is deployed and governed. By attracting responsible investment in the infrastructure required to power AI systems, Australia unlocks greater leverage over safeguards and standards these systems must meet, rather than inheriting rules developed elsewhere.

Expert team

This report was prepared by Minderoo Foundation with the support of the following technical experts, whose economic, legal and stakeholder analysis informed its findings. The recommendations in this report are Minderoo's own.

- **BDO Australia** led economic modelling and policy analysis, led by Professor Fahim Khondaker (Consulting Partner), and Anders Magnusson (Chief Economist). This included impacts on investment, innovation, competition, creators and consumers, supported by a review of the academic literature by the University of New South Wales.

BDO

- **Clayton Utz,** led by Timothy Webb (Partner, Head of IP & Co-Head of Digital) and Sharon Segal (Special Counsel), provided specialist legal advice on copyright, licensing, statutory options, international obligations and implementation.

CLAYTON UTZ

- **Stephen Peach of Persica Consulting,** a former intellectual property lawyer and ARIA chief executive, led industry liaison and stakeholder engagement.

PERSICA
Consulting

Scope of Report

Australia should not have to choose between backing Australian creativity and attracting responsible AI investment. The policy task is to design a framework that can achieve both.

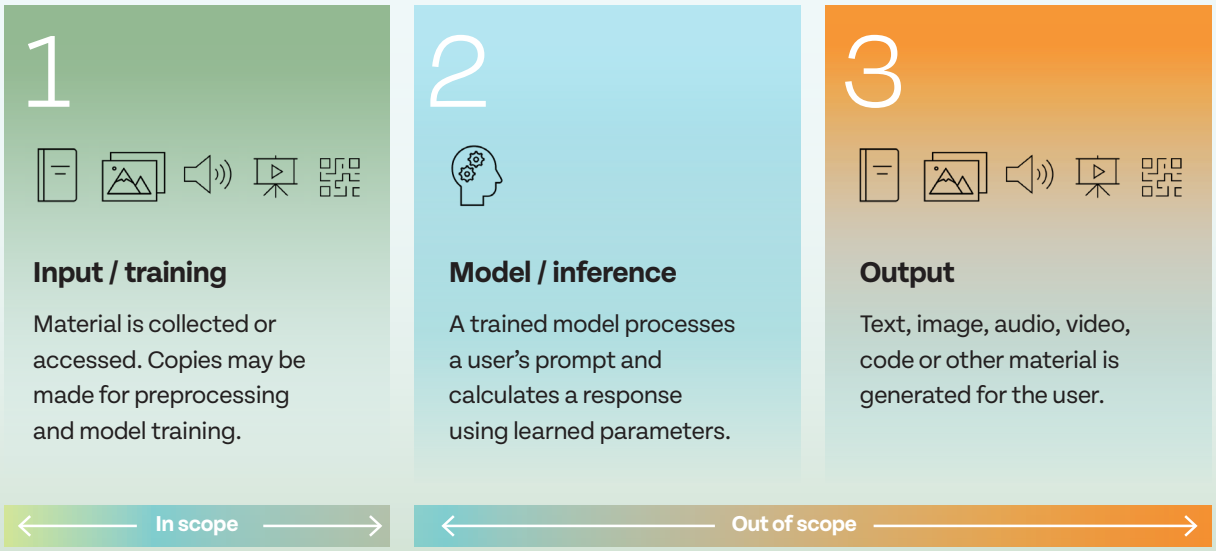
The middle-ground principle

The proposed framework should provide fair remuneration, transparency and meaningful choice for rights holders and creators, while giving responsible developers enough legal certainty and scalability to make domestic training viable.

This report focuses specifically on the use and reproduction of copyright material in the development and training of AI models, and does not extend to inference or model outputs. This distinction is important, as a permission framework that authorises specified reproductions for the purposes of model training should not be interpreted as a blanket licence for all AI uses and outputs. Any copyrighted works used at the inference stage, including those generated as output, would be subject to existing laws, licences and payments.

Out of scope

Indigenous Cultural and Intellectual Property (ICIP) is an important and distinct consideration for AI training, extending beyond conventional copyright to include First Nations rights in traditional knowledge, cultural heritage and cultural expressions. It is outside the scope of this first phase because ICIP is not yet comprehensively defined or protected under a dedicated Australian statutory framework, and its proper treatment requires dedicated, First Nations-led consultation and alignment with the Australian Government's ongoing development of stand-alone ICIP legislation. Its exclusion should not be taken to diminish its importance; ICIP should be considered through a separate process that respects self-determination, consent, cultural integrity, attribution and benefit sharing.



What is AI model training?

Training is a critical step in building an AI model. During training, the AI model processes large amounts of information, such as text, images, audio, video and code, to learn how to identify patterns and generate content. The quality of the model is linked to the quality of the information it trains on, which is why AI developers seek high-quality material, much of which is protected by copyright. This material must be copied at least once to be processed and can be used many times across different training sessions.

Model training can require substantial processing power, relying on infrastructure such as data centres and the energy to run them. The processing power required for training depends on the type of AI model and the amount of data it processes.

Current copyright position

Australia's copyright laws do not explicitly permit the use of copyright protected content for training AI models and the more likely interpretation is that specific licences would be required for such use.

A copyright owner holds a range of exclusive rights to their work and anyone wishing to, for example, make a copy of that work must first obtain permission from either the owner directly or through an intermediary such as a collecting society. In AI training, 'use' requires a copy of the relevant content to be made as part of the technical process. Such use without permission infringes copyright unless an exception applies.

Australia's most relevant exceptions to copyright infringement are the 'fair dealing' provisions. They allow use of copyright-protected material without permission or payment but only when that use is fair and for specified purposes, including research or study, criticism or review, parody or satire and reporting the news. The fair dealing exceptions do not include or readily accommodate AI training.

The United States, where most leading AI models are presently trained, also has no dedicated exception for training AI. Instead, the unlicensed use of copyright material is assessed on a case-by-case basis (typically as a consequence of litigation) under its 'fair use' doctrine. Under that doctrine, four factors are considered: whether the use is transformative, the nature of the work copied, how much of it was used and the effect on the market for the original. Use that is found to be 'fair' requires neither the copyright owner's consent nor payment.

The US Administration's position is that training AI models on copyright material generally makes fair use of that material. In September 2026, the US Department of Justice filed a statement of interest in the New York Times v OpenAI litigation arguing that AI training on copyrighted text is fair use, describing it as transformative. More than 150 copyright lawsuits concerning AI have been filed in US courts and fair use is central to many of them. Whatever their outcome, without change, Australian work will continue to be used to train AI under American law.

Why train AI in Australia?

Today, leading AI models are developed and trained outside of Australia, where laws often permit broader use of copyright material for training than ours do. As a result, the work of Australians is being used to train these models, often without permission or payment, and Australian rights holders have limited recourse.

While we cannot rewrite the laws of other countries, we can shape the laws that govern how AI is developed and deployed here. With more investment in AI and computing infrastructure, research and model training in Australia, we would have a greater ability to:

1

Set and enforce rules for AI in Australia, **including fair compensation and control for rights holders,** environmental standards and accountability when things go wrong.

2

Reduce reliance on offshore infrastructure and build local skills and capability, so Australia does not simply inherit rules and systems developed elsewhere.

3

Support a strong creative industry and grow the economy, with modelling estimating that AI training activity alone could add billions a year to Australia's GDP within the next decade, alongside broader gains from AI investment and adoption.

The work of Australian creators is being used to train models developed in other parts of the world, often without permission or payment.

$9B
(HIGH)

Estimated annual GDP contribution of AI training activity by 2035

Consultation

Minderoo has carried out closed-door consultations across the 'organised' creative sector, representing the key copyright stakeholders and associated creator interests. These consultations reflected that the discussion about AI and the creative industries is broad, encompassing significant opportunities as well as concerns and risks. Copyright is one very important aspect of that wider discussion, alongside the livelihoods of Australian creators and the continued production of high-quality Australian cultural material.

The feedback on copyright specifically demonstrates understandably strong support for the existing copyright framework within the 'organised' sector. However, there is acknowledgement in some sub-sectors that there is a challenge in how to effectively licence the 'long tail' of potentially millions of individual rights holders who are not covered by existing licensing frameworks. This concern was also raised by the small and independent creators consulted, and by AI companies, which see it as a major barrier to AI training in Australia. Against this backdrop, there is an acceptance amongst some rights holders that government may need to make changes to the Copyright Act to address the long tail issue. Creative sector representatives assert that any such changes should not be at the expense of the 'organised' sector whilst also ensuring that Australian creators and rights holders receive a fair return and control over how their content is used.

Amendments to the Copyright Act

Several consistent themes have emerged from those consultations in relation to any amendments to the Copyright Act that government may consider:

- → **Any framework outside of voluntary direct licensing should be limited to AI training, and not extend to inference or outputs.**
- → **It should apply only to lawfully accessed material – no scheme should permit unauthorised circumvention of technological protection measures[2] (TPMs), such as paywalls.**
- → **It must provide meaningful control for rights holders to avoid being included in any statutory scheme.**
- → **It must require fair remuneration, transparency and record keeping.**

Statutory Scheme concerns

Rights holders also raised significant concerns over any statutory scheme, which any framework would need to acknowledge:

- → **There is no evidence of market failure for 'mainstream' copyright content. Any potential market failure appears to only arise in the 'long tail' of content that sits outside major rights owners or collecting society mandates.**
- → **Much of the most commercially valuable copyright content is already covered by existing licensing frameworks, such as through collecting societies and large rights holding organisations with willing and capable commercial and legal teams. This reduces the case for broad statutory intervention.**
- → **Direct deals remain the preferred approach for the 'organised' sector. They enable access to paywalled or otherwise protected content that may not be lawfully accessible simply through a statutory licence, while allowing AI developers to licence and pay only for the content they need.**
- → **Some rights holders are developing their own AI-based products and services trained on their own content (and/or content they licence from third parties) and object to being compelled to make that content available to other AI developers they consider to be competitors.**
- → **Any 'one size fits all' solution risks unjustifiably interfering with commercial negotiations, especially over non-price terms (which may include exclusivity).**

Important design questions remain, including how withdrawals from any scheme ('reservations') operate at scale and how payments are set and distributed. These are practical challenges that can be addressed once the framework principles are decided.

No model will satisfy every stakeholder, and an enduring framework will require compromise. However, our consultations lead us to conclude that there is a credible path forward that balances the needs of all stakeholders in a workable way.

2 *A digital lock, such as encryption, access controls, paywalls or copy-protection, that rights holders use to control access to or copying of their content. Australia's Copyright Act protects these locks, so bypassing one is itself unlawful.*

Economic Modelling

To assess the economic effects of a range of policy options, their impact on Australia's real GDP and real wages was modelled over the next 10 years[3]. The modelling isolates AI model training activity and its supporting infrastructure. Separate to the policies considered, it includes assumed productive use of AI across the economy in alignment with estimates from the Productivity Commission and the Intergenerational Report.

The variation of modelled economic impacts across the policy options is dominated by the level of investment in AI training assumed under each option, with the highest investment level leading Australia's annual GDP to be approximately $9 billion higher, and real wages to be around 0.7% higher, in 2035 compared to the low investment case.

Assumptions

The level of AI investment attracted to Australia is uncertain and will depend partly on how each policy affects the business case for training AI in Australia. The modelling assigned each option to a low, medium or high investment case using the option's expected effect on certainty, negotiation requirement, cost and transparency obligations. These settings are assumptions rather than results and are intended to test a plausible range of investment responses. As such, they should be interpreted with caution.

The AI training investment level assessment was made with the assumptions:

- **If a large rights holder is entitled to reserve its rights over its works, then it does, and negotiates a direct, voluntary licence.**
- **Where an independent body sets a fee, it is set at the same value that would be achieved with a voluntary licence.**
- **The fee payable to rights holders (if any) is not material enough to impact the decision to invest in AI training in Australia.**
- **Dataset transparency obligations on AI companies (if any) do not impact the decision to invest in AI training in Australia, given transparency requirements already exist in some jurisdictions.**
- **Smaller rights holders who form 'the long tail' are currently not remunerated by AI companies due to practical limitations, such as identifying and reaching them.**
- **90% of AI training investment is sourced from overseas and 90% of associated profits return to those investors.**

3 *A multi-sector national dynamic computable general equilibrium model was used by BDO Australia.*

AI Training investment levels

The AI training investment levels are defined as:

Low
($11 billion over 10 years):

- Investment in data centre capacity in Australia specifically for training AI models covers only local developments such as Australian start-ups and Australian Government supported training of Australian models where sovereignty is important. Calculated as 10% of Medium.

Medium
($111 billion over 10 years):

- the local developments above, plus some frontier model training by foreign-owned AI companies. Calculated as approximately 20 per cent of the expected non-US AI training infrastructure investment over the next 10 years.

High
($223 billion over 10 years):

- the same scope as Medium, calculated as approximately 40 per cent of the expected non-US AI training infrastructure investment over the next 10 years.

Economic Modelling

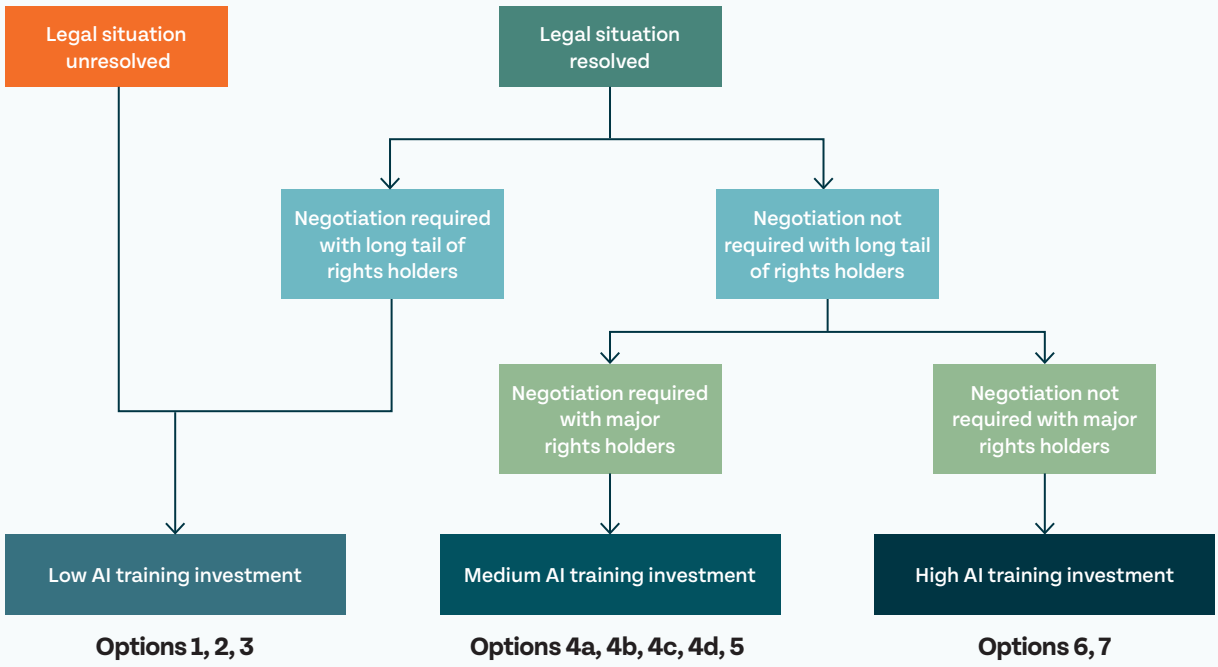


Figure 1:

Assumed AI training investment in Australia under each policy option.
Source: BDO analysis prepared for Minderoo Foundation, 2026.

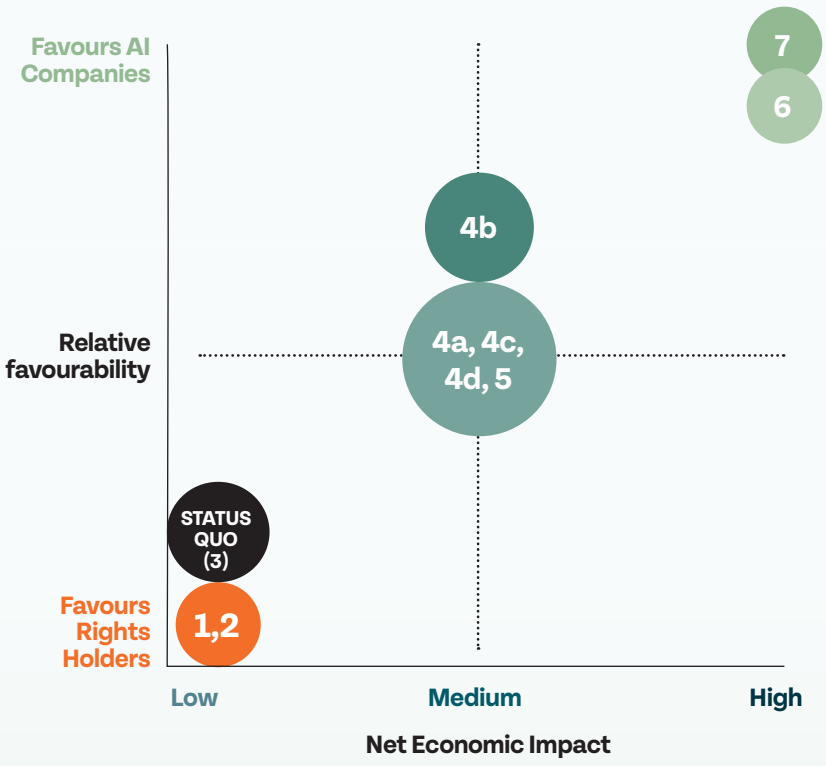
Optional Fund to support and grow Australia's creative sector

The legal and economic modelling considers putting some AI-derived revenue into a separate Fund, which could be used to leverage the value of AI to expand the productive capacity of Australia's creative economy. Under any model that includes the Fund, investing money back into Australia's creative industries produces stronger economy-wide growth than transferring the equivalent amount solely to rights holders.

The Fund would also help keep more revenue in Australia, directed towards Australian beneficiaries, as a framework that only moves money from AI companies to existing copyright holders could see larger volumes of funding go to offshore rights holders.

Recommendation: A Copyright Framework in Australia's Interest

Analysis by BDO Australia and Clayton Utz indicates there are several options that seek a balance between the competing interests of creators, rights holders and AI companies if Government seeks to update the Copyright Act. The full range of options is set out in the Appendix. The figure below maps the ten options against their relative economic impact and legal favourability.



Legend

1 Strengthen copyright protections;
2 Facilitated voluntary licensing;
3 Status quo;
4a Statutory permission with exclusion;
4b Statutory permission without exclusion;
4c Statutory permission for long tail content, with exclusion;
4d Statutory permission after mandatory data access arrangements, with exclusion;
5 Statutory exception with exclusion;
6 Statutory exception with levy;
7 Unconditional statutory exception.

Recommended options: 4a and 4c. Full descriptions in the Appendix.

Figure 2:

Relative economic impact and legal favourability of policy options. Source: BDO analysis prepared for Minderoo Foundation, 2026. Positioning reflects BDO's qualitative assessment and is indicative only.

Recommendation

Our consultation, legal advice and economic modelling point to a realistic middle ground comprising options 4a and 4c. They sit between the unrealistic challenge of licensing every work one by one from potentially millions of rights holders, and an unfair free-for-all exception for AI training. In both options 4a and 4c, AI developers could train on qualifying material without negotiating individual licences, as long as they pay for it and meet carefully designed conditions.

Proposed solution: Limited statutory permission with two scope variations

Minderoo proposes Australia should update its copyright system by adopting options 4a or 4c, or a combination thereof, to address the practical gap between individual licensing and uncompensated and uncontrolled AI training.

The recommended solution is a limited statutory permission for AI training on lawfully accessed material, with fair remuneration, meaningful control, accreditation, transparency and auditable records. Government has a choice about the breadth of that permission, it can cover qualifying material generally, or be tightened to the long tail where individual deals are least workable. Existing direct and collective licensing should continue wherever applicable. The Appendix retains the underlying legal and economic options for reference.

The breadth of the statutory permission is the principal policy choice between options 4a and 4c. Under option 4a, a broad permission would apply to copyright works generally, unless a rights holder reserves its right to avoid the scheme. Under option 4c the statutory permission would apply only to copyright protected long tail material outside the repertoire of Australian collecting societies, again with a rights-holder exclusion. The narrower scope of option 4c would require careful definition but would continue to reinforce the preference for direct licensing (with associated permissions and guardrails) for the organised rights sector.

A separate Fund could supplement, but not replace, remuneration due to rights holders.

The proposed framework would update established Australian copyright mechanisms rather than replace them. It would create a "permitted and paid" route for qualifying AI training, subject to rights holder reservations and enforceable safeguards. Government could adopt a broad scope or limit the permission to the long tail, while preserving negotiated licensing and the existing rights that fall outside the permission.

How it would work

The Copyright Act would be updated to permit accredited AI developers to make specified copies of lawfully accessed copyright material for AI training without negotiating a separate licence for each covered work, provided the rights holder has not excluded its works from the scheme. Developers would pay fair remuneration and comply with transparency and record-keeping. The permission would not extend to inference or outputs, which remain governed by applicable copyright law and licences.

A standardised, accessible and machine-readable exclusion should be one of the notification processes available under either scope variation, along with more streamlined and simplified notification procedures which allow rights

holders to withdraw from the scheme in respect of some or all of the catalogues they control. Once effective, this would exclude future training uses under the statutory permission and require a separate direct licence for those uses. The legislation would need clear rules for notice, timing, verification and existing copies.

Where the permission applies broadly, existing or accredited distribution bodies such as collecting societies could administer remuneration under appropriate governance and Copyright Tribunal oversight. Where the permission is limited to the long tail, the system would need to consider reasonable mechanisms to identify the owners of relevant works, distribute payments to rights holders who may be difficult to locate and the acquittal of funds in circumstances where relevant rights owners could not be located.

Because most works used in AI training are foreign, a substantial share of any remuneration is likely to flow to overseas rights holders. That is a consequence of Australia's national treatment obligations, which require foreign and Australian works to be treated alike, rather than a flaw in the scheme. This logically means that the copyright fees paid by an AI developer would be higher than if they were just licensing Australian-generated content. The proposed Fund should be a separate means of building Australia's creative capacity, funded by its own contribution, rather than a mechanism for redirecting remuneration owed to rights holders.

Benefit

Australia already has experience in operating statutory copyright licensing systems and could improve upon existing licensing schemes, noting that they have faced criticism from some rights holders and creators. The Copyright Act contains statutory regimes for government copying, educational use and retransmission of broadcasts, involving collecting societies, payment of remuneration, and mechanisms for determining and distributing payments.

Outcome

Responsible AI developers would gain a clear, conditional legal route for training on covered, lawfully accessed material. Rights holders would receive remuneration and retain the ability to negotiate directly.

Economic benefit

Preliminary modelling illustrates economic benefits in the medium investment case by resolving legal uncertainty sufficient to attract an assumed $111 billion in AI training investment over ten years. This could add approximately $5 billion to Australia's annual GDP, and 0.4% to real wages, by 2035, when compared to the modelled status quo scenario, alongside broader anticipated gains from AI investment and adoption.

Design task

The framework will need clear, practical arrangements for creator control and the fair distribution of funds, including through extended collective licensing where appropriate so that non-members of collecting societies can benefit.

This will require workable rules for managing direct licences held by large publishers, preserving the quality and utility of AI training datasets, reconciling exclusions across multiple online copies and large catalogues, and establishing standardised machine-readable formats as one of the options for a rights holder to elect to avoid the statutory scheme. The design will also need to recognise and accommodate existing direct licences and develop equitable payment formulas where individual contributions to training cannot be meaningfully measured. To avoid rights holders having to act twice, the scheme could recognise as valid Australian exclusion those reservations already made through recognised machine-readable means, including those effective under the European Union's text and data mining rules once the courts have settled which mechanisms qualify. This would reduce the burden on Australian and foreign rights holders alike and mirrors the interoperability approach we recommend for transparency.

Proposed solution (cont.)

Legal design task including constitutional issues

The framework will need to comply with the constraints in Australia's Constitution related to the acquisition of property (s 51(xxxi)) and taxation (s 55), with significant issues requiring careful resolution in its design. Notably, if the statutory permission will effect an acquisition of property (i.e. the copyright of rights holders), "just terms" are required. Government should obtain advice from the Constitutional Litigation Unit of the Australian Government Solicitor and, if needed, the Solicitor-General to be satisfied that the framework is constitutionally robust.

The legislation will also need to be carefully structured for compliance with Australia's international obligations. This includes ensuring the scheme aligns with the Berne Convention, the TRIPS Agreement and the principle of national treatment.

For either pathway, legislation would need to define a specific and limited category of qualifying AI-training reproduction and technical copying, rather than a blanket permission covering inference or outputs. Lawful sourcing, accreditation, transparency, audit, fair remuneration and control require detailed design.

Additional recommendations

Transparency requirements

To build confidence that a new framework is being adhered to, requiring appropriate transparency of the data used to train AI models will be crucial.

This report recommends that the Australian Standards for AI, currently in development by the Department of the Prime Minister and Cabinet, include a training data transparency (TDT) requirement, modelled on similar laws already operating in California and the European Union (EU).

By modelling an Australian TDT requirement on those existing laws, the Government could achieve two aims:

- → **It would build confidence in the creative community and among rights holders that AI models are being developed and deployed in conformity with Australian copyright law.**
- → **Because major AI companies are already making disclosures under these laws in California and the EU, the Government can be confident that any Australian law that is interoperable with the laws of those leading jurisdictions would not place undue additional regulatory burden on AI companies looking to train AI models in Australia.**

In practice, an Australian TDT requirement would require three categories of disclosure by AI companies training models in Australia:

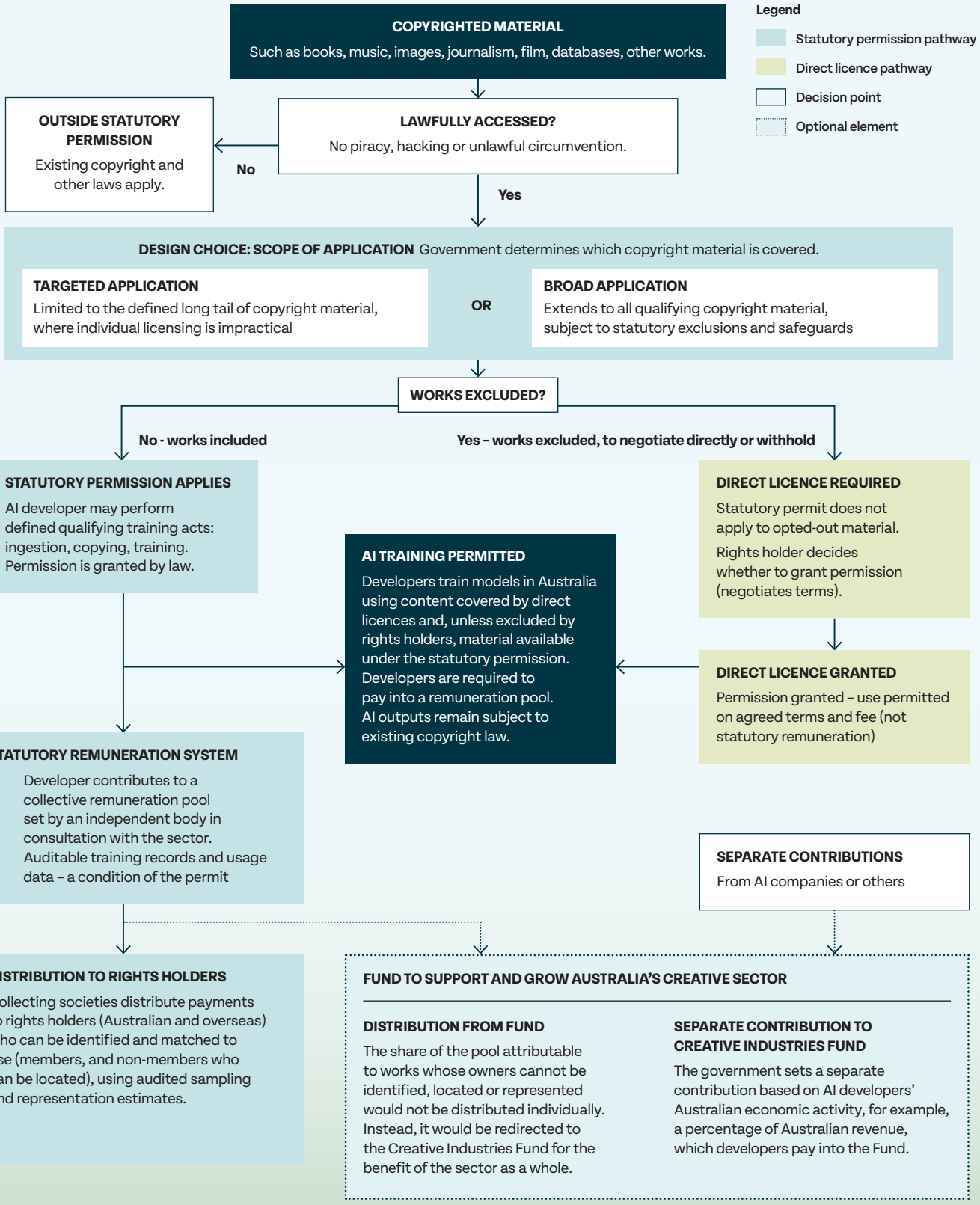
- → **Public disclosure of a summary of datasets, sources, policies and collection processes.**
- → **An obligation to keep more detailed records of training data, which may be requested for confidential review by an oversight body to assess compliance with other information-protection laws. Accreditation conditions should specify the records developers must keep, including source, date of collection, identifiers and opt-out status at the time of collection, so compliance can be audited afterwards. Formats should be compatible with EU and Californian requirements from the outset.**
- → **Disclosure of information on the company's processes and policies to comply with its legal obligations (e.g., copyright) in training AI models.**

$111B

Assumed AI investment in 10 years under Option 4a using the Medium investment case

Figure 3:

Limited statutory "permitted and paid" pathway - with two potential variations



Appendix 1

Policy options considered

Ten options have been identified with varying levels of feasibility, legality, and implications for rights holders, AI companies and the Australian economy. One being the most favourable to rights holders, seven being the most favourable to AI companies, with a proposed middle ground in options 4(a) and 4(c).

Option		Policy approach	Legal mechanism	Levy / Creative fund	Payments to rights holders
1.	**Strengthen copyright protections**	AI training is an infringement unless licensed, with the Copyright Act amended to clarify that potentially applicable exceptions do not apply.	Voluntary licensing	None	Negotiated
2.	**Facilitated voluntary licensing**	Copyright Act amended to legislate targeted transparency obligations	Voluntary licensing	None	Negotiated
3.	**Do nothing**	Status quo: No legislative change (although could introduce extended collective licensing)	Voluntary licensing	None	Negotiated
4a.	**Statutory permission with rights holder reservation**	Copyright Act amended to permit the reproduction of copyright materials in AI training (with accreditation obliging transparency etc.) with payment for use, unless the rights holder has reserved rights from use	Statutory permission	Optional additional levy	Negotiated (if reserved rights) or statutory fee (for content where no reserved rights are exercised)
4b.	**Statutory permission with no rights holder reservation**	As per option 4a but with no rights holder reservation	Statutory permission	Optional additional levy	Statutory fee
4c.	**Statutory permission for long tail content only, option for rights holder reservation**	As per options 4a and 4b, but the statutory permission only applies to the reproduction of content that does not fall within the mandate of a collecting society	Statutory permission	Optional additional levy	Statutory fee (for long tail content only)
4d.	**Statutory permission after mandatory data access arrangements with rights holder reservation**	As per option 4a, but to rely on the statutory permission AI model developers must first agree content access arrangements with a minimum number of rights holders for a minimum period (i.e. a quota).	Statutory permission	Optional additional levy	Statutory fee
5.	**Statutory exception with rights holder reservation**	Copyright Act amended to provide statutory exception to infringement that applies unless the rights holder has reserved rights	Statutory exception	Optional additional levy	None
6.	**Statutory exception coupled with levy**	Copyright Act amended to provide statutory exception to infringement conditional on the payment of a levy; no ability for rights holders to reserved rights	Statutory exception	Required levy	No direct remuneration, but funds raised via levy could be distributed
7.	**Unconditional statutory exception**	Copyright Act amended to provide statutory exception to infringement without payment or reserved rights	Statutory exception	None	None

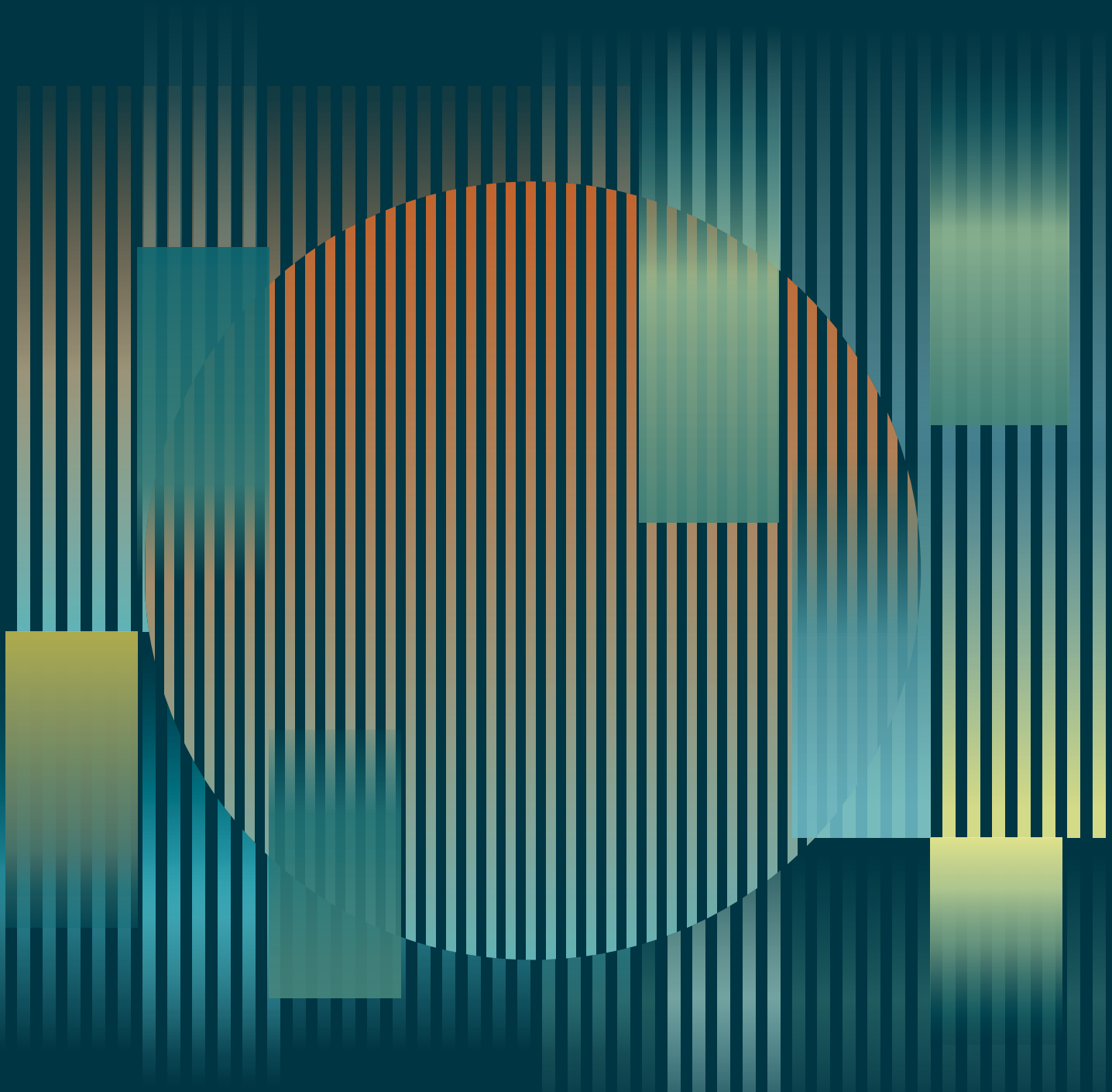
Source: Clayton Utz legal analysis prepared for Minderoo Foundation, 2026.

Scan the code to find out more and access Appendices 2 and 3 reports prepared by BDO and Clayton Utz

	Remuneration mechanisms possible	Transparency of AI activity required to administer option	Impact for AI training
	• Direct licensing • Collective licensing • Extended collective licensing	Transparency not required	Unlikely to be able to access quantities of training data required; legal clarity that content cannot be used unless licensed.
	• Direct licensing • Collective licensing • Extended collective licensing	Transparency not required	Unlikely to be able to access quantities of training data required; transparency obligations for training corpus.
	• Direct licensing • Collective licensing • Extended collective licensing	Transparency not required	Unlikely to be able to access quantities of training data required; rights retained but enforcement reliant on transparency of training corpus.
	• Direct licensing • Collective licensing • Extended collective licensing • Compensation determined under statutory scheme • Statutory levy/tax	Transparency required	Access to training data with legal certainty; dataset availability / quality may be reduced by reserved rights; subject to payment of statutory fees.
	• Direct licensing (more limited) • Collective licensing • Compensation determined under statutory scheme • Statutory levy/tax	Transparency required	Broad access to training data; subject to payment of statutory fees.
	• Direct licensing • Collective licensing • Compensation determined under statutory scheme • Statutory levy/tax	Transparency required	Access to long tail content with legal certainty and with option for reserved rights; subject to payment of statutory fees for long tail content.
	• Direct licensing • Collective licensing • Extended collective licensing • Compensation determined under statutory scheme • Statutory levy/tax	Transparency required	Access to training data contingent on meeting licensing quota; dataset availability may be reduced by reserved rights; subject to payment of statutory fees.
	• Direct licensing • Collective licensing • Extended collective licensing • Statutory levy/tax	Optional precondition for reliance on exception	Access to training data; levy may increase training costs; dataset availability may be reduced by reserved rights.
	• Statutory levy/tax	Optional precondition for reliance on exception	Maximum access to training data; levy may increase training costs.
	• None	Transparency not required	Maximum access to training data and minimal compliance burden.

A Copyright Framework in Australia's Interest

Visit the website



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