

Performers call upon the EU institutions to guarantee performers fair remuneration for AI usage.



In 2024 the EU was proud to announce it was the first region to regulate AI via the long debated **Artificial Intelligence Act** (Regulation (EU) 2024/1689).

The Act was welcomed for obliging AI-developers to be **transparent** on the use of copyright protected works for the training of so-called generative models and put in place a **policy to comply with Union copyright law**. The recent implementation package containing a Code of Practice and a Transparency Template shows that the practical implication of these obligations is rather symbolic in nature.

At the same time, the AI Act still offers developers a legal basis to invoke the highly contested text and data mining (TDM) exception (art 4 DSM Directive) in the unsolicited scraping of musical and audiovisual works with a view to reducing them to a tradable commodity, mainly by non-EU based entities.

As such the EU legal framework is **incomplete and ineffective**.

- It does not provide actors, musicians and other performers with a proper solution to guarantee **fair remuneration** when their work is used for AI purposes.
- Neither does it provide a solution to grant performers with a compensation for the massive illegal training that already took place, and which is often referred to as the **greatest theft of all time**.

More than any other type of artist, **performers represent those who make culture a human phenomenon**. If the EU truly pursues a human-centric, sustainable vision for a digital society that relies on technology that works for people, it needs to urgently:

1. Provide performers with a remuneration right

Although there is considerable faith in the legal framework for it, the licensing market for AI use is not a reality. While other stakeholders are trying to get their money's worth, the demand from performers is unanimous and clear.

Performers need a remuneration right administered by their collective management organisations ("CMOs"). This is currently the only way to guarantee they get paid and should be granted regardless of the choice made under article 4 of the CDSM.

2. Make collective management the solution

AI providers need a simple solution so that they can offer their services lawfully.

AI providers are, by their very nature, consumers of enormous catalogs of content. That is precisely why CMOs are the most suitable partner for AI providers. They are built to clear access to large catalogues.

Moreover, CMOs are the most suitable party to distribute the revenues from the use of large catalogs to the many individual rights holders that contribute with their individual small repertoire.

3. Improve the transparency obligations for AI providers

For performers' rights to be respected and for them to be remunerated fairly and accurately, transparent information on the use of performances is necessary.

Collective management organisations should be able to request – based on the information in the summary template for GenAI providers – full disclosure of the content used by a model launched on the EU internal market.

In addition, the creation of a central registry accessible by both AI providers and CMOs would increase transparency and facilitate the fair remuneration of performers and the lawful provision of services by AI providers.