Written Submission for the Pre-Budget Consultations in Advance of the Upcoming 2026 Federal Budget

Jointly submitted by:

Access Copyright, The Canadian Copyright Licensing Agency

and

Copibec

Submitted: May 22, 2026

- **Recommendation 1:** That compliance with the *Copyright Act* be an obligation of any normative framework concerning Generative AI.

- **Recommendation 2:** That no exceptions for text and data mining be introduced to the *Copyright Act*.

- **Recommendation 3:** That transparency requirements for AI training be included in any normative framework concerning Generative AI.

- **Recommendation 4:** That the government amend the *Copyright Act* to clarify fair dealing for education, make tariffs set by the Copyright Board of Canada mandatory and enforceable, and ensure statutory damages are available to all collectives.

Overview

Together, Access Copyright and Copibec serve approximately 45,000 writers, journalists, visual artists, and publishers across Canada. As copyright collectives, we provide users of copyright-protected material with simple solutions to legally copy and redistribute works, while ensuring that the creators and publishers of those works are compensated for this use. Access Copyright and Copibec both belong to the Coalition for Diversity of Cultural Expressions, joining more than 50 organizations from across the cultural sector that collectively represent more than 350,000 creators and professionals and 3,000 companies.

Copyright is the foundation of the creative economy. It compensates creators and publishers when their works are used, reproduced and shared, fueling new investment in the works Canadians rely on for information, entertainment, and education. A robust copyright framework is a precondition for Canada's publishing industry to thrive. In turn, a strong domestic publishing industry contributes to local economies and helps to safeguard our democracy and cultural sovereignty.

This objective aligns with the Government of Canada's priorities, including those outlined in the mandate letter of Prime Minister Carney, which emphasize protecting Canadian sovereignty and building one Canadian economy. With the right legal framework, our industry will harness innovation and creativity to increase productivity and fuel new investment, while ensuring that Canadian experiences and values are reflected in published works of all kinds. Our recommendations, *which come at no cost to the federal government*, focus on two areas to advance these objectives: Generative Artificial Intelligence (GenAI) and fair remuneration for educational copying.

Part 1: GenAI and Copyright

Creativity is central to what makes us human. Art and creative work contribute to Canadian society and the economy, and help build shared national identify. Opportunities to pursue and protect creative work in the age of GenAI must be preserved. Creative works are intellectual property, and one of Canada's most undervalued strategic assets in the international race to build trusted, sovereign AI systems.

Given the existential threat that GenAI poses to writers and publishers, it is clear that the industry is extremely concerned about the upheaval caused by AI, as demonstrated by the lawsuits filed, particularly in the United States with Canada not far behind.[1] The absence of a regulatory framework creates uncertainty, stifles innovation, and puts both Canadian AI companies and creative industries at a disadvantage internationally.

The *Copyright Act* and artificial intelligence are linked, yet autonomous. It is clear that the *Copyright Act* grants exclusive rights to rights holders. Therefore, authorization must be sought for

[1] Consider, for example, the following class actions that have been filed in Canada: *Grescoe v. Anthropic PBC* (Quebec Superior Court, July 7, 2025); *Clare et al. v. Meta Platforms, Inc.* (Federal Court, April 14, 2025); *Robillard v. Meta Platforms Inc.* (Quebec Superior Court, March 21, 2025).

the use of protected works to train GenAI systems, as the authorized use of copyrighted works through text and data mining (TDM) to train AI models "goes against the very foundation"[2] of Canada's *Copyright Act*. Compliance with copyright law must be ensured in the context of GenAI, and any regulatory framework for AI must include this obligation. Other jurisdictions, including the European Union,[3] United Kingdom,[4] and Australia,[5] have taken this position. Canada must join its peers and firmly dismiss the technology sector's calls for an exception for text and data mining.[6]

Authorization, remuneration, and transparency (the "ART principles") remain absent from AI systems and are a precondition for a licensing market for AI training or other purposes to emerge. Without AI developers and platforms being required to provide full transparency regarding the works used to train generative AI models, rightsholders face an insurmountable challenge in licensing their works. Canada must follow the lead of jurisdictions like the European Union, where the *Artificial Intelligence Act* mandates transparency obligations from AI developers regarding the data used to train their models, helping to level the playing field between rights holders and technology companies.[7]

The Government of Canada has consulted extensively on the topic of AI in the fall of 2025, including the "national sprint on Canada's AI Strategy" led by Innovation, Science and Economic Development Canada, as well as at the House of Commons, where several committees have examined the topic of AI, including a study by the Standing Committee on Canadian Heritage on the impacts of artificial intelligence on the creative industries, published in April 2026.[8]

At this writing, however, we are still awaiting the announcement of the government's renewed AI strategy, which must create the conditions for creative industries to participate in and benefit from AI development alongside other sectors. As collective management organizations, Access Copyright and Copibec are the ideal vehicle for the development of licences for AI purposes, as a complement to direct licensing by rights holders. This is a developing market that we must give time to mature.

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[2] Maryse Beaulieu, Copibec, Testimony to the Standing Committee on Canadian Heritage, October 6, 2025.
[3] "Protecting copyrighted work and the EU's creative sector in the age of AI," European Parliament, March 10, 2026.
[4] "Report on Copyright and Artificial Intelligence," Department for Science, Innovation and Technology & Department for Culture, Media and Sport, United Kingdom, March 2026.
[5] "Albanese Government to ensure Australia is prepared for future copyright challenges emerging from AI," Attorney-General's Department, Australia, October 26, 2025.
[6] Report on the Impacts of Artificial Intelligence on the Creative Industries, Standing Committee on Canadian Heritage, April 2026.
[7] Article 53(1)(d) of the regulation on artificial intelligence requires AI developers to publish a sufficiently detailed summary of the data used to train their models.
[8] Report on the Impacts of Artificial Intelligence on the Creative Industries, Standing Committee on Canadian Heritage, April 2026.

Recommendations:

1. **That compliance with the *Copyright Act* be an obligation of any normative framework concerning Generative AI.**

2. **That no exceptions for text and data mining be introduced to the *Copyright Act*.**

3. **That transparency requirements for AI training be included in any normative framework concerning Generative AI.**

Part 2: Fair Remuneration for Educational Copying

In 2012, the *Copyright Act* was amended through the *Copyright Modernization Act*. Among the changes in law was the inclusion of a fair dealing exception for education. Fair dealing allows a user to reproduce copyrighted materials without payment or permission under specified circumstances and limits. When the *CMA* was introduced in 2011, Hon. James Moore, then the Minister of Canadian Heritage, stated that it “delivers a common-sense balance between the interests of consumers and the rights of the creative community."[9]

Instead of delivering that intended balance of interests, the *CMA* upset a previously functioning marketplace and precipitated a decade of costly litigation. Educational institutions outside of Quebec opted-out of longstanding collective licensing arrangements, instead favouring the use of direct licensing agreements and adopting an interpretation of fair dealing that has caused significant damage to the market for educational content.

This model has resulted in gaps between what is licensed and paid for by educational institutions and what is copied and shared without compensation, particularly to support student instruction and classroom use. The results of this practice have deprived Canadian writers, visual artists, and publishers of royalties for the copying and sharing of their published works in educational institutions outside of Quebec. They have created economic inequities between rights holders in Quebec and other provinces and territories, and disrupted longstanding bilateral agreements with international partners that continue to collect royalties when Canadian works are copied abroad, but receive diminishing amounts in return.

The broad educational fair dealing exception has been recognized repeatedly as a trade barrier by the Office of the United States Trade Representative in its annual Special 301report[10] and its National Trade Estimate report,[11] and was also addressed in October 2024 by the International Federation of Reproduction Rights Organizations (IFRRO), which passed a unanimous motion calling on the Government of Canada to ensure that the *Copyright Act* “complies with Canada’s

[9] Harper Government Delivers on Commitment to Reintroduce Copyright Modernization Act, September 29, 2011.
[10] 2025 Special 301 Report, Office of the United States Trade Representative, p. 72.
[11] 2026 National Trade Estimate Report, Office of the United States Trade Representative, p. 65.

international obligations and provides fair remuneration to rights holders for the reproduction of their works by educational institutions."[12]

Outside of Quebec, creators and publishers continue to compete in the educational market with free, unauthorized copies of their work. We do not believe that this was government's intention when the fair dealing exception for education was introduced.

A statutory review of the *Copyright Act* is now overdue and implementation of recommendations coming out of the 2018-19 review risk being delayed yet again by further study and protracted debate. The 2018-19 statutory review acknowledged the issues at hand, and the Standing Committee on Canadian Heritage's *Shifting Paradigms* report offered concrete recommendations (#18-21), supported by all parties, that would help reverse the market failure that has taken place.[13] More recently, the Standing Committee on Finance recommended measures to address this longstanding issue in its report to Parliament on Budget 2025.[14]

A set of complementary amendments to the *Copyright Act* is required to repair the marketplace for educational copying and ensure creators and publishers in all parts of Canada are fairly remunerated for use of copyright-protected works by educational institutions. These changes would bring Canada back into step with international best practices and restore the "balance" that was envisioned between rights holders and users when the *Copyright Modernization Act* was introduced. Increased clarity with respect to fair dealing would also support the objectives outlined above with respect to GenAI, reducing uncertainty and encouraging licensing markets to emerge for AI purposes.

Recommendation:

4. **That the government amend the *Copyright Act* to clarify fair dealing for education, make tariffs set by the Copyright Board of Canada mandatory and enforceable, and ensure statutory damages are available to all collectives.**

Part 3: Support for implementation of the Artist's Resale Right

Access Copyright and Copibec strongly support the implementation of the government's commitment to introduce the Artist's Resale Right for the secondary, public sale of the artwork of visual artists through intermediaries, as announced in the Fall 2025 Budget.

Conclusion

2026 is a critical moment for Canada's sovereignty and economy, with direct implications for the creative sector. The publishing industry that has grown and developed into a mature, contributing

[12] IFRRO resolution on the Canadian *Copyright Act*, October 1, 2024.
[13] "Shifting Paradigms," Standing Committee on Canadian Heritage, May 2019
[14] Recommendations 360 & 361, "Pre-budget Consultation in Advance of the 2025 Budget," December 2024.

sector of the economy faces numerous threats at a time when Canadian books and media are more important than ever to our national sovereignty and shared identity. With copyright as the cornerstone, now is the time for government to introduce strong public policy measures that will strengthen Canada's cultural industries to the benefit of generations to come.

For more information:

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